UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS
FIRST SESSION

VOLUME 147—PART 20

DECEMBER 19, 2001 TO JANUARY 3, 2002
(PAGES 26869 TO 28151)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 2001

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SENATE—*Wednesday, December 19, 2001*

(Legislative day of Tuesday, December 18, 2001)

The Senate met at 11:30 a.m. on the expiration of the recess and was called to order by the Honorable JOHN EDWARDS, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, bless the Senators with the assurance that You are closer than their hands and feet and as available for inspiration as breathing. May this day be lived in companionship with You, so that they will enjoy the confidence of the promise You gave through Isaiah: "It shall come to pass that before they call, I will answer; and while they are still speaking, I will hear."—Isaiah 65:24.

Unite the parties in unity. When Your best for America is accomplished by creative compromise and cooperation, everybody wins, especially the American people. When this day closes, our deepest joy will be that we have worked together to achieve Your goals. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN EDWARDS led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 19, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN EDWARDS, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. EDWARDS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

AGRICULTURE, CONSERVATION AND RURAL ENHANCEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1731, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes.

Pending:

Daschle (for Harkin) amendment No. 2471, in the nature of a substitute.

Wellstone amendment No. 2602 (to amendment No. 2471), to insert in the environmental quality incentives program provisions relating to confined livestock feeding operations and to a payment limitation.

Harkin modified amendment No. 2604 (to amendment No. 2471), to apply the Packers and Stockyards Act, 1921, to livestock production contracts and to provide parties to the contract the right to discuss the contract with certain individuals.

Burns amendment No. 2607 (to amendment No. 2471), to establish a per-farm limitation on land enrolled in the conservation reserve program.

Burns amendment No. 2608 (to amendment No. 2471), to direct the Secretary of Agriculture to establish certain per-acre values for payments for different categories of land enrolled in the conservation reserve program.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, for all Members of the Senate, we are very close to working out an arrangement this morning that should be good for everyone. I spoke to a number of farm State Senators last night and they thought it was very important that Senator HUTCHINSON of Arkansas be allowed to offer an amendment. We have worked throughout the night and the morning with Senator HUTCHINSON and worked out a time agreement on that, so as soon as Senator LUGAR arrives we will be ready to offer this unanimous consent agreement.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, it is our intention to go to the Hutchinson amendment. As I think our colleagues are aware, the Hutchinson amendment is largely the Agriculture farm bill passed by the House. It may not be exactly the same bill, but that is the intent. Certainly Senator HUTCHINSON can speak for himself, and will.

It is my intent after that, then, to go to the cloture motion.

So I ask unanimous consent the pending amendments also be laid aside; that Senator HUTCHINSON be recognized to offer his amendment, No. 2678; that there be 1 hour 15 minutes for debate with Senator HUTCHINSON in control of 60 minutes, Senator HARKIN or his designee in control of 15 minutes prior to a vote in relation to the amendment, with no second-degree amendments in order prior to the vote; further, that the vote in relation to the amendment occur at 12:50.

Immediately following disposition of the Hutchinson amendment, the Senate will proceed to the previously ordered cloture vote on the substitute amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. NICKLES. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. I want to cooperate in every way with the majority leader and the managers of the bill, but I wonder if the majority leader, trying to make a request to have the Hutchinson amendment—I have no objection to that portion. I do know that Senator GRASSLEY, Senator DORGAN, myself, and others have a lot of interest in the payment limitation. I am not positive

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

whether or not it is germane postcloture.

I guess part of your request is that we go immediately to the cloture vote. I wonder if you are willing to delete that second paragraph or if you are willing to make sure that the Grassley amendment would be in order, regardless of which way the result of the cloture vote would occur.

Mr. DASCHLE. I would want to consult with the Parliamentarian and Senator HARKIN and others. We have attempted, as the Senator knows, to accommodate a number of Senators who have asked to be exempted from cloture limitations following the time when cloture is invoked. I am not enthusiastic about expanding.

Again, it would be my understanding that these amendments would be available to us postcloture, with clarification of the Parliamentarian, and we will offer this at another time.

Mr. NICKLES. Mr. President, if I might inquire, at a previous time I asked the majority leader if this amendment would be in order, or part of the unanimous consent that this amendment would be in order postcloture, and we agreed to that. Does that agreement still carry? There were four or five amendments, if I remember correctly, or one or two, and a couple of others. If they were agreed to, there were two additional ones. If that still applies, that is fine with this Senator.

Mr. DASCHLE. Mr. President, I intended this as a new unanimous consent request. Therefore, the other ones—because of the old unanimous consent request—have already expired. Technically, it would not carry.

I think the best thing to do would be to consult with the Parliamentarian in terms of germaneness and make a decision at a later time.

I wonder if we might proceed. The cloture vote, by rules of the Senate, takes place within 1 hour after we come in. We do not need the second portion of the unanimous consent request in order to proceed with cloture. But I would like to accommodate Senator HUTCHINSON. I would make that request.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. NICKLES. Reserving the right to object, I want to make sure what we are doing. First, the leader said we would like to inquire whether or not Senator GRASSLEY and others want to offer their amendments. I want to protect their rights to offer their amendments.

There is an amendment dealing with payment limitation. Some of us are kind of concerned about the underlying Harkin bill that has payment limitations of 250. That can be expanded to 500 per family. The Grassley amendment that Senator DORGAN and others have supported would reduce that. I want to make sure that amendment is going to be debated before we conclude the agriculture bill. I don't want that amendment to be ruled nongermane postcloture. That is what I am trying to find out before we make an agreement.

Parliamentary inquiry: Is the Grassley amendment germane postcloture?

Mr. REID. Mr. President, will the Senator from Oklahoma yield for a question?

Mr. NICKLES. I would be happy to yield.

Mr. REID. Is that the same as the original Dorgan amendment?

Mr. NICKLES. That is correct.

The ACTING PRESIDENT pro tempore. The amendment has not yet been reviewed for germaneness.

Mr. NICKLES. I didn't catch that.

The ACTING PRESIDENT pro tempore. The amendment has not been reviewed for germaneness.

Mr. NICKLES. That wasn't my understanding. Regardless, I will vigorously oppose cloture if that is what the majority leader's intention is. I urge him to ask consent to postpone the cloture vote until we determine what the outcome of some of these amendments is. Some of us are going to continue to oppose cloture until we have a chance to have our amendments heard, debated, and voted on in the Senate.

If you insist—and I am sure the majority leader is correct most of the time—cloture will expire after so many hours. But I will just tell him that some of us are going to be opposing cloture vigorously until the Senator from Iowa and others have a chance to have their amendments heard and voted on.

Mr. DASCHLE. Mr. President, I am very sympathetic to the Senator from Oklahoma. We have been on this bill for an awfully long time. I think we are almost at a point where we have broken the record now for the length of time we have been on a farm bill. Senators had many opportunities to offer amendments at night and during the day. I am not really sympathetic to those who suggest that somehow we have not accorded enough time to some of these amendments.

I also say we have come to the conclusion that we are going to have to make a decision about the farm bill. If we are unable to invoke cloture, it is my intention to put it back on the calendar, regrettably, and then move to other issues. We have conference reports that have to be done before we leave. There are other pieces of business that are required of us. This will be the third cloture vote. There will be no more cloture votes in this session of Congress on the farm bill.

Senators are going to have to make up their minds: Do they want to indefinitely postpone and thereby kill our chances for completing work on the farm bill this year or not? If they want to kill it, they will vote against cloture. If they want to support completing our work, they will vote for cloture this afternoon and we will complete our work. That still requires 30 hours of debate on the bill prior to the time we complete our work. That means that relevant amendments will be entertained, will be accepted, or voted upon and considered as germane amendments. That is the prerogative of every Senator even after cloture. Perhaps amendments can be designed to be germane. I certainly think a payment limit amendment is germane to the bill.

We ought to find the language that accommodates the Senator from Oklahoma, if that is his intent.

But I will say we have been on this bill for a record amount of time. It will be virtually a record if we complete our 30 hours. We do have other very important matters pending.

I want to make sure all Senators are put on notice. Three times, and we are out in terms of cloture. And three times, it seems to me, ought to be adequate time for everybody to have had their amendments considered. As we have noted, a number of other colleagues have asked for special consideration for their amendments. We are attempting to do that. We have to move on.

Mr. REID. Mr. President, will the majority leader yield?

Mr. DASCHLE. Yes.

Mr. REID. I say to the distinguished majority leader that I have received two notes from the cloakroom that they want to put out a list if in fact there is a postcloture list of amendments.

I also say that last night I had a conversation with a number of farm State Senators who have been voting against cloture. They said if we would allow Hutchinson a vote, they would be willing to vote for cloture.

We worked last night and all morning trying to work out an arrangement where there could be a vote on Hutchinson. We have given the Hutchinson forces 1 hour. We have taken 15 minutes to show that we are serious about moving this bill forward. It appears that no matter what we do, it isn't quite enough.

I hope my counterpart, the distinguished assistant minority leader, will allow us to go forward. This is an opportunity, in my opinion, to pass a farm bill. We will live by whatever the rules are.

I was informed, obviously incorrectly, yesterday that the Parliamentarian thought Dorgan would be in order postcloture. I hope it is. I think it is something we should debate.

But the fact of the matter is we have gone a long way this morning in working this out. I applaud the Senator from Arkansas. He wanted more time than the hour—an hour and 15 minutes. He believed, I guess, that was fair.

I think we should go forward and then have a fair third and final vote on cloture.

Mr. DASCHLE. Mr. President, as the Senator from Nevada noted, our colleague for good reason wanted to be able to offer the so-called Cochran-Roberts alternative. We have done that. We have had very good debates on a number of other questions over the last couple of weeks. In order to accommodate the Senator from Arkansas and others who believe we ought to at least have a chance to vote on the House-passed bill, we are now going to do that.

I honestly think we have been as fair and responsible as we can be to the request made by our colleagues. I hope now that we can get this agreement.

I renew my request.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. NICKLES. Mr. President, reserving the right to object, parliamentary inquiry: Is the Grassley amendment germane postcloture?

The ACTING PRESIDENT pro tempore. The amendment is being reviewed at this time.

Mr. NICKLES. I ask the majority leader to modify his unanimous consent request so that the Grassley amendment be considered germane postcloture in the event cloture is invoked.

Mr. GRASSLEY. Reserving the right to object, I think I have something better than being part of the unanimous consent agreement, or something better than even a veto to do this. I had the word of the Senate majority whip that I was going to be able to bring my amendment up right after the Durbin amendment this morning after 11:30. It seems to me, if I have the word of a fellow Senator that I have a chance to bring my amendment up, I don't even have to be included in a unanimous consent. If you want to nail it down that way, nail it down; it is OK with me. But it seems to me I was told by the majority leader that I was going to be able to bring my amendment up, and that word is better than anything else that can go on in this body.

Mr. REID. Mr. President, will my friend from Oklahoma yield?

Mr. NICKLES. I am happy to yield.

Mr. REID. There is nobody for whom I have more respect than the Senator from Iowa. We serve together on select committees. He is absolutely right. We thought when we came here this morning we were going to go to the Durbin amendment and then a Republican amendment. He had been standing around waiting for a while, and we did say that. But the fact is, there have been intervening things. I am not going back on my word. We thought we were going to do a totally different thing. And I am sorry there has been some misunderstanding. But I would never intentionally mislead the Senator from Iowa.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. DASCHLE. Mr. President, if I can regain my right to the floor, let me simply say that we moved the cloture vote to 1:30 to accommodate some of our colleagues on the other side of the aisle. That has been locked in at 1:30. We also attempted to accommodate the Senator from Arkansas with this unanimous consent.

The ACTING PRESIDENT pro tempore. The time is 1:15, not 1:30.

Mr. DASCHLE. The UC was 1:15?

The ACTING PRESIDENT pro tempore. Yes.

Mr. DASCHLE. OK. We hoped we could accommodate the Senator from Arkansas with a vote on his amendment so that it could be taken before the cloture vote. That is all this unanimous consent request is designed to do. So if we cannot get it, we will just proceed, the Senator from Arkansas can offer his amendment, and we can do it without a UC. So if I cannot get that agreement, I will simply withdraw the request and perhaps we can proceed with the amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. NICKLES. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. I want my friend from Iowa, because I want to protect his interests on this amendment——

Mr. GRASSLEY. I know you are.

Mr. NICKLES. The majority leader is basically saying we have an hour and 15 minutes to debate the Hutchinson amendment, and then we will vote on cloture. And then we are going to find out that the Grassley amendment is nongermane postcloture if cloture is invoked. So it would not be in order to take up the Grassley-Dorgan amendment.

I have been here for 3 or 4 days trying to make sure we get a vote. No one has been filibustering this bill—no one. I know Senator GRASSLEY was here late last night trying to offer this amendment. I know yesterday, three or four times, I came up and said: I am ready to do a payment limitation amendment. Every amendment we have had has been germane to the bill.

We did not offer the energy package. We did not even offer the stimulus package; I thought about it. I might still do that if it is still the pending bill. I want to get the stimulus done before we get out of here. The amendments have been germane on agriculture.

To have an amendment such as payment limitation, when the underlying bill allows a few farmers to make hundreds and hundreds of thousands of dollars, to be squeezed out because of cloture I think is wrong.

So I guess the essence is that I will not object to a time limit on Senator HUTCHINSON's amendment. If the majority leader proceeds with the cloture vote, I will urge my colleagues, in the strongest terms, to please vote no on cloture so amendments that are germane—that are really germane that might fall on the strict interpretation of postcloture—that they will have a right to offer those amendments.

I urge my colleagues, Democrats and Republicans, who respect individual Senators having the right to amend a bill that is enormously complicated but important—that they have a right to offer those amendments.

So I will not object to the majority leader's request to have a time limit on the Hutchinson amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DASCHLE. I thank my colleagues.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

AMENDMENT NO. 2678 TO AMENDMENT NO. 2471

(Purpose: To provide a complete substitute)

Mr. HUTCHINSON. Mr. President, I have an amendment at the desk, and I ask for its consideration.

The ACTING PRESIDENT pro tempore. Under the previous order, the pending amendments are laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. HUTCHINSON] proposes an amendment numbered 2678 to amendment No. 2471.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted and Proposed.")

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to add, as cosponsors to the amendment, Senators LOTT, HELMS, SESSIONS, and KAY BAILEY HUTCHISON.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I thank the majority leader, the majority whip, and Senator HARKIN for their cooperation and their willingness to allow us to have this debate on, essentially, the House-passed bill.

This is the bill that was introduced earlier this year in an effort to break the logjam on a farm bill. It is a bipartisan bill, as it was introduced with four Democrats and three Republicans. To me, there is no doubt, as we come to this impasse, that the only way—absolutely the only way—we will get a farm bill signed into law this year is for us to take up an easily conferenceable bill with the House.

I have talked with the chairman of the House Agriculture Committee. If we would pass this bill—this amendment, and then the amended bill—we would be able to conference it within an hour, and we would be able to send it to the President. That is the only prospect we have of getting a much needed farm bill to the President this year. That is why I rise to urge my colleagues to move forward and support this amendment.

Since the beginning of this debate, I have been urged by the farmers of my State to try to get a farm bill completed this year. Time and time again, I have told them that I would do everything I could to get a farm bill completed this year. I have expressed support for the House farm bill. I have worked with my colleagues to craft and introduce this bipartisan proposal. It was originally, when introduced, sponsored by a number of Members on both sides. I supported, in the committee, the Cochran-Roberts plan. I supported the chairman's commodity title. In fact, I believe I was the only Republican in committee to support the chairman's commodity title. I supported the passage of the chairman's farm bill out of the Agriculture Committee. And I have supported cloture on the chairman's substitute two times.

I want a farm bill. I voted in support of moving forward at every point during this debate.

If this substitute is not going to move forward and go to conference, perhaps it is time for a new approach. It is clear, after two cloture votes, that the Harkin-Daschle substitute does not have adequate support to move to passage. And, may I say, if we were somehow able to move the Harkin-Daschle substitute through, get cloture, and get it passed this week, we would have an enormous gap between this bill and the House bill, and, as Senator HARKIN admitted last night, it would be weeks before we could reach a consensus on those two bills. This is why I am offering the bill that I offered with Senators LINCOLN, HELMS, MILLER, SESSIONS, LANDRIEU, and BREAUX earlier this year.

We can debate the merits of the bills. There is no doubt that as this day and this debate goes on, we will engage in some substantial policy issues. However, at the end of the day, we must have a bill that can get the votes necessary to pass the Senate, be conferenced, and signed by the President this year. So far, the bill that has been offered has not been able to garner the support necessary to get out of the Senate and provide the support and certainty that our farmers are asking for and desperately need.

The fact that these votes appear to be breaking down on party lines should be troubling because agriculture is not a partisan issue. Agriculture spans across all of our States and should not be allowed to degenerate into a partisan finger pointing contest. That is what I have been hearing: accusations that one party or the other is blocking the move on a farm bill this year.

That is why I am offering this amendment. It is my sincere hope that this bipartisan proposal can help break this logjam which is keeping us away from our home States and, more importantly, is denying our Nation's farmers the necessary fixes to what amounts to a broken farm policy.

Is this the absolute best policy that can come out of this Senate? Maybe not. Will it have the type of funding numbers in it that everyone can go back to their home State and expect resounding praise for? Probably not. That is probably unlikely as well.

However, we must also consider whether this proposal is, in fact, better than the policy with which our farmers are currently dealing. What I hear from the farmers in Arkansas—and I think this is true across this Nation—is that they need certainty and predictability. If they are going to have certainty and predictability, they need to have a farm bill. As they go to seek financing arrangements for this next year, bankers are looking for some predictability, some certainty in farm policy. That can only happen if we pass a bill.

So the question is, is this amendment that I am offering today—one that was originally offered as a bipartisan proposal in this Chamber, and that was a bipartisan vote in the House. In fact, in the House, there were 151 Republicans, 139 Democrats, and one Independent who voted for this bill. This is the only true bipartisan approach. If it is, in fact, better than current farm policy, and is the only prospect of getting a bill to the President this year, should we not, then, on a bipartisan basis, unite behind it?

I think it is clear that the farm policy in this amendment is much better than the current policy. We must also consider whether our farmers are better off with no farm bill at all, which appears to be where we are headed right now. I think my farmers have been quite clear with me on this issue, as I am sure farmers in other States have made it clear to their Senators.

This amendment, as I have said, is very similar to the House-passed farm bill which ended up passing on a bipartisan basis. I realize there were many hotly contested amendments throughout this process, but in the end this bill in the House enjoyed resounding bipartisan support and should garner that kind of support in this Chamber as well.

I am keenly aware that a number of my colleagues from the other side of the aisle believe they have garnered concessions from Senator HARKIN and Senator DASCHLE and that their concerns have been addressed in the Harkin-Daschle substitute. I am aware of that. I appreciate the willingness of Senators DASCHLE and HARKIN to make those concessions and to address concerns that various Senators had. But if those concessions come at the price of refusing to support a bipartisan approach and the end result is that we have no bill that goes forward out of this Chamber this year, we have no bill that is passed and goes to the President for his signature, then I suggest that all those concessions and all those improvements in the Harkin-Daschle substitute bill are in fact meaningless because they are not passed into law.

On Monday of this week, the American Farm Bureau sent a letter, a public letter, in which they wrote:

> The American Farm Bureau Federation encourages the Senate leadership to expedite debate and for the Senate to complete a new farm bill by noon next Wednesday, December 19.

That is the moment we have just passed. The Farm Bureau continued:

> It is vitally important that this legislation be enacted this year to provide an important economic stimulus to rural America before Congress adjourns.

I wholeheartedly agree with the sentiments of the American Farm Bureau in this letter. This is why I am offering this amendment. If this amendment is adopted, I am confident we will be able to move to invoke cloture and we will pass a farm bill this year. I promised the farmers of my State I would do everything I could do to get a farm bill completed this year. I am sure many of you have made the same promise. This is our opportunity to make good on that promise and on that commitment.

To say to the farmers of America, I am going to march in lockstep with my party leadership in spite of the fact that the end result of that approach will be no bill, no cloture, no Presidential signature, and no farm bill by December 31, is blind partisanship that hurts the farmers of this country. This is our opportunity to pass a farm bill this year.

The policies included in this amendment have been supported by both Republicans and Democrats in the House. The policies included in this amendment have been supported by both Republicans and Democrats in this Senate. I urge my colleagues to join me in support of the amendment offered today.

I urge my colleagues to support the completion of a farm bill this year. It is not sufficient to say: I voted for cloture to end debate and get a farm bill this year, if you know in your heart that because of that stand, because of voting in lockstep and an unwillingness to take a bipartisan approach, an approach that we know can be conferenced with the House this year, that is a self-defeating approach that will not be a sufficient answer to the farmers in this country.

This is our opportunity to get it done. Let's not waste it.

I ask my colleagues for their support for the amendment. Will it have everything in it? It most assuredly will not.

It will in some areas. Will the funding be as high? Will the commodity title not be as high as it is in the Harkin bill? The answer to that is, that is true. In some areas, it won't. It won't be a bill that will satisfy everybody. But it is the only vehicle before the Senate. It is the only possible answer to the conundrum in which we find ourselves. It is the only possible way we can get a bill signed into law by the President of the United States.

I repeat, the chairman of the Agriculture Committee in the House has said this amendment, if adopted, would be easily and quickly conferenceable with the House-passed bill, meaning that before we leave this place for Christmas, we will be able to reward the farmers of this country with an end-of-the-year commitment that their farm policy is taken seriously by Congress, that we have risen above blind partisanship, that we are willing to put the farmers of this country above party loyalty, and that we have done absolutely our level best to get a bill signed into law by the President.

I ask unanimous consent to have printed in the RECORD the House Agriculture Committee's Web page statement today, December 19, 2001.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SENATE PRESENTED WITH PATH TO SPEEDY FARM BILL CONCLUSION

ARKANSAS SENATOR TIM HUTCHINSON MOVES FOR VOTE ON HOUSE-BASED BILL

December 19, 2001.—House Agriculture Committee Chairman Larry Combest commended Arkansas Senator Tim Hutchinson for giving farmers a real prospect of getting a finalized farm bill this year by urging the Senate to pass the House-based farm bill. The Hutchinson provision already has the bipartisan support of Senators who cosponsored the measure when it was introduced in the Senate November 9. Ag Chairman Combest noted the Hutchinson provision is more than 95 percent identical to the October 5th House-passed "Farm Security Act of 2001," and Senate passage of the Hutchinson provision is the only chance to finalize a farm bill this year.

"Senator Tim Hutchinson has worked for producers in a positive, practical manner each step of the way to move the Senate to completion of a farm bill, and today is holding forth a light for Senators on the path to a speedy conclusion of the farm bill," said Combest. "Farmers and their lenders need the certainty of a new farm bill as they prepare now for the coming crop year. Senators can do a lot to ease farmers' worries now and help our rural communities by passing the Hutchinson provision today."

Like the House-passed Farm Security Act, the bill introduced by Senators Hutchinson, Blanche Lincoln, Jesse Helms, Zell Miller, Mary Landrieu, and John Breaux not only provides for a strong safety net, but it maintains planting flexibility and avoids harmful market distortions. Also, like the House-passed bill, the option offered for Senate vote today complies with WTO commitments and with the Budget Resolution passed by Congress while increasing investment in conservation programs to the highest levels ever.

Mr. HUTCHINSON. I will quote a portion of this for my colleagues. This was placed on their Web page today, December 19, 2001, from House Agriculture Committee Chairman LARRY COMBEST. He commends this amendment "for giving farmers a real prospect of getting a finalized farm bill this year." He urges the Senate to pass this amendment. Chairman COMBEST noted: "The Hutchinson provision is more than 95 percent identical to the October 5 House-passed Farm Security Act of 2001" and "Senate passage of the Hutchinson provision is the only chance to finalize a farm bill this year."

To my colleagues who think there should be agreement on that point at this place in our deliberations, I commend Chairman HARKIN for a tremendous good faith effort to move forward the Senate Agriculture Committee-passed farm bill. He has given it a wholehearted effort in the Senate Chamber. He has provided opportunities for amendments to be offered. I commend him for that, though there are still a number of serious amendments outstanding. We have twice voted for cloture. We have not seen any change in the breakdown. It is clear that as dedicated and as resolved as Chairman HARKIN has been, the current Harkin-Daschle substitute cannot garner the support of the Senate and cannot be conferenced in time to get a bill for our farmers this year. Chairman COMBEST is absolutely right: This is our last and best hope of doing it.

I suggest many of my colleagues have told their farmers face to face in their States that they will come here and do their best to get a bill passed this year. I suggest we will not have done our best without the passage of this substitute, this amendment I have offered today.

I reserve the remainder of my time.

Mr. ROBERTS. Will the distinguished Senator yield for a series of questions?

Mr. HUTCHINSON. I am glad to yield.

Mr. ROBERTS. This is a most interesting approach, it seems to me. I credit the Senator for trying to find a road to break the logjam, to try to get out of the box canyon we seem to be in with regard to concluding the farm bill.

I must say at the outset that it is my understanding, basically, that your amendment is in the form of a substitute; is it not?

Mr. HUTCHINSON. It is a substitute.

Mr. ROBERTS. Basically what you are trying to do is take the House farm bill as passed. I just asked staff what it passed by over there. It was 291 to 120. That is a rather strong bipartisan declaration. Basically, what you are doing is taking the House farm bill under the banner that most people have been talking about—the farm groups, the commodity groups, all the farm organizations, and many of us on this side of the aisle and that side of the aisle have said for some time two key things: One, move the bill, make sure we move it, make sure we expedite it.

I would like to respond to the distinguished leader on the other side of the aisle. Senator DASCHLE indicated we have spent probably more time on this bill than at any time in the history of farm bills. The shortest amount of time we have ever spent in the Senate—and I can refer to the House as well—is 5 days and the longest is 31. All this time hasn't been spent on the farm bill. I am not advocating more time; don't misunderstand me. Chairman HARKIN has worked very diligently to move this process along. I credit him for that. But if, in fact, we are going to get this done—and that was the key premise of the many farm groups and commodity organizations and many of us who said we need to expedite this in an odd-numbered year, don't put it off until a political year. And the other premise was, if I understand the Senator and from most of the rhetoric in this regard, to save the investment, the money, the $73 billion. The administration has indicated basically that they don't have any quarrel with the money. Oh, I am sure they would like to come down somewhat, but I don't think that is the issue. It is the policy that is the issue.

What the Senator is trying to do is say, OK, if we want to accomplish that and save the investment and expedite the progress, this is the way to do it, and that all this talk about stalling and putting things off could be answered by his amendment. Is that how he sees it?

Mr. HUTCHINSON. Well, the Senator has articulated it very well. If we are serious about getting a farm bill done this year—and people have said they want a bill this year—this is it; this is the last alternative. If we want a bill that is conferenceable, that can go to the President, this is it.

I think those who have said, "let's expedite the farm bill, get a bill passed this year," this is the litmus test. We are going to find out whether this is rhetoric or whether it is politics as usual, whether we want just an issue or a farm bill this year.

Mr. ROBERTS. If the Senator will yield further, I am not particularly enamored with the House bill. If you want to go a little bit further, I am really not enamored with the Senate bill. But we have been through that. We have had the Roberts-Cochran debate and that was fair. I credit the chairman and everybody else for giving us the time. I think we are headed down the wrong track with the Senate bill. I am not particularly enamored with the House bill.

Let me ask the Senator a couple of questions, if I might, to see if it is more preferable in my mind to the Senate bill because that is what this debate is all about.

Now, the Senate bill frontloads the $73 billion to the tune of about $45 billion in the first 5 years. Then there is $28 billion on down the road. So I think we are taking away from the future baseline—that is a fancy word for money—for future farmers. It is my understanding that the House bill doesn't do that; is that correct?

Mr. HUTCHINSON. The Senator is absolutely correct. That is one of the strong reasons why this approach is preferable. I call it the 5 fat years and the 5 lean years, the 5 years of plenty and the 5 years of famine. That is the danger in frontloading.

Mr. ROBERTS. If I may ask another question, I know one of the sticking points we have here with many western Members is the amendment of the Senator from Nevada regarding water. If there is one thing that causes a lot of concern out West, where we don't have much of it, it is the situation where people worry about the federalization of State water rights.

I am not going to get into that argument one way or the other, but I know that Senator CRAPO and others have a lot of concern. Some of the farm organizations have some concern also. That is in the Senate bill. To my knowledge, that is not in the House bill; is that correct?

Mr. HUTCHINSON. The Senator is correct.

Mr. ROBERTS. Let me ask another question, if I might, if the Senator will continue to yield. One of the reasons that in the Senate bill they were able to move the loan rate up to $3—and I am not going to rehash the old discussion on loan rates, as to whether they are market-clearing, or income protection, or it should be $4, or $5, or $3, or whatever. But we get into a lot of problems in terms of market distortion and not really enough support, and the money they use to increase the loan rates comes from crop insurance reform additions on down the road as we get into future years of the farm bill. To my knowledge, the House bill did not—I am using strong words—rob, steal did not take away or find the offset from the crop insurance reforms that we did just last year. Is that not correct?

Mr. HUTCHINSON. The Senator is correct.

Mr. ROBERTS. In addition, I hesitate to bring this up, but we got into a discussion of what is amber and what isn't in the progression of the World Trade Organization talks. I quoted a statement from an outfit out of Missouri that tries to take a look at their crystal ball to evaluate the effects of farm bills. I think they said we had a 30-percent chance under the Senate bill that we would be in violation of the WTO cap, and that that would be an amber light; that in 2 years it was bound to happen. I don't know what the chances are in terms of the House farm bill, but it seems to me they could be less. I am not an academic, in terms of fabric, to determine that. I don't have that crystal ball. Would the Senator say that would be the case?

Mr. HUTCHINSON. I say to the Senator from Kansas that it is my understanding that because some of the decoupled payments in the Harkin-Daschle substitute are phased out, the likelihood in the course of the farm bill of it becoming out of compliance is greater than that of the House-passed bill.

Mr. ROBERTS. Then the key question is this, if the Senator will continue to yield. As he knows, in agriculture, we are going through some tough times. We are not in very good shape for the shape we are in. One of the real things I believe we have to do is get Presidential trade authority and get our exports tracking. I am not going to go into a long-winded speech on that, but no farm bill, whether it is the bill being proposed by the Senator from Arkansas, or Cochran-Roberts, or the Senate bill, the Daschle-Harkin bill, can be successful unless we sell the product.

We have not been involved in the 133 trade negotiations—except for two—ever since we lost the Presidential trade authority. We exported $61 billion of farm products about 3, 4 years ago. Now we are down to 50, maybe 51, 52. Subtract that difference in terms of what we are selling and whether that is what you add up to with emergency spending. I don't understand why we don't expedite consideration of the Presidential trade authority. That is on the back burner with the leadership. That should not be the case. In lieu of that, we are going to have to have protection for farmers. In your State there are rice, cotton, and soybean producers, and in my State of Kansas there are corn, soybean, wheat, and cotton producers—40,000 acres.

So the question is this: In terms of the support that would be going to farmers, under the Senate bill that targets price, that countercyclical payment doesn't come into effect until 2004. A lot of farmers don't understand that, I don't think, or they would not be endorsing this bill. Under the House bill, however, that target price comes in right away. I might not agree with target prices—I don't like that system—but at least there is a countercyclical payment immediately in regard to the bill. Is that not correct?

Mr. HUTCHINSON. The Senator is correct.

Mr. DORGAN. I wonder if the Senator will yield for a question.

Mr. ROBERTS. I have one other question.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. DORGAN. I am asking the Senator from Arkansas would he yield.

Mr. HUTCHINSON. Let me finish the colloquy with Senator Roberts.

Mr. WARNER. At an appropriate time, I would like the Senator to yield for a minute, also. I will follow the Senator from North Dakota.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Arkansas should be advised that he has 19 minutes left under the previous order.

Mr. ROBERTS. I will be very quick in terms of this question. The Senator heard me state many times, having been involved in six farm bills, that Kiki de la Garza, chairman emeritus of the House Agriculture Committee, from Texas, who served longer than any other man as chairman, used to talk about the best possible bill and the best bill possible. This could be the best bill possible if you believe you want to move this process along, and conference it with the House, and get a bill and save the investment of $73 billion. That has been the mantra over and over and over again.

This is probably the best bill possible. Again, I don't particularly care for it. It seems to me that it would fit the description. Where are the bravehearts of the farm organizations and the commodity groups? Are they still on the sidelines? What are they doing in this regard? That is all I have heard for the past 2 weeks. Are the bravehearts getting off the sidelines or at least indicating some interest?

I talked with the House this morning. They indicated that might be the case, and I am talking about staff in terms of Mr. COMBEST and Mr. ROSS. Are the bravehearts getting off the sidelines or what?

Mr. HUTCHINSON. I would expect that. But this was, as the Senator knows, filed last night and laid down this morning, so there has been little time for the farm groups to weigh in one way or the other.

But I think the strongest point in the question posed—while there is a lot of debate about policy, we have spent the last 2 weeks at various times debating the policy of these various bills. The strongest point that you made is the one that I have tried to base this entire amendment upon, and that is, it is the only chance we have of getting improved farm policy, a bill actually signed into law this year.

That has been the hue and cry. That has been the demand of farm organizations and farmers across this country, that we finish a bill this year. This is the only way we can do it.

Chairman COMBEST has said that. I think it is patently clear that, even were the Harkin-Daschle substitute to be agreed to at this point, the differences between the House bill and the Harkin-Daschle substitute are so great that, in fact, it would take at least 3 weeks, as Senator HARKIN said last night, for that conference to be completed. We would not have a bill in time to help our farmers or to meet that demand for it to be finished this year.

Mr. ROBERTS. I thank the Senator for yielding. I have taken up too much time. There are very crucial questions, it seems to me, about what is in the Senate bill and House bill and how fast we can move.

I thank the Senator for his leadership.

Mr. DORGAN. Will the Senator yield for a question?

Mr. HUTCHINSON. I have been told my time has been reduced. We started this debate late and the vote is still scheduled for 12:50, I believe.

The PRESIDING OFFICER. The Senator is correct.

Mr. HUTCHINSON. I will yield if the time will come from that side of the aisle.

Mr. DORGAN. Mr. President, how much time were the proponents offered on this unanimous consent request, and how much time are we offered?

The PRESIDING OFFICER. Under the previous order, the vote is called for 12:50. After the reduction of the time, the Senator from Arkansas had 45 minutes and the Senator from Iowa had 10 minutes.

Mr. DORGAN. It is 45 minutes and 10 minutes. I am asking the Senator if he will yield for a brief question.

Mr. HUTCHINSON. Not on my time.

Mr. HARKIN. I will yield 2 minutes.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. DORGAN. Let me ask if the Senator will yield and I will use a moment of time from the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. WARNER. Will the Senator yield for a quick question?

I thank the Senator for his work on peanuts. This is an industry which is threatened. In my State, we are talking about small farmers, not the billions going to the grain belt. I don't criticize that, but it is the small farmer out there.

We are dealing with people who are farming 40 acres, maybe 100 or so acres, sometimes 200. If I am correct, you are raising the target price to $5.50?

Mr. HUTCHINSON. The Senator is correct.

Mr. WARNER. I thank you for that. Then 10 cents a pound quota buyout for 5 years, that is there. And allowing the producer to assign their base the first year and then reassign it the second year, that is very important. I thank the Senator and for that reason I give my strongest support for his legislation.

Mr. HUTCHINSON. I thank the distinguished Senator from Virginia, and I am grateful for that commitment of support.

I inquire of the Senator, my colleague from North Dakota, how much time does he request?

Mr. DORGAN. Let me ask the Senator to yield. I will use 2 minutes of time that is allocated to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. HUTCHINSON. I yield without losing my right to the floor.

Mr. DORGAN. Well, parliamentary inquiry: We are using the time of the Senator from Iowa but he doesn't yield the floor?

The PRESIDING OFFICER. Yes.

Mr. DORGAN. I so appreciate the generosity here. Let me ask the Senator from Arkansas a question.

He says this is the last opportunity for a farm bill, this amendment he is offering. Is it not the case we will have a cloture vote following that and the last opportunity for a farm bill will be for us to break the filibuster that has occurred now day after day after day on the underlying amendment? Is that not the last opportunity for the Senate to move a farm bill?

Mr. HUTCHINSON. As I said, I have voted for cloture and I will again vote for cloture. But even if cloture were invoked and the Harkin-Daschle substitute were adopted, it is not possible to conference it and get a farm bill to the President this year.

Mr. DORGAN. That is a judgment I don't share. The Senator has, in fact, voted for cloture. Almost all of his colleagues on that side of the aisle have not. We have decided today to allow the Senator from Arkansas to offer his amendment, which is essentially a farm bill. We say, yes, you offer yours; let's have a vote on that.

Why are the majority of the Members on your side not willing to do the same for our farm bill?

Mr. HUTCHINSON. I am sorry. I am not sure——

Mr. DORGAN. We have had a filibuster day after day after day. We have had two unsuccessful votes to try to break it. Almost everyone on your side of the aisle has voted to continue the filibuster. You are now offering your amendment. We say go ahead and get a vote on your substitute farm amendment; go ahead. We will agree to a vote on yours. Why do most of the members of the Republican caucus not agree to the same thing with respect to the Harkin bill, or the Daschle bill that is the underlying bill on the floor of the Senate?

Mr. HUTCHINSON. I can't judge their motives and I do not seek to. I have urged them to vote for cloture. I think it is very important we have a farm bill this year. But time is running out and I urge they support cloture.

Mr. DORGAN. I would say the discourse between——

Mr. HUTCHINSON. Regular order, Mr. President.

Mr. DORGAN. The regular order is 2 minutes on our time. How much of that is consumed?

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

The Senator from Arkansas.

Mr. HUTCHINSON. I thank the Chair. I thank my colleagues for the opportunity to visit.

I inquire as to exactly how much time we have.

The PRESIDING OFFICER. The Senator has 13 minutes 42 seconds remaining.

Mr. HUTCHINSON. Mr. President, I note many of the questions that arise in a farm bill debate—some of those posed by both Senator WARNER and Senator ROBERTS—deal with the commodity title. Obviously, those are great concerns because all of us have our own constituencies.

The Harkin substitute that we are seeking to amend includes many elements that farmers of Arkansas would support. It includes a yield update as well as a base acre update; it includes a 100-percent base acreage coverage versus the 85-percent base coverage included in the House bill and my amendment.

These are, frankly, changes that would benefit many farmers in Arkansas, Louisiana, Alabama, and Mississippi. That is one of the reasons that I have supported the chairman's mark.

However, this is what we must remember. If these changes mean we will not be able to get a farm bill this year, it is time for us to seek a different approach. While some of the funding levels for the various commodities may not be as high as we have in this substitute, the average gross receipts are rather attractive to many farmers in my State and other States as well.

I yield to the Senator from Oklahoma.

Mr. NICKLES. Will the Senator yield for a question?

Mr. HUTCHINSON. Yes.

Mr. NICKLES. I want to maybe take issue with the comments that were made that Republicans have been conducting a filibuster on this bill. Will the Senator correct me, but haven't we had germane amendments every day we have been on this farm bill?

Mr. HUTCHINSON. The Senator is correct.

Mr. NICKLES. Then on the issue of cloture, some people are assuming if you vote no on cloture you are filibustering the bill. I disagree.

Isn't it correct, if cloture were invoked, the amendment you are now offering would be nongermane?

Mr. HUTCHINSON. That is absolutely correct.

Mr. NICKLES. Isn't it correct we have asked the Parliamentarian to give us a ruling on Senator GRASSLEY's amendment? Senator DORGAN was a cosponsor. I hope he still is. I am afraid that would be nongermane.

Isn't it correct that a lot of people who have very legitimate interests in agricultural policy want to offer amendments that, if cloture is invoked, they are denied that opportunity to do so?

Mr. HUTCHINSON. The Senator is, of course, correct. I respect that. The fact is, the farm bill came very late in this session because we have been very involved with a lot of important legislation dealing with 9–11.

My support for cloture, and the reason I urge my colleague to support it, is because we are running out of time. While there are legitimate amendments and there are important amendments, I think we had too much finger pointing, too much of Democrats saying Republicans are filibustering. Frankly, some of us question the motives on the other side. We are running out of time.

Mr. NICKLES. If the Senator will yield, that is the reason why I came to the floor. I heard this "filibuster" and I thought, wait a minute, this is a very complicated bill. We have been on it for a couple of days. But every single amendment—I believe we have had just as many amendments offered by Democrats as Republicans or very close and they have all been germane.

I know there are several other amendments that are very germane but might fall postcloture. I just wanted to understand from my colleague and maybe make an assertion that there is not a filibuster. There is a desire to improve a bill that some of us believe is fatally flawed.

I will also ask my colleague, the bill we have pending, the so-called Harkin-Daschle bill that was reported out of the partisan Agriculture Committee, isn't that unusual? The facts are that the markup of agricultural policy for decades has been bipartisan. Unfortunately, it was not in this case in the markup of the Agriculture Committee.

Mr. HUTCHINSON. I say to my colleague from Oklahoma that my history on the Agriculture Committee is pretty thin. This is my first time on an agriculture bill markup, so I can't really answer this question. But I will say this. While the bill that came out of committee has been described as being a bipartisan bill, I was the only Republican to support that bill. So that cannot be considered nearly as bipartisan as the amendment I am now offering which originally, when offered as a freestanding bill in the Senate, had four Democrats sponsoring it and three Republicans.

So I would suggest if we are going to talk about a bipartisan approach, this is far more bipartisan than the bill that came out of committee, unfortunately.

Mr. NICKLES. I thank my colleague.

Mr. HUTCHINSON. I inquire of my colleague from Arkansas as to how much time she would request.

Mrs. LINCOLN. About 5 minutes.

Mr. HUTCHINSON. I yield Senator LINCOLN 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. I thank the Chair.

Mr. President, today is December 19. Twenty days ago, on November 30, our leaders made a motion to move to debate on the farm bill. That was just after Thanksgiving. Many farmers in Arkansas probably thought, finally, the Senate is going to start voting on the merits of the farm bill. Members on the other side of the aisle objected; they were not ready to move to the farm bill. They said we did not need a farm bill this year and we did not have to deal with that issue right now; we could put it off for another year, just as we have been putting farmers off for the last 4 or 5 years. They forced us to have a procedural vote.

The White House continued issuing statements against considering a farm bill this year, and our farmers waited. Our farmers all across this Nation waited.

On December 5, 5 days later, we had a vote that is hard to explain to folks outside the beltway. We voted on the motion to invoke cloture on the motion to proceed to the farm bill. It passed 73 to 26. In other words, 73 Senators thought we should begin debating the farm bill. But rather than allowing the Democratic leadership to move forward with the bill, Republicans forced us to wait several days and then vote on the motion to invoke cloture on the motion to proceed to the farm bill. Now, with that vote behind us, many farmers in Arkansas probably thought, finally, finally, the Senate is going to start voting on the merits of a farm bill now.

Then, on December 5, December 6, 7, 10, 11, and 12, we discussed the farm bill. Hanukkah came and went.

As my colleague from Oklahoma mentioned, this is a difficult bill. Farm bills always are. That is why we spent the last year and a half discussing the issues of this bill.

In years past, we have tested the issues of a 5-year farm bill. And in the last farm bill we found that the policy we enacted in 1996 was completely inadequate. We have been discussing that for a year and a half. We have been talking about it in committee. We have been talking about it among ourselves and with our colleagues on the other side of the Capitol.

The Senate is supposed to be the deliberative body, and we have proven that again with the weeks of debate on a farm bill that took up 3 days of business in the other body. For 3 days the other body deliberated this issue, and we have spent how much time here over the course of the last 3 weeks?

On December 12, the distinguished former chairman of the Agriculture Committee, the Senator from Indiana, Mr. LUGAR, offered his alternative to the commodity title of this bill. We debated its merits, and then it failed by a vote of 70 to 30.

Many farmers in Arkansas probably thought, finally, the Senate is going to finish up the farm bill. The leading Republican on the Agriculture Committee had offered up his best, and the Senate had voted no. Now maybe we could pass the farm bill. And then we continued to deliberate. We deliberated on December 13, 14, on December 17 and 18.

Christmas grows near. Yesterday we had another procedural vote in an attempt to move the farm bill. The Senate voted on cloture. But we fell 6 votes short of the 60 needed to move forward. Most Republicans voted no. They wanted more time to deliberate.

It is beyond me who it may be out there in our farmland of America, from whom they are hearing, who thinks we are not in an urgent situation of providing good agricultural policy. And I do not know, but maybe the Senator from Arkansas and I are the only ones who hear from farmers who are extremely anxious about whether or not they are going to get their financing to put seed in the ground next year or whether or not they are going to be able to continue a family farm that has been in their family for generations, whether they are going to have to continue to farm out the equity of that farm in order to be able to continue farming.

Then the distinguished former chairman of the Agriculture Appropriations Subcommittee and the former chairman of the House Agriculture Committee offered their alternative. Before yesterday, there had not been any written copy of the Cochran-Roberts bill. We could not review the bill on its merits. So it became known on this side of the aisle as "what will it take to get your vote?"

A version of that bill had failed during committee consideration. But yesterday, it got its day in the Sun. And it was fully debated on the Senate floor. And it failed by a vote of 55 to 40.

With that vote behind us, many farmers in Arkansas probably thought, Finally, the Senate is going to pass the farm bill.

And that brings us to this day on the brink of another vote to bring the Agriculture Committee's farm bill to an up-or-down vote in the Senate.

Now my good friend from Arkansas is prepared to offer a bill that he and I introduced prior to the Senate Agriculture Committee considering the farm bill.

We introduced that bill when we were concerned that the Senate Agriculture Committee wouldn't pass a farm bill.

But the distinguished chairman of the Agriculture Committee, Senator HARKIN, worked closely with us to craft a bill that fits the needs of all producers.

I am proud of the bill that came out of committee. And I want to commend Chairman HARKIN for his hard work.

I am prepared to vote in favor of final passage of the Harkin farm bill right now. It is a good bill. A strong bill that has weathered 20 days of debate.

But my friend from Arkansas wants a vote on the bill we introduced earlier this fall.

I will vote in favor of the Hutchinson amendment because it reflects a bill that I wrote.

But I warn my colleagues on the other side of the aisle: Regardless of the outcome of this vote, if you vote against cloture at 1:15, you will reveal your true intentions regarding U.S. farm policy for all America to judge.

There will be no denying that you have no interest in moving a farm bill this year.

It will be obvious to every farmer who is watching this debate.

America's farmers will know, without qualification, that you preferred to turn your back on them. You will have abandoned them in this time when they are desperate for a farm policy based on the realities of American farming in the 21th century.

That is a fine "Merry Christmas" wish for rural America.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. LINCOLN. May I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. The time is controlled by the other Senator from Arkansas.

Mrs. LINCOLN. I ask for 1 additional minute.

Mr. HUTCHINSON. I ask the Chair how much time is remaining on my side?

The PRESIDING OFFICER. Four minutes.

Mr. HUTCHINSON. Judging from the fact this is not a wholehearted endorsement of my amendment, perhaps the——

Mrs. LINCOLN. I was just describing the debate so far.

Mr. HUTCHINSON. Perhaps the request can be granted from the other side.

Mr. ROBERTS. I object.

The PRESIDING OFFICER. Who yields time?

Mrs. LINCOLN. I ask unanimous consent for 1 additional minute.

Mr. ROBERTS. I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

The Senator from Iowa.

Mr. HARKIN. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. HUTCHINSON. May I inquire of the Chair, do I still control the floor?

The PRESIDING OFFICER. The Chair was inquiring who yields time, and the Senator from Iowa made an inquiry and was recognized. The Senator from Iowa has the floor.

Mr. HUTCHINSON. I simply was going to reserve the remainder of my time for closing.

The PRESIDING OFFICER. The Senator's time is reserved.

The Senator from Arkansas has 4 minutes. The Senator from Iowa has 7½ minutes.

Mr. HARKIN. Mr. President, I will yield myself 5 minutes, and I would appreciate the Chair announcing when my 5 minutes is up.

Mr. President, first of all, this is not the House bill. This is not even the bill that my friend from Arkansas introduced last night. In order to comply with the budget, they made changes, and what were the changes made? It is very interesting. Let's just take a look at two areas.

The Hutchinson amendment really does gut conservation. In the Senate bill we put $21.5 billion. The House has $15.8 billion. The Hutchinson amendment lowers that to an even $14 billion. But here is where most of the money came from. I say to my friend from Arkansas, Senator LINCOLN and others, we are interested in the small towns and communities. We want rural development.

In the Senate bill we had $1.7 billion—listen to this—over 5 years for rural development. The House bill has $1.17 billion over 5 years for rural development. So we are pretty close. The Hutchinson amendment has—listen carefully—$200 million over 10 years for rural development. Gutted.

So if you want to have a balanced farm bill and one that helps our small towns and communities, forget about that amendment. He guts rural development and puts it all into commodities. But even putting it into commodities, they backload it in 10 years.

What we have done is said there is a crisis out there right now and we need to help farmers right now. For the life of me, I do not understand, Mr. President, why the Senator from Arkansas would want to hurt his own rice producers.

Next year, under the committee bill, the payment per acre for rice is $148.13 under our bill. Under the amendment of the Senator from Arkansas, the payment will be $96.18 per acre for his own rice farmers. Why he would want to offer an amendment to penalize his own rice farmers, I have no idea, because they go back to the old bases and yields. We update the yields. Look at next year. Our payment next year is $148 per acre on rice; the Hutchinson amendment is $96 per acre on rice.

With corn, we pay $36.67 per acre; the Hutchinson, $26 per acre. Wheat is $18.90 under our bill, $15.54 under Mr. Hutchinson's amendment.

This amendment is not well thought out. It is not even the House bill. It is not the House bill at all.

One more time for the record, I say to my friend from Oklahoma, nine titles were approved in our committee unanimously—unanimously. Bipartisan, not one dissenting vote. Senator LUGAR and I worked it out. We worked it out with Senator HUTCHINSON and all the Republicans and Democrats on the committee. The only title that did not come out unanimously was the commodity title. Even the Senator from Arkansas voted for that, so at least it has some bipartisan support.

When the Senator says this is some kind of hugely partisan bill, that is nonsense on its face. All you have to do is please check the record. This bill had strong bipartisan support in the committee.

Again I respond to my friend from Kansas who said we robbed the crop insurance program to increase loan rates. Let the record show, all we did was include a provision that extends the very same provision that Senator ROBERTS put in his crop insurance bill last year. It was OK when he put it in last year. All we are doing is extending it. Now somehow he says it is not OK. We did not gut the crop insurance. If it was good enough for Senator ROBERTS last year, it is good enough for us to put it in now and extend it into the future. That is all we did. We did not in any way touch or gut the crop insurance program.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HUTCHINSON. It is my hope to close for the amendment. Is it the intent of the opponents of the amendment to use the remainder of their time?

Mr. HARKIN. How much time remains?

The PRESIDING OFFICER. There are 2½ minutes for the Senator from Iowa.

Mr. CONRAD. I would like 1 minute if I may.

Mr. HARKIN. I yield 1 minute to my friend from North Dakota.

The PRESIDING OFFICER. The Senator from Iowa yields 1 minute.

Mr. CONRAD. I have said many times that the House-passed farm bill represents a good starting point. But it is a starting point that can be improved. For example, the House bill falls well short of the bill out of the Agriculture Committee in its treatment of commodities such as sugar, soybeans, sunflowers, canola, barley, and the pulse crops of dry beans, lentils, and chickpeas. In dairy, the Senate bill is substantially better than the House bill.

The House bill skimps on commodity support in its first year, providing less than half the support provided by the Senate bill in its first year. If the House bill prevails, we may very well find ourselves back here late next year considering supplemental support for agriculture again. I believe our goal should be to improve the House bill. We cannot do it if we simply accept it today.

The chairman has made clear what is before the Senate is not even the House bill.

Mr. HUTCHINSON. I have 4 minutes remaining.

The PRESIDING OFFICER. The Senator has 3½ minutes.

Mr. HUTCHINSON. I yield 1 minute to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. I thank the distinguished Presiding Officer and my colleague.

It seems to me we have a paradox of enormous irony. The majority has, for weeks, talked about and urged passage of a farm bill to protect the investment in agriculture, the $73 billion provided for in the budget, and to expedite consideration with the House of Representatives, and we could pass the bill this year.

Today, let the record show, whether it might be minor differences between the bill offered by the distinguished Senator from Arkansas and the House bill, the majority is now going to vote against the House position before they go to conference. I think that is a paradox. I think that is unique. I think that is unprecedented.

I thank the Senator for the time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Let me say very quickly in wrapping up, I appreciate working with the chairman, and I think he made a good faith effort.

As far as the conservation is concerned, I will respond by saying I offered increases: The average annual funding level from $200 million to $1.3 billion a year for the EQIP program. Livestock and crop producers each receive 50 percent of the funding. On the issue of the rice, the average gross receipts over the 5 years is $11.90 per hundredweight under the House bill and the amendment I offered.

Yes, yours is higher, but they are not being penalized. It is a bill and a position that the Rice Federation and rice producers endorsed because they knew it was good for rice when the bill was introduced.

However, we could argue day and night about this funding and which bill is better for the various crops. The reality is, if Members want a farm bill this year, if Members want a bill this year, this is it. You can bump it up another few billion and maybe everybody in the world will be happy, but if you cannot pass the bill, it doesn't help the farmers.

The latest figures show that the Harkin substitute would cost $45.2 billion over baseline in the first 5 years, leaving only $28.3 billion for the second 5 years. Basically, if we do this, we will eliminate the funding available in the years 2007 - 2011. That is why I say these will be the years of plenty and those will be the years of famine.

This amendment is balanced, and it is reasonable, and it has broad support in the Agriculture Committee and the agricultural community. It is bipartisan. It was introduced as a bipartisan bill.

The basic, underlying, fundamental point is this: It is the only bill that is conferenceable with the House. It is the only bill that has any chance at all of being signed into law this year. If you have told your farmers that you are going to do everything within your power to get a farm bill passed this year, then you need to vote for this amendment.

This will be the highest of ironies, I say to my friend from Kansas, that those who have said they don't want to delay a farm bill are going to vote against the one vehicle by which they can get a farm bill this year; that those who have said there are obstructionists trying to get a farm bill passed will be in a position of voting against the one that could be signed into law by the end of this year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I yield 30 seconds to the Senator from North Dakota.

Mr. DORGAN. This does not wash—to stall for 2 months, to filibuster for 2 weeks, then walk around here pretending you are out of breath from running so far. Every step of the way, we had people on that side of the aisle trying to prevent us from writing a farm bill, and now they are coming to the floor saying: We are trying to move it along.

This is a sure way to try to move it along—filibustering through two cloture votes. We will see at 1:15 if they give us help to move it along.

The PRESIDING OFFICER. The Senator has 47 seconds remaining.

Mr. HARKIN. The time for games is over. The fact is, the White House itself has said we should not have a farm bill this year. The ranking member of the Agriculture Committee, Senator LUGAR, has said that. The Secretary of Agriculture has said that. The entire Republican hierarchy downtown and here have said time and time again we should not have a farm bill this year. Since this amendment is different from that of the House, it would still require a conference.

Again I say, Mr. President, now is the time to pass a good bill. If we get cloture today and we can close this bill down, we can conference our bill in the next 2 days and we can go into conference with a good bill, not with an amendment that is less than what the House has.

I urge defeat of the Hutchinson amendment.

I move to table the Hutchinson amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The hour of 12:50 having arrived, under the previous order, the question is on agreeing to the motion to table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "no."

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 376 Leg.]

YEAS—59

Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham
Gregg
Hagel
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lugar
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Torricelli
Voinovich
Wellstone
Wyden

NAYS—38

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Craig
Crapo
DeWine
Domenici
Edwards
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Lincoln
Lott
McConnell
Nickles
Roberts
Santorum
Sessions
Shelby
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—3

Akaka
Helms
Murkowski

The motion was agreed to.

Mr. HARKIN. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry: What is the order of business now before the Senate?

The PRESIDING OFFICER. The cloture vote is the next order of business.

Mr. HARKIN. Mr. President, I understand there is no time remaining. I ask unanimous consent that I be given 1 minute and that the other side be given 1 minute prior to the cloture vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. Mr. President, we will now go to a cloture vote. It will be the third cloture vote. The majority leader has said that will be it, because this is Wednesday. To finish the 30 hours after cloture, if we got cloture, would require the rest of the week. We all want to get out of here by Friday or Saturday—I hope. So this really would be the last opportunity to have closure on the farm bill.

We have had good votes. We voted on the Lugar substitute. We voted on Cochran-Roberts. We voted on Hutchinson. There may be other amendments. They should be germane. Somebody said about cloture, it cuts off amendments. It does not cut off any germane amendments to this agriculture bill.

So let's have the cloture vote. We get our 30 hours. At least then we can finish the bill. Then the staff can work on it in January, and when we come back on January 23, we can meet in a short conference and get the bill to the President before the end of the month.

If cloture is defeated, I can assure you, all of my fellow Senators, the President will not get this bill until sometime in March or April, if even then. So this is the last train out of the station. I hope we can get it done.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Indiana.

Mr. LUGAR. Mr. President, we worked with the distinguished chairman carefully. There are a large number of issues that must be discussed before this bill is perfected.

In good faith, I ask the Senate to give us opportunities to perfect this bill. It must be perfected, in my judgment, if the President is to sign it, if we are to have a successful conference, and in fact if we are to have successful agricultural policy.

In fairness, there are a number of amendments that must be heard that, in due course, will have to be heard somewhere in the land. This is the proper forum and the proper time. I ask my colleagues to vote against cloture to keep the process alive because I am confident we will improve the bill if we have that opportunity.

I thank the Chair.

CHANGES TO H. CON. RES. 83 PURSUANT TO SECTION 213

Mr. CONRAD. Mr. President, section 213 of H. Con. Res. 83, the FY 2002 Budget Resolution, permits the chairman of the Senate Budget Committee to make adjustments to the allocation of budget authority and outlays to the Senate Committee on Agriculture, provided certain conditions are met.

Pursuant to section 213, I hereby submit the following revisions to H. Con. Res. 83.

The revisions follow:

Current Allocation to the Senate Committee:	($ millions)
FY 2002 Budget Authority	21,175
FY 2002 Outlays	17,856
FY 2002-06 Budget Authority	69,640
FY 2002-06 Outlays	52,349
FY 2002-11 Budget Authority	114,692
FY 2002-11 Outlays	80,210
Adjustments:	
FY 2002 Budget Authority	0
FY 2002 Outlays	0
FY 2002-06 Budget Authority	37,751
FY 2002-06 Outlays	34,465
FY 2002-11 Budget Authority	66,150
FY 2002-11 Outlays	66,150
Revised Allocation to the Senate Agriculture Committee:	
FY 2002 Budget Authority	21,175
FY 2002 Outlays	17,856
FY 2002-06 Budget Authority	107,391
FY 2002-06 Outlays	86,814
FY 2002-11 Budget Authority	180,842
FY 2002-11 Outlays	146,360

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Mr. President, we have been on this bill for almost a record length of time now. I am told that tomorrow we will break the record for the length of time a farm bill has been debated. If we get cloture, of course, we will still entertain 30 hours of debate for germane amendments. As I have done on several occasions, we will also entertain unanimous consent requests to consider amendments that are not germane.

But time has run out. This is the third cloture vote. We have a lot of other legislation that must be addressed before the end of the week. We have three conference reports on appropriations that must be completed. We have other legislation of import to both sides of the aisle that must be addressed and, hopefully, completed.

I announced earlier today that if we fail to get cloture on this vote, we will have no other choice but to go on to other issues. That will terminate the debate and end any possibility that we could complete our work on the farm bill this year.

I put all my colleagues on notice, after three cloture votes we need to move on. It is up to both of us, Republicans and Democrats, to make that decision. We can finish this bill. We can accommodate all the other items that need to be addressed, but we have to move on. Germane amendments for 30 hours ought to be enough for everybody who has debated this bill now for over 2 weeks. I ask my colleagues to vote for cloture. Let's get this work done.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Republican leader.

Mr. LOTT. Mr. President, I yield myself leader time so I may respond. I know Senator DASCHLE might want to close the debate.

Let me just emphasize on this issue, first of all, I don't believe this is a record. I think if you go back and search the record, we have spent as long as 30 days on an agriculture bill. We could go back and forth over what the length of time was. The important thing, though, is to get the right thing done.

This legislation does not expire until next year. We are not going to get a conference agreement on this legislation whether we complete action now or next week or sometime before the end of the year. The conference will go well into the next year. I suspect this will be a pretty difficult and long conference. There is no need to continue to have this vote.

Unfortunately, this is the most partisan farm bill I recall seeing in my 29 years in the Congress. Farm bills are almost always, if not always, very bipartisan in the way they are brought out of committee and the way they are considered on the floor. Unfortunately, that has not been the case here.

Farm legislation is very important. We should make sure, when we come back next year, this is the first issue pending and complete action. In the meantime though, we should keep our focus on the three appropriations conference reports, seeing if we can get a bill through that will help the families and the unemployed on the stimulus package, and see if we can get an agreement on the terrorism reinsurance and bioterrorism. Those are the issues we really can do, should do, and I hope we will do.

I urge my colleagues, do not rush to judgment. Let's not be forced to invoke cloture when there are important amendments that would be cut off, such as the one Senator GRASSLEY has on limitations.

There is no need to be panicked here. We can do this. We can do it right. We cannot cut off our colleagues who have good amendments. We can complete action in due time and get a good farm bill well before the law expires.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Let me respond briefly. First of all to the Grassley amendment, we are told now that it is germane, and certainly it would be eligible for consideration. That goes to the point I made just a moment ago. A lot of amendments that are still pending will certainly be entitled to consideration, entitled to a vote, and that is as it should be.

I also note the Republican leader's comment that this has been a partisan process. I am told by the chair of the committee that we have never had as many unanimous votes in a markup as we had with consideration of this farm bill. Of the titles that were passed out of the committee relating to this bill, nine of them passed unanimously. Only one failed unanimity. That doesn't sound partisan to me.

The commodity title was the only title that generated votes on both sides. Every other vote, in all nine titles, was passed unanimously.

Again, as to the assertion that we can wait, I must say I urge you all to refer to the Budget Committee and their projections that, by waiting, we chance losing $25, $30, $40 billion in budgetary authority. This in essence is a vote to cut agriculture by a substantial amount of money, if we fail cloture now, if we don't take full advantage of the budget window we have available to us.

We can't wait. I know the administration has urged that we wait, the Secretary of Agriculture has urged that we wait. I must say, 32 or more farm organizations have urged us to act now. Why? Because they are worried about the budgetary implications. Why? Because they want farmers and ranchers to have the opportunity to make the transition. Why? Because the Department of Agriculture normally needs 6 months to make the transition. There are plenty of reasons it is important for us to bring this debate to a close. Let's do it. Let's move on to the other issues we have to confront. Then let's going home for Christmas.

Mr. NICKLES. Will the majority leader yield?

Mr. DASCHLE. I am happy to yield to the Senator from Oklahoma.

Mr. NICKLES. The majority leader referred to the fact that a lot of farm organizations support this bill. Was the majority leader aware that the American Farm Bureau Federation wrote a letter today, December 19, which reads in part:

> The American Farm Bureau Federation Board of Directors in a special meeting on Tuesday, December 18, 2001 voted to oppose senate passage of the farm bill if it contains the water language that your amendment is intended to strike.

I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> AMERICAN FARM BUREAU FEDERATION,
> *Washington, DC, December 19, 2001.*
>
> Hon. MICHAEL CRAPO,
> *U.S. Senate, Russell Senate Office Building, Washington; DC.*
>
> DEAR SENATOR CRAPO: I am writing to convey the strongest support possible of the American Farm Bureau Federation for your amendment to strike the Reid water rights language from the conservation title of S. 1731. This language poses an extraordinary new threat to agriculture and the ability of farmers and ranchers to remain economically viable.
>
> The water provisions in the bill set a dangerous precedent that would erode historic state water law. Additionally, it will expand the scope of the Endangered Species Act to cover a new category of species that are not in fact threatened or endangered. These changes are unacceptable to agriculture and will affect agricultural producers well beyond those who participate in the Conservation Reserve Program.
>
> The American Farm Bureau Federation board of directors in a special meeting on Tuesday, December 18, 2001 voted to oppose Senate passage of the farm bill if it contains the water language that your amendment is intended to strike.
>
> Sincerely,
>
> BOB STALLMAN,
> *President.*

Mr. NICKLES. It is just one farm organization, but it happens to be the largest farm organization in the country.

Mr. DASCHLE. Mr. President, I haven't seen the letter, but I will tell you, the Farm Bureau has probably been the leader of all farm organizations in urging the Senate not to delay. It is one thing to vote for or against a particular piece of legislation relating to amendments that may or may not be offered. But it is another thing altogether to complete our work. The Farm Bureau, the Farmers Union, virtually every farm organization known to this country has urged the Senate to complete its work, and to do it this week—not next week, not in February, not March, but now.

The Farm Bureau, the Farmers Union, all the other farm groups have said that. I think those positions ought to be made clear as well.

I yield to the Senator from Iowa.

Mr. HARKIN. Mr. President, I want to respond to my friend from Oklahoma. I spoke with Mr. Bob Stallman this morning on the phone. He is the president of the American Farm Bureau Federation. He referred to this letter. He referred to the conference call they had yesterday. That is true, they are opposed. He said to me—and I asked, May I relate this? He said yes—they are absolutely in favor of cloture, of bringing this to an end. But then again he said they would be opposed to the bill if it had that water right in it. But he told me on the phone this morning they were absolutely in favor of cloture and bringing it to a close.

Mr. DASCHLE. Mr. President, the time has come for us to move to the other important pieces of legislation that have to be addressed. Let us complete our work on this bill. We have been on it long enough. We have debated every conceivable amendment. I think the time has come for us now to complete our work.

I yield the floor.

Mr. SESSIONS. Will the majority leader yield for a question?

The PRESIDING OFFICER. Will the Senator yield?

Mr. DASCHLE. I will yield. I know there is a Senator on the floor who needs to catch an airplane. This will be the last time I yield.

Mr. SESSIONS. My request would be that there be one last attempt to make a bipartisan compromise here. We have people such as Senator LUGAR, Senator COCHRAN, Senator GRASSLEY, Senator Roberts, with deep histories in farm legislation, who are troubled by this bill. I believe we can work it out, as we have in several other last-minute circumstances. But to just shelve it with no willingness to give on the majority leader's side is not healthy.

Will the majority leader try that?

Mr. DASCHLE. Mr. President, let me say, we will have 30 hours, 30 hours of debate, to try every conceivable new avenue to reach some compromise. I am more than willing to sit down with our two managers, with other Senators who have an interest in completing our work.

The real question is whether or not we want to finish the farm bill this year. I hope people can say on both sides of the aisle in the affirmative, yes, we will finish our bill this year. We will complete our work as all farm organizations and as our responsibility dictate.

I yield the floor and ask for the vote.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle for Harkin substitute amendment No. 2471 to Calendar No. 237, S. 1731, the farm bill:

Paul Wellstone, Tim Johnson, Bill Nelson, Harry Reid, Blanche L. Lincoln, Zell Miller, Barbara Boxer, Byron L. Dorgan, Max Baucus, Thomas Carper, Ben Nelson, Kent Conrad, Tom Harkin, Patrick J. Leahy, Fritz Hollings and Jean Carnahan.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule has been waived.

The question is, Is it the sense of the Senate that debate on the substitute amendment No. 2471 to S. 1731, the farm bill, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 43, as follows:

[Rollcall Vote No. 377 Leg.]

YEAS—54

Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Hutchinson
Inouye
Jeffords
Johnson

Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Torricelli
Wellstone
Wyden

NAYS—43

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Craig
Crapo
Daschle
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—3

Akaka
Helms
Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 54, and nays are 43. Three fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. DASCHLE. I enter the motion to reconsider the cloture vote.

Mr. JOHNSON. Mr. President, I rise to express my grave disappointment at the failure of the Senate to achieve cloture on S. 1731, the Senate farm bill. Today, as on two other occasions in the last 13 days we have debated the farm bill in the Senate, a majority of our body has voted for cloture, a parliamentary tool applied to end excessive debate and to ensure we could finish the farm bill by the end of the year. Unfortunately, even though a majority of the Senate wants to pass a farm bill this year, the Senate Republican leader has blocked an up-or-down vote on the farm bill, forcing the Senate to revisit this issue next year. It requires 60 votes to terminate a filibuster and to allow the Senate to proceed with its work.

Today, farmers and ranchers across South Dakota and the entire country are busy doing their jobs. They are maintaining their operations, feeding livestock, deciding what to plant for the 2002 crop year, discussing prices, expenses and economic matters with their lenders, all in anticipation that Congress will do their jobs and complete a farm bill this year. The only problem is that Congress, namely a certain number in the Senate, has failed family farmers and ranchers by rejecting action on the farm bill this year. Despite the fact that every major farm and ranch organization in the country wanted to complete action on the farm bill this year, a certain number in the Senate ignored these 32 groups. In fact, Mr. Bob Stallman, the President of the American Farm Bureau Federation has been quoted as saying that a vote against cloture is a slap in the face to farmers. Unfortunately, Farm Bureau, Farmers Union, and all the other farm groups were ignored today and on two prior cloture votes. On three separate occasions the U.S. Senate was given an opportunity to demonstrate how important family farmers, ranchers, and rural communities are to the overall well-being of the country, because the Senate had cloture votes on three separate days. On three occasions the Senate was given a chance to say we'll write a new farm bill this year, we'll go to conference with the House, and we'll send a bill to the President. On three occasions the Senate was given an opportunity to send a message to farmers and ranchers all across the country that we care about them, that we want a better farm bill for rural America, and that it was important to us to deliver a new farm bill to them. Yet, on Thursday, December 13, the Senate obstructed action on the farm bill by a 53–45 vote. Then on Tuesday, December 18 and today, Wednesday December 19, the Senate rejected cloture on a 54–43 vote each day. Rejecting cloture simply means a rejection of the farm bill this year. That is very unfortunate.

I have repeatedly said it is crucial for Congress to complete action on the farm bill, conference with the House, and send a bill to the President for his signature this year, if not very early next year, in order to ensure two very important things.

First, that we capitalize upon the $73.5 billion in additional spending authority provided by this year's budget resolution, because given the shrinking budget surplus and unprecedented demands on the Federal budget now, there are no assurances this money will be available in 2002, when a new budget resolution will be carved out of a very limited amount of resources. Second, that we mend the farm income safety net now because the experience of the 1996 farm bill has painfully taught us that it does not provide family farmers and ranchers a meaningful income safety net when crop prices collapse. Thus the need for a new farm bill is clear.

Some will allege the Senate did not have time to fully debate the merits of S. 1731, the Senate farm bill. However, that is clearly not the case. Rather, in the last 13 days we have debated the farm bill, approximately 20 amendments were proposed to the underlying bill. Three of these amendments were comprehensive alternatives to the farm bill passed out of the Senate Agriculture Committee. Of these three substantial alternatives, one was a proposal by Senator LUGAR to overhaul the farm bill's commodity title with a severe reduction in support to South Dakota's crop producers, essentially by eliminating the marketing loan program. On December 12, the Senate voted against the Lugar amendment on a 70–30 vote. Then, yesterday, the Senate debated at great length an alternative to the farm bill offered by Senators COCHRAN and ROBERTS. Their alternative would have revamped many titles of the farm bill, including major changes to the commodity and conservation titles. Yesterday, the Senate rejected the Cochran-Roberts alternative by a 40–55 vote. Finally, today, Senator TIM HUTCHINSON offered a near identical version of the House-passed farm bill (HR 2646) for consideration and debate in the Senate. Today, the Senate soundly rejected the House proposal by a 38–59 vote. In the final analysis, a clear majority in the Senate has gone on the record in opposition to three major farm bill alternatives. I am confident that if we were allowed a straight up-and-down vote on the Senate farm bill, we would pass it. However, certain Senators have resorted to stall out the farm bill, essentially killing it for the year.

Finally, I will do all I can to make sure the farm bill is the very first order of business that we take up in 2002. We may still have time to pass a farm bill in the Senate, conference with the House, and send a bill to the President. In the meantime, I will continue to fight for South Dakota's priorities in the farm bill. Some of these priorities include; my provision to forbid meatpacker ownership of livestock, which will restore fair competition in the marketplace; my provision to provide for country-of-origin labeling of beef, lamb, pork, fruits, vegetables, peanuts, and farm-raised fish; my provision to prohibit USDA quality grade stamps on imported meat; an energy title that promotes value-added ethanol, biodiesel and wind production in South Dakota; a conservation title increasing the Conservation Reserve Program to 41 million acres; and; a commodity title containing higher loan rates than the House farm bill and a provision that rewards farmers with an allowance for an update on a farmer's yields and planted acreage for the purpose of making price support payments. None of these provisions are contained in the House farm bill.

We have more work to do. In addition to completing action on the farm bill, we should address common-sense payment limitations in the farm bill so family farmers and ranchers truly benefit from it. I look forward to next year and our endeavor to provide America's family farmers and ranchers with a new farm bill.

Mr. NELSON of Nebraska. Mr. President, I rise in support of the Daschle substitute to the committee-passed bill.

Let me begin my statement by pointing out that every farmer I talk with in Nebraska wants Congress to pass a new farm bill this year. This legislation is awfully important to tens of thousands of farm families in Nebraska and they are asking me to get it done.

For my State, with its 55,000 farm families where we have more cows than people there may be no greater economic stimulus package than the farm bill.

Many of my colleagues have thanked Chairman HARKIN, ranking member LUGAR, and their staffs for their hard work in getting this bill together. Let me add my thanks. It was not an easy job.

But then, neither is farming in an environment where commodity prices for crops remain at historic lows for the fourth straight year.

Or where livestock producers—the largest sector of agriculture in my state—are facing costly new environmental regulations with frightfully few federal resources to help share the burden.

So I rise in support of this legislation and ask my colleagues to join me in its consideration.

This bill breathes new life into our commodity programs, provides nutrition programs for hungry children and adults, supports our international food donation and trade efforts, and protects millions of acres of environmentally sensitive land, among many other important priorities.

It makes a real commitment—both in programs and funding—to rural development. I have worked with many Nebraskans involved in rural development in their communities, and these are the provisions they asked for: Access to venture capital. Adequate funding for water and sewer projects. Greater access to broadband service. More funding for value-added product development.

A modest investment in these programs will have tremendous return in rural communities all across America. I hope my colleagues have heard from their constituents about the importance of these provisions and that they are as enthusiastic as Nebraskans are.

This bill also includes, for the first time, a title devoted to agriculture-based energy. It's a terrific idea and one whose time has come. I only wish the Agriculture Committee had the jurisdiction to go further!

Nevertheless, the provisions in the energy title that provide grants, loans and technical assistance to farmers and ranchers to develop and incorporate renewable energy use will be, I predict, widely oversubscribed.

In five years we will be back here trying to expand these programs, like we have our conservation programs, because demand has far surpassed the funding available.

Speaking of conservation, let me briefly comment on the conservation title. The Chairman and Ranking Member of our committee deserve special recognition for their vision in moving farm programs toward a more conservation-oriented policy.

Environmental and sportsmens' groups—the hook and bullet coalition, I heard them called recently have been working toward the expansion of these programs for years, and their efforts pay off in this bill.

CRP, WRP, WHIP, FPP . . . the acronyms all run together, but each program has a distinct and invaluable purpose.

Of particular interest to Nebraskans are the significant new resources for the EQIP program, which will allow it to ramp up to $1.25 billion a year by 2006 from just $200 million now.

It will provide assistance to thousands of livestock producers, in particular, to comply with new regulations. Just as importantly, it will assist row crop producers in protecting water supplies, soil quality and wildlife habitat. The House also made a significant commitment to EQIP and I commend them for that.

A critical title of this legislation reauthorizes and expands nutrition programs. Included is a provision of particular importance to Nebraska and other states with military installations.

The privatization of housing on military bases has had the unintended consequence of jeopardizing eligibility for the free and reduced cost school lunch program for qualifiying children. Because of the reporting requirements in the privatization legislation, service members' housing allowances are now being counted as income making children who previously qualified for the free and reduced cost school lunch program ineligible.

So, unfortunately, as a result of a policy that I support—privatized housing on our military bases—we are improving quality of life with one hand and taking it away with the other.

This bill creates a stop-gap solution to this problem, until child nutrition programs can be reauthorized.

Finally, the commodity title is of course the engine driving this train. I cannot overstate how important it is to Nebraska.

Farmers, as we all know, are deriving an ever-increasing share of their income from farm program payments under Freedom to Farm.

The law that was supposed to rid them of the shackles of Federal farm programs has instead made them more dependent on the government than ever before. It has cost taxpayers tens of billions of dollars in emergency assistance.

Farmers in Nebraska have said resoundingly, "Enough!" and they are right. It is time for a new program that offers some stability and a reasonable chance at profitability. And it's time for a program that no longer offers its benefits based on what you may have planted 20 years ago.

This legislation provides a modest increase in loan rates, and I do mean modest. Corn goes from $1.89 to $2.08; wheat from $2.56 to $3.00.

Farmers in Nebraska have been calling for an increase in loan rates for years, but this is hardly what they had in mind.

And still, there are those who call it excessive. Who say that these loan rates—still well below what it costs farmers to raise a crop—will "stimulate production."

I ask them: where? Freedom to Farm sent farmers checks when prices were at record highs and they did what any business would do—they invested in greater productivity. And they were successful.

As we know too well, it took only two years of Freedom to Farm for prices to collapse. And they have not recovered. And still the government signals, "Plant more." "Buy more land." "Expand your operation."

The current program, I say to my colleagues, stimulates production. So I do not see where all this new production is going to come from.

What I do see is a loan rate that offers producers a fighting chance at making a cash flow work with their banker this spring. A safety net that leaves them less dependent on the continued largesse of Congress. And I like that, and so do they.

The commodity title reauthorizes programs for sugarbeet growers, which is also important to my state. To the 550 families growing sugarbeets in western Nebraska, this bill is critical.

And it meets other needs of other regions and senators that make it truly a national program—including peanuts and fruits and vegetables.

So I thank Chairman HARKIN for putting this bill together and I urge the Senate to invoke cloture and move to its immediate consideration.

Mr. CRAIG. Mr. President, last week we voted on an amendment by Senator JOHNSON that would prohibit meat packers from feeding, owning, or controlling livestock. I voted for this amendment because of concerns from my livestock producers that the packers have too much control of the market.

Since that time, I have received more information on how this provision would be implemented. It has come to my attention that the language as written would prohibit forward contracting, future contracts, and other pricing mechanisms.

This is significant information. Indeed, had I known it at the time of the vote, I would have voted differently.

For that reason, I took the only action available to me to correct the situation. I filed two alternative amendments to the farm bill: one that would prohibit the Johnson language from going into effect, and another that would substitute a study to determine the economic impact of such a proposal. The proposed ban on packer ownership, as offered by Senator JOHNSON, could cause widespread economic harm in the livestock and packing industries, but no one has explored what the true implications would be. My amendment would require the US Department of Agriculture to complete this study within nine months.

I have always been a free market conservative; however, I regularly hear from ranchers expressing concerns about concentration in the meat packing industry. In Idaho we have two packers, and the only thing worse than just two packers, is to have only one. I am concerned that the language as passe4d could result in further consolidation within the packing industry.

While I agree with my producers that we have a problem, we must be sure that our solution does not create an even bigger long-term problem.

MEAT PACKERS

Mr. GRASSLEY. Mr. President, last week the Senator from South Dakota and I offered an amendment which would prohibit meat packers from owning, feeding or controlling livestock prior to slaughter. Together, we had introduced legislation in the Senate to accomplish the very goal of our amendment. A majority of our colleagues in the Senate voted in favor of our amendment. However, since that time, concerns have been raised by the Secretary of Agriculture and some in the livestock industry that the language of the amendment, specifically the word "control" would affect forward contracts or marketing agreements. I do recall that the Senator from Montana inquired as to whether this amendment affected such contracts and that the Senator from South Dakota responded that the amendment did not affect them. However, I would ask the Senator from South Dakota for further clarification on that issue.

Mr. JOHNSON. I thank the Senator from Iowa for his leadership on this issue. Additionally, I thank him for his concern for livestock producers and for the opportunity to clarify any misunderstandings. The amendment is not intended to affect forward contracts or marketing agreements. Such arrangements have caused or can cause problems in the market, but they are outside the scope of this amendment.

The intent of the word "control" must be read in the context of ownership. In other words, control means substantial operational control of livestock production, rather than the mere contract right to receive future delivery of livestock produced by a farmer, rancher or feedlot operator. "Control" according to legal dictionaries means to direct, manage or supervise. In this case, the direction, management and supervision is directed towards the production of livestock or the operations producing livestock, not the simple right to receive delivery of livestock raised by someone else.

The word control is intended to close any loophole which may allow clever attorneys to circumvent congressional intent. Such loopholes could include situations where a packer that owns livestock engages in a transaction where a farmer takes nominal title to livestock or livestock feeding operations, but a packer has substantial operational control over the livestock production which is similar to ownership. Another situation is where a packer could exercise such operational control through a related entity. However, where a farmer or rancher holds true operational control, this amendment would not affect him.

Mr. GRASSLEY. Mr. President, I understand that the Senator from South Dakota does not intended the word "control" to include forward contracts and marketing agreements. However, how are such contracts different from operational control?

Mr. JOHNSON. There are two reasons that forward contracts and marketing agreements are not within the definition of control. First, these contracts do not allow a packer to exercise any control over livestock production operation. Rather, the contracts merely provide the packer with the right to receive delivery of livestock in the future and most include a certain amount of quality specifications. There is no management, direction or supervision over the farm operation in these contracts. The farmer or rancher makes the decision to commit the delivery of livestock to a packer through the contract without ceding operational control. In fact, the farmer or rancher still could make a management decision to delivery the livestock to another packer other than the one covered in the contract, albeit subject to damages for breach of contract. Even where such contracts include detailed quality specifications, control of the operation remains with the farmer. The quality specifications simply related to the amount of premiums or discounts in the final payment by the packer for the livestock delivered under the contract.

Second, several states prohibit packer ownership of livestock, such as Iowa, Minnesota, and Nebraska. The Iowa law, for example, prevents packers from owning, operating or controlling a livestock feeding operation in that state. But packers and producers may still enter into forward contracts or marketing agreements without violating that law because operational control, in the context of ownership, is the issue. The term control is intended to be similarly interpreted and applies in this amendment.

Mr. GRASSLEY. I concur and understand the distinction between control of livestock production in the operational sense and a mere contract in which a packer has the right to receive delivery of livestock in the future. I also understand that farmer owned cooperatives, including federated agricultural cooperatives, are exempt if they own a packing plant. But there is yet another situation in which some packers enter into joint ventures with farmer-owned cooperatives that has members which would supply the jointly owned packing plant.

It has never been our intent to prevent cooperatives from engaging in relationships with packers, and the amendment does not do that. For example, in Iowa, Excel, which is owned by Cargill, is in negotiations with a beef cooperative to build a packing plant to be owned by a joint venture. If that deal is completed, the actual packer would be the joint venture entity formed by Cargill/Excel and the beef cooperative. Co-op members who chose to participate in that endeavor can freely commit all or a portion of their cattle for slaughter without violating this amendment. The reason is that the packer in the exercises no operational control over livestock production. Rather, the package again has a mere contractual right to receive delivery of cattle that meet its specifically on graduate and quality. That contract may be a standards forward contract or marketing agreement, or the contract may take the form of a membership agreement between each farmer member and the beef cooperative. In either even, this amendment does not affect this joint venture arrangement.

Mr. JOHNSON. That is absolutely correct Senator GRASSLEY, and we have advocated this position all along. Thank you from clarifying that issue with me. While forward contracts and marketing agreements can pose problems for the marketplace, they are outside the purview of our amendment.

Mr. GRASSLEY. Thank Senator JOHNSON for clarifying the scope of the amendment.

MORNING BUSINESS

Mr. DASCHLE. I ask unanimous consent there now be a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAILURE TO PASS A FARM BILL

Mr. HARKIN. What was the final vote, I inquire?

The PRESIDING OFFICER. The yeas are 54; the nays are 43.

Mr. HARKIN. We would have had 55. Senator AKAKA was missing, of course.

This is a sad day and not a very bright Christmas next week for farmers and ranchers and people who live in rural America. What we have said to them is: You don't count; you will come on the tail end of everything else. We will do this, we will do that around here, but when it comes to our farmers and ranchers, you are at the tail end. That is what my Republican colleagues have said. Go take a hike, they said to rural America. We will deal with you later. We will deal with you later.

I come from a town of 150 people. I was born and raised there. I bet I am the only Senator in this Chamber who lives in the house in which he was born. I wasn't born in the hospital; I was born in the house. I still live in that house in a town of 150 people. I have a strong feeling about people who live in small towns and communities that need rural development, that need sewer and water, need better communications, telecommunication centers in our country, who need job opportunities. Our farmers surround these small communities and this is what they need for them and their families and their livelihood.

We tried everything humanly possible to get this bill passed, in good faith, working in a bipartisan manner. Facts are devilish little things because facts give lie to rhetoric. We hear all this rhetoric from the other side that this is a partisan bill. If it wasn't so partisan, we could get it through.

But the facts are devilish things. And the facts are that every single title of this bill we worked on, I worked closely with my ranking member, a good friend, an honorable person, someone who cares deeply about agriculture. We worked on these. We worked them out in committee. Every single title got a unanimous vote, all Republicans, all Democrats, but one title, commodities. Senator HUTCHINSON from Arkansas voted with us, so it was bipartisan. Basically, the same thing happened in 1995. We had to deal with the commodity title in the Chamber. I understood that. But then we had all the amendments that gutted nutrition, gutted conservation, that went after rural development. And we had all decided in the committee, unanimously, on what we reported out.

The facts give lie to rhetoric. They have the rhetoric. They have been hit with the rhetoric, but the facts are on our side. This is one of the most bipartisan farm bills ever to come out of the Senate Agriculture Committee. The facts are there and cannot be denied. Again, they talked about reaching more of a bipartisan consensus. Again, the facts are devilish little things.

We had three big amendments offered on the Republican side that were sort of in the nature of substitutes for a committee bill. One was the amendment offered by my friend from Indiana, the ranking member, Senator LUGAR. Then we had the amendment offered by Senators COCHRAN and ROBERTS. And then this morning we had the amendment offered by Senator HUTCHINSON. If you listened this morning, you heard Senator HUTCHINSON and others saying this would be the only bill; if only we would pass the Hutchinson bill, it could be the only bill that could get through conference and get to the President.

The facts are devilish things. The Lugar amendment got 30 votes. The Cochran-Roberts amendment got 40 votes. The Hutchinson amendment this morning got 38 votes.

What are they talking about? I assume what they mean when they want a bipartisan bill is they want the 30 or the 40 people to decide. That is not bipartisan. We had the votes. What it showed was the majority of the Senate wants the committee bill, but for some reason they will not vote for cloture to give the 60 votes.

I ask, what is partisan about somewhat higher or lower rates? What is partisan about that? What is partisan about fixed payments, which we have in our bill? What is partisan about countercyclical payments, so that if the price goes down we come in and help farmers out? What is partisan about a strong conservation program, that even the Secretary of Agriculture, in the book they published earlier, touted widely?

This is a balanced package. It was right down the middle. It was not radical. It was not partisan. When you get a bill that can get unanimous votes on our committee on every title except one, I say that is a pretty doggone good bipartisan bill. It may not be what every single person wants. Not everything in that bill is something I would want. But I recognize you have to balance interests—not only between parties, but you have to balance them geographically and between crops.

That is what we did.

Now, let me talk about the cloture vote. Cloture is a funny sounding word. I assume when farmers and the people in my small towns in Iowa and places where I live are watching this on C-SPAN, or they pick up the newspapers, or watch it on television, or hear it on the radio, they wonder what cloture means. All it means is that we bring the bill, finally, to an end at some point. There is some point at which we end. Even after the cloture vote, 30 more hours are added onto the almost 3 weeks we have already been on it—30 hours with germane amendments allowed. Obviously, nongermane amendments would not be allowed.

Is the other side saying they want a farm bill on which they can add everything that is not germane? Go out and tell that to the farmers. Tell them they stopped this bill because they wanted to add a stimulus package—some tax giveaway program or some other extraneous matters.

I say to the farmers and ranchers and people in my small towns, all cloture means is we were going to reach the point of a final vote. It did not say how you vote. But there would be 30 more hours with amendments that were all germane to the farm bill.

Even my friend from Iowa, my colleague, had an amendment on payment limits. He was upset this morning. There was a little to-do last night and this morning about it. We worked it out so his amendment would be germane. Yet he still voted against cloture.

What more can you do? What more can you possibly do? This is not a good day for farmers, for agribusiness, for our bankers and lenders all over rural America. I have been here 27 years. Not as long as my colleague from Indiana, but I have been here 27 years. I have been on the Agriculture Committee 27 years—in the House and then here in the Senate. I have been through over a half dozen farm bills; about four of those in the Senate. Some of them have been pretty tough debates. We have had tough debates here. Farm bills engender tough debates. Sometimes I kind of like it. They are good debates.

But in all of those years, I have never seen a more partisan attack on a committee-reported bill than I have seen in the last couple of weeks on the floor of the Senate. The administration, time after time after time, and the President's chief advisers, have said they do not want a farm bill this year. They want to put it off until next year sometime. The Secretary of Agriculture has also repeated those words.

I would say with all due deference to my friend from Indiana, I assume he has said repeatedly we should not have a farm bill this year; we should do it next year.

All right. That is OK, if that is their point of view. But let's vote on it. Let's let the majority of the Senate work its will.

Yet we did not. So I would say, look to the administration. Obviously, they have their troops in order here because, I have to tell you, it is not in the best interests of a lot of people who voted against cloture to vote against cloture. They know it. Their farmers know it. Their farm organizations know it.

Yet because the administration lowered the boom and said no, no farm bill this year, we don't get cloture. We do not bring it to a close.

Again, hope springs eternal. I said I would do everything humanly possible to try to bring this to a close this week. I believe that I have met that commitment. I am not a dictator. I cannot force anyone on the other side of the aisle to vote one way or the other. I can only use reason, logic, and the facts, that is all—and have votes and let them debate and then have the amendments.

We have done that. I am fearful next year when we come back, we are going to have new budget estimates. We are going to lose a lot of money out of this. There will be a hue and cry out of the administration that we cannot afford this. We are going to put our farmers and our ranchers in a terrible situation next year, all because of the vote that was held 15 minutes ago.

How do we plan? How do farmers plan? There is huge uncertainty out there. So I hope as Senators who voted against cloture—have a Merry Christmas. I wish them all a Merry Christmas and a Happy New Year. Think about those farm families out there who are going to be worrying about what kind of farm program they are going to have next year.

The PRESIDING OFFICER (Mr. REED). The time of the Senator has expired. The Senator from Indiana.

Mr. LUGAR. I thank the distinguished chairman for wishing us Merry Christmas. I reciprocate. In the same serious vein, however, we both reciprocate with farmers across our land and all citizens who watch this debate and who are deeply interested, as we are, in this bill.

Let me recognize, first of all, the leadership of our chairman, Senator HARKIN, who came into the chairmanship in June, and organized a staff in a very difficult year. The farm bill cycle, one that comes with this Congress, requires a great deal of organization. He has brought together a skilled group of staff members who have worked well, the staff members I was privileged to serve with when I was chairman of the committee.

Nevertheless, it was a difficult time to begin the farm bill consideration, the drafting, pulling together, at least, of the materials as well as the consensus that was required. I pay tribute to the chairman for doing that very skillfully.

But as has been pointed out throughout the debates, many times members complained during the markup that they were not aware of the text of the bills until a few hours before consideration. These are complex titles. Even then, we proceeded and cooperated with the chairman, for reasonable debate and votes.

The chairman is correct. In the case of the titles other than the commodities title, we often came to unanimity. I think I would make only the slight correction that I offered amendments in committee to do considerably more in nutrition and food stamps and feeding of the poor than was the will of the committee at that time. Likewise, more on agricultural research. Essentially, a majority of the members of our committee were deeply concerned throughout all the other titles about the amount of money that would be left for the commodities. They wanted to follow the money. It was all right to take a look at research and nutrition and the rest of it, but these were perceived as preliminaries to the main goal.

As a result, we do not all get what we want in these priorities. Nevertheless, I had a chance to express it. We had votes, I think fairly narrow losses on both of those, and came back to the floor to try again—unsuccessfully, as it turned out. I accept that fact. This may be a year in which the majority of the committee and a majority of the Senators were eager to literally appropriate more taxpayer money for the traditional crops and bits and pieces of other situations to satisfy Senators necessary to build a coalition.

I also observe the driving force for all of this was a statement that the Budget Committee had reserved $172 billion over a 10-year period of time for agriculture. If this was not seized, the moment was not seized, the money was not seized, it would be gone. Therefore, even if there might be inadequate consideration of titles and texts and procedure, or even if, in this debate on the floor, amendments could not be heard, again and again we returned to the thought that if this did not occur in calendar 2001, the $172 billion might be lost.

The majority leader in his comments thought maybe $30 billion or $40 billion might be left. Therefore, those voting against cloture were voting for a cut in the Agriculture bill.

Admittedly, we considered a 5-year bill, the House bill with the $172 billion 10-year situation, but we even came back to that in a vote today. This preoccupation with that money is an important fact. But I tried to reason during some of our debate in this Chamber that we are all aware as Senators, quite apart from the technicalities of the Budget Committee, that our country is at least in a mild recession. We are, hopefully, going to take up stimulus spending to get it out and move people along—farmers included. There is not $172 billion and there has not been for a long time. We have continued to operate in a fashion in which we spent every last dime, pushing each commodity situation to the nth degree.

I and others argued that that is a mistake for agriculture in America; it is not in the best interests of a large majority of farmers. This bill was crafted to benefit a fairly small number of farmers in America. Those of us who have talked about it have detailed in our own States precisely who gets the money. In Indiana, 66 percent of the money goes to 10 percent of the farmers. The bill we have been considering would concentrate it even more. What about the other 90 percent? Are they of no consequence in this debate?

When we talk about farm families in my State, 90 percent might say: Is no one looking out for us?

And I say: I am.

Let's get that straight. The bills we were taking a look at narrowly focus a lot of money to a very few people.

They would say: We deserve it. We are the most efficient. We are the biggest. We are getting bigger. We have the best research, the best marketing.

We applaud that, but that does not justify the American taxpayers transferring money to them.

We applaud their efficiency because they make money doing what they are doing.

I have no idea how the final product might have looked if we had invoked cloture today. But we have a pretty good idea. How interesting it is that so many farm groups said: We are looking at two bad bills—the House bill and the Senate bill. But vote for a bill anyway to get on with the process because the $172 billion might disappear, and somehow a miracle might occur in conference between two bad bills. That is highly unlikely.

What we have done today is given ourselves a second chance to let the American people in on the secrets, the facts, and then to deliberate a little more carefully as to how in fact we should not encourage overproduction and overconcentration of the money. The problems will surely come in the trade situation of this country when we take steps such as this that are clearly not tied to all of the opening up elsewhere in the world that we espouse.

We have a lot of work to do. I look forward to working with the distinguished chairman of the committee. I am grateful we have a second chance to do much better for American farmers.

As I have said throughout the debate, as one who is among that group, I take farming seriously and personally—in my family as well as in my State. I think I have a pretty good idea, as a matter of fact, of what may be beneficial to Indiana agriculture.

The bill that was before us without amendments and without substantial changes would have been harmful to my State. That is counterintuitive. Indiana is one of the big winners as you look down the number of farmers receiving subsidies and the amounts of money.

The fact is we have been running the markets off the tracks by the Government interfering and stimulating overproduction year after year. You depress prices year after year. There is no way prices could get up, given the bill we are taking a look at. You depress it by the very nature of the bill and then complain that prices are at all-time lows. Of course, they are. If we passed this bill, prices would be low for 10 years. That would guarantee a crisis.

I predict that unless we cure this, we will be back in July and August despite the protestations, and we will say somehow this just didn't work; it wasn't the right formula; we need more money, and we will vote for more money, as we have annually year after year, because the politics of competition between the parties would really not permit anyone to opt out at such a moment.

I am more optimistic than my colleague from Iowa. I think we are going to progress and do the right thing, as we always attempt to do in this body. I think we are going to have more constructive deliberation outside of the Chamber and then hopefully have a more focused debate inside the Chamber and come to the right conclusions.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, how much time is there?

The PRESIDING OFFICER. There are 10 minutes allowed each Senator to speak in morning business.

Mr. WELLSTONE. I thank the Chair. Let me thank both my colleagues for different reasons.

First of all, I thank Senator HARKIN, who I think has done a yeoman job of reporting not a perfect bill but a good bill out of the Agriculture Committee and bringing together a lot of different people representing a lot of different viewpoints with a unanimous vote on all of the provisions of the bill except the commodity provision.

I thank Senator LUGAR for his typical graciousness and civility. Let me add that the differences I have with him are not ever personal but more a matter of policy.

These are the facts as I see them. When Senator LUGAR talked about too much AMTA payments being inverse in relationship to need, I quite agree with him. But I see a good part of that as being the outgrowth of the failed "freedom to fail" bill and the AMTA payments that have gone out to people. I can't think of a more failed farm policy, I say for all of my colleagues who supported that bill.

There are many who filibustered this bill and supported what was called the Freedom to Farm bill—what we call the "freedom to fail" bill.

Essentially what has happened, because it was such a miserable failure, is we now have farmers and agriculture in a large part of rural Minnesota and rural America dependent on these Government payments. Quite frankly, these AMTA payments especially are inverse in relationship to need. There is no question about it.

Farmers in our State—livestock producers, corn growers, wheat growers, and dairy farmers—hate being dependent on the Government checks.

I think what is going on here is as follows: This administration's definition of a good farm bill is low loan rates and low prices for family farmers. It is that simple. As a matter of fact, in the substitute Senator HUTCHINSON presented today, the House bill actually would enable the Secretary of Agriculture to lower the loan rates from where they are right now.

There is a lot of arcane language that goes with agricultural policy. But basically what we are talking about is a way in which farmers have some negotiating power vis-a-vis grain companies, or other exporters, with the loan rates so they can get a better price. When they get the better price, they do not have to take out any loans. The Government doesn't pay them any money.

If I had my way, if Senator DAYTON had his way, and if other farmers had their way, we would have had a Grassley-Dorgan amendment which would have made this more targeted. We would raise the loan rate.

Let us be clear about this. What is at issue is that this administration's definition of a good farm bill is low prices for family farmers. They want the loan rate down. For the large conglomerates—be they the grain traders or other exporters—low prices are great. They pay the independent producers low prices, they export, and they make a big profit. That is what this is about.

I was the last to join the Agriculture Committee. I was so hopeful that we would write a new farm bill. It is not just strategy here in the Senate, or strategy here in Washington DC; it is a lot of people who are being spat out of the economy—broken lives, broken dreams, broken families. All family farmers say: That is what I care about.

Frankly, my passion isn't for all of the food industry. I am not worried about Tyson Foods or IDP. I am not worried about the big grain companies. They do fine. The part of agriculture or the food industry for which I have the passion is the family farmers—the people who not only live the land but work the land, and who are basically saying: We want to have a living wage. We want to have a price whereby we can make a little bit of profit based on our hard work so that we can support our families and live in the part of Minnesota and America that we love—rural America and rural Minnesota.

I am not a farmer. But in an odd way, when we moved to Northfield, MN, in 1969, I started organizing with farmers. I have been organizing with farmers now for almost 30 years. If there is one thing I advocate for, it is for trying to make sure farmers have some leverage to get a decent price.

We had rural economic development provisions in this bill. We had energy provisions in this bill. We had good conservation measures in this bill. We had food nutrition in this bill, which wasn't as strong as Senator LUGAR would like or that I would like, but much better than the House bill. A number of us had amendments ready that we thought would have strengthened it.

In addition, it was not perfect, but the effective target price, loan rate, with some additional assistance, would have provided some real help to family farmers—not as in you are directly now dependent upon all Government payments, but as in you are going to have a chance to get a better price in the marketplace.

Mr. DAYTON. Will the Senator yield for a question?

Mr. WELLSTONE. I am pleased to yield.

Mr. DAYTON. My distinguished colleague, the senior Senator from Minnesota, has been in this body for 10 years. This is my first year in this body. I know, from my own experience in Minnesota, that it is unusual for the Minnesota Farm Bureau and the Minnesota Farmers Union to be in complete agreement. In this case, I believe we were both hearing from those organizations and many other farm organizations in Minnesota that represent the farmers in our State, that they wanted this bill. They wanted this bill to pass the Senate.

My question is, not having been in this body as long as my senior colleague, in the 10 years my colleague has been in this body, is the Senator aware of a time when both national farm organizations—the American Farm Bureau Federation and the National Farmers Union—were standing at a press conference, the two of them, with Senators such as ourselves, and saying the same thing about this bill?

Mr. WELLSTONE. I say to my colleague from Minnesota, no. I think the reason for it is, if this bill had passed, it would have been an increase of net farm income of $3 billion a year over the next 10 years.

We need that in farm country. I have never seen the Farm Bureau and the Farmers Union so united. I cannot believe that Senators actually voted to block this bill, obstruct this bill from passing.

Mr. DAYTON. I also ask the Senator—again, this is my first year in this body—I have just been in awe of Chairman HARKIN. And I expressed last week my deep respect for Senator LUGAR, who was the former chairman and now ranking member of the committee.

I have never before, in this process, seen anyone lead a committee as he has hold hearings for months, and have the committee markup, where all points of view were recognized, where we voted and passed it out.

Has the Senator ever seen a committee chairman give any stronger and better leadership to a committee bill than this one?

Mr. WELLSTONE. I say to my colleague from Minnesota, no. I think Senator HARKIN made such an effort to reach out that he would infuriate some of us on the committee. He really went out of his way to work with Senators on both sides of the aisle. The proof of that, again, is that every provision in the bill—except for one—was passed with a unanimous vote. It was a good markup. It was substantive. I think Senator LUGAR had a lot to do with that as well.

I think Senator HARKIN did everything he could to make this bill a bipartisan bill.

Mr. DAYTON. I would hope all the farmers in the State of Iowa, the Senator's home State, and all the farmers in America would understand and know that Chairman HARKIN has done everything for countless hours and hours over the last months to bring this bill to the floor, making it a good bipartisan bill, and one that, most importantly, speaks to the critical financial circumstances in which many Minnesota and other American farmers find themselves. I think it was extraordinary and heroic. I want to give the chairman that due credit.

I thank the Senator.

Mr. WELLSTONE. I agree with my colleague.

I yield the floor.

Mr. ALLEN. Mr. President, before I get into my statement, I just want to say one thing about all of this deliberation on the farm bill. As far as family farmers are concerned, I am glad for Virginia family farmers in the peanut business that this law is not going to be changed before October of 2002. Changing those laws would have been devastating to those family farmers. And while the Cochran-Roberts and Hutchinson amendments were better, because of the fact this is not going into effect now, they can plan, with their leases for equipment, in this final year of this farm bill.

(The remarks of Mr. ALLEN and Mr. WELLSTONE pertaining to the introduction of S. 1848 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WELLSTONE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LTV SHUTDOWN

Mr. WELLSTONE. Mr. President, there is a piece in the New York Times today, the business section, "LTV Seems on the Verge of a Shutdown," subtitled "Without Loan, Steel Giant Could End Its Labor Contract Today."

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 19, 2001]

LTV SEEMS ON THE VERGE OF A SHUTDOWN

(By Riva D. Atlas)

After more than half a century in business, the LTV Corporation will soon shut its doors, barring a government-supplied miracle.

One of the nation's biggest steel makers, LTV put its mills earlier this month on what is called "hot idle," which would allow the company to restart them quickly if a government-backed loan comes through at the last minute.

But if help does not arrive by today, the company will ask the bankruptcy judge to end its labor contract.

A shutdown would leave about 70,000 retirees and recent employees with no or reduced pensions and health care benefits, and force the government to pick up at least some of the tab for what remains. The pension costs alone would be at least $2 billion.

LTV's predicament—with creditors on one side saying life support no longer makes sense and workers on the other fighting to preserve jobs and benefits—may become all too familiar in the future. More companies are liquidating in bankruptcy under pressure from creditors.

In the steel industry alone, 12 companies have shut down since 1998, according to the United Steelworkers of America, and 17 more are now in bankruptcy. The steelworkers union is lobbying for government assistance—as are Bethlehem Steel, U.S. Steel and Wheeling-Pittsburgh, which want permission to consolidate in an effort to avoid LTV's fate.

LTV's decision to shut down, announced last month, comes a year into its second bankruptcy. In its first bout with Chapter 11, the company spent seven years in bankruptcy—one of the longest reorganizations of any American company. Now, LTV's management has concluded that its losses, $2 million a day, are simply too large.

"The company was running out of cash," said James Bonsall Jr., chief restructuring officer of LTV. Unless it began to liquidate, it would be unable to pay off $100 million in bank debt due at the end of the year, he said. Officials at J.P. Morgan Chase, which provided LTV with $582 million shortly after the bankruptcy filling in return for first claim on LTV's assets, declined to comment.

If LTV closes, it will mean the end of a company with roots far from the steel industry. Founded by James Ling, a high school dropout from Hugo, Okla., the predecessor company, known as Ling-Temco-Vought, had interests in electronics and aerospace. An avid conglomerator, Mr. Ling's endless stream of acquisitions landed his company in 14th place on the Fortune 500 in 1967. The following year, he entered the steel business with LTV's $425 million acquisition of Jones & Laughlin Steel. (Mr. Ling was ousted in 1970 under pressure from LTV's banks and has since emerged as an oil industry entrepreneur in Texas.)

LTV sold off the other businesses during its first bankruptcy. "We tried to get rid of the steel business, but we couldn't," said Mark Tomasch, a company spokesman. The steel business was unattractive to buyers, he said, in part because of the large health care obligations.

With $5 billion in revenues last year, LTV was the third-largest integrated steel producer in the United States, operating steel mills in Cleveland and East Chicago, Ind.

LTV's employees, aware that jobs are hard to come by, are fighting to keep the company alive. Their situation has won them the support of members of Congress from the region. Analysts and investment bankers say the workers' expectations are unrealistic, and ultimately side with LTV's management. Demand for LTV's product is too meager to justify the company staying in business, these executives said.

[On Tuesday, the U.S. and 38 other nations agreed to reduce world output of steel by nearly 10 percent over the next decade in an effort to drive up demand. C8.]

"All these politicians want the steel mills to open or reopen, but they never look at the other side of the equation," said Charles Bradford, an independent steel industry analyst and consultant based in New York. "They say, 'Let's make steel,'" Mr. Bradford said, citing a rallying cry of the steelworkers. "But they never think about who's going to buy the stuff."

LTV's business, along with that of the other large steel makers, has steadily weakened in recent years, thanks in part to cheap foreign imports that have been flooding the United States since 1998. (Operators of so-called "mini-mills," which are not always small and recycle scrap steel into new products, have generally remained profitable.)

All the integrated steel companies, including LTV, are also paying benefits to a population far larger than their employees. At LTV, there recently were at least 10 retirees for every worker. The precise number is unclear because the union counts 10,000 more retirees than the company does.

Waves of layoffs beginning in the 1980's and continuing in the last 2 years have swelled the ranks of retirees at most steel companies. A provision in many steelworkers' contracts guarantees them the right to claim retirement benefits early if they are dismissed or if their mills shut down, said Cary Burnell, a member of the research staff at the steelworkers union. As part of their push for industry consolidation, U.S. Steel and Bethlehem Steel asked Congress two weeks ago to assume some of their health care costs.

LTV's workers are laboring furiously to pull off an 11th-hour rescue, but their prospects are dim. Their union is hoping for a $250 million loan backed by the Emergency Steel Loan Guarantee Board, an arm of the Commerce Department. "We're going to fight like hell to get this loan, and fight like hell to save this company," said Leo Gerard, international president of the steelworkers union.

The company's banks, National City and KeyBank, suspended their efforts to secure such a loan last month, after deciding that they could not adequately demonstrate that the loan could be repaid.

Senator Paul Wellstone, a Democrat from Minnesota, was hoping to attach an amendment to the economic stimulus bill that would loosen such loan standards, but it is unclear when the bill will come to a vote, said a member of his staff. The union also delivered a letter, signed by 91 members of Congress, to the Commerce Department on Friday urging approval of the loan.

But with the union due to report, its progress to the bankruptcy judge today, time may be running out for LTV's workers. Even if the loan is approved, the company says it will not be enough to keep LTV alive. "The company would need close to $1 billion to return to business," said Mr. Tomasch, the spokesman.

If the bankruptcy judge permits, LTV will soon stop paying retirement and health benefits. Some of these expenses will be assumed by the government. The Pension Benefit Guaranty Corporation will take over LTV's retirement plan, at what it estimates will be a cost of $2 billion. Retirees over 65 will qualify for Medicare.

Many of LTV's remaining employees will be out of luck. There are limits on the benefits the pension agency will cover, according to Mr. Burnell of the steelworkers. It will not cover, for example, a payment of $400 a month from the company to many steelworkers dismissed between the ages of 50 to 62, intended to tide them over until they qualify for Social Security. Someone with 20 years at LTV typically qualifies for a pension of $1,450 a month, including the $400 monthly payment, but the pension agency would exclude recent enhancements to the pension plan and probably pay about half that amount, Mr. Burnell said.

> Employees younger than 65 will also be on their own for medical costs. A fund set up by LTV when it last emerged from bankruptcy to pay for employees' health care probably will be out of money in less than a year, said Mr. Tomasch, the LTV spokesman. Among the benefits that will be lost is a medical plan that covers 80 to 90 percent of the costs of prescriptions ordered by mail. Last year, the company paid $200 million in health care costs, he said.
>
> If LTV's unions are unable to secure the loan, their best hope is to find a buyer for the mills.
>
> "Plan A is to keep LTV operating and to do our work in Washington, D.C.," said Stephanie Tubbs Jones, a Democratic representative from the Cleveland area, where LTV has it's biggest mill. "Plan B is to prepare our community to invite a new buyer for LTV, including providing incentives."
>
> Finding a buyer for the Cleveland mill will not be easy. "There is excess capacity around the world, and the Cleveland mill is one of the highest-cost mills," said Mr. Bradford, the independent analyst.
>
> Even if a buyer is found, that might not help LTV's current employees. The mills will be more attractive to a buyer without the workers, Mr. Bradford said, because then they would not be forced to assume the health care costs.

Mr. WELLSTONE. I will read a paragraph:

> LTV's workers are laboring fiercely to pull off an 11th-hour rescue, but their prospects are dim. Their union is hoping for a $250 million loan backed by the Emergency Steel Loan Guarantee Board, an arm of the Commerce Department. "We're going to fight like hell to get this loan, and fight like hell to save this company," said Leo Gerard, international president of the steelworkers union.

Mr. President, I along with other Senators who try to represent workers and working families and steelworkers, have written a letter to this Emergency Steel Loan Guarantee Board in the Commerce Department asking them to grant this loan. On the Senate floor today, I wish to associate myself with President Gerard's comments. If there is any vehicle—we are down to the wire here—if there is an economic stimulus package or economic recovery package, I will have an amendment which will give that loan board better authorizing language to make it clear that, indeed, this is their mandate to guarantee just these kinds of loans. I don't know whether or not we are going to have that package. That is being negotiated.

I have also made it clear that I think if there is any other bill that passes through in terms of providing relief for this sector of the economy or that sector, that from my point of view there also has to be an amendment which represents relief for those people who are flat on their back, out of work, without unemployment insurance any longer, without health care coverage or soon to be without coverage, or to help these steelworkers.

I wanted to cite this article because I am sure President Gerard and the steelworkers sometimes think they are shouting in the wind, that they are not being heard. Industrial work is being spit out of the economy. LTV shut down. At the taconite plant in the Iron Range of Minnesota, 1,400 workers are out of work.

I went with them the day the local president called everybody together to tell them it was over. And I got really mixed advice about whether to go because people said, if you are there, like a politician, people are just going to turn on you because they are so angry about losing their jobs. They didn't do that. People appreciate the fact you go up and you are with people, especially in these times.

But the fact is, not just for the sake of these workers who want nothing more but to work, but for financial security as well, we ought to pay attention to what has happened in the steel industry. We should pay attention to what is happening to certain vital sectors of the economy.

Again, just so President Gerard and the International Steelworkers Union don't think there aren't Senators who support them, I know others do as well. Senator ROCKEFELLER has been at this a long time. This was Senator BYRD's original idea. This Emergency Steel Loan Guarantee Board of the Commerce Department can do this. This is their mission and mandate. They can say: We guarantee this loan. So far they have not done so. I wish we could rush through some additional language to make it clear this is their mission and mandate. We may not be able to do so. But they ought to go forward with this loan. If they don't, the consequences are going to be very harsh.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

RECESS

Mr. REID. I ask unanimous consent the Senate stand in recess until 3:30 today.

Thereupon, the Senate, at 3:03 p.m., recessed until 3:30 p.m., and reassembled when called to order by the Presiding Officer (Mr. JOHNSON).

The PRESIDING OFFICER. The Senator from Massachusetts.

JUDICIAL NOMINATIONS

Mr. KENNEDY. Mr. President, we have been hearing a steady drumbeat of complaints from our Republican colleagues about the pace of judicial confirmations by the Senate. For all who know the facts, there is no basis for the charge that Democrats have engaged in delay tactics on judicial nominees. In fact, the Democratic Senate has been significantly more diligent in confirming judges under the Bush administration than the Republican Senate was at any point under the Clinton administration.

In the 5 months since Democrats gained control of the Senate, the Judiciary Committee has already held 11 hearings on judicial nominees. Under Chairman LEAHY's leadership, we held hearings during the August recess, and also just 2 days after the terrorist attacks. In addition, we held a hearing in the Capitol Building, when the Senate offices were closed by the anthrax contamination.

As a result, 27 judges have already been confirmed in the 5 months since Democrats took control of the Senate. By the time the Senate adjourns, we are likely to have confirmed more than 30 judges—more than were confirmed during the entire first year of President Clinton's first term in office when Democrats controlled the Senate, and more than double the number confirmed during the entire first year of the first Bush administration.

Our record is good by any measure. It becomes even better when we compare it to the record of the Republican majority when they controlled the Senate during the Clinton administration.

We have held 11 judicial nomination hearings in just 5 months, almost all of which have included several judges per hearing. In 1999 and 2000, the Republicans held an average of only seven hearings for the entire year.

In confirming 24 judges since the August recess, we have had a more productive post-August-recess period than any Republican-led Senate did for a comparable period in the last 6 years.

Some Republicans are now blaming Democrats for the current number of vacancies on the Federal bench. But these vacancies were largely caused by the tactics of the Republican majority over the last 6 years. We know that our colleagues worked to impede President Clinton's executive branch nominees such as Bill Lann Lee, nominated to head the civil rights division, and Dr. Satcher, the nominee for Surgeon General. Our colleagues also blocked or attempted to block President Clinton's judicial nominees by delaying or refusing to hold hearings, and refusing to allow the Senate to vote on some nominees. The average length of time a circuit court nominee waited for a hearing under the Republican Senate was about 300 days. Some nominees waited up to 4 years for a hearing. In 6 years, the Republican Senate failed to confirm nearly half of President Clinton's nominees to the circuit courts. As a result, vacancies in the Federal courts increased by 60 percent.

No one suggests that Senate Democrats should follow the example the Republicans set over the past 6 years. The Judiciary Committee should and will continue to move forward in confirming nominees to the Federal court in a prompt manner. But it is wrong for any of us in the Senate to abdicate our responsibility to thoroughly review the record of each nominee. Lifetime appointments are at stake. The need for careful review is important not just for Supreme Court nominees but for nominees to the lower Federal courts as well. These courts hold immense power. Many important legal issues in this country are decided at the Court of Appeals level, since the Supreme Court decides fewer than 100 cases per year.

I voted to confirm most of the judges nominated by President Reagan and the first President Bush. The Senate's constitutional duty of "advice and consent" does not mean that the Senate should be a rubber stamp. It certainly does not require the approval of Federal judges who have displayed hostility to core Federal constitutional and statutory protections, or who have an extreme ideological agenda. Judges who are highly qualified, have a balanced judiciary temperament, and who are committed to upholding the Constitution and Federal law are judges that Senators on both sides of the aisle can support. But we should not support nominees with records that suggest they will roll back the rights and protections that Americans consider vital.

All nominees should have their records examined thoroughly, and they should have hearings to answer questions about their records. Because these are lifetime appointments to courts that make decisions deeply affecting the nation, full and fair review is the least the Senate owes the American people.

The Senate has worked well together this year on a number of bipartisan efforts, including education, airline security, and bioterrorism. On the issue of judges, all of us on the Senate Judiciary Committee know that we can work well with the administration and with Senators on both sides of the aisle to confirm nominees for our Federal courts who are highly qualified, fair, and committed to upholding the Constitution and the Nation's laws. I look forward to greater efforts in the time ahead to achieve that very important goal.

I am reminded of the fact, in reviewing the Constitutional Convention, that perhaps the last major decision made at the Constitutional Convention was to change what had been initially accepted by the Founding Fathers, and that was the Senate was going to appoint Federal judges. The Senate would do it by itself. One of the last decisions made by the Founding Fathers was to have this as a shared responsibility.

It seems to me that is something that sometimes this institution loses sight of, as do the American people sometimes. They believe that once nominated, we, in effect, should be a rubber stamp to these nominees. In reading constitutional history, we will find, to the Founding Fathers this was an issue of enormous importance and consequence. They made it extremely explicit that they believed the responsibility ought to be an equally shared responsibility between the President and the Senate. It does seem to me we should meet that responsibility in ways that are fair, that reveal the qualities of the individual, and make a judgment and a decision based upon that process.

TRIBUTE TO JOHN T. O'CONNOR

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to remember my friend John T. O'Connor, who passed away on November 30, 2001. A lifelong fighter for social justice, John died suddenly and unexpectedly at the age of 46 while playing basketball, a sport he loved, at the YMCA near his home in Cambridge, Massachusetts.

John O'Connor's zest for life and boundless energy were apparent from the moment you first met him, and those extraordinary qualities continued to amaze even those who knew him best and longest. His undeniable charisma helped win an enormous circle of friends. But his life was always about causes larger than himself. He credited his passion for social justice to the example of his parents, Katherine and George, to the Catholic faith and training he felt so deeply, and to his many inspiring teachers, especially at Clark University in Worcester, his alma mater.

John's public journey began when he was still in college in the late 1970s, organizing fellow students to volunteer at the Mustard Seed, a Catholic worker collective in Worcester dedicated to feeding the poor and homeless. There he perfected his trademark eggplant parmesan. After graduation, John went to work for Worcester Fair Share, knocking on the doors of the three deckers of Grafton Hill in a successful campaign to end arson-for-profit in that neighborhood, a pattern he identified through disciplined research. The fire station built in response to that campaign remains a testament to John's first venture into grassroots organizing.

The combination of community organizing and strategic research led him to understand that the environment was also an urban issue, affecting the quality of life in low income neighborhoods as surely as in the great outdoors. He began this new work by organizing citizens to resist an ill-conceived landfill proposal and to negotiate with local factory owners to reduce emissions.

Soon, John moved on to a large national campaign, setting out to rid the country of environmental threats such as the asbestos contamination he lived next to in his hometown of Stratford, CT. At a time when environmental activism was out of fashion among some in Washington, he began traveling across the nation, speaking out against polluters, and convincing more than a million Americans to sign petitions to support toxic waste cleanup. He built his organization, The National Toxics Campaign, into a grassroots campaign to mobilize people from across the country, providing timely and passionate support for the appropriation of $8 billion for the Federal Superfund law in the mid-eighties, and helping to realize the promise of that historic legislation.

First and foremost, John was a community organizer. He took on a remarkable range of issues, and he always did so with great dedication and effectiveness. He worked with scientists to document health concerns for veterans of the Gulf War. He made the case for environmental cleanup programs from Boston Harbor to the Rio Grande. He argued against the misuse of pesticides and other chemicals in agriculture. He was a strong believer in the importance of organized labor, and he fought alongside union members for strict protections for health and safety in the workplace. He co-authored a number of books on organizing and the environment, and a book on agricultural democracy was near completion. He was also interested for many years in responsible energy policy, and he led an effort in 1998 to repeal a Massachusetts electricity deregulation law, which he felt was unfair to consumers and the environment.

For John O'Connor, environmentalism was always as much about people as about our physical surroundings. It was logical that he would turn in recent years to the cause of assuring the best possible health care for every citizen. In 1999, he led efforts that obtained more than one hundred thousand citizen signatures in support of a health reform measure for the Massachusetts ballot. Momentum generated by that successful signature drive led to the passage of important but long-delayed legislation on the rights of patients in managed care. Looking ahead, he was poised to play an important and growing role in revitalizing prospects for universal coverage in Massachusetts.

John O'Connor was also an intense and tireless champion of racial justice. He was endlessly fascinated by the diversity of human experience. As an American of Irish heritage, he led the 1997 drive to create the first permanent U.S. memorial to the victims of the Irish Famine on Cambridge Common.

To John O'Connor, ethnic background and culture were intended to enrich the world, not divide it. He was proud to be known as an "ABC"—an Armenian-by-Choice—after his marriage to Carolyn Mugar, an outstanding leader and activist in the Armenian community. John enthusiastically joined her to make his own impressive contributions to that community.

His passionately-held beliefs made John an intense and frequent critic of the status quo in general, and of politics in particular. Yet he was profoundly optimistic about what this nation could achieve. He believed deeply in democracy. He looked for inspiration to the early years of our country and the nation's founders, and he read widely about them. In his campaign for the U.S. House of Representatives in 1998, he told voters he wanted an America that truly reflected the basic values enshrined in the Declaration of Independence and the Constitution—not an America that was simply the sum of its commercial enterprises or parochial concerns. Although he did not prevail in that campaign, he ran a strong race that impressed many people and made countless new friends along the way.

With John O'Connor's death, we in Massachusetts have lost one of our state's most active and effective champions of working families, consumers, and the environment. John left us much too soon. I mourn his loss, and I extend my deepest sympathies to his wife, Carolyn Mugar, his daughter, Chloe, his parents, his brothers and his sister, his nieces and nephews, and his many godchildren. In his memory, we pledge to recommit ourselves to the many great causes in which John did so much to lead the way.

Mr. DEWINE. Mr. President, I rise this afternoon to pay tribute to two members of my staff who are retiring this week. These are two people who have really made a difference.

The PRESIDING OFFICER. The Senator from Ohio.

TRIBUTE TO JOAN DOUGLASS

Mr. DEWINE. Mr. President, Joan Douglass is a real gem, a classy, knowledgeable woman who connects with people of all ages. She has had one of the toughest and most important jobs in our office. Joan has been on the front line. Joan is the first person you see when you come into our Columbus office. She is the person whose voice you hear when you call our Columbus office, the first person to answer the phone. That is an office that actually is not just my office. It is also Senator VOINOVICH'S office. We have, in Ohio, a joint casework office, which has worked out very well. Joan is the person there who greets everyone.

Over the years, Joan has put up with just about everything: bomb threats, sit-ins, now even anthrax scares. Joan is a rock. She is as solid as they come.

Everyone who knows Joan speaks of her with such fondness. She is really a person with no enemies. Her love, her compassion for people is unmatched. She loves people. They love her back.

You know, it takes quite a lady to take a new job at the age of 72, which is what Joan did when she came to work for us—especially the job working for two Senators. What could be tougher than that? Who in the world would ever think of doing that? Who goes from being a State legislator, which Joan was, a real estate broker, and many other exciting jobs, to working for two Senators? Only Joan.

Actually, before she worked for us she worked for then-Governor VOINOVICH for 8 years. Four of those years I was the Lieutenant Governor. Every day when I would come to work, Joan would be the first person I would see—always smiling, always happy, always professional.

Joan continues to amaze me in everything she does. I am astounded by her energy and her great sense of adventure. Nothing ever seems to slow her down.

Joan really is a terrific role model for all of us. In fact, she should be the poster child for how Federal employees should treat people. No matter what, Joan has always greeted everyone who walked into our office with great respect and great compassion. It didn't matter if it was someone who loved me or hated me. It didn't matter, Joan was steady. She treated them the right way. She treated everyone in that same sweet, nurturing, nonthreatening, and friendly way.

Joan has always handled herself with such professionalism, and no matter what, no matter how busy she was, she always has had time for people, especially for the younger people, younger members of our staff in the office. She really has been a role model. She has been a mentor. Every time I see her, Joan always asks about Fran, asks about our children and now our grandchildren. I have always appreciated that.

I speak for so many in our office and many across the State of Ohio when I say that, although we are happy for Joan upon her retirement and we wish her nothing but the best with her new post-Senate endeavors, we are saddened by her departure and we will miss her dearly.

We will miss her dedication to the people of the State of Ohio. We will miss her optimism and her cheerful nature. We certainly will miss her terrific sense of humor. Most of all, we will just miss Joan.

She is one great lady. My wife Fran and I wish her all the best in the world.

In conclusion, I thank Joan for her dedication to the people of the State of Ohio, for her friendship, and for the work she has done for our country.

TRIBUTE TO JENNY OGLE

Mr. DEWINE. Mr. President, I rise today to pay tribute to good friend and member of my staff, Jenny Ogle, for all the great work she has done for the people of Ohio. Jenny, who runs the joint casework office we have with Senator VOINOVICH, is retiring today. We are going to miss her dearly.

When I started thinking about her retirement, my mind was flooded with fond memories and so many laughs and good stories. There is no one else like Jenny. Before coming to work for our joint casework office, she ran my Senate casework office worked for me when I was in the House of Representatives for 8 years, and also worked for Congressmen Bud Brown and DAVE HOBSON.

She is a true professional—someone who has been really a stabilizing force in our whole casework operation. The casework operation, of course, is what reaches out to people. It is where people of the State of Ohio go when they have a problem. They do not come to us, and they do not come to Jenny unless they are already frustrated with the Federal bureaucracy or the State bureaucracy or something else. When they come in, they already have plenty of problems. Jenny has been the one who worked out those problems.

It takes a good deal of patience to handle the kinds of things Jenny has seen over the years in that casework office. She has seen just about everything.

That is why I have always been amazed by her steadiness—her unbelievable ability to deal with the kinds of cases and the kinds of problems that are seen on a daily basis. What really impresses me is that she is always still smiling and laughing at the end of the day. She always has done her job with great professionalism and great compassion.

Jenny also has been a real leader in our office. For example, she pioneered the military academy nomination process, a very complex process. She essentially wrote the book on it. What she has developed is today being used around the country in congressional office after congressional office. She wrote the bible on how Congressmen should handle their academy nominations. I thank her for that.

I have known Jenny for a long time—since those days when she was working for Congressman Bud Brown, and when she came to work for me at our Springfield office. I remember how her Aunt Tilly used to come in the office and do her filing. I also fondly remember the doughnuts Jenny would bring in from her brother's doughnut shop. Those are great memories.

Jenny is also a rare person—a person with great compassion and empathy for people and their concerns.

Let me thank her from the bottom of my heart for the great job she has done to assist countless thousands and thousands and thousands of Ohioans over the last 20 years.

I am truly privileged to have had the extraordinary opportunity to work with Jenny and to call her my friend.

We wish her and her family all the best in the world.

In conclusion, let me thank Jenny for her dedication to the people of the State of Ohio—for her friendship, and for the work she has done for our country.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

JUDICIAL NOMINATIONS

Mr. DURBIN. Mr. President, over the last few weeks, many conservatives have launched an extensive public relations campaign to assail Democrats on the Senate Judiciary Committee, and particularly Chairman PAT LEAHY. They have been critical of the pace of judicial nominations. This campaign is wholly unwarranted. Coming during a war when Democrats are committed to working with the President to shore up our Nation's defenses, it is particularly ill timed.

The Washington Times has compared Democrats to terrorists, referring to the pending nominations as a "hostage crisis." Another conservative publication, Human Events, labeled my colleague, Chairman LEAHY, as "Osama's Enabler."

Sadly, these outrageous charges are not limited to right-wing media outlets. Many colleagues in the Senate from the other side have leveled the following accusations: One Senator said the Democrats are guilty of racial profiling. Another Senator said the Democrats on the Judiciary Committee are actively hindering the war effort. Another Republican Senator said we are drawing out a session to deny the President a chance to make recess appointments.

In truth, Senator LEAHY has done an excellent job of moving the President's nominees along—far better than the Republicans ever did over the previous 6½ years. We have already confirmed 27 judges since July of this year. When all is said and done, we may well end up confirming more than 30. That is more judicial nominees than were confirmed during the entire first year of President Clinton's term in office, when the Senate was controlled by the same party. It is double the number of nominees confirmed during the entire first year of the first Bush administration.

Chairman LEAHY has had to contend with Senate reorganization, terrorists attacks, a massive antiterrorism bill, and anthrax contamination that shut down his personal and committee offices. We all recall the news reports about the anthrax letter being sent to Chairman LEAHY. He has had ample occasions to delay hearings. Yet he has not. He easily could have used any of these obstacles as an excuse to cancel hearings, and he did not.

In little more than 5 months, Chairman PAT LEAHY has held more judicial nomination hearings than Republicans held in all of 1996, 1997, 1999, and the year 2000.

The Democrats, under his leadership, have eliminated the anonymous holds that crippled the judicial confirmation process for the last 6 years.

If you are not here in the Senate, anonymous holds may be a term you don't understand. Let me explain it. Under Republican leadership, any Senator could block a nominee for any reason, without even identifying him or herself to the rest of the Senate. A nominee would come before the Senate Judiciary Committee and sit there week after week, month after month, and in some cases year after year without any Senator standing up and saying: I am the person who is holding this judicial nominee. It was totally unfair.

On some of the nominees, I used to go around the Chamber begging Republican Senators to tell me: Do you have a problem with the nominee? I want to talk about it.

They wouldn't say. It was anonymous. That is over. Under Senator LEAHY's leadership, the anonymous holds that have crippled this process for the last 6 years has been eliminated. We have made public a Senator's support or opposition to judicial nominees from their home State. We have moved nominees approved by the committee swiftly to the floor. I presided personally over two or three of these hearings. And those nominees went straight from the committee to the floor in a matter of days. We have voted unanimously to confirm nominees vetted by the committee. The only vote against all of President Bush's nominees coming out of committee was cast by minority leader TRENT LOTT.

Quite frankly, it is a bit ironic to hear many of our Republican colleagues complain about unfair delays in judicial nominations. It is no secret that many of our colleagues systematically blocked Democratic appointments, regardless of qualifications, to the Federal courts of appeal. In 1996, for example, the Republicans failed to confirm one single appellate court nominee—not one.

In the 106th Congress, Republicans failed to act on an astonishing 56 percent of President Clinton's appellate nominees, despite the fact that his nominees received extraordinarily high ratings from the American Bar Association, and support on a bipartisan basis.

Some of President Clinton's nominees languished after a hearing or committee vote; many more never even got a hearing.

Let me tell you about one: Helaine White, a nominee for the Sixth Circuit in Michigan. She waited in vain for over 1,400 days for the Judiciary Committee to schedule a hearing. For approximately 4 years, she sat in that committee.

If my Republican colleagues got a letter marked "Return to Sender" after 1,400 days, they would abolish the Post Office.

They thought it was all right to let Ms. White, a nominee for this important judicial vacancy, sit there for approximately 4 years.

The situation was so bad under the Republican leadership of the Judiciary Committee that Chief Justice of the Supreme Court Rehnquist criticized the Republican leadership for creating so many vacancies in the Federal courts. In fact, one of President Bush's own judicial nominees, who was unanimously voted out of the committee last Thursday, criticized the Republicans last year for employing a double standard for a Democratic nominee to the courts.

Chairman PAT LEAHY of Vermont has already held more hearings for the Fifth Circuit than the Republicans held in over 6 years. In 6 months, PAT LEAHY has held more hearings to fill vacancies in that circuit than the Republicans held in 6 years. The Democrats have confirmed the first new judges to the Fifth and Tenth Circuits since 1995—6 years.

Details like this demonstrate there is simply no comparison between Democratic and Republican records.

Our Republican colleagues would have you believe the Democrats are dragging their feet because the ratio of President Bush's confirmations to the number of vacancies is relatively low. But what they don't tell you is this: Close to 70 percent of the current vacancies in the Federal courts have been open since President Clinton was in office, several of them since 1995. They are decrying the number of vacancies not filled, and yet during President Clinton's Presidency they would not fill them, even though he sent qualified nominees to the Senate.

The number of judicial vacancies increased by 60 percent during the 6½ years the Republicans were in charge of the Senate. Due to concerted opposition by their party, President Clinton appointed proportionately fewer appellate judges than either President Reagan or the first President Bush. Now, with a Republican President back in the White House, our Republican colleagues are suddenly very concerned about judicial vacancies.

In the wake of September 11, President Bush called on Members of the House and Senate to come together—and we have—to improve air safety, to stabilize the airline industry, to give law enforcement additional tools to fight terrorism, and to strengthen our economy. That is exactly what the Democrats have done. We put aside partisanship to meet the demands of our country at war.

Quite frankly, we would have had an easier time of it, and fewer disputes with the Republicans over judicial nominees, if the President and his Attorney General had sent up more judicial nominees like those we have already confirmed, especially for the Federal Court of Appeals. This simple fact is often lost in the din of partisan rhetoric.

The Democratic leadership has worked hard, in just a few months, to confirm men and women of real integrity and accomplishment to the Federal judiciary. We have advanced judges who enjoy widespread bipartisan support. They have records which demonstrate a commitment to mainstream American values, including the protection and advancement of civil rights and civil liberties for everyone. We have intentionally avoided a contentious and draining fight over controversial nominees.

In the weeks and months ahead, with the immediate national crisis we face, we will still have to confront many controversial nominees. But let me remind my colleagues that we are filling lifetime appointments. These are not temporary. Judges sit on the Federal bench long after many of us have delivered our last speeches and after Presidents have come and gone. We will scrutinize them fairly, but carefully.

Our Republican colleagues have said they want us to work three times as fast because when they were in control they went three times as slow. Sadly, many of the nominees we have been sent do not really hew to the mainstream of American politics. The end result—if we follow and appoint every nominee sent—would be a judiciary that would not represent the values of this country, the mainstream values which we should push for when it comes to these important judicial appointments.

The American electorate has been evenly divided over the last 10 years. This country is entitled to a judiciary that reflects that diversity, not one hijacked by any political extreme, right or left.

Chairman PAT LEAHY has done an excellent job as the Senate Judiciary chairman, and his critics on the right should read the facts.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I also have come to the floor, along with the Senator from Massachusetts and the Senator from Illinois, to talk about this very important topic; and that is, the confirmation process for Federal judges.

The first thing I want to do is commend the chairman of the Judiciary Committee, Senator LEAHY, for the professional and diligent way in which he has handled the confirmation process this year, since taking the helm of the committee in June. His, in some way, is a thankless job, because, as we have observed, no matter how many hearings he holds or judges he moves through the committee, there are those in this body who will never be satisfied. Indeed, it seems that the only thing that will satisfy the critics is for Chairman LEAHY to shortchange the important constitutional role that the Senate and the committee play in the confirmation process. But that, I know, he will never do, and the Nation should be very grateful to him for that.

There has been some harsh criticism of Chairman LEAHY from our colleagues on the other side, and in the press. Given how President Clinton's nominees were treated during 6 years of Republican control of the Senate, I find it kind of hard to believe some of the arguments we now hear. We have here, really, a numbers game. The argument has reached a new level of absurdity when our Republican friends start talking about things such as the average number of nominees per hearing. It is pretty obvious that is a meaningless calculation. To the extent that statistics matter, the numbers that count are the number of judges for which hearings have been held and the number of judges confirmed.

When you look at those numbers, the numbers that really matter, I have to say that our chairman really does have the better of the argument. In just 5 months since taking over the committee, Senator LEAHY has already held hearings for 34 judges. That is more than the number of judges who received hearings in the entire firs year of the George H.W. Bush administration and the entire first year of the Clinton administration. And so far, we have confirmed 27 judges this year. Remember again that the Democrats have only been in control since June I understand that probably 3 more judges will be confirmed before this session concludes, meaning that 30 judges will be confirmed this year. That would be more than were confirmed during the entire first year of President Clinton's first term in office and more than double the number confirmed during the entire first year of the elder President Bush's administration. Think about that. Given all that we have had to deal with on the Judiciary Committee this year, I think Chairman LEAHY has shown more than good faith in trying to move the process along, especially since September 11.

There have been times this year when I have been concerned about hearings being held too soon on some nominees. A hearing that is held before Senators can review the records of the nominees is really nothing more than just a formality. Particularly given the large number of circuit court nominees, I think our colleagues on the Republican side are asking us, in a way, to ignore our constitutional responsibilities when they make blanket demands such as: You should confirm all judges who were nominated before the August recess. Those kinds of arguments are particularly inappropriate when you think about the appointments we are being asked to confirm with to little scrutiny. Lifetime appointments to the circuit courts and district courts are not to be taken lightly. With the Supreme Court taking only about 100 cases each year, the decisions made in the lower courts are usually final, and have a huge impact on the development of the law. They also have a huge impact on the people's lives. In addition, there are a number of circuits in this country that are extremely unbalanced ideologically, and the nominations made by President Bush seem to be designed to exacerbate that imbalance. It is entirely reasonable—indeed, our constitutional role demands—that we examine the records of individuals chosen for the circuit courts very carefully before we approve their nominations

It is clear to me that neither side in a fight such as this is ever going to be satisfied. In the current situation, despite everything that the chairman has tried to do to move quickly on judges—including holding hearings in August, holding more hearings after September 11 when our committee was more than occupied with the so-called anti-terrorism legislation, and even holding a hearing in October when the Senate office buildings were closed and some of our staffs had had nowhere to work for the previous 2 days—despite all of this, my Republican colleagues continue to complain. At one point, they even held up appropriations bills on the floor for over a week, something that our side never did despite our frustration with the pace of confirmations under President Clinton. And now we understand that the minority leader placed a hold on every Judiciary Committee bill because of his displeasure with the pace of the nomination of a judge he has championed to the Fifth Circuit.

Let us recall that in the last 6 years of President Clinton's term, the Judiciary Committee did not hold a single hearing on a Fifth Circuit nominee. No fewer than three highly qualified nominees for positions on that court never got a hearing, much less a vote in committee or on the floor. The thing that has troubled me the most about the criticism of the pace of judicial confirmations is the complete unwillingness of those who are now criticizing Chairman LEAHY to acknowledge that they really contributed to the judge shortage that they are complaining about today, or that they did anything in the last 6 years to deserve our criticism of them at that time.

It is particularly frustrating to hear our Republican colleagues invoking the ABA review in support of President Bush and the Republican leadership in the Congress broke with over 40 years of tradition, dating back to the administration of Dwight D. Eisenhower, when they refused to submit the names of nominees to the ABA prior to the nominations being formally made. Now they complain about the delays in confirming nominees and invoke the ratings of the ABA panels as evidence that these nominees are beyond reproach. It just does not add up.

The very act of forcing the ABA to begin its assessment after a nomination has been made has delayed confirmation hearings for at least a month and often longer. Chairman LEAHY very sensibly has insisted that an ABA review on a nominee be completed before scheduling a hearing. So I suppose that if we are playing a numbers game and are going to compare apples to apples, we should subtract 30 to 45 days of consideration from each of President Bush's nominees.

My conclusion is that until I hear the critics of Chairman LEAHY say, "Yes, it was wrong to let Judge Helene White go 4 years without even a hearing; yes, we now agree that Kathleen McCree Lewis should have at least had a hearing; yes, the delays in voting on the confirmations of Judge Berzon and Judge Paez were unconscionable; yes, it was wrong to not confirm a single circuit court nominee in 1996; yes, it was wrong to confirm only 44 percent of the circuit judges nominated by President Clinton in the last Congress of his term; yes, it was wrong to have 68 of President Clinton's nominees in the 106th Congress never come up for a vote in the Judiciary Committee; and yes, we are in large part responsible for the fact that there are now so many vacancies to fill on our federal courts," until I hear those statements, the statistics they cite, and the argument that they make ring a little hollow. If and when I do hear those statements accepting responsibility, I think a bipartisan solution will emerge. Because of my Republican colleagues acknowledge that they bear some responsibility for the situation we find ourselves in today, they can suggest to the President that he try to "change the tone" on this issue in a tangible and meaningful way. He can do that by renominating some of those highly qualified candidates who never got a hearing or a vote in the Judiciary Committee when it was chaired by my friend, the Senator from Utah. The President did that with Roger Gregory, and I applauded him for it. We can wipe the slate clean with some courageous work, and there are enough vacancies to do this in many circuits. That is the challenge. Are we gong to continue the numbers game? Are we going to continue the recriminations? Or are we going to move forward in a bipartisan way and get on with our business on this committee and in the Senate. I think the chairman of the Judiciary Committee is doing an admirable job under the circumstances. I urge him and the majority leader not to submit to pressure tactics. The ball is in the President's and the minority's court. They can decide if they want to "change the tone in Washington." We simply cannot do it alone.

I yield the floor.

Mr. KOHL. Mr. President, I rise today to discuss judicial nominations and the pace being set by the Judiciary Committee. It is the Senate's responsibility to confirm judges and fill the vacancies in the Federal judiciary. Unfortunately, this constitutional responsibility has become increasingly politicized in the last few years. It seems that the people accused of slowing the process last year are the same ones that are pushing for faster confirmations today. And those who wanted more judges confirmed last Congress are now defending the pace of current confirmations. While we all expected that dynamic once the party in control of the White House and the Senate changed, it is still disappointing.

It would be a good idea to agree upon a set of rules that governed the pace of the confirmation process regardless of the party in control of the White House or the Senate. Since that is unlikely, we are now required to defend our rate of confirmations. The only way to do that is to compare the pace this year with that of past years. When we do that, we find that there is little to criticize in the performance of this year's Judiciary Committee.

By the end of this session of Congress, we will have confirmed at least 27 district court judges and 6 circuit judges. The Judiciary Committee has held 11 nominations hearings for judges since control of the chamber changed.

To put that in context, by the end of the year, the Senate will have confirmed more judges in the first year of the Bush Presidency than in either the first year of the first President Bush or President Clinton. It is also far more than the 17 judicial confirmations in 1996 and almost the exact number confirmed in 1999 and 2000 when 34 and 39 were confirmed respectively.

The record also shows that close to 70 percent of the vacancies have existed long before President Bush took office. The Senate chose not to act, in some cases for years, on President Clinton's nominees to fill the positions. The cries of judicial emergencies and demands for immediate action now ring a bit hollow when the judgeships could have been filled years ago.

Nonetheless, it is our responsibility to take action on the judicial nominees in a timely manner. We have been doing just that. As we go forward, I want to work with my colleagues on both sides of the aisle to confirm more judges. The Judiciary Committee has a noble tradition of cooperation in approving judges who are qualified, respectful of the law, and moderate in their approach. It is our responsibility to return to that tradition and confirm judges who represent the ideological middle ground.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I thank my friend from Kansas. I know he has some things to say. I will try to be brief. I was in the line to try to talk about this very subject. I will make it brief so we can get on and we can get an explanation of the lovely pictures he has behind his podium.

I, too, rise to say a few words about judicial nominations and in particular to defend the chairman of our Judiciary Committee, Senator LEAHY of Vermont. Our friends on the other side of the aisle have made a lot of hay about our record on judicial nominations, but the facts simply don't bear out the allegation.

Patrick LEAHY has conducted the Judiciary Committee, both when we had the hearings on Senator Ashcroft's nomination to be Attorney General, when he was chairman for 17 days, and now as chairman for 5 months, in the most gracious, fair, bipartisan way that I have seen a chairman conduct him or herself. It is sort of unfair to demonize. That seems to be a new technique used by some. They are doing it to our majority leader, Senator DASCHLE, another gracious and fair-minded man, because he doesn't agree with them. That seems to be the thing that has happened. Maybe it started a few years back with the contract on America and all the cohorts there. But it is not a nice way to do politics, to demonize an opponent.

I know there are certain newspapers and TV shows and radio shows that try to spread the word. I just want to say, first, I don't think the American people appreciate it. Second, it is not going to cower Senator DASCHLE or Chairman LEAHY. I know them both. They are very estimable people. They are very nice people. They are very strong people. To say that taking personal shots and demonizing somebody is going to make them back off is a silly policy. Put yourself in their shoes.

When we are all under the gun and personally attacked, that doesn't make us back off. It makes us maybe review what we have done, and then if we think we are right—and I know Senator DASCHLE and Chairman LEAHY have—we are all the much stronger. Let's go over the facts instead of talking about just kind of rhetoric.

First, under Chairman Leahy's leadership in the first 5 months since the Senate reorganization, despite the disruptions caused by the September 11 tragedy in my city and the anthrax in our offices, we have held 11 hearings on nominations. That is more than two per month. There was an unprecedented August recess nomination hearing that Chairman LEAHY held. I chaired a hearing 2 days after the closure of all three Senate office buildings due to anthrax. We had to meet in the Capitol, in a cramped and crowded room. I believe it was on a Friday afternoon.

In 1999 and 2000, by contrast, when the committee was controlled by the people of the other side, there were only seven hearings per year, and that was the entire year, not just the 5 months we had.

Second, my friends from the other side of the aisle complain that we are confirming too few judges. We have put 27 on the bench up to now; that is in 5 months of being in the majority. We should get up to 32 by the time we leave this week. Let me underscore 32. That is 5 more than were confirmed in the entire first year of the Clinton administration, when Democrats controlled the Judiciary Committee. They argue we are stalling, but we are putting in more judges nominated by a Republican President, George Bush, in the first year or first 5 months, than we put in when there was a President of our own party, President Clinton, who was nominating. Claims ring hollow when you look at the facts.

Again, the idea of taking a 2 by 4 and trying to hit the chairman or the members of our committee over the head without the facts is not going to bear fruit. You can give as many speeches as you want.

Third, when we point to raw numbers, our colleagues change their arguments, and then they point to the percentage of seats that remain vacant. You can't create a problem and then complain that someone else isn't solving it fast enough.

Why are there vacant seats? There are vacant seats because when people from the other side controlled the Judiciary Committee during the last 6 years of the Clinton administration, vacancies on the Federal bench increased 60 percent—a 60-percent increase during the time they were in control. Now they are complaining there are record vacancies and we have to fill them all in 1 year. Give me a break.

We are not going to play games and say what is good for the goose is good for the gander. We are not suggesting two wrongs make a right. We are not going to increase the percentage of vacancies. Instead, we are going to decrease it, and we have gotten a good start to the task. But the proof is in the pudding or, in this case, in the numbers. We are going to fill these open seats as quickly as possible, but we are going to do it right. No one is going to cower us in the time-honored, constitutional way in which we select judges, which has been always in the history of this country, at least during our better moments, when we do it with care.

That leads to my fourth point. Because so many Clinton nominees never got a hearing and never were voted on by the Senate when it was controlled by the folks from the other side, the courts now more than ever hang in the balance. Some of the nominees have records that suggest extreme viewpoints. We need to examine their records closely before we act.

Again, one of the most awesome powers we as Senators hold is the power to approve judges. We can't just blindly confirm judges who threaten to roll back rights and protections won through the courts over the last 50 years: Reproductive freedom, civil rights, the right to privacy, environmental protection, worker and consumer safety.

In my State of New York, the administration has so far worked with us in good faith to select nominees who have met what I told them are my three criteria for nominating people to the bench: Excellence, moderation, and diversity.

Nominees who meet those three criteria will win my swift support. But for those nominees whose records raise a red flag, whose records suggest a commitment to extreme ideological agendas, we have to look more closely.

These days, the Supreme Court is taking fewer than a hundred cases a year. That means these trial and, particularly, appellate court nominees will have, for most Americans, the last word on cases that are oftentimes the most important matters in their lives.

We need to be sure the people to whom we give such power—for life—are fairminded, moderate, and worthy of such a deep, powerful, and awesome privilege.

We have worked well together with our Republican colleagues on several matters since September 11. By and large, we have done well to keep things bipartisan. On judicial nominees, both sides must work together to correct the imbalance on the courts and keep the judiciary within the mainstream—not too far left and not too far right.

We need nominees who are fair and openminded, not candidates who stick to a narrow ideological agenda.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

INDIAN GAMING

Mr. BROWNBACK. Madam President, I have an issue I want to explain to my colleagues before the Labor-HHS conference report comes before the body. In that conference report, there was an item that was going to address a wrong that had been placed in an earlier appropriations bill and that was not the Interior appropriations bill. This body passed a particular piece of legislation, a very small paragraph, that dealt with a situation in Kansas that was then taken out of the conference report. That is why I am objecting to the Labor-HHS conference report until I get some assurances that we are going to have this issue dealt with next year. It has to do with a cemetery in Kansas.

The pictures I have here are of a beautiful site in Kansas City, KS, that is called the Huron Indian Cemetery. The area overlooks the Kansas River. It is up on a bluff. It is in downtown Kansas City, KS. It is where a number of Native Americans are buried who lived in this area—the Wyandotte Tribe who lived in this area, before a number of them moved to Oklahoma, before the tribe moved to Oklahoma.

You can see the pictures we have of a peaceful site in Kansas City, KS. It is virtually a park for a lot of people, a very solemn cemetery that is maintained quite nicely in this area.

We have Indian gaming in Kansas, and four tribes are recognized in Kansas. Each has a casino in the State. There is a tribe in Oklahoma, the Wyandotte Tribe, that wants to build a casino in Kansas, even though they are now located in Oklahoma. Initially, they wanted to build it on top of the cemetery. Local people protested, saying: Why are you ruining this sacred site to put in a casino?

They said: OK, we will put stilts on it and you will still have the cemetery, but this will sit on top of it.

Next they said: We want to build it right next to it. We are going to buy property next to the cemetery and we want to put in a casino, even though we are not a Kansas tribe and we are from out of State; some of our ancestors from the Wyandotte Indians were buried here 200 years ago, so we want to be able to claim this as an Indian reservation in Kansas, even though we are an Oklahoma tribe; we want to be able to claim it in Kansas so we can build a casino in Kansas.

That is what they desired to do.

The four recognized tribes in Kansas opposed it and said: Look, you left the State, and we stayed here; we have the appropriate authorization to build casinos; we don't want another one in the State; we don't want you coming here. The unofficial Wyandottes who stayed in Kansas said: We don't want you to have a casino next to our graveyard. It is a sacrilege to put a casino on it, on top of it, or next to it. We oppose that.

The Governor of Kansas opposed them doing that, saying this isn't fair to our tribes in the State. It isn't fair to the Wyandotte Indians and their ancestors who stayed in the area for an Oklahoma tribe to come in. They fought them on doing that. This matter was litigated first in Federal court, lower court, and in the Tenth Circuit Court. In each case, Kansas, and the tribes in Kansas, the local people who stayed in Kansas, won against the Oklahoma tribe. They won at all levels—lower court, district court, and Tenth Circuit Court. So they could not declare this land adjacent to the cemetery as part of the Oklahoma Wyandotte Reservation in Kansas. That is what they were trying to do. The court said they disagreed with that.

Let me take you to the Department of the Interior Appropriations bill. In that appropriations bill, nothing was passed regarding this issue on either side, the House side or Senate side. In the conference committee that met, there was a handwritten sentence that was written in by a staff member that overruled the court ruling and allowed for the creation of a casino next to this cemetery. That was done in the Interior Appropriations bill.

Both Senator ROBERTS and I are opposed to doing this. This was not brought to the Senate floor, not handled here. This was a handwritten sentence that was inserted. They declared: We are going to overrule the court case, overrule what the Kansas Senators want to do. They are going to allow them to build a casino next to the cemetery, regardless of what the local tribes and the Governor and what the people in the State of Kansas or what the two Senators say.

It is an egregious abuse of the appropriations process to do this—and in my State where people don't want this to take place—just for the financial advantage of an Oklahoma tribe. If they want to do this in Oklahoma, build casinos there. That is up to them. Fine. But in Kansas this is not appropriate. Yet they slipped in that handwritten note to the Interior conference report.

This body, the Senate, corrected that in the Labor-HHS appropriations bill. We said this is not appropriate to take place in Kansas. That was the amendment that was on the floor and was accepted. That was the position of this body.

In the conference meeting that took place last night, the House would not agree with the Senate position, so the Senate position was taken out and now we are left with the Oklahoma Wyandottes being allowed to build a casino right next to this cemetery in Kansas City, KS, and overrule a court ruling of the Tenth Circuit Court of Appeals.

Mr. REID. Will the Senator yield?

Mr. BROWNBACK. Yes.

Mr. REID. I have been in touch with Senator BYRD. Senator BYRD agrees with me that, on the Interior bill next year, it would be possible for you to do it in subcommittee, or committee, or any member of the subcommittee has an absolute right to offer that amendment. We know how strongly you feel about it. I personally feel it should not have been in the Interior bill in the first place. I indicated that to the Senator. We will work with you on the minority and majority sides to make sure this issue is raised in the subcommittee and at the full committee level next year.

Mr. BROWNBACK. I appreciate that being raised by my colleague from Nevada—his assurance that we get this dealt with next year. We have talked off the floor about that. He agrees this is not the right way for this to come in. I point out that this is something we are going to have to deal with next year because this matter will still be under construction, or starting to be constructed at that point in time. It needs to be changed back in the Department of the Interior appropriations bill. I am very pleased that the Senator from Nevada recognizes that as well.

I point this out because I think this is such an abuse of the process. It is just wrong for this to take place.

I ask unanimous consent to have printed in the RECORD a letter from the Governor of the State of Kansas regarding this matter and also one from the four Indian nations in Kansas, the four recognized tribes, all opposed to the expansion of the Oklahoma Indian tribe into Kansas to build a casino.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF KANSAS,
OFFICE OF THE GOVERNOR,
Topeka, KS, October 10, 2001.

Hon. PAT ROBERTS,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR PAT ROBERTS: On behalf of the State of Kansas, I am writing to express my strong opposition to language proposed for inclusion in H.R. 2217, the Department of the Interior and Related Agencies Appropriation Act of 2002. Language that proposes to clarify the authority of the Secretary of the Interior should not be included in the final text of the bill.

The language proposed as a technical amendment states, "the authority to determine whether a specific area of land is a 'reservation' for purposes of sections 2701–2721 of title 25, United States Code, was delegated to the Secretary of the Interior on October 17, 1988."

As you are aware the State of Kansas has been actively involved in litigation concerning the authority of the Secretary of the Interior. The Tenth Circuit Court of Appeals in Sac and Fox Nation of Missouri v. Norton, recently upheld the position of the State of Kansas that ". . . the Secretary lacked authority to interpret the term 'reservation' as used in IGRA." The decision of the Tenth Circuit Court of Appeal has been appealed and the Wyandotte Nation has requested a writ of certiori to the Supreme Court of the United States. If the proposed language were to be included in the final version of H.R. 2217 it has the potential to negatively impact ongoing litigation. This is simply another effort to avoid IGRA and expand gaming by non-residential tribes.

I request your support in opposing the inclusion of this proposed language in the final version of H.S. 2217.

Sincerely,

BILL GRAVES,
Governor.

INDIAN NATIONS IN KANSAS,
June 19, 2001.

Re: Four Tribes' Joint Resolutions Opposing Gaming Within the State of Kansas by Out-of-State Indian Nations.

Hon. BILL GRAVES,
Governor of Kansas,
Topeka, Kansas.

GOVERNOR GRAVES: The four (4) Indian Nations in Kansas ("INIK") have unanimously supported the governor of the State of Kansas in opposition to out-of-state Tribes attempting to gain land holdings in the state of Kansas for purposes of establishing gaming enterprises. At this juncture, the Four Nations have passed joint resolutions similar to the Kansas Legislative Resolution (SCR 1611) opposing such efforts. Enclosed herein are INIK's originals of both of their resolutions. Resolution I opposes the Wyandotte Tribe of Oklahoma's efforts, and Resolution II opposes all out-of-state Tribes.

The Kansas Tribes join with the State of Kansas in this effort, and want you to have this information to see their formal position. if you have any questions, please feel free to contact any of the Tribal Chairpersons.

Respectfully Submitted,

NANCY BEAR,
Chairperson, Kickapoo Tribe in Kansas.

Mr. BROWNBACK. I want to read from the Governor's letter:

> I continue to support the rights of the four existing residential Native American tribes to conduct gaming in Kansas in accordance with approved compacts. Efforts to side-step IGRA negatively impact the rights of our residential tribes as well as the rights of the State of Kansas.

This is a quote from the Indian Nations of Kansas, the four tribes—the Kickapoo, Sac and Fox, Prairie Band, and Iowa Tribe:

> The four Indian Nations in Kansas have unanimously supported the governor of the State of Kansas in opposition to out-of-state Tribes attempting to gain land holdings in the state of Kansas for purposes of establishing gaming enterprises.

They are all united and opposed to what was stealthily slipped in the dark of night by staff in a handwritten note, and it is wrong for this to take place.

I put my colleagues on notice, I put the House on notice, and I put the Wyandotte Tribe in Oklahoma on notice: This is going to be back next year. You have bought the land, and you may have won this round, but we will be back at this next year.

The way this happened is not fair. I think it is a sacrilege for them to desecrate this sacred site for their own gaming purposes, their own income purposes, their own purposes of making money that they would take this upon this sacred site. In all traditions, burial grounds are treated as a sacred site. This is wrong. It should not happen, and it was slipped in the wrong way.

Madam President, I thank you for your understanding of this situation. I hope we can correct this next year. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRAVEL AND TOURISM INDUSTRY

Mr. REID. Madam President, as we approach the end of this first session of the 107th Congress, there are many significant legislative achievements of which we should be proud. In the wake of the terrorist attacks of September 11, Democrats and Republicans, Senators and Representatives, came together in a bipartisan, bicameral fashion to pass a resolution authorizing the President to use military force in the war against terrorism.

Then we immediately appropriated, on a bipartisan basis, $40 billion in emergency funds to help fight the war against terror and aid in our ongoing recovery, cleanup, and rebuilding efforts in New York, Washington, and Pennsylvania.

We came together to pass antiterrorism legislation, the USA Patriot Act, that will provide law enforcement in this country with the necessary tools to fight terrorism at home and abroad.

In an effort to improve our homeland security, we also passed important legislation that will dramatically improve the security of our Nation's airports.

We passed these initiatives and other legislation because we made a commitment to set aside bipartisan bickering and devote the collective efforts of this Congress toward working on behalf of the best interests of the American people.

I was asked recently by a member of the press how far bipartisanship should go during wartime and whether it should apply only to military matters.

I responded that bipartisanship should apply at all times, in peace and, of course, in war. Unfortunately, it seems our commitment to bipartisanship has been unable to produce an economic stimulus package that our economy and so many American working families desperately need.

As I am speaking, I see the chairman of the Finance Committee, Mr. BAUCUS, the senior Senator from Montana. He has made a valiant effort. There is still a glimmer of hope maybe something can be done, but he has made a valiant effort. He has worked for weeks to come up with an economic recovery package. It is too bad his efforts have not been rewarded with some bipartisan legislation in keeping with some of the things I have outlined that we have been able to accomplish.

We need to pass an economic stimulus package before the end of this session that would extend unemployment and health benefits for the hundreds of thousands and even millions of Americans who have lost their jobs since the recession started in March. We need to pass an economic stimulus package that will provide much needed relief for the American businesses that have been hit hard by the downturn in the economy.

An economic stimulus package is also important because we need to address one sector of the American economy that has suffered more than any other as a direct result of the terrorist attacks of September 11: the travel and tourism industry. It would be wrong for this Congress to adjourn for the year without doing something to address what has happened to the American travel and tourism industry since that fateful day in September.

Prior to September 11, the travel and tourism industry employed more than 18 million people with an annual payroll of almost $160 billion. In 30 States, tourism is the No. 1, No. 2, or No. 3 industry. It is estimated that travel and tourism generated $93 billion in tax revenues during the year 2000 for State, Federal, and local governments. When our Governors and other State officials find themselves strapped for cash to pay for basic services such as education, $93 billion in tax revenue becomes even more significant. Moreover, during the past decade, travel and tourism has emerged as the Nation's second largest services export, generating an annual trade surplus of about $14 billion. This, of course, is no surprise to the people and workers of Nevada where travel and tourism is by far the largest industry.

In the year 2000, 36 million people visited Las Vegas, contributing approximately $32 billion to local economies and sustaining approximately 200,000 hospitality and tourism-related jobs. Since September 11, these impressive numbers have declined. According to the Hotel and Restaurant Employees International Union, 41 percent of hotel and restaurant employees in the Washington, DC, metropolitan area have been laid off. In Washington, DC, 41 percent of hotel and restaurant employees have been laid off.

In Las Vegas, the fastest growing metropolitan community in the United States, 30 percent of the hotel and restaurant employees have lost their jobs. Similar cuts have been seen in other cities throughout the country, including New York, San Francisco, Boston, Los Angeles, Honolulu, and Miami.

Jonathan Tisch, one of the premier businessmen in the world, has told me on many occasions—he is based in New York—how drastic September 11 has been to his business. I spoke yesterday to Barry Sternly, another fine, outstanding businessman in American today. The tourism industry, the hotel business in which he is involved, has suffered tremendously. Around the country, 450,000 jobs directly related to travel and tourism will be lost this year. Think of those jobs that will be indirectly affected as a result of what has happened since September 11.

The forecast for the industry from this point on is not much better. The Travel Industry of America estimates travel by Americans will decrease by 8.4 percent this winter compared to the 3 months of December, January, and February a year ago.

These months are always down months, but they are drastically down now. Many hotels use these months to do renovations and things they can afford to do with the money they would normally have earned in the other months, but they did not make money as they anticipated they would in the months of October and November, which are normally very good months for them. So with the decline of 3.5 percent for the entire year 2001 when compared to the year 2000, the Travel Industry of America estimates it will result in nearly $43 billion in lost travel expenditures in 1 year.

Even more chilling, the International Labor Organization projects up to 3.8 million jobs related to the American travel and tourism industry could be lost in the next few years—$43 billion and almost 4 million jobs. How can we possibly consider leaving without doing something to address this critical sector of the economy?

Certainly there should be bipartisan support for tourism since it is so important in so many States, whether it is the State of Montana, the State of Michigan, the State of Nevada, or the State of Iowa. Tourism is important in all of these States, and I mention them because I see their Senators in the Chamber today. How can we possibly consider adjourning without doing something to help the hundreds of thousands of people who have already lost their jobs and do something so that millions more will not lose their jobs? How can we possibly discuss an economic recovery package without addressing the needs of travel and tourism? I say if we do nothing except something related to tourism, we will be doing a good job. It has such an important impact on our economies.

Since September 11, I, with a number of other Senators, have come to the Senate floor on various occasions to urge action on a travel and tourism package in conjunction with the so-called economic stimulus plan. We have urged our colleagues in the Senate, the House, and the administration to include legislation that will encourage people to start traveling again in order to stimulate the economy and get workers back on the job. We have taken some important first steps.

A few days after September 11, Congress acted quickly and responsibly to enact crucial legislation to help stabilize our Nation's airline industry with $15 billion in grants and loans. Since September 11, the airline industry has cut 20 percent of its flights and laid off more than 100,000 workers. The financial package for the airline industry was the right thing to do, but it was just the first step toward making sure travelers truly feel safe to fly.

We then passed a comprehensive airline security bill to dramatically increase the number of sky marshals, strengthen cockpit doors, and federalize the screening of passengers and luggage at our Nation's airports.

While we were right to enact these measures, it is important for us to remember travel and tourism in this country entails so much more than just the airline industry. Travel and tourism has many different faces: Hotels, car rental agencies, cruise ships, theme parks, resorts, credit card companies, family-run restaurants, big city convention centers, tour operators and travel agencies. These are just some of the many diverse elements of an industry that in some way reaches every State, virtually every community in America.

More importantly, it is from these nonairline sectors of the travel and tourism industry that the vast majority of the jobs have been lost. That is why I proposed a comprehensive travel and tourism package as part of any economic stimulus plan we would consider.

There are many Senators who have been interested in travel and tourism, but I would specifically mention Senators CONRAD, DORGAN, INOUYE, KYL, BILL NELSON, BOXER, MILLER, AKAKA, SCHUMER, CLINTON, ENSIGN, ALLEN, STEVENS, and there are many others.

My plan calls upon Congress to enact tax credits for leisure travel to encourage Americans to get back on the airlines, to rent a car, to stay a few nights at their favorite hotel or enjoy a few meals at their favorite restaurants. The tax cuts would be temporary and would provide immediate results. Travel tax credits would encourage people to take advantage of all the many wonderful things the travel and tourism industry in this country has to offer while at the same time spending much needed dollars to stimulate the economy.

My plan also calls for a temporary increase in the deduction for business meals and entertainment expenses.

This proposal will encourage businesses to increase their entertainment expenses. And, because the average expensed business meal is less than $20, this proposal will assist small businesses. This proposal by itself will have an enormous and positive impact on our Nation's restaurants and the millions of Americans they employ.

We need to address the needs of our nonairline travel business such as rental car companies, hotels, travel agencies, airport concessionaires, to name only a few. These businesses need our help. My plan will provide a financial package of loan guarantees similar to that for the airline industry. Finally, we need to do a better job of promoting tourism at home and abroad by establishing a Presidential advisory council on travel and tourism to assist in the development of a coherent and comprehensive national tourism policy designed to help strengthen the travel and tourism industry. My plan provides for the necessary funds to help carry out this mission. We need to make sure that this country advertises the great tourism attractions in Florida, New York, Michigan, California, and Nevada. Most other countries spend significant amounts of money advertising tourism. We see advertisements on television and radio all the time. Australia, New Zealand, and other countries advertise and promote tourism to their countries. We need to do the same for America.

The travel and tourism industry is too important to our Nation's economy, too important to my State and other States and communities throughout the country to be ignored. I hope everyone understands the importance of travel and tourism and how important it is to our country.

I have a letter from the former majority leader of the Senate, George Mitchell. The letter says:

> I know how hectic these days are for you and so I will be very brief.
>
> Some of the people who were most adversely affected by the events of September 11 are the working poor. Welfare reform in the 1990s forced them into the job market, and fortunately, many found work in the travel and tourism industry. Many have lost their job or face unemployment unless we can get the industry moving again.
>
> By embracing the travel credit, [we] can keep the focus of the economic stimulus bill on individuals and on doing everything we can to help the working poor stay in the job market.

I also have a letter addressed to me from the chair and chief executive officer of the Carlson Group, one of our nation's largest travel agencies. I ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 18, 2001.

Hon. HARRY REID,
Assistant Majority Leader of the Senate,
The Capitol, Washington, DC.

DEAR SENATOR REID: I cannot tell you how dismayed I was to read the article in the Washington Post, today, concerning the impact of September 11th on the travel and tourism industry.

As I am sure your constituents have told you, domestic air travel has remained down 31% for the past seven weeks. All elements of the travel and hospitality industry dependent on air travelers have watched their revenue drop by at least this amount.

Since personal travel is down 37–40%, tourist destinations, resorts, cruise ships, and many other segments of the American travel and hospitality industry have suffered declines as much as 60% over the same period and it continues.

We believe that a personal travel credit and elimination of the 50% penalty on business meals and entertainment expenses are desperately needed to keep Americans employed.

Obviously, being employed is far superior to receiving unemployment compensation and far more beneficial to our wonderful people and their families and the states, which bear the burden of such unemployment costs.

To the extent some in the industry seem to suggest that such assistance is too expensive or impracticable, they are not speaking for our people, our franchisees, our company and many others who have been the casualties of the fallout from 9/11.

We know that you understand this. We deeply appreciate your efforts and those of your colleagues, in particular Senators Jon Kyl and Bill Nelson, to help our employees and our businesses regain their economic footing through an amendment to the stimulus bill.

Best Regards,
MARILYN CARLSON NELSON,
Chair and Chief Executive Officer.

The PRESIDING OFFICER. The Senator from Montana.

UM GRIZZLIES GOING TO NATIONAL CHAMPIONSHIPS

Mr. BAUCUS. Madam President, I rise today to express a little hometown and a little home State pride. Last Saturday, the University of Montana Grizzlies defeated the Northern Iowa Panthers, I say to my very good friend from Iowa who attended Northern State, and is the strongest northern State booster I have ever run across. I will not embarrass my good friend by giving the score of that game, but I will say to my good friend from Iowa and to the world that we are proud that the University of Montana Grizzlies prevailed. It was a hard fought football game, and I give utmost credit to the Panthers, who were terrific.

This win gave the Grizzlies the privilege of going to the 1–AA championship game in Chattanooga, TN. They will play the Furman University Paladins Friday at 5:30 eastern time. Everyone tune in.

In Montana, folks travel from every corner of our big State. We call ourselves the big sky State. We are a pretty large State, at close to 149,000 square miles. People around Montana come from all corners of our State to see the University of Montana Grizzlies, the Montana State University Bobcats. There is a fierce rivalry between the Cat fans and the grizzly fans.

From Eureka to Ekalaka, from Havre to Virginia City, in buses, vans, cars, and trucks, Montanans travel great distances to cheer on their sons and daughters, their friends and neighbors. When our team, the Grizzlies, made it to the national championship, understandably we were a little bit excited. We are very proud of our team. I wish you could feel the energy and excitement going on in Montana right now. We are very excited.

This is not new for the Grizzlies. They have been to the I-AA playoffs 8 out of the last 9 years. Friday's championship game will be the fourth the Grizzlies have been to since 1995 when they won the championship. I will never forget. I was there. Man, did we have fun.

It is also important to note that most of the UM players are from Montana. We are proud of that. They are great athletes, but they are also good students first. The team averages a 2.9 GPA, virtually a 3.0 team average. They are from small towns, rural communities. Some of them came up playing 6- and 8-man ball—football in small towns known as "iron man" ball.

They are excellent student athletes, like big sky defense man of the year and Academic All-American Vince Huntsberger from Libby, MT. I was talking to Vince the other day after a game, and Vince remembers when I walked throughout the State of Montana running for office. He even told me he carried a sign in a parade I was in when he was a little kid.

We have Brandon Neil from Great Falls, T.J. Olkers from my hometown of Helena. Our star quarterback, John Edwards, is from Billings. Then there is Spencer Frederick from a little town called Scobey in the northeastern part of our State. These young people and all the others make us very proud.

If you ask anyone who follows I-AA football, they will tell you that the Washington Grizzly stadium is the premier place to play in the country. I commend the UM president, George Dennison, for his leadership at the university and for investing in the program. Also, congratulations to UM athletic director, Wayne Hogan, and his staff. He came about 7 or 8 years ago and is doing a great job. He is from Florida. And Grizzly coach Joe Glenn, with his vision, his leadership, that has earned him the big sky coach of the year for the second straight year.

I think all of these individuals have done so well. I thank them for the pride we have.

Finally, I have a wager with my very good friend from South Carolina, Senator HOLLINGS. If the Paladins win—he went to the University of Furman—I will come to the floor and recite the words of the Furman fight song. If the Grizzlies win, Senator HOLLINGS has agreed to come to the floor and recite the UM fight song. Fair wager, for fun. I will send his office the words to our song so he can get started and get the rehearsal going so he can boom forth with the University of Montana fight song at the next opportunity in the Senate.

SOFTWOOD LUMBER—A CALL TO ACTION

Mr. BAUCUS. I rise today to focus attention on the ongoing softwood lumber dispute between the United States and Canada. I believe we have an excellent opportunity to permanently remove this blemish on our strong bilateral trade relationship.

In the past 3 months, the U.S. Department of Commerce found that the Canadian Government unfairly subsidizes this lumber industry and then dumps those products in the U.S. market, both of which are prohibited by U.S. law. These activities have caused unprecedented upsets in the U.S. market, resulting in record low prices, disruption in supply, mill closures, layoffs, people out of work.

Good jobs in my State of Montana and across the Nation have been put at risk by Canada's foul play. Now is the time to bring this matter to resolution once and for all. The U.S. negotiators have a meeting with their Canadian counterparts to work out what is a desirable solution.

As I have stated many times before, this solution must completely offset the subsidies and dumping. It must bring true competition to the marketplace and must take into consideration the cross-border and environmental issues with the objective of a truly level playing field.

With that said, the offers of our neighbors to the north have been, to date, short of the mark. If we are serious about resolving the issue, the Canadians need to put something on the table, something that reflects a true, open, competitive market for softwood lumber. Some in Canada would prefer to let international tribunals decide this matter. I think they misjudge both the legal strength of their position and the underlying merits of their case. At no other time in history have the facts been so squarely in favor of the U.S. industry—no other time in the many years this dispute has been ongoing. At no other time have we been so close to a detente. Let's not forget, many of the reforms are beneficial and cost effective to the Canadian softwood industry as well as to Canadian taxpayers.

That said, the clock is ticking. Unfair Canadian lumber imports are hurting our American producers. In a regrettable setback on December 15, the preliminary countervailing duties expired temporarily. It is my understanding that due to a customs reporting loophole, Canada was able to avoid paying payment earlier than the duties' temporary expiration. This is wrong. It emphasizes the need to close the gap from now until final determination.

The statute does not require that this case drag on until next spring. There is simply no reason for further foot dragging. The U.S. lumber industry cannot afford to suffer further injury. Neither can our remanufacturers, who are at the mercy of Canadian blackmail threats to cut off supply if we do not support Canada's position.

Simply put, if a decision cannot be reached in the next few weeks, the Commerce Department should accelerate their final determination.

That said, I would like to begin 2002 with this matter resolved. After two decades of fighting, it is time for a durable solution to the softwood dispute. I hope our administration and my Canadian friends will rise to the occasion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

FOOTBALL

Mr. GRASSLEY. Mr. President, I compliment the University of Montana. They did, in fact, play well—too well—against the University of Northern Iowa.

Before I had bragged to Senator DASCHLE 2 weeks ago about how we were going to show the University of Montana how to play football, I wish I had researched how they have done so well in the last few years. I probably would not have been so boastful. But we had just come away from a tremendous victory, the UNI Panthers over the University of Maine Black Bears, just the week before. I thought if the Panthers could beat the Black Bears, they could surely beat the Grizzlies. But it did not turn out that way.

You played tremendous football, and I thank you very much for being so temperate in your remarks about the Panthers of the University of Northern Iowa.

Mr. BIDEN. Mr. President, before the Senator begins a more serious discussion, and I will wait my turn, may I intervene to discuss this issue for just a moment, coming from a State that has won Division II championships more than any of you, and one that this year for the first time in a long while did not make it in the playoffs.

I want my friend from Montana to know I warned my seatmate from South Carolina about you all. We understand about the Grizzlies in Delaware. They have been a very powerful Division I-AA team actually the last—almost the last decade, the last 8 years or so. I just want you to know that, even though the Presiding Officer is from a State that has a team called the Spartans—and they only get 100,000 folks or so to show up to their games; they don't understand, as the Presiding Officer prior to this, from the University of Michigan and Michigan State, where they get 110,000 people—they don't understand real football that the three of us understand.

At some point we should have a more far-reaching discussion about football as it is really still played, where there are student athletes who take seriously that undertaking, as they do their football.

I want to say that people who do not follow and understand that—and many do not because of the media—who do not follow Division II football, should understand there are some very serious ballplayers. It is very good football, high-caliber football. And, in any given year, such as this year, a team such as the Grizzlies is able to compete with Division I teams. They couldn't do it day in and day out. They could not do it 10 games a year. But it is very serious football.

I have been through these bets myself over the last 29 years here because my alma mater has been engaged in this national championship more than once. Delaware this year had a lousy season, relatively speaking—a winning season but a lousy season. But we have a coach who this year made it to the ranks of only 6 coaches in the history of college football to win over 300 football games.

I just want to rise and salute Division II football, where it is not a 40-hour-a-week job to attend school, but it is serious, serious football. I would argue the pressure on some of the fine athletes at Northern Iowa and the University of Montana, the University of Delaware, to play this caliber football and what is also expected of them off the field, is a real strain, a real burden on some of them because they do not get the same opportunities, same scholarships, same treatment, on occasion, that some of the major Division I school athletes do.

I salute the Grizzlies. They are one tough team. When I told my friend from South Carolina about your record, because I was very familiar with it, he blanched and said, as only he could say because he is one of the most humorous guys here: My Lord, if that's the case and they lose, and I have to recite that, they should change that fight song.

Having said that, I yield the floor and wait my turn to speak on a more serious subject.

Mr. BAUCUS. If I may ask the indulgence of my good friend, one of the teams in the home State of the Presiding Officer, of course, is the Badgers. For the previous occupant of the chair, it was the Wolverines, and the Grizzlies of Montana.

The PRESIDING OFFICER (Mr. WELLSTONE). The Chair would observe the team in Minnesota is the Gophers. The Badgers are Wisconsin.

Mr. BAUCUS. So we have the Gophers, Wolverines, Panthers, Grizzlies, and Maine has the Black Bears. I am going to ask my good friend from Delaware, whom do we have in Delaware?

Mr. BIDEN. Mr. President, Delaware has proudly named after the strongest group of revolutionary fighters in the Revolution from the State of Delaware. Back in those days, cock fights were very much in vogue. The toughest of those competitors were the Blue Hens of Delaware. I want the record to show the Blue Hens have taken Panthers, Badgers, and Bears in their stride, including the Black Bears of Maine. We are little, but we are very strong.

I often wish the mascot in the Revolutionary War for the Delaware regiment had been a panther or a lion, but it happened to be a blue hen. So we are the Delaware Blue Hens, and proud to be such.

Mr. BAUCUS. Mr. President, I will bet they are the strongest, toughest Blue Hens that have ever existed on this Earth.

Mr. BIDEN. That is a fact.

Mr. BAUCUS. I look forward to next year when the Senator from Delaware stands in the Chamber and gives a recitation of the Grizzlies' fight song. I hope we can come to that day.

I thank all Senators for indulging me.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa with the good-looking holiday sweater.

THE ECONOMIC STIMULUS PACKAGE

Mr. GRASSLEY. Mr. President, the session is about to end. I would like to call to the attention of colleagues one proposition that I hope comes before the Senate before we adjourn. That is the so-called economic stimulus package. You might call it an economic security package.

Nothing I say is going to in any way detract from the working relationship that I have with Senator BAUCUS as chairman of the Senate Finance Committee.

Maybe in this instance we did not reach an agreement involving he and I having complete agreement on a final product. There were other factors that came into play that maybe kept those negotiations from being one-on-one negotiations where people could freely negotiate and reach an agreement as you should in a conference. But all of this discussion, plus other forums I have been in with Senator BAUCUS as chairman of that committee, have been very cordial and productive sessions, even when they have not come out with a product.

I only wish that when the stimulus package comes to the floor I have the privilege of doing as we did last spring defending that package, along with Senator BAUCUS, with the two of us working together to get it through the Senate. Hopefully that can still happen. It may not happen, but it doesn't mean that Senator BAUCUS has not worked hard to help that happen. Hopefully, we can continue next year to do some things in other areas that fall within the jurisdiction of the Senate Finance Committee that will bring bipartisan bills to the Senate floor for successful passage by the Senate.

Probably what we are ending up with here, instead of what might come out of the conference committee which I was referring to in my work with Senator BAUCUS, is kind of a hybrid that involves some individual negotiations and some people who aren't even on the Senate Finance Committee, which has jurisdiction over most of the product. But this is a bill that is going to be introduced in the House. It is my understanding that it is a bill in which I will have some input, and the White House, and a group in the Senate called the centrists, a bipartisan group of Democrats and Republicans who might call themselves kind of middle-of-the-road types. It is an economic stimulus package presumably passing the House and coming to the Senate. I hope people will see it as a very rich proposal that will help displaced workers and give a boost to the economy.

Since September 11, we have focused on dislocated workers and unemployed people who have been hurt. But there are also a lot of people who are working and who are in anguish over what the future holds for them. Even if they have very good jobs, that might be the case because things aren't the same since September 11.

When we talk about an economic security package, even though we might tend to concentrate on the dislocated workers, we are concerned about all workers because people have some questions about the future. Because of what happened on September 11, they see the future a little differently with a little less security than they did prior to that time.

An economic security package addresses the needs of people who are working as well as people who are dislocated. It does what we can to help those who are dislocated through troubled times. But it also is meant to give some confidence to those who are working and to beef up the economy so we will be able to find jobs for people who are dislocated.

We are in a state of war. We don't know how long that state of war will be there. But it is not going to end when we find the last Taliban in Afghanistan, or the last al-Qaida member. It isn't going to end when we find bin Laden and other leaders responsible for what happened on September 11. How long the war is going to go on I do not know. But it is not over.

We are talking about America being in a state of war since September 11. The Congress of the United States has addressed that and has given the President the backing that our Constitution demands from a partner in a war act, as Congress is a partner in that.

We need to remember that we are in a state of war and that things aren't the same. The Senate ought to respond as if we were in a state of war.

I think one of the ways to responsibly respond is for the Senate to vote on the economic security or economic stimulus package. I hope the Senate majority leader will let his caucus vote the conscience of the individual Member. I hope there isn't any attempt to put the position of the party ahead of the good of the country in the closing hours of this session so we can pass this bill.

It is time to finish our work, but it is also time to do the people's business. There is nothing more important right now than responding to the needs of the people of our country in a time of war when there is a great deal of anxiety and anguish about the future, not only among the dislocated but among those who are even working.

We are in the position of finishing the last of the appropriations bills. It is time to help the dislocated workers and those who are working and create jobs for the employed to give a shot in the arm to the economy.

I believe the White House centrist agreement is bipartisan and bicameral and is a product that ought to be brought before the Senate after it passes the House.

Remember that this isn't something coming to the Senate just on the spur of the moment in the sense that there is a rude awakening and we ought to do something about the economic situation and pass some stimulus. The President recommended it in early October when he proposed a program of accelerated depreciation, tax reduction, tax rebates for low-income people, enhancement of unemployment compensation, and help for the health care needs of the unemployed. The President did that. It wasn't the President who started it. There were lots of meetings held by Senator BAUCUS with Democrats and Republicans, and maybe meetings with only Democrats. We held separate Republican meetings in early October on whether or not we ought to have a stimulus package. We sought the advice of Chairman Greenspan.

There was some question in late September or early October when these meetings were being held about whether or not we needed an economic stimulus. But it was just a matter of a couple weeks until the President, probably on his own, made a determination and a proposal to Congress.

Parallel with that, there was a growing conclusion within both Houses of Congress and both parties that an economic stimulus package was needed. So we have been working in this direction for a long period of time.

There is a product before us now that is bicameral and bipartisan. Partisanship has been evident in this body, by the Senate Finance Committee voting out a bill on party-line votes, bringing it to the Senate, and finally coming to the determination that that partisan bill could not pass. It is not because everything in it was wrong but just because partisan legislation does not get through this body. You have to have some bipartisanship in order for a product to successfully clear this body.

So we have now a further compromise. It is not the President's proposal. We have gone way beyond what the President wanted to do in some of these areas. It does not have some of the baggage of a bill that previously passed the House of Representatives had, such as, for instance, the retroactive alternative minimum tax, where there is a lot of money just coming out of the Federal Treasury back to corporate America. It has many of the things the Democrats wanted and many of the things the Republicans wanted. But it is going down the same road now because it is bipartisan, bicameral, and it is coming to the Senate.

As to things such as accelerated depreciation, there are some changes in the alternative minimum tax that reflect the realities that accelerated depreciation will not work if there are not some changes in the alternative minimum tax. It speeds up tax brackets for middle-income taxpayers by reducing the 27 percent bracket down to 25 percent, and doing it January 1, 2002, instead of January 1, 2004, and January 1, 2006.

We recognize the needs of stimulating the consumer demand by tax rebates to low-income Americans. We increase unemployment compensation by 13 weeks. We have, for the first time in 70 years, a very dramatic change in the social policy of this country for unemployed people by providing health insurance for unemployed people. That is welcomed by a lot of Republicans. And it ought to be welcomed by a lot of Democrats. So I want to describe that.

I would also like to take an opportunity to clear up the record on press conferences that are being held by my friends in the Democrat leadership. Too often it is said, in a disinformation way, that what is really holding this up is that Republicans do not want health benefits for dislocated workers.

I think I have just now said, in this new policy—the first in 70 years; the biggest social change in the policy for dislocated workers in 70 years—that we support this. It is part of this package. So why would anyone say that Republicans do not care anything about health benefits for dislocated workers?

The President proposed it early on—not in a way I thought was very workable, but he proposed spending money on it. We have a package that has $23 billion of such benefit in it. In fact, it is a package with $2 billion less which helps more people than what some of the Democratic proposals would do.

So if you can help more people for less of the taxpayers' money, isn't that good? And isn't it good, too, that there is agreement that it needs to be done? I do not think it is fair for people in the Democratic leadership to say Republicans are against helping with the health benefits for unemployed workers when it has been in every one of our plans and even the President was the first to propose it.

I think the bipartisan, bicameral provisions that are coming before the House and Senate within the next 48 hours represent a genuine compromise. Not only does it provide an unemployment insurance extension of 13 weeks, but it also has Reed Act transfers—more money—to the States for them to spend for enhancing their own——

The PRESIDING OFFICER. It is the Chair's understanding that the time allocated in morning business to the Senator from Iowa has expired.

Mr. GRASSLEY. I am not sure I was aware of it or I would have asked permission to go beyond that because I know all the previous speakers spoke longer than 5 minutes and the gavel was never rapped. So if that is the case——

Mr. BIDEN. I have no objection to the Senator continuing his speech. I am wondering how long he is likely to speak.

Will the Senator say roughly how long he is going to speak?

Mr. GRASSLEY. I think now that I have spoken this long, I would say about 10 minutes.

Mr. BIDEN. I thank the Senator.

Mr. GRASSLEY. We give more money to the States if they want to improve even more their unemployment benefits. We are giving a 60-percent tax credit for health care tax for unemployed workers, including people who can use it to extend COBRA insurance benefits.

States will have the ability to address problems such as part-time workers. There is a modest proposal to accelerate income tax rate reductions in the 27-percent bracket.

I am sure there are a lot of Members of this body, particularly those who voted against the bipartisan tax bill last spring, who are not going to want to speed up, from 27 percent to 25 percent, the reduction of that tax rate. Somehow there is an insinuation that if you do that, you are helping the wealthy. I want my colleagues to remember that this benefits a single taxpayer earning as little as $27,051 and going up to $65,000. And then, for a married couple, that would kick in at $45,201, going up to $109,000.

For people making $27,000, where this bracket starts, or for married couples making $45,000, these are not rich people or rich families. What we are talking about is a 2-percentage-point tax cut for these folks.

So is there anything wrong with a single person paying $770 less in taxes or a married couple paying $1,281 less in taxes if they fall into this income tax bracket that we would call middle income?

It seems to me it is fair, but, most importantly, it is meant to be a stimulus. This is something that middle-of-the-road Democrats and Republicans support. This is part of the original centrist package.

We also have a 30-percent bonus depreciation. That is something that was in everybody's package, Republican or Democrat, House or Senate.

We have also a 5-year net operating loss carryback. That was not in the President's package. That was not in the Senate Republican package. That was in the Senate Democratic package.

On corporate alternative minimum tax, there is no repeal, no retroactivity, like was lambasted when it came out of the House that way. There is no corporate AMT repeal, retroactive or otherwise, in the White House-centrist package. There are some well thought out reforms that cost about one-twentieth of what the House bill did on alternative minimum tax. That is a very major movement. That is why the centrists support this compromise.

The White House-centrist package extends expiring tax provisions by 2 years.

Finally, the White House-centrist package includes bipartisan tax relief proposals for victims of terrorism and business in New York City. These are much needed, and they are urgent matters. I believe the Senators from New Jersey, New York, and Connecticut ought to find it inviting that these things are in there for their constituents and support this package.

Let's get the record straight. Let's have a good debate. Let the votes fall where they may. I can't help but ask our distinguished majority leader, Senator DASCHLE, to give the people what they want—a bipartisan economic stimulus bill with the largest aid going to dislocated workers in a generation.

It is clear that the people and the President don't want stalling, don't want muddling, don't want delay and, most important in this state of war we are in, don't want partisanship.

I urge the Senate majority leader to do the right thing: End this session by delivering a bipartisan priority. By doing it, we put the people's business first. If I were the majority leader, I would not know how to explain to the American people, as I returned home to the State of Iowa to enjoy the holiday season there with my family on the farm at New Hartford, why millions of Americans are desperately waiting for the Senate to pass an economic and job security bill that has been in this body for the last 2 months. If I were the majority leader, I don't know how I would explain to the people of Iowa, how I could look my constituents straight in the eye, and all of my taxpayers and all the small business owners of Iowa, and explain, by not passing this bill, how I would choose politics ahead of people.

It is time to get the job done. There is still time to do it. If people are allowed to vote their conscience and not have the restriction of party, we can get the job done, I believe.

I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I announce there are no more votes tonight.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 3061

Mr. REID. Mr. President, I ask unanimous consent that at 9:30 a.m. on Thursday, December 20, the Senate proceed to the consideration of the conference report to accompany H.R. 3061; that there be 90 minutes for debate equally divided between Senators HARKIN and SPECTER or their designees; that an additional 20 minutes be given to Senators MCCAIN and BROWNBACK—that is 10 minutes for each of them, for a total of 20 minutes—that there be 10 minutes each for Senator DOMENICI and Senator WELLSTONE; that upon the use or yielding back of time, the Senate vote on adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2506

Mr. REID. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may turn to the consideration of the conference report to accompany H.R. 2506 and that there be 1 hour 5 minutes for debate divided as follows: Senator LEAHY, 10 minutes; Senator BYRD, 45 minutes; Senator MCCONNELL, 10 minutes; that upon the use or yielding back of time, the conference report be agreed to, the motion to reconsider be laid on the table, and any statements related thereto be printed in the RECORD at the appropriate place, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent to proceed as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STIMULUS

Mr. BIDEN. Mr. President, before I speak on what I came over to the floor to discuss today, I would like to respond in 60 seconds to the Senator from Iowa.

I don't think the stimulus bill is about partisanship. The stimulus bill is about whether we are going to take care of workers and displaced people because of the economy or whether we are going to reward corporate entities that are not going to reinvest instantly in the economy and stimulate the economy. How can we stimulate the economy if what we are going to be "spending" through either tax expenditures or direct expenditures doesn't spend out for 2 years or more?

This is about fairness. The stimulus package I have seen so far is not remotely bipartisan and is in fact a serious mistake, based on what I know, unless there is some iteration in the last 12 hours of which I am unaware.

MAINTAIN OUR BALKAN COMMITMENT

Mr. BIDEN. Mr. President, I rise today to take issue with Secretary of Defense Rumsfeld's comments yesterday in Brussels, in which he called for reducing NATO forces in Bosnia by one-third by the end of next year.

I find Secretary Rumsfeld's proposal both faulty in its logic, and dangerous in its implications.

Mr. Rumsfeld based his suggestion upon the allegation that the size of the NATO mission in Bosnia, known as SFOR, is "putting an increasing strain on both our forces and our resources when they face growing demands from critical missions in the war on terrorism."

From this assertion, one might think that the United States and NATO have massive numbers of troops in Bosnia. In fact, SFOR's strength is now about 18,400 troops. The U.S. contingent is only 3,100.

According to the Pentagon's new Quadrennial Defense Review, we must be able to "swiftly defeat aggression in overlapping major conflicts while preserving the option of decisive victory, including regime change or occupation and conduct a limited number of smaller-scale contingency operations."

By any calculation, therefore, we should have plenty of troops and materiel to handle the smaller-scale operation in Bosnia and still meet our commitments elsewhere in the war on terrorism.

In short, Secretary Rumsfeld's argument that Bosnia is a serious drain on our war-fighting capabilities simply doesn't wash.

I should also point out that we have already greatly reduced the size of the NATO-led operation in Bosnia. The current level of 18,400 troops is down from an original 60,000. The 3,100 Americans are down from an original 20,000.

Moreover, why should we quit a game in the fourth quarter when we're winning? Bosnia and Herzegovina still has many problems, but even the harshest critic of our policy there must admit that significant progress has been made since the Dayton Accords were signed six years ago. For example, there non-nationalist, multi-ethnic coalitions now govern both the Federation and the national parliaments. All of the political, economic, and social progress has been made possible by the umbrella of SFOR.

But the victory is not complete. In that context, I'm rather surprised that Secretary Rumsfeld juxtaposed Bosnia with the war on terrorism, because al-Qaeda is known to have cells in Bosnia. The Saudi Arabian who co-starred with Osama bin Laden in the grotesque video from Afghanistan, which nauseated the civilized world, had previously fought with the mujahedin in Bosnia.

Mr. President, extirpating al-Qaeda from Bosnia is reason enough to keep the three thousand American troops there.

I have been to Bosnia nearly every year since the outbreak of hostilities in 1992. I have talked with most of the leading politicians of all ethnic groups. I have visited the headquarters of the combined Muslim-Croat Federation Army outside Sarajevo and reviewed the troops there. I have met with local officials from Banja Luka and Brcko in the north to Mostar in the south. No one, Mr. President, no one—thinks that the current peace and progress in Bosnia could survive a premature withdrawal of NATO, especially American, troops.

Rather than setting an artificial date for withdrawal of NATO forces from Bosnia, we should concentrate on finishing the job, and then withdraw victoriously.

Moreover, the United States is sending a totally confusing message to the world, friends and foes alike. The same week that we reopen our embassy in Kabul, and James Dobbins, our envoy to Afghanistan, declares that we are there to stay, we announce that we will leave Bosnia within twelve months!

How seriously can Afghans take Mr. Dobbins' declaration? Can the Afghans possibly think that we will stay the course there when we won't do it in the Balkans?

Or are we perhaps planning to transfer some American troops from Bosnia to peacekeeping duty in Afghanistan? I don't think so. Secretary Rumsfeld and others in the Administration frequently declare that peacekeeping duty is a poor use of the American military.

Unfortunately, however, the Administration's mantra runs afoul of the so-called Strategic Concept, the document which guides overall NATO strategy. The Strategic Concept lists ethnic and religious conflicts like Bosnia among the greatest threats to the Alliance.

If we're going to opt out of NATO peace enforcing missions, and we're going to exclude NATO from our anti-terrorist military campaigns as we have done in Afghanistan, then what does that tell our allies about our commitment to NATO? I suppose we'll agree to keep an American general as Supreme Allied Commander Europe.

Unfortunately, Secretary Rumsfeld's arbitrary deadline-setting in Bosnia fits right into the Administration's announcement that we will withdraw unilaterally from the Anti-Ballistic Missile Treaty with Russia, a decision whose folly I criticized on this floor less than a week ago.

This administration's foreign and defense policy is driven by ideology, not by a realistic threat assessment. A stable Europe is the precondition for our pursuing terrorists in Central Asia, the Far East, or the Middle East. Since we continue to preach "in together, out together" in the Balkans, what will we do if our European NATO partners point out twelve months from now—as is likely to be the case—that there is still need for SFOR to remain in Bosnia?

In that case the administration's theory will collide with the hard facts of reality. Whether reality or ideology will win out will be more than an academic question. The future, both of the Balkans, and of NATO, may depend on the answer.

The American people should recognize the risky gamble that Mr. Rumsfeld's rigid ideology asks us to embark upon.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I wanted to comment to the chairman of the Foreign Relations Committee about how much I appreciate his leadership, how much of a privilege it has been for me to be a member of that committee, along with the distinguished Senator from Connecticut, another leader of the committee, and how much you have taught me and how much you have encouraged me.

With that background, I am going to Afghanistan on January 3, and I am really looking forward to bringing back a report to the committee that might be of value as we discuss the future of the coalition, keeping it together, of all of those countries in the region that we will visit, as well as for the future of Afghanistan.

I commend the chairman of the committee for how he has been so steadfast in his insistence for the role of women in the new Government of Afghanistan. Afghanistan has a history of having very prominent women in the professions. Of course, all that disappeared with the Taliban. It is time to reassert the rights of women and, particularly, in our case, to insist on that as they form the government. It is with a great deal of appreciation I say to my chairman and to the chairman of the subcommittee how much I thank them for their leadership.

TERRORISM INSURANCE

Mr. NELSON of Florida. Mr. President, I wanted to speak briefly on the subject of terrorism insurance because in the closing couple of days of this session, there is some question as to whether or not we will even get a bill. I want to say if we don't, that is a mistake. It is a mistake because to do nothing would leave us in the condition that we are in now, where so many of the businesses and homeowners and automobile owners of America would be in a position of not knowing if they are covered by terrorism or not because a number of companies have already filed with the insurance commissioners of the 50 States, withdrawing terrorism as a risk that would be covered.

The flip side of that is where terrorism may be covered, and with no plan, the opportunity is ripe for the rates to go up considerably. Take, for example, the issue of Giant Stadium in the Meadowlands. I am told that they have upwards of a 400-percent to 500-percent increase in the rates. Is that a fair rate? Only the insurance commissioners of the 50 States would know, but an insurance commissioner has to determine if a rate is fair by looking at data and looking at experience.

In this particular case, we have precious little data or experience. Therefore, the insurance departments of the 50 States are simply not going to know or, even if they thought a rate was excessive and arbitrary, they are not going to be able to deny the rate because they can only deny it if they went into court and proved to a judge in an administrative law court, or in a court of law, that it was excessive. But they don't have those tools.

So what should we do? Well, let me say as a backup, if all else fails, and I hope it doesn't—and I am talking to the Senator from Connecticut, who is a leader; I want to talk about his bill—instead of us doing nothing, we ought to take a period of time and pass a bill that would say that the Federal Government will treat this as an act of war for this short period of time, and assuming the terrorism risk for insurance purposes, that there would be no rate hikes and there would be the guaranteed terrorism coverage on all the insurance policies—in other words, a moratorium on the cancellations that are going on right now on terrorism coverage, and a rate freeze on the rates that are presently being jacked up sky high in many cases.

That is what I would suggest that the Congress consider as a backup, but we should not have to get to the backup.

I want to talk to the Senator from Connecticut and the rest of the Senate to say that if we took a vehicle such as the Dodd-Sarbanes bill—it could be that or it could be the Fritz-Hollings approach but an approach that blends the risk being shared by insurance companies for the lower amounts, generally in a range of about up to $10 billion of losses from a terrorist event, and above that the Federal Government would share in an 80–20 or 90–10 arrangement, depending on the size of the terrorism loss.

All of these bills have similarities. But what I would urge, and will urge if such a vehicle comes before the Senate by the offering of this amendment, is that there be a limitation on the amount that the rates can be raised for terrorist insurance risk purposes and that part of the premium that would go to the terrorist risk would be set aside in the insurance company for accounting purposes from the rest of the premium so that we would know how much would be there, and if there were no terrorist loss, that could continue to be set aside for a catastrophe, which would include the terrorist loss. And—this is the part I am not sure those sponsors of the bill understand—even though I want to limit the rate increase, because I, indeed, think the rates are being raised using the September 11 horrible tragedy as an excuse to jack up the rates, nevertheless we have a responsibility to act, and we could limit those rate increases and, in the case that another terrorist event occurs and the loss were to occur, there is a portion of my bill on page 2 that would then have a surcharge on the policyholders up to the amount of the loss. That surcharge would be approved by the insurance departments of the 50 States.

In other words, since we would segregate the premium as allocated to the terrorist risk, and that limitation of the rates would be a 3-percent increase only, but if there were a terrorist event that exceeded an industry-wide—we are talking about $6 billion of premium—then the surcharge would kick in. That is the part that I do not think those sponsors understand. They know I am a former insurance commissioner and I am quite concerned about rates being jacked through the roof and the consumer taking it on the chin, and that is why I wanted to come to the Chamber to speak. That is why I am so appreciative that the Senator from Connecticut is here.

I just got off the phone with the general counsel of State Farm, someone whose advice I valued over the 6 years I was insurance commissioner prior to coming to the Senate. I will be talking to several other CEOs and general counsel. This is, in part, what we have been talking about all along, and it is not something that insurance companies should think is an anathema to their position.

What is an anathema to their position is for them to gouge the public, the consumers, because it sets a limitation on the rates, but it is a fair way of approaching it. Clearly, at the end of the day, it is a way of protecting the businesses of America, the homeowners of America, and the automobile owners of America who, if we do nothing, are facing the prospect that insurance companies have withdrawn their coverage for a terrorist attack.

I thank the President for the opportunity to speak on this very important subject that is so important particularly at the eleventh hour of this session of Congress.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

NATO EXPANSION

Mr. WARNER. Mr. President, the Senators were advised by the Foreign Relations Committee through a hotline of the desire of the Senate to act on H.R. 3167. I have objected, and will continue to object, to the Senate considering this bill. It is a very significant bill, and I felt obligated to come to the Chamber and state to the Senate exactly why I object at this time in the few hours remaining in this session—I say a few hours, tonight and tomorrow—to proceeding to consider such an important document as this.

The document is an affirmation of a policy statement by President George W. Bush who said as follows on June 15, 2001, in a speech in Warsaw, Poland:

> All of Europe's new democracies from the Baltic to the Black Sea and all that lie between should have the same chance for security and freedom and the same chance to join the institutions of Europe as Europe's old democracies have. I believe in NATO membership for all of Europe's democracies that seek it and are ready to share the responsibility that NATO brings.

Basically, I share the President's view on that, but this particular document goes on and cites the following. It says:

> Declarations of Policy by the Congress of the United States.
>
> 1. Reaffirms its previous expressions of support for continued enlargement of NATO alliance contained in the NATO Participation Act of 1994, the NATO Enlargement Facilitation Act of 1996, and the European Security Act of 1998.
>
> 2. Supports the commitment to further enlargement of the NATO Alliance expressed by the Alliance in its Madrid Declaration of 1997 and its Washington Summit Communique of 1999.
>
> 3. —

And this perhaps is the more significant declaration of policy.

> The Congress endorses the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15—

That was the statement I just read—

> and by former President William J. Clinton on October 22, 1996, and urges our NATO allies to work with the United States to realize its vision of the Prague Summit of 2002.

My views are as follows. I think NATO—and I think every Member of this body shares this with me—has done a magnificent job for over a half century. It is perhaps the strongest and most effective alliance and accord in terms of security that this Nation has ever entered into.

Last year we had a very significant debate, and that is my basic problem; there is no urgency for this. This Chamber should resonate again with a strong debate on future membership in our NATO.

We had several days of debate last year. I put forward an amendment limiting the number of nations.

My concern is there are nine nations referred to in this particular document, all seeking NATO membership. That would be 9 plus 19, which would come to 28. The debate was in 1998. That is a very significant increase.

This document does not proclaim each is going to be admitted, but it gives a strong inference and overtone that could come to pass. As a matter of fact, it is authorization to the effect that certain sums of money—and I support each and every one of these authorizations for funds going to the nations to enable them to continue their efforts to increase their military, to strengthen that military, to enable that military to become an important part of the overall military collection of the NATO countries.

Before we speak to all nine indirectly and subscribe in whole to the President's policy, this body has a responsibility to examine each nation, to have a formalization from the administration and others as to which of those nations should be considered for inclusion in NATO, presumably in 2002. I see no urgency that we should proceed on a UC, without any Members except myself so far rising to address this.

I respect the chairman of the Foreign Relations Committee. He was in the Chamber, which prompted me to speak, hoping I could engage him.

The distinguished ranking member has communicated his desire to have this passed. I respect both of those fine Senators, but I think this deserves very careful consideration. We had hearings in the Foreign Relations Committee in 1998 regarding those members that desired to join. We had hearings in the Armed Services Committee, on which I am privileged to serve. I certainly encourage my chairman, Senator LEVIN, to have hearings on any thought with regard to increasing the size of NATO and specifically looking at those nations and providing our determination, as the committee, to the Senate as to the contribution they wish to make and the verification of the capabilities to make that contribution, both militarily and politically.

By the way, these authorizations are contained in the foreign operations bill such that they can go forward. It will not impede the distribution of these funds.

From time to time, Members put holds on matters. I take that obligation very seriously and come to state with some precision exactly why I take that step and will continue to do so for the balance of this session of the Congress, namely that it deserves the full attention of the Senate, preceded by a debate in the chamber with consideration by the two committees that have specific oversight of these matters.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, Senator DODD and Senator MCCONNELL are in the Chamber. I ask unanimous consent to speak for 3 minutes and at the conclusion of my remarks the majority leader be recognized for a statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOSING THE GUN SHOW LOOPHOLE

Mr. REED. Mr. President, today the Brady Center to Prevent Gun Violence issued a very important report on "Guns and Terror," and they pointed out the link between terrorist activity and our lax gun law in the United States. It is a compelling report that should urge us to action. We have seen throughout the last few weeks newspaper reports indicating terrorists are exploiting our lax gun laws, particularly when it comes to gun shows.

When Attorney General Ashcroft testified before the Senate Judiciary Committee on December 6, he held up an al-Qaida manual and talked about how terrorists are instructed to use America's freedom as a weapon against us, and he talked about the way they are urged to lie to deceive our law enforcement authorities.

He neglected to point something else out. These terrorists have been trained to exploit our gun laws. A few weeks ago, I mentioned a terrorist manual was seized in Kabul in which these jihad trainees were urged to obtain an assault rifle legally, enroll in American gun clubs to take courses in sniping, general shooting, and other rifle courses. We have to understand if this is their playbook, using gun shows is one of their plays and we have to stop this loophole.

I introduced legislation last year based upon the Lautenberg legislation this Senate passed. I hoped we could bring this legislation to the Senate very quickly, and we could move to close this gun show loophole, that we could apply the Brady law to every purchase at a gun show, that we could ensure there is a full-time period for law enforcement to evaluate, up to 3 days, the purchase.

These things are necessary. I think it would be a mistake to delay further, and I think also it would be a mistake to take and embrace a weaker version of the law when we have already passed a corrected bill that can make huge progress in closing off this loophole.

We already know individuals on behalf of Hezbollah have used gun shows, that individuals on behalf of the Irish Republican Army have used gun shows, that American militia movements have used gun shows. They do that because they know they can go to the shows, find unlicensed dealers and avoid any type of Brady background check. So I hope we could move very promptly in the next session to close this loophole.

There are 22 cosponsors of my legislation. It is a bill we have already passed in the Senate. It is something I believe is long overdue and I hope indeed we can do it to ensure terrorists do not exploit our laws to do damage to our country and to our people.

I yield the floor.

The PRESIDING OFFICER. The major majority leader.

Mr. DASCHLE. Mr. President, I compliment the distinguished Senator from Rhode Island for his comments now and for the leadership he has shown on this issue now for several years. Our caucus and the Senate owe him a debt of gratitude for the job he has done in sensitizing us to the importance of this legislation and our efforts to address this issue.

As the Senator noted, this legislation has a very favorable history. Senator Lautenberg, our former colleague from New Jersey, has also worked with the Senator from Rhode Island to pass this legislation at some point in the past, and because it has such overwhelming support I am confident this Senate can pass it as well.

The Senator has talked to me on several occasions about the importance of taking this legislation up this session. It is regrettable at least to date we have not had the opportunity to do that. I share the Senator's expressions of urgency with regard to the consideration of this legislation, and as I committed to him privately I will commit as well publicly that we will take this legislation to the Senate, hopefully early in the session next year.

There is no reason why we cannot complete our work. There is no reason why the Senate cannot go on record again, as it has before in passing this bill, and send a clear message, at least when it comes to the gun show loophole, that we can take steps to protect ourselves and protect this population, and find ways in which to do it in a reasonable way. That is what the Senator is asking.

Again, as I say, I thank him for his leadership, his commitment, and I will work with him to assure this legislation can be taken up successfully sometime next year.

Mr. REED. I thank the majority leader for his kind comments.

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

ELECTION REFORM

Mr. DODD. Mr. President, it is after 6 p.m. in the evening and I suspect that many normal people are sitting down having dinner, enjoying a quiet moment with their families. I hope in fact that many of our colleagues are doing that since there are no longer any votes this evening. We are about to make an announcement, my colleague and friend from Kentucky, and, if he can make it, our colleague from Missouri, along with my friends from New York and New Jersey and others who have joined us in crafting an election reform compromise.

Mr. President, the Chamber may be sparse in participation at this late hour and it may be after working hours for most, but may I suggest what we are about to introduce is "landmark" legislation. It will have been 36 years, I think, since the last time this body dealt with the issue of voting rights from a Federal perspective. The Voting Rights Act was the last major civil rights legislation dealing with the voting rights of the American public.

I begin these remarks by, first of all, expressing my deep gratitude to my friend from Kentucky who has been my chairman on the Rules Committee, and is now my ranking member on the Rules Committee, for his efforts, and those of his staff and others over these many weeks in putting this proposal together which we now offer to our colleagues as a bipartisan compromise. Our hope is that on our return, at some early date—and again, we will ask leadership for advice and counsel—we might bring this matter before the Senate when we return to the second session of Congress to adopt this election reform proposal.

Everyone is aware of what the world was like a year ago when the major story was not about Afghanistan and terrorism but about the condition of the election system in the country, particularly the events surrounding the Presidential race. I am not here today to talk about what happened. What happened last year was not an occurrence in one State or one election but a wake-up call for everyone about the deteriorating condition of our election system across the country. This does not happen on one night, in one State, in one election. There has been a lot spoken about that race, those particular events.

We have tried with this bill to look forward and not look back as to how we can respond to this in a responsible way so we may live up to our historic obligations in this Chamber to see to it that the rights of all Americans—specifically, the most fundamental of rights, the right to vote—is protected and the votes are counted.

Thomas Paine said very appropriately more than 200 years ago that the right to vote is "the primary right by which other rights are protected."

It is about as basic a statement and basic a right as we can identify.

The very credibility of every other action we take as a people, not to mention as a Congress, but as a people, in this Chamber and elsewhere, depends upon the American people's belief in the integrity of the election system which puts everyone in these seats as well as the seats occupied in every office, from the lowest political body in the country to the most exalted in the Presidency of the United States.

This bipartisan compromise we introduce today is not a condemnation of the past at all but rather a reflection of the promise of the future. The problems faced by voters across the Nation last November served, as I said a moment ago, as a wake-up call that our system of Federal elections was in serious need of reform and help. That is what we tried to do with this bill.

This is landmark legislation. Our task is to provide the necessary Federal leadership and resources to assist State and local officials without in any way usurping their historic responsibility to administer Federal elections. This bipartisan compromise reflects the necessary balance between the Federal interests in assuring the integrity of Federal elections and the authority of State and local officials to determine the best means by which to conduct those very elections.

I am very grateful to my colleagues for their considerable contributions to this compromise. I thank the ranking member of the Rules Committee, Senator MCCONNELL, for his leadership, for his perseverance on this issue, and for his very significant contributions which I will identify shortly. Senator SCHUMER of New York, a member of the Rules Committee, has been active working on election reform since the beginning of this Congress when he became interested in the subject matter. My good friend from the State of Missouri, Senator BOND, early on recognized the need for Federal leadership in this area, particularly the need for Federal antifraud standards. And Senator ROBERT TORRICELLI, along with Senator MCCONNELL, introduced one of the very first election reform measures in the Senate following the elections of last year. There are many others involved in the debates and discussion, but these are the principals who have worked the hardest to craft this package and to present it to this Chamber.

I acknowledge the tireless work of my coauthor in the House, Congressman JOHN CONYERS, the dean of the Congressional Black Caucus. Throughout this long year of hearings, debate, and negotiation, he has been a friend and a stalwart believer in the responsibility of the Federal Government to ensure that every eligible American has an equal opportunity to vote and to have their votes counted. This compromise owes much to his vision and dedication to producing a bipartisan agreement.

Simply put, this bipartisan compromise makes it easier for every eligible American to vote and to have their vote counted while ensuring that protections are in place to prevent fraud. As my colleague and friend from Missouri has said so succinctly, it ought to be easy to vote in America and it ought to be very hard to cheat. We think we have struck that balance. We do not claim perfection, but we believe we put together the provisions which will certainly advance the measure of both goals: to make it easy to vote and hard to cheat in this system and thus devalue the legitimate vote of those who honestly go about the business of counting ballots.

The bipartisan substitute we introduce today represents a strong response to the first civil rights challenge, in our view, of the 21st century and protects the voting rights of every eligible American, regardless of the individual's race, ethnicity, disability, English proficiency, or the level of financial resources available to the community in which he or she lives and votes.

This compromise preserves the fundamental philosophy of the original bill: The Federal Government must set minimum standards for the conduct of Federal elections. We have expanded the original standards to include minimum requirements to defer fraud and have created a new Election Administration Commission to assure that, going forward, expertise and assistance will be available to the States and localities to meet these minimum standards.

Specifically, this compromise sets the following three minimum standards for Federal elections: Beginning in the year 2006, election systems must meet voting system standards providing for acceptable error rates, and provide notification for voters who overvote, while ensuring such systems are accessible to every blind and disabled person, and to language minorities, in a manner that ensures a private and independent vote.

Second, beginning in the year 2004, States must have in place provisional balloting systems so that no registered voter in America can ever be turned away from the polls without the opportunity to cast their ballot.

Third, States must establish a statewide computer voter registration list, and beginning next year, provide for verification for voters who register by mail in order to prevent fraudulent voting.

Those are minimum standards. They do not require a one-size-fits-all approach to Federal elections, nor do they require that any particular voting system be used or discarded, for that matter. Instead, the minimum standards ensure that every voting system—be it electronic machines or paper ballots—meet certain basic standards. And we explicitly guarantee to every State the ability to meet these standards in a way that best serves the unique needs of their communities.

Most importantly, this bipartisan compromise provides the funds to help States meet these requirements. For the first time, the Federal Government will contribute its fair share to the cost of administering elections for Federal office. That, in and of itself, is a historic change.

The compromise authorizes a total of $3.5 billion over 5 years towards this end. A total of $3 billion is authorized to fund the minimum standards, and an additional $400 million is authorized in fiscal year 2002 for incentive grants to allow States to immediately move forward to implement election improvements, particularly in the antifraud area.

There is $100 million in fiscal year 2002 provided for grants to make polling places physically accessible to those with disabilities. Never again should our fellow Americans who are blind or wheelchair bound have to suffer the indignities of being lifted into polling places or held at a curbside waiting for an accessible machine.

This significant commitment of resources underscores the fact that nothing in this bill establishes an unfunded mandate on States or localities. To the contrary, this compromise reflects a commitment on the part of Democrats and Republicans in this Chamber to provide not only the leadership but the resources at the Federal level to ensure the integrity of our Federal elections.

The Senate majority leader, Senator DASCHLE, has publicly committed to bringing S. 565, the Equal Protection of Voting Rights Act to the floor early next year, at which time this bipartisan compromise will be offered as a substitute.

I encourage my colleagues and the leader to make this bill one of the first measures—maybe the first measure—in the second session of the 107th Congress. I can think of no better way to begin the second session of this historic Congress than with a bipartisan measure whose sole purpose is to ensure the integrity of our system of Federal elections and the continued vitality of our democracy.

In the midst of all that has happened since September 11, I couldn't think of a better way to begin the new year than to work together in the Chamber to do something so critically fundamental to the success and soundness of our Nation.

I thank, again, my cosponsors—Senator MCCONNELL, specifically for his crafting of the commission concept, which I think is a wonderful idea, so we will have a permanent venue to begin to deal with these issues. I am sure he will explain in greater detail how this commission works. But without his contribution we might have only ended up with a temporary commission that would have gone out of existence in a short period of time and allowed, once again, the system to deteriorate.

There is no guarantee it will not. But with a commission in place, we will be in a much stronger position over the years to respond to these issues on a continuing basis.

I thank Senator BOND. His contribution was to the fraud area. Without him coming to the table and adding that element here, we might have left that out. It is a serious issue, one that deserves consideration. He has crafted some very sound provisions in this bill which add a very important leg to this.

With what I have talked about in the area of disabilities and provisional voting in addition to our requirement of statewide voter registration, these minimum standards, the broad provisions and the commission, we have not solved every problem at all. We are not dealing with every single issue that comes up. But that is one of the reasons why the commission can make a significant contribution.

I want to thank specifically our staff: Tam Sommerville and Brian Lewis of Senator MCCONNELL's Rule Committee staff; Julie Dammann and Jack Bartling of Senator BOND's office; Sharon Levin and Polly Trottenberg of Senator SCHUMER's office; Sarah Wills and Jennifer Leach of Senator TORRICELLI's office; and, in my office, Kennie Gill, Veronica Gillesie, and Stacy Beck, along with Shawn Maher and others, for helping put this together.

I look forward, in the early part of the year, to debate and discussion on the subject matter.

Again, I appreciate the wonderful work of my colleagues.

It has been a long road but we think we have produced a very good piece of legislation. I look forward to working with my colleagues when we return.

I see the distinguished leader. I know he probably has other obligations. My colleague from Kentucky is here, but if the leader would care to make a comment on this, we welcome it.

Mr. DASCHLE. Mr. President, I will be very brief. I congratulate the distinguished Senators from Connecticut, Kentucky, and Missouri for their extraordinary work in this regard. I would not have bet we could have gotten to this point when the effort began many, many months ago.

There was a great deal of concern for how the last election was conducted—on both sides. Given the acrimony and difficulty in reaching even some consensus about how to approach this issue, I knew the odds were long. But these leaders overcame the odds. They articulated a vision for how this country ought to perform in every election and worked together, in spite of these difficulties, and have achieved a result that I think is extraordinary.

I do not think the Senator from Connecticut is far off when he talks about this being landmark legislation. Indeed, if it can incorporate the opportunities for millions of voters who have been disenfranchised, it will be landmark legislation. If we can deal with the fraud that has existed on occasion in elections in the past, it will be landmark legislation.

I cannot think of any higher priority. I cannot think of anything for which there is greater cause for excitement than the opportunity to address this issue in the comprehensive and very commendable way the Senators from Connecticut and Kentucky have.

I commit to work with the two Senators to find a time very early in the next session of Congress where we can take this bill up on a bipartisan basis, and maybe even set the tone that could be taken into other legislation as well. I think that would be conducive to bringing about the kind of result we would like as we begin all of our work in the next session. I will work with them. I will commit to them that we will find the time in the schedule to ensure that this legislation can be considered early.

I, again, congratulate both Senators for the extraordinary job they have done getting us to this point tonight.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the distinguished majority leader for his kind comments about the work of the three of us here, and others, on this important piece of legislation. We are grateful that he thinks he will be able to schedule this debate sometime early next year.

Rarely do you get the feeling around here that you are involved in something that is truly unique and has the potential, as the Senator from Connecticut indicated, to be a landmark piece of legislation. We are all working on issues that are important to somebody in the country all the time. But nothing is more fundamental, obviously, than the right to vote.

I say at the outset to my friend from Connecticut, it has been a pleasure working with him. And to my colleague from Missouri, he has been a joy to work with.

We had three areas about which we cared a great deal. Senator DODD is a passionate advocate for the disability community and for reducing, to the maximum extent possible at the Federal level, any barrier to the ability to vote. They may not be intentional, but as a practical matter, barriers still exist. Senator DODD, as we worked through these 13 long months of negotiations, was always looking for a way to strengthen that part of the bill. If there is any hero in America to the disability community, it ought to be the Senator from Connecticut. On this legislation, he was constantly trying to strengthen it to the benefit of that community. I will be happy to testify on his behalf at any time that that was his focus.

The Senator from Missouri was relentless in pursuing the notion that we should, to the maximum extent possible at the Federal level, make it difficult to cheat. It has been a tradition in some parts of the country, including a number of counties in my State, that death not be a permanent disability to continuing to exercise the franchise. I think that practice is disapproved of by all ethical people, but it does go on.

Senator BOND was relentless in pursuing whatever avenues he could pursue to make it possible for this bill to deal with the business of cheating. We want everybody to vote, but only once. It is important that they still be alive when they exercise the franchise. If we were dedicating the various parts of the bill, the fraud part of the bill should be dedicated to the senior Senator from Missouri.

I was interested in the entity, the commission, that would oversee this subject matter down through the years. As the distinguished chairman of our committee indicated, it was my feeling, and I am pleased Senator DODD and Senator BOND agreed, that there be a permanent repository for the best, unbiased, objective evidence States and communities across America could go to for advice about their needs in conducting elections.

Right now the typical county official, or in some States the State official, is besieged by a hoard of vendors who want to sell their product. Where can you get objective advice about what might make sense for a sparsely populated State such as North Dakota versus a teeming mass in the city of New York? This new commission will hopefully be that place.

With this new commission, there will be no equipment to sell. It will be a place where you can get the best advice currently available in America about your particular election needs.

We structured this commission in such a way that it would operate on a bipartisan basis. I believe it is the case that in every precinct in America there is an equal number of Republicans and Democrats in that precinct who conduct the election, usually in a friendly manner. They keep an eye on each other. They insist that the business of administration of elections be fairly done. Occasionally the system malfunctions. But fairness is certainly the intent of the structure in every State in America.

The question of just how much the Federal Government should do in this regard is complicated. None of us wants to dictate a voting system from Washington to the rest of America. On the other hand, we collectively agreed that there ought to be some standards below which you would not be allowed to fall. If we did that, we were convinced we could improve the administration of elections in this country.

It was a long, tortuous process. We had 13 months of hearings, negotiations, compromises, offers, counter-offers, a bill, a compromise bill, a deal, and a new deal. By the time we finally were able to iron this out, I think we had about all the deliberations we could handle. On the other hand, it was a classic example, it seems to me, of the legislative process working as it should, because what we all have in common is the desire to do this job on a truly bipartisan basis.

What brought us together at the end was the common belief that America would be better off if we did this. None of us was trying to rig the system to the benefit of either side. I wasn't trying to make it easier for Republicans to win. Senator BOND wasn't either. Senators DODD, SCHUMER, and TORRICELLI were not trying to make it easier for the Democrats to win. We were genuinely motivated by the desire to help, to the maximum extent possible at the Federal level, make the system better. And in doing that, for this to mean anything, there had to be some funds attached to it. We realized we needed to be able to spend some money in order to allow these communities to upgrade their systems.

We are here tonight knowing this is only the beginning and there is still a long road ahead of us. Even though the House has acted, we have to get this through the Senate and then through the conference.

I have a belief, which I think my colleagues share, that a lot of the hurdles we could have encountered on the floor we have already encountered, thought through, and worked out. Hopefully, we can convince our colleagues when we get out here on the floor, where it is always potentially a free-for-all, that there is some rational basis for the decisions we reached. And on amendments which may unravel it, hopefully we can make a bipartisan argument that we have been there, we have talked about that, and we have worked our way through that and we can say this is why we think that is not a good idea and why we believe what we came out with is a superior position.

They may or may not take our advice. But at least we have spent a lot of time going into these uncharted waters wrestling with these issues and working them out.

As Senator DODD, the chairman of our committee, pointed out, there are not many people still around tonight. But we feel good about this. We thought we would share it with the Senate. We are pleased to be able to introduce this legislation today with a sense of real pride of accomplishment. We look forward to not only getting it through the Senate early next year, as the majority leader indicated, but getting it through the conference, getting it on the President's desk, and making a difference for America in the most basic thing we do—cast our votes.

The Senate is commonly known as the world's greatest deliberative body. After 13 months of hearings, negotiations, compromises, offers, counter-offers, bills compromise bills, deals, and new deals, I think I speak for all of us by saying: we have had about all of the deliberation we can handle on one issue.

Today's bill introduction is the result of 13 months of work and countless hours of negotiations.

Senator DODD and I began discussions about election reform at the Rules Committee more than one year ago.

Exactly one year ago last week, I introduced an election reform bill with Senator TORRICELLI.

Last winter, Senator DODD and I began a series of hearings on election reform.

Last May, I introduced a new bill with Senator SCHUMER and Senator TORRICELLI—that garnered strong bipartisan support with 71 Senator cosponsors. Although many in the press seem to have forgotten—We were fully prepared to go to the Senate floor and pass that bill last June—but were sidetracked on the way to the Senate floor with a little thing we'll simply call Senate reorganization.

The agreement we announced last week incorporates three key principles that I have been promoting since the original McConnell-Torricelli bill last year.

Those principles are:

No. 1, respect for the primary role of States and localities in election administration;

No. 2, establishment of an independent, bipartisan commission appointed by the President to provide nonpartisan election assistance to the states; and

No. 3, strong antifraud provisions to cleanup voter rolls and reduce fraud. No longer will we have dogs, cats, and dead people registering and voting by mail.

On this last point, I want to tip my hat to Senator BOND, who has been a tireless champion and advocate for strong anti-fraud provisions. His work on this issue has been instrumental in achieving today's agreement.

Today's bill is a classic example of compromise. None of us got everything we asked for, but all of us got what we wanted: a bipartisan bill to dramatically increase the resources for and improve the process of conducting elections in America.

My goal throughout this process has been to ensure that everyone who is legally entitled to vote is able to do so, and that everyone who does vote is legally entitled to do so—and does so only once.

I believe today's agreement will help us achieve this goal.

I thank Senator DODD for his unending and sometimes unrelenting devotion to this issue. I would also like to thank Senators SCHUMER, BOND, and TORRICELLI for their hard work and significant contributions to this legislation.

I thank the staffs of my colleagues who worked tirelessly on this effort over the past months. Specifically Kennie Gill and Veronica Gillespies of Senator DODD's staff, Julie Dammann and Jack Bartling of Senator BOND's staff; Sharon Levin of Senator SCHUMER's staff; Sarah Wills and Jennifer Leach of Senator TORRICELLI's staff; and Tamara Somerville, Brian Lewis, and Leon Sequeira of my staff.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleagues, the distinguished Senator from Connecticut and the distinguished Senator from Kentucky. These Senators are experts in laws of elections. Having both served as chairman of the Rules Committee, they are well known as experts in this field. I appreciate their permitting me to join them as we work to craft what I think has rightly been described as a very important piece of legislation.

We are in this joyous holiday season. We hope we have delivered a package that is not only wrapped nicely but contains provisions that will be of significance and a significant improvement in our election system.

As has been said already, truly, voting in elections is the heart of our democracy. If you do not do it, if you exclude some people, and some people do not do it right, then our entire system suffers. One of the great freedoms we enjoy in this country is the freedom to have every qualified person vote.

As Senator DODD has pointed out, even if a person has certain disabilities, we ought to make it easier for that person to vote. People ought not be denied a right to vote where they are otherwise qualified if they are poor or in places where in the past they have not had adequate opportunity.

Senator DODD started to work on this process of reforming elections to make it easier to vote. I had some experiences that suggested to me we ought to add a second part to that: that is, make it easier to vote but tough to cheat. I think both sides of that equation are important if we are to assure the fullest and fairest participation in our electoral system. I think this compromise achieves that.

We need to make it easier to vote. For those who have been confused by machines or confounded by lack of phone lines to get questions answered, this proposal says we should let the voter know if he or she has made a mistake. If the system has made a mistake, then we set up a new system to give that voter an opportunity to cast the ballot which can be counted after the voter is identified as being a legitimate voter.

As has always been mentioned, we don't try to throw out any particular system. We don't say that "one size fits all" and Washington is going to tell every local election official that this is the kind of system you have to use.

Some 23 different States, I believe, use at least in part paper ballots. In some areas that is how they vote. In my hometown we vote by punch cards. I do not know when anybody has challenged the balloting there as having problems. Voter election officials might say check your card to make sure it is punched out. It is a simple thing. But it works. In St. Louis County, the largest voting jurisdiction in Missouri with the most diverse population—from some very wealthy areas to areas in great need which qualify as an enterprise and empowerment zone, a wonderful diversity of people with long-time residents and newly arrived immigrants—they use punch cards. Their error rate is 0.3 percent—one of the lowest in the country. Clearly, it isn't a problem there. We don't say you can't use punch cards.

For disabled voters, as has already been mentioned by Senator DODD, who has been a true champion, we require polling precincts to improve their voting system so voting machines are accessible even for those who are visually disabled. For those new citizens whose English proficiency is still a work in progress, we want to make sure that newly arrived people with different languages are not excluded from the protections of voting laws. If we have a credible population in a jurisdiction that speaks a different language and has literacy problems, we must publish the election information in their language. All of these steps go a long way toward achieving the goal of making it easier to vote.

Senator MCCONNELL's insistence on a commission—which would be a full-time commission, a bipartisan commission, that would help solve these problems—is a tremendous contribution. I think that is going to make a difference.

But let me tell you how my interest and enthusiasm for challenging voter fraud was reignited. You have heard that old story about: Deja vu all over again. Well, on the night of the general election, in November of 2000, we were ready to see the votes start to come in in St. Louis.

But lo and behold, a case was filed in the court in St. Louis City challenging the voting process, saying that people were being illegally excluded. As a matter of fact, the plaintiff who filed the case had been dead for over a year. He alleged that long lines were keeping him from voting. I suggest that the long lines may not have been at the polls that kept him from voting. He probably had other problems that were keeping him from voting.

But we heard wind of this and lawyers went in and went to the court of appeals. And the court of appeals shut down that scheme within about an hour, after a few votes were cast.

I say deja vu all over again because—the funniest thing—I first ran for Governor in 1972. I am from an outstate area. I ran against a candidate who was from St. Louis City. I had a pretty good lead in the outstate area, and on election night we were starting to get ready to see the votes counted and we heard that in St. Louis City they kept the polls open. They kept the polls open hour after hour after hour, and it reached around midnight. The charge was that, in a Democratic-controlled city, in a Democratic-controlled State, the Democratic election officials were making it more difficult for Democratic voters to cast votes for Democratic candidates. Now, if that raises some eyebrows, I think it should.

But we set about cleaning up the system and getting good election boards in place. And we thought that old trick of keeping open the voting machines in areas where they are heavily partisan was over. But, no, it came back on election night 2000. We asked for an inquiry.

As we started kicking over damp rocks, more and more little election frauds crawled out.

We found out that, for example, there was sort of a system of provisional votes. Voters could go before a judge and say: I have been denied the right to vote.

And the judge would say: Here is an order. You can go vote.

Well, they voted. They cast their ballot. And they were not segregated. When we went back to look at them, we were kind of interested.

They said: You have to put down what your reasons for not being able to vote were. And one of them wrote on the line: I'm a convicted felon.

Sounds like a good reason for keeping them from voting. But the judge ordered that person be allowed to vote.

Another one said: I just moved here, and I wanted to vote for Al Gore.

It seemed like a good reason to that judge, so that person was allowed to vote.

The Missouri Secretary of State went back and examined those 1,300 ballots that were cast. Ninety-seven percent of them were illegal, people who were not lawfully registered as required under the Missouri Constitution. They were allowed to cast their votes anyhow.

There were 13,000 of those provisional votes in St. Louis County. We have not even completed an examination of those. But we also went and we started taking a look and doing some research, and we found there was some mess in the city of St. Louis. Some 25,000 voters—10 percent of the voters in St. Louis were double registered. Some voters were registered three times. Some were registered four times. The champions were registered five times.

We have not completed an investigation to find out how many of those people took advantage of their multiple registrations, but we believe there were significant numbers. There are investigations going on by the appropriate authorities. Obviously, if they find specific evidence, we trust they will take appropriate actions.

While I was accused of being partisan in calling attention to the St. Louis City fraud in November of 2000, something happened. There was a partisan primary for the mayor's race in March of this year. And lo and behold, on the last day of registration, 3,000 mail-in registration cards were dumped on the City Election Board. The interesting thing about them was that most of them were in the same handwriting and the same ink. Many people who had accused me of being partisan, though of the other party, now found it to be of great interest to look into the bona fides of these registrants.

Fortunately, we had a very aggressive and inquiring media in St. Louis that went out and started looking. It is amazing how many vacant lots in St. Louis City were teeming with voters. Where they were registered were empty lots.

The secretary of state did a little investigation of multiple registrations at one location. This is not apartment houses; this is supposedly a single family dwelling. They limited their examination to those places where eight or more adults were registered from one single family unit. They found over 250 of them—truly remarkable living conditions, and probably warrants some further investigation.

These drop houses were potential sites for massive voter fraud. Under the current system, mail-in registration allows you to register to vote by mail, motor-voter. When motor-voter passed, most people focused on registering people where you get your motor vehicle licenses. You have to show up. You are buying a car. You have an address. That makes a lot of sense.

But mail-in registrations required the local government to register those voters. Then they said the only way you could get off the rolls was if you showed up on the list of dead people, if you asked to be removed, or if you had not voted in two Federal elections.

The problem with people who were registering from these drop houses is, No. 1, there probably were not any people to die. They are not going to show up on the dead rolls. They certainly were not going to call in and ask their names be registered. Frankly, if you had gone to the trouble of registering a bunch of phony names, you certainly were not going to fail to vote them. Simple common sense.

Those things kind of heightened my interest. They got me looking at what we could do. We have agreed, in this bill, that, No. 1, one of the most important things we are going to do is have a statewide voter registration base, a database. This is important to make it easier to vote. And it is important to make it tougher to cheat. And that list has to be cleaned up. But it also says, if you are registering by mail, you cannot just send in a ballot with no further identification. We require some identification. Either you show up in person to vote the first time or you send in—either with your registration or with your vote—a photo ID or a bill mailed to you at that location with your name and address on it. If you pay a water bill there, and your name is on it, it is a pretty good indication that you are there. If you are paying bills from there, that is a start.

There are a lot of things that need to be done. I think there are a lot of jurisdictions, given the power that these new statewide databases will give them to check, to cross-check, that will be able to find if there are phony voters and clean up some of these multiple registrations, some of these double, triple, quadruple, quintuple registrations, and maybe begin to shut down on fraud.

There has not been any final determination other than the initial reviews of the secretary of state, but I can tell you, just in St. Louis City and St. Louis County, there was enough evidence of questionable voting that the warning given by the court of appeals in St. Louis should be taken to heart.

That is, that it is a significant denial of the right to vote if you have your vote diluted by multiple votes cast by some other person or by votes cast in the name of a nonexistent person. If people are not registered to vote and they are permitted to vote, that is a denial of the right of franchise. This bill takes very significant steps towards curing that.

One other thing. The Carter-Ford Commission said all people who register to vote must affirm their citizenship. That seems to be reasonable. I understand that one of the al-Qaida members actually voted in Colorado. A couple more illegal immigrants suspected of being involved with the September 11 activities were registered in Michigan. I don't know whether or not they managed to vote.

I guess my favorite, one that was uncovered by the media in St. Louis, was when they looked at the mail-in registrations, they did some groundwork and they focused on Ritzy Mecker. They went to inquire about the whereabouts of Ritzy Mecker. They finally tracked down her owner and found out it was a mixed-breed dog.

I don't know what Ritzy's preference in the election was. I don't know whether Ritzy was a Democrat or a Republican. Maybe she voted a split ticket; I don't know. But the kind of thing that went on there is a kind of Ritzy Mecker-voting system.

We want people who are adults, U.S. citizens, not felons, registered to vote, to be able to cast one vote, but the people who don't fall in that category should not be voting. And the dogs that don't fall in that category should not be voting.

One of my dear friends in State government when I served there, Tom Villa, his father was a legendary alderman, Red Villa, Albert "Red" Villa, legendary; he died in the early 1990s. But in this most wonderful of seasons, I can tell you that he came back to register for the 2000 election. Does your heart good to know that, yes, you can come back from the dead and register. We would like to see the photo ID of those people who have registered to make sure they have not departed us. As I said some time ago, I like dogs. I have a great respect for the dearly departed. But I really don't think they ought to vote.

When we talked about the fraud in the city of St. Louis, another good friend of mine, State representative Quincy Troupe, talking about the danger he saw in the primary of illegal registration, said about St. Louis:

> The only way you can win a close election in this town is to beat the cheat.

Time is long gone when we ought to have to ask candidates for office to beat the cheat if they want to hold office. This legislation we have crafted will be worked on in the Chamber. I imagine it will be worked over good, and we may be able to improve on it. But as my colleague from Kentucky said: We have hashed out a lot of these issues. I hope we can explain what we have done to our colleagues on both sides of the aisle so we can get strong support.

It is incumbent on us and the time is now. We have come to this place after a lot of blood, sweat, and tears that we and our staffs have put in, and I thank the staffs of my colleagues, my colleague from New York, Senator SCHUMER; my colleague from New Jersey, Senator TORRICELLI; their staffs. I thank particularly my chief of staff Julie Dammann and my counsel Jack Bartling. I haven't seen them for 3 months. I am looking forward to having them back in the normal office business after the Christmas recess.

I hope that the mutually worked on effort is going to produce something that will be a real present for all Americans in this holy season.

I thank my colleagues. I thank the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I also thank the staffs of all of the Senators involved. I think we couldn't have made it without them.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, this could be a fairly historic moment for our country. I thank my friends from Connecticut and Kentucky and Missouri for their good work. This is an issue that is vital to the people of our country. In fact, in light of September 11, which caused such problems for my city and for our country, if you had to think of the No. 1 reason that those overseas, those terrorists, hate us, it is because we vote, because we don't have a dictator, religious or otherwise. It is because we vote.

We have to make voting as perfect as possible. It is never going to be perfect. But such a sacred right, such a vital right should be made perfect.

This bill comes a lot closer to doing that. It has taken a lot of work. We all know what the bill is. The week after the Florida election I said we had to do something and came out with the idea that we ought to give the States money if they upgrade their machines, and that is at the core of this bill.

We all worked together. I compliment my colleague, particularly from Connecticut, who pulled everybody together, who, as I mentioned earlier, had the patience of Job. And my colleague from Kentucky, he and I had a bill originally. It probably would have been the bill on the floor had Mr. JEFFORDS not switched. But this is a better bill. I am proud to be on it because it not only provides money, but it requires the States to upgrade.

I thank my colleague from Missouri as well. His addition in terms of election fraud is something of which we on this side of the aisle should not be afraid. When there is fraud in elections, it jaundices elections, and elections are sacred.

I am not going to go into the details of the bill. My colleagues have spoken eloquently about the need for the bill. It is a little sad that we came to our agreement only this week of this session, but Senator DODD has mentioned that our leader, the floor leader, the majority leader, Senator DASCHLE, has said we will move this bill early next year. That will give us enough time to make sure the Presidential election in 2004 is not a repeat of the election in 2000.

In New York State, we need help, too. I voted for the first time in 1969. I voted exactly on the same clunky old voting machine in 2001 for mayor a few weeks ago.

I want to share with you something that stays in my mind. You go to a polling place in the early evening. You find people, all kinds of people, working people in their plaid shirts and jeans, people who have worked in the office towers in their shirts and ties. They are tired. But they know it is their obligation to vote. They go over to the polling place. And in my city and in many parts of my State, because of the oldness of the machines, there are long lines. They wait patiently. Many are studying the ballot and studying the literature that has been given out, particularly these days with so many names on the ballot.

Then you ought to see the looks on their faces when they get up, ready to vote, and they say: You are at the wrong polling place, or we don't have your card here, or you can't vote for some reason. It is a look of complete and utter sadness and almost despondency. In this bill we found ways to avoid it. The number of people who will be turned away who should have the right to vote will be many fewer. We have made provisions for provisional voting so, if you are not on the list, you can vote by a paper ballot, and then they will check. And if your vote should be counted, it will be. If it shouldn't, they will notify you.

I thought that is a very clever and good provision in the bill. They will tell you why so you can correct it. Within a few years of this bill becoming law, not only will voting be modernized but fraud will decline, and the ability of people to vote quickly and easily and correctly will have greatly improved.

So I just again want to say that this could be a fairly historic moment in the history of the Republic. We have had poll taxes, limitations on voting by sex, by property, by income, and by race. Thank God, we have eliminated those. But we have also had limitations on voting just because of the method we vote. On its face, it may not be as pernicious as those others, but it is every bit as detrimental to the Democracy. We are going to end that with this legislation—or at least greatly reduce it.

I hope that when we return, we will move quickly. Again, I thank our leader in the Rules Committee, somebody who really has patiently and diligently tilled the vineyards, improved the product over and over again, and then came to a consensus. One of the reasons I look forward to coming back—and I look forward to coming back for many reasons—is to work to see that New York gets its $20 billion, to get a stimulus bill to move the economy and help the unemployed and those who don't have health insurance. We have so many things to do.

One of the main reasons I want to come back next year—and that is a short time away because it is late in the year—is to get this legislation passed and stop the scene that I mentioned before: People who wait and wait and wait and, through no fault of their own, are denied the right to vote.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Connecticut.

TERRORISM INSURANCE

Mr. DODD. Mr. President, I thank my colleague from New York. Before he arrived, I thanked him. In his presence, I thank him. The Senator played a very critical role in putting this product together. He is a new Member of the Senate, but he has already demonstrated, as others have pointed out, that he is very much a seasoned legislator. He brings from the New York legislature and from the other body years of experience, and it is a pleasure to do business with my colleague from the neighboring State of New York.

I hesitate to use the word "landmark" because we haven't finished it, but you can sense the enthusiasm we all feel about this compromise and at being able to arrive at a moment where we have the names already as cosponsors of a substitute that demonstrates a bipartisan commitment to this issue.

We don't claim perfection with this bill, but we do claim we are going to certainly improve the process immeasurably. My hope is that the leaders will find a time, if not as the first bill, as one of the early proposals we can bring to the floor for consideration.

I didn't want the Senator to leave the floor because I wanted to change the subject briefly. I will leave the record open for others who may want to comment about this bill. The hour is getting late and the time is running short. We all want to depart.

I want to mention the terrorism insurance bill, which is of critical importance to my colleague from New York. It is very important to many people across the country. I don't know what is going to happen with the so-called stimulus bill, but the terrorist insurance proposal is about as important a piece of legislation as this body could consider.

We have been at this now for a couple months trying to craft a proposal that would allow us to bridge this time from the September 11 events to a time when the industry would be able to calculate risk through the reinsurance efforts, and then through competitive pricing, be able to get back into this business.

It is a very complicated and arcane subject. It is not one that is going to be easily understood because the subject matter is complicated. Suffice it to say this: A critical leg of a healthy economy is the insurance industry. You cannot really have a healthy economy without it. People can't buy a home without fire insurance. You can't get loans today without having proper insurance.

The Presiding Officer, of course, brings a wealth of experience in this area because of his previous work in State government, where he dealt with insurance both in the private sector as well as a Governor. We have heard from Senator NELSON of Florida, also.

I know the Senator from New York is running off, but I hope—and it is my fervent plea this evening with a day left—there is still time for us to get this matter up. We are very close. I hope that Members on both sides will allow a motion to proceed to go forward. Give us a day, if that is what we can have, to consider various amendments on this bill. The House already passed one.

Bob Rubin, the former Secretary of the Treasury, when asked how he would calibrate the importance of this issue—and I can paraphrase his remarks and I think my friend from New York may have been there—said that this was as important, if not more important, than the stimulus package we have been considering.

Our failure to address and deal with this issue could mean that small businesses, construction projects, all across America, come January, will cease. Unemployment will go longer—not of CEOs of insurance companies, but of construction workers, small business people, shopkeepers—all of whom need to have this bill if they are going to get the bank loans to continue to operate.

This has to get done. If we don't do it, this body will be held accountable, in my view. We have known about this issue for weeks. Yet, we have not yet brought the matter to the floor. I hope that will change in the next 24 hours, because if we leave here and don't deal with this, more than 70 percent of these contracts are up for renewal, and we will create a further problem for our economy.

So I know it is not at an issue that attracts a lot of support automatically. It is complicated. There is no great affection for the issue of insurance. Those knowledgeable about the importance of this issue for the strength and vitality of our economy, to leave and go home for the holidays and leave this unattended to, I think, is a problem. I think we need to come back over the next day and address this. We may not succeed, but you have to try. I hope this matter will come up on the floor so we can at least debate it and, hopefully, pass it.

I know my colleague has a deep interest in the subject matter because of the facts concerning his own city and State. I wanted to give him an opportunity to comment on this as well. I am happy to yield to him or have him claim the floor in his own right.

Mr. SCHUMER. I thank the Senator for yielding. He is so right. If there was ever a time when the perfect should not be the enemy of the good, it is on this insurance bill. If you think this doesn't affect you because it is the arcane Dickensian, almost, world of insurance, it does. My colleague is exactly right. If we don't have terrorism insurance, and as of January 1—less than 2 weeks away—no one will write terrorism insurance, then your banks, whether they be in small towns or in large cities, will not lend to new projects. They may not even refinance existing loans, and that means, as my friend has correctly pointed out, new projects come to a halt. No more new jobs. No construction jobs. No jobs that those projects create.

Each of us in the course of these few weeks as we debated this has had a different view as to how to do this better. But no one disputes that we have to do it. I don't know hardly a person in this body—maybe 10 of the 100—who would say we should not do anything. And so if there were ever a time that we all should sort of give in a little bit and say, well, it is not going to be done my way—if I had my druthers, I would have an FDIC for terrorism insurance. That is what I would do.

Warren Buffet, from the State of the Presiding Officer, proposed that. But that is not going to happen. I know there is too much opposition in the other body and in the White House for that.

So the proposal that the Senator from Connecticut and my good friend from Maryland, our chairman of the Banking Committee, and the Senator from Texas, the ranking member from the other side, and I, and the Senator from New Jersey, and so many others have put together, is sort of a grand compromise. Is it perfect? No. Is it a lot better than letting terrorism insurance lapse? You bet.

This is a test, I say to my friend from Connecticut, for this body, this Congress, this Government. If in the post-September 11 world, when we have new necessities and new urgencies, we all cannot pull together a little bit to deal with the problems and instead we let rumor-mongering, egos, or whatever else get in the way, we are going to hurt this country.

This ain't beanbag, as Boss Tweed said in Plunket's book on New York City politics. This ain't beanbag, this is serious stuff. As my friend from Connecticut said, it probably means more to the country, even though it is more esoteric than the stimulus package in terms of the economy heading south. If we do not try to grapple with this difficult, thorny issue, it is at our own peril.

I join my colleague in his heartfelt plea that we make an effort to take this bill up and deal with one of the hidden but very seriously vexing problems facing our economy in the post-September 11 world.

I yield back to my friend.

Mr. DODD. Mr. President, I thank my colleague. I know Senator DASCHLE and others are working on this. Colleagues who are paying attention to this and heard the comments of our colleague from New York and myself, there are matters involved in this that I know are important to some but, in terms of the centerpiece of what we are trying to do, are really extraneous.

We are talking about a brief period of time for this bill to work. I know there are matters others would like to use dealing with other, more profound, long-term issues on this bill, and I urge them to hold up if they can and not allow a larger debate on those questions and not stop the debate on something that needs to be dealt with in the next 24 hours before we recess for the year.

The President has urged us to do this. Every single industry group I know of beyond the insurance industry—the private sector—is calling on us to deal with this issue. Even the Consumer Federation has different ideas but understands our failure to act could create a serious problem. For us to not even try I think would be a huge mistake.

I urge before we recess that we make an effort, starting early tomorrow, to give this body time to hear some of the various ideas my colleagues may have. I may disagree with them on those ideas, but I am prepared to spend the time necessary tomorrow to engage in debate on those ideas, resolve them one way or another, and send this bill from this Chamber to conference with the one adopted in the House and resolve it, so we can finish the business of giving the President a proposal that will avoid the kinds of problems the Senator from New York has very properly described.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIAL NOMINATIONS

Mr. HATCH. Mr. President, I understand some of my colleagues were on the floor today trying to make some points about judges, and I would like to set the record straight because I think they protest too much. There is just far too much protesting and far too much misinformation being given out about judges by some in this body.

Having been intimately involved in trying to get as many judges through as I could over the last 7 years, I have to say I find some of the comments that were made were a little unctuous and perhaps to some people who have been involved and have worked so hard to do a good job a little bit irritating and maybe offensive.

As Congress nears the end of its current session, we are beginning to see the end result of the systematic and calculated effort by some Senate Democrats to confirm the absolute minimum number of President Bush's judicial nominees they believe will be acceptable to the American public.

Some of the Senate Democrats want us to believe they have done everything that can be expected because they have confirmed as many judges during President Bush's first year in office as were confirmed in President Clinton's first year 8 years ago. What they are not telling the public is the Senate has purposefully ignored more judicial nominees than in any other President's first year in office in recent history.

Thirty-two of President Bush's nominees have been prohibited from even having a hearing, the first step in the Senate's constitutionally-required process of advice and consent.

Some Senate Democrats want to use an inaccurate measure of performance focused on the end result of 8 years ago rather than exposing the percentage of their work they left uncompleted this year. The percentage is a much more appropriate gauge for the simple reason our current President Bush sent many more judicial nominations to the Senate than the previous President did in his first year.

So let us look at the percentages. The Senate has exercised its advice and consent duty on only 21 percent of President Bush's circuit nominees this year. The other 79 percent of our work remains unfinished. This is despite the fact that President Bush sent his first batch of 11 circuit nominations to the Senate on May 9 of this year, which gave the Judiciary Committee plenty of time to act on them. Even so, only 3 of those 11 have been confirmed. A significant number of those have the highest possible rating from the American Bar Association. Even so, only three, as I say, have been confirmed. President Clinton, on the other hand, did not send his first circuit nominations to the Senate until August 1993, but still saw 60 percent of his circuit court nominees confirmed before the Senate adjourned in November of 1993.

The Senate's record on overall judicial nominations is not much better than our record on circuit nominees. Since some of my colleagues on the other side of the aisle are so fond of comparing their record to the first year of the Clinton and first Bush administrations, let us see how they stack up. President Clinton had nominated 32 judges by October 31 of his first year in office. Eighty-eight percent of those, or 28 nominees, were confirmed by the time Congress went out of session in 1993. The first President Bush had nominated 18 judges by October 31, 1989, of which 89 percent, 16 nominees, were confirmed by the time Congress recessed at the end of that year. In contrast, as of today, the current President Bush has nominated 66 judges and only 27 have been confirmed, a mere 41 percent. (I hope that tomorrow we will confirm the five who are presently on the Senate calendar.)

The importance of this percentage is that the Senate has done only 41 percent of its job this year. In other words, nearly 60 percent of judicial nominees are somewhere in the Senate's black hole. We will conclude our work by leaving nearly 100 vacancies in the judicial branch, which means more than 11 percent of all Federal courtrooms in this country are presided over by an empty chair.

Some of my Democratic colleagues recently asserted the present vacancy crisis is the result of Republican inaction on judicial nominees during the Clinton administration. Incredibly, some have asserted that the vacancy rate increased 60 percent under Republican control of the Senate. That is a wild exaggeration. The truth is that, during the 6 years when I was chairman of the Judiciary Committee, the vacancy rate was never above 8 percent at the end of any session of Congress.

In December 1995, there were 63 vacancies in the Federal courts, which is a vacancy rate of 7.4 percent. In December 1996, after Congress had been out of session for nearly 2 months during which it could not immediately fill any vacancies, there were 75 openings in the Federal judiciary. December 1997, 81 vacancies; December 1998, only 54 vacancies; December 1999, 68 vacancies, and last year, only 67 vacancies. All tolled, the average number of vacancies under my chairmanship in the month of December is 68—a vacancy rate of 8 percent.

Contrast this to 2001: We are about to adjourn with nearly 100 vacancies, a rate of over 11 percent. This year will indeed go down in history as a black hole—and a black mark—for the failure to confirm judicial nominees.

Of course, trying to shift the blame for this present vacancy crisis ignores the end result of how Republicans treated President Clinton's judicial nominees. During the Clinton Administration, the Senate confirmed 377 judicial nominees. This number is only 5 short of the all-time record of 382 judges confirmed during the Reagan administration. And keep in mind, for 6 years of the Reagan administration the Senate was controlled by the President's party. But for 6 of President Clinton's 8 years, the Senate was controlled by Republicans. So the Republican—controlled Senate confirmed essentially the same number of judges for Clinton as it did for Reagan. We have not heard a single Democratic Senator acknowledge this fact because it proves that the Republicans treated Democratic nominees fairly. The fact is, contrary to the assertion that Republicans held up President Clinton's judicial nominees, the Republicans who controlled the Senate during 6 years of the Clinton administration put a near record number of judges on the bench. What is more, those 377 confirmed judges represent nearly 80 percent of all of President Clinton's judicial nominees.

As for the pace of moving nominees, it is worth noting that 20 Clinton judicial nominees received a hearing within 2 weeks of their nomination. Thirty-four Clinton judicial nominees received a hearing within 3 weeks of their nomination, and 66 received a hearing within a month of their nomination.

In contrast to the Republican Senate, the present Democratic-controlled Senate has only contributed to the vacancy crisis. In the first 4 months of Democratic control this year, only six Federal judges were confirmed. At several hearings, the Judiciary Committee considered only one or two judges at a time. The Senate has been behind the curve ever since, and the Federal judiciary continues to suffer for it. The number of judicial emergencies has increased by 17 in the last year.

Now I must pause a moment to talk about the Tenth Circuit since it encompasses my home state of Utah. Several of my Democratic colleagues remarked that the present leadership held the first hearing for a Tenth Circuit nominee since 1995. The implication, of course, is that the Republican-controlled Senate failed to approve Clinton nominees for the Tenth Circuit.

A closer examination of the facts reveals that there were no Tenth Circuit nominees for most of the 6 years the Democrats cite. After the confirmation of three Tenth Circuit Clinton nominees in 1995, there was not another Tenth Circuit nominee until 1999, and that nomination was subsequently withdrawn. The next Clinton Tenth Circuit nominee was not nominated until just before August recess in 2000, which left the Senate little time to act on the nomination given the dynamics of last year's election.

So the suggestion that the Republicans deliberately failed to act on Clinton nominees for the Tenth Circuit for 6 years is inaccurate at best and downright misleading at worst.

Unfortunately, the same cannot be said of the Judiciary Committee's present leadership. We have an eminently well qualified candidate from Utah for the 10th Circuit, Michael McConnell, who has been awaiting a hearing for more than 7 months. He received the highest rating given by the American Bar Association and is considered one of the true legal intellects in the country today.

Not long ago, I talked with one of the leading law deans in the country. He is a very liberal Democrat. I asked him about Michael McConnell. He knows him intimately. He said: I have met two absolute legal geniuses in my lifetime and Michael McConnell is one of them.

In addition, both Timothy Tymkovich of Colorado and Terrence O'Brien of Wyoming are awaiting hearings on their nominations to the Tenth Circuit. So, despite the recent confirmation of one Tenth Circuit nominee, there is still substantial work left undone in the Tenth Circuit.

The Senate's constitutional obligation to provide President Bush advice and consent on his judicial nominations is not a game, as some of my Democratic colleagues seem to believe. This is not football, or baseball, or basketball, where the whole point is to beat the other team. Neither the Senate nor the American public scores a victory when some Senate Democrats execute a deliberate strategy of ignoring more than half of President Bush's picks for the Federal Judiciary.

Any excuse for not moving a nominee that hinges on his or her supposed ideology is just that—an excuse. If we start imposing an ideological litmus test, then we will not get people of substance to sit on the Federal benches in this country. If we start denying hearings to nominees simply because they are personally pro-abortion or pro-life, it would be a tremendous mistake.

We should confirm the President's nominees where we can. Sometimes there are reasons why we cannot. I understand that. I have been there. I have had people on both sides of this floor mad at me, and I was doing everything I could to support President Clinton's nominees through the Senate process. I don't expect the current Judiciary Committee chairman to have an easy time, either. He is a friend. But the fact of the matter is, I don't think the job is getting done.

There are myriad reasons why political ideology has not been, and is not, an appropriate measure of judicial qualifications. A nominee's personal opinions are largely irrelevant so long as a nominee can set those opinions aside and follow the law fairly and impartially as a judge. I am very concerned that the statements made today by some of my Democratic colleagues indicate a renewed intention to subject judicial nominees to a political litmus test, instead of focusing on their intellectual capacity, integrity, temperament, health, and willingness to follow precedent.

Despite the unfortunate decisions made this year, I believe there is some room for hope in 2002. The same results-oriented strategy that led the Judiciary Committee this year to match President Clinton's first year, should lead the committee to equal his second year, as well. During President Clinton's second year in office, the Senate confirmed 100 of his judicial nominees.

The American people should join me in expecting Senate Democrats to do the same for President Bush. In fact, I think we should take this year's systematic and calculated performance as a pledge that the Senate will confirm at least 100 of President Bush's judicial nominees in 2002.

Mr. President, there is another fact that I think ought to be brought up. That is, when the first President Bush left office, there were around 67 vacancies and 54 nominations pending that were never acted upon. But on election day of 2000, only about 42 Clinton nominees were left pending, several of whom were sent here so late in the year that there was no way the Judiciary Committee could have processed them.

I tried to do my best as Judiciary Committee chairman, and I don't think anybody on the other side has a right to complain. Admittedly, there were a few judges that we just couldn't get through, but it wasn't for lack of trying. There are some Senators in each party who may not want to see many of the other party's judges get through, and they make it tough. But those Members are very much in the minority. I think most Members in both parties would like to see a better job done.

Now, I have great hope we will do a better job next year. It is an absolute disgrace to allow 79 percent of President Bush's circuit court nominees to languish. In particular, I will mention three of them.

Michael McConnell is one of the greatest minds in the field of law today. He has all kinds of Democrat support, but one or more single-issue special interest groups are mouthing off against him. He has wide bipartisan support and everybody that knows him knows he would make a great circuit court of appeals judge. I would like to see him on the Tenth Circuit Court of Appeals because I think he would help that court a great deal.

Another one is Miguel Estrada. Here is one of the leading minorities in the country today, an immigrant who graduated from Columbia University and Harvard Law School. But the Senate leadership has been sitting on his nomination for 7 months, preventing him from having a hearing. He received the American Bar Association's highest rating, which some Democrats have touted as the gold standard for nominees, but still cannot get the time of day from the Judiciary Committee.

John Roberts is another excellent nominee. He is considered one of the greatest appellate lawyers in the country today. My friends on the other side left him languishing as a nominee of the first President Bush, back in 1992. Here he is, languishing for another 7 months, not even being given a chance to have a vote up or down.

Now let me just say a few words about two executive branch nominees who also have been mistreated. One is Eugene Scalia, the nominee for Solicitor of Labor. Listening to his critics, you might think the plan is to turn OSHA over to Eugene Scalia, who disagrees with the efficacy of some of the rules on ergonomics. But he will have nothing to do with that. And besides, both Houses rejected those rules by a majority vote. The Solicitor of Labor basically has no power other than to issue legal opinions, and Scalia is one of the brightest young legal minds in the country today.

I suggested last week that Mr. Scalia's nomination is being stopped for two reasons—at least these are the ones that keep cropping up. And I hope these are not the true reasons why any Senator would stop an executive branch nominee. I would be tremendously disappointed at our Senate if they were the true reasons.

The first is that he is a pro-life Catholic. This is not a persuasive argument for voting against Eugene Scalia's nomination. It is offensive to me if anyone in this body would actually vote against someone for that reason. The fact that he is a pro-life Catholic has nothing to do with whether or not he can do a good job as Solicitor of Labor. Everybody knows he is an excellent lawyer. He has said he will abide by the law, whatever it is. Whether he agrees or disagrees with it, he will enforce the law. What more can you ask of a nominee? And he is the President's choice for this position. He deserves to have a vote.

If people feel so strongly against him that they want to vote him down, let them vote against him. But at least let this man, and the President, have a vote on this nomination.

The second reason that Eugene Scalia's nomination is being stopped, is that some may hold it against him that his father happens to be Justice Antonin Scalia on the U.S. Supreme Court. I hope nobody in this body would hold it against a son, the fact that they might disagree with the father. I do not have to speak in favor of Antonin Scalia. He is one of the greatest men in this country. He is a strong, morally upright, decent, honorable, intellectually sound, brilliant jurist—just the type we ought to have in the Federal courts. The fact that he may be more conservative than some in this body is irrelevant.

But even if there were some good reason to criticize Justice Scalia, there is no basis at all for using such a criticism against his son, who is a decent, honorable, intelligent, intellectual, brilliant young attorney who deserves the opportunity to serve his Government, and who has already said that as Solicitor of Labor he will abide by the law whether he agrees with it or not. Knowing how honorable he is, I know he will do exactly that.

The second executive branch nomination I want to mention is Joseph Schmitz for Inspector General of the Department of Defense. I happen to know a lot about him; he is one of the brightest people I have ever met. He is not even getting a committee vote. At least Mr. Scalia got a vote in committee—he received a majority vote in his favor in the HELP Committee. But Mr. Schmitz isn't even getting a vote in committee. That is no way to treat a nominee, or the President who nominated him.

Frankly, these jobs—solicitor and inspector general—are not politically sensitive positions. And both of these men I know personally to be honest, decent, honorable men. They deserve votes in this body. If they lose, then I can live with that result. I do not believe they will lose.

The purposeful delay on all of these nominations bother me a great deal, and I hope we do something about it. If we can't do anything before the end of the current session, then I hope we will do it shortly after we get back.

I will continue to do my very best to work as closely as I can with Senator LEAHY. We are friends, and I respect him. I want to support him in every way. But some of the comments I have heard in this Chamber today are nothing more than a distortion of the facts, a distortion of the numbers, and a distortion of the record. I personally resent it.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADMINISTRATIVE SIMPLIFICATION COMPLIANCE ACT

Mr. BINGAMAN. Mr. President, on December 12, 2001, the Senate passed the Administrative Simplification Compliance Act, by unanimous consent. As the title states, this is a bill about compliance with the "Administrative Simplification Act" and not a proposal to delay enforcement of it.

This bill permits healthcare organizations, health plans, providers and clearinghouses, which cannot meet the current deadline for compliance with the transactions and code sets rule, to seek and obtain a one-year delay. Such flexibility was necessary due to the complexity and novel nature of the changes mandated under the Administrative Simplification Act. At the same time, certain provisions were built into the rule to allay concerns that entitles that request the delay may merely continue to avoid preparing for compliance. The first of the provisions designed to provide compliance impetus is the requirement to submit a plan no later than October 16, 2002, stating, among other things, how the covered entity will come into compliance by October 16, 2003.

These plans must include: (1) an analysis reflecting the extent to which, and the reasons, why, the person is not in compliance; (2) a budget, schedule, work plan, and implementation strategy for achieving compliance; (3) whether the person plans to use or might use a contractor or other vendor to assist the person in achieving compliance; and (4) a timeframe for testing that begins not later than April 15, 2003.

I am concerned that there will be a year in which some covered entities are using compliant standard transactions, as prescribed by the Administrative Simplification Act, and others who are not compliant and sought the delay according to them by H.R. 3323. For those in compliance, it is important that they are not penalized for using a compliant standard transaction format, as prescribed by the Administrative Simplification Act, after the original compliance date of October 15, 2002. That is, transactions should not be rejected, burdened, or penalized with additional costs, for being in conformity to the standard transaction format.

In order to avoid burdening complying health care entities, those entities seeking delay should also set forth how they will accept and not unduly burden conforming transactions from compliant health care entities between October 16, 2002, and October 16, 2003.

I look forward to working with my colleagues to ensure that Administrative Simplification Act accomplishes what it was set out to do, which is to save money for covered entities on transactions costs, provided administrative efficiency, and protect the privacy of personally identifiable health information.

HOLD ON S. 1803

Mr. GRASSLEY. Mr. President, in keeping with my policy on public disclosure of holds, today I placed a hold on further action on S. 1803, legislation reported out by the Senate Foreign Relations Committee to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961.

I am particularly concerned with Section 602 of this legislation.

Section 602(a) expresses the sense of Congress that the United States Trade Representative should seek to ensure that Free Trade Agreements are accompanied by specific commitments relating to nonproliferation and export controls.

Section 602(b) specifically directs the United States Trade Representative to ensure that any Free Trade Agreement with Singapore contains or is accompanied by a variety of specific nonproliferation and export control commitments.

Both of these matters—what sort of commitments Free Trade Agreements should contain, and specific negotiating instructions to USTR relating to the United States-Singapore FTA negotiations—are matters under the jurisdiction of the Senate Finance Committee.

Apart from the fact that Section 602 deals with matters that pertain to the jurisdiction of the Finance Committee, I have an additional practical concern as well.

According to the Trade Act of 1974, the United States Trade Representative is required to consult with and report to Members of the Senate Finance Committee and the House Committee on Ways and Means on the status of trade negotiations. This includes ongoing negotiations, like the US-Singapore FTA talks, and future FTAs in general.

If enacted into law, Section 602 would likely result in a confusing situation in which the Senate Foreign Relations Committee is advancing negotiating instructions to USTR on behalf of Congress, even though the oversight responsibility for such negotiations lies with the Finance Committee. USTR would have to consult with the Finance Committee about its implementation of negotiating instructions developed by the Foreign Relations Committee, instructions Finance Committee Members had no role in developing, and are not familiar with.

As far as I know, no Member of the Finance Committee has even seen Section 602 before.

Just a few days ago, the Finance Committee approved a bipartisan Trade Promotion Authority bill by a vote of 18–3. This bill contains specific and detailed negotiating instructions relating to multilateral, regional, and bilateral trade negotiations. The issues raised in Section 602, especially those framed as negotiating instructions, should have been considered by the Finance Committee in the context of the mark-up of TPA legislation, not on the floor in the context of legislation authorizing appropriations under the Arms Export Control Act.

For these reasons, Mr. President, I will continue to hold this legislation until the concerns I have raised here are addressed.

CAMBODIA KILLINGS

Mr. McCONNELL. Mr. President, an article in last week's New York Times highlighting the continued problem of wildlife poaching in Cambodia. A conservation expert predicted that within the next 3 to 5 years several species will cease to be biologically viable. Without a doubt, this is a legitimate concern and I applaud efforts to protect these endangered species.

But there are other species which may be endangered that the New York Times did not cite—these species are called "Cambodian democrats".

The killing of democracy activists in Cambodia deserve increase attention from the press and the international community. A total of 11 political activists and candidates from the royalist FUNCINPEC party and the opposition Sam Rainsy Party have been killed in the runup to local election scheduled for February, 2002.

Officials from the ruling Cambodian People's Party (CPP) have blamed these murders on witchcraft and business deals gone sour. This is poppycock. Diplomats in Phnom Penh must show some spine in demanding the CPP to cease the killings and to hold credible and competitive elections—something they did not do prior to the 1998 parliamentary elections. I hope that the importance of free and fair commune elections in 2002 and parliamentary elections in 2003 is not lost on this crowd, who seem more willing to embrace "stability" at the expense of democracy and the rule of law. Long term development in Cambodia is possible only under new and dynamic leadership.

There will come a day when the CPP is held accountable for its extrajudicial and corrupt activities. This Senator has not forgotten those killed and injured in the horrific grenade attack against the democratic opposition in March 1997—nor American Ron Abney, injured by shrapnel and who continues to bear physical reminders of that awful day. I have not forgotten the 100 FUNCINPEC supporters killed during the July 1997 coup d'etat organized and executed by CPP Prime Minister Hun Sen. Nor have I forgotten those killed and injured during the July 1998 elections. I ask Hun Sen: what kind of government kills Buddhist monks?

The international community can be part of the problem or part of the solution. It is past time they held the CPP and Prime Minister Hun Sen accountable for their repressive actions. Failure to do so will ensure that "Cambodian democrats" will join the list of species facing extinction in this Southeast Asian nation.

EMERGENCY SMALL BUSINESS LOAN ASSISTANCE

Mr. KYL. Mr. President, I rise today to share concerns raised by the Bush administration and some of my colleagues regarding S. 1499, authored by my colleague from Massachusetts, Mr. KERRY.

I strongly believe that we must come to the aid of small businesses hurt hard by the September 11 attacks. That is why I have enthusiastically endorsed the Bush administration's ongoing, active, and aggressive efforts to provide emergency small-business loan assistance.

Unfortunately, S. 1499 came to the Senate floor without debate, without committee hearings, and without an opportunity for concerns about the bill to be raised and addressed. No CBO score was released, depriving those who are fiscally-responsible of a cost estimate of this legislation. Yet the Senate leadership attempted to pass this bill without affording us any opportunity to offer amendments.

Scarcely any explanation of this bill's provisions was ever offered before it was moved to the Senate floor—and that is extremely troubling.

We do know now that the costs of this bill—as much as $815 million—would actually exceed the entire 2002 budget for the Small Business Administration, nearly doubling it, at a time of a economic slowdown.

Additionally, the agency responsible for carrying out this legislation—the Small Business Administration (SBA)—has raised a number of concerns about this bill that have not been adequately addressed.

First, some of the provisions of the Kerry bill duplicate efforts already underway by the Bush administration. After the terrorist attacks, the SBA established the September 11 Emergency Injury Disaster Loan, EIDL, assistance program to make loans available to small businesses throughout the United States, who could demonstrate economic injury as a result of the terrorist attacks.

This was an appropriate and necessary response. I emphasize, Mr. President: these loans already are being made available.

In addition to duplication of ongoing efforts, the SBA also expressed the concern that provisions of the Kerry bill would actually increase the number of small-business loan defaults, at the expense of the American taxpayer.

As the SBA wrote in a letter to the sponsors of this measure:

> By relaxing credit requirements, reducing interest rates, eliminating fees, increasing the government guarantee, deferring principal payments, forgiving interest and increasing government liability, S. 1499 could make government-guaranteed small business loans more attractive than conventional loans, potentially displacing private sector options. In addition, S. 1499 significantly reduces lender and borrower stakes in a loan, thereby increasing the likelihood of default.

Certainly the sponsors of this measure do not want to promote defaults. After all, the goal of small-business assistance is to help entrepreneurs build, sustain and grow small businesses, with sound and fiscally-responsible loan assistance programs.

The existing EIDL assistance program provides a reasonable mechanism for needed aid by offering up to $1.5 million in emergency loans to small businesses at four percent interest over 30 years. Loans are not intended purely as a means of disaster relief.

Additionally, S. 1499's language is so broad that loan assistance could be provided to any small business that have "been, or, that (are) likely to be directly or indirectly adversely affected" by the terrorist attacks. Obviously, such language is ripe for abuse and could lead to exorbitant costs for the American taxpayer. Surely, this is not what the bill sponsors intended from this provision.

Lastly, the Small Business Administration expresses concerns regarding S. 1499's provisions providing emergency relief for Federal contractors. The provisions would allow an increase in the price of a federal contract that is performed by a small business in order to offset losses resulting from increased security measures taken by the Federal government at Federal facilities. As the SBA points out: "providing equitable relief through SBA acting as a central clearing house would prove inefficient, costly, and burdensome on the Federal acquisition process."

All of us want to come to the aid of small businesses adversely affected by the September 11 attacks and their aftermath. But we can do so in a cost-effective and responsible way, instead of a rushed, haphazard process designed to thwart compromise.

I am confident that a bipartisan compromise on this issue can be found in the near-term, so that the concerns raised by the administration can be taken into account, and we can pass something the President will support.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 7, 1998 in Traverse City, MI. A gay man was attacked by two men yelling anti-gay epithets. The assailants, Jeremy Jamrog, 21, and James Johnson, 24, were charged with aggravated assault in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

LEGISLATIVE BRANCH EMERGENCY PREPAREDNESS TASK FORCE

Ms. LANDRIEU. Mr. President, I stand here today to pay tribute to a group of Americans who have worked tirelessly to protect all of us. Following the tragic events of September 11, Al Lenhardt, the Senate Sergeant at Arms and Chairman of the U.S. Capitol Police Board recognized the value of bringing together a group of experts from outside the legislative branch to provide the expertise necessary to respond to this unprecedented attack on America. He brought in a team of experts and created the Legislative Branch Emergency Preparedness Task Force to conduct a comprehensive assessment of the Capitol Complex and provide recommendations that would enhance our security.

This extraordinary group of experts could quite easily have taken a simplistic approach and recommended turning the Capitol into an armed camp. Fortunately, they recognized that this building, known throughout the world as a symbol of freedom and democracy, is first and foremost the public's domain and must remain so. Instead of taking the easy route, they developed a carefully crafted series of measures which enhanced the security of everyone who walks through these doors Members of Congress, staff and visitors alike without denying the American people their right to see and meet with their elected representatives. They ensured that the Capitol remained "the People's House."

Mr. Gary Quay of the Department of Defense, Colonel Richard Majauskas, Lieutenant Colonel Donald Salo and Lieutenant Colonel Stanley Tunstall of the Army, Lieutenant Commander David Klain of the Navy, Deputy Chief Chris McGaffin and Captain Edward Bailor of the U.S. Capitol Police, Mr. Michael DiSilvestro of the Office of Senate Security, Mr. Michael Johnson of the Senate Sergeant at Arms, Mr. Kevin Brennan of the House Sergeant at Arms, and Mr. Bill Weidemeyer and Mr. Jim Powers of the Architect of the Capitol dedicated themselves to the task of looking at every aspect of emergency preparedness on Capitol Hill.

All of us remember the confusion that reigned on September 11. In light of what happened, that confusion was perfectly understandable. After all, never before had someone turned one commercial airliner into a weapon of mass destruction, let alone four. I am convinced that the rapid implementation of the Task Force's recommendations by Jeri Thomson, the Secretary of the Senate, Alan Hantman, the Architect of the Capitol, and Jim Varey, Chief of the U.S. Capitol Police, has significantly enhanced our ability to respond to emergencies and will prevent a repeat of that day's confusion.

In a world where cynicism and selfishness rule the day for some, I am proud to say this is not the case for these dedicated Americans. The safety of our nation's Capitol, and all who work in and visit it, is enhanced by their efforts. On behalf of Americans everywhere and the 107th Congress in particular, I am proud to stand here today and say "Thank you—job well done!"

PRESIDENTIAL COMMISSION TO ESTABLISH AN AFRICAN AMERICAN HISTORY AND CULTURE MUSEUM

Mr. BROWNBACK. Mr. President, one of the most important chapters in our national story of human freedom and dignity is the history and legacy of the African American march toward freedom, legal equality and full participation in American society. Yet in our Nation's front yard, the national mall, there is no museum set aside to honor this legacy.

Yesterday, the Senate began the very important step toward establishing a national museum in Washington, DC to honor the rich history of African Americans.

With the passage of H.R. 3442, a bill that creates a Presidential commission that will develop a plan to establish and maintain the National Museum of African American History and Culture, the Senate has taken a tremendous step closer to honoring those African Americans who not only fought for their own freedom but fought for the freedoms in this country that we enjoy today.

I thank my colleague Senator MAX CLELAND for his leadership in the Senate on this issue. Senator CLELAND worked diligently with me to draft a bill that would properly honor the history of African Americans. This legislation will enable our Nation to start the process that will honor this important aspect of American history.

Specifically, the legislation creates a 19-member commission made up of individuals who specialize in African American history, education and museum professionals. The commission has 9 months to present its recommendations to the President and Congress regarding an action plan for creating a national museum honoring African Americans.

The commission will decide the structure and makeup of the museum, devise a governing board for the museum, and among other action items, will consider planning the museum within the Smithsonian's arts and industries building, which is the last existing space on the national mall.

As a Kansan, I feel a special connection to honoring the legacy of African Americans. The State of Kansas not only played a significant role in the civil war but also was chosen by many African American families as a place to begin their new life of freedom and prosperity in the "exodus" to Kansas.

I believe that it is long over due that we properly honor African American history by establishing a world class museum that showcases the achievements of African Americans in this country. I look forward to the commission's recommendations for establishing this museum on the national mall in Washington, DC, where African American history belongs.

I do not pretend that this legislation is a cure-all for the problem of racial division, it is, however, an important and productive step toward healing our nation's racial wounds. This museum will both celebrate African American achievement and serve as a landmark of national conscience on the historical facts of slavery, the reconstruction, the civil rights struggle and beyond.

Dr. King expressed his hope for national reconciliation. I too hope "That the dark clouds of [misconceptions] will soon pass away and the deep fog of misunderstanding will be lifted from our fear-drenched communities and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty."

Today, we are one step closer to fulfilling this goal. I am proud to be a part of honoring this magnificent history. As a nation we have an extraordinary opportunity before us—a chance to learn, understand and remember together our nation's history and to honor the significant contribution of African Americans to our history and culture.

Mr. SMITH of New Hampshire. Mr. President, the gas additive MTBE has become a huge concern for millions across the nation because of the contamination that it has caused.

That is certainly true of many communities throughout New Hampshire where it has become a crisis, and the crisis will continue to escalate unless it is dealt with.

I have been fighting for the past two years to get the Senate to act on legislation that will solve this problem and up to now, unfortunate roadblocks have prevented this from happening.

I was pleased last week when the majority leader made a commitment to me that the Senate will vote on MTBE legislation before the end of February and I know that the majority leader will honor that commitment and I want to express my appreciation to him for working with me.

Until the day that vote arrives, I will continue to come to the floor to remind Senators of the terrible impact that MTBE is having on the nation and remind them why it is important that we act now.

Make no mistake about it—cleaning up MTBE contamination and preventing further contamination is something that the residents of New Hampshire are demanding and I will do all that I can to solve this problem.

Let me step back and provide some background on how we got where we are and why this legislation is so important to those many States that have suffered from MTBE contamination.

MTBE has been a component of our fuel supply for two decades.

In 1990, the Clean Air Act was amended to include a clean gasoline program.

That program mandated the use of an oxygenate in our fuel—MTBE was one of two options to be used.

The problem with MTBE is its ability to migrate through the ground very quickly and into the water table.

Several States have had gasoline leaks or spills lead to the closure of wells because of MTBE.

MTBE is only a suspected carcinogen, but its smell and taste do render water unusable.

Many homes in New Hampshire and across the nation have lost use of their water supply because of MTBE contamination.

According to the New Hampshire Department of Environmental Services, there may be up to 40,000 private wells with some MTBE contamination and of those, up to 8,000 may have MTBE contamination over State health standards.

Because of MTBE, New Hampshire has been left with no option but to divert funds from other programs in order to pay for safe water for residents with contaminated wells, in many instances, the State has had to provide bottled water.

They are also installing and maintaining extremely expensive treatment equipment and these costs are so expensive that an average family could not afford to have clean drinking water without assistance.

Yesterday, I came to the Senate floor to talk about the hardships faced by many in the Western part of New Hampshire and I focused on the plight a small business owner and two families in the Richmond area.

Today I want to talk about those in the Southern part of New Hampshire that have faced similar problems.

This past spring, as chairman of the Environment and Public Works Committee, I held a hearing in Salem, NH, at the hearing, the committee heard about the nightmares caused by MTBE.

I want to take a moment to tell you about one particular witness who lives in Derry, NH, Mrs. Christina Miller shared with the committee the experience that her family and neighbors have been dealing with because of MTBE.

Mrs. Miller, her husband Greg, and their infant son Nathan live in the Frost Road community in Derry, the area has been particularly hard hit by MTBE.

The gas additive was first detected there a little over three years ago and the concentration of MTBE in the well water was over ten times higher than the level where a person can smell it and taste it.

Since the discovery of MTBE in the wells, testing in the neighborhood has been on-going.

Currently, some 40 homes in the Frost Road community are being monitored for MTBE and so far, seven treatment systems, including one in the Miller home, have been installed in homes on and around Frost Road.

In April of last year, while Mrs. Miller was pregnant with Nathan, a water sample from the Miller well showed a high MTBE contamination level, and due to this discovery, the Millers began receiving bottled water from the State to replace the contaminated drinking water.

But while bottled water is fine for drinking, Mrs. Miller pointed out that it doesn't help with other daily needs such as: bathing; washing fruits and vegetables; and cooking.

There is also the potential health concerns associated with the contamination and not much is known about the health affects of MTBE—but when you have a new born, as the Miller's do with Nathan, the health uncertainties add to the already existing anxiety.

The State has installed a treatment system in their basement and it is a large, cumbersome intrusion in their house—it is also expensive.

This system consists of a residential air stripper and two carbon filter units and while the State is currently paying for the system, there is the concern about how long this will last and whether they will pay for any upgrades as well.

Needless to say, with the MTBE contamination and the presence of a large treatment system in their home, the Millers' are quite concerned with impact on the home's resale value.

What adds to the concerns is that the State still has not been able to determine the source of the MTBE.

It is a bad situation—one that begs for a remedy and the people of Derry are looking for help and relief from this federally mandated gas additive that has caused so much pain.

This problem is not unique to new Hampshire, it exists in Maine California, Nevada, Texas, New York, and on and on.

In fact, in Maine, one single car accident rendered 12 drinking wells unusable—just like that—we must do something.

I have a bill that has been reported out of committee two years in a tow—briefly, the bill will: Authorize $400 million out of the Leaking Underground Storage Tank Fund (LUST Fund) to help the states clean up MTBE contamination; Ban MTBE four years after enactment of this bill; Allow Governors to waive the gasoline oxygenate requirement of the Clean Air Act; Preserve environmental benefits on air toxics, and; Provide funds to help transition from MTBE to other clean, safe fuels.

Also, I am very pleased to be joining our subcommittee ranking member, Senator CHAFEE in introducing a new underground storage tank bill that includes MTBE cleanup funding.

The time to act is now—Just as I said yesterday, I will continue to come to the floor until the Senate acts on this issue. It is time to help out the families who have fallen victim to a Federal mandate.

PORT AND MARITIME SECURITY ACT

Mr. HOLLINGS. Mr. President, we worked hard with the administration to incorporate many of their suggested changes in this bill to sharpen the policy and create a better legislative product. I had intended to work with Chairman LEAHY of the Judiciary Committee to modernize and update some of our maritime criminal laws to reflect the realities following the attacks of September 11th, and to strengthen our laws to protect against maritime terrorism. Unfortunately, the administration did not consult or share with the Judiciary Committee the changes in criminal laws and other matters within the Judiciary Committee's jurisdiction that were provided to me. I ask the chairman of the Judiciary Committee if he would be willing to work to work with me and Senator MCCAIN next year to consider whether new criminal provisions are necessary to enhance seaport security?

Mr. LEAHY. Mr. President, I am also very concerned that we develop policies to more adequately protect our maritime vulnerabilities and protect the public from the threats emerging as a result of maritime trade. I would be happy to work with Chairman HOLLINGS and Ranking Member MCCAIN next year to evaluate whether any gaps in our criminal laws to protect our maritime safety and seaport security exist and the appropriate steps we should take to close those gaps.

Additionally, I have expressed to Chairman HOLLINGS my concerns that we properly limit access to and use of sensitive law enforcement information relating to background checks which are provided for in this bill. Chairman HOLLINGS has assured me that the bill sets strict and appropriate limits as to both when such access will be required and how the information will be used once obtained. I would like to ask Chairman HOLLINGS if he could explain those provisions?

Mr. HOLLINGS. Mr. President, I share Chairman LEAHY's concern that we provide adequate safeguards for both access to and use of this sensitive information. That is why we have included important protections and limitations for such use and access in the bill. Background checks will be limited to those employees who have access to sensitive cargo information or unrestricted access to segregated "controlled access areas," that is defined areas within ports, terminals, or affiliated maritime infrastructure which present a demonstrable security concern. In addition, under this bill the use of such material, once it is obtained, will be restricted to the minimum necessary to disqualify an ineligible employee. In other words, only the minimum amount of law enforcement information necessary to make eligibility decisions will be shared with port authorities or maritime terminal operators.

ADDITIONAL STATEMENTS

CHARLES KRAUTHAMMER ON PRESIDENTIAL LEADERSHIP IN FOREIGN POLICY

• Mr. KYL. Mr. President, I commend to my colleagues a recent column by Charles Krauthammer entitled "Unilateral? Yes, Indeed." It ran in the December 14 issue of the Washington Post.

Once again, Krauthammer has done a fine job of articulating sentiments shared by many of us regarding the President's conduct of foreign policy. The essence of the issue can be summarized in one word: leadership. Since the start of his presidency, George W. Bush has been the target of innumerable criticisms emanating from his approach to the conduct of foreign policy. Greatly exaggerated fears of isolationism have been voiced by the president's critics, both at home and abroad. With the conduct of the war against terrorism and the decision to withdraw from the Anti-Ballistic Missile Treaty, however, the President has demonstrated not isolationism, but leadership. Leadership, as defined by the willingness to make unpopular decisions and accept the consequences out of a conviction that the decisions in question are in the best interests of the United States.

Pre-war concerns that the entire Muslim world would rise up against us if we went after Al Qaeda and its Taleban protectors have proven unfounded. Worst-case scenarios surrounding the President's decision to withdraw from the ABM Treaty have similarly failed to materialize. There are consequences to both decisions, but they were the right decisions and the consequences are far less than the benefits accruing to the United States from their having been implemented.

I urge my colleagues to take a minute to read the article by Charles Krauthammer. It articulates better than could I the importance of leadership in international affairs, and I highly recommend it.

I ask that the article be printed in the RECORD.

The article follows.

[From the Washington Post, Dec. 14, 2001]

UNILATERAL? YES, INDEED

(By Charles Krauthammer)

Last month's Putin-Bush summit at Crawford was deemed an arms control failure because the rumored deal—Russia agrees to let us partially test, but not deploy, defenses that violate the 1972 Anti-Ballistic Missile Treaty—never came off.

In fact, it was a triumph. Like Reagan at the famous 1986 Reykjavik summit, at which he would not give up the Strategic Defense Initiative to Gorbachev, Bush was not about to allow Putin to lock the United States into any deal that would prevent us from building ABM defenses.

Bush proved that yesterday when he dropped the bombshell and unilaterally withdrew the United States from the treaty, and thus from all its absurd restrictions on ABM technology.

This is deeply significant, not just because it marks a return to strategic sanity, formally recognizing that the ballistic missile will be to the 21st century what the tank and the bomber were to the 20th, but because it unashamedly reasserts the major theme of the Bush foreign policy: unilateralism.

After Sept. 11, the critics (the usual troika: liberal media, foreign policy establishment, Democratic ex-officials) were clucking about how the Bush administration has beaten a hasty retreat from reckless unilateralism. President Bush "is strongly supported by the American people," explained former Senate leader George Mitchell, "in part because he has simply discarded almost everything he said on foreign policy prior to Sept. 11."

Bush had wanted to go it alone in the world, said the critics. But he dare not. "It's hard to see the President restoring the unilateralist tinge that colored so many of his early foreign policy choices," wrote columnist E. J. Dionne just two months ago. "Winning the battle against terror required an end to unilateralism."

We need friends, they said. We need allies. We need coalition partners. We cannot alienate them again and again. We cannot have a president who kills the Kyoto Protocol on greenhouse gases, summarily rejects the "enforcement provisions" of the bioweapons treaty; trashes the ABM Treaty—and expect to build the coalition we need to fight the war on terrorism.

We cannot? We did.

Three months is all it took to make nonsense of these multilateralist protests. Coalition? The whole idea that the Afghan war is being fought by a "coalition" is comical. What exactly has Egypt contributed? France sent troops into Mazar-e Sharif after the fighting had stopped, noted that renowned military analyst Jay Leno. ("Their mission?" asked Leno. "To teach the Taliban how to surrender.") There is a coalition office somewhere in Islamabad. Can anyone even name the coalition spokesman who makes announcements about the war?

The "coalition" consists of little more than U.S. aircraft, U.S. special forces, and Afghan friends-of-the-moments on the ground. Like the Gulf War, the Afghan war is unilateralism dressed up as multilateralism. We made it plain that even if no one followed us, we would go it alone. Surprise: Others followed.

A unilateralist does not object to people joining our fight. He only objects when the multilateralists, like Clinton in Kosovo, give 18 countries veto power over bombing targets.

The Afghan war is not a war run by committee. We made tough bilateral deals with useful neighbors. Pakistan, Uzbekistan, Tajikistan, Russia. The Brits and the Australians added a sprinkling of guys on the ground risking their lives, and we will always be grateful for their solidarity. But everyone knows whose war it is.

The result? The Taliban are destroyed. Al Qaeda is on the run. Pakistan has made a historic pro-American strategic pivot, as have the former Soviet republics, even Russia itself. The Europeans are cooperating on prosecutions. Even the Arab states have muted their anti-American and anti-Israeli rhetoric, with the Egyptian foreign minister traveling to Jerusalem for the first time in three years.

Not because they love us. Not because we have embraced multilateralism. But because we have demonstrated astonishing military power and the will to defend vital American interests, unilaterally if necessary.

Where is the great Bush retreat from unilateralism? The ABM Treaty is dead. Kyoto is dead. The new provisions of the totally useless biological weapons treaty are even deader: Just six days before pulling out of the ABM Treaty, the administration broke up six years of absurd word-mongering over a bio treaty so worthless that Iraq is a signatory in good standing.

And the world has not risen up against us—no more than did the "Arab street" (over the Afghan war), as another set of foreign policy experts were warning just weeks ago.

The essence of unilateralism is that we do not allow others, no matter how well-meaning, to deter us from pursuing the fundamental security interests of the United States and the free world. It is the driving motif of the Bush foreign policy. And that is the reason it has been so successful.●

RUSSIA AND ENERGY SECURITY

● Mr. BIDEN. Mr. President, I rise to point out that while the attention of the world is now rightly focused on Afghanistan and the war against terrorism there, we should not forget that a large part of the oil and gas consumed by the United States and the rest of the industrialized world comes from the conflict-ridden Middle East.

In addition to addressing the issue of energy independence through new domestic sources of supply, conservation, and the development of renewable energy resources, it is imperative for us to be thinking abut the best possible way of protecting the security of alternative sources of oil and gas outside the United States. The Caspian Sea is also on Russia's doorstep, and we should encourage development that will foster positive political as well as economic relations with the world's second largest oil exporter.

Russia's recent refusal to follow OPEC's lead in slashing production is one more example of its ability to play a positive role on world oil markets, and the recently opened $2.5 billion Caspian oil pipeline, Russia's largest joint investment to date, and one in which U.S. firms hold more than a one-third interest, is an example of the kind of project that will encourage Moscow to continue to look westward.

Akezhan Kazhegeldin, an economist, businessman, and former prime minister of oil-rich Kazakhstan, has written a thoughtful article on these subjects that appeared in the Russian journal Vremya Novostei on October 15, 2001. In his article, Dr. Kazhegeldin states that oil and gas from Kazakhstan and the other energy producing nations of the former Soviet Union could provide an important backup source of energy, complementing what now comes from the Persian Gulf countries.

Moreover, referring to the debate surrounding the route of future, additional pipelines carrying oil to consuming countries, Dr. Kazhegeldin asserts that there is no reason for the West and Russia to be at loggerheads now that the Cold War is over. He goes on to describe how the West and Russia could, in his view, work together on a comprehensive pipeline solution that would benefit everyone.

Some of Dr. Kazhegeldin's ideas will undoubtedly elicit healthy debate. I urge my colleagues to read his provocative article, and I ask that the text be printed in the RECORD.

The article follows.

[From Vremya Novostei, Oct. 15, 2001]

"GLOBAL ARC OF STABILITY: THE WAY RUSSIA AND THE CASPIAN CAN MAKE THE WORLD STABLE"

(By Akezhan Kazhegeldin)

The September 11 tragic events and launching of the Afghan campaign, seen as the first stage in "the global war against terror", have changed the world dramatically. Protection of peaceful citizens from possible terror acts appears as just a tip of the huge pyramid of new problems. We are facing an acute and more global problem, the problem of ensuring the industrial world's economic safety.

The supply of the developed nations' energy, above all, oil and gas, is a critical and vulnerable element in the world's economic relations. A great part of the developed oil fields are concentrated in the highly insecure and conflict-ridden Middle Eastern region, which makes the threat of oil blockade and energy crisis for the industrial countries, the main oil and gas consumers, a perpetual nightmare. Unpredictable dictators are no less dangerous than terrorist groups. Should the interests of both in the region coincide, the rest of the world would find itself in an impasse.

Even if everything goes very well and the antiterrorist campaign ends quickly, the community of industrial countries will have to make sure that the threat of energy blackmail is ruled out in principle. In the global energy system, it is necessary to use reserve and back-up methods in order to ensure safety. Caspian oil reserves can play a major role here.

For the past decade, politicians and journalists have been debating about the problem of Caspian oil perhaps more heatedly than the industry professionals. It has almost been made into a stake in the new Great Game, the U.S-Russian rivalry over the control of the region and its riches. This confrontation has become the legacy of the old "bloc" model of the world. Wayne Merry, a former U.S. State Department and Pentagon official, now a senior associate at the American Foreign Policy Council in Washington, describes its sources: ". . . Washington concentrated its efforts on one great strategic project to assure US primacy in the region. . . . The idea was to bypass existing pipelines in Russia, squeeze out Iran, bring energy supplies from the Caspian region to a transhipment point in a NATO country, and thereby assure the independent futures of the producing and transit countries."

Understandably, Moscow clearly saw the threat to its interests and resisted U.S. plans. However, both sides played their parts by force of habit, without their usual passion. The reason is that the interests of Russia and the West (not only the U.S.) in the region are actually not conflicting. Some regional leaders tried to artificially keep alive the conflict between them as they hoped to secure foreign support for their authoritarian regimes.

Now that many old patterns have been left behind in the 20th century for good, the common interests of the industrial and democratic countries allow them to work out joint approaches to ensure their energy independence. Owing to this, Kazakhstan, Azerbaijan and Turkmenistan have a historic opportunity to become stable partners of both Russia and the West, and to be integrated into the world economy.

Naturally, this integration should entail bringing their political systems in line with the international democratic and market economy standards. "A glance at other post-colonial regions in Africa and Asia shows that the first generation of 'Big Man' leaders often does as much harm to their countries as did the departing imperial powers, creating a painful legacy for future generations to sort out," concludes Wayne Merry. "American long-term interests in Central Asia are best served by seeking to engage tomorrow's leaders and assuring that, when the region's energy reserves do become important to the outside world, these leaders will look to the United States as a friend and not as yet another external exploiter."

Setting aside the controversial definition of the Central Asian countries as post-colonial ones, one should admit that the time when the region's energy reserves do become important to the outside world is nearing. Though geological exploration of the Caspian shelf is far from being completed, and many experts are not inclined to share the fanciful expectations of "dozens of new Kuwaits", it is clear that the region's oil and gas reserves are extremely large. However, energy projects can't become global automatically, thanks only to rich oilfields. Stable export routes are required to deliver oil and gas to the global markets. Even all the reserves of the Caspian states put together won't make the Caspian project global. It is necessary to select and develop the routes to transport oil and gas to the global markets—to the consumers in Europe, U.S., and Asian countries.

The most politically and economically viable option is to transport the Caspian "big oil" up to the north, into Russia and further on into Eastern and Western Europe, to the consumers and transshipment ports. Economically, this option seems much more attractive, since the construction is to take place on a plain, in populated areas with a developed infrastructure. Russia's European region has enough qualified manpower and electricity for oil pumping. Russian plants produce pipes and other equipment. Stability in Russia and the neighboring countries guarantees safety of the route and its uninterrupted operation.

If chosen, the Russian option would mean turning the energy flow from south to north. It will permit the in-depth integration of Russia and Central Asia into a united Europe and simultaneously charge Europe and Russia with a common political mission of ensuring energy independence for the industrial countries. It will allow oil-producing countries of the Caspian region to play a major role in the global energy market. Russia, Kazakhstan, Azerbaijan, and—in the long term, Turkmenistan, could, along with the North Sea oil producing countries, become a real alternative to OPEC and get significant political benefits.

The main advantage of the northern export route for Caspian oil consists in the availability of a branched pipeline network in Russia. It is much easier and cheaper to improve and develop the existing system than to construct a new one. I mean the pipelines owned by the Transneft company and the recently constructed CPC line from Western Kazakhstan to the Black Sea. The CPC alone cannot provide exporters with access to the global market. For natural reasons, the Bosporus and Dardanelles have a limited carrying capacity. The Black Sea ecosystem is vulnerable, as this sea is warm and almost closed. Turkey has already announced its intention to limit the number of giant tankers passing through its straits. Instead of forcing Turkey to agree by means of political pressure, we should respect its fundamental interests and seek other solutions in addition to the CPC capacities.

The pipeline would enable Russia to solve several of its specific problems. For instance, to strengthen the special status of the Kaliningrad region as Russia's outpost in Western Europe. If the pipeline goes via the Kaliningrad region, the region could not only solve some of its economic problems, but also get additional security guarantees in case of NATO's expansion to the East. A place of its own in the EU economy would be the best guarantee for the region.

In any case, with any combination of routes, Russia would be the main player in a Caspian-European project. Moreover, Russia should initiate its realization. Technological and economic calculations will give optimal solutions. However, political will and vision are still primary considerations. History teaches us that it is they rather than mathematical and economic calculations that have brought into existence such giant projects as the Suez and Panama Canals that formed the global markets of those days.

Looking into the future and putting aside the required political decisions, I would like to stress that the Russian route could give an incredibly promising opportunity of opening up global markets for Eurasian oil and gas. This opportunity includes building an oil-carrier port in the Murmansk region on the Barents Sea. The non-freezing, deep-sea port would become the gateway to the global market for Caspian, Siberian and, prospectively, for Timanoperchersk oil as well, as the northern oil will require outlets to world markets. In the Murmansk region, some former military ports can reportedly be used right now by tankers. From there, they can quickly and safely reach not only Western European ports, but also the U.S. and Canada's eastern coast.

If gas-liquefying installations are built there, it would be hard to imagine a more natural route for a pipeline which will transport gas from the Russian polar regions and the Arctic Ocean's shelf.

In addition to the oil pipeline, a parallel gas pipeline should be built to provide Kazakh and Turkmen gas access to global markets that will not compete with the existing Russian gas routes to Western Europe. Constructing gas and oil pipelines simultaneously will make it possible to significantly cut capital expenditures and make transportation for long distances economically viable. By the way, the length of this route can be compared to the gas export line running from Tyumen's north to Western Europe.

Today's situation on the gas market is such that the Central Asian countries will long sit on their riches waiting for investors hindered by the lack of access to global markets. I am speaking not only about the Turkmen gas. The share of gas in the Caspian hydrocarbon reserves can be much higher than those suggested by the most optimistic forecasts. On the one hand, Caspian gas should be available when the industrial world needs it badly. On the other hand, Caspian gas won't be a rival for Russian gas and a source of contention between Russia and its neighbors in Central Asia.

Where the two huge pipelines run side by side, where a joint exploitation system exists, one will naturally expect to have a transcontinental highway and info-highway—a powerful communication line originating from Europe and going further to the south.

These prospects are both exciting and distant. However, they should be taken into account when addressing today's problems. No doubt, the global economy does have enough investment resources for such a large-scale project. The U.S. Congress has given $40 billion for primary measures to safeguard national security. Much less investment is needed to ensure energy security of the industrial states. Especially as it is much more reasonable and profitable to invest in crisis prevention than in recovering from them.

A pipeline bridge between the Caspian region and Western Europe, Central Asia and the world's oceans will help solve the problem of the globalization of Eurasian energy resources. It could become a basis for an "arc of stability" in Europe. It not only shifts the so-called arc of tension running close to Russia from the Balkans via the Caucasus, Central Asia, Iran, and Afghanistan, but will also exclude the Caspian states—the critical link—from this chain. When involved in the global economy, these countries could turn into strongholds of stability in a part of Asia that today poses major threats to the world.•

IN HONOR OF LUCY S. CICILLINE ON HER 90TH BIRTHDAY

• Mr. REED. Mr. President. I would like to take a moment to recognize a dear friend on her 90th birthday.

Lucy Cicilline, the daughter of Italian immigrants, was born Lucy Miragliuolo on December 26, 1911 in Providence, RI.

Lucy is the mother of four, the grandmother of twenty-one and the great grandmother of twenty-five. But more than this, Lucy is a vital, active personality who has always lent a helping hand to others.

When I was a boy, Lucy lived close to our family's summer home at Scarborough Beach in Narragansett, RI. Together with her husband, John, and her children, she was a wonderful friend to me and to my family. Always a kind and caring person, she showered her affection and attention on all her neighbors. As a nurse, it was Lucy who tended to my injured elbows and knees, and sometimes bruised spirit, during all the times I fell down and encountered the other mishaps of childhood.

As a Registered Nurse, employed at St. Joseph's Hospital in Providence, Lucy shared her kind and giving personality with her patients until her retirement.

But retirement did not stop her either. In 1980, at the age of sixty-nine and after the death of her husband of forty-seven years, Lucy decided it was time for her to learn how to drive.

Lucy approached this task with the same dogged determination and positive attitude that she has with everything in her life. She took driving lessons, received her license and continued to drive for the next ten years until her declining eyesight took her off the road.

Still, despite her eyesight and her getting on in years, Lucy is an important member of her community. For over fifty years, she has been contributing to the St. Joseph's Indian Tribe and has been named an honorary member of their community.

Now at the Village at Waterman Lake in Smithfield, RI, Lucy is an active adult who exercises and socializes with her fellow residents.

When I think of Lucy Cicilline, I recall the magic days of youth when I was surrounded and protected by adults like my parents and the Cicillines who set an extraordinary example of kindness and commitment to faith and family and country. At many moments in my life, I drew on those memories for inspiration and strength. Her example is with me today.

So today, I would like to thank Lucy for her kindness and her friendship and also wish her the happiest of birthdays.●

THE URGENT NEED FOR BALLISTIC MISSILE DEFENSE

● Mr. KYL. Mr. President, I rise to submit for the RECORD an article written by Brian T. Kennedy, vice president of the Claremont Institute, entitled "The Urgent Need for Ballistic Missile Defense." Published in the Imprimis publication of Hillsdale College, Mr. Kennedy persuasively argues that "the United States is defenseless against [the] mortal danger . . . of a ballistic missile attack."

In view of the events of September 11, I commend this article to the Senate for review as a cautionary warning to the U.S. Government of the potential danger of failing to meet its fundamental constitutional obligation to "provide for the common defense."

The article follows.

[From Imprimis, Nov. 2001]

THE URGENT NEED FOR BALLISTIC MISSILE DEFENSE

(By Brian T. Kennedy)

On September 11, our nation's enemies attacked us using hijacked airliners. Next time, the vehicles of death and destruction might well be ballistic missiles armed with nuclear, chemical, or biological warheads. And let us be clear: The United States is defenseless against this mortal danger. We would today have to suffer helplessly a ballistic missile attack, just as we suffered helplessly on September 11. But the dead would number in the millions and a constitutional crisis would likely ensue, because the survivors would wonder—with good reason—if their government were capable of carrying out its primary constitutional duty to "provide for the common defense."

THE THREAT IS REAL

The attack of September 11 should not be seen as a fanatical act of individuals like Osama Bin Laden, but as deliberate act of a consortium of nations who hope to remove the U.S. from its strategic positions in the Middle East, in Asia and the Pacific, and in Europe. It is the belief of such nations that the U.S. can be made to abandon its allies, such as Israel, if the cost of standing by them becomes too high. It is not altogether unreasonable for our enemies to act on such a belief. The failure of U.S. political leadership, over a period of two decades, to respond proportionately to terrorist attacks on Americans in Lebanon, to the first World Trade Center bombing, to the attack on the Khobar Towers in Saudi Arabia, to the bombings of U.S. embassies abroad, and most recently to the attack on the USS Cole in Yemen, likely emboldened them. They may also have been encouraged by observing our government's unwillingness to defend Americans against ballistic missiles. For all of the intelligence failures leading up to September 11, we know with absolute certainty that various nations are spending billions of dollars to build or acquire strategic ballistic missiles with which to attack and blackmail the United States. Yet even now, under a president who supports it, missile defense advances at a glacial pace.

Who are these enemy nations, in whose interest it is to press the U.S. into retreating from the world stage? Despite the kind words of Russian President Vladimir Putin, encouraging a "tough response" to the terrorist attack of September 11, we know that it is the Russian and Chinese governments that are supplying our enemies in Iraq, Iran, Libya, and North Korea with the ballistic missile technology to terrorize our nation. Is it possible that Russia and China don't understand the consequences of transferring this technology? Are Vladimir Putin and Jiang Zemin unaware that countries like Iran and Iraq are known sponsors of terrorism? In light of the absurdity of these questions, it is reasonable to assume that Russia and China transfer this technology as a matter of high government policy, using these rogue states as proxies to destabilize the West because they have an interest in expanding their power, and because they know that only the U.S. can stand in their way.

We should also note that ballistic missiles can be used not only to kill and destroy, but to commit geopolitical blackmail. In February of 1996, during a confrontation between mainland China and our democratic ally on Taiwan, Lt. Gen. Xiong Guang Kai, a senior Chinese official, made an implicit nuclear threat against the U.S., warning our government not to interfere because Americans "care more about Los Angeles than they do Taipei." With a minimum of 20 Chinese intercontinental ballistic missiles (ICBMs) currently aimed at the U.S., such threats must be taken seriously.

THE STRATEGIC TERROR OF BALLISTIC MISSILES

China possesses the DF–5 ballistic missile with a single, four-megaton warhead. Such a warhead could destroy an area of 87.5 square miles, or roughly all of Manhattan, with its daily population of three million people. Even more devastating is the Russian SS–18, which has a range of 7,500 miles and is capable of carrying a single, 24-megaton warhead or multiple warheads ranging from 550 to 750 kilotons.

Imagine a ballistic missile attack on New York or Los Angeles, resulting in the death of three to eight million Americans. Beyond the staggering loss of human life, this would take a devastating political and economic toll. Americans' faith in their government—a government that allowed such an attack—would be shaken to its core. As for the economic shock, consider that damages from the September 11 attack, minor by comparison, are estimated by some economists to be nearly 1.3 trillion dollars, roughly one-fifth of GNP.

Missile defense critics insist that such an attack could never happen, based on the expectation that the U.S. would immediately strike back at whomever launched it with an equal fury. They point to the success of the Cold War theory of Mutually Assured Destruction (MAD). But even MAD is premised on the idea that the U.S. would "absorb" a nuclear strike, much like we "absorbed" the attack of September 11. Afterwards the President, or surviving political leadership, would estimate the losses and then employ our submarines, bombers, and remaining land-based ICBMs to launch a counterattack. This would fulfill the premise of MAD, but it would also almost certainly guarantee additional ballistic missile attacks from elsewhere.

Consider another scenario. What if a president, in order to avoid the complete annihilation of the nation, came to terms with our enemies? What rational leader wouldn't consider such an option, given the unprecedented horror of the alternative? Considering how Americans value human life, would a Bill Clinton or a George Bush order the unthinkable? Would any president launch a retaliatory nuclear strike against a country, even one as small as Iraq, if it meant further massive casualties to American citizens? Should we not agree that an American president ought not to have to make such a decision? President Reagan expressed this simply when he said that it would be better to prevent a nuclear attack than to suffer one and retaliate.

Then there is the blackmail scenario. What if Osama Bin Laden were to obtain a nuclear ballistic missile from Pakistan (which, after all, helped to install the Taliban regime), place it on a ship somewhere off our coast, and demand that the U.S. not intervene in the destruction of Israel? Would we trade Los Angeles or New York for Tel Aviv or Jerusalem? Looked at this way, nuclear blackmail would be as devastating politically as nuclear war would be physically.

ROADBLOCK TO DEFENSE: THE ABM TREATY

Signed by the Soviet Union and the United States in 1972, the Anti-Ballistic Missile Treaty forbids a national missile defense. Article I, Section II reads: "Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty." Article III allows each side to build a defense for an individual region that contains an offensive nuclear force. in other words, the ABM Treaty prohibits our government from defending the American people, while allowing it to defend missiles to destroy other peoples.

Although legal scholars believe that this treaty no longer has legal standing, given that the Soviet Union no longer exists, it has been upheld as law by successive administrations—especially the Clinton administration—and by powerful opponents of American missile defense in the U.S. Senate.

As a side note, we now know that the Soviets violated the ABM Treaty almost immediately. Thus the Russians possess today the world's only operable missile defense system. Retired CIA Analyst William Lee, in the ABM Treaty Charade, describes a 9,000-interceptor system around Moscow that is capable of protecting 75 percent of the Russian population. In other words, the Russians did not share the belief of U.S. arms-control experts in the moral superiority of purposefully remaining vulnerable to missile attack.

HOW TO STOP BALLISTIC MISSILES

For all the bad news about the ballistic missile threat to the U.S., there is the good news that missile defense is well within our technological capabilities. As far back as 1962, a test missile fired from the Kwajaleen Atoll was intercepted (within 500 yards) by an anti-ballistic missile launched from Vanderberg Air Force Base. The idea at the time was to use a small nuclear warhead in the upper atmosphere to destroy incoming enemy warheads. But it was deemed politically incorrect—as it is still today—to use a nuclear explosion to destroy a nuclear warhead, even if that warhead is racing toward an American city. (Again, only we seem to be squeamish in this regard: Russia's aforementioned 9,000 interceptors bear nuclear warheads.) So U.S. research since President Reagan reintroduced the idea of missile defense in 1983 has been aimed primarily at developing the means to destroy enemy missiles through direct impact or "hit-to-kill" methods.

American missile defense research has included ground-based, sea-based and space-based interceptors, and air-based and space-based lasers. Each of these systems has undergone successful, if limited, testing. The space-based systems are especially effective since they seek to destroy enemy missiles in their first minutes of flight, known also as the boost phase. During this phase, missiles are easily detectible, have yet to deploy any so-called decoys or countermeasures, and are especially vulnerable to space-based interceptors and lasers.

The best near-term option for ballistic missile defense, recommended by former Reagan administration defense strategist Frank Gaffney, is to place a new generation of interceptors, currently in research, aboard U.S. Navy Aegis Cruisers. These ships could then provide at least some missile defense while more effective systems are built. Also under consideration is a ground-based system in the strategically important state of Alaska, at Fort Greely and Kodiak Island. This would represent another key component in a comprehensive "layered" missile defense that will include land, sea, air and space.

ARGUMENTS AGAINST MISSILE DEFENSE

Opponents of missile defense present four basic arguments. The first is that ABM systems are technologically unrealistic, since "hitting bullets with bullets" leaves no room for error. They point to recent tests of ground-based interceptors that have had mixed results. Two things are important to note about these tests: First, many of the problems stem from the fact that the tests are being conducted under ABM Treaty restrictions on the speed of interceptors, and on their interface with satellites and radar. Second, some recent test failures involve science and technology that the U.S. perfected 30 years ago, such as rocket separation. But putting all this aside, as President Reagan's former science advisor William Graham points out, the difficulty of "hitting bullets with bullets" could be simply overcome by placing small nuclear charges on "hit-to-kill" vehicles as a "fail safe" for when they miss their targets. This would result in small nuclear explosions in space, but that is surely more acceptable than the alternative of enemy warheads detonating over American cities.

The second argument against missile defense is that no enemy would dare launch a missile attack at the U.S., for fear of swift retaliation. But as the CIA pointed out two years ago—and as Secretary of Defense Rumsfeld reiterated recently in Russia—an enemy could launch a ballistic missile from a ship off one of our coasts, scuttle the ship, and leave us wondering, as on September 11, who was responsible.

The third argument is that missile defense can't work against ship-launched missiles. But over a decade ago U.S. nuclear laboratories, with the help of scientists like Greg Canavan and Lowell Wood, conducted successful tests on space-based interceptors that could stop ballistic missiles in their boost phase from whatever location they were launched.

Finally, missile defense opponents argue that building a defense will ignite an expensive arms race. But the production cost of a space-based interceptor is roughly one to two million dollars. A constellation of 5,000 such interceptors might then cost ten billion dollars, a fraction of America's defense budget. By contrast, a single Russian SS–18 costs approximately $100 million, a North Korean Taepo Dong II missile close to $10 million, and an Iraqi Scud B missile about $2 million. In other words, if we get into an arms race, our enemies will go broke. The soviet Union found it could not compete with us in such a race in the 1980s. Nor will the Russians or the Chinese or their proxies be able to compete today.

TIME FOR LEADERSHIP

Building a missile defense is not possible as long as the U.S. remains bound by the ABM Treaty of 1972. President Bush has said that he will give the Russian government notice of our withdrawal from that treaty when his testing program comes into conflict with it. But given the severity of the ballistic missile threat, it is cause for concern that we have not done so already.

Our greatest near-term potential attacker, Iraq, is expected to have ballistic missile capability in the next three years. Only direct military intervention will prevent it from deploying this capability before the U.S. can deploy a missile defense. This should be undertaken as soon as possible.

Our longer-term potential attackers, Russia and China, possess today the means to destroy us. We must work and hope for peaceful relations, but we must also be mindful of the possibility that they have other plans. Secretary Powell has invited Russia and China to join the coalition to defeat terrorism. This is ironic, since both countries have been active supporters of the regimes that sponsor terrorism. And one wonders what they might demand in exchange. Might they ask us to delay building a missile defense? Or to renegotiate the ABM Treaty?

So far the Bush administration has not demonstrated the urgency that the ballistic missile threat warrants. It is also troublesome that the President's newly appointed director of Homeland Security, Pennsylvania Governor Tom Ridge, has consistently opposed missile defense—a fact surely noted with approval in Moscow and Beijing. On the other hand, President Bush has consistently supported missile defense, both in the 2000 campaign and since taking office, and he has the power to carry through with his promises.

Had the September 11 attack been visited by ballistic missiles, resulting in the deaths of three to six million Americans, a massive effort would have immediately been launched to build and deploy a ballistic missile defense. America, thankfully, has a window of opportunity—however narrow—to do so now, before it is too late.

Let us begin in earnest.●

MARGARET MEAD'S 100TH BIRTHDAY

● Mrs. CLINTON. Mr. President, I ask that the following statement, and the excerpt from the Mead Centennial press release, be printed in the RECORD in honor of Margaret Mead's 100th birthday:

On December 16, Margaret Mead would have celebrated her 100th birthday. As one of New York's Senators, I am proud that Margaret Mead called New York home for so many years. New York State has such a rich history of women who have made a difference at home and throughout the world.

As my colleague Senator CHUCK HAGEL stated so well, Margaret Mead "was an American patriot who dedicated her life to understanding the people and nations of our world. She respected the distinctiveness of various cultures . . . Margaret Mead took her responsibilities of citizenship seriously by sharing her knowledge with those engaged in public service."

On the occasion of the Margaret Mead centennial, I hope that more of today's youth will be exposed to the lifework of this great woman, and will be inspired to learn about cultures around the world. She devoted her life to studying other cultures, and to encouraging Americans to develop a desire to learn about other cultures.

The following excerpt from a Mead Centennial 2001 press release captures Margaret Mead's accomplishments, and their relevance to our country today:

HAPPY BIRTHDAY, MARGARET MEAD: IN THE 21ST CENTURY HER IDEAS RING TRUE

"How to describe Margaret Mead? Physically, she was short and pudgy, walked with a light, firm step, wore a distinctive cape and carried a tall, forked walking stick. As an American icon, anthropologist, futurologist, environmentalist, feminist, curmudgeon, and 'grandmother to the world,' she stood for many different things in people's mind. Above all she stood for the need for Americans to understand other cultures. Since September 11, it has become clear that this is an idea that urgently needs to be reinforced.

As a young scientist, Mead traveled to Samoa, New Guinea, and Bali in the

1920s and '30s to study more 'primitive' societies, wanting to see what she, as an American and a westerner, could learn from cultures that were so different from our own. Mead's theories about adolescence, sexuality, aggression, gender roles, and education opened up new ways of thinking about our own society. In later years, she studied more contemporary cultures, but always with an eye toward learning about how better to understand ourselves and to interact in what was rapidly becoming a multicultural world. Mead's ideas and thoughts are inextricably interwoven in our fabric today, many decades after her first studies of cultures, and nearly a quarter century after her death. While some still attract lively controversy, many of the concepts we take for granted today in any discussion of cultural difference, community, peace, gender, or human rights—were brought to the forefront by Mead in the '30s, '40s, and '50s.

More than thirty books, dozens of films, and thousands of articles later, her ideas continue to thrive and inspire. Her famous admonition, 'Never doubt that a small group of thoughtful, committed citizens can change the world,' has become the motto of hundreds of community action groups. For the Centennial, more than a dozen of her books have been reissued with new and timely introductions. Many organizations and individuals across this country and around the world are taking time to remember Mead and reacquaint themselves with what she stood for, her work, and its implications for the future. The Institute for Intercultural Studies (IIS), founded by Mead in 1944, continues under the guidance of Mary Catherine Bateson, author, cultural anthropologist and Mead's only child. The Institute's mission, an increasingly important one, is to advance knowledge by creating and funding projects that are likely to affect contemporary intercultural and international relations. The IIS maintains a website, www.mead2001.org.

'If my mother were alive today, I know she would be on-line, using the internet to communicate rapidly, to gather and discuss ideas, to bring people together,' says Bateson. 'It is the continued interchange around her ideas that we hope to foster in commemorating her 100th birthday.' Happy birthday, Margaret Mead—and let intercultural and international understanding reign in this new century.''•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON AERONAUTICS AND SPACE ACTIVITIES FOR FISCAL YEAR 2000—MESSAGE FROM THE PRESIDENT—PM 62

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

I am pleased to transmit this report on the Nation's achievements in aeronautics and space during Fiscal Year (FY) 2000, as required under section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476). Aeronautics and space activities involved 11 contributing departments and agencies of the Federal Government, and the results of their ongoing research and development affect the Nation in many ways.

A wide variety of aeronautics and space developments took place during FY 2000. The National Aeronautics and Space Administration (NASA) successfully completed four Space shuttle flights. In terms of robotic space flights, there were 24 U.S. expendable launch vehicle launches in FY 2000. Five of these launches were NASA-managed missions, nine were Department of Defense (DOD)—managed missions, and eight were FAA-licensed commercial launches. In addition, NASA flew on payload as a secondary payload on one of the FAA licensed commercial launches. This year, two new launch vehicles debuted: the Lockheed Martin Atlas IIIA and the Boeing Delta III, each serving as transition vehicles leading the way for the new generation of evolved expendable launch vehicles.

Scientists also made some dramatic new discoveries in various space-related fields such as space science, Earth science and remote sensing, and life and microgravity science. In aerospace, achievements included the demonstration of technologies that will reduce the environmental impact of aircraft operations, reinvigorate the general aviation industry, improve the safety and efficiency of U.S. commercial airlines and air traffic control system, and reduce the future cost of access to space.

The United States also entered into many new agreements for cooperation with its international partners around the world in many areas of space activity.

Thus, FY 2000 was a very successful one for U.S. aeronautics and space programs. Efforts in their areas have contributed significantly to the Nation's scientific and technical knowledge, international cooperation, a healthier environment, and a more competitive economy.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 19, 2001.*

MESSAGES FROM THE HOUSE

At 11:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 107. An act to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2187. An act to amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance cots incurred by the United States with respect to the reserves; to the Committee on Armed Services.

H.R. 3054. An act to award congressional gold medals on behalf of government workers who responded to the attacks on the World Trade Center and perished and on behalf of people aboard United States Airlines Flight 93 who helped resist the hijackers and caused the plane to crash.

H.R. 3072. An act to designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the ``Vernon Tarlton Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3178. An act to authorize the Environmental Protection Agency to provide funding to support research and development projects for the security of water infrastructure.

H.R. 3334. An act to designate the Richard J. Guadagno Headquarters and Visitors Center at Humboldt Bay National Wildlife Refuge, California.

H.R. 3379. An act to designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the ``Raymond M. Downey Post Office Building''; to the Committee on Governmental Affairs.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 273. Concurrent resolution reaffirming the special relationship between the United States and the Republic of the Philippines; to the Committee on Foreign Relations.

The message further announced that the House has passed the following bill with an amendment, in which it requests the concurrence of the Senate:

S. 1389. An act to provide for the conveyance of certain real property in South Dakota to the state of South Dakota with indemnification by the United States government, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 1789. An act to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

At 3:54 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3343. An act to amend title X of the Energy Policy Act of 1992, and for other purposes.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

The message further announced that pursuant to section 205(a) of the Vietnam Education Foundation Act of 2000 (Public Law 106–552), and upon the recommendation of the majority leader, the Speaker appoints the following Member of the House of Representatives to the Board of Directors of the Vietnam Education Foundation: Mr. SMITH of New Jersey.

At 5:21 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2506) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 107. An act to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2187. An act to amend title 10 United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves; to the Committee on Armed Services.

H.R. 3054. An act to award congressional gold medals on behalf of government workers who responded to the attacks on the World Trade Center and perished and on behalf of people aboard United States Airlines Flight 93 who helped resist the hijackers and caused the plane to crash; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3072. An act to designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the "Vernon Tarlton Post Office Building"; to the Committee on Governmental Affairs.

H.R. 3379. An act to designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the "Raymond M. Downey Post Office Building"; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 273. Concurrent resolution reaffirming the special relationship between the United States and the Republic of the Philippines; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3178. An act to authorize the Environmental Protection Agency to provide funding to support research, development, and demonstration projects for the security of water infrastructure.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 3343. An act to amend title X of the Energy Policy Act of 1992, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4939. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Amendment to the List of Proscribed Destinations" (22 CFR Part 126) received on December 18, 2001; to the Committee on Foreign Relations.

EC–4940. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to provide for direct billing for water and sanitary sewer usage by the District of Columbia to Federal agencies, and direct payment by those agencies in the District of Columbia; to the Committee on Governmental Affairs.

EC–4941. A communication from the Executive Director of the Federal Retirement Thrift Investment Board, transmitting, a draft of proposed legislation to clarify the authority of the Executive Director of the Federal Retirement Thrift Investment Board to bring suit on behalf of the Thrift Saving Fund in the District Courts of the United States; to the Committee on Governmental Affairs.

EC–4942. A communication from the Special Assistant to the President and Director of the Office of Administration, Executive Office of the President, transmitting, pursuant to law, a Aggregate Report on Personnel for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–4943. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sodium thiosulfate; Exemption from the Requirement of a Tolerance" (FRL6811–6) received on December 18, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4944. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imazapic; Pesticide Tolerance" (FRL6816–2) received on December 18, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4945. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fluthiacet-methy; Pesticide Tolerance" (FRL6806–7) received on December 18, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4946. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Flightcrew Compartment Access and Door Designs" ((RIN2120–AH52)(2001–0002)) received on December 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4947. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce plc. RB211 535 Turbofan Engines, Correction" ((RIN2120–AA64)(2001–0578)) received on December 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4948. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model Beech 400, 400A, and 400T Series Airplanes, Model Mitsubishi MU–300 Airplanes, and Model Beech MU–300–10 Airplanes" ((RIN2120–AA64)(2001–0577)) received on December 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4949. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Mystere-Falcon 50 Series Airplanes" ((RIN2120–AA64)(2001–0575)) received on December 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4950. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757 Series Airplanes" ((RIN2120–AA64)(2001–0573)) received on December 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4951. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aeromat-Industria Mecanico Metalurgica ltda. Models AMT–100 and AMT–200 Powered Sailplanes" ((RIN2120–AA64)(2001–0574)) received on December .14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4952. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones" ((RIN2120–AG74)(2001–0004)) received on December 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4953. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (72); Amdt. No. 2078" ((RIN2120–AA65)(2001–0061)) received on December 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4954. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F.28 Mark 0100 Series Airplanes" ((RIN2120–AA64)(2001–0570)) received on December 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4955. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737 Series Airplanes" ((RIN2120–AA64)(2001–0571)) received on December 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4956. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hybrid III Type 3-Year-Old Size Test Dummy (Response to Petitions for Reconsideration)" (RIN2127–AI02) received on December 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4957. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Listing the Tumbling Creek Cavesnail as Endangered (Emergency Rule)" (RIN1018–AI19) received on December 17, 2001; to the Committee on Environment and Public Works.

EC–4958. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a letter clarifying how revisions to the Mixture and Derived-From rules apply to the 40CFR 261.3(g) exclusion; to the Committee on Environment and Public Works.

EC–4959. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a letter addressing the Regulatory Determination on the Status of CAtoxid Units; to the Committee on Environment and Public Works.

EC–4960. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Redesignation of Lafourche Parish Ozone Nonattainment Area to Attainment for Ozone" (FRL7121–4) received on December 18, 2001; to the Committee on Environment and Public Works.

EC–4961. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators; State of Kansas" (FRL7120–2) received on December 18, 2001; to the Committee on Environment and Public Works.

EC–4962. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(1) Authority for Hazardous Air Pollutants; District of Columbia; Department of Health" (FRL7121–7) received on December 18, 2001; to the Committee on Environment and Public Works.

EC–4963. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Kentucky: Final Authorization of State Hazardous Waste Management Program Revision" (FRL7120–8) received on December 18, 2001; to the Committee on Environment and Public Works.

EC–4964. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tennessee: Final Authorization of State Hazardous Waste Management Program Revision" (FRL7121–1) received on December 18, 2001; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 415: A bill to amend title 49, United States Code, to require that air carriers meet public convenience and necessity requirements by ensuring competitive access by commercial air carriers to major cities, and for other purposes. (Rept. No. 107–130).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SARBANES for the Committee on Banking, Housing, and Urban Affairs.

*Vickers B. Meadows, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

*Diane Leneghan Tomb, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*Emil H. Frankel, of Connecticut, to be an Assistant Secretary of Transportation.

*Jeffrey Shane, of the District of Columbia, to be Associate Deputy Secretary of Transportation.

*Sean O'Keefe, of New York, to be Administrator of the National Aeronautics and Space Administration.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ALLEN:

S. 1848. A bill to provide mortgage payment assistance for employees who are separated from employment; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 1849. A bill for the relief of Thomas J. Sansone, Jr; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAFEE (for himself, Mr. CARPER, Mr. SMITH of New Hampshire, Mr. JEFFORDS, and Mr. INHOFE):

S. 1850. A bill to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. FEINGOLD, Mr. CORZINE, Mr. REED, Mrs. CLINTON, Mr. KERRY, and Mr. KOHL):

S. 1851. A bill to amend part C of title XVIII of the Social Security Act to provide for continuous open enrollment and disenrollment in Medicare+Choice plans and for other purposes; to the Committee on Finance.

By Mr. THOMAS:

S. 1852. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself and Mr. ROCKEFELLER):

S. 1853. A bill to authorize the President of the United States, on behalf of the Congress, to present a gold medal to Sargent Shriver; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JOHNSON:

S. 1854. A bill to authorize the President to present congressional gold medals to the Native American Code Talkers in recognition of their contributions to the Nation during World War I and World War II; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ALLEN (for himself and Mr. MCCAIN):

S. 1855. A bill to amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery; to the Committee on Veterans' Affairs.

By Mr. KERRY (for himself, Mr. BURNS, Mr. CORZINE, and Mr. BAUCUS):

S. 1856. A bill to amend the Internal Revenue Code of 1986 to promote employer and employee participation in telework arrangements, and for other purposes; to the Committee on Finance.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1857. A bill to Encourage the Negotiated Settlement of Tribal Claims; to the Committee on Indian Affairs.

By Mr. ALLEN (for himself and Mr. KERRY):

S. 1858. A bill to permit the closed circuit televising of the criminal trial of Zacarias Moussaoui for the victims of September 11th; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself and Mr. CHAFEE):

S. 1859. A bill to extend the deadline for granting posthumous citizenship to individuals who die while on active-duty service in the Armed Forces; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 193. A resolution authorizing certain employees of the Senate who perform service in the uniformed services to be placed in a leave without pay status, and for other purposes; considered and agreed to.

ADDITIONAL COSPONSORS

S. 94

At the request of Mr. DORGAN, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 94, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced form wind.

S. 267

At the request of Mr. DASCHLE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 321

At the request of Mr. GRASSLEY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 321, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 351

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 351, a bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting use of mercury fever thermometers and improving collection, recycling, and disposal of mercury, and for other purposes.

S. 683

At the request of Mr. SANTORUM, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 683, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

S. 990

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 990, a bill to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes.

S. 1209

At the request of Mr. BINGAMAN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1317

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1317, a bill to amend title XVIII of the Social Security Act to provide for equitable reimbursement rates under the medicare program to Medicare+Choice organizations.

S. 1335

At the request of Mr. KENNEDY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1335, a bill to support business incubation in academic settings.

S. 1478

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1626

At the request of Mr. BINGAMAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1626, a bill to provide disadvantaged children with access to dental services.

S. 1707

At the request of Mr. JEFFORDS, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1749

At the request of Mr. KENNEDY, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Florida (Mr. NELSON), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1754

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1754, a bill to authorize appropriations for the United States Patent and Trademark Office for fiscal years 2002 through 2007, and for other purposes.

S. 1842

At the request of Mr. CLELAND, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1842, a bill to modify the project for beach erosion control, Tybee Island, Georgia.

AMENDMENT NO. 2533

At the request of Mr. CRAPO, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. THOMAS), the Senator from Nevada (Mr. ENSIGN), the Senator from Colorado (Mr. ALLARD), the Senator from Colorado (Mr. CAMPBELL), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of amendment No. 2533 intended to be proposed to S. 1731, an original bill to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLEN:

S. 1848. A bill to provide mortgage payment assistance for employees who are separated from employment; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALLEN. Mr. President, today I rise to introduce the Homestead Preservation Act.

It is a bill to provide displaced workers with access to low-interest loans to help cover monthly home mortgage payments while they are looking for a new job. This is commonsense, compassionate legislation designed to help working families, who through no fault of their own, are adversely affected by international competition.

During the past months, all Americans have been deluged with grim news of recessions, plummeting consumer confidence and rising unemployment. Since October of last year, unemployment has jumped 1.8 percent, bringing the unemployment rate to 5.7 percent, the highest in over 6 years. This is more than just a statistic. The 5.7 percent represents 8.2 million people who are now without a job, a paycheck, and the means by which to provide their family with a sense of economic security, knowing that the bills will be paid, food is on the table, gifts will be under the Christmas-tree.

Virginia has not escaped the effects of the recession. While the unemployment is not as high as the national average, we have seen a 1.4 percent increase in unemployment from October 2000 to October 2001. There were 20 mass layoffs in October, an increase of 8 from the year before. And there have been 2,713 new claims for unemployment benefits in October—almost double from October 2000.

While these are uneasy times for everyone, regions such as Southwest Virginia and Southside, with heavy concentrations in manufacturing—especially the textile and apparel industries—have been especially hard hit. Nationwide, employment in apparel manufacturing lost more than 10,000 jobs just last month. Factory employment has plummeted in the past year and a half. One of every three layoffs in Virginia is from the manufacturing industry, although only one in six jobs throughout the Commonwealth are in this sector. In Virginia, October was the 15th consecutive month of factory job losses.

Virginia's Southside and Southwest regions are already suffering from the economic effects of international competition, such as NAFTA. Nationwide, an average of 37,500 Americans lose their jobs because of NAFTA-related competition each year. During the 1990s, Virginians saw the loss of 15,400 apparel jobs—a decline of 54.3 percent—and 15,300 textile jobs—a decline of 36 percent.

Fair and free trade is necessary if American businesses are to have the opportunity to promote their goods and services and continue to expand through growth abroad. NAFTA has created a net increase in employment. As Governor of Virginia, I led several trade missions abroad to promote our products. We brought back agreements that initially meant half a billion dollars in new investment and sales for Virginia, investments made possible only through fair and free trade.

But, while trade is helping our economy as a whole, there are many good, hard working families, who have been adversely affected by international competition—especially in the textile and apparel industries. Anytime a factory closes, it is a devastating blow to all of the families and businesses in the community and region.

While I was proud of the outstanding way the close-knit Southside and Southwest communities in Virginia came together to help those who lost their jobs, when companies like Pluma and Tultex closed their doors, they should not be forced to go through these times alone. After the Tultex plant closing in Martinsville in early December of 1999, people donated toys to the Salvation Army to make sure that Christmas came to the homes of the thousands of laid off workers.

I am proposing that the Federal Government do its part to help people through these tough times. There are already thoughtful programs in place, such as the NAFTA Transitional Adjustment Assistance program, that helps workers get additional job skills training and employment assistance, and, provides extended unemployment benefits during job training. These programs are the result of the commonsense, logical conclusion that good, working people can lose their jobs because of trade—not because they did anything wrong or because they don't want to work.

We ought to find a way to ease the stress and turmoil for people whose lives are unexpectedly thrown into transition after years of steady employment with a company that suddenly disappears. While these hardworking folks are finding appropriate employment, they should not fear losing their homes. For most people and families, their home is the largest investment they make in life. Many have considerable equity build up.

Government agencies already have low-interest loan programs in place to help families who have met with unexpected economic disaster, such as a natural disaster like a hurricane, flood or tornado.

When a factory closes, it is an economic disaster to these families and their communities. The effects are just as far reaching and certainly as economically devastating. Like a natural disaster, families displaced by international competition are not responsible for the events leading to the factory closings. The Federal Government ought to make the same disaster loan assistance programs available to our displaced workers.

This is my rationale for introducing the Homestead Preservation Act. This legislation will provide temporary home mortgage assistance to displaced workers, helping them make ends meet during their search for a new job.

Specifically, the Homestead Preservation Act authorizes the Department of Labor to administer a low-interest loan program—4 percent—for workers displaced due to international competition. The loan is for up to the amount of 12 monthly home mortgage payments. The program is authorized at $10 million per year, for 5 years. It distributes the loan through an account, providing monthly allocations to cover the amount of the worker's home mortgage payment. The loans could be paid off or repaid over a period of 5 years. No payments would be required until 6 months after the borrower has returned to work full-time. The loan is available only for the cost of a monthly home mortgage payment and covers only those workers displaced due to international competition and those who qualify for benefits under the NAFTA-TAAP and TAA benefits programs.

Like the NAFTA-TAAP and TAA benefits programs, the Homestead Preservation Act recognizes that some temporary assistance is needed as workers take the time to become retrained and reeducated, expand upon their skills and search for new employment.

As Governor, there was nothing I enjoyed more than being able to recruit and land investment from new or expanding enterprises in Virginia. By recruiting businesses, we brought new and better jobs for the hard-working, caring people of Virginia. One example is Drake Extrusion from the United Kingdom, which chose Martinsville Industrial Park for its new carpet and bedding fiber manufacturing plant. It was announced as a $12 million investment. It doubled in value at the official opening in 1996. It brought in additional small businesses. As of last year, Drake employed over 180 people.

Unfortunately, it can take time to bring in new companies and industries to a region, just as it takes time to learn a new skill or earn a degree. Displaced families do not have time; they have monthly bills that must be paid, in full, no excuses. The Homestead Preservation Act provides the financial assistance necessary to bridge the time it takes to find employment. Without this bridge, many working families would not be able to take advantage of the opportunities our there for them. They would be denied the necessary tools to help them succeed in the changing economy.

The current recession has made it even more vital that the Federal Government do what is right by our workers in the textile and apparel industries—in all industries suffering high rates of job losses due to international competition. Because of international competition, textile and apparel workers are even more vulnerable to the current economic situation making them ill-equipped to weather an economic downturn. For example, in 1999, the average wage rates in Virginia for a textile or apparel worker were 77 percent and 57 percent, respectively, of the overall average wage rate for Virginians. This provides for less money in the family's "rainy day" savings account. And right now, it is storming for these families. These jobs are not coming back. Only about 70 percent of displaced factory workers find reemployment, well below the access-industry average.

Losses are expected to continue accumulating as the industries brace for worldwide open trade, which is scheduled to begin in 2005. When these workers are displaced, meager savings and temporary unemployment benefits are frequently not enough to cover expenses that had previously fit within the family budget. Without immediate help, these families, at the minimum, risk ruining their credit ratings and, in the worst-case scenario, could lose their home or car.

The Homestead Preservation Act would provide families vital temporary financial assistance, enabling them to keep them to keep their homes and to protect their credit ratings as they work toward strengthening and updating their skills and continue their search for a new job. Hard-working Americans, facing such a harrowing situation, ought to have a response to help them. People need transitional help now.

The Homestead Preservation Act provides the temporary financial tools necessary for displaced workers to get back on their feet and succeed. It is a caring, logical and responsible response.

Mr. President, as I said, I rise today to introduce the Homestead Preservation Act. This is a commonsense, compassionate place of legislation that is designed to help working families who, through no fault of their own, lose their jobs as a result of international competition.

It is a bill to provide displaced workers with access to low-interest loans to help cover monthly home mortgage payments while they are out looking for a job.

During the past few months, all Americans have been deluged with grim news of recessions, plummeting consumer confidence, and rising unemployment

Clearly, these are uneasy times for everyone in all regions of the country, whether in the South, the Midwest, the Northeast, and out West as well, but particularly in the areas where there are heavy concentrations of manufacturing. The textile and apparel industries have been especially hard hit. That industry is generally in the South and, to some extent, in the Midwest.

Nationwide, employment in apparel manufacturing lost more than 10,000 jobs just last month. That is in Virginia, North Carolina, South Carolina, Mississippi, Alabama, Georgia, Arkansas, Missouri, and various other States.

Factory employment has plummeted in the past year and a half. In Virginia alone, about one out of every six jobs is in manufacturing. But as far as the layoffs, one out of every three layoffs in Virginia is from the manufacturing industry.

I am a supporter of fair and free trade. I think trade is good for American consumers. It is good for our retailers and our farmers. I think it is necessary for our businesses and farmers to have opportunities to promote their goods, their products, their services abroad. That allows them to expand and grow.

I think NAFTA has created a net increase in employment. As Governor of Virginia, I led several trade missions abroad, whether to Canada, Mexico, various countries in Western and Central Europe, as well as East Asia. We brought back agreements that initially meant over a half a billion dollars in new investment and sales for Virginia products. These investments and sales in Virginia were only made possible by fair and free trade.

But while trade is helping our economy as a whole, there are many good, hard-working people and families who have been adversely affected by international competition, particularly in the textile and apparel industries.

Any time a factory closes, it is a devastating blow to all of the families and, indeed, all of the businesses in the communities in that region. You can see, with great pride, how communities come together—close knit communities—and try to help out if a major manufacturer shuts down.

I remember back in December 2 years ago—in early December, 1999—when Tultex shut down. Thousands of jobs were lost. People donated toys to the Salvation Army, though, to make sure Christmas would come to every family.

What I am proposing is that the Federal Government does its part to help people through these tough times, so that people and communities are not alone during these transitions.

There are already thoughtful programs in place. The NAFTA Transitional Adjustment Assistance Program helps workers get additional job skills in training and employment assistance, as well as provides extended unemployment benefits during job training.

These programs are the result of the good, commonsense, logical conclusion that working people can lose their jobs because of trade, not because they did anything wrong or because they did not want to work. They do want to work.

We ought to find a way to help ease the stress and turmoil for people whose lives are unexpectedly thrown into transition after years of steady employment with a company that suddenly disappears. Especially in textile areas, you see folks who have worked there for decades; some of their parents may have worked at that same mill or facility.

These are hard-working people. They are trying to find employment. But while they are doing so, they should not have to worry about or fear losing their homes.

For most people, and most families, their home is the largest investment they will make in their lives. Many have considerable equity built up in their homes that could be lost.

Government agencies already have low-interest loan programs in place to help families who have been hit with unexpected disasters—such as a natural disaster, such as a hurricane or a tornado or a flood.

Whan a factory closes, it is truly an economic disaster to these families and communities. The effects are just as far reaching and certainly as economically devastating. Like a natural disaster, families displaced by international competition are not responsible for the events leading to those factory closings.

The Federal Government ought to make similar disaster loan assistance programs available to our displaced workers. That is the rationale of my introduction of the Homestead Preservation Act.

This legislation would provide temporary mortgage assistance to displaced workers, helping them make ends meet during the search for a new job.

Specifically, the Homestead Preservation Act authorizes the Department of Labor to administer a low-interest loan program—4 percent—for workers displaced due to international competition.

The loan is for up to the amount of 12 monthly home mortgage payments. The program is authorized at $10 million per year for 5 years. It distributes the loan through an account providing a monthly allocation to cover the amount of the worker's home mortgage payment. The loans would be paid or repaid and paid off over 5 years, but no payments would be required until 6 months after the worker has gotten back on his or her feet in gainful employment. The loan would be available only for the cost of the monthly home mortgage payment and covers only those workers displaced due to international competition and who would qualify for the benefits under the NAFTA-TAAP and the transitional adjustment assistance benefits programs.

Working within the parameters and the certification and qualifications of the NAFTA-TAAP and the TAA benefits programs, the Homestead Preservation Act recognizes some temporary assistance is needed as workers take time to retrain and be reeducated and expand upon their skills and search for new employment.

This will provide, in effect, a bridge loan assistance to these displaced workers. If you look at it, the unemployment benefits are fine, but usually they are not enough to cover the expenses which previously fit within a family budget.

Without immediate help, these families, at a minimum, risk ruining their credit ratings and, in the worst case scenario, could lose their car or even their home. The Homestead Preservation Act would provide families with vital temporary financial assistance, enabling them to keep their homes, protect their credit ratings, and, as they work toward strengthening and improving their skills, to continue to be able to search for a job without worrying about losing their homes. They are under a harrowing situation. We ought to have a response to help them.

There are many people who need transitional help right away. As we move forward to expand trade opportunities, let's also improve the transitional adjustment assistance programs. The Homestead Preservation Act provides the temporary financial tools necessary for displaced workers to get them back on their feet and to succeed. In my view, it is a very caring, logical and responsible response.

I trust my colleagues will agree and support this reasonable, balanced idea.

I ask unanimous consent that the text of the bill and the section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homestead Preservation Act".

SEC. 2. MORTGAGE PAYMENT ASSISTANCE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Labor (referred to in this section as the "Secretary") shall establish a program under which the Secretary shall award low-interest loans to eligible individuals to enable such individuals to continue to make mortgage payments with respect to the primary residences of such individuals.

(b) ELIGIBILITY.—To be eligible to receive a loan under the program established under subsection (a), an individual shall—

(1) be—

(A) an adversely affected worker with respect to whom a certification of eligibility has been issued by the Secretary of Labor under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); or

(B) an individual who would be an individual described in subparagraph (A) but who resides in a State that has not entered into an agreement under section 239 of such Act (19 U.S.C. 2311);

(2) be a borrower under a loan which requires the individual to make monthly mortgage payments with respect to the primary place of residence of the individual; and

(3) be enrolled in a job training or job assistance program.

(c) LOAN REQUIREMENTS.—

(1) IN GENERAL.—A loan provided to an eligible individual under this section shall—

(A) be for a period of not to exceed 12 months;

(B) be for an amount that does not exceed the sum of—

(i) the amount of the monthly mortgage payment owed by the individual; and

(ii) the number of months for which the loan is provided;

(C) have an applicable rate of interest that equals 4 percent;

(D) require repayment as provided for in subsection (d); and

(E) be subject to such other terms and conditions as the Secretary determines appropriate.

(2) ACCOUNT.—A loan awarded to an individual under this section shall be deposited into an account from which a monthly mortgage payment will be made in accordance with the terms and conditions of such loan.

(d) REPAYMENT.—

(1) IN GENERAL.—An individual to which a loan has been awarded under this section shall be required to begin making repayments on the loan on the earlier of—

(A) the date on which the individual has been employed on a full-time basis for 6 consecutive months; or

(B) the date that is 1 year after the date on which the loan has been approved under this section.

(2) REPAYMENT PERIOD AND AMOUNT.—

(A) REPAYMENT PERIOD.—A loan awarded under this section shall be repaid on a monthly basis over the 5-year period beginning on the date determined under paragraph (1).

(B) AMOUNT.—The amount of the monthly payment described in subparagraph (A) shall be determined by dividing the total amount provided under the loan (plus interest) by 60.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an individual from—

(i) paying off a loan awarded under this section in less than 5 years; or

(ii) from paying a monthly amount under such loan in excess of the monthly amount determined under subparagraph (B) with respect to the loan.

(e) REGULATIONS.—Not later than 6 weeks after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that permit an individual to certify that the individual is an eligible individual under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2003 through 2007.

THE HOMESTEAD PRESERVATION ACT—SECTION-BY-SECTION ANALYSIS

A bill to provide mortgage payment assistance for employees who are separated from employment.

SECTION I. SHORT TITLE

This Act may be cited as the "Homestead Preservation Act".

SECTION II. MORTGAGE PAYMENT ASSISTANCE

This section establishes the program, sets program perimeters, and defines eligibility for program participation.

The Secretary of Labor (Secretary) is authorized to establish a low-interest loan program to cover the cost of mortgage payments of the borrower's primary residence.

Eligibility for participation is defined as a displaced worker who has received a certification of eligibility by the Secretary under chapter 2, title II of the Trade Act of 1974 (NAFTA-TAAP; TAA) or would be qualified if his or her State of residence had entered into an agreement allowing for NAFTA-TAAP and TAA participation. The borrower must be enrolled in a job training or job assistance program.

The terms of the loan must require the borrower to use the loan to make monthly payments on the mortgage of his or her primary residence.

The loan perimeters are established to limit the life of the loan to a period of one year and to an amount that does not exceed amount of the mortgage payments due over the number of months for which the loan is provided. The interest rate on the loans is capped at 4 percent.

The loan shall be deposited into an account from which the monthly mortgage payment will be made.

Loan repayment begins one year from the date of loan approval or the date on which the borrower has been employed full-time, for six months.

Loan repayment shall be completed within five years with a monthly payment determined by dividing the total amount of the loan, plus interest, by 60. Borrowers may pay the loan early or pay more than the per-month amount required without penalty.

The Secretary has six weeks to promulgate the regulations necessary to implement this Act, including regulations that permit a resident of a non-participating State in NAFTA-TAAP or TAA, to certify that he or she is qualified for loan participation as a displaced worker.

There is authorized to be appropriated, $10 million, per year, for five years.

Mr. WELLSTONE. Mr. President, I thank the Senator from Virginia. His proposal sounds very interesting and very important. I look forward to looking at the specifics of it. I appreciate his words. I appreciate what he is talking about. It may be legislation that provides people with that temporary assistance because people want to get the jobs on which they can support their families. I think it is an important endeavor. I thank my colleague.

By Mr. CHAFEE (for himself, Mr. CARPER, Mr. SMITH of New Hampshire, Mr. JEFFORDS, and Mr. INHOFE):

S. 1850. A bill to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes; to the Committee on Environment and Public Works.

Mr. CHAFEE. Mr. President, today I introduce the Underground Storage Tank Compliance Act of 2001. This legislation will bring all underground storage tanks, USTs, into compliance with Federal law and finish the work begun seventeen years ago with enactment of the UST provisions of the Solid Waste Disposal Act. The legislation will emphasize leak prevention and compliance with existing statutes. In addition, this bipartisan bill will assist communities in coping with the contamination of groundwater and oil by methl tertiary butyl ether, MTBE.

In 1984, Congress enacted as Subtitle I of the Solid Waste Disposal Act a comprehensive program to address the problem of leaking underground storage tanks. With the goal of protecting the Nation's groundwater from leaking tanks, the 1984 law imposed minimum Federal requirements for leak detection and prevention standards for USTs. In 1988, owners and operators of existing underground storage tank systems were given a ten-year window to upgrade, replace, or close tanks that didn't meet minimum federal requirements for spill, overfill, and corrosion protection. As the deadline passed on December 22, 1988, many underground storage tanks failed to meet the federal standards.

To assess the situation, Senator SMITH of New Hampshire and I commissioned the U.S. General Accounting Office, GAO, to examine compliance of USTs with Federal requirements. GAO concluded in May 2001 that only 89 percent of tanks were meeting Federal equipment standards. In addition, it also discovered that only 71 percent were being operated and maintained properly. GAO cited infrequent tank inspections and limited funding among the contributing factors.

Communities across the Nation have borne the brunt of our failure to prevent tank releases. Gasoline and fuel additives, such as MTBE, have contaminated groundwater and rendered it undrinkable. The Village of Pascoag, RI is just one community that has suffered from MTBE contamination that can be traced to leaking underground storage tanks. For months, residents of Pascoag have been unable to use the water supply for drinking, bathing, or cooking. Hundreds of thousands of dollars are being spent to dilute the water with a neighboring communities' supply, to install water filtration systems, and to bring new wells on-line. Additional money will be spent to remediate the contamination and to take enforcement action against the owners of the leaking tanks. Unfortunately, this is not an isolated incident. A similar story can be told in countless communities from New Hampshire, to New York, to California.

To address these issues, the legislation that I introduce today, together with Senators CARPER, SMITH of New Hampshire, JEFFORDS, and INHOFE, requires the inspection of all tanks every two years and increases Federal emphasis on the training tank operators. It simply does not make sense to install modern, protective equipment if the people who operate them do so improperly. Enforcement of existing requirements, rather than creating new requirements, is an important element of our bill. In addition, the legislation emphasizes compliance of tanks owned by Federal, State, and local governments, and provides $200 million for cleanup of sites contaminated by MTBE. Finally, the legislation provides increased funding to carry out the program, which the GAO has identified as critical to the success of the UST program.

Since its inception in 1984, the UST program has been largely successful. More than one million outdated tanks have successfully been closed or removed, and countless cleanups have been undertaken. We have come a long way, but we must go further. Our legislation will build upon the successes of yesterday, so that we may enjoy the successes of tomorrow. I look forward to working with all of my colleagues to move this important bipartisan legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Underground Storage Tank Compliance Act of 2001".

SEC. 2. LEAKING UNDERGROUND STORAGE TANKS.

Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following:

"(f) TRUST FUND DISTRIBUTION.—

"(1) IN GENERAL.—

"(A) AMOUNT AND PERMITTED USES OF DISTRIBUTION.—The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9013(2)(A) for each fiscal year for use in paying the reasonable costs, incurred under a cooperative agreement with any State, of—

"(i) actions taken by the State under section 9003(h)(7)(A);

"(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to corrective action and compensation programs under subsection (c)(1);

"(iii) any corrective action and compensation program carried out under subsection (c)(1) for a release from an underground storage tank regulated under this subtitle to the extent that, as determined by the State in accordance with guidelines developed jointly by the Administrator and the State, the financial resources of the owner or operator of the underground storage tank (including resources provided by a program in accordance with subsection (c)(1)) are not adequate to pay the cost of a corrective action without significantly impairing the ability of the owner or operator to continue in business;

"(iv) enforcement by the State or a local government of—

"(I) the State program approved under this section; or

"(II) State or local requirements concerning underground storage tanks that are similar or identical to the requirements of this subtitle; or

"(v) State or local corrective actions carried out under regulations promulgated under section 9003(c)(4).

"(B) USE OF FUNDS FOR ENFORCEMENT.—In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

"(C) PROHIBITED USES.—Except as provided in subparagraph (A)(iii), under any similar requirement of a State program approved under this section, or in any similar State or local provision as determined by the Administrator, funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

"(2) ALLOCATION.—

"(A) PROCESS.—Subject to subparagraph (B), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using the allocation process developed by the Administrator under the cooperative agreement.

"(B) REVISIONS TO PROCESS.—The Administrator may revise the allocation process referred to in subparagraph (A) with respect to a State only after—

"(i) consulting with—

"(I) State agencies responsible for overseeing corrective action for releases from underground storage tanks;

"(II) owners; and

"(III) operators; and

"(ii) taking into consideration, at a minimum—

"(I) the total tax revenue contributed to the Trust Fund from all sources within the State;

"(II) the number of confirmed releases from leaking underground storage tanks in the State;

"(III) the number of petroleum storage tanks in the State;

"(IV) the percentage of the population of the State that uses groundwater for any beneficial purpose;

"(V) the performance of the State in implementing and enforcing the program;

"(VI) the financial needs of the State; and

"(VII) the ability of the State to use the funds referred to in subparagraph (A) in any year.

"(3) DISTRIBUTIONS TO STATE AGENCIES.—

"(A) IN GENERAL.—Distributions from the Trust Fund under this subsection shall be made directly to a State agency that—

"(i) enters into a cooperative agreement referred to in paragraph (2)(A); or

"(ii) is enforcing a State program approved under this section.

"(B) ADMINISTRATIVE EXPENSES.—A State agency that receives funds under this subsection shall limit the proportion of those funds that are used to pay administrative expenses to such percentage as the State may establish by law.

"(4) COST RECOVERY PROHIBITION.—Funds from the Trust Fund provided by States to owners or operators for programs under subsection (c)(1) relating to releases from underground storage tanks shall not be subject to cost recovery by the Administrator under section 9003(h)(6).".

SEC. 3. INSPECTION OF UNDERGROUND STORAGE TANKS.

Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b) (as redesignated by paragraph (1)) the following:

"(a) INSPECTION REQUIREMENTS.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2001, and at least once every 2 years thereafter, the Administrator or a State with a program approved under section 9004, as appropriate, shall require that all underground storage tanks regulated under this subtitle be inspected for compliance with regulations promulgated under section 9003(c).".

SEC. 4. OPERATOR TRAINING.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

"SEC. 9010. OPERATOR TRAINING.

"(a) GUIDELINES.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of the Underground Storage Tank Compliance Act of 2001, in cooperation with States, owners, and operators, the Administrator shall publish in the Federal Register, after public notice and opportunity for comment, guidelines that specify methods for training operators of underground storage tanks.

"(2) CONSIDERATIONS.—The guidelines described in paragraph (1) shall take into account—

"(A) State training programs in existence as of the date of publication of the guidelines;

"(B) training programs that are being employed by owners and operators as of the date of enactment of this paragraph;

"(C) the high turnover rate of operators;

"(D) the frequency of improvement in underground storage tank equipment technology;

"(E) the nature of the businesses in which the operators are engaged; and

"(F) such other factors as the Administrator determines to be necessary to carry out this section.

"(b) STATE PROGRAMS.—

"(1) IN GENERAL.—Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), each State shall develop and implement a strategy for the training of operators of underground storage tanks that is consistent with paragraph (2).

"(2) REQUIREMENTS.—A State strategy described in paragraph (1) shall—

"(A) be consistent with subsection (a);

"(B) be developed in cooperation with owners and operators; and

"(C) take into consideration training programs implemented by owners and operators as of the date of enactment of this subsection.

"(3) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops and implements a strategy described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the strategy.".

SEC. 5. REMEDIATION OF MTBE CONTAMINATION.

Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraphs (1), (2), and (12)"; and

(B) by striking ", and including the authorities of paragraphs (4), (6), and (8) of this subsection" and inserting "and the authority under section 9011 and paragraphs (4), (6), and (8),"; and

(2) by adding at the end the following:

"(12) REMEDIATION OF MTBE CONTAMINATION.—

"(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9013(2)(B) to carry out corrective actions with respect to a release of methyl tertiary butyl ether that presents a threat to human health or welfare or the environment.

"(B) APPLICABLE AUTHORITY.—The Administrator or a State shall carry out subparagraph (A)—

"(i) in accordance with paragraph (2); and

"(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).".

SEC. 6. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT.

(a) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 4) is amended by adding at the end the following:

"SEC. 9011. RELEASE PREVENTION AND COMPLIANCE.

"Funds made available under section 9013(2)(D) from the Trust Fund may be used to conduct inspections, issue orders, or bring actions under this subtitle—

"(1) by a State, in accordance with section 9003(h)(7), acting under—

"(A) a program approved under section 9004; or

"(B) any State requirement concerning the regulation of underground storage tanks that is similar or identical to a requirement under this subtitle, as determined by the Administrator; and

"(2) by the Administrator, under this subtitle (including under a State program approved under section 9004).".

(b) GOVERNMENT-OWNED TANKS.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

"(i) GOVERNMENT-OWNED TANKS.—

"(1) COMPLIANCE STRATEGY.—Not later than 2 years after the date of enactment of this subsection, each State shall submit to the Administrator a strategy to ensure compliance with regulations promulgated under subsection (c) of any underground storage tank that is—

"(A) regulated under this subtitle; and

"(B) owned or operated by the State government or any local government.

"(2) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops and implements a strategy described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the strategy.".

(c) INCENTIVES FOR PERFORMANCE.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end the following:

"(e) INCENTIVES FOR PERFORMANCE.—In determining the terms of, or whether to issue, a compliance order under subsection (a), or the amount of, or whether to impose, a civil penalty under subsection (d), the Administrator, or a State under a program approved under section 9004, shall take into consideration whether an owner or operator has—

"(1) a history of operating underground storage tanks of the owner or operator in accordance with—

"(A) this subtitle; or

"(B) a State program approved under section 9004; or

"(2) implemented a program, consistent with guidelines published under section 9010, that provides training to persons responsible for operating any underground storage tank of the owner or operator.".

(d) AUTHORITY TO PROHIBIT CERTAIN DELIVERIES.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) (as amended by subsection (c)) is amended by adding at the end the following:

"(f) AUTHORITY TO PROHIBIT CERTAIN DELIVERIES.—

"(1) IN GENERAL.—After the date on which the Administrator promulgates regulations under paragraph (2), the Administrator, or a State with a program approved under section 9004, may prohibit the delivery of regulated substances to underground storage tanks that are not in compliance with—

"(A) a requirement or standard promulgated by the Administrator under section 9003; or

"(B) a requirement or standard of a State program approved under section 9004.

"(2) AUTHORITY.—Not later than 2 years after the date of enactment of this subsection, the Administrator, after consultation with States, shall promulgate regulations that specify—

"(A) the circumstances under which the authority provided by paragraph (1) may be used;

"(B) the process by which the authority provided by paragraph (1) will be used consistently and fairly; and

"(C) such other factors as the Administrator, in cooperation with States, determines to be necessary to carry out this subsection.".

(e) PUBLIC RECORD.—Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended by adding at the end the following:

"(d) PUBLIC RECORD.—

"(1) IN GENERAL.—The Administrator shall require each State and Indian tribe that receives funds under this subtitle to maintain, update at least annually, and make available to the public, in such manner and form as the Administrator shall prescribe (after consultation with States and Indian tribes), a record of underground storage tanks regulated under this subtitle.

"(2) CONSIDERATIONS.—To the maximum extent practicable, the public record of a State or Indian tribe, respectively, shall include, for each year—

"(A) the number, sources, and causes of underground,storage tank releases in the State or on tribal land;

"(B) the record of compliance by underground storage tanks in the State or on tribal land with—

"(i) this subtitle; or

"(ii) an applicable State program approved under section 9004; and

"(C) data on the number of underground storage tank equipment failures in the State or on tribal land.

"(3) AVAILABILITY.—The Administrator shall make the public record of each State and Indian tribe under this section available to the public electronically.".

SEC. 7. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended by adding at the end the following:

"(c) REVIEW OF FEDERAL UNDERGROUND STORAGE TANKS.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in cooperation with each Federal agency that owns or operates 1 or more underground storage tanks or that manages land on which 1 or more underground storage tanks are located, shall review the status of compliance of those underground storage tanks with this subtitle.

"(d) COMPLIANCE STRATEGIES.—Not later than 2 years after the date of enactment of this subsection, each Federal agency described in subsection (c) shall submit to the Administrator and to each State in which an underground storage tank described in subsection (c) is located, a strategy to ensure the compliance of those underground storage tanks with this subtitle.".

SEC. 8. TANKS UNDER THE JURISDICTION OF INDIAN TRIBES.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by inserting after section 9011 (as added by section 6(a)) the following:

"SEC. 9012. TANKS UNDER THE JURISDICTION OF INDIAN TRIBES.

"The Administrator, in coordination with Indian tribes, shall—

"(1) not later than 1 year after the date of enactment of this section, develop and implement a strategy—

"(A) giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from leaking underground storage tanks located wholly within the boundaries of—

"(i) an Indian reservation; or

"(ii) any other area under the jurisdiction of an Indian tribe; and

"(B) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of—

"(i) an Indian reservation; or

"(ii) any other area under the jurisdiction of an Indian tribe; and

"(2) not later than 2 years after the date of enactment of this section and every 2 years thereafter, submit to Congress a report that summarizes the status of implementation and enforcement of the leaking underground storage tank program in areas located wholly within—

"(A) the boundaries of Indian reservations; and

"(B) any other areas under the jurisdiction of an Indian tribe.".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 8) is amended by adding at the end the following:

"SEC. 9013. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator—

"(1) to carry out subtitle I (except sections 9003(h), 9005(a), and 9011) $25,000,000 for each of fiscal years 2003 through 2007; and

"(2) from the Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

"(A) to carry out section 9003(h) (except section 9003(h)(12)) $100,000,000 for each of fiscal years 2003 through 2007;

"(B) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2003, to remain available until expended;

"(C) to carry out section 9005(a)—

"(i) $35,000,000 for each of fiscal years 2003 and 2004; and

"(ii) $20,000,000 for each of fiscal years 2005 through 2008; and

"(D) to carry out section 9011—

"(i) $50,000,000 for fiscal year 2003; and

"(ii) $30,000,000 for each of fiscal years 2004 through 2008.".

SEC. 10. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended—

(1) by striking "For the purposes of this subtitle—" and inserting "In this subtitle:";

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively;

(3) by inserting before paragraph (2) (as redesignated by paragraph (2)) the following:

"(1) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)."; and

(4) by inserting after paragraph (8) (as redesignated by paragraph (2)) the following:

"(9) TRUST FUND.—The term 'Trust Fund' means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENTS.—

(1) Section 9003(f) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)) is amended—

(A) in paragraph (1), by striking "9001(2)(B)" and inserting "9001(7)(B)"; and

(B) in paragraphs (2) and (3), by striking "9001(2)(A)" each place it appears and inserting "9001(7)(A)".

(2) Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking "Leaking Underground Storage Tank Trust Fund" each place it appears and inserting "Trust Fund".

(3) Section 9009 of the Solid Waste Disposal Act (42 U.S.C. 6991h) is amended—

(A) in subsection (a), by striking "9001(2)(B)" and inserting "9001(7)(B)"; and

(B) in subsection (d), by striking "section 9001(1) (A) and (B)" and inserting "subparagraphs (A) and (B) of section 9001(10)".

SEC. 11. TECHNICAL AMENDMENTS.

(a) Section 9001(4)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(4)(A)) (as amended by section 9(a)(2)) is amended by striking "sustances" and inserting "substances".

(b) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking "subsection (c) and (d) of this section" and inserting "subsections (c) and (d)".

(c) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking "in 9001(2) (A) or (B) or both" and inserting "in subparagraph (A) or (B) of section 9001(7)".

(d) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) (as amended by section 3) is amended—

(1) in subsection (b), by striking "study taking" and inserting "study, taking";

(2) in subsection (c)(1), by striking "relevent" and inserting "relevant"; and

(3) in subsection (c)(4), by striking "Evironmental" and inserting "Environmental".

By Mr. BINGAMAN (for himself, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. FEINGOLD, Mr. CORZINE, Mr. REED, Mrs. CLINTON, Mr. KERRY, and Mr. KOHL):

S. 1851. A bill to amend part C of title XVIII, of the Social Security Act to provide for continuous open enrollment and disenrollment in Medicare+Choice plans and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today with Senators CHAFEE, ROCKEFELLER, KENNEDY, FEINGOLD, CORZINE, REED, CLINTON, KERRY, and KOHL entitled the Medicare+Choice Consumer Protection Act is designed to ensure protections for Medicare+Choice beneficiaries that are witnessing increased costs, decreased benefits, and fewer options to obtain affordable supplemental coverage for Medicare.

This legislation is a companion bill to H.R. 3267, legislation introduced by Representative PETE STARK.

The Medicare+Choice program is an important option for many seniors and the disabled in this country, including 15 percent of seniors in the State of New Mexico. This option must remain a viable one in the Medicare program, but due to the recent rounds of plan withdrawals, benefit reductions, and cost increases that plans have undertaken within the program, there has been a growing level of insecurity among Medicare beneficiaries with respect to their health coverage.

Last year, I sponsored legislation, S. 2905, the Medicare+Choice Program Improvement Act of 2000, to increase payments, including the minimum payment amount to Medicare+Choice plans. However, despite payment increases approved by the Congress last year, including some substantial increases in certain more rural areas of the country, we have witnessed over 530,000 people recently lose their Medicare+Choice coverage as a result of HMO pull-outs from the Medicare program, including some in areas that received these much higher payments.

Many others have also experienced increases in their costs through the HMO or benefit reductions, including the elimination or substantial reduction of prescription drug coverage.

Therefore, while we must continue to explore mechanisms to ensure that the Medicare+Choice program remains a viable one, it is clear that even if their push for higher payments is met that the plans may still choose to pull-out of areas, decrease benefits, or increase costs to seniors. Despite ads being run by some Medicare+Choice plans that they will provide "health care for life," Medicare beneficiaries are seeing constant turmoil and change on a yearly basis. Some Medicare Beneficiaries have been dropped to have seen their benefits reduced or costs increased by HMO's on yearly basis since the creation of the Medicare+Choice program in 1997.

In New Mexico, the result of last year's payment increases have resulted in a mixed outcome. Presbyterian's Medicare+Choice plan has reported that they are on track to achieve a profit margin of 3 to 4 percent on its M+C product in 2001 compared to a loss of around 15 percent in the prior year. In contrast, St. Joseph's M+C plan received the substantial increase in its Medicare payment, and yet, eliminated prescription drug coverage to seniors through its HMO without notice to some seniors this past March and still reports the system is up for sale and may completely change this coming year.

Beneficiaries are often left confused and uncertain. As 96 year-old Beulah Torrez of Espanola, New Mexico, said after the last round of Medicare+Choice plan changes, "I just finally gave up. I couldn't afford anything. I couldn't afford the HMOs."

As we continue to seek ways to improve Medicare+Choice coverage, we should take immediate action to extend important consumer protections to Medicare beneficiaries who find themselves in a plan that no longer meets their needs. To achieve these goals, the bill we are introducing today would.

(1) Eliminate the Medicare+Choice lock-in scheduled to go into effect in January 2002.

(2) Extend the existing Medigap protections that apply to people whose Medicare+Choice plan withdraws from the program to anyone whose Medicare+Choice plan changes benefits or whose doctor or hospital leaves the plan.

(3) Prevent Medicare+Choice plans from charging higher cost-sharing for a service than Medicare charges in the fee-for-service program.

Eliminating the lock-in would ensure that seniors and people with disabilities continue to be allowed to leave a health plan that is not meeting their needs. When St. Joseph's health plan eliminated prescription drug coverage from its Medicare plan earlier this year, Medicare beneficiaries were left without drug coverage but were at least able to change their health plan at the end of the month. This flexibility will end in January 2002 unless this legislation is passed. It is important that Medicare beneficiaries, often our nation's most vulnerable citizens, know that if they test an HMO and do not like its system, arrangements and rules that they will be able to leave and choose a Medicare option that better suits their specific needs. Both advocates and the managed care industry support this provision.

In addition, if a Medicare+Choice plan withdraws from a community or Medicare entirely, you can under current law move into a select category of Medigap plans, (A, B, C and F, without any individual health underwriting. this provision ensures that Medicare beneficiaries have affordable supplemental Medicare options available to them when, through no fault of their own, their Medicare+Choice plan withdrawals.

However, these protections for Medicare beneficiaries currently do not apply with Medicare+Choice plans that make significant changes, such as eliminating benefits, increasing cost sharing, or changing available providers, within the HMO but stop short of completely withdrawing from the Medicare program. In the St. Joseph's case I mentioned above, seniors were unable to receive important Medigap or supplemental Medicare coverage since the plan did not completely withdraw from the service area.

For Medicare beneficiaries whose needs no longer are met by the HMO due to such changes, a Medigap supplemental policy and a return to Medicare fee-for-service may often make better sense. Therefore, it is critical to extend the current Medigap protections for when a plan terminates Medicare participation to beneficiaries in plans that have made important changes to the benefits, cost sharing, or provider options.

And finally, the third provision of the bill would prevent Medicare+Choice plans from charging higher cost-sharing for individual services than occurs in the Medicare fee-for-service program. According to testimony before the House Ways and Means Health Subcommittee by Thomas Scully, Administrator for the Centers for Medicare and Medicaid Services, CMS, on December 4, 2001,

> . . . this year we have found that some plans proposed charging beneficiaries what we believed were unreasonably high copays for particular services . . . Thus, we have a new challenge balancing the need for plans to make decisions about their benefit packages and cost sharing amounts with the important requirement that plan designs do not discourage enrollment. The concern is always that high cost sharing could discourage beneficiaries, who have greater health care needs, from enrolling in or remaining a member of these particular plans.

In the case of UnitedHealth Group's Medicare Complete option in Wisconsin, that plan will begin charging a deductible of $295 a day for a hospital stay up to a cap of $4,800 compared to a similar stay under fee-for-service Medicare which has a deductible of $812. While CMS did require the plan to reduce their proposed deductible from $350 to $295 per day, overall out-of-pocket costs can far exceed those that would occur in fee-for-service for many beneficiaries.

As Stephanie Sue Stein, Director of the Milwaukee County Department on Aging, said at the same House Ways and Means Health Subcommittee hearing on December 4, 2001,

> Beneficiaries will still be expected to pay up to $4,800 out-of-pocket in addition to the $55 monthly premium for United's coverage and the $54 monthly premium for Medicare Part B. The excessive cost-sharing proposed by United raises questions about the value of this so-called insurance. It is now clear that many of the 16,000 seniors who have previously relied on UnitedHealthcare to provide access to affordable health care can no longer do so. It looks to us as though the benefit changes for 2002 are designed to discourage enrollment to beneficiaries who have health needs.

The question arises why we would allow Medicare+Choice plans to effectively diminish the value of Medicare benefits in this manner. While the Secretary has the authority under current law to prohibit or reduce some of the new cost-sharing arrangements that plans are preparing to impose, the change proposed by this legislation makes it clear that Medicare+Choice plans cannot charge patients more for a service than the patient would face under the Medicare fee-for-service plan.

In fact, the ability of Medicare+Choice plans to charge higher cost-sharing for benefits or services than in fee-for-service results in further risk avoidance, or what is referred to as "cherry picking," as plans seek to avoid or deny services to the chronically or severely ill. This can have an adverse consequence for the health of people with disabilities, limit their choices, and result in higher costs for the Medicare program. For all of these reasons, we should enact this provision in short order.

While we are undertaking efforts to ensure that Medicare-Choice remains a viable option for Medicare beneficiaries, we must also ensure additional protections for beneficiaries.

As Ms. Stein said in her testimony,

> These plans now call themselves new things, complete and secure and healthy, but they are not complete or secure or healthy. They are radically different. These Medicare+Choice policies are not the same ones people bought when they took advantage of what they perceived to be the value-added benefits sold to them as Medicare+Choice. In fact, they are left with Medicare minus protection, Medicare minus the ability to buy a Medigap policy, Medicare minus the ability to choose different insurance.

In fact, according to a report by the Commonwealth Fund in April 2001, "31 percent of Medicare+Choice enrollees are in contracts where the basic plan has a copayment requirement for hospital admissions, compared with just 13 percent in 2000. Outpatient hospital copayments are being required of 45 percent of Medicare+Choice enrollees in 2001, compared with only 29 percent in 2000." This will only increase further in 2002.

Therefore, to improve fundamental financial protections and health care options for our nation's Medicare seniors and disabled enrollees, I urge the swift passage of this legislation.

The following organizations have expressed their support for this legislation: AFSCME Retiree Program, Alliance for Retired Americans, American Association of Homes and Service for the Aging, American Association for International Aging, American Federation of Teachers Program on Retirement and Retirees, American Society of Consultant Pharmacists, Association for Gerontology and Human Development in Historically Black Colleges and Universities, B'nai B'rith Center for Senior Housing and Services, California Health Advocates, Center for Medicare Advocacy, Congress of California Seniors, Eldercare America, Families USA, International Union—UAW, National Academy of Elder Law Attorneys, National Association of Area Agencies on Aging, National Association of Professional Geriatric Care Managers, National Association of Retired and Senior Volunteer Program Directors, National Association of Retired Federal Employees, National Association of Senior Companion Program Directors, National Association of State Units on Aging, National Committee to Preserve Social Security and Medicare, National Council on the

Aging, National Renal Administrators Association, National Senior Citizens Law Center, and OWL—Voice for Midlife and Older Women.

I request unanimous consent that a fact sheet and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare+Choice Consumer Protection Act of 2001".

SEC. 2. CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT.

(a) IN GENERAL.—Section 1851(e)(2) of the Social Security Act (42 U.S.C. 1395w–21(e)(2)) is amended to read as follows:

"(2) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT.—Subject to paragraph (5), a Medicare+Choice eligible individual may change the election under subsection (a)(1) at any time.".

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE+CHOICE.—Section 1851(e) of such Act (42 U.S.C. 1395w–21(e)) is amended—

(A) in paragraph (4)—

(i) by striking "Effective as of January 1, 2002, an" and inserting "An";

(ii) by striking "other than during an annual, coordinated election period";

(iii) by inserting "in a special election period for such purpose" after "make a new election under this section"; and

(iv) by striking the second sentence; and

(B) in paragraphs (5)(B) and (6)(A), by striking "the first sentence of".

(2) PERMITTING ENROLLMENT IN MEDIGAP WHEN M+C PLANS REDUCE BENEFITS OR WHEN PROVIDER LEAVES A M+C PLAN.—

(A) IN GENERAL.—Clause (ii) of section 1882(s)(3)(B) of such Act (42 U.S.C. 1395ss(s)(3)(B)) is amended—

(i) by inserting "(I)" after "(ii)";

(ii) by striking "under the first sentence of" each place it appears and inserting "during a special election period provided for under";

(iii) by inserting "the circumstances described in subclause (II) are present or" before "there are circumstances"; and

(iv) by adding at the end the following new subclause:

"(II) The circumstances described in this subclause are, with respect to an individual enrolled in a Medicare+Choice plan, a reduction in benefits (including an increase in cost-sharing) offered under the Medicare+Choice plan from the previous year or a provider of services or physician who serves the individual no longer participating in the plan (other than because of good cause relating to quality of care under the plan).".

(B) CONFORMING AMENDMENT.—Clause (iii) of such section is amended—

(i) by inserting "the circumstances described in clause (ii)(II) are met or" after "policy described in subsection (t), and"; and

(ii) by striking "under the first sentence of" and inserting "during a special election period provided for under".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002, and shall apply to reductions in benefits and changes in provider participation occurring on or after such date.

SEC. 3. LIMITATION ON MEDICARE+CHOICE COST-SHARING.

(a) IN GENERAL.—Section 1852(a) (42 U.S.C. 1395w–22(a)) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST-SHARING.—

"(A) IN GENERAL.—Subject to subparagraph (B), in no case shall the cost-sharing with respect to an item or service under a Medicare+Choice plan exceed the cost-sharing otherwise applicable under parts A and B to an individual who is not enrolled in a Medicare+Choice plan under this part.

"(B) PERMITTING FLAT COPAYMENTS.—Subparagraph (A) shall not be construed as preventing the application of flat dollar copayment amounts (in place of a percentage coinsurance), such as a fixed copayment for a doctor's visit, so long as such amounts are reasonable and appropriate and do not adversely affect access to items and services (as determined by the Secretary).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as of January 1, 2003.

MEDICARE+CHOICE CONSUMER PROTECTION ACT OF 2001—FACT SHEET

Senators Jeff Bingaman (D–NM), Lincoln Chafee (R–RI), John D. Rockefeller, IV (D–WV), Edward M. Kennedy (D–MA), Russ Feingold (D–WI), Jon Corzine (D–NJ), Jack Reed (D–RI), Hillary Rodham Clinton (D–NY), John Kerry (D–MA) and Herb Kohl (D–WI) are preparing to introduce the "Medicare+Choice Consumer Protection Act of 2001." This legislation is a companion bill to H.R. 3267, which was introduced by Representative Pete Stark (D–CA).

This legislation would improve consumer protections to Medicare beneficiaries seeking to enroll in Medicare+Choice plans by:

Eliminating the Medicare+Choice lock-in schedule to go into effect in January 2002;

Extending the existing Medigap protections that apply to people whose Medicare+Choice plan withdraws from the program to anyone whose Medicare+Choice changes benefits or whose doctor or hospital leaves the plan; and

Preventing Medicare+Choice plans from charging higher cost-sharing for a service than Medicare charges in the fee-for-service program.

NEED FOR LEGISLATION

Medicare+Choice Forthcoming Lock-In: Currently, Medicare beneficiaries that are dissatisfied with their health plan are allowed to enroll or disenroll from their health plans at any time. As of January 2002, Medicare beneficiaries electing the Medicare+Choice option will be required to "lock in" with that plan for much longer periods. In fact, for 2002, Medicare+Choice enrollees will only be allowed to switch plans once during the first six months after enrollment. In 2003, the beneficiaries will only be able to switch once during the first three months after enrollment.

The legislation eliminates the upcoming lock-in to ensure that Medicare beneficiaries continue to be allowed to leave a health plan that is not meeting their needs. Medicare beneficiaries, often our nation's most vulnerable citizens, need to know that if they test an HMO and do not like the system, arrangements, and rules that they will be able to leave to choose a Medicare option that better suits their specific needs. Both advocates and the managed care industry support this provision.

Medigap Protections When Medicare+Choice Plans Change Benefits, Cost Sharing, or Provider Options: In addition, if a Medicare+Choice plan withdrawals from a community or Medicare entirely, beneficiaries can under current law move into a select category of Medigap plans (A, B, C and F) without any individual health underwriting. This provision ensures that Medicare beneficiaries have affordable supplemental Medicare options available to them when, through no fault of their own, their Medicare+Choice plan withdrawals.

However, these protections for Medicare beneficiaries currently do not apply with Medicare+Choice plans that make significant changes, such as eliminating benefits, increasing cost sharing, or changing available providers, within the HMO but stop short of completely withdrawing from the Medicare program. For example, some plans now cover only generic prescriptions, in effect eliminating drug coverage for beneficiaries whose prescriptions have no generic equivalent. For those Medicare beneficiaries whose needs are no longer met by the Medicare+Choice plan due to these changes, the legislation extends the current Medigap protections for beneficiaries when a plan terminates Medicare participation to those in plans that have made important changes to their benefits, cost sharing, or provider options.

Preventing Higher Cost Sharing in Medicare+Choice Than in Fee-For-Service: Under current law, cost sharing per enrollee (including premiums) for covered services cannot be more than the actuarial value of the deductibles, coinsurance, and copayments under traditional Medicare fee-for-service. However, Medicare+Choice plans are increasingly charging higher cost-sharing for individual services within the health plan than is allowed in fee-for-service. Higher cost-sharing, for example, is being required by some Medicare+Choice plans for dialysis, hospitalization, and other services than in traditional fee-for-service Medicare.

In addition to creating an adverse consequence for the health of Medicare beneficiaries with disabilities who have certain illnesses, charging beneficiaries higher costs for certain services results in what is referred to as "cherry picking," as some plans seek to avoid or deny services to the chronically or severely ill. Again, this can have adverse health effects for certain beneficiaries, limit their choices, and resulting in higher costs for the Medicare payment through "risk selection." Consequently, this legislation would close this loophole and prohibit Medicare+Choice plans from imposing higher cost sharing for certain services than is allowed in Medicare fee-for-service.

SUPPORTING ORGANIZATIONS

AFSCME Retiree Program.

Alliance for Retired Americans.

American Association of Homes and Service for the Aging.

American Association for International Aging.

American Federation of Teachers Program on Retirement and Retirees.

American Society of Consultant Pharmacists.

Association for Gerontology and Human Development in Historically Black Colleges and Universities.

B'nai B'rith Center for Senior Housing and Services.

California Health Advocates.

Center for Medicare Advocacy.

Congress of California Seniors.

Eldercare America.

Families USA.

International Union, UAW.

National Academy of Elder Law Attorneys.

National Association of Area Agencies on Aging.

National Association of Professional Geriatric Care Managers.

National Association of Retired and Senior Volunteer Program Directors.

National Association of Retired Federal Employees.

National Association of Senior Companion Program Directors.

National Association of State Units on Aging.

National Committee to Preserve Social Security and Medicare.

National Council on the Aging.

National Renal Administrators Association.

National Senior Citizens Law Center.

OWL, Voice for Midlife and Older Women.

By Mr. THOMAS:

S. 1852. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1852

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION HYDROELECTRIC PROJECT.

(a) In General.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission Swift Creek Power Company, Inc. hydroelectric license, project number 1651, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) Effective Date.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission before the date of the enactment of this Act under section 13 of the Federal Power Act (16 U.S.C. 806).

By Mr. JOHNSON:

S. 1854. A bill to authorize the President to present congressional gold medals to the Native American Code Talkers in recognition of their contributions to the Nation during World War I and World War II; to the Committee on Banking, Housing, and Urban Affairs.

Mr. JOHNSON. Mr. President, I rise today to introduce legislation that will recognize all Native American Code Talkers who served as Code Talkers during World Wars I and II. Earlier this year, the Navajo Code Talkers were recognized by Congress and the President, and were presented with their Congressional Gold Medals. I was proud be a cosponsor of legislation introduced by Senator Jeff Bingaman granting the medals and participating in the ceremony recognizing their great accomplishments.

Today, I am introducing similar legislation recognizing the over 17 other tribes who served our Nation and democracy across the world. These brave men utilized their language to assist the allied forces, and subsequently saved the lives of thousands of men and women. Years ago, the United States government policy towards Native people attempted to force the assimilation of millions of Native Americans and Alaskan Natives.

The United States government attempted to strip the culture and language from the native peoples of this great land. We have learned the lessons of the past, and I stand here today honoring these courageous soldiers for preserving part of the very core of their culture. Their language.

It is tragic that we have waited so many decades for the recognition of these brave soldiers.

We cannot hope to make up for some of the wrongs that befell the Native peoples in the United States, or across North and South America. But, we can continue to ensure that honor is continually bestowed upon those men and women who fought for and defended our Nation, and the preservation of democracy on foreign lands.

Native Americans remain the most decorated ethnic group in our military forces. I am honored that we are one step closer to honoring those who deserve recognition that is long overdue. This truly marks a proud moment in our Nation's history.

I urge my colleagues to join me in honoring those Native Americans who served as code talkers in World Wars I and II. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL MEDALS.

(a) Findings.—Congress finds that—

(1) not fewer than 17 Indian tribes have been identified as having served as code talkers during World War I and World War II;

(2) during World War I, 15 members of the Oklahoma Choctaw served as code talkers in the 36th Infantry Division;

(3) during World War II, many Native Americans served as code talkers, including—

(A) members of the Lakota-Dakota and Sioux Tribes, many of whom served in the 3d Battalion and the 302d Reconnaissance Team, First Cavalry Division;

(B) 17 members of the Commanche Tribe;

(C) members of the Hopi Tribe, many of whom served in the 223d Battalion;

(D) 27 members of the Sac and Fox Tribe of Iowa, 19 of whom served in the 18th Iowa Infantry;

(E) members of the Choctaw Tribe, many of whom served in Company K, 180th Infantry Regiment, 45th Division;

(F) 5 members of the Assiniboine Tribe;

(G) members of the Seminole Tribe of Florida, most of whom served in the 195th Field Artillery Battalion; and

(H) members of the Muscogee Creek Tribe, most of whom served in the Aleutian Islands campaign;

(4) in December 2000, Congress recognized the Navajo Code Talkers by authorizing the presentation of gold and silver medals to the Navajo Code Talkers and posthumously to their surviving family members;

(5) all Native American Code Talkers have performed an important service to the preservation of democracy, and deserve proper recognition, which is long overdue;

(6) because the code was so successful, the Native American Code Talkers are credited with saving the lives of countless American and Allied Forces during World War II; and

(7) Native Americans continue to be one of the most represented and decorated ethnic groups in the United States Armed Forces.

(b) Congressional Medals Authorized.—

(1) Presentation authorized.—To express recognition by the United States and its citizens of the achievements of the Native American Code Talkers, the President is authorized to award to each of the Native American Code Talkers, or a surviving family member, on behalf of Congress, a gold medal of appropriate design.

(2) Design and striking.—For purposes of the awards authorized by paragraph (1), the Secretary of the Treasury (in this section referred to as the "Secretary") shall strike gold medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) Duplicate Medals.—The Secretary may strike and sell duplicates in bronze of the medals struck pursuant to this section, under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the medals.

(d) Status as National Medals.—The medals struck pursuant to this section are national medals for purposes of chapter 51, of title 31, United States Code.

(e) Funding.—

(1) Authority to use fund amounts.—There is authorized to be charged against the United States Mint Public Enterprise Fund, such sums as may be necessary to pay for the costs of the medals authorized by this section.

(2) Proceeds of sale.—Amounts received from the sale of duplicate medals under this section shall be deposited in the United States Mint Public Enterprise Fund.

By Mr. KERRY (for himself, Mr. Burns, Mr. Corzine, and Mr. Baucus):

S. 1856. A bill to amend the Internal Revenue Code of 1986 to promote employer and employee participation in telework arrangements, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, along with my colleagues Senator Burns, Senator Corzine, and Senator Baucus, I wish to introduce legislation of critical importance to our Nation's workforce and economy.

The rapid spread of new telecommunications technologies has generated opportunities for firms across the country to improve upon the traditional work environment. Today, millions of American workers participate in "telework" arrangements, otherwise known as telecommuting, which allow them to work outside of their normal work location. Telework arrangements carry several advantages: the ability to spend more time with the children, less time wasted in traffic, enhanced productivity, and the environmental benefits of reduced carbon dioxide emissions. While teleworking grew substantially during the 1990s, the number of teleworkers has reached a plateau, with little increase in the last year. The social, economic, and environmental gains of teleworking are indisputable. Our legislation combines tax incentives and an employer awareness campaign to stimulate further growth in telework arrangements.

The term "telework" means to perform normal and regular work functions at locations other than the traditional workplace of the employer, thereby eliminating or substantially reducing the physical commute to and from the workplace. Given the opportunity, workers choose overwhelmingly to participate in telework arrangements. Employees who telework report an enhanced quality of life. 71 percent of teleworkers report being more satisfied with their job than before they were permitted to telework. Working from home allows parents more time with their children and reduces child care expenses. Teleworkers also stay in their communities, providing enhanced security and presence.

If teleworking is implemented broadly in a community, the need for construction of additional automobile infrastructure, which is often driven by peak period commuting demand, may be reduced. Even workers who do not telework benefit since traffic congestion is lessened for them as well.

There are also economic benefits. Data indicate that teleworking enhances productivity, both because teleworkers report being more productive per unit time, and because the teleworker has available the previously nonproductive commute time, an average of 62 minutes per day spent on an average 44 mile round-trip commute. Because teleworkers are able to mix work and personal needs, the number of occasions when they need to be absent from work altogether diminishes. One study suggests that the productivity improvement of home-based teleworkers averages 15 percent. Firms also benefit from eliminating unnecessary office space and reducing associated overhead costs. For example, one large national employer reports that in 2000, their telework program resulted in $100 million in increased productivity, $18 million in reduced turnover, and $25 million in reduced real estate costs. Because of the enhanced quality of life and personal freedom that teleworking fosters, firms are better able to retain valued employees.

Telework arrangements are critical to keeping our economy and workforce on the leading edge of technological developments. Teleworking contributes to the residential deployment of broadband technology, which has otherwise stagnated. Teleworkers have a disproportionate need for high-speed Internet access. Encouraging telework is a means of inducing greater demand for broadband technology.

Allowing employees to work from home saves energy and reduces carbon dioxide emissions associated with commuting. It also reduces vehicular contributions to local and regional tropospheric pollution both directly and, by reducing congestion in general, indirectly. To the extent telework reduces demands for additional infrastructure, it also leads to less material use in construction and less land-use impact.

The Teleworking Advancement Act creates two tax-based incentives to promote the continued spread of employer-sponsored telework arrangements and a pilot program to raise awareness about telecommuting among small business employers.

The employer telework tax credit would allow employers to claim a credit of up to $500 for each employee who participates in an employer-sponsored telework arrangement during the taxable year. For employees who telework on a partial basis, the credit would be prorated. Employees of small businesses, those with 100 or fewer employees, and disabled employees, as defined by the Americans with Disabilities Act, would be eligible for a maximum credit of $1,000. An employer-sponsored telework arrangement is defined as an arrangement established by an employer that enables employees of the employer to telework for a minimum of 25 days per year. The arrangement must be supported by a written agreement between the employer and each teleworking employee that describes the terms of the arrangement.

The telework equipment tax credit would allow individuals or businesses to claim a credit equal to 10 percent of qualified telework expenses paid, pursuant to an employer-sponsored telework arrangement. Either the employer or the employee, depending on who incurred the expense, would be eligible for the credit. The maximum credit would be $500. For employees of small businesses (those with 100 or fewer employees) and disabled employees, as defined by the Americans with Disabilities Act, the credit would be 20 percent of eligible expenses, with a maximum credit of $1,000. Qualified telework expenses includes expenses paid or incurred for computers, software, modems, telecommunications equipment, and access to Internet or broadband technologies, including applicable taxes and other expenses for the delivery, installation, or maintenance of such equipment.

Finally, the legislation authorizes $5 million for the Administrator of the Small Business Administration to conduct a pilot program to raise awareness about telecommuting among small business employers and to encourage employers to offer telecommuting options to employees. Activities would include producing educational materials, conducting outreach, and acquiring telecommuting technologies and equipment to be used for demonstration purposes. Special efforts would be made to conduct outreach to businesses owned by or employing individuals with disabilities.

The Teleworking Advancement Act will induce more employers to offer teleworking opportunities to their employees, creating broad-based benefits for the American workforce and helping ensure that our economy remains at the forefront of 21st century workplace practices. Through a combination of tax incentives and an employer awareness campaign, our legislation will stimulate the spread of flexible, innovative, and productivity-enhancing labor arrangements. I urge my colleagues to support passage of the legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Teleworking Advancement Act".

SEC. 2. CREDIT FOR TELEWORKING.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by inserting after section 30A the following new section:

"SEC. 30B. TELEWORK CREDIT.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to the sum of—

"(1) the employer telework tax credit, plus

"(2) the telework equipment tax credit.

"(b) EMPLOYER TELEWORK TAX CREDIT; TELEWORK EQUIPMENT TAX CREDIT.—For purposes of this section—

"(1) EMPLOYER TELEWORK TAX CREDIT.—Except as provided for in subsection (c)(1), the employer telework tax credit for any taxable year is equal to $500 for each employee who participates in an employer sponsored telework arrangement during the taxable year.

"(2) TELEWORK EQUIPMENT TAX CREDIT.—Except as provided for in subsection (c)(2), the telework equipment tax credit for any taxable year is equal to 10 percent of qualified telework expenses paid or incurred during the taxable year by either the employer on behalf of the employee, or directly by the employee, pursuant to an employer sponsored telework arrangement.

"(c) SPECIAL RULE FOR DISABLED EMPLOYEES AND EMPLOYEES OF SMALL BUSINESSES.—For purposes of this section:

"(1) For each employee who is covered under the Americans with Disabilities Act of 1990 (42 U.S.C. 1201), or for each employee of a small business, the employer telework tax credit for any taxable year is equal to $1,000 for each employee who participates in an employer sponsored telework arrangement during the taxable year.

"(2) For each employee who is covered under the Americans with Disabilities Act of 1990 (42 U.S.C. 1201), or for each employee of a small businesses, the telework equipment tax credit for any taxable year is equal to 20 percent of qualified telework expenses paid or incurred during the taxable year by either the employer on behalf of the employee, or directly by the employee, pursuant to an employer sponsored telework arrangement.

"(d) Credit Adjustments and Limitations.—

"(1) Credit adjustments.—In computing the credit allowed under subsection (b)(1) or (c)(1) for any taxable year, the following adjustments shall apply:

"(A) In the case of an employee who participates in an employer sponsored telework arrangement for less than the full taxable year, the credit amount identified in subsection (b)(1) or (c)(1), whichever is applicable, shall be multiplied by a fraction, the numerator of which is the total number of months in the taxable year that the employee participates in an employer sponsored telework arrangement and the denominator of which is 12. For purposes of the preceding sentence, an employee is considered to be participating in an employer sponsored telework arrangement for a month if the employee teleworks for at least one full day of such month.

"(B) In the case of an employee who participates in an employer sponsored telework arrangement but does not telework every day of the taxable year that the employee is required by his or her employer to work, the credit amount identified in subsection (b)(1) or (c)(1), whichever is applicable, shall be multiplied by a fraction, the numerator of which is the total number of full days in the taxable year that the employee teleworks and the denominator of which is the total number of days in the taxable year that the employee is required by his or her employer to work.

"(2) Telework equipment credit limitations.—

"(A) In computing the credit allowed under subsection (b)(2) for any taxable year, the following limitations shall apply:

"(i) The maximum credit claimed by any employer with respect to qualified telework expenses paid or incurred on behalf of an employee shall not exceed $500 for each employee who participates in an employer sponsored telework arrangement.

"(ii) The maximum credit claimed by any employee with respect to qualified telework expenses paid or incurred directly by the employee pursuant to an employer sponsored telework arrangement shall not exceed $500.

"(B) In computing the credit allowed under subsection (c)(2) for any taxable year with respect to employees who are covered under the Americans with Disabilities Act of 1990 (42 U.S.C. 1201), or for each employee of a small business, the following limitations shall apply:

"(i) The maximum credit claimed by any employer with respect to qualified telework expenses paid or incurred on behalf of an employee shall not exceed $1,000 for each employee who participates in an employer sponsored telework arrangement.

"(ii) The maximum credit claimed by any employee with respect to qualified telework expenses paid or incurred directly by the employee pursuant to an employer sponsored telework arrangement shall not exceed $1,000.

"(e) Definitions.—For purposes of this section—

"(1) Employer sponsored telework arrangement.—The term 'employer sponsored telework arrangement' means an arrangement established by an employer that enables employees of the employer to telework for a minimum of 25 full days per taxable year. Such an arrangement shall be supported by a written agreement between the employer and each teleworking employee that describes the terms of the employer sponsored telework arrangement.

"(2) Qualified telework expenses.—

"(A) In general.—The term 'qualified telework expenses' shall include expenses paid or incurred for computers, computer-related hardware and software, modems, data processing equipment, telecommunications equipment, and access to Internet or broadband technologies, including applicable taxes and other expenses for the delivery, installation, or maintenance of such equipment.

"(B) Only certain expenses taken into account.—Expenses shall be taken into account under subparagraph (A) only to the extent they are authorized by the employer pursuant to an employer sponsored telework arrangement and are necessary to enable the employee to telework.

"(3) Small business.—The term 'small business' means a business with an average of 100 or fewer employees during the taxable year.

"(4) Telework.—An employee shall be treated as engaged in telework if—

"(A) the employee's normal and regular work functions are performed at a fixed location provided by the employer,

"(B)(i) the employee, under an employer sponsored telework arrangement, performs such functions at the employee's residence or at a location specifically designed to allow employees to perform such functions closer to their residence, and

"(ii) the performance of such functions at such residence or location eliminates or substantially reduces the physical commute of the employee to the fixed location described in subparagraph (A), and

"(C) the employee transmits by electronic or other communications medium the employee's work product from such residence or location to the fixed location where such functions would otherwise have been performed.

"(f) Special Rules.—

"(1) Limitation based on amount of tax.—

"(A) Liability for tax.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(i) the regular tax for the taxable year, reduced by the sum of the credits allowable under subpart A and the preceding sections of this subpart, over

"(ii) the tentative minimum tax for the taxable year.

"(B) Carryforward of unused credit.—If the amount of the credit allowable under subsection (a) for any taxable year exceeds the limitation under paragraph (1)(A) for the taxable year, the excess shall be carried to the succeeding taxable year and added to the amount allowable as a credit under subsection (a) for such succeeding taxable year.

"(2) Basis reduction.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to paragraph (1)).

"(3) Recapture.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(4) Property used outside United States, etc., not qualified.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(5) Election not to take credits.—No credits shall be allowed under subsection (a) for any expense if the taxpayer elects to not have this section apply with respect to such expense.

"(6) Denial of double benefit.—No deduction or credit (other than under this section) shall be allowed under this chapter with respect to any expense which is taken into account in determining the credit under this section.

"(7) Documentation.—Employers and employees are responsible for maintaining adequate documentation to support any credits claimed under this section."

(b) Conforming Amendment.—Subsection (a) of section 1016 of the Internal Revenue Code of 1986 (relating to general rule for adjustments to basis) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following:

"(29) in the case of property with respect to which a credit was allowed under section 30B, to the extent provided in section 30B(f)(2)."

(c) Clerical Amendment.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Telework credit."

(d) Regulatory Matters.—

(1) Prohibition.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under sections 30B of the Internal Revenue Code of 1986 (as added by this Act) or otherwise subverting the purpose of this Act.

(2) Treasury regulatory authority.—It is the intent of Congress in providing the telework tax credit under section 30B of the Internal Revenue Code of 1986 (as added by this Act) to promote broad participation in employer sponsored telework arrangements by providing incentives to both employers and employees. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 30B of such Code, including regulations describing the information, records, and data that employers and employees are required to provide the Secretary to substantiate compliance with the requirements of this section and section 30B of such Code. Until the Secretary prescribes such regulations, employers and employees may base such determinations on any reasonable method that is consistent with the purposes of section 30B of such Code.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 3. SMALL BUSINESS TELECOMMUTING PILOT PROGRAM.

(a) In General.—In accordance with this section, the Administrator shall conduct, in not more than 5 of the Small Business Administration's regions, a pilot program to raise awareness about telecommuting among small business employers and to encourage such employers to offer telecommuting options to employees.

(b) Special Outreach to Individuals With Disabilities.—In carrying out subsection (a), the Administrator shall make special efforts to do outreach to—

(1) businesses owned by or employing individuals with disabilities, and disabled American veterans in particular;

(2) Federal, State, and local agencies having knowledge and expertise in assisting individuals with disabilities or disabled American veterans; and

(3) any group or organization, the primary purpose of which is to aid individuals with disabilities or disabled American veterans.

(c) Permissible Activities.—In carrying out the pilot program, the Administrator may only—

(1) produce educational materials and conduct presentations designed to raise awareness in the small business community of the benefits and the ease of telecommuting;

(2) conduct outreach—

(A) to small business concerns that are considering offering telecommuting options; and

(B) as provided in subsection (b); and

(3) acquire telecommuting technologies and equipment to be used for demonstration purposes.

(d) Selection of Regions.—In determining which regions will participate in the pilot program, the Administrator shall give priority consideration to regions in which Federal agencies and private-sector employers have demonstrated a strong regional commitment to telecommuting.

(e) Report to Congress.—Not later than 2 years after the first date on which funds are appropriated to carry out this section, the Administrator shall transmit to the Committee on Small Business of the House of Representatives and the Committee on Small Business of the Senate a report containing the results of an evaluation of the pilot program and any recommendations as to whether the pilot program, with or without modification, should be extended to include the participation of all Small Business Administration regions.

(f) Definitions.—In this section—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "disability" has the same meaning as in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);

(3) the term "pilot program" means the program established under this section; and

(4) the term "telecommuting" means the use of telecommunications to perform work functions under circumstances which reduce or eliminate the need to commute.

(g) Termination.—The pilot program shall terminate 2 years after the first date on which funds are appropriated to carry out this section.

(h) Authorization of Appropriations.—There is authorized to be appropriated to the Small Business Administration $5,000,000 to carry out this section.

By Mr. CAMPBELL (for himself and Mr. Inouye):

S. 1857. A bill to Encourage the Negotiated Settlement of Tribal Claims; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SETTLEMENT OF TRIBAL CLAIMS.

(a) In General.—Solely for purposes of providing an opportunity to explore the settlement of tribal claims, during fiscal year 2002, the statute of limitations shall be deemed not to have run for any claim concerning losses to or mismanagement of tribal trust funds.

(b) No Preclusion of Findings.—Nothing in this section precludes a court or other adjudicatory entity from adjudicating a statute of limitations defense either:

(1) in an action filed on or after October 1, 2002; or

(2) in any case, controversy, or other proceeding pending on the date of enactment of this section against the United States in which a court or adjudicatory entity is called on to determine whether the statute of limitations on such a claim has run.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 193—AUTHORIZING CERTAIN EMPLOYEES OF THE SENATE WHO PERFORM SERVICE IN THE UNIFORMED SERVICES TO BE PLACED IN A LEAVE WITHOUT PAY STATUS, AND FOR OTHER PURPOSES

Mr. DASCHLE (for himself and Mr. Lott) submitted the following resolution; which was considered and agreed to:

S. Res. 193

Resolved,

SECTION 1. LEAVE WITHOUT PAY STATUS FOR CERTAIN SENATE EMPLOYEES PERFORMING SERVICE IN THE UNIFORMED SERVICES.

(a) Definitions.—In this section—

(1) the terms "employee" and "Federal executive agency" have the meanings given those terms under section 4303 (3) and (5) of title 38, United States Code, respectively; and

(2) the term "employee of the Senate" means any employee whose pay is disbursed by the Secretary of the Senate, except that the term does not include a member of the Capitol Police or a civilian employee of the Capitol Police.

(b) Leave Without Pay Status.—An employee of the Senate who is deemed to be on furlough or leave of absence under section 4316(b)(1)(A) of title 38, United States Code, by reason of service in the uniformed services—

(1) may be placed in a leave without pay status while so on furlough or leave of absence; and

(2) while placed in that status, shall be treated—

(A) subject to subparagraph (B), as an employee of a Federal executive agency in a leave without pay status for purposes of chapters 83, 84, 87, and 89 of title 5, United States Code; and

(B) as a Congressional employee for purposes of those chapters.

(c) Effective Date.—This section shall take effect on October 1, 2001, and apply to fiscal year 2002 and each fiscal year thereafter.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2678. Mr. HUTCHINSON (for himself, Mr. Lott, Mr. Helms, Mr. Sessions, and Mrs. Hutchison) proposed an amendment to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes.

SA 2679. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2680. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2681. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2682. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2683. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2568 submitted by Mr. Helms and intended to be proposed to the amendment SA 2471 proposed by Mr. Daschle to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2684. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2685. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2686. Mr. GRASSLEY (for himself, Mr. Hagel, Mr. Lugar, and Mr. Johnson) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2687. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3210, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table.

SA 2688. Mr. DODD (for himself, Mr. McConnell, Mr. Schumer, Mr. Bond, Mr. Torrecelli, Mr. McCain, and Mr. Durbin) submitted an amendment intended to be proposed by him to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2678. Mr. HUTCHINSON (for himself, Mr. LOTT, Mr. HELMS, Mr. SESSIONS, and Mrs. HUTCHISON) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farm Security Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMODITY PROGRAMS

Sec. 100. Definitions.

Subtitle A—Fixed Decoupled Payments and Counter-Cyclical Payments

Sec. 101. Payments to eligible producers.
Sec. 102. Establishment of payment yield.
Sec. 103. Establishment of base acres and payment acres for a farm.
Sec. 104. Availability of fixed, decoupled payments.
Sec. 105. Availability of counter-cyclical payments.
Sec. 106. Producer agreement required as condition on provision of fixed, decoupled payments and counter-cyclical payments.
Sec. 107. Planting flexibility.
Sec. 108. Relation to remaining payment authority under production flexibility contracts.
Sec. 109. Payment limitations.
Sec. 110. Period of effectiveness.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

Sec. 121. Availability of nonrecourse marketing assistance loans for covered commodities.
Sec. 122. Loan rates for nonrecourse marketing assistance loans.
Sec. 123. Term of loans.
Sec. 124. Repayment of loans.
Sec. 125. Loan deficiency payments.
Sec. 126. Payments in lieu of loan deficiency payments for grazed acreage.
Sec. 127. Special marketing loan provisions for upland cotton.
Sec. 128. Special competitive provisions for extra long staple cotton.
Sec. 129. Availability of recourse loans for high moisture feed grains and seed cotton and other fibers.
Sec. 130. Availability of nonrecourse marketing assistance loans for wool and mohair.
Sec. 131. Availability of nonrecourse marketing assistance loans for honey.
Sec. 132. Producer retention of erroneously paid loan deficiency payments and marketing loan gains.
Sec. 133. Reserve stock adjustment.

Subtitle C—Other Commodities

CHAPTER 1—DAIRY

Sec. 141. Milk price support program.
Sec. 142. Repeal of recourse loan program for processors.
Sec. 143. Extension of dairy export incentive and dairy indemnity programs.
Sec. 144. Fluid milk promotion.
Sec. 145. Dairy product mandatory reporting.
Sec. 146. Study of national dairy policy.

CHAPTER 2—SUGAR

Sec. 151. Sugar program.
Sec. 152. Reauthorize provisions of Agricultural Adjustment Act of 1938 regarding sugar.
Sec. 153. Storage facility loans.

CHAPTER 3—PEANUTS

Sec. 161. Definitions.
Sec. 162. Establishment of payment yield, peanut acres, and payment acres for a farm.
Sec. 163. Direct payments for peanuts.
Sec. 164. Counter-cyclical payments for peanuts.
Sec. 165. Producer agreements.
Sec. 166. Planting flexibility.
Sec. 167. Marketing assistance loans and loan deficiency payments for peanuts.
Sec. 168. Quality improvement.
Sec. 169. Payment limitations.
Sec. 170. Termination of marketing quota programs for peanuts and compensation to peanut quota holders for loss of quota asset value.

Subtitle D—Administration

Sec. 181. Administration generally.
Sec. 182. Extension of suspension of permanent price support authority.
Sec. 183. Limitations.
Sec. 184. Adjustments of loans.
Sec. 185. Personal liability of producers for deficiencies.
Sec. 186. Extension of existing administrative authority regarding loans.
Sec. 187. Assignment of payments.
Sec. 188. Report on effect of certain farm program payments on economic viability of producers and farming infrastructure.

TITLE II—CONSERVATION

Subtitle A—Environmental Conservation Acreage Reserve Program

Sec. 201. General provisions.

Subtitle B—Conservation Reserve Program

Sec. 211. Reauthorization.
Sec. 212. Enrollment.
Sec. 213. Duties of owners and operators.
Sec. 214. Reference to conservation reserve payments.
Sec. 215. Expansion of pilot program to all States.

Subtitle C—Wetlands Reserve Program

Sec. 221. Enrollment.
Sec. 222. Easements and agreements.
Sec. 223. Duties of the Secretary.
Sec. 224. Changes in ownership; agreement modification; termination.

Subtitle D—Environmental Quality Incentives Program

Sec. 231. Purposes.
Sec. 232. Definitions.
Sec. 233. Establishment and administration.
Sec. 234. Evaluation of offers and payments.
Sec. 235. Environmental Quality Incentives Program plan.
Sec. 236. Duties of the Secretary.
Sec. 237. Limitation on payments.
Sec. 238. Ground and surface water conservation.

Subtitle E—Funding and Administration

Sec. 241. Reauthorization.
Sec. 242. Funding.
Sec. 243. Allocation for livestock production.
Sec. 244. Administration and technical assistance.

Subtitle F—Other Programs

Sec. 251. Private grazing land and conservation assistance.
Sec. 252. Wildlife Habitat Incentives Program.
Sec. 253. Farmland Protection Program.
Sec. 254. Resource Conservation and Development Program.
Sec. 255. Grassland Reserve Program.
Sec. 256. Farmland Stewardship Program.
Sec. 257. Small Watershed Rehabilitation Program.
Sec. 258. Provision of assistance for Repaupo Creek Tide Gate and Dike Restoration Project, New Jersey.
Sec. 259. Grassroots source water protection program.

Subtitle G—Repeals

Sec. 261. Provisions of the Food Security Act of 1985.
Sec. 262. National Natural Resources Conservation Foundation Act.

TITLE III—TRADE

Sec. 301. Market Access Program.
Sec. 302. Food for Progress.
Sec. 303. Surplus commodities for developing or friendly countries.
Sec. 304. Export Enhancement Program.
Sec. 305. Foreign Market Development Cooperator Program.
Sec. 306. Export Credit Guarantee Program.
Sec. 307. Food for Peace (Public Law 480).
Sec. 308. Emerging markets.
Sec. 309. Bill Emerson Humanitarian Trust.
Sec. 310. Technical assistance for specialty crops.
Sec. 311. Farmers to Africa and the Caribbean Basin.
Sec. 312. George McGovern-Robert Dole International Food for Education and Child Nutrition Program.
Sec. 313. Study on fee for services.
Sec. 314. National export strategy report.

TITLE IV—NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

Sec. 401. Simplified definition of income.
Sec. 402. Standard deduction.
Sec. 403. Transitional food stamps for families moving from welfare.
Sec. 404. Quality control systems.
Sec. 405. Simplified application and eligibility determination systems.
Sec. 406. Authorization of appropriations.

Subtitle B—Commodity Distribution

Sec. 441. Distribution of surplus commodities to special nutrition projects.
Sec. 442. Commodity supplemental food program.
Sec. 443. Emergency food assistance.

Subtitle C—Miscellaneous Provisions

Sec. 461. Hunger fellowship program.
Sec. 462. General effective date.

TITLE V—CREDIT

Subtitle A—Farm Ownership Loans

Sec. 501. Direct loans.
Sec. 502. Financing of bridge loans.
Sec. 503. Limitations on amount of farm ownership loans.
Sec. 504. Joint financing arrangements.
Sec. 505. Guarantee percentage for beginning farmers and ranchers.
Sec. 506. Guarantee of loans made under State beginning farmer or rancher programs.
Sec. 507. Down payment loan program.
Sec. 508. Beginning farmer and rancher contract land sales program.

Subtitle B—Operating Loans

Sec. 511. Direct loans.
Sec. 512. Amount of guarantee of loans for tribal farm operations; waiver of limitations for tribal farm operations and other farm operations.

Subtitle C—Administrative Provisions

Sec. 521. Eligibility of limited liability companies for farm ownership loans, farm operating loans, and emergency loans.
Sec. 522. Debt settlement.
Sec. 523. Temporary authority to enter into contracts; private collection agencies.
Sec. 524. Interest rate options for loans in servicing.
Sec. 525. Annual review of borrowers.
Sec. 526. Simplified loan applications.
Sec. 527. Inventory property.
Sec. 528. Definitions.
Sec. 529. Loan authorization levels.
Sec. 530. Interest rate reduction program.
Sec. 531. Options for satisfaction of obligation to pay recapture amount for shared appreciation agreements.
Sec. 532. Waiver of borrower training certification requirement.
Sec. 533. Annual review of borrowers.

Subtitle D—Farm Credit

Sec. 541. Repeal of burdensome approval requirements.
Sec. 542. Banks for cooperatives.
Sec. 543. Insurance Corporation premiums.
Sec. 544. Board of Directors of the Federal Agricultural Mortgage Corporation.

Subtitle E—General Provisions

Sec. 551. Inapplicability of finality rule.
Sec. 552. Technical amendments.
Sec. 553. Effect of amendments.
Sec. 554. Effective date.

TITLE VI—RURAL DEVELOPMENT

Sec. 601. Funding for rural local television broadcast signal loan guarantees.
Sec. 602. Expanded eligibility for value-added agricultural product market development grants.
Sec. 603. Agriculture innovation center demonstration program.
Sec. 604. Funding of community water assistance grant program.
Sec. 605. Loan guarantees for the financing of the purchase of renewable energy systems.
Sec. 606. Loans and loan guarantees for renewable energy systems.
Sec. 607. Rural business opportunity grants.
Sec. 608. Grants for water systems for rural and native villages in Alaska.
Sec. 609. Rural cooperative development grants.
Sec. 610. National reserve account of Rural Development Trust Fund.
Sec. 611. Rural venture capital demonstration program.
Sec. 612. Increase in limit on certain loans for rural development.
Sec. 613. Pilot program for development and implementation of strategic regional development plans.
Sec. 614. Grants to nonprofit organizations to finance the construction, refurbishing, and servicing of individually-owned household water well systems in rural areas for individuals with low or moderate incomes.
Sec. 615. National Rural Development Partnership.
Sec. 616. Eligibility of rural empowerment zones, rural enterprise communities, and champion communities for direct and guaranteed loans for essential community facilities.
Sec. 617. Grants to train farm workers in new technologies and to train farm workers in specialized skills necessary for higher value crops.
Sec. 618. Loan guarantees for the purchase of stock in a farmer cooperative seeking to modernize or expand.
Sec. 619. Intangible assets and subordinated unsecured debt required to be considered in determining eligibility of farmer-owned cooperative for business and industry guaranteed loan.
Sec. 620. Ban on limiting eligibility of farmer cooperative for business and industry loan guarantee based on population of area in which cooperative is located; refinancing.
Sec. 621. Rural water and waste facility grants.
Sec. 622. Rural water circuit rider program.
Sec. 623. Rural water grassroots source water protection program.
Sec. 624. Delta regional authority.
Sec. 625. Predevelopment and small capitalization loan fund.
Sec. 626. Rural economic development loan and grant program.

TITLE VII—RESEARCH AND RELATED MATTERS

Subtitle A—Extensions

Sec. 700. Market expansion research.
Sec. 701. National Rural Information Center Clearinghouse.
Sec. 702. Grants and fellowships for food and agricultural sciences education.
Sec. 703. Policy research centers.
Sec. 704. Human nutrition intervention and health promotion research program.
Sec. 705. Pilot research program to combine medical and agricultural research.
Sec. 706. Nutrition education program.
Sec. 707. Continuing animal health and disease research programs.
Sec. 708. Appropriations for research on national or regional problems.
Sec. 709. Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University.
Sec. 710. National research and training centennial centers at 1890 land-grant institutions.
Sec. 711. Hispanic-serving institutions.
Sec. 712. Competitive grants for international agricultural science and education programs.
Sec. 713. University research.
Sec. 714. Extension service.
Sec. 715. Supplemental and alternative crops.
Sec. 716. Aquaculture research facilities.
Sec. 717. Rangeland research.
Sec. 718. National genetics resources program.
Sec. 719. High-priority research and extension initiatives.
Sec. 720. Nutrient management research and extension initiative.
Sec. 721. Agricultural telecommunications program.
Sec. 722. Alternative agricultural research and commercialization revolving fund.
Sec. 723. Assistive technology program for farmers with disabilities.
Sec. 724. Partnerships for high-value agricultural product quality research.
Sec. 725. Biobased products.
Sec. 726. Integrated research, education, and extension competitive grants program.
Sec. 727. Institutional capacity building grants.
Sec. 728. 1994 Institution research grants.
Sec. 729. Endowment for 1994 Institutions.
Sec. 730. Precision agriculture.
Sec. 731. Thomas Jefferson initiative for crop diversification.
Sec. 732. Support for research regarding diseases of wheat, triticale, and barley caused by Fusarium Graminearum or by Tilletia Indica.
Sec. 733. Food Animal Residue Avoidance Database program.
Sec. 734. Office of Pest Management Policy.
Sec. 735. National Agricultural Research, Extension, Education, and Economics Advisory Board.
Sec. 736. Grants for research on production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products.
Sec. 737. Biomass research and development.
Sec. 738. Agricultural experiment stations research facilities.
Sec. 739. Competitive, special, and facilities research grants national research initiative.
Sec. 740. Federal agricultural research facilities authorization of appropriations.
Sec. 740A. Cotton classification services.
Sec. 740B. Critical agricultural materials research.
Sec. 740C. Private nonindustrial hardwood research program.

Subtitle B—Modifications

Sec. 741. Equity in Educational Land-Grant Status Act of 1994.
Sec. 742. National Agricultural Research, Extension, and Teaching Policy Act of 1977.
Sec. 743. Agricultural Research, Extension, and Education Reform Act of 1998.
Sec. 744. Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 745. National Agricultural Research, Extension, and Teaching Policy Act of 1977.
Sec. 746. Biomass research and development.
Sec. 747. Biotechnology risk assessment research.
Sec. 748. Competitive, special, and facilities research grants.
Sec. 749. Matching funds requirement for research and extension activities of 1890 institutions.
Sec. 749A. Matching funds requirement for research and extension activities for the United States territories.
Sec. 750. Initiative for future agriculture and food systems.
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Subtitle D—Repeal of Certain Activities and Authorities

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Sec. 934. GAO study.
Sec. 935. Interagency Task Force on Agricultural Competition.
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Sec. 937. Enforcement of the Humane Methods of Slaughter Act of 1958.
Sec. 938. Penalties and foreign commerce provisions of the Animal Welfare Act.
Sec. 939. Improve administration of Animal and Plant Health Inspection Service.
Sec. 940. Renewable energy resources.
Sec. 941. Use of amounts provided for fixed, decoupled payments to provide necessary funds for rural development programs.
Sec. 942. Study of nonambulatory livestock.

TITLE I—COMMODITY PROGRAMS

SEC. 100. DEFINITIONS.

In this title (other than chapter 3 of subtitle C):

(1) AGRICULTURAL ACT OF 1949.—The term "Agricultural Act of 1949" means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 171 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301).

(2) BASE ACRES.—The term "base acres", with respect to a covered commodity on a farm, means the number of acres established under section 103 with respect to the commodity upon the election made by the producers on the farm under subsection (a) of such section.

(3) COUNTER-CYCLICAL PAYMENT.—The term "counter-cyclical payment" means a payment made to producers under section 105.

(4) COVERED COMMODITY.—The term "covered commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, and other oilseeds.

(5) EFFECTIVE PRICE.—The term "effective price", with respect to a covered commodity for a crop year, means the price calculated by the Secretary under section 105 to determine whether counter-cyclical payments are required to be made for that crop year.

(6) ELIGIBLE PRODUCER.—The term "eligible producer" means a producer described in section 101(a).

(7) FIXED, DECOUPLED PAYMENT.—The term "fixed, decoupled payment" means a payment made to producers under section 104.

(8) OTHER OILSEED.—The term "other oilseed" means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, another oilseed.

(9) PAYMENT ACRES.—The term "payment acres" means 85 percent of the base acres of a covered commodity on a farm, as established under section 103, upon which fixed, decoupled payments and counter-cyclical payments are to be made.

(10) PAYMENT YIELD.—The term "payment yield" means the yield established under section 102 for a farm for a covered commodity.

(11) PRODUCER.—The term "producer" means an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this title.

(12) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(13) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(14) TARGET PRICE.—The term "target price" means the price per bushel (or other appropriate unit in the case of upland cotton, rice, and other oilseeds) of a covered commodity used to determine the payment rate for counter-cyclical payments.

(15) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

Subtitle A—Fixed Decoupled Payments and Counter-Cyclical Payments

SEC. 101. PAYMENTS TO ELIGIBLE PRODUCERS.

(a) PAYMENTS REQUIRED.—Beginning with the 2002 crop of covered commodities, the Secretary shall make fixed decoupled payments and counter-cyclical payments under this subtitle—

(1) to producers on a farm that were parties to a production flexibility contract under section 111 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7211) for fiscal year 2002; and

(2) to other producers on farms in the United States as described in section 103(a).

(b) TENANTS AND SHARECROPPERS.—In carrying out this title, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(c) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of fixed, decoupled payments and counter-cyclical payments among the eligible producers on a farm on a fair and equitable basis.

SEC. 102. ESTABLISHMENT OF PAYMENT YIELD.

(a) ESTABLISHMENT AND PURPOSE.—For the purpose of making fixed decoupled payments and counter-cyclical payments under this subtitle, the Secretary shall provide for the establishment of a payment yield for each farm for each covered commodity in accordance with this section.

(b) USE OF FARM PROGRAM PAYMENT YIELD.—Except as otherwise provided in this section, the payment yield for each of the 2002 through 2011 crops of a covered commodity for a farm shall be the farm program payment yield in effect for the 2002 crop of the covered commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465).

(c) FARMS WITHOUT FARM PROGRAM PAYMENT YIELD.—In the case of a farm for which a farm program payment yield is unavailable for a covered commodity (other than soybeans or other oilseeds), the Secretary shall establish an appropriate payment yield for the covered commodity on the farm taking in consideration the farm program payment yields applicable to the commodity under subsection (b) for similar farms in the area.

(d) PAYMENT YIELDS FOR OILSEEDS.—

(1) DETERMINATION OF AVERAGE YIELD.—In the case of soybeans and each other oilseed, the Secretary shall determine the average yield for the oilseed on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the oilseed was zero. If, for any of these four crop years in which the oilseed was planted, the farm would have satisfied the eligibility criteria established to carry out section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105-277; 7 U.S.C. 1421 note), the Secretary shall assign a yield for that year equal to 65 percent of the county yield.

(2) ADJUSTMENT FOR PAYMENT YIELD.—The payment yield for a farm for an oilseed shall be equal to the product of the following:

(A) The average yield for the oilseed determined under paragraph (1).

(B) The ratio resulting from dividing the national average yield for the oilseed for the 1981 through 1985 crops by the national average yield for the oilseed for the 1998 through 2001 crops.

SEC. 103. ESTABLISHMENT OF BASE ACRES AND PAYMENT ACRES FOR A FARM.

(a) ELECTION BY PRODUCERS OF BASE ACRE CALCULATION METHOD.—For the purpose of making fixed decoupled payments and counter-cyclical payments with respect to a farm, the Secretary shall give producers on the farm an opportunity to elect one of the following as the method by which the base acres of all covered commodities on the farm are to be determined:

(1) The four-year average of acreage actually planted on the farm to a covered commodity for harvest, grazing, haying, silage, or other similar purposes during crop years 1998, 1999, 2000, and 2001 and any acreage on the farm that the producers were prevented from planting during such crop years to the covered commodity because of drought, flood, or other natural disaster, or other condition beyond the control of the producer, as determined by the Secretary.

(2) The sum of contract acreage (as defined in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202)) used by the Secretary to calculate the fiscal year 2002 payment that, subject to section 109, would be made under section 114 of such Act (7 U.S.C. 7214) for the covered commodity on the farm and the four-year average determined under paragraph (1) for soybeans and each other oilseed produced on the farm.

(b) SINGLE ELECTION; TIME FOR ELECTION.—The opportunity to make the election described in subsection (a) shall be available to producers on a farm only once. The producers shall notify the Secretary of the election made by the producers under such subsection not later than 180 days after the date of the enactment of this Act.

(c) EFFECT OF FAILURE TO MAKE ELECTION.—If the producers on a farm fail to make the election under subsection (a), or fail to timely notify the Secretary of the selected option as required by subsection (b), the producers shall be deemed to have made the election described in subsection (a)(2) to determine base acres for all covered commodities on the farm.

(d) APPLICATION OF ELECTION TO ALL COVERED COMMODITIES.—The election made under subsection (a) or deemed to be made under subsection (c) with respect to a farm shall apply to all of the covered commodities on the farm. Producers may not make the election described in subsection (a)(1) for one covered commodity and the election described in subsection (a)(2) for other covered commodities on the farm.

(e) TREATMENT OF CONSERVATION RESERVE CONTRACT ACREAGE.—

(1) IN GENERAL.—In the case of producers on a farm that make the election described in subsection (a)(2), the Secretary shall provide for an adjustment in the base acres for the farm whenever either of the following circumstances occur:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.

(2) SPECIAL PAYMENT RULES.—For the fiscal year and crop year in which a base acre adjustment under paragraph (1) is first made, the producers on the farm shall elect to receive either fixed decoupled payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(f) PAYMENT ACRES.—The payment acres for a covered commodity on a farm shall be equal to 85 percent of the base acres for the commodity.

(g) PREVENTION OF EXCESS BASE ACRES.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the quantity of base acres for one or more covered commodities for the farm or peanut acres for the farm as necessary so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm. The Secretary shall give the producers on the farm the opportunity to select the base acres or peanut acres against which the reduction will be made.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any peanut acres for the farm under chapter 3 of subtitle C.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(3) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

SEC. 104. AVAILABILITY OF FIXED, DECOUPLED PAYMENTS.

(a) PAYMENT REQUIRED.—For each of the 2002 through 2011 crop years of each covered commodity, the Secretary shall make fixed, decoupled payments to eligible producers.

(b) PAYMENT RATE.—The payment rates used to make fixed, decoupled payments with respect to covered commodities for a crop year are as follows:

(1) Wheat, $0.53 per bushel.
(2) Corn, $0.30 per bushel.
(3) Grain sorghum, $0.36 per bushel.
(4) Barley, $0.25 per bushel.
(5) Oats, $0.025 per bushel.
(6) Upland cotton, $0.0667 per pound.
(7) Rice, $2.35 per hundredweight.
(8) Soybeans, $0.42 per bushel.
(9) Other oilseeds, $0.0074 per pound.

(c) PAYMENT AMOUNT.—The amount of the fixed, decoupled payment to be paid to the eligible producers on a farm for a covered commodity for a crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres of the covered commodity on the farm.

(3) The payment yield for the covered commodity for the farm.

(d) TIME FOR PAYMENT.—

(1) GENERAL RULE.—Fixed, decoupled payments shall be paid not later than September 30 of each of fiscal years 2002 through 2011. In the case of the 2002 crop, payments may begin to be made on or after December 1, 2001.

(2) ADVANCE PAYMENTS.—At the option of an eligible producer, 50 percent of the fixed, decoupled payment for a fiscal year shall be paid on a date selected by the producer. The selected date shall be on or after December 1 of that fiscal year, and the producer may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer that receives an advance fixed, decoupled payment for a fiscal year ceases to be an eligible producer before the date the fixed, decoupled payment would otherwise have been made by the Secretary under paragraph (1), the producer shall be responsible for repaying the Secretary the full amount of the advance payment.

SEC. 105. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS.

(a) PAYMENT REQUIRED.—The Secretary shall make counter-cyclical payments with respect to a covered commodity whenever the Secretary determines that the effective price for the commodity is less than the target price for the commodity.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for a covered commodity is equal to the sum of the following:

(1) The higher of the following:

(A) The national average market price received by producers during the 12-month marketing year for the commodity, as determined by the Secretary.

(B) The national average loan rate for a marketing assistance loan for the covered commodity in effect for the same period under subtitle B.

(2) The payment rate in effect for the covered commodity under section 104 for the purpose of making fixed, decoupled payments with respect to the commodity.

(c) TARGET PRICE.—For purposes of subsection (a), the target prices for covered commodities are as follows:

(1) Wheat, $4.04 per bushel.
(2) Corn, $2.78 per bushel.
(3) Grain sorghum, $2.64 per bushel.
(4) Barley, $2.39 per bushel.
(5) Oats, $1.47 per bushel.
(6) Upland cotton, $0.736 per pound.
(7) Rice, $10.82 per hundredweight.
(8) Soybeans, $5.86 per bushel.
(9) Other oilseeds, $0.1036 per pound.

(d) PAYMENT RATE.—The payment rate used to make counter-cyclical payments with respect to a covered commodity for a crop year shall be equal to the difference between—

(1) the target price for the commodity; and

(2) the effective price determined under subsection (b) for the commodity.

(e) PAYMENT AMOUNT.—The amount of the counter-cyclical payment to be paid to the eligible producers on a farm for a covered commodity for a crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres of the covered commodity on the farm.

(3) The payment yield for the covered commodity for the farm.

(f) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—The Secretary shall make counter-cyclical payments under this section for a crop of a covered commodity as soon as possible after determining under subsection (a) that such payments are required for that crop year.

(2) PARTIAL PAYMENT.—The Secretary may permit, and, if so permitted, an eligible producer may elect to receive, up to 40 percent of the projected counter-cyclical payment, as determined by the Secretary, to be made under this section for a crop of a covered commodity upon completion of the first six months of the marketing year for that crop. The producer shall repay to the Secretary the amount, if any, by which the partial payment exceeds the actual counter-cyclical payment to be made for that marketing year.

(g) SPECIAL RULE FOR CURRENTLY UNDESIGNATED OILSEED.—If the Secretary uses the authority under section 100(8) to designate another oilseed as an oilseed for which counter-cyclical payments may be made, the Secretary may modify the target price specified in subsection (c)(9) that would otherwise apply to that oilseed as the Secretary considers appropriate.

(h) SPECIAL RULE FOR BARLEY USED ONLY FOR FEED PURPOSES.—For purposes of calculating the effective price for barley under subsection (b), the Secretary shall use the loan rate in effect for barley under section 122(b)(3), except, in the case of producers who received the higher loan rate provided under such section for barley used only for feed purposes, the Secretary shall use that higher loan rate.

SEC. 106. PRODUCER AGREEMENT REQUIRED AS CONDITION ON PROVISION OF FIXED, DECOUPLED PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive fixed, decoupled payments or counter-cyclical payments with respect to the farm, the producers shall agree, in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 107; and

(D) to use the land on the farm, in an amount equal to the base acres, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary.

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(b) EFFECT OF FORECLOSURE.—A producer may not be required to make repayments to the Secretary of fixed, decoupled payments and counter-cyclical payments if the farm has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment. This subsection shall not void the responsibilities of the producer under subsection (a) if the producer continues or resumes operation, or control, of the farm. On the resumption of operation or control over the farm by the producer, the requirements of subsection (a) in effect on the date of the foreclosure shall apply.

(c) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—Except as provided in paragraph (4), a transfer of (or change in) the interest of a producer in base acres for which fixed, decoupled payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall be effective on the date of the transfer or change.

(2) TRANSFER OF PAYMENT BASE.—There is no restriction on the transfer of a farm's base acres or payment yield as part of a change in the producers on the farm.

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the objectives of such subsection, as determined by the Secretary.

(4) EXCEPTION.—If a producer entitled to a fixed, decoupled payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

(d) ACREAGE REPORTS.—

(1) IN GENERAL.—As a condition on the receipt of any benefits under this subtitle or subtitle B, the Secretary shall require producers to submit to the Secretary acreage reports.

(2) CONFORMING AMENDMENT.—Section 15 of the Agricultural Marketing Act (12 U.S.C. 1141j) is amended by striking subsection (d).

(e) REVIEW.—A determination of the Secretary under this section shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

SEC. 107. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on base acres on a farm.

(b) LIMITATIONS AND EXCEPTIONS REGARDING CERTAIN COMMODITIES.—

(1) LIMITATIONS.—The planting of the following agricultural commodities shall be prohibited on base acres:

(A) Fruits.

(B) Vegetables (other than lentils, mung beans, and dry peas).

(C) Wild rice.

(2) EXCEPTIONS.—Paragraph (1) shall not limit the planting of an agricultural commodity specified in such paragraph—

(A) in any region in which there is a history of double-cropping of covered commodities with agricultural commodities specified in paragraph (1), as determined by the Secretary, in which case the double-cropping shall be permitted;

(B) on a farm that the Secretary determines has a history of planting agricultural commodities specified in paragraph (1) on base acres, except that fixed, decoupled payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(C) by a producer who the Secretary determines has an established planting history of a specific agricultural commodity specified in paragraph (1), except that—

(i) the quantity planted may not exceed the producer's average annual planting history of such agricultural commodity in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(ii) fixed, decoupled payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

SEC. 108. RELATION TO REMAINING PAYMENT AUTHORITY UNDER PRODUCTION FLEXIBILITY CONTRACTS.

(a) TERMINATION OF SUPERSEDED PAYMENT AUTHORITY.—Notwithstanding section 113(a)(7) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7213(a)(7)) or any other provision of law, the Secretary shall not make payments for fiscal year 2002 after the date of the enactment of this Act under production flexibility contracts entered into under section 111 of such Act (7 U.S.C. 7211).

(b) CONTRACT PAYMENTS MADE BEFORE ENACTMENT.—If, on or before the date of the enactment of this Act, a producer receives all or any portion of the payment authorized for fiscal year 2002 under a production flexibility contract, the Secretary shall reduce the amount of the fixed, decoupled payment otherwise due the producer for that same fiscal year by the amount of the fiscal year 2002 payment previously received by the producer.

SEC. 109. PAYMENT LIMITATIONS.

Sections 1001 through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308-3) shall apply to fixed, decoupled payments and counter-cyclical payments.

SEC. 110. PERIOD OF EFFECTIVENESS.

This subtitle shall be effective beginning with the 2002 crop year of each covered commodity through the 2011 crop year.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

SEC. 121. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR COVERED COMMODITIES.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2002 through 2011 crops of each covered commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for covered commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 122 for the covered commodity.

(2) INCLUSION OF EXTRA LONG STAPLE COTTON.—In this subtitle, the term "covered commodity" includes extra long staple cotton.

(b) ELIGIBLE PRODUCTION.—Any production of a covered commodity on a farm shall be eligible for a marketing assistance loan under subsection (a).

(c) TREATMENT OF CERTAIN COMMINGLED COMMODITIES.—In carrying out this subtitle, the Secretary shall make loans to a producer that is otherwise eligible to obtain a marketing assistance loan, but for the fact the covered commodity owned by the producer is commingled with covered commodities of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the producer obtaining the loan agrees to immediately redeem the loan collateral in accordance with section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286).

(d) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(e) DEFINITION OF EXTRA LONG STAPLE COTTON.—In this subtitle, the term "extra long staple cotton" means cotton that—

(1) is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having

characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(2) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(f) TERMINATION OF SUPERSEDED LOAN AUTHORITY.—Notwithstanding section 131 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231), nonrecourse marketing assistance loans shall not be made for the 2002 crop of covered commodities under subtitle C of title I of such Act.

SEC. 122. LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.

(a) WHEAT.—

(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 121 for wheat shall be—

(A) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding five crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $2.58 per bushel.

(2) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(A) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(b) FEED GRAINS.—

(1) LOAN RATE FOR CORN AND GRAIN SORGHUM.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 121 for corn and grain sorghum shall be—

(A) not less than 85 percent of the simple average price received by producers of corn or grain sorghum, respectively, as determined by the Secretary, during the marketing years for the immediately preceding five crops of the covered commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $1.89 per bushel.

(2) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of corn or grain sorghum to total use for the marketing year will be—

(A) equal to or greater than 25 percent, the Secretary may reduce the loan rate for the covered commodity for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for the covered commodity for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 12.5 percent, the Secretary may not reduce the loan rate for the covered commodity for the corresponding crop.

(3) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan under section 121 for barley and oats shall be—

(A) established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn; but

(B) not more than—

(i) $1.65 per bushel for barley, except not more than $1.70 per bushel for barley used only for feed purposes, as determined by the Secretary; and

(ii) $1.21 per bushel for oats.

(c) UPLAND COTTON.—

(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 121 for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(B) 90 percent of the average, for the 15-week period beginning July 1 of the year preceding the year in which the crop is planted, of the five lowest-priced growths of the growths quoted for Middling $1\frac{3}{32}$-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year preceding the year in which the crop is planted between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(2) LIMITATIONS.—The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.50 per pound or more than $0.5192 per pound.

(d) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan under section 121 for extra long staple cotton shall be $0.7965 per pound.

(e) RICE.—The loan rate for a marketing assistance loan under section 121 for rice shall be $6.50 per hundredweight.

(f) OILSEEDS.—

(1) SOYBEANS.—The loan rate for a marketing assistance loan under section 121 for soybeans shall be—

(A) not less than 85 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding five crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $4.92 per bushel.

(2) OTHER OILSEEDS.—The loan rate for a marketing assistance loan under section 121 for other oilseeds shall be—

(A) not less than 85 percent of the simple average price received by producers of the other oilseed, as determined by the Secretary, during the marketing years for the immediately preceding five crops of the other oilseed, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $0.087 per pound.

SEC. 123. TERM OF LOANS.

(a) TERM OF LOAN.—In the case of each covered commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under section 121 shall have a term of nine months beginning on the first day of the first month after the month in which the loan is made.

(b) SPECIAL RULE FOR COTTON.—A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months beginning on the first day of the month in which the loan is made.

(c) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any covered commodity.

SEC. 124. REPAYMENT OF LOANS.

(a) REPAYMENT RATES FOR WHEAT, FEED GRAINS, AND OILSEEDS.—The Secretary shall permit a producer to repay a marketing assistance loan under section 121 for wheat, corn, grain sorghum, barley, oats, and oilseeds at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 122, plus interest (as determined by the Secretary); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity; and

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(b) REPAYMENT RATES FOR UPLAND COTTON AND RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 121 for upland cotton and rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 122, plus interest (as determined by the Secretary); or

(2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 122, plus interest (as determined by the Secretary).

(d) PREVAILING WORLD MARKET PRICE.—For purposes of this section and section 127, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for each covered commodity, adjusted to United States quality and location; and

(2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each covered commodity.

(e) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(1) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending July 31, 2012, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subsection (d) shall be further adjusted if—

(A) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under section 122, as determined by the Secretary; and

(B) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M)

$1\frac{3}{32}$-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe (referred to in this section as the "Northern Europe price").

(2) Further adjustment.—Except as provided in paragraph (3), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(A) The United States share of world exports.

(B) The current level of cotton export sales and cotton export shipments.

(C) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(3) Limitation on further adjustment.—The adjustment under paragraph (2) may not exceed the difference between—

(A) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling $1\frac{3}{32}$-inch cotton delivered C.I.F. Northern Europe; and

(B) the Northern Europe price.

(f) Time for Fixing Repayment Rate.—In the case of a producer that marketed or otherwise lost beneficial interest in a covered commodity before repaying the marketing assistance loan made under section 121 with respect to the commodity, the Secretary shall permit the producer to repay the loan at the lowest repayment rate that was in effect for that covered commodity under this section as of the date that the producer lost beneficial interest, as determined by the Secretary.

SEC. 125. LOAN DEFICIENCY PAYMENTS.

(a) Availability of Loan Deficiency Payments.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under section 121 with respect to a covered commodity, agree to forgo obtaining the loan for the commodity in return for payments under this section.

(b) Computation.—A loan deficiency payment under this section shall be computed by multiplying—

(1) the loan payment rate determined under subsection (c) for the covered commodity; by

(2) the quantity of the covered commodity produced by the eligible producers, excluding any quantity for which the producers obtain a loan under section 121.

(c) Loan Payment Rate.—For purposes of this section, the loan payment rate shall be the amount by which—

(1) the loan rate established under section 122 for the covered commodity; exceeds

(2) the rate at which a loan for the commodity may be repaid under section 124.

(d) Exception for Extra Long Staple Cotton.—This section shall not apply with respect to extra long staple cotton.

(e) Time for Payment.—The Secretary shall make a payment under this section to a producer with respect to a quantity of a covered commodity as of the earlier of the following:

(1) The date on which the producer marketed or otherwise lost beneficial interest in the commodity, as determined by the Secretary.

(2) The date the producer requests the payment.

(f) Continuation of Special LDP Rule for 2001 Crop Year.—Section 135(a)(2) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235(a)(2)) is amended by striking "2000 crop year" and inserting "2000 and 2001 crop years".

SEC. 126. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

(a) Eligible Producers.—Effective for the 2002 through 2011 crop years, in the case of a producer that would be eligible for a loan deficiency payment under section 125 for wheat, barley, or oats, but that elects to use acreage planted to the wheat, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage.

(b) Payment Amount.—The amount of a payment made to a producer on a farm under this section shall be equal to the amount determined by multiplying—

(1) the loan deficiency payment rate determined under section 125(c) in effect, as of the date of the agreement, for the county in which the farm is located; by

(2) the payment quantity determined by multiplying—

(A) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of wheat, barley, or oats; and

(B) the payment yield for that covered commodity on the farm.

(c) Time, Manner, and Availability of Payment.—

(1) Time and manner.—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 125.

(2) Availability.—The Secretary shall establish an availability period for the payment authorized by this section that is consistent with the availability period for wheat, barley, and oats established by the Secretary for marketing assistance loans authorized by this subtitle.

(d) Prohibition on Crop Insurance or Noninsured Crop Assistance.—A 2002 through 2011 crop of wheat, barley, or oats planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

SEC. 127. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.

(a) Cotton User Marketing Certificates.—

(1) Issuance.—During the period beginning on the date of the enactment of this Act and ending July 31, 2012, the Secretary shall issue marketing certificates or cash payments, at the option of the recipient, to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive four-week period in which—

(A) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price; and

(B) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 134 percent of the loan rate for upland cotton established under section 122.

(2) Value of certificates or payments.—The value of the marketing certificates or cash payments shall be based on the amount of the difference in the prices during the fourth week of the consecutive four-week period multiplied by the quantity of upland cotton included in the documented sales.

(3) Administration of marketing certificates.—

(A) Redemption, marketing, or exchange.—The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation or pledged to the Commodity Credit Corporation as collateral for a loan in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates, including enhancing the competitiveness and marketability of United States cotton. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subsection.

(B) Designation of commodities and products.—To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates.

(C) Transfers.—Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

(4) Application of threshold.—

(A) 2002 marketing year.—During the period beginning on the date of enactment of this Act and ending July 31, 2002, the Secretary shall make the calculations under paragraphs (1)(A) and (2) and subsection (b)(1)(B) without regard to the 1.25 cent threshold provided those paragraphs and subsection.

(B) 2003 through 2006 marketing years.—During each 12-month period beginning August 1, 2002, through August 1, 2006, the Secretary may make the calculations under paragraphs (1)(A) and (2) and subsection (b)(1)(B) without regard to the 1.25 cent threshold provided those paragraphs and subsection.

(b) Special Import Quota.—

(1) Establishment.—

(A) In general.—The President shall carry out an import quota program during the period beginning on the date of the enactment of this Act and ending July 31, 2012, as provided in this subsection.

(B) Program requirements.—Except as provided in subparagraph (C), whenever the Secretary determines and announces that for any consecutive four-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under subsection (a), exceeds the Northern Europe price there shall immediately be in effect a special import quota.

(C) Tight domestic supply.—During any month for which the Secretary estimates the season-ending United States upland cotton stocks-to-use ratio, as determined under subparagraph (D), to be below 16 percent, the Secretary, in making the determination under subparagraph (B), shall not adjust the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M)

$1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe, for the value of any certificates issued under subsection (a).

(D) SEASON-ENDING UNITED STATES STOCKS-TO-USE RATIO.—For the purposes of making estimates under subparagraph (C), the Secretary shall, on a monthly basis, estimate and report the season-ending United States upland cotton stocks-to-use ratio, excluding projected raw cotton imports but including the quantity of raw cotton that has been imported into the United States during the marketing year.

(2) QUANTITY.—The quota shall be equal to one week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent three months for which data are available.

(3) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

(4) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c).

(5) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(C) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(6) DEFINITION.—In this subsection, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(7) LIMITATION.—The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of five week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the three months immediately preceding the first special import quota established in any marketing year.

(c) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent three months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term "demand" means—

(I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent three months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding six marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b).

SEC. 128. SPECIAL COMPETITIVE PROVISIONS FOR EXTRA LONG STAPLE COTTON.

(a) COMPETITIVENESS PROGRAM.—Notwithstanding any other provision of law, during the period beginning on the date of the enactment of this Act and ending on July 31, 2012, the Secretary shall carry out a program to maintain and expand the domestic use of extra long staple cotton produced in the United States, to increase exports of extra long staple cotton produced in the United States, and to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

(b) PAYMENTS UNDER PROGRAM; TRIGGER.—Under the program, the Secretary shall make payments available under this section whenever—

(1) for a consecutive four-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and

(2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

(c) ELIGIBLE RECIPIENTS.—The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States who enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

(d) PAYMENT AMOUNT.—Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) during the fourth week of the consecutive four-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive four-week period.

(e) FORM OF PAYMENT.—Payments under this section shall be made through the issuance of cash or marketing certificates, at the option of eligible recipients of the payments.

SEC. 129. AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON AND OTHER FIBERS.

(a) HIGH MOISTURE FEED GRAINS.—

(1) RECOURSE LOANS AVAILABLE.—For each of the 2002 through 2011 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(3) HIGH MOISTURE STATE DEFINED.—In this subsection, the term "high moisture state" means corn or grain sorghum having a moisture content in excess of Commodity Credit

Corporation standards for marketing assistance loans made by the Secretary under section 121.

(b) Recourse Loans Available for Seed Cotton.—For each of the 2002 through 2011 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) Repayment Rates.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (as determined by the Secretary).

(d) Termination of Superseded Loan Authority.—Notwithstanding section 137 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7237), recourse loans shall not be made for the 2002 crop of corn, grain sorghum, and seed cotton under such section.

SEC. 130. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR WOOL AND MOHAIR.

(a) Nonrecourse Loans Available.—During the 2002 through 2011 marketing years for wool and mohair, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for wool and mohair produced on the farm during that marketing year.

(b) Loan Rate.—The loan rate for a loan under subsection (a) shall be not more than—

(1) $1.00 per pound for graded wool;

(2) $0.40 per pound for nongraded wool; and

(3) $4.20 per pound for mohair.

(c) Term of Loan.—A loan under subsection (a) shall have a term of 1 year beginning on the first day of the first month after the month in which the loan is made.

(d) Repayment Rates.—The Secretary shall permit a producer to repay a marketing assistance loan under subsection (a) for wool or mohair at a rate that is the lesser of—

(1) the loan rate established for the commodity under subsection (b), plus interest (as determined by the Secretary); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity; and

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(e) Loan Deficiency Payments.—

(1) Availability.—The Secretary may make loan deficiency payments available to producers that, although eligible to obtain a marketing assistance loan under this section, agree to forgo obtaining the loan in return for payments under this subsection.

(2) Computation.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the loan payment rate in effect under paragraph (3) for the commodity; by

(B) the quantity of the commodity produced by the eligible producers, excluding any quantity for which the producers obtain a loan under this subsection.

(3) Loan payment rate.—For purposes of this subsection, the loan payment rate for wool or mohair shall be the amount by which—

(A) the loan rate in effect for the commodity under subsection (b); exceeds

(B) the rate at which a loan for the commodity may be repaid under subsection (d).

(4) Time for payment.—The Secretary shall make a payment under this subsection to a producer with respect to a quantity of a wool or mohair as of the earlier of the following:

(A) The date on which the producer marketed or otherwise lost beneficial interest in the wool or mohair, as determined by the Secretary.

(B) The date the producer requests the payment.

(f) Limitations.—The marketing assistance loan gains and loan deficiency payments that a person may receive for wool and mohair under this section shall be subject to a separate payment limitation, but in the same dollar amount, as the payment limitation that applies to marketing assistance loans and loan deficiency payments received by producers of other agricultural commodities in the same marketing year.

SEC. 131. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR HONEY.

(a) Nonrecourse Loans Available.—During the 2002 through 2011 crop years for honey, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for honey produced on the farm during that crop year.

(b) Loan Rate.—The loan rate for a marketing assistance loan for honey under subsection (a) shall be equal to $0.60 cents per pound.

(c) Term of Loan.—A marketing assistance loan under subsection (a) shall have a term of 1 year beginning on the first day of the first month after the month in which the loan is made.

(d) Repayment Rates.—The Secretary shall permit a producer to repay a marketing assistance loan for honey under subsection (a) at a rate that is the lesser of—

(1) the loan rate for honey, plus interest (as determined by the Secretary); or

(2) the prevailing domestic market price for honey, as determined by the Secretary.

(e) Loan Deficiency Payments.—

(1) Availability.—The Secretary may make loan deficiency payments available to any producer of honey that, although eligible to obtain a marketing assistance loan under subsection (a), agrees to forgo obtaining the loan in return for a payment under this subsection.

(2) Computation.—A loan deficiency payment under this subsection shall be determined by multiplying—

(A) the loan payment rate determined under paragraph (3); by

(B) the quantity of honey that the producer is eligible to place under loan, but for which the producer forgoes obtaining the loan in return for a payment under this subsection.

(3) Loan payment rate.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

(A) the loan rate established under subsection (b); exceeds

(B) the rate at which a loan may be repaid under subsection (d).

(4) Time for payment.—The Secretary shall make a payment under this subsection to a producer with respect to a quantity of a honey as of the earlier of the following:

(A) The date on which the producer marketed or otherwise lost beneficial interest in the honey, as determined by the Secretary.

(B) The date the producer requests the payment.

(f) Limitations.—The marketing assistance loan gains and loan deficiency payments that a person may receive for a crop of honey under this section shall be subject to a separate payment limitation, but in the same dollar amount, as the payment limitation that applies to marketing assistance loans and loan deficiency payments received by producers of other agricultural commodities in the same crop year.

(g) Prevention of Forfeitures.—The Secretary shall carry out this section in such a manner as to minimize forfeitures of honey marketing assistance loans.

SEC. 132. PRODUCER RETENTION OF ERRONEOUSLY PAID LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding any other provision of law, the Secretary of Agriculture and the Commodity Credit Corporation shall not require producers in Erie County, Pennsylvania, to repay loan deficiency payments and marketing loan gains erroneously paid or determined to have been earned by the Commodity Credit Corporation for certain 1998 and 1999 crops under subtitle C of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231 et seq.). In the case of a producer who has already made the repayment on or before the date of the enactment of this Act, the Commodity Credit Corporation shall reimburse the producer for the full amount of the repayment.

SEC. 133. RESERVE STOCK ADJUSTMENT.

Section 301(b)(14)(C) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(14)(C)) is amended—

(1) in clause (i), by striking "100,000,000" and inserting "75,000,000"; and

(2) in clause (ii), by striking "15 percent" and inserting "10 percent".

Subtitle C—Other Commodities

CHAPTER 1—DAIRY

SEC. 141. MILK PRICE SUPPORT PROGRAM.

(a) Support Activities.—During the period beginning on January 1, 2002, and ending on December 31, 2011, the Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) Rate.—During the period specified in subsection (a), the price of milk shall be supported at a rate equal to $9.90 per hundredweight for milk containing 3.67 percent butterfat.

(c) Purchase Prices.—The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b).

(d) Special Rule for Butter and Nonfat Dry Milk Purchase Prices.—

(1) Allocation of purchase prices.—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this section.

(2) Timing of purchase price adjustments.—The Secretary may make any such

adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) Commodity Credit Corporation.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

SEC. 142. REPEAL OF RECOURSE LOAN PROGRAM FOR PROCESSORS.

Section 142 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7252) is repealed.

SEC. 143. EXTENSION OF DAIRY EXPORT INCENTIVE AND DAIRY INDEMNITY PROGRAMS.

(a) Dairy Export Incentive Program.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14(a)) is amended by striking "2002" and inserting "2011".

(b) Dairy Indemnity Program.—Section 3 of Public Law 90-484 (7 U.S.C. 4501) is amended by striking "1995" and inserting "2011".

SEC. 144. FLUID MILK PROMOTION.

(a) Definition of Fluid Milk Product.—Section 1999C of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) Fluid milk product.—The term 'fluid milk product' has the meaning given such term—

"(A) in section 1000.15 of title 7, Code of Federal Regulations, subject to such amendments as may be made from time to time; or

"(B) in any successor regulation providing a definition of such term that is promulgated pursuant to the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(b) Definition of Fluid Milk Processor.—Section 1999C(4) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(4)) is amended by striking "500,000" and inserting "3,000,000".

(c) Elimination of Order Termination Date.—Section 1999O of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6414) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

SEC. 145. DAIRY PRODUCT MANDATORY REPORTING.

Section 273(b)(1)(B) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b(b)(1)(B)) is amended—

(1) by inserting "and substantially identical products designated by the Secretary" after "dairy products" the first place it appears; and

(2) by inserting "and such substantially identical products" after "dairy products" the second place it appears.

SEC. 146. STUDY OF NATIONAL DAIRY POLICY.

(a) Study Required.—Not later than April 30, 2002, the Secretary of Agriculture shall submit to Congress a comprehensive economic evaluation of the potential direct and indirect effects of the various elements of the national dairy policy, including an examination of the effect of the national dairy policy on—

(1) farm price stability, farm profitability and viability, and local rural economies in the United States;

(2) child, senior, and low-income nutrition programs, including impacts on schools and institutions participating in the programs, on program recipients, and other factors; and

(3) the wholesale and retail cost of fluid milk, dairy farms, and milk utilization.

(b) National Dairy Policy Defined.—In this section, the term "national dairy policy" means the dairy policy of the United States as evidenced by the following policies and programs:

(1) Federal Milk Marketing Orders.

(2) Interstate dairy compacts (including proposed compacts described in H.R. 1827 and S. 1157, as introduced in the 107th Congress).

(3) Over-order premiums and State pricing programs.

(4) Direct payments to milk producers.

(5) Federal milk price support program.

(6) Export programs regarding milk and dairy products, such as the Dairy Export Incentive Program.

CHAPTER 2—SUGAR

SEC. 151. SUGAR PROGRAM.

(a) Continuation of Program.—Subsection (i) of section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251) is amended—

(1) by striking "(other than subsection (f))"; and

(2) by striking "2002 crops" and inserting "2011 crops".

(b) Termination of Marketing Assessment and Forfeiture Penalty.—Effective as of October 1, 2001, subsections (f) and (g) of such section are repealed.

(c) Loan Rate Adjustments.—Subsection (c) of such section is amended—

(1) by striking "Reduction in Loan Rates" and inserting "Loan Rate Adjustments"; and

(2) in paragraph (1)—

(A) by striking "Reduction required" and inserting "Possible reduction"; and

(B) by striking "shall" and inserting "may".

(d) Notification.—Subsection (e) of such section is amended by adding at the end the following new paragraph:

"(3) Prevention of onerous notification requirements.—The Secretary may not impose or enforce any prenotification or similar administrative requirement that has the effect of preventing a processor from choosing to forfeit the loan collateral upon the maturity of the loan.".

(e) In Process Sugar.—Such section is further amended by inserting after subsection (e) the following new subsection (f):

"(f) Loans for In-Process Sugar.—

"(1) Availability; rate.—The Secretary shall make nonrecourse loans available to processors of domestically grown sugarcane and sugar beets for in-process sugars and syrups derived from such crops. The loan rate shall be equal to 80 percent of the loan rate applicable to raw cane sugar or refined beet sugar, depending on the source material for the in-process sugars and syrups.

"(2) Further processing upon forfeiture.—As a condition on the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (1), the processor shall, within such reasonable time period as the Secretary may prescribe and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b). Once the in-process sugars and syrups are fully processed into raw cane sugar or refined beet sugar, the processor shall transfer the sugar to the Corporation, which shall make a payment to the processor in an amount equal to the difference between the loan rate for raw cane sugar or refined beet sugar, whichever applies, and the loan rate the processor received under paragraph (1).

"(3) Loan conversion.—If the processor does not forfeit the collateral as described in paragraph (2), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may then obtain a loan under subsection (a) or (b) on the raw cane sugar or refined beet sugar, as appropriate.

"(4) Definition.—In this subsection the term 'in-process sugars and syrups' does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished products that are otherwise eligible for loans under subsection (a) or (b).".

(f) Administration of Program.—Such section is further amended by adding at the end the following new subsection:

"(j) Avoiding Forfeitures; Corporation Inventory Disposition.—

"(1) No cost.—To the maximum extent practicable, the Secretary shall operate the sugar program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

"(2) Inventory disposition.—In support of the objective specified in paragraph (1), the Commodity Credit Corporation may accept bids for commodities in the inventory of the Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (when the processors are acting in conjunction with the producers of the sugarcane or sugar beets processed by such processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate. The authority provided under this paragraph is in addition to any authority of the Corporation under any other law.".

(g) Information Reporting.—Subsection (h) of such section is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) Duty of producers to report.—

"(A) Proportionate share states.—The Secretary shall require a producer of sugarcane located in a State (other than Puerto Rico) in which there are in excess of 250 sugarcane producers to report, in the manner prescribed by the Secretary, the producer's sugarcane yields and acres planted to sugarcane.

"(B) Other states.—The Secretary may require producers of sugarcane or sugar beets not covered by paragraph (1) to report, in the manner prescribed by the Secretary, each producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

"(3) Duty of importers to report.—The Secretary shall require an importer of sugars, syrups or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption, except such sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are at the lower rate of duties, to report, in the manner prescribed by the Secretary, the quantities of such products imported and the sugar content or equivalent of such products."; and

(3) in paragraph (5), as so redesignated, by striking "paragraph (1)" and inserting "this subsection".

(h) Interest Rate.—Section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283) is amended by adding at the end the following new sentence: "For purposes of this section, raw cane sugar, refined beet sugar, and in process sugar eligible for a loan under section 156 shall not be considered an agricultural commodity.".

SEC. 152. REAUTHORIZE PROVISIONS OF AGRICULTURAL ADJUSTMENT ACT OF 1938 REGARDING SUGAR.

(a) Information Reporting.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is repealed.

(b) Estimates.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended:

(1) in the section heading—

(A) by inserting "**flexible**" before "**marketing**"; and

(B) by striking "**and crystalline fructose**";

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "Before" and inserting "Not later than August 1 before";

(ii) by striking "1992 through 1998" and inserting "2002 through 2011";

(iii) in subparagraph (A), by striking "(other than sugar" and all that follows through "stocks";

(iv) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (E), respectively;

(v) by inserting after subparagraph (A) the following:

"(B) the quantity of sugar that would provide for reasonable carryover stocks;";

(vi) in subparagraph (C), as so redesignated—

(I) by striking "or" and all that follows through "beets"; and

(II) by striking the "and" following the semicolon;

(vii) by inserting after subparagraph (C), as so redesignated, the following:

"(D) the quantity of sugar that will be available from the domestic processing of sugarcane and sugar beets; and"; and

(viii) in subparagraph (E), as so redesignated—

(I) by striking "quantity of sugar" and inserting "quantity of sugars, syrups, and molasses";

(II) by inserting "human" after "imported for" the first place it appears;

(III) by inserting after "consumption" the first place it appears the following: "or to be used for the extraction of sugar for human consumption";

(IV) by striking "year" and inserting "year, whether such articles are under a tariff-rate quota or are in excess or outside of a tariff rate quota"; and

(V) by striking "(other than sugar" and all that follows through "carry-in stocks";

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following new paragraph:

"(2) Exclusion.—The estimates in this section shall not include sugar imported for the production of polyhydric alcohol or to be refined and re-exported in refined form or in sugar containing products.";

(D) in paragraph (3), as so redesignated—

(i) by striking "Quarterly reestimates" and inserting "Reestimates"; and

(ii) by inserting "as necessary, but" after "a fiscal year";

(3) in subsection (b)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) In general.—By the beginning of each fiscal year, the Secretary shall establish for that fiscal year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar beets and from domestically-produced sugarcane at a level that the Secretary estimates will result in no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar."; and

(B) in paragraph (2), by striking "or crystalline fructose";

(4) by striking subsection (c);

(5) by redesignating subsection (d) as subsection (c); and

(6) in subsection (c), as so redesignated—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(C) in paragraph (2), as so redesignated—

(i) by striking "or manufacturer" and all that follows through "(2)"; and

(ii) by striking "or crystalline fructose".

(c) Establishment.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in the section heading by inserting "**flexible**" after "**of**";

(2) in subsection (a), by inserting "flexible" after "establish";

(3) in subsection (b)—

(A) in paragraph (1)(A), by striking "1,250,000" and inserting "1,532,000"; and

(B) in paragraph (2), by striking "to the maximum extent practicable";

(4) by striking subsection (c) and inserting the following new subsection:

"(c) Marketing Allotment for Sugar Derived From Sugar Beets and Marketing Allotment for Sugar Derived From Sugarcane.—The overall allotment quantity for the fiscal year shall be allotted among—

"(1) sugar derived from sugar beets by establishing a marketing allotment for a fiscal year at a quantity equal to the product of multiplying the overall allotment quantity for the fiscal year by the percentage of 54.35; and

"(2) sugar derived from sugarcane by establishing a marketing allotment for a fiscal year at a quantity equal to the product of multiplying the overall allotment quantity for the fiscal year by the percentage of 45.65.";

(5) by amending subsection (d) to read as follows:

"(d) Filling Cane Sugar and Beet Sugar Allotments.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar domestically processed from sugar beets.";

(6) by striking subsection (e);

(7) by redesignating subsection (f) as subsection (e);

(8) in subsection (e), as so redesignated—

(A) by inserting "(1) In general.—" before "The allotment for sugar" and indenting such paragraph appropriately;

(B) in such paragraph (1)—

(i) by striking "the 5" and inserting "the";

(ii) by inserting after "sugarcane is produced," the following: "after a hearing, if requested by the affected sugar cane processors and growers, and on such notice as the Secretary by regulation may prescribe,";

(iii) by striking "on the basis of past marketings" and all that follows through "allotments", and inserting "as provided in this subsection and section 359d(a)(2)(A)(iv)"; and

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) Offshore allotment.—

"(A) Collectively.—Prior to the allotment of sugar derived from sugarcane to any other State, 325,000 short tons, raw value shall be allotted to the offshore States.

"(B) Individually.—The collective offshore State allotment provided for under subparagraph (A) shall be further allotted among the offshore States in which sugarcane is produced, after a hearing if requested by the affected sugar cane processors and growers, and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

"(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

"(ii) the ability of processors to market the sugar covered under the allotments for the crop year; and

"(iii) past processings of sugar from sugarcane based on the 3 year average of the crop years 1998 through 2000.

"(3) Mainland allotment.—The allotment for sugar derived from sugarcane, less the amount provided for under paragraph (2), shall be allotted among the mainland States in the United States in which sugarcane is produced, after a hearing if requested by the affected sugar cane processors and growers, and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

"(A) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

"(B) the ability of processors to market the sugar covered under the allotments for the crop year; and

"(C) past processings of sugar from sugarcane, based on the 3 crop years with the greatest processings (in the mainland States collectively) during the 1991 through 2000 crop years.";

(9) by inserting after subsection (e), as so redesignated, the following new subsection (f):

"(f) Filling Cane Sugar Allotments.—Except as otherwise provided in section 359e, a State cane sugar allotment established under subsection (e) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.";

(10) in subsection (g)—

(A) in paragraph (1), by striking "359b(a)(2)—" and all that follows through the comma at the end of subparagraph (C) and inserting "359b(a)(3), adjust upward or downward marketing allotments in a fair and equitable manner";

(B) in paragraph (2) by striking "359f(b)" and inserting "359f(c)"; and

(C) in paragraph (3)—

(i) by striking "Reductions" and inserting "Carry-over of reductions";

(ii) by inserting after "this subsection, if" the following: "at the time of the reduction";

(iii) by striking "price support" and inserting "nonrecourse";

(iv) by striking "206" and all that follows through "the allotment" and inserting "156 of the Agricultural Market Transition Act (7 U.S.C. 7272),"; and

(v) by striking ", if any,"; and

(11) by amending subsection (h) to read as follows:

"(h) Suspension of Allotments.—Whenever the Secretary estimates, or reestimates, under section 359b(a), or has reason to believe that imports of sugars, syrups or molasses for human consumption or to be used for the extraction of sugar for human consumption, whether under a tariff-rate quota or in excess or outside of a tariff-rate quota, will exceed 1.532 million short tons, raw value equivalent, and that such imports would lead to a reduction of the overall allotment quantity, the Secretary shall suspend the marketing allotments until such time as such imports have been restricted, eliminated, or otherwise reduced to or below the level of 1.532 million tons.".

(d) ALLOCATION.—Section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) is amended—

(1) in subsection (a)(2)(A)—

(A) by inserting "(i) IN GENERAL.—" before "The Secretary shall" and indenting such clause appropriately;

(B) in clause (i), as so designated—

(i) by striking "interested parties" and inserting "the affected sugar cane processors and growers";

(ii) by striking "by taking" and all that follows through "allotment allocated." and inserting "with this subparagraph."; and

(iii) by inserting at the end the following new sentence: "Each such allocation shall be subject to adjustment under section 359c(g).";

(C) by inserting after clause (i) the following new clauses:

"(ii) MULTIPLE PROCESSOR STATES.—Except as provided in clause (iii), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based upon—

"(I) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1996 through 2000 crops;

"(II) the ability of processors to market sugar covered by that portion of the allotment allocated for the crop year;

"(III) past processings of sugar from sugarcane, based on the average of the 3 highest years from among crop years 1996 through 2000; and

"(IV) however, only with respect to allotments under subclauses (I), (II), and (III) attributable to the former operations of the Talisman processing facility, shall be allocated among processors in the State coincident with the provisions of the agreements of March 25 and March 26, 1999, between the affected processors and the Department of the Interior.

"(iii) PROPORTIONATE SHARE STATES.—In the case of States subject to section 359f(c), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single state based upon—

"(I) past marketings of sugar, based on the average of the two highest years of production of raw cane sugar from among the 1997 through 2001 crop years;

"(II) the ability of processors to market sugar covered by that portion of the allotments allocated for the crop year; and

"(III) past processings of sugar from sugarcane, based on the average of the two highest crop years from the five crop years 1997 through 2001.

"(iv) NEW ENTRANTS.—Notwithstanding clauses (ii) and (iii), the Secretary, on application of any processor that begins processing sugarcane on or after the date of enactment of this clause, and after a hearing if requested by the affected sugarcane processors and growers, and on such notice as the Secretary by regulation may prescribe, may provide such processor with an allocation which provides a fair, efficient and equitable distribution of the allocations from the allotment for the State in which the processor is located and, in the case of proportionate share States, shall establish proportionate shares in an amount sufficient to produce the sugarcane required to satisfy such allocations. However, the allotment for a new processor under this clause shall not exceed 50,000 short tons, raw value.

"(v) TRANSFER OF OWNERSHIP.—Except as otherwise provided in section 359f(c)(8), in the event that a sugarcane processor is sold or otherwise transferred to another owner, or closed as part of an affiliated corporate group processing consolidation, the Secretary shall transfer the allotment allocation for the processor to the purchaser, new owner, or successor in interest, as applicable, of the processor."; and

(2) in subsection (a)(2)(B)—

(A) by striking "interested parties" and inserting "the affected sugar beet processors and growers"; and

(B) by striking "processing capacity" and all that follows through "allotment allocated" and inserting the following: "the marketings of sugar processed from sugar beets of any or all of the 1996 through 2000 crops, and such other factors as the Secretary may deem appropriate after consultation with the affected sugar beet processors and growers. However, in the case of any processor which has started processing sugar beets after January 1, 1996, the Secretary shall provide such processor with an allocation which provides a fair, efficient and equitable distribution of the allocations".

(e) REASSIGNMENT.—Section 359e(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B) by striking the "and" after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the sale of any inventories of sugar held by the Commodity Credit Corporation; and"; and

(D) in subparagraph (D), as so redesignated, by inserting "and sales" after "reassignments"; and

(2) in paragraph (2)—

(A) in subparagraph (A) by striking the "and" after the semicolon;

(B) in subparagraph (B), by striking "reassign the remainder to imports." and inserting "use the estimated quantity of the deficit for the sale of any inventories of sugar held by the Commodity Credit Corporation; and"; and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) if after such reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.".

(f) PRODUCER PROVISIONS.—Section 359f of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff) is amended—

(1) in subsection (a)—

(A) by striking "processor's allocation" in the second sentence and inserting "allocation to the processor"; and

(B) by inserting after "request of either party" the following: ", and such arbitration should be completed within 45 days, but not more than 60 days, of the request";

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following new subsection:

"(b) SUGAR BEET PROCESSING FACILITY CLOSURES.— In the event that a sugar beet processing facility is closed and the sugar beet growers who previously delivered beets to such facility desire to deliver their beets to another processing company:

"(1) Such growers may petition the Secretary to modify existing allocations to accommodate such a transition; and

"(2) The Secretary may increase the allocation to the processing company to which the growers desire to deliver their sugar beets, and which the processing company agrees to accept, not to exceed its processing capacity, to accommodate the change in deliveries.

"(3) Such increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation will be unaffected.

"(4) The Secretary's determination on the issues raised by the petition shall be made within 60 days of the filing of the petition.";

(4) in subsection (c), as so redesignated—

(A) in paragraph (3)(A), by striking "the preceding five years" and inserting "the two highest years from among the years 1999, 2000, and 2001";

(B) in paragraph (4)(A), by striking "each" and all that follows through "in effect" and inserting "the two highest of the three (3) crop years 1999, 2000, and 2001"; and

(C) by inserting after paragraph (7) the following new paragraph:

"(8) PROCESSING FACILITY CLOSURES.—In the event that a sugarcane processing facility subject to this subsection is closed and the sugarcane growers who previously delivered sugarcane to such facility desire to deliver their sugarcane to another processing company—

"(A) such growers may petition the Secretary to modify existing allocations to accommodate such a transition;

"(B) the Secretary may increase the allocation to the processing company to which the growers desire to deliver the sugarcane, and which the processing company agrees to accept, not to exceed its processing capacity, to accommodate the change in deliveries;

"(C) such increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation will be unaffected; and

"(D) the Secretary's determination on the issues raised by the petition shall be made within 60 days of the filing of the petition.".

(g) CONFORMING AMENDMENTS.—(1) The heading of part VII of subtitle B of Title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 359aa et seq.) is amended to read as follows:

"PART VII—FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR".

(2) Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(A) by striking "359f" each place it appears and inserting "359f(c)";

(B) in subsection (b), by striking "3 consecutive" and inserting "5 consecutive"; and

(C) in subsection (c), by inserting "or adjusted" after "share established".

(3) Section 359j(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359jj) is amended—

(A) by amending the subsection heading to read as follows: "DEFINITIONS.—";

(B) by striking "Notwithstanding" and inserting the following:

"(1) UNITED STATES AND STATE.—Notwithstanding"; and

(C) by inserting after such paragraph (1) the following new paragraph:

"(2) OFFSHORE STATES.—For purposes of this part, the term 'offshore States' means the sugarcane producing States located outside of the continental United States.".

(h) LIFTING OF SUSPENSION.—Section 171(a)(1)(E) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C.

7301(a)(1)(E)) is amended by inserting before the period at the end the following: ", but only with respect to sugar marketings through fiscal year 2002".

SEC. 153. STORAGE FACILITY LOANS.

(a) STORAGE FACILITY LOAN PROGRAM.—Notwithstanding any other provision of law and as soon as practicable after the date of the enactment of this section, the Commodity Credit Corporation shall amend part 1436 of title 7, Code of Federal Regulations, to establish a sugar storage facility loan program to provide financing for processors of domestically-produced sugarcane and sugar beets to build or upgrade storage and handling facilities for raw sugars and refined sugars.

(b) ELIGIBLE PROCESSORS.—Storage facility loans shall be made available to any processor of domestically produced sugarcane or sugar beets that has a satisfactory credit history, determines a need for increased storage capacity (taking into account the effects of marketing allotments), and demonstrates an ability to repay the loan.

(c) TERM OF LOANS.—Storage facility loans shall be for a minimum of seven years, and shall be in such amounts and on such terms and conditions (including down payment, security requirements, and eligible equipment) as are normal, customary, and appropriate for the size and commercial nature of the borrower.

(d) ADMINISTRATION.—The sugar storage facility loan program shall be administered using the services, facilities, funds, and authorities of the Commodity Credit Corporation.

CHAPTER 3—PEANUTS

SEC. 161. DEFINITIONS.

In this chapter:

(1) COUNTER-CYCLICAL PAYMENT.—The term "counter-cyclical payment" means a payment made to peanut producers under section 164.

(2) EFFECTIVE PRICE.—The term "effective price" means the price calculated by the Secretary under section 164 for peanuts to determine whether counter-cyclical payments are required to be made under such section for a crop year.

(3) HISTORIC PEANUT PRODUCER.—The term "historic peanut producer" means a peanut producer on a farm in the United States that produced or attempted to produce peanuts during any or all of crop years 1998, 1999, 2000, and 2001.

(4) FIXED, DECOUPLED PAYMENT.—The term "fixed, decoupled payment" means a payment made to peanut producers under section 163.

(5) PAYMENT ACRES.—The term "payment acres" means 85 percent of the peanut acres on a farm, as established under section 162, upon which fixed, decoupled payments and counter-cyclical payments are to be made.

(6) PEANUT ACRES.—The term "peanut acres" means the number of acres assigned to a particular farm by historic peanut producers pursuant to section 162(b).

(7) PAYMENT YIELD.—The term "payment yield" means the yield assigned to a particular farm by historic peanut producers pursuant to section 162(b).

(8) PEANUT PRODUCER.—The term "peanut producer" means an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop of peanuts in the United States and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

(9) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(10) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(11) TARGET PRICE.—The term "target price" means the price per ton of peanuts used to determine the payment rate for counter-cyclical payments.

(12) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

SEC. 162. ESTABLISHMENT OF PAYMENT YIELD, PEANUT ACRES, AND PAYMENT ACRES FOR A FARM.

(a) ESTABLISHMENT OF PAYMENT YIELD AND PAYMENT ACRES.—

(1) DETERMINATION OF AVERAGE YIELD.—

(A) IN GENERAL.—The Secretary shall determine, for each historic peanut producer, the average yield for peanuts on each farm on which the historic peanut producer produced peanuts for the 1998 through 2001 crop years, excluding any crop year in which the producer did not produce peanuts. If, for any of these four crop years in which peanuts were planted on a farm by the producer, the farm would have satisfied the eligibility criteria established to carry out section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public Law 105-277), the Secretary shall assign a yield for the producer for that year equal to 65 percent of the county yield, as determined by the Secretary.

(B) SELECTION BY PRODUCER.—If a county in which a historical peanut producer described in subparagraph (A) is located is declared a disaster area during 1 or more of the 4 crop years described in subparagraph (A), for the purposes of determining the 4-year average yield for the historical peanut producer, the historical peanut producer may elect to substitute, for not more than 1 of the crop years during which a disaster is declared—

(i) the State 4-year average yield of peanuts produced in the State; or

(ii) the average yield for the historical peanut producer determined by the Secretary under subparagraph (A).

(2) ACREAGE AVERAGE.—Except as provided in paragraph (3), the Secretary shall determine, for the historical peanut producer, the 4-year average of—

(A) acreage planted to peanuts on all farms for harvest during the 1998 through 2001 crop years; and

(B) any acreage that was prevented from being planting to peanuts during the crop years because of drought, flood, or other natural disaster, or other condition beyond the control of the historical peanut producer, as determined by the Secretary.

(3) SELECTION BY PRODUCER.—If a county in which a historical peanut producer described in paragraph (2) is located is declared a disaster area during 1 or more of the 4 crop years described in paragraph (2), for the purposes of determining the 4-year average acreage for the historical peanut producer, the historical peanut producer may elect to substitute, for not more than 1 of the crop years during which a disaster is declared—

(A) the State average of acreage actually planted to peanuts; or

(B) the average of acreage for the historical peanut producer determined by the Secretary under paragraph (2).

(4) TIME FOR DETERMINATIONS; FACTORS.—

(A) TIMING.—The Secretary shall make the determinations required by this subsection not later than 90 days after the date of enactment of this section.

(B) FACTORS.—In making the determinations, the Secretary shall take into account changes in the number and identity of historical peanut producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm when a historical peanut producer is no longer living or an entity composed of historical peanut producers has been dissolved.

(b) ASSIGNMENT OF YIELD AND ACRES TO FARMS.—

(1) ASSIGNMENT BY HISTORICAL PEANUT PRODUCERS.—For each of the 2002 and 2003 crop years, the Secretary shall provide each historical peanut producer with an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for the historical peanut producer to cropland on a farm.

(2) PAYMENT YIELD.—The average of all of the yields assigned by historical peanut producers to a farm shall be considered to be the payment yield for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

(3) PEANUT ACRES.—Subject to subsection (e), the total number of acres assigned by historical peanut producers to a farm shall be considered to be the peanut acres for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

(c) ELECTION.—Not later than 180 days after the date of enactment of this section for the 2002 crop, and not later than 180 days after January 1, 2003, for the 2003 crop, a historical peanut producer shall notify the Secretary of the assignments described in subsection (b).

(d) PAYMENT ACRES.—The payment acres for peanuts on a farm shall be equal to 85 percent of the peanut acres assigned to the farm.

(e) PREVENTION OF EXCESS PEANUT ACRES.—

(1) REQUIRED REDUCTION.—If the total of the peanut acres for a farm, together with the acreage described in paragraph (3), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the quantity of peanut acres for the farm or contract acreage for 1 or more covered commodities for the farm as necessary so that the total of the peanut acres and acreage described in paragraph (3) does not exceed the actual cropland acreage of the farm.

(2) SELECTION OF ACRES.—The Secretary shall give the peanut producers on the farm the opportunity to select the peanut acres or contract acreage against which the reduction will be made.

(3) OTHER ACREAGE.—For the purposes of paragraph (1), the Secretary shall include—

(A) any contract acreage for the farm under subtitle B;

(B) any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.); and

(C) any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(3) DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall take into account additional acreage as a result of an established double-cropping history on a farm, as determined by the Secretary.

SEC. 163. DIRECT PAYMENTS FOR PEANUTS.

(a) IN GENERAL.—For each of the 2002 through 2006 fiscal years, the Secretary shall make direct payments to peanut producers on a farm with peanut acres under section 158B and a payment yield for peanuts under section 164.

(b) PAYMENT RATE.—The payment rate used to make direct payments with respect to peanuts for a fiscal year shall be equal to $0.018 per pound.

(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the peanut producers on a farm for peanuts for a fiscal year shall be equal to the product obtained by multiplying—

(1) the payment rate specified in subsection (b);

(2) the payment acres on the farm; by

(3) the payment yield for the farm.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—The Secretary shall make direct payments—

(A) in the case of the 2002 fiscal year, during the period beginning December 1, 2001, and ending September 30, 2002; and

(B) in the case of each of the 2003 through 2006 fiscal years, not later than September 30 of the fiscal year.

(2) ADVANCE PAYMENTS.—

(A) IN GENERAL.—At the option of the peanut producers on a farm, the Secretary shall pay 50 percent of the direct payment for a fiscal year for the producers on the farm on a date selected by the peanut producers on the farm.

(B) SELECTED DATE.—The selected date for a fiscal year shall be on or after December 1 of the fiscal year.

(C) SUBSEQUENT FISCAL YEARS.—The peanut producers on a farm may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If any peanut producer on a farm that receives an advance direct payment for a fiscal year ceases to be eligible for a direct payment before the date the direct payment would have been made by the Secretary under paragraph (1), the peanut producer shall be responsible for repaying the Secretary the full amount of the advance payment.

SEC. 164. COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.

(a) IN GENERAL.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make counter-cyclical payments with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the income protection price for peanuts.

(b) EFFECTIVE PRICE.—For the purposes of subsection (a), the effective price for peanuts is equal to the total of—

(1) the greater of—

(A) the national average market price received by peanut producers during the marketing season for peanuts, as determined by the Secretary; or

(B) the national average loan rate for a marketing assistance loan for peanuts under section 167 in effect for the marketing season for peanuts under this chapter; and

(2) the payment rate in effect for peanuts under section 165 for the purpose of making direct payments with respect to peanuts.

(c) INCOME PROTECTION PRICE.—For the purposes of subsection (a), the income protection price for peanuts shall be equal to $550 per ton.

(d) PAYMENT AMOUNT.—The amount of the counter-cyclical payment to be paid to the peanut producers on a farm for a crop year shall be equal to the product obtained by multiplying—

(1) the payment rate specified in subsection (e);

(2) the payment acres on the farm; by

(3) the payment yield for the farm.

(e) PAYMENT RATE.—The payment rate used to make counter-cyclical payments with respect to peanuts for a crop year shall be equal to the difference between—

(1) the income protection price for peanuts; and

(2) the effective price determined under subsection (b) for peanuts.

(f) TIME FOR PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make counter-cyclical payments to peanut producers on a farm under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

(2) PARTIAL PAYMENT.—

(A) IN GENERAL.—At the option of the Secretary, the peanut producers on a farm may elect to receive up to 40 percent of the projected counter-cyclical payment to be made under this section for a crop of peanuts on completion of the first 2 months of the marketing season for the crop, as determined by the Secretary.

(B) REPAYMENT.—The peanut producers on a farm shall repay to the Secretary the amount, if any, by which the payment received by producers on the farm (including any partial payments) exceeds the counter-cyclical payment the producers on the farm are eligible for under this section.

SEC. 165. PRODUCER AGREEMENTS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the peanut producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the peanut producers on the farm shall agree during the fiscal year or crop year, respectively, for which the payments are received, in exchange for the payments—

(A) to comply with applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 166; and

(D) to use a quantity of the land on the farm equal to the peanut acres, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary.

(2) COMPLIANCE.—The Secretary may promulgate such regulations as the Secretary considers necessary to ensure peanut producer compliance with paragraph (1).

(b) FORECLOSURE.—

(1) IN GENERAL.—The Secretary shall not require the peanut producers on a farm to repay a direct payment or counter-cyclical payment if a foreclosure has occurred with respect to the farm and the Secretary determines that forgiving the repayment is appropriate to provide fair and equitable treatment.

(2) COMPLIANCE WITH REQUIREMENTS.—

(A) IN GENERAL.—This subsection shall not void the responsibilities of the peanut producers on a farm under subsection (a) if the peanut producers on the farm continue or resume operation, or control, of the farm.

(B) APPLICABLE REQUIREMENTS.—On the resumption of operation or control over the farm by the peanut producers on the farm, the requirements of subsection (a) in effect on the date of the foreclosure shall apply.

(c) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—Except as provided in paragraph (5), a transfer of (or change in) the interest of the peanut producers on a farm in peanut acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the peanut acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

(2) EFFECTIVE DATE.—The termination takes effect on the date of the transfer or change.

(3) TRANSFER OF PAYMENT BASE AND YIELD.—The Secretary shall not impose any restriction on the transfer of the peanut acres or payment yield of a farm as part of a transfer or change described in paragraph (1).

(4) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the purposes of subsection (a), as determined by the Secretary.

(5) EXCEPTION.—If a peanut producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary.

(d) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this chapter, the Secretary shall require the peanut producers on a farm to submit to the Secretary acreage reports for the farm.

(e) TENANTS AND SHARECROPPERS.—In carrying out this chapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(f) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the peanut producers on a farm on a fair and equitable basis.

SEC. 166. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on peanut acres on a farm.

(b) LIMITATIONS AND EXCEPTIONS REGARDING CERTAIN COMMODITIES.—

(1) LIMITATIONS.—The planting of the following agricultural commodities shall be prohibited on peanut acres:

(A) Fruits.

(B) Vegetables (other than lentils, mung beans, and dry peas).

(C) In the case of the 2003 and subsequent crops of an agricultural commodity, wild rice.

(2) EXCEPTIONS.—Paragraph (1) shall not limit the planting of an agricultural commodity specified in paragraph (1)—

(A) in any region in which there is a history of double-cropping of peanuts with agricultural commodities specified in paragraph (1), as determined by the Secretary, in which case the double-cropping shall be permitted;

(B) on a farm that the Secretary determines has a history of planting agricultural commodities specified in paragraph (1) on peanut acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity; or

(C) by the peanut producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in paragraph (1), except that—

(i) the quantity planted may not exceed the average annual planting history of the agricultural commodity by the peanut producers on the farm during the 1996 through

2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(ii) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity.

SEC. 167. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make available to peanut producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm.

(2) TERMS AND CONDITIONS.—The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

(3) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

(4) TREATMENT OF CERTAIN COMMINGLED COMMODITIES.—In carrying out this section, the Secretary shall make loans to peanut producers on a farm that would be eligible to obtain a marketing assistance loan but for the fact the peanuts owned by the peanut producers on the farm are commingled with other peanuts of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the peanut producers on a farm obtaining the loan agree to immediately redeem the loan collateral in accordance with section 165.

(5) OPTIONS FOR OBTAINING LOAN.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the peanut producers on a farm through—

(A) a designated marketing association of peanut producers that is approved by the Secretary, which may own or construct necessary storage facilities;

(B) the Farm Service Agency; or

(C) a loan servicing agent approved by the Secretary.

(b) LOAN RATE.—The loan rate for a marketing assistance loan for peanuts under subsection (a) shall be equal to $400 per ton.

(c) TERM OF LOAN.—

(1) IN GENERAL.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(2) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

(d) REPAYMENT RATE.—The Secretary shall permit peanut producers on a farm to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

(1) the loan rate established for peanuts under subsection (b), plus interest (as determined by the Secretary); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of peanuts by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing peanuts; and

(D) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to the peanut producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for payments under this subsection.

(2) AMOUNT.—A loan deficiency payment under this subsection shall be obtained by multiplying—

(A) the loan payment rate determined under paragraph (3) for peanuts; by

(B) the quantity of the peanuts produced by the peanut producers on the farm, excluding any quantity for which the producers on the farm obtain a loan under subsection (a).

(3) LOAN PAYMENT RATE.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

(A) the loan rate established under subsection (b); exceeds

(B) the rate at which a loan may be repaid under subsection (d).

(4) TIME FOR PAYMENT.—The Secretary shall make a payment under this subsection to the peanut producers on a farm with respect to a quantity of peanuts as of the earlier of—

(A) the date on which the peanut producers on the farm marketed or otherwise lost beneficial interest in the peanuts, as determined by the Secretary; or

(B) the date the peanut producers on the farm request the payment.

(f) COMPLIANCE WITH CONSERVATION REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the peanut producers on a farm shall comply during the term of the loan with—

(1) applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

(2) applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF EXPENSES.—To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of the agreements or payment of the expenses for other commodities.

SEC. 168. QUALITY IMPROVEMENT.

(a) OFFICIAL INSPECTION.—All peanuts placed under a marketing assistance loan under section 167 or otherwise sold or marketed shall be officially inspected and graded by a Federal or State inspector.

(b) EFFECTIVE DATE.—This section shall take effect with the 2002 crop of peanuts.

SEC. 169. PAYMENT LIMITATIONS.

For purposes of sections 1001 through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–3), separate payment limitations shall apply to peanuts with respect to—

(1) fixed, decoupled payments;

(2) counter-cyclical payments, and

(3) limitations on marketing loan gains and loan deficiency payments.

SEC. 170. TERMINATION OF MARKETING QUOTA PROGRAMS FOR PEANUTS AND COMPENSATION TO PEANUT QUOTA HOLDERS FOR LOSS OF QUOTA ASSET VALUE.

(a) REPEAL OF MARKETING QUOTA.—

(1) REPEAL.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357–1359a), relating to peanuts, is repealed.

(2) TREATMENT OF 2001 CROP.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357–1359a), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 2001 crop of peanuts notwithstanding the amendment made by paragraph (1).

(b) COMPENSATION CONTRACT REQUIRED.—The Secretary shall offer to enter into a contract with eligible peanut quota holders for the purpose of providing compensation for the lost value of the quota on account of the repeal of the marketing quota program for peanuts under subsection (a). Under the contracts, the Secretary shall make payments to eligible peanut quota holders during fiscal years 2002 through 2006.

(c) TIME FOR PAYMENT.—The payments required under the contracts shall be provided in five equal installments not later than September 30 of each of fiscal years 2002 through 2006.

(d) PAYMENT AMOUNT.—The amount of the payment for a fiscal year to a peanut quota holder under a contract shall be equal to the product obtained by multiplying—

(1) $0.10 per pound; by

(2) the actual farm poundage quota (excluding seed and experimental peanuts) established for the peanut quota holder's farm under section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)) for the 2001 marketing year.

(e) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to the payments made to peanut quota holders under the contracts. The peanut quota holder making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this subsection.

(f) PEANUT QUOTA HOLDER DEFINED.—In this section, the term "peanut quota holder" means a person or enterprise that owns a farm that—

(1) was eligible, immediately before the date of the enactment of this Act, to have a peanut quota established upon it;

(2) if there are not quotas currently established, would be eligible to have a quota established upon it for the succeeding crop year, in the absence of the amendment made by subsection (a); or

(3) is otherwise a farm that was eligible for such a quota at the time the general quota establishment authority was repealed.

The Secretary shall apply this definition without regard to temporary leases or transfers or quotas for seed or experimental purposes.

Subtitle D—Administration

SEC. 181. ADMINISTRATION GENERALLY.

(a) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall carry out this title through the Commodity Credit Corporation.

(b) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(c) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement this title. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly know as the "Paperwork Reduction Act").

(d) Protection of Producers.—The protection afforded producers that elect the option to accelerate the receipt of any payment under a production flexibility contract payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212 note) shall also apply to the advance payment of fixed, decoupled payments and counter-cyclical payments.

(e) Adjustment Authority Related to Uruguay Round Compliance.—If the Secretary determines that expenditures under subtitles A, B, and C that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7))), as in effect on the date of the enactment of this Act, will exceed such allowable levels for any applicable reporting period, the Secretary may make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed, but in no case are less than, such allowable levels.

SEC. 182. EXTENSION OF SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) Agricultural Adjustment Act of 1938.—Section 171(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(a)(1)) is amended by striking "2002" both places it appears and inserting "2011".

(b) Agricultural Act of 1949.—Section 171(b)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(b)(1)) is amended by striking "2002" both places it appears and inserting "2011".

(c) Suspension of Certain Quota Provisions.—Section 171(c) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(c)) is amended by striking "2002" and inserting "2011".

SEC. 183. LIMITATIONS.

(a) Limitation on Amounts Received.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(1) in paragraph (1)—

(A) by striking "PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS" and inserting "FIXED, DECOUPLED PAYMENTS";

(B) by striking "contract payments made under the Agricultural Market Transition Act to a person under 1 or more production flexibility contracts" and inserting "fixed, decoupled payments made to a person"; and

(C) by striking "4" and inserting "5";

(2) in paragraphs (2) and (3)—

(A) by striking "payments specified" and all that follows through "and oilseeds" and inserting "following payments that a person shall be entitled to receive";

(B) by striking "75" and inserting "150";

(C) by striking the period at the end of paragraph (2) and all that follows through "the following" in paragraph (3);

(D) by striking "section 131" and all that follows through "section 132" and inserting "section 121 of the Farm Security Act of 2001 for a crop of any covered commodity at a lower level than the original loan rate established for the commodity under section 122"; and

(E) by striking "section 135" and inserting "section 125"; and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) Limitation on Counter-Cyclical Payments.—The total amount of counter-cyclical payments that a person may receive during any crop year shall not exceed the amount specified in paragraph (2), as in effect on the day before the date of the enactment of the Farm Security Act of 2001.".

(b) Definitions.—Paragraph (4) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended to read as follows:

"(4) Definitions.—In this title, the terms 'covered commodity', 'counter-cyclical payment', and 'fixed, decoupled payment' have the meaning given those terms in section 100 of the Farm Security Act of 2001.".

(c) Transition.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to fiscal year 2001 and the 2001 crop of any covered commodity.

SEC. 184. ADJUSTMENTS OF LOANS.

Section 162(b) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7282(b)) is amended by striking "this title" and inserting "this title and title I of the Farm Security Act of 2001".

SEC. 185. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.

Section 164 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7284) is amended by striking "this title" each places it appears and inserting "this title and title I of the Farm Security Act of 2001".

SEC. 186. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.

Section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286) is amended—

(1) in subsection (a)—

(A) by striking "In General.—" and inserting "Specific Payments.—"; and

(B) by striking "subtitle C" and inserting "subtitle C of this title and title I of the Farm Security Act of 2001"; and

(2) in subsection (c)(1)—

(A) by striking "producer" the first two places it appears and inserting "person"; and

(B) by striking "to producers under subtitle C" and inserting "by the Commodity Credit Corporation".

SEC. 187. ASSIGNMENT OF PAYMENTS.

The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to payments made under the authority of this Act. The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section.

SEC. 188. REPORT ON EFFECT OF CERTAIN FARM PROGRAM PAYMENTS ON ECONOMIC VIABILITY OF PRODUCERS AND FARMING INFRASTRUCTURE.

(a) Review Required.—The Secretary of Agriculture shall conduct a review of the effects that payments under production flexibility contracts and market loss assistance payments have had, and that fixed, decoupled payments and counter-cyclical payments are likely to have, on the economic viability of producers and the farming infrastructure, particularly in areas where climate, soil types, and other agronomic conditions severely limit the covered crops that producers can choose to successfully and profitably produce.

(b) Case Study Related to Rice Production.—The review shall include a case study of the effects that the payments described in subsection (a), and the forecast effects of increasing these or other decoupled payments, are likely to have on rice producers (including tenant rice producers), the rice milling industry, and the economies of rice farming areas in Texas, where harvested rice acreage has fallen from 320,000 acres in 1995 to only 211,000 acres in 2001.

(c) Report and Recommendations.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the information collected for the review and the case study and any findings made on the basis of such information. The report shall include recommendations for minimizing the adverse effects on producers, with a special focus on producers who are tenants, on the agricultural economies in farming areas generally, on those particular areas described in subsection (a), and on the area that is the subject of the case study in subsection (b).

TITLE II—CONSERVATION

Subtitle A—Environmental Conservation Acreage Reserve Program

SEC. 201. GENERAL PROVISIONS.

Title XII of the Food Security Act of 1985 is amended—

(1) in section 1230(a), by striking "1996 through 2002" and inserting "2002 through 2011";

(2) by striking subsection (c) of section 1230; and

(3) in section 1230A (16 U.S.C. 3830a), by striking "chapter" each place it appears and inserting "title".

Subtitle B—Conservation Reserve Program

SEC. 211. REAUTHORIZATION.

(a) In General.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended in each of subsections (a) and (d) by striking "2002" and inserting "2011".

(b) Scope of Program.—Section 1231(a) of such Act (16 U.S.C. 3831(a)) is amended by striking "and water" and inserting ", water, and wildlife".

SEC. 212. ENROLLMENT.

(a) Conservation Priority Areas.—

(1) Eligibility.—Section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) highly erodible cropland that—

"(A)(i) if permitted to remain untreated could substantially reduce the production capability for future generations; or

"(ii) cannot be farmed in accordance with a conservation plan that complies with the requirements of subtitle B; and

"(B) the Secretary determines had a cropping history or was considered to be planted for 3 of the 6 years preceding the date of enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2001 (except for land enrolled in the conservation reserve program as of that date);"; and

(B) by adding at the end the following:

"(5) the portion of land in a field not enrolled in the conservation reserve in a case in which more than 50 percent of the land in the field is enrolled as a buffer under a program described in section 1234(i)(1), if the land is enrolled as part of the buffer; and

"(6) land (including land that is not cropland) enrolled through continuous signup—

"(A) to establish conservation buffers as part of the program described in a notice issued on March 24, 1998 (63 Fed. Reg. 14109) or a successor program; or

"(B) into the conservation reserve enhancement program described in a notice issued on May 27, 1998 (63 Fed. Reg. 28965) or a successor program.".

(2) CRP priority areas.—Section 1231(f) of the Food Security Act of 1985 (16 U.S.C.

3831(f)) is amended by adding at the end the following:

"(5) Priority.—In designating conservation priority areas under paragraph (1), the Secretary shall give priority to areas in which designated land would facilitate the most rapid completion of projects that—

"(A) are ongoing as of the date of the application; and

"(B) meet the purposes of the program established under this subchapter.".

(b) Eligibility on Contract Expiration.—Section 1231(f) of such Act (16 U.S.C. 3831(f)) is amended to read as follows:

"(f) Eligibility on Contract Expiration.—On the expiration of a contract entered into under this subchapter, the land subject to the contract shall be eligible to be considered for re-enrollment in the conservation reserve.".

(c) Balance of Natural Resource Purposes.—

(1) In general.—Section 1231 of such Act (16 U.S.C. 3831) is amended by adding at the end the following:

"(i) Balance of Natural Resource Purposes.—In determining the acceptability of contract offers under this subchapter, the Secretary shall ensure an equitable balance among the conservation purposes of soil erosion, water quality and wildlife habitat.".

(2) Regulations.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue final regulations implementing section 1231(i) of the Food Security Act of 1985, as added by paragraph (1) of this subsection.

SEC. 213. DUTIES OF OWNERS AND OPERATORS.

Section 1232 of the Food Security Act of 1985 (16 U.S.C. 3832) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting "as described in section 1232(a)(7) or for other purposes" before "as permitted";

(B) in paragraph (4), by inserting "where practicable, or maintain existing cover" before "on such land"; and

(C) in paragraph (7), by striking "Secretary—" and all that follows and inserting "Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat—

"(A) managed grazing and limited haying, in which case the Secretary shall reduce the conservation reserve payment otherwise payable under the contract by an amount commensurate with the economic value of the activity;

"(B) wind turbines for the provision of wind energy, whether or not commercial in nature; and

"(C) land subject to the contract to be harvested for recovery of biomass used in energy production, in which case the Secretary shall reduce the conservation reserve payment otherwise payable under the contract by an amount commensurate with the economic value of such activity;"; and

(2) by striking subsections (c) and (d) and redesignating subsection (e) as subsection (c).

SEC. 214. REFERENCE TO CONSERVATION RESERVE PAYMENTS.

Subchapter B of chapter 1 of subtitle D of title XII of such Act (16 U.S.C. 3831-3836) is amended—

(1) by striking "rental payment" each place it appears and inserting "conservation reserve payment";

(2) by striking "rental payments" each place it appears and inserting "conservation reserve payments"; and

(3) in the paragraph heading for section 1235(e)(4), by striking "RENTAL PAYMENT" and inserting "CONSERVATION RESERVE PAYMENT".

SEC. 215. EXPANSION OF PILOT PROGRAM TO ALL STATES.

Section 1231(h) of the Food Security Act of 1985 (16 U.S.C. 3831(h)) is amended—

(1) in paragraph (1), by striking "and 2002" and all that follows through "South Dakota" and inserting "through 2011 calendar years, the Secretary shall carry out a program in each State";

(2) in paragraph (3)(C), by striking "—" and all that follows and inserting "not more than 150,000 acres in any 1 State."; and

(3) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively.

Subtitle C—Wetlands Reserve Program

SEC. 221. ENROLLMENT.

(a) Maximum.—Section 1237(b) of the Food Security Act of 1985 (16 U.S.C. 3837(b)) is amended by striking paragraph (1) and inserting the following:

"(1) Annual enrollment.—In addition to any acres enrolled in the wetlands reserve program as of the end of a calendar year, the Secretary may in the succeeding calendar year enroll in the program a number of additional acres equal to—

"(A) if the succeeding calendar year is calendar year 2002, 150,000; or

"(B) if the succeeding calendar year is a calendar year after calendar year 2002—

"(i) 150,000; plus

"(ii) the amount (if any) by which 150,000, multiplied by the number of calendar years in the period that begins with calendar year 2002 and ends with the calendar year preceding such succeeding calendar year, exceeds the total number of acres added to the reserve during the period.".

(b) Methods.—Section 1237 of such Act (16 U.S.C. 3837(b)(2)) is amended—

(1) in subsection (b), by striking paragraph (2) and inserting the following:

"(2) Methods of enrollment.—The Secretary shall enroll acreage into the wetlands reserve program through the use of easements, restoration cost share agreements, or both."; and

(2) by striking subsection (g).

(c) Extension.—Section 1237(c) of such Act (16 U.S.C. 3837(c)) is amended by striking "2002" and inserting "2011".

SEC. 222. EASEMENTS AND AGREEMENTS.

Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended—

(1) in subsection (b), by striking paragraph (2) and inserting the following:

"(2) prohibits the alteration of wildlife habitat and other natural features of such land, unless specifically permitted by the plan;";

(2) in subsection (e), by striking paragraph (2) and inserting the following:

"(2) shall be consistent with applicable State law.";

(3) by striking subsection (h).

SEC. 223. DUTIES OF THE SECRETARY.

Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended by striking subsection (d).

SEC. 224. CHANGES IN OWNERSHIP; AGREEMENT MODIFICATION; TERMINATION.

Section 1237E(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3837e(a)(2)) is amended to read as follows:

"(2) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law; or".

Subtitle D—Environmental Quality Incentives Program

SEC. 231. PURPOSES.

Section 1240 of the Food Security Act of 1985 (16 U.S.C. 3839aa) is amended—

(1) by striking "to—" and all that follows through "provides—" and inserting "to provide—";

(2) by striking "that face the most serious threats to" and inserting "to address environmental needs and provide benefits to air,";

(3) by redesignating the subparagraphs (A) through (D) that follow the matter amended by paragraph (2) of this section as paragraphs (1) through (4), respectively;

(4) by moving each of such redesignated provisions 2 ems to the left; and

(5) by striking "farmers and ranchers" each place it appears and inserting "producers".

SEC. 232. DEFINITIONS.

Section 1240A of the Food Security Act of 1985 (16 U.S.C. 3839aa–1) is amended—

(1) in paragraph (1)—

(A) by inserting "non-industrial private forest land," before "and other land"; and

(B) by striking "poses a serious threat" and all that follows and inserting "provides increased environmental benefits to air, soil, water, or related resources."; and

(2) in paragraph (4), by inserting ", including non-industrial private forestry" before the period.

SEC. 233. ESTABLISHMENT AND ADMINISTRATION.

(a) Reauthorization.—Section 1240B(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(a)(1)) is amended by striking "2002" and inserting "2011".

(b) Term of Contracts.—Section 1240B(b)(2) of such Act (16 U.S.C. 3839aa–2(b)(2)) is amended by striking "not less than 5, nor more than 10, years" and inserting "not less than 1 year, nor more than 10 years".

(c) Structural Practices.—Section 1240B(c)(1)(B) of such Act (16 U.S.C. 3839aa–2(c)(1)(B)) is amended to read as follows:

"(B) achieving the purposes established under this subtitle.".

(d) Elimination of Certain Limitations on Eligibility for Cost-Share Payments.—Section 1240B(e)(1) of such Act (16 U.S.C. 3839aa–2(e)(1)) is amended—

(1) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(2) in subparagraph (B) (as so redesignated), by striking "or 3".

(e) Incentive Payments.—Section 1240B of such Act (16 U.S.C. 3839aa-2) is amended—

(1) in subsection (e)—

(A) in the subsection heading, by striking ", Incentive Payments,"; and

(B) by striking paragraph (2); and

(2) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and inserting after subsection (e) the following:

"(f) Conservation Incentive Payments.—

"(1) In general.—The Secretary may make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform multiple land management practices and to promote the enhancement of soil, water, wildlife habitat, air, and related resources.

"(2) Special rule.—In determining the amount and rate of incentive payments, the Secretary may accord great weight to those practices that include residue, nutrient, pest, invasive species, and air quality management.".

SEC. 234. EVALUATION OF OFFERS AND PAYMENTS.

Section 1240C of the Food Security Act of 1985 (16 U.S.C. 3839aa–3) is amended by striking paragraphs (1) through (3) and inserting the following:

"(1) aid producers in complying with this title and Federal and State environmental laws, and encourage environmental enhancement and conservation;

"(2) maximize the beneficial usage of animal manure and other similar soil amendments which improve soil health, tilth, and water-holding capacity; and

"(3) encourage the utilization of sustainable grazing systems, such as year-round, rotational, or managed grazing.".

SEC. 235. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

Section 1240E(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–5(a)) is amended by striking "that incorporates such conservation practices" and all that follows and inserting "that provides or will continue to provide increased environmental benefits to air, soil, water, or related resources.".

SEC. 236. DUTIES OF THE SECRETARY.

Section 1240F(3) of the Food Security Act of 1985 (16 U.S.C. 3839aa–6(3)) is amended to read as follows:

"(3) providing technical assistance or cost-share payments for developing and implementing 1 or more structural practices or 1 or more land management practices, as appropriate;".

SEC. 237. LIMITATION ON PAYMENTS.

Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "$10,000" and inserting "$50,000"; and

(B) in paragraph (2), by striking "$50,000" and inserting "$200,000";

(2) in subsection (b)(2), by striking "the maximization of environmental benefits per dollar expended and"; and

(3) by striking subsection (c).

SEC. 238. GROUND AND SURFACE WATER CONSERVATION.

Section 1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa–8) is amended to read as follows:

"SEC. 1240H. GROUND AND SURFACE WATER CONSERVATION.

"(a) SUPPORT FOR CONSERVATION MEASURES.—The Secretary shall provide cost-share payments and low-interest loans to encourage ground and surface water conservation, including irrigation system improvement, and provide incentive payments for capping wells, reducing use of water for irrigation, and switching from irrigation to dryland farming.

"(b) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available the following amounts to carry out this section:

"(1) $30,000,000 for fiscal year 2002.

"(2) $45,000,000 for fiscal year 2003.

"(3) $60,000,000 for each of fiscal years 2004 through 2011.".

Subtitle E—Funding and Administration

SEC. 241. REAUTHORIZATION.

Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking "2002" and inserting "2011".

SEC. 242. FUNDING.

Section 1241(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3841(b)(1)) is amended—

(1) by striking "$130,000,000" and all that follows through "2002, for" and inserting "the following amounts for purposes of";

(2) by striking "subtitle D." and inserting "subtitle D:"; and

(3) by adding at the end the following:

"(A) $200,000,000 for fiscal year 2001.

"(B) $1,025,000,000 for each of fiscal years 2002 and 2003.

"(C) $1,200,000,000 for each of fiscal years 2004, 2005, and 2006.

"(D) $1,400,000,000 for each of fiscal years 2007, 2008, and 2009.

"(E) $1,500,000,000 for each of fiscal years 2010 and 2011.".

SEC. 243. ALLOCATION FOR LIVESTOCK PRODUCTION.

Section 1241(b)(2) of the Food Security Act of 1985 (16 U.S.C. 3841(b)(2)) is amended by striking "2002" and inserting "2011".

SEC. 244. ADMINISTRATION AND TECHNICAL ASSISTANCE.

(a) BROADENING OF EXCEPTION TO ACREAGE LIMITATION.—Section 1243(b)(2) of the Food Security Act of 1985 (16 U.S.C. 3843(b)(2)) is amended by striking "that—" and all that follows and inserting "that the action would not adversely affect the local economy of the county.".

(b) RULES GOVERNING PROVISION OF TECHNICAL ASSISTANCE.—Section 1243(d) of such Act (16 U.S.C. 3843(d)) is amended to read as follows:

"(d) RULES GOVERNING PROVISION OF TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall provide technical assistance under this title to a producer eligible for such assistance, by providing the assistance directly or, at the option of the producer, through an approved third party if available.

"(2) REEVALUATION.—The Secretary shall reevaluate the provision of, and the amount of, technical assistance made available under subchapters B and C of chapter 1 and chapter 4 of subtitle D.

"(3) CERTIFICATION OF THIRD-PARTY PROVIDERS.—

"(A) IN GENERAL.—Not later than 6 months after the date of the enactment of this subsection, the Secretary of Agriculture shall, by regulation, establish a system for approving persons to provide technical assistance pursuant to chapter 4 of subtitle D. For purposes of this paragraph, a person shall be considered approved if they have a memorandum of understanding regarding the provision of technical assistance in place with the Secretary.

"(B) EXPERTISE REQUIRED.—In prescribing such regulations, the Secretary shall ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, environmental engineering, including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies, are eligible to become approved providers of such technical assistance.".

(c) DUTY OF SECRETARY.—

(1) IN GENERAL.—Section 1770(d) of such Act (7 U.S.C. 2276(d)) is amended—

(A) by striking "or" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (11) and inserting "; or"; and

(C) by adding at the end the following:

"(12) title XII of this Act.".

(2) CONFORMING AMENDMENTS.—Section 1770(e) of such Act (7 U.S.C. 2276(e)) is amended—

(A) by striking the subsection heading and inserting "EXCEPTIONS"; and

(B) by inserting ", or as necessary to carry out a program under title XII of this Act as determined by the Secretary" before the period.

Subtitle F—Other Programs

SEC. 251. PRIVATE GRAZING LAND CONSERVATION ASSISTANCE.

Section 386(d)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 2005b(d)(1)) is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(I) encouraging the utilization of sustainable grazing systems, such as year-round, rotational, or managed grazing.".

SEC. 252. WILDLIFE HABITAT INCENTIVES PROGRAM.

Subsection (c) of section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a) is amended to read as follows:

"(c) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available $25,000,000 for each of fiscal years 2002 through 2011 to carry out this section.".

SEC. 253. FARMLAND PROTECTION PROGRAM.

(a) REMOVAL OF ACREAGE LIMITATION; EXPANSION OF PURPOSES.—Subsection (a) of section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note) is amended—

(1) by striking "not less than 170,000, nor more than 340,000 acres of"; and

(2) by inserting ", or agricultural land that contains historic or archaeological resources," after "other productive soil".

(b) FUNDING.—Subsection (c) of such section is amended to read as follows:

"(c) FUNDING.—The Secretary shall use not more than $50,000,000 of the funds of the Commodity Credit Corporation in each of fiscal years 2002 through 2011 to carry out this section.".

(c) ELIGIBLE ENTITIES.—Such section is further amended—

(1) in subsection (a), by striking "a State or local government" and inserting "an eligible entity"; and

(2) by adding at the end the following:

"(d) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

"(2) any organization that—

"(A) is organized for, and at all times since the formation of the organization has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

"(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

"(C) is described in section 509(a)(2) of that Code; or

"(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.".

SEC. 254. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

(a) PURPOSE.—Section 1528 of the Agriculture and Food Act of 1981 (16 U.S.C. 3451) is amended—

(1) by striking the section heading and all that follows through "SEC. 1528. It is the purpose" and inserting the following:

"SEC. 1528. STATEMENT OF PURPOSE.

"It is the purpose"; and

(2) by inserting "through designated RC&D councils" before "in rural areas".

(b) DEFINITIONS.—Section 1529 of such Act (16 U.S.C. 3452) is amended—

(1) by striking the section heading and all that follows through "SEC. 1529. As used in this subtitle—" and inserting the following:

"SEC. 1529. DEFINITIONS.

"In this title:";

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting "RC&D council" before "area plan";

(B) in subparagraph (B), by striking "through control of nonpoint sources of pollution";

(C) in subparagraph (C)—

(i) by striking "natural resources based" and inserting "resource-based";

(ii) by striking "development of aquaculture,";

(iii) by striking "and satisfaction" and inserting "satisfaction"; and

(iv) by inserting ", food security, economic development, and education" before the semicolon; and

(D) in subparagraph (D), by striking "other" the 1st place it appears and inserting "land management";

(3) in paragraph (3), by striking "any State, local unit of government, or local nonprofit organization" and inserting "the designated RC&D council";

(4) by striking paragraphs (4) through (6) and inserting the following:

"(4)(A) The term 'financial assistance' means the Secretary may—

"(i) provide funds directly to RC&D councils or associations of RC&D councils through grants, cooperative agreements, and interagency agreements that directly implement RC&D area plans; and

"(ii) may join with other federal agencies through interagency agreements and other arrangements as needed to carry out the program's purpose.

"(B) Funds may be used for such things as—

"(i) technical assistance;

"(ii) financial assistance in the form of grants for planning, analysis and feasibility studies, and business plans;

"(iii) training and education; and

"(iv) all costs associated with making such services available to RC&D councils or RC&D associations.

"(5) The term 'RC&D council' means the responsible leadership of the RC&D area. RC&D councils and associations are nonprofit entities whose members are volunteers and include local civic and elected officials. Affiliations of RC&D councils are formed in states and regions.";

(5) in paragraph (8), by inserting "and federally recognized Indian tribes" before the period;

(6) in paragraph (9), by striking "works of improvement" and inserting "projects";

(7) by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(8) by striking paragraph (10) and inserting the following:

"(9) The term 'project' means any action taken by a designated RC&D council that achieves any of the elements identified under paragraph (1).".

(c) ESTABLISHMENT AND SCOPE.—Section 1530 of such Act (16 U.S.C. 3453) is amended—

(1) by striking the section heading and all that follows through "SEC. 1530. The Secretary" and inserting the following:

"SEC. 1530. ESTABLISHMENT AND SCOPE.

"The Secretary"; and

(2) by striking "the technical and financial assistance necessary to permit such States, local units of government, and local nonprofit organizations" and inserting "through designated RC&D councils the technical and financial assistance necessary to permit such RC&D Councils".

(d) SELECTION OF DESIGNATED AREAS.—Section 1531 of such Act (16 U.S.C. 3454) is amended by striking the section heading and all that follows through "SEC. 1531. The Secretary" and inserting the following:

"SEC. 1531. SELECTION OF DESIGNATED AREAS.

"The Secretary".

(e) AUTHORITY OF SECRETARY.—Section 1532 of such Act (16 U.S.C. 3455) is amended—

(1) by striking the section heading and all that follows through "SEC. 1532. In carrying" and inserting the following:

"SEC. 1532. AUTHORITY OF SECRETARY.

"In carrying";

(2) in each of paragraphs (1) and (3)—

(A) by striking "State, local unit of government, or local nonprofit organization" and inserting "RC&D council"; and

(B) by inserting "RC&D council" before "area plan";

(3) in paragraph (2), by inserting "RC&D council" before "area plans"; and

(4) in paragraph (4), by striking "States, local units of government, and local nonprofit organizations" and inserting "RC&D councils or affiliations of RC&D councils".

(f) TECHNICAL AND FINANCIAL ASSISTANCE.—Section 1533 of such Act (16 U.S.C. 3456) is amended—

(1) by striking the section heading and all that follows through "SEC. 1533. (a) Technical" and inserting the following:

"SEC. 1533. TECHNICAL AND FINANCIAL ASSISTANCE.

"(a) Technical";

(2) in subsection (a)—

(A) by striking "State, local unit of government, or local nonprofit organization to assist in carrying out works of improvement specified in an" and inserting "RC&D councils or affiliations of RC&D councils to assist in carrying out a project specified in a RC&D council";

(B) in paragraph (1)—

(i) by striking "State, local unit of government, or local nonprofit organization" and inserting "RC&D council or affiliate"; and

(ii) by striking "works of improvement" each place it appears and inserting "project";

(C) in paragraph (2)—

(i) by striking "works of improvement" and inserting "project"; and

(ii) by striking "State, local unit of government, or local nonprofit organization" and inserting "RC&D council";

(D) in paragraph (3), by striking "works of improvement" and all that follows and inserting "project concerned is necessary to accomplish and RC&D council area plan objective;";

(E) in paragraph (4), by striking "the works of improvement provided for in the" and inserting "the project provided for in the RC&D council";

(F) in paragraph (5), by inserting "federally recognized Indian tribe" before "or local" each place it appears; and

(G) in paragraph (6), by inserting "RC&D council" before "area plan";

(3) in subsection (b), by striking "work of improvement" and inserting "project"; and

(4) in subsection (c), by striking "any State, local unit of government, or local nonprofit organization to carry out any" and inserting "RC&D council to carry out any RC&D council".

(g) RESOURCE CONSERVATION AND DEVELOPMENT POLICY BOARD.—Section 1534 of such Act (16 U.S.C. 3457) is amended—

(1) by striking the section heading and all that follows through "SEC. 1534. (a) The Secretary" and inserting the following:

"SEC. 1534. RESOURCE CONSERVATION AND DEVELOPMENT POLICY BOARD.

"(a) The Secretary"; and

(2) in subsection (b), by striking "seven".

(h) PROGRAM EVALUATION.—Section 1535 of such Act (16 U.S.C. 3458) is amended—

(1) by striking the section heading and all that follows through "SEC. 1535. The Secretary" and inserting the following:

"SEC. 1535. PROGRAM EVALUATION.

"The Secretary";

(2) by inserting "with assistance from RC&D councils" before "provided";

(3) by inserting "federally recognized Indian tribes," before "local units"; and

(4) by striking "1986" and inserting "2007".

(i) LIMITATION ON ASSISTANCE.—Section 1536 of such Act (16 U.S.C. 3458) is amended by striking the section heading and all that follows through "SEC. 1536. The program" and inserting the following:

"SEC. 1536. LIMITATION ON ASSISTANCE.

"The program".

(j) SUPPLEMENTAL AUTHORITY OF THE SECRETARY.—Section 1537 of such Act (16 U.S.C. 3460) is amended—

(1) by striking the section heading and all that follows through "SEC. 1537. The authority" and inserting the following:

"SEC. 1537. SUPPLEMENTAL AUTHORITY OF SECRETARY.

"The authority"; and

(2) by striking "States, local units of government, and local nonprofit organizations" and inserting "RC&D councils".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 1538 of such Act (16 U.S.C. 3461) is amended—

(1) by striking the section heading and all that follows through "SEC. 1538. There are" and inserting the following:

"SEC. 1538. AUTHORIZATION OF APPROPRIATIONS.

"There are"; and

(2) by striking "for each of the fiscal years 1996 through 2002".

SEC. 255. GRASSLAND RESERVE PROGRAM.

(a) IN GENERAL.—Chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830-3837f) is amended by adding at the end the following:

"Subchapter D—Grassland Reserve Program

"SEC. 1238. GRASSLAND RESERVE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, acting through the Natural Resource Conservation Service, shall establish a grassland reserve program (referred to in this subchapter as 'the program') to assist owners in restoring and protecting eligible land described in subsection (c).

"(b) ENROLLMENT CONDITIONS.—

"(1) IN GENERAL.—The Secretary shall enroll in the program, from willing owners, not less than—

"(A) 100 contiguous acres of land west of the 90th meridian; or

"(B) 50 contiguous acres of land east of the 90th meridian.

"(2) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the program shall not exceed 1,000,000 acres.

"(3) METHODS OF ENROLLMENT.—The Secretary shall enroll land in the program through—

"(A) permanent easements or 30-year easements;

"(B) in a State that imposes a maximum duration for such an easement, an easement for the maximum duration allowed under State law; or

"(C) a 30-year rental agreement.

"(c) ELIGIBLE LAND.—Land shall be eligible to be enrolled in the program if the Secretary determines that the land is—

"(1) natural grassland or shrubland;

"(2) land that—

"(A) is located in an area that has been historically dominated by natural grassland or shrubland; and

"(B) has potential to serve as habitat for animal or plant populations of significant ecological value if the land is restored to natural grassland or shrubland; or

"(3) land that is incidental to land described in paragraph (1) or (2), if the incidental land is determined by the Secretary to be necessary for the efficient administration of the easement.

"SEC. 1238A. EASEMENTS AND AGREEMENTS.

"(a) IN GENERAL.—To be eligible to enroll land in the program, the owner of the land shall enter into an agreement with the Secretary—

"(1) to grant an easement that runs with the land to the Secretary;

"(2) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement;

"(3) to provide a written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

"(4) to provide proof of unencumbered title to the underlying fee interest in the land that is the subject of the easement; and

"(5) to comply with the terms of the easement and restoration agreement.

"(b) TERMS OF EASEMENT.—An easement under subsection (a) shall—

"(1) permit—

"(A) grazing on the land in a manner that is consistent with maintaining the viability of natural grass and shrub species indigenous to that locality;

"(B) haying (including haying for seed production) or mowing, except during the nesting season for birds in the area that are in significant decline, as determined by the Natural Resources Conservation Service State conservationist, or are protected Federal or State law; and

"(C) fire rehabilitation, construction of fire breaks, and fences (including placement of the posts necessary for fences);

"(2) prohibit—

"(A) the production of row crops, fruit trees, vineyards, or any other agricultural commodity that requires breaking the soil surface; and

"(B) except as permitted under paragraph (1)(C), the conduct of any other activities that would disturb the surface of the land covered by the easement, including—

"(i) plowing; and

"(ii) disking; and

"(3) include such additional provisions as the Secretary determines are appropriate to carry out this subchapter or to facilitate the administration of this subchapter.

"(c) EVALUATION AND RANKING OF EASEMENT APPLICATIONS.—

"(1) IN GENERAL.—The Secretary, in conjunction with State technical committees, shall establish criteria to evaluate and rank applications for easements under this subchapter.

"(2) CRITERIA.—In establishing the criteria, the Secretary shall emphasize support for grazing operations, plant and animal biodiversity, and grassland and shrubland under the greatest threat of conversion.

"(d) RESTORATION AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall prescribe the terms by which grassland and shrubland subject to an easement under an agreement entered into under the program shall be restored.

"(2) REQUIREMENTS.—The restoration agreement shall describe the respective duties of the owner and the Secretary (including paying the Federal share of the cost of restoration and the provision of technical assistance).

"(e) VIOLATIONS.—

"(1) IN GENERAL.—On the violation of the terms or conditions of an easement or restoration agreement entered into under this section—

"(A) the easement shall remain in force; and

"(B) the Secretary may require the owner to refund all or part of any payments received by the owner under this subchapter, with interest on the payments as determined appropriate by the Secretary.

"(2) PERIODIC INSPECTIONS.—

"(A) IN GENERAL.—After providing notice to the owner, the Secretary shall conduct periodic inspections of land subject to easements under this subchapter to ensure that the terms of the easement and restoration agreement are being met.

"(B) LIMITATION.—The Secretary may not prohibit the owner, or a representative of the owner, from being present during a periodic inspection.

"SEC. 1238B. DUTIES OF SECRETARY.

"(a) IN GENERAL.—In return for the granting of an easement by an owner under this subchapter, the Secretary shall, in accordance with this section—

"(1) make easement payments;

"(2) pay the Federal share of the cost of restoration; and

"(3) provide technical assistance to the owner.

"(b) PAYMENT SCHEDULE.—

"(1) EASEMENT PAYMENTS.—

"(A) AMOUNT.—In return for the granting of an easement by an owner under this subchapter, the Secretary shall make easement payments to the owner in an amount equal to—

"(i) in the case of a permanent easement, the fair market value of the land less the grazing value of the land encumbered by the easement; and

"(ii) in the case of a 30-year easement or an easement for the maximum duration allowed under applicable State law, 30 percent of the fair market value of the land less the grazing value of the land for the period during which the land is encumbered by the easement.

"(B) SCHEDULE.—Easement payments may be provided in not less than 1 payment nor more than 10 annual payments of equal or unequal amount, as agreed to by the Secretary and the owner.

"(2) RENTAL AGREEMENT PAYMENTS.—

"(A) AMOUNT.—If an owner enters into a 30-year rental agreement authorized under section 1238(b)(3)(C), the Secretary shall make 30 annual rental payments to the owner in an amount that equals, to the maximum extent practicable, the 30-year easement payment amount under paragraph (1)(A)(ii).

"(B) ASSESSMENT.—Not less than once every 5 years throughout the 30-year rental period, the Secretary shall assess whether the value of the rental payments under subparagraph (A) equals, to the maximum extent practicable, the 30-year easement payments as of the date of the assessment.

"(C) ADJUSTMENT.—If on completion of the assessment under subparagraph (B), the Secretary determines that the rental payments do not equal, to the maximum extent practicable, the value of payments under a 30-year easement, the Secretary shall adjust the amount of the remaining payments to equal, to the maximum extent practicable, the value of a 30-year easement over the entire 30-year rental period.

"(c) FEDERAL SHARE OF COST OF RESTORATION.—The Secretary shall make payments to the owner of not more than 75 percent of the cost of carrying out measures and practices necessary to restore grassland and shrubland functions and values.

"(d) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall provide owners with technical assistance to execute easement documents and restore the grassland and shrubland.

"(2) REIMBURSEMENT BY COMMODITY CREDIT CORPORATION.—The Commodity Credit Corporation shall reimburse the Secretary, acting through the Natural Resources Conservation Service, for not more than 10 percent of the cost of acquisition of the easement and the Federal share of the cost of restoration obligated for that fiscal year.

"(e) PAYMENTS TO OTHERS.—If an owner that is entitled to a payment under this subchapter dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all the circumstances.

"(f) OTHER PAYMENTS.—Easement payments received by an owner under this subchapter shall be in addition to, and not affect, the total amount of payments that the owner is otherwise eligible to receive under other Federal laws.

"SEC. 1238C. ADMINISTRATION.

"(a) DELEGATION TO PRIVATE ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary shall permit a private conservation or land trust organization or a State agency to hold and enforce an easement under this subchapter, in lieu of the Secretary, if—

"(A) the Secretary determines that granting such permission is likely to promote grassland and shrubland protection; and

"(B) the owner authorizes the private conservation or land trust or a State agency to hold and enforce the easement.

"(2) APPLICATION.—An organization that desires to hold an easement under this subchapter shall apply to the Secretary for approval.

"(3) APPROVAL BY SECRETARY.—The Secretary shall approve an organization under this subchapter that is constituted for conservation or ranching purposes and is competent to administer grassland and shrubland easements.

"(4) REASSIGNMENT.—If an organization holding an easement on land under this subchapter terminates—

"(A) the owner of the land shall reassign the easement to another organization described in paragraph (1) or to the Secretary; and

"(B) the owner and the new organization shall notify the Secretary in writing that a reassignment for termination has been made.

"(b) REGULATIONS.—Not later than 180 days after the date of enactment of this subchapter, the Secretary shall issue such regulations as are necessary to carry out this subchapter.".

(b) FUNDING.—Section 1241(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(2)) is amended by striking "subchapter C" and inserting "subchapters C and D".

SEC. 256. FARMLAND STEWARDSHIP PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830–3839bb) is amended by inserting after chapter 1 (and the matter added by section 255 of this Act) the following:

"CHAPTER 2—FARMLAND STEWARDSHIP PROGRAM

"SEC. 1238. DEFINITIONS.

"In this chapter:

"(1) AGREEMENT.—The term 'agreement' means a service contract authorized by this chapter.

"(2) BIOFUEL.—

"(A) IN GENERAL.—The term 'biofuel' means an energy source derived from living organisms.

"(B) INCLUSIONS.—The term 'biofuel' includes—

"(i) plant residue that is harvested, dried, and burned, or further processed into a solid, liquid, or gaseous fuel;

"(ii) agricultural waste (such as cereal straw, seed hulls, corn stalks and cobs);

"(iii) native shrubs and herbaceous plants (such as some varieties of willows and prairie switchgrass); and

"(iv) animal waste (including methane gas that is produced as a byproduct of animal waste).

"(3) BIOPRODUCT.—The term 'bioproduct' means a product that is manufactured or produced—

"(A) by using plant material and plant byproduct (such as glucose, starch, and protein); and

"(B) to replace a petroleum-based product, additive, or activator used in the production of a solvent, paint, adhesive, chemical, or other product (such as tires or Styrofoam cups).

"(4) CARBON SEQUESTRATION.—The term 'carbon sequestration' means the process of providing plant cover to avoid contributing to the greenhouse effect by—

"(A) removing carbon dioxide from the air; and

"(B) developing a 'carbon sink' to retain that carbon dioxide.

"(5) CONTRACTING AGENCY.—The term 'contracting agency' means a local conservation district, resource conservation and development council, extension service office, state-chartered stewardship entity, nonprofit organization, local office of the Department, or other participating government agency that is authorized by the Secretary to enter into farmland stewardship agreements on behalf of the Secretary.

"(6) ELIGIBLE AGRICULTURAL LAND.—The term 'eligible agricultural land' means private land that is in primarily native or natural condition, or that is classified by the Secretary as cropland, pastureland, grazing land, timberland, or another similar type of land, that—

"(A) contains wildlife habitat, wetland, or other natural resources; or

"(B) provides 1 or more benefits to the public, such as—

"(i) conservation of soil, water, and related resources;

"(ii) water quality protection or improvement;

"(iii) control of invasive and exotic species;

"(iv) wetland restoration, development, and protection;

"(v) wildlife habitat development and protection;

"(vi) survival and recovery of listed species or candidate species;

"(vii) preservation of open spaces or prime, unique, or other productive farm land;

"(viii) increased participation in Federal agricultural or forestry programs in an area or region that has traditional under-representation in those programs;

"(ix) provision of a structure for interstate cooperation to address ecosystem challenges that affect an area involving 1 or more States;

"(x) improvements in the ecological integrity of the area, region or corridor;

"(xi) carbon sequestration;

"(xii) phytoremediation;

"(xiii) improvements in the economic viability of agriculture;

"(xiv) production of biofuels and bioproducts;

"(xv) establishment of experimental or innovative crops;

"(xvi) use of existing crops or crop byproducts in experimental or innovative ways;

"(xvii) installation of equipment to produce materials that may be used for biofuels or other bioproducts;

"(xviii) maintenance of experimental or innovative crops until the earlier of the date on which—

"(I) a viable market is established for those crops; or

"(II) an agreement terminates; and

"(xix) other similar conservation purposes identified by the Secretary.

"(7) GERMPLASM.—The term 'germplasm' means the genetic material of a germ cell of any life form that is important for food or agricultural production.

"(8) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(9) PROGRAM.—The term 'program' means the farmland stewardship program established by this chapter.

"(10) PYTOREMEDIATION.—The term 'pytoremediation' means the use of green living plant material (including plants that may be harvested and used to produce biofuel or other bioproduces) to remove contaminants from water and soil.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting—

"(A) through the Natural Resources Conservation Service; and

"(B) in cooperation with any applicable agricultural or other agencies of a State.

"(12) SERVICE CONTRACT.—The term 'service contract' means a legally binding agreement between 2 parties under which—

"(A) 1 party agrees to render 1 or more services in accordance with the terms of the contract; and

"(B) the second party agrees to pay the first party for the each service rendered.

"SEC. 1238A. ESTABLISHMENT AND PURPOSE OF PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish within the Department a program to be known as the 'farmland stewardship program'.

"(2) PURPOSE.—The purpose of the program shall be to modify and more effectively target conservation programs administered by the Secretary to the specific conservation needs of, and opportunities presented by, individual parcels of eligible agricultural land.

"(b) RELATION TO OTHER CONSERVATION PROGRAMS.—Under the program, the Secretary may implement, alone or in combination, the features of—

"(1) any conservation program administered by the Secretary; or

"(2) any conservation program administered by another Federal agency or a State or local government, if implementation by the Secretary—

"(A) is feasible; and

"(B) is carried out with the consent of the applicable administering agency or government.

"(3) CONSERVATION ENHANCEMENT PROGRAMS.—

"(A) IN GENERAL.—States, local governments, Indian tribes, or any combination of those entities may submit, and the Secretary may approve, a conservation enhancement program that integrates 1 or more Federal agriculture and forestry conservation programs and 1 or more State, local, or private efforts to address, in critical areas and corridors, in a manner that enhances the conservation benefits of the individual programs and modifies programs to more effectively address State and local needs—

"(i) water quality;

"(ii) wildlife;

"(iii) farm preservation; and

"(iv) any other conservation need.

"(B) REQUIREMENT.—

"(i) IN GENERAL.—A conservation enhancement program submitted under subparagraph (A) shall be designed to provide benefits greater than benefits that, by reason of any factor described in clause (ii), would be provided through the individual application of a conservation program administered by the Secretary.

"(ii) FACTORS.—Factors referred to in clause (i) include—

"(I) conservation commitments of greater duration;

"(II) more intensive conservation benefits;

"(III) integrated treatment of special natural resource problems (such as preservation and enhancement of natural resource corridors); and

"(IV) improved economic viability for agriculture.

"(C) APPROVAL.—

"(i) DEFINITION OF RESOURCES.—In this subparagraph, the term 'resources' means, with respect to any conservation program administered by the Secretary—

"(I) acreage enrolled under the conservation program; and

"(II) funding made available to the Secretary to carry out the conservation program with respect to acreage described in subclause (I).

"(ii) DETERMINATION.—If the Secretary determines that a plan submitted under subparagraph (A) meets the requirements of subparagraph (B), the Secretary, in accordance with an agreement, may use not more than 20 percent of the resources of any conservation program administered by the Secretary to implement the plan.

"(D) CRP ACREAGE.—Acreage enrolled under an approved conservation reserve enhancement program shall be considered acreage of conservation reserve program that is committed to conservation reserve enhancement program.

"(c) FUNDING.—

"(1) IN GENERAL.—The program and agreements shall be funded by the Secretary using—

"(A) the funding authorities of the conservation programs that are implemented through the use of Farmland Stewardship Agreements for the conservation purposes listed in Sec. 1238(4)(A) and (B)(i through x);

"(B) technical assistance in accordance with Sec. 1243(d); and

"(C) such other funds as are appropriated to carry out the Farmland Stewardship Program.

"(2) COST SHARING.—It shall be a requirement of the Farmland Stewardship Program that the majority of the funds to carry out the Program must come from existing conservation programs, which may be Federal, State, regional, local, or private, that are combined into and made a part of an agreement, with the balance made up from matching funding contributions made by State, regional, or local agencies and divisions of government or from private funding sources. Funds from existing programs may be used only to carry out the purposes and intents of those programs to the degree that those programs are made a part of a Farmland Stewardship Agreement. Funding for other purposes or intents must come from the funds provided under paragraphs (1)(B) and (1)(C) of subsection (c) or from the matching funding contributions made by State, regional, or local agencies and divisions of government or from private funding sources.

“(d) Personnel Costs.—The Secretary shall use the Natural Resources Conservation Service to carry out the Farmland Stewardship Program in cooperation with the state department of agriculture or other designated agency within the state. The role of the Natural Resources Conservation Services shall be limited to federal oversight of the program. The Natural Resources Conservation Service shall perform its normal functions with respect to the conservation programs that it administers. However, it shall play no role in the assembly of programs administered by other federal agencies into Farmland Stewardship Agreements.

“(e) State Level Administration.—The state departments of agriculture shall have primary responsibility for operating the Farmland Stewardship Program. A state department of agriculture may choose to operate the program on its own, may collaborate with another local, state or federal agency, conservation district or tribe in operating the program, or may delegate responsibility to another state agency, such as the state department of natural resources or the state conservation district agency. The state department of agriculture or designated state agency shall consult with the agencies with management authority and responsibility for the resources affected on properties on which Farmland Stewardship Agreements are negotiated and assembled.

“(1) A state department of agriculture shall submit an application to the Secretary requesting designation as the ‘designated state agency’ to operate the Farmland Stewardship Program. If the state department of agriculture chooses to delegate responsibility to another state agency, the department of agriculture shall ask the governor to designate another agency for this purpose and that agency shall submit application to the Secretary.

“(2) The Secretary shall approve the request for designation as the ‘designated state agency’ if the agency demonstrates that it has the capability to implement the Farmland Stewardship Program and attests that it shall conform with the confidentiality requirements in Sec. 1238B(g). Upon approval of the request, the Secretary shall enter into a memorandum of understanding with the designated state agency specifying the state's responsibilities in carrying out the program and the amount of technical assistance funds that shall be provided to the state on an annual basis to operate the program, in accordance with paragraphs (1)(C), (1)(E) and (1)(F) of subsection (g).

“(f) Annual Reports.—The designated state agency shall annually submit to the Secretary and make publicly available a report that describes—

“(1) The progress achieved, the funds expended, the purposes for which funds were expended and monitoring and evaluating results obtained by local contracting agencies, and

“(2) The plans and objectives of the State for future activities under the program.

“(g) Technical Assistance.—

“(1) Of the funds used from other programs and of funds made available to carry out the Farmland Stewardship Program for a fiscal year, the Secretary shall reserve not more than twenty-five percent for the provision of technical assistance under the Program. Of the funds made available—

“(A) not more than 1.5% shall be reserved for administration, coordination and oversight through the Natural Resources Conservation Service headquarters office;

“(B) not more than 1.5% shall be reserved for the Farmland Stewardship Council to carry out its duties in cooperation with the State Technical Committees, as provided under section 1238E;

“(C) not more than 2.0% shall be reserved for administration and coordination through the designated state agency in the state where the property is located;

“(D) not more than 1.0% shall be reserved for administration and coordination through the Natural Resources Conservation Service state office, in the state where property is located;

“(E) not more than 1.0% shall be reserved for administration and coordination through the state conservation district agency, unless such agency is the designated state agency for administering this program, in which case these funds shall be added to the funds in the next paragraph; and

“(F) not less than 18% shall be reserved for local technical assistance, carried out through a designated ‘contracting agency’ and subcontractors chosen by and working with the contracting agency for preparing and executing agreements and monitoring, evaluating and administering agreements for their full term.

“(2) An owner or operator who is receiving a benefit under this chapter shall be eligible to receive technical assistance in accordance with section 1243(d) to assist the owner or operator in carrying out a contract entered into under this chapter.

“(h) Ensuring Availability of Funds.—All amounts required for preparing, executing, carrying out, monitoring, evaluating and administering an agreement for its entire term shall be made available by the Federal, State, and local agencies and private sector entities involved in funding the agreement upon execution of the agreement.

“SEC. 1238B. USE OF FARMLAND STEWARDSHIP AGREEMENTS.

“(a) Agreements Authorized.—The Secretary shall carry out the Farmland Stewardship Program by entering into service contracts as determined by the Secretary, to be known as farmland stewardship agreements, with the owners or operators of eligible agricultural land to maintain and protect the natural and agricultural resources on the land.

“(b) Legal Basis.—An agreement shall operate in all respects as a service contract and, as such, provides the Secretary with the opportunity to hire the owner or operator of eligible agricultural land as a vendor to perform one or more specific services for an equitable fee for each service rendered. Any agency participating in the Farmland Stewardship Program that has the authority to enter into service contracts and to expend public funds under such contracts may enter into or participate in the funding of an agreement.

“(c) Basic Purposes.—An agreement with the owner or operator of eligible agricultural land shall be used—

“(1) to negotiate a mutually agreeable set of guidelines, practices, and procedures under which conservation practices will be provided by the owner or operator to protect, maintain, and, where possible, improve, the natural resources on the land covered by the agreement in return for annual payments to the owner or operator;

“(2) to enable an owner or operator to participate in one or more of the conservation programs offered through agencies at all levels of government and the private sector and, where possible and feasible, comply with permit requirements and regulations, through a one-stop, one-application process.

“(3) to implement a conservation program or series of programs where there is no such program or to implement conservation management activities where there is no such activity;

“(4) to expand or maintain conservation practices and resource management activities to a property where it is not possible at the present time to negotiate or reach agreement on a public purchase of a fee-simple or less-than-fee interest in the property for conservation purposes; and

“(5) to negotiate and develop agreements with private owners and operators to expand or maintain their participation in conservation activities and programs; to enable them to install or maintain best management practices (BMPs) and other recommended practices to improve the compatibility of agriculture, horticulture, silviculture, aquaculture and equine activities with the environment; and improve compliance with public health, safety and environmental regulations.

“(d) Modification of Other Conservation Program Elements.—If most, but not all, of the limitations, conditions, policies and requirements of a conservation program that is implemented in whole, or in part, through the Farmland Stewardship Program are met with respect to a parcel of eligible agricultural land, and the purposes to be achieved by the agreement to be entered into for such land are consistent with the purposes of the conservation program, then the Secretary may waive any remaining limitations, conditions, policies or requirements of the conservation program that would otherwise prohibit or limit the agreement. The Secretary may also grant requests to—

“(1) establish different or automatic enrollment criteria than otherwise established by regulation or policy;

“(2) establish different compensation rates to the extent the parties to the agreement consider justified;

“(3) establish different conservation practice criteria if doing so will achieve greater conservation benefits;

“(4) provide more streamlined and integrated paperwork requirements;

“(5) provide for the transfer of conservation program funds to states with flexible incentives accounts; and

“(6) provide funds for an adaptive management process to monitor the effectiveness of the Program for wildlife, the protection of natural resources, economic effectiveness and sustaining the agricultural economy.

“(7) For a waiver or exception to be considered, a contracting agency or the designated state agency must—

“(A) Submit a request for a waiver to the Secretary or Administrator who has responsibility for the program for which a waiver or exception is being requested. Requests for waivers or exceptions in programs administered by the United States Department of Agriculture shall be submitted to the Secretary of Agriculture, while requests for waivers or exceptions in programs administered by the United States Department of Interior shall be submitted to the Secretary of Interior and requests for waivers or exceptions in programs administered by the United States Environmental Protection Agency shall be submitted to the Administrator of that Agency, and so forth.

“(B) The request shall—

“(i) explain why the property qualifies for participation in the program;

“(ii) explain why it is necessary or desirable to make an exception to or waive one or more program limitations, conditions, policies or requirements;

“(iii) if possible, suggest alternative methods or approaches to satisfying these limitations, conditions, policies or requirements that are appropriate for the property in question;

“(iv) request that the Secretary or Administrator grant the exception or waiver, based on the documentation submitted.

“(C) The Secretary or Administrator may request additional documentation, or may suggest alternative methods of overcoming program limitations or obstacles on the property in question, prior to deciding whether or not to grant a request for an exception or waiver.

“(D) Waivers and exceptions may be granted by a Secretary or Administrator to allow additional flexibility in tailoring conservation programs to the specific needs, opportunities and challenges offered by individual parcels of land, and to remove administrative and regulatory obstacles that previously may have limited the use of these programs on eligible agricultural land, or would prevent these programs from being combined together through a Farmland Stewardship Agreement. Waivers and exceptions may be granted only if the purposes to be achieved by the program after the waiver or exception is granted remain consistent with the purposes for which the program was established.

“(E) The Secretaries and Administrators who receive requests for waivers or exceptions under this chapter shall respond to these requests within sixty (60) days of receipt. Decisions on whether to grant a request shall be rendered within one hundred eighty (180) days of receipt.

“(e) PROVISIONAL CONTRACTS.—Provisional contracts shall be used to provide payments to private landowners or operators, and to the organization or agency that will oversee the agreement, while baseline data is gathered, documents are prepared and the formal agreement is being negotiated. Provisional contracts shall pay for all technical services required to establish an agreement. Provisional contracts may be used to establish a Farmland Stewardship Agreement, or any other type of conservation program, permit or agreement on private land. Provisional contracts shall be used during a two-year planning period, which may be extended for up to two additional periods of six months each by mutual agreement between the Secretary, the contracting agency and the owner or operator.

“(f) PAYMENTS.—Payments to owners and operators shall be made as provided in the programs that are combined as part of a Farmland Stewardship Agreement. At the election of the owner or operator, payments may be collected and combined together by the designated state agency and issued to the owner or operator in equal annual payments over the term of the agreement. Payments for other services rendered by the owner or operator shall be made as follows—

“(1) IN GENERAL.—Programs that contain term or permanent easements may be combined into a Farmland Stewardship Agreement. Except for portions of a property affected by easements, Farmland Stewardship Agreements shall provide no interest in property and shall be solely contracts for specific services. The fees paid shall be based on the services provided. Compensation shall include—

“(A) ANNUAL BASE PAYMENT.—All owners or operators enrolled in a Farmland Stewardship Agreement shall receive an annual base payment, at a rate to be determined by the Secretary. The annual base payment shall be considered by the Secretary to be satisfied if the owner or operator receives annual payments from another conservation program that has been incorporated into the Farmland Stewardship Agreement. In addition, owners and operators shall receive—

“(B) DIRECT FEES FOR SERVICES.—These fees shall be based on the cost of providing each service. These fees may be set by adopting private sector market prices for the performance of similar services or by competitive bidding. Or, alternatively—

“(C) ANNUAL PER-ACRE STEWARDSHIP FEES.—These fees shall be based on the services provided, or the quantity of benefits provided, with higher fees for greater benefits that can be quantified. Such values shall be determined and set by the Secretary. Or, alternatively—

“(D) OTHER INCENTIVES.—Other forms of compensation acceptable to an owner or operator also may be considered. These other forms of compensation may include federal, state or local tax waivers, credits, reductions or exclusions; priority processing of permits from state and local agencies; consolidation of permits from state and local agencies into a single operating plan; extended-duration permits from state and local agencies; enhanced eligibility and priority listing for participation in cost-share programs, loan programs, conservation programs and permanent conservation easement or public purchase programs; and priority access to technical assistance services provided by federal and, where possible, local, regional and state agencies.

“(g) CONFIDENTIALITY OF DATA.—All information or data provided to, obtained by or developed by the Secretary, or any contractor to the Secretary or the designated state agency, for the purpose of providing technical or financial assistance to owners or operators in connection with the United States Department of Agriculture's conservation programs, or in connection with the Farmland Stewardship Program, shall be—

“(1) Kept confidential by all officers and employees of the Department and the designated state agency;

“(2) Not released, disclosed, made public or in any manner communicated to any agency, state or person outside the Department and the designated state agency; and

“(3) Not subject to any other law that would require the information or data to be released, disclosed, made public or in any way communicated to any agency, state or person outside the Department and designated state agency.

“(4) Any information or data related to an individual farm owner or operator may be reported only in an anonymous, aggregated form as currently provided under the Department's National Agricultural Statistic Services.

“(h) STATE AND LOCAL CONSERVATION PRIORITIES.—To the maximum extent practicable, agreements shall address the conservation priorities established by the State and locality in which the eligible agricultural land are located. The Secretary may adopt for this purpose a pre-existing state or regional conservation plan or strategy that maps economically and ecologically important land, including a plan developed pursuant to planning requirements under Title VIII of the 2001 Interior Appropriations Act and Title IX of the 2001 Commerce, Justice, State Appropriations Act.

“(i) WATERSHED ENHANCEMENT.—To the extent practicable, the Secretary shall encourage the development of Farmland Stewardship Program applications on a watershed basis.

“SEC. 1238C. PARTNERSHIP APPROACH TO PROGRAM.

“(a) AUTHORITY OF SECRETARY EXERCISED THROUGH PARTNERSHIPS.—The Secretary may administer agreements under the Farmland Stewardship Program in partnership with other Federal, State, and local agencies whose programs are incorporated into the Program under section 1238A, and in partnership with state departments of agriculture or other designated state agencies.

“(b) DESIGNATION AND USE OF CONTRACTING AGENCIES.—Subject to subsection (c), the Secretary may authorize a local conservation district, resource conservation and development council, extension service office, state-chartered stewardship entity, nonprofit organization, local office of the Department of Agriculture, or other participating government agency to enter into and administer agreements under the Program as a contracting agency on behalf of the Secretary.

“(c) CONDITIONS OF DESIGNATION.—The Secretary may designate an eligible district or office as a contracting agency under subsection (b) only if the district or office—

“(1) submits a written request for such designation to the Secretary;

“(2) affirms that it is willing to follow all guidelines for executing and administering an agreement, as promulgated by the Secretary;

“(3) demonstrates to the satisfaction of the Secretary that it has established working relationships with owners and operators of eligible agricultural land, and based on the history of these working relationships, demonstrates that it has the ability to work with owners and operators of eligible agricultural land in a cooperative manner;

“(4) affirms its responsibility for preparing all documentation for the agreement, negotiating its terms with an owner or operator, monitoring compliance, making annual reports to the Secretary, and administering the agreement throughout its full term; and

“(5) demonstrates to the satisfaction of the Secretary that it has or will have the necessary staff resources and expertise to carry out its responsibilities under paragraphs (3) and (4).

“(d) DELEGATION OF RESPONSIBILITY.—The Secretary may delegate responsibility for reviewing and approving applications from local contracting agencies to the state department of agriculture or other designated state agency in the state in which the property is located, provided that the designated agency follows the criteria for reviewing and approving applications as established by the Secretary and consults with the agencies with management authority and responsibility for the resources affected on properties on which Farmland Stewardship Agreements are negotiated and assembled.

“SEC. 1238D. PARTICIPATION OF OWNERS AND OPERATORS OF ELIGIBLE AGRICULTURAL LAND.

“(a) Application and Approval Process.—To participate in the Farmland Stewardship Program, an owner or operator of eligible agricultural land shall—

“(1) submit to the Secretary an application indicating interest in the Program and describing the owner's or operator's property, its resources, and their ecological and agricultural values;

“(2) submit to the Secretary the purpose and objectives of the proposed agreement and a list of services to be provided, or a management plan to be implemented, or both, under the proposed agreement;

“(3) if the application and list are accepted by the Secretary, enter into an agreement that details the purpose and objectives of the agreement and the services to be provided, or management plan to be implemented, or both, and requires compliance with the other terms of the agreement.

“(b) Application on Behalf of an Owner or Operator.—A designated contracting agency may submit the application required by subsection (a) on behalf of an owner or operator if the contracting agency has secured the consent of the owner or operator to enter into an agreement.

“(c) Delegation of Responsibility.—The Secretary may delegate responsibility for reviewing and approving applications from or on behalf of an owner or operator to the state department of agriculture or other designated agency in the state in which the property is located, provided that the designated agency follows the criteria for reviewing and approving applications as established by the Secretary and consults with the agencies with management authority and responsibility for the resources affected on properties on which Farmland Stewardship Agreements are negotiated and assembled.

“SEC. 1238E. CREATION OF A FARMLAND STEWARDSHIP COUNCIL REGARDING PROGRAM.

“(a) Appointment.—The Secretary shall appoint an advisory committee to assist the Secretary in carrying out the Farmland Stewardship Program.

“(b) In General.—The Committee shall be known as the Farmland Stewardship Council and shall operate on the federal level in the same manner, with the same roles and responsibilities and the same membership requirements as provided in the policies and guidelines governing State Technical Committees in Subpart B of Part 501 of the United States Department of Agriculture's directives to the Natural Resources Conservation Service regarding Conservation Program Delivery.

“(c) Duties.—The Farmland Stewardship Council shall cooperate in all respects with the State Technical Committees and Resource Advisory Committees in each state. In addition to the roles and responsibilities set forth for these committees, the Farmland Stewardship Council shall assist the Secretary in—

“(1) drafting such regulations as are necessary to carry out the Program;

“(2) developing the documents necessary for executing farmland stewardship agreements;

“(3) developing procedures and guidelines to facilitate partnerships with other levels of government and nonprofit organizations and assist contracting agencies in gathering data and negotiating agreements;

“(4) designing criteria to consider applications submitted under sections 1238C and 1238D;

“(5) providing assistance and training to designated state agencies, project partners and contracting agencies;

“(6) assisting designated state agencies, project partners and contracting agencies in combining together other conservation programs into agreements;

“(7) tailoring the agreements to each individual property;

“(8) developing agreements that are highly flexible and can be used to respond to and fit in with the conservation needs and opportunities on any property in the United States;

“(9) developing a methodology for determining a fair market price in each state for each service rendered by a private owner or operator under a Farmland Stewardship Agreement;

“(10) developing guidelines for administering the Farmland Stewardship Program on a national basis that respond to the conservation needs and opportunities in each state and in each rural community in which Farmland Stewardship Agreements may be implemented;

“(11) monitoring progress under the agreements; and

“(12) reviewing and recommending possible modifications, additions, adaptations, improvements, enhancements, or other changes to the Program to improve the way in which the program operates.

“(d) Membership.—The Farmland Stewardship Council shall have the same membership requirements as the State Technical Committees, except that C

“(1) All participating members must have offices located in the Washington, D.C. metropolitan area;

“(2) The list of members representing ‘Federal Agencies and Other Groups Required by Law’ shall be expanded to include all federal agencies whose programs might be included in Farmland Stewardship Program;

“(3) State agency representation shall be provided by the organizations located in the Washington, D.C. metropolitan area representing state agencies and shall include individuals from organizations representing wetland managers, environmental councils, fish and wildlife agencies, counties, resource and conservation development councils, state conservation agencies, state departments of agriculture, state foresters, and governors; and

“(4) Private Interest Membership shall be comprised of 21 members representing the principal agricultural commodity groups, farm organizations, national forestry associations, woodland owners, conservation districts, rural stewardship organizations, and up to a maximum of six (6) conservation and environment organizations, including organizations with an emphasis on wildlife, rangeland management and soil and water conservation.

“(5) The Secretary shall appoint one of the Private Interest Members to serve as chair. The Private Interest Members shall appoint another member to serve as co-chair.

“(6) The Secretary shall follow equal opportunity practices in making appointments to the Farmland Stewardship Council. To ensure that recommendations of the Council take into account the needs of the diverse groups served by the United States Department of Agriculture, membership will include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

“(e) Personnel Costs.—The technical assistance funds designated in Sec. 1238A(g)(1)(B) may be used to provide staff positions and support for the Farmland Stewardship Council to—

“(1) carry out its duties as provided in subsection (c);

“(2) ensure communication and coordination with all federal agencies, state organizations and Private Interest Members on the council, and the constituencies represented by these agencies, organizations and members;

“(3) ensure communication and coordination with the State Technical Committees and Resource Advisory Committees in each state;

“(4) solicit input from agricultural producers and owners and operators of private forestry operations and woodland through the organizations represented on the council and other organizations, as necessary; and

“(5) take into consideration the needs and interests of producers of different agricultural commodities and forest products in different regions of the nation.

“(6) Representatives of federal agencies and state organizations shall serve without additional compensation, except for reimbursement of travel expenses and per diem costs which are incurred as a result of their Council responsibilities and service.

“(7) Payments may be made to the organizations serving as Private Interest Members for the purposes of providing staff and support to carry out paragraphs (1) through (5). The amounts and duration of these payments and the number of staff positions to be created within Private Interest Member organizations to carry out these duties shall be determined by the Secretary.

“(f) Reports.—The Farmland Stewardship Council shall annually submit to the Secretary and make publicly available a report that describes—

“(1) The progress achieved, the funds expended, the purposes for which funds were expended and results obtained by the council; and

“(2) The plans and objectives for future activities.

“(g) Termination.—The Farmland Stewardship Council shall remain in force for as long as the Secretary administers the Farmland Stewardship Program, except that the council will terminate in 2011 unless renewed by Congress in the next Farm Bill.

“SEC. 1238F. STATE BLOCK GRANT PROGRAM.

“(a) In General.—The Secretary of Agriculture may provide agricultural stewardship block grants on an annual basis to state departments of agriculture as a means of providing assistance and support, cost-share payments, incentive payments, technical assistance or education to agricultural producers and owners and operators of agriculture, silviculture, aquaculture, horticulture or equine operations for environmental enhancements, best management practices, or air and water quality improvements addressing resource concerns. Under the block grant program, states shall have maximum flexibility to—

“(1) Address threats to soil, air, water and related natural resources including grazing land, wetland and wildlife habitats;

“(2) Comply with state and federal environmental laws;

“(3) Make beneficial, cost-effective changes to cropping systems; grazing management; nutrient, pest, or irrigation management; land uses; or other measures needed to conserve and improve soil, water, and related natural resources; and

"(4) Implement other practices or obtain other services to benefit the public through Farmland Stewardship Agreements.

"(b) Program Application.—A state department of agriculture, in collaboration with other state and local agencies, conservation districts, tribes, partners or organizations, may submit an application to the Secretary requesting approval for an agricultural stewardship block grant program. The Secretary shall approve the grant request if the program proposed by the state maintains or improves the state's natural resources, and the state has the capability to implement the agricultural stewardship program. Upon approval of a stewardship program submitted by a state department of agriculture, the Secretary shall—

"(1) Allocate funds to the state for administration of the program, and

"(2) Enter into a memorandum of understanding with the state department of agriculture specifying the state's responsibilities in carrying out the program and the amount of the block grant that shall be provided to the state on an annual basis.

"(c) Participation.—A state department of agriculture may choose to operate the block grant program, may collaborate with another local, state or federal agency, conservation district or tribe in operating the program, or may delegate responsibility for the program to another local, state or federal agency, such as the state office of the United States Department of Agriculture, Natural Resources Conservation Service, or the state conservation district agency.

"(d) Coordination.—A state department of agriculture may establish an agricultural stewardship planning committee, or other advisory body, or expand the authority of an existing body, to design, develop and implement the state's agricultural stewardship block grant program. Such planning committee or advisory committee shall cooperate fully with the Farmland Stewardship Council established in Sec. 1238E and the State Technical Committee and Resource Advisory Committee in the state.

"(e) Delivery.—The state department of agriculture, or other designated agency, shall administer the stewardship block grants through existing delivery systems, infrastructure or processes, including contracts, cooperative agreements, and grants with local, state and federal agencies that address resource concerns and were prioritized and developed in cooperation with locally-led advisory groups.

"(f) Strategic Plans.—The state department of agriculture may collaborate with a local advisory or planning committee to develop a state strategic plan for the enhancement and protection of land, air, water and wildlife through resource planning. The state strategic plan shall be submitted to the Secretary annually in a report on the implementation of projects, activities, and other measures under the block grant program. In general, state strategic plans shall include—

"(1) A description of goals and objectives, including outcome-related goals for designated program activities;

"(2) A description of how the goals and objectives are to be achieved, including a description of the operational processes, skills and technologies, and the human capital, information and other resources required to meet the goals and objectives;

"(3) A description of performance indicators to be used in measuring or assessing the relevant output service levels and outcomes of the program activities; and

"(4) A description of the program evaluation to be used in comparing actual results with established goals and objectives.

"(g) Annual Reports.—The state department of agriculture shall annually submit to the Secretary and make publicly available a report that describes—

"(1) The progress achieved, the funds expended, the purposes for which funds were expended and monitoring results obtained by the agricultural stewardship planning committee or local advisory group, where applicable; and

"(2) The plans and objectives of the State for future activities under the program.

"(h) Coordination With Federal Agencies.—To the maximum extent possible, the Secretary shall coordinate with other federal departments and agencies to acknowledge and ensure that the block grant program is consistent with and is meeting the needs and desired public benefits of other federal programs on a state-by-state basis.

"(i) Payments.—The agricultural stewardship program may be used as a means of providing compensation to owners and operators for implementing on-farm practices that enhance environmental goals. The type of financial assistance may be in the form of cost-share payments, incentive payments or Farmland Stewardship Agreements, as determined by guidelines established by the state department of agriculture and the agricultural stewardship planning committee.

"(j) Program Expenditures.—States shall have flexibility to target resources where needed, including the ability to allocate dollars between payments to owners and operators or technical assistance based upon needs and priorities.

"(k) Method of Payment.—A state department of agriculture may collaborate with the agricultural stewardship planning committee or other local advisory group to determine payment levels and methods for individual program activities and projects, including any conditions, limitations or restrictions. Payments may be made—

"(1) To compensate for a verifiable or measurable loss;

"(2) Under a binding agreement providing for payments to carry out specific activities, measures, practices or services prioritized by the state department of agriculture, the agricultural stewardship planning committee or a local advisory board; or

"(3) To fund portions of projects and measures to complement other federal programs, including the Conservation Reserve Program, the Environmental Quality Incentives Program, the Wetlands Reserve Program, the Forestry Incentives Program, the Farmland Protection Program, and the Wildlife Habitat Incentives Program.".

SEC. 257. SMALL WATERSHED REHABILITATION PROGRAM.

Section 14(h) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)) is amended—

(1) by adding "and" at the end of paragraph (1); and

(2) by striking all that follows paragraph (1) and inserting the following:

"(2) $15,000,000 for fiscal year 2002 and each succeeding fiscal year.".

SEC. 258. PROVISION OF ASSISTANCE FOR REPAUPO CREEK TIDE GATE AND DIKE RESTORATION PROJECT, NEW JERSEY.

Notwithstanding section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203), the Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall provide assistance for planning and implementation of the Repaupo Creek Tide Gate and Dike Restoration Project in the State of New Jersey.

SEC. 259. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.

Section 1256 of the Food Security Act of 1985 (16 U.S.C. 2101 note) is amended to read as follows:

"SEC. 1256. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.

"(a) In General.—The Secretary shall establish a national grassroots water protection program to more effectively use onsite technical assistance capabilities of each State rural water association that, as of the date of enactment of the Farm Security Act of 2001, operates a wellhead or groundwater protection program in the State.

"(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $5,000,000 for each fiscal year.".

Subtitle G—Repeals

SEC. 261. PROVISIONS OF THE FOOD SECURITY ACT OF 1985.

(a) Wetlands Mitigation Banking Program.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (k).

(b) Conservation Reserve Program.—

(1) Repeals.—(A) Section 1234(f) of such Act (16 U.S.C. 3834(f)) is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(B) Section 1236 of such Act (16 U.S.C. 3836) is repealed.

(2) Conforming amendments.—(A) Section 1232(a)(5) of such Act (16 U.S.C. 3832(a)(5)) is amended by striking "in addition to the remedies provided under section 1236(d),".

(B) Section 1234(d)(4) of such Act (16 U.S.C. 3834(d)(4)) is amended by striking "subsection (f)(4)" and inserting "subsection (f)(3)".

(c) Wetlands Reserve Program.—Section 1237D(c) of such Act (16 U.S.C. 3837d(c)) is amended by striking paragraph (3).

(d) Environmental Easement Program.—

(1) Repeal.—Chapter 3 of subtitle D of title XII of such Act (16 U.S.C. 3839–3839d) is repealed.

(2) Conforming amendment.—Section 1243(b)(3) of such Act (16 U.S.C. 3843(b)(3)) is amended by striking "or 3".

(e) Conservation Farm Option.—Chapter 5 of subtitle D of title XII of such Act (16 U.S.C. 3839bb) is repealed.

SEC. 262. NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION ACT.

Subtitle F of title III of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 5801-5809) is repealed.

TITLE III—TRADE

SEC. 301. MARKET ACCESS PROGRAM.

Section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking "and not more" and inserting "not more";

(2) by inserting "and not more than $200,000,000 for each of fiscal years 2002 through 2011," after "2002,"; and

(3) by striking "2002" and inserting "2001".

SEC. 302. FOOD FOR PROGRESS.

(a) In General.—Subsections (f)(3), (g), (k), and (l)(1) of section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) are each amended by striking "2002" and inserting "2011".

(b) Increase in Funding.—Section 1110(l)(1) of the Food Security Act of 1985 (7 U.S.C.1736o(l)(1)) is amended—

(1) by striking "2002" and inserting "2011"; and

(2) by striking "$10,000,000" and inserting "$15,000,000.

(c) Exclusion From Limitation.—Section 1110(e)(2) of the Food Security Act of 1985 (7

U.S.C. 1736o(e)(2)) is amended by inserting ", and subsection (g) does not apply to such commodities furnished on a grant basis or on credit terms under title I of the Agricultural Trade Development Act of 1954" before the final period.

(d) Transportation Costs.—Section 1110(f)(3) of the Food Security Act of 1985 (7 U.S.C. 1736o(f)(3)) is amended by striking "$30,000,000" and inserting "$40,000,000".

(e) Amounts of Commodities.—Section 1110(g) of the Food Security Act of 1985 (7 U.S.C. 1736o(g)) is amended by striking "500,000" and inserting "1,000,000".

(f) Multiyear Basis.—Section 1110(j) of the Food Security Act of 1985 (7 U.S.C. 1736o(j)) is amended—

(1) by striking "may" and inserting "is encouraged"; and

(2) by inserting "to" before "approve".

(g) Monetization.—Section 1110(l)(3) of the Food Security Act of 1985 (7 U.S.C. 1736o(l)(3)) is amended by striking "local currencies" and inserting "proceeds".

(h) New Provisions.—Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended by adding at the end the following:

"(p) The Secretary is encouraged to finalize program agreements and resource requests for programs under this section before the beginning of the relevant fiscal year. By November 1 of the relevant fiscal year, the Secretary shall provide to the Committee on Agriculture and the Committee on International Relations of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a list of approved programs, countries, and commodities, and the total amounts of funds approved for transportation and administrative costs, under this section.".

SEC. 303. SURPLUS COMMODITIES FOR DEVELOPING OR FRIENDLY COUNTRIES.

(a) Use of Currencies.—Section 416(b)(7)(D) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)) is amended—

(1) in clauses (i) and (iii), by striking "foreign currency" each place it appears;

(2) in clause (ii)—

(A) by striking "Foreign currencies" and inserting "Proceeds"; and

(B) by striking "foreign currency"; and

(3) in clause (iv)—

(A) by striking "Foreign currency proceeds" and inserting "Proceeds";

(B) by striking "country of origin" the second place it appears and all that follows through "as necessary to expedite" and inserting "country of origin as necessary to expedite";

(C) by striking "; or" and inserting a period; and

(D) by striking subclause (II).

(b) Implementation of Agreements.—Section 416(b)(8)(A) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(8)(A)) is amended—

(1) by inserting "(i)" after "(A)"; and

(2) by adding at the end the following new clauses:

"(ii) The Secretary shall publish in the Federal Register, not later than October 31 of each fiscal year, an estimate of the commodities that shall be available under this section for that fiscal year.

"(iii) The Secretary is encouraged to finalize program agreements under this section not later than December 31 of each fiscal year.".

SEC. 304. EXPORT ENHANCEMENT PROGRAM.

Section 301(e)(1)(G) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)(G)) is amended by inserting "and for each fiscal year thereafter through fiscal year 2011" after "2002".

SEC. 305. FOREIGN MARKET DEVELOPMENT CO-OPERATOR PROGRAM.

(a) In General.—Section 703 of the Agricultural Trade Act of 1978 (7 U.S.C.5723) is amended—

(1) by inserting "(a) Prior Years.—" before "There";

(2) by striking "2002" and inserting "2001"; and

(3) by adding at the end the following new subsection:

"(b) Fiscal 2002 and Later.—For each of fiscal years 2002 through 2011 there are authorized to be appropriated such sums as may be necessary to carry out this title, and, in addition to any sums so appropriated, the Secretary shall use $37,000,000 of the funds of, or an equal value of the commodities of, the Commodity Credit Corporation to carry out this title.".

(b) Value Added Products.—

(1) In general.—Section 702(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5721 et seq.) is amended by inserting ", with a significant emphasis on the importance of the export of value-added United States agricultural products into emerging markets" after "products".

(2) Report to Congress.—Section 702 of the Agricultural Trade Act of 1978 (7 U.S.C. 5722) is amended by adding at the end the following:

"(c) Report to Congress.—

"(1) In general.—The Secretary shall report annually to appropriate congressional committees the amount of funding provided, types of programs funded, the value added products that have been targeted, and the foreign markets for those products that have been developed.

"(2) Definition.—In this subsection, the term 'appropriate congressional committees' means—

"(A) the Committee on Agriculture and the Committee on International Relations of the House of Representatives; and

"(B) the Committee on Agriculture, Nutrition and Forestry and the Committee on Foreign Relations of the Senate.".

SEC. 306. EXPORT CREDIT GUARANTEE PROGRAM.

(a) Reauthorization.—Section 211(b)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(b)(1)) is amended by striking "2002" and inserting "2011".

(b) Processed and High Value Products.—Section 202(k)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(k)(1)) is amended by striking ", 2001, and 2002" and inserting "through 2011".

SEC. 307. FOOD FOR PEACE (PUBLIC LAW 480).

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended—

(1) in section 2 (7 U.S.C. 1691), by striking paragraph (2) and inserting the following:

"(2) promote broad-based, equitable, and sustainable development, including agricultural development as well as conflict prevention;";

(2) in section 202(e)(1) (7 U.S.C. 1722(e)(1)), by striking "not less than $10,000,000, and not more than $28,000,000" and inserting "not less than 5 percent and not more than 10 percent of such funds";

(3) in section 203(a) (7 U.S.C. 1723(a)), by striking "the recipient country, or in a country" and inserting "one or more recipient countries, or one or more countries";

(4) in section 203(c) (7 U.S.C. 1723(c))—

(A) by striking "foreign currency"; and

(B) by striking "the recipient country, or in a country" and inserting "one or more recipient countries, or one or more countries";

(5) in section 203(d) (7 U.S.C. 1722(d))—

(A) by striking "Foreign currencies" and inserting "Proceeds";

(B) in paragraph (2)—

(i) by striking "income generating" and inserting "income-generating"; and

(ii) by striking "the recipient country or within a country" and inserting "one or more recipient countries, or one or more countries"; and

(C) in paragraph (3), by inserting a comma after "invested" and "used";

(6) in section 204(a) (7 U.S.C. 1724(a))—

(A) by striking "1996 through 2002" and inserting "2002 through 2011"; and

(B) by striking "2,025,000" and inserting "2,250,000";

(7) in section 205(f) (7 U.S.C. 1725(f)), by striking "2002" and inserting "2011";

(8) by striking section 206 (7 U.S.C. 1726);

(9) in section 207(a) (7 U.S.C. 1726a(a))—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by striking paragraph (1) and inserting the following:

"(1) Recipient countries.—A proposal to enter into a non-emergency food assistance agreement under this title shall identify the recipient country or countries subject to the agreement.

"(2) Time for decision.—Not later than 120 days after receipt by the Administrator of a proposal submitted by an eligible organization under this title, the Administrator shall make a decision concerning such proposal.";

(10) in section 208(f), by striking "2002" and inserting "2011";

(11) in section 403 (7 U.S.C. 1733), by inserting after subsection (k) the following:

"(l) Sales Procedures.—Subsections (b) and (h) shall apply to sales of commodities to generate proceeds for titles II and III of this Act, section 416(b) of the Agricultural Act of 1949, and section 1110 of the Food and Security Act of 1985. Such sales transactions may be in United States dollars and other currencies.";

(12) in section 407(c)(4), by striking "2001 and 2002" and inserting "2001 through 2011";

(13) in section 407(c)(1) (7 U.S.C. 1736a(c)(1))—

(A) by striking "The Administrator" and inserting "(A) The Administrator"; and

(B) by adding at the end the following:

"(B) In the case of commodities made available for nonemergency assistance under title II for least developed countries that meet the poverty and other eligibility criteria established by the International Bank for Reconstruction and Development for financing under the International Development Association, the Administrator may pay the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs.".

(14) in section 408, by striking "2002" and inserting "2011"; and

(15) in section 501(c), by striking "2002" and inserting "2011".

SEC. 308. EMERGING MARKETS.

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) in subsections (a) and (d)(1)(A)(i), by striking "2002" and inserting "2011"; and

(2) in subsection (d)(1)(H), by striking "$10,000,000 in any fiscal year" and inserting "$13,000,000 for each of fiscal years 2002 through 2011".

SEC. 309. BILL EMERSON HUMANITARIAN TRUST.

Subsections (b)(2)(B)(i), (h)(1), and (h)(2) of section 302 of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1) are each amended by striking "2002" and inserting "2011".

SEC. 310. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish an export assistance program (referred to in this section as the "program") to address unique barriers that prohibit or threaten the export of United States specialty crops.

(b) PURPOSE.—The program shall provide direct assistance through public and private sector projects and technical assistance to remove, resolve, or mitigate sanitary and phytosanitary and related barriers to trade.

(c) PRIORITY.—The program shall address time sensitive and strategic market access projects based on—

(1) trade effect on market retention, market access, and market expansion; and

(2) trade impact.

(d) FUNDING.—The Secretary shall make available $3,000,000 for each of fiscal years 2002 through 2011 of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation.

SEC. 311. FARMERS FOR AFRICA AND CARIBBEAN BASIN PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) Many African farmers and farmers in Caribbean Basin countries use antiquated techniques to produce their crops, which result in poor crop quality and low crop yields.

(2) Many of these farmers are losing business to farmers in European and Asian countries who use advanced planting and production techniques and are supplying agricultural produce to restaurants, resorts, tourists, grocery stores, and other consumers in Africa and Caribbean Basin countries.

(3) A need exists for the training of African farmers and farmers in Caribbean Basin countries and other developing countries in farming techniques that are appropriate for the majority of eligible farmers in African or Caribbean countries, including standard growing practices, insecticide and sanitation procedures, and other farming methods that will produce increased yields of more nutritious and healthful crops.

(4) African-American and other American farmers, as well as banking and insurance professionals, are a ready source of agribusiness expertise that would be invaluable for African farmers and farmers in Caribbean Basin countries.

(5) A United States commitment is appropriate to support the development of a comprehensive agricultural skills training program for these farmers that focuses on—

(A) improving knowledge of insecticide and sanitation procedures to prevent crop destruction;

(B) teaching modern farming techniques, including the identification and development of standard growing practices and the establishment of systems for recordkeeping, that would facilitate a continual analysis of crop production;

(C) the use and maintenance of farming equipment that is appropriate for the majority of eligible farmers in African or Caribbean Basin countries;

(D) expansion of small farming operations into agribusiness enterprises through the development and use of village banking systems and the use of agricultural risk insurance pilot products, resulting in increased access to credit for these farmers; and

(E) marketing crop yields to prospective purchasers (businesses and individuals) for local needs and export.

(6) The participation of African-American and other American farmers and American agricultural farming specialists in such a training program promises the added benefit of improving access to African and Caribbean Basin markets for American farmers and United States farm equipment and products and business linkages for United States insurance providers offering technical assistance on, among other things, agricultural risk insurance products.

(7) Existing programs that promote the exchange of agricultural knowledge and expertise through the exchange of American and foreign farmers have been effective in promoting improved agricultural techniques and food security, and, thus, the extension of additional resources to such farmer-to- farmer exchanges is warranted.

(b) DEFINITIONS.—In this section:

(1) AGRICULTURAL FARMING SPECIALIST.—The term "agricultural farming specialist" means an individual trained to transfer information and technical support relating to agribusiness, food security, the mitigation and alleviation of hunger, the mitigation of agricultural and farm risk, maximization of crop yields, agricultural trade, and other needs specific to a geographical location as determined by the President.

(2) CARIBBEAN BASIN COUNTRY.—The term "Caribbean Basin country" means a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702).

(3) ELIGIBLE FARMER.—The term "eligible farmer" means an individual owning or working on farm land (as defined by a particular country's laws relating to property) in the sub-Saharan region of the continent of Africa, in a Caribbean Basin country, or in any other developing country in which the President determines there is a need for farming expertise or for information or technical support described in paragraph (1).

(4) PROGRAM.—The term "Program" means the Farmers for Africa and Caribbean Basin Program established under this section.

(c) ESTABLISHMENT OF PROGRAM.—The President shall establish a grant program, to be known as the "Farmers for Africa and Caribbean Basin Program", to assist eligible organizations in carrying out bilateral exchange programs whereby African-American and other American farmers and American agricultural farming specialists share technical knowledge with eligible farmers regarding—

(1) maximization of crop yields;

(2) use of agricultural risk insurance as financial tools and a means of risk management (as allowed by Annex II of the World Trade Organization rules);

(3) expansion of trade in agricultural products;

(4) enhancement of local food security;

(5) the mitigation and alleviation of hunger;

(6) marketing agricultural products in local, regional, and international markets; and

(7) other ways to improve farming in countries in which there are eligible farmers.

(d) ELIGIBLE GRANTEES.—The President may make a grant under the Program to—

(1) a college or university, including a historically black college or university, or a foundation maintained by a college or university; and

(2) a private organization or corporation, including grassroots organizations, with an established and demonstrated capacity to carry out such a bilateral exchange program.

(e) TERMS OF PROGRAM.—(1) It is the goal of the Program that at least 1,000 farmers participate in the training program by December 31, 2005, of which 80 percent of the total number of participating farmers will be African farmers or farmers in Caribbean Basin countries and 20 percent of the total number of participating farmers will be American farmers.

(2) Training under the Program will be provided to eligible farmers in groups to ensure that information is shared and passed on to other eligible farmers. Eligible farmers will be trained to be specialists in their home communities and will be encouraged not to retain enhanced farming technology for their own personal enrichment.

(3) Through partnerships with American businesses, the Program will utilize the commercial industrial capability of businesses dealing in agriculture to train eligible farmers on farming equipment that is appropriate for the majority of eligible farmers in African or Caribbean Basin countries and to introduce eligible farmers to the use of insurance as a risk management tool.

(f) SELECTION OF PARTICIPANTS.—(1) The selection of eligible farmers, as well as African-American and other American farmers and agricultural farming specialists, to participate in the Program shall be made by grant recipients using an application process approved by the President.

(2) Participating farmers must have sufficient farm or agribusiness experience and have obtained certain targets regarding the productivity of their farm or agribusiness.

(g) GRANT PERIOD.—The President may make grants under the Program during a period of 5 years beginning on October 1 of the first fiscal year for which funds are made available to carry out the Program.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2011.

SEC. 312. GEORGE MCGOVERN-ROBERT DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM.

(a) IN GENERAL.—The President may, subject to subsection (j), direct the procurement of commodities and the provision of financial and technical assistance to carry out—

(1) preschool and school feeding programs in foreign countries to improve food security, reduce the incidence of hunger, and improve literacy and primary education, particularly with respect to girls; and

(2) maternal, infant, and child nutrition programs for pregnant women, nursing mothers, infants, and children who are 5 years of age or younger.

(b) ELIGIBLE COMMODITIES AND COST ITEMS.—Notwithstanding any other provision of law—

(1) any agricultural commodity is eligible for distribution under this section;

(2) as necessary to achieve the purposes of this section—

(A) funds may be used to pay the transportation costs incurred in moving commodities (including prepositioned commodities) provided under this section from the designated points of entry or ports of entry of one or more recipient countries to storage and distribution sites in these countries, and associated storage and distribution costs;

(B) funds may be used to pay the costs of activities conducted in the recipient countries by a nonprofit voluntary organization, cooperative, or intergovernmental agency or organization that would enhance the effectiveness of the activities implemented by such entities under this section; and

(C) funds may be provided to meet the allowable administrative expenses of private voluntary organizations, cooperatives, or intergovernmental organizations which are implementing activities under this section; and

(3) for the purposes of this section, the term "agricultural commodities" includes any agricultural commodity, or the products thereof, produced in the United States.

(c) General Authorities.—The President shall designate one or more Federal agencies to—

(1) implement the program established under this section;

(2) ensure that the program established under this section is consistent with the foreign policy and development assistance objectives of the United States; and

(3) consider, in determining whether a country should receive assistance under this section, whether the government of the country is taking concrete steps to improve the preschool and school systems in its country.

(d) Eligible Recipients.—Assistance may be provided under this section to private voluntary organizations, cooperatives, intergovernmental organizations, governments and their agencies, and other organizations.

(e) Procedures.—

(1) In general.—In carrying out subsection (a) the President shall assure that procedures are established that—

(A) provide for the submission of proposals by eligible recipients, each of which may include one or more recipient countries, for commodities and other assistance under this section;

(B) provide for eligible commodities and assistance on a multi-year basis;

(C) ensure eligible recipients demonstrate the organizational capacity and the ability to develop, implement, monitor, report on, and provide accountability for activities conducted under this section;

(D) provide for the expedited development, review, and approval of proposals submitted in accordance with this section;

(E) ensure monitoring and reporting by eligible recipients on the use of commodities and other assistance provided under this section; and

(F) allow for the sale or barter of commodities by eligible recipients to acquire funds to implement activities that improve the food security of women and children or otherwise enhance the effectiveness of programs and activities authorized under this section.

(2) Priorities for program funding.—In carrying out paragraph (1) with respect to criteria for determining the use of commodities and other assistance provided for programs and activities authorized under this section, the implementing agency may consider the ability of eligible recipients to—

(A) identify and assess the needs of beneficiaries, especially malnourished or undernourished mothers and their children who are 5 years of age or younger, and school-age children who are malnourished, undernourished, or do not regularly attend school;

(B)(i) in the case of preschool and school-age children, target low-income areas where children's enrollment and attendance in school is low or girls' enrollment and participation in preschool or school is low, and incorporate developmental objectives for improving literacy and primary education, particularly with respect to girls; and

(ii) in the case of programs to benefit mothers and children who are 5 years of age or younger, coordinate supplementary feeding and nutrition programs with existing or newly-established maternal, infant, and children programs that provide health-needs interventions, and which may include maternal, prenatal, and postnatal and newborn care;

(C) involve indigenous institutions as well as local communities and governments in the development and implementation to foster local capacity building and leadership; and

(D) carry out multiyear programs that foster local self-sufficiency and ensure the longevity of recipient country programs.

(f) Use of Food and Nutrition Service.—The Food and Nutrition Service of the Department of Agriculture may provide technical advice on the establishment of programs under subsection (a)(1) and on their implementation in the field in recipient countries.

(g) Multilateral Involvement.—The President is urged to engage existing international food aid coordinating mechanisms to ensure multilateral commitments to, and participation in, programs like those supported under this section. The President shall report annually to the Committee on International Relations and the Committee on Agriculture of the United States House of Representatives and the Committee on Foreign Relations and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate on the commitments and activities of governments, including the United States government, in the global effort to reduce child hunger and increase school attendance.

(h) Private Sector Involvement.—The President is urged to encourage the support and active involvement of the private sector, foundations, and other individuals and organizations in programs assisted under this section.

(i) Requirement To Safeguard Local Production and Usual Marketing.—The requirement of section 403(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(a) and 1733(h)) applies with respect to the availability of commodities under this section.

(j) Funding.—

(1) In general.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2002 through 2011. Nothing in this section shall be interpreted to preclude the use of authorities in effect before the date of the enactment of this Act to carry out the ongoing Global Food for Education Initiative.

(2) Administrative expenses.—Funds made available to carry out the purposes of this section may be used to pay the administrative expenses of any agency of the Federal Government implementing or assisting in the implementation of this section.

SEC. 313. STUDY ON FEE FOR SERVICES.

(a) Study.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall provide a report to the designated congressional committees on the feasibility of instituting a program which would charge and retain a fee to cover the costs for providing persons with commercial services performed abroad on matters within the authority of the Department of Agriculture administered through the Foreign Agriculture Service or any successor agency.

(b) Definition.—In this section, the term "designated congressional committees" means the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate.

SEC. 314. NATIONAL EXPORT STRATEGY REPORT.

(a) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall provide to the designated congressional committees a report on the policies and programs that the Department of Agriculture has undertaken to implement the National Export Strategy Report. The report shall contain a description of the effective coordination of these policies and programs through all other appropriate Federal agencies participating in the Trade Promotion Coordinating Committee and the steps the Department of Agriculture is taking to reduce the level of protectionism in agricultural trade, to foster market growth, and to improve the commercial potential of markets in both developed and developing countries for United States agricultural commodities.

(b) Definition.—In this section, the term "designated congressional committees" means the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate.

TITLE IV—NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

SEC. 401. SIMPLIFIED DEFINITION OF INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) by striking "and (C)" and inserting "(C)"; and

(B) by inserting after "premiums," the following:

"and (D) to the extent that any other educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like, are required to be excluded under title XIX of the Social Security Act, the state agency may exclude it under this subsection,";

(2) by striking "and (15)" and inserting "(15)";

(3) by inserting before the period at the end the following:

", (16) any state complementary assistance program payments that are excluded pursuant to subsections (a) and (b) of section 1931 of title XIX of the Social Security Act, and (17) at the option of the State agency, any types of income that the State agency does not consider when determining eligibility for cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1), except that this paragraph shall not authorize a State agency to exclude earned income, payments under title I, II, IV, X, XIV, or XVI of the Social Security Act, or such other types of income whose consideration the Secretary determines essential to equitable determinations of eligibility and benefit levels except to the extent that those types of income may be excluded under other paragraphs of this subsection".

SEC. 402. STANDARD DEDUCTION.

Section 5(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(1)) is amended—

(1) by striking "of $134, $229, $189, $269, and $118" and inserting "equal to 9.7 percent of the eligibility limit established under section 5(c)(1) for fiscal year 2002 but not more than 9.7 percent of the eligibility limit established under section 5(c)(1) for a household of six for fiscal year 2002 nor less than $134, $229, $189, $269, and $118"; and

(2) by inserting before the period at the end the following:

", except that the standard deduction for Guam shall be determined with reference to 2 times the eligibility limits under section

5(c)(1) for fiscal year 2002 for the 48 contiguous states and the District of Columbia".

SEC. 403. TRANSITIONAL FOOD STAMPS FOR FAMILIES MOVING FROM WELFARE.

(a) IN GENERAL.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

"(s) TRANSITIONAL BENEFITS OPTION.—

"(1) IN GENERAL.—A State may provide transitional food stamp benefits to a household that is no longer eligible to receive cash assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(2) TRANSITIONAL BENEFITS PERIOD.—Under paragraph (1), a household may continue to receive food stamp benefits for a period of not more than 6 months after the date on which cash assistance is terminated.

"(3) AMOUNT.—During the transitional benefits period under paragraph (2), a household shall receive an amount equal to the allotment received in the month immediately preceding the date on which cash assistance is terminated. A household receiving benefits under this subsection may apply for recertification at any time during the transitional benefit period. If a household reapplies, its allotment shall be determined without regard to this subsection for all subsequent months.

"(4) DETERMINATION OF FUTURE ELIGIBILITY.—In the final month of the transitional benefits period under paragraph (2), the State agency may—

"(A) require a household to cooperate in a redetermination of eligibility to receive an authorization card; and

"(B) renew eligibility for a new certification period for the household without regard to whether the previous certification period has expired.

"(5) LIMITATION.—A household sanctioned under section 6, or for a failure to perform an action required by Federal, State, or local law relating to such cash assistance program, shall not be eligible for transitional benefits under this subsection.".

(b) CONFORMING AMENDMENTS.—(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by adding at the end the following: "The limits in this section may be extended until the end of any transitional benefit period established under section 11(s).".

(2) Section 6(c) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)) is amended by striking "No household" and inserting "Except in a case in which a household is receiving transitional benefits during the transitional benefits period under section 11(s), no household".

SEC. 404. QUALITY CONTROL SYSTEMS.

(a) TARGETED QUALITY CONTROL SYSTEM.—Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) is amended—

(1) in paragraph (1)(C)—

(A) in the matter preceding clause (i), by inserting "the Secretary determines that a 95 percent statistical probability exists that for the 3d consecutive year" after "year in which"; and

(B) in clause (i)(II)(aa)(bbb) by striking "the national performance measure for the fiscal year" and inserting "10 percent";

(2) in the 1st sentence of paragraph (4)—

(A) by striking "or claim" and inserting "claim"; and

(B) by inserting "or performance under the measures established under paragraph (10)," after "for payment error,";

(3) in paragraph (5), by inserting "to comply with paragraph (10) and" before "to establish";

(4) in the 1st sentence of paragraph (6), by inserting "one percentage point more than" after "measure that shall be"; and

(5) by inserting at the end the following:

"(10)(A) In addition to the measures established under paragraph (1), the Secretary shall measure the performance of State agencies in each of the following regards—

"(i) compliance with the deadlines established under paragraphs (3) and (9) of section 11(e); and

"(ii) the percentage of negative eligibility decisions that are made correctly.

"(B) For each fiscal year, the Secretary shall make excellence bonus payments of $1,000,000 each to the 5 States with the highest combined performance in the 2 measures in subparagraph (A) and to the 5 States whose combined performance under the 2 measures in subparagraph (A) most improved in such fiscal year.

"(C) For any fiscal year in which the Secretary determines that a 95 percent statistical probability exists that a State agency's performance with respect to any of the 2 performance measures established in subparagraph (A) is substantially worse than a level the Secretary deems reasonable, other than for good cause shown, the Secretary shall investigate that State agency's administration of the food stamp program. If this investigation determines that the State's administration has been deficient, the Secretary shall require the State agency to take prompt corrective action.".

(b) IMPLEMENTATION.—The amendment made by subsection (a)(5) shall apply to all fiscal years beginning on or after October 1, 2001, and ending before October 1, 2007. All other amendments made by this section shall apply to all fiscal years beginning on or after October 1, 1999.

SEC. 405. SIMPLIFIED APPLICATION AND ELIGIBILITY DETERMINATION SYSTEMS.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by inserting at the end the following:

"(l) SIMPLIFICATION OF SYSTEMS.—The Secretary shall expend up to $9,500,000 million in each fiscal year to pay 100 percent of the costs of State agencies to develop and implement simple application and eligibility determination systems.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

(a) EMPLOYMENT AND TRAINING PROGRAMS.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A)(vii) by striking "fiscal year 2002" and inserting "each of the fiscal years 2003 through 2011"; and

(2) in subparagraph (B) by striking "2002" and inserting "2011".

(b) COST ALLOCATION.—Section 16(k)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(3)) is amended—

(1) in subparagraph (A) by striking "2002" and inserting "2011"; and

(2) in subparagraph (B)(ii) by striking "2002" and inserting "2011".

(c) CASH PAYMENT PILOT PROJECTS.—Section 17(b)(1)(B)(vi) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended by striking "2002" and inserting "2011".

(d) OUTREACH DEMONSTRATION PROJECTS.—Section 17(i)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(i)(1)(A)) is amended by striking "1992 through 2002" and inserting "2003 through 2011".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1996 through 2002" and inserting "2003 through 2011".

(f) PUERTO RICO.—Section 19(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)) is amended—

(1) in subparagraph (A)—

(A) in clause (ii) by striking "and" at the end;

(B) in clause (iii) by adding "and" at the end; and

(C) by inserting after clause (iii) the following:

"(iv) for each of fiscal years 2003 through 2011, the amount equal to the amount required to be paid under this subparagraph for the preceding fiscal year, as adjusted by the percentage by which the thrifty food plan is adjusted under section 3(o)(4) for the current fiscal year for which the amount is determined under this clause;"; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)"; and

(B) by adding at the end the following:

"(ii) Notwithstanding subparagraph (A) and clause (i), the Commonwealth may spend up to $6,000,000 of the amount required under subparagraph (A) to be paid for fiscal year 2002 to pay 100 percent of the cost to upgrade and modernize the electronic data processing system used to provide such food assistance and to implement systems to simplify the determination of eligibility to receive such assistance.".

(g) TERRITORY OF AMERICAN SAMOA.—Section 24 of the Food Stamp Act of 1977 (7 U.S.C. 2033) is amended—

(1) by striking "Effective October 1, 1995, from" and inserting "From"; and

(2) by striking "$5,300,000 for each of fiscal years 1996 through 2002" and inserting "$5,750,000 for fiscal year 2002 and $5,800,000 for each of fiscal years 2003 though 2011".

(h) ASSISTANCE FOR COMMUNITY FOOD PROJECTS.—Section 25(b)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2034(b)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "2002" and inserting "2001"; and

(B) by striking the period at the end and inserting "; and"; and

(3) by inserting after subparagraph (B) the following:

"(C) $7,500,000 for each of the fiscal years 2002 through 2011.".

(i) AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.—Section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036) is amended—

(1) in subsection (a)—

(A) by striking "1997 through 2002" and inserting "2002 through 2011"; and

(B) by striking "$100,000,000" and inserting "$140,000,000"; and

(2) by adding at the end the following:

"(c) USE OF FUNDS FOR RELATED COSTS.—For each of the fiscal years 2002 through 2011, the Secretary shall use $10,000,000 of the funds made available under subsection (a) to pay for the direct and indirect costs of the States related to the processing, storing, transporting, and distributing to eligible recipient agencies of commodities purchased by the Secretary under such subsection and commodities secured from other sources, including commodities secured by gleaning (as defined in section 111 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)).".

(j) SPECIAL EFFECTIVE DATE.—The amendments made by subsections (g), (h), and (i) shall take effect on October 1, 2001.

Subtitle B—Commodity Distribution

SEC. 441. DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS.

Section 1114(a) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e) is amended by striking "2002" and inserting "2011".

SEC. 442. COMMODITY SUPPLEMENTAL FOOD PROGRAM.

The Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended—

(1) in section 4(a) by striking "1991 through 2002" and inserting "2003 through 2011"; and

(2) in subsections (a)(2) and (d)(2) of section 5 by striking "1991 through 2002" and inserting "2003 through 2011".

SEC. 443. EMERGENCY FOOD ASSISTANCE.

The 1st sentence of section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended—

(1) by striking "1991 through 2002" and inserting "2003 through 2011";

(2) by striking "administrative"; and

(3) by inserting "storage," after "processing,".

Subtitle C—Miscellaneous Provisions

SEC. 461. HUNGER FELLOWSHIP PROGRAM.

(a) SHORT TITLE; FINDINGS.—

(1) SHORT TITLE.—This section may be cited as the "Congressional Hunger Fellows Act of 2001".

(2) FINDINGS.—The Congress finds as follows:

(A) There is a critical need for compassionate individuals who are committed to assisting people who suffer from hunger as well as a need for such individuals to initiate and administer solutions to the hunger problem.

(B) Bill Emerson, the distinguished late Representative from the 8th District of Missouri, demonstrated his commitment to solving the problem of hunger in a bipartisan manner, his commitment to public service, and his great affection for the institution and the ideals of the United States Congress.

(C) George T. (Mickey) Leland, the distinguished late Representative from the 18th District of Texas, demonstrated his compassion for those in need, his high regard for public service, and his lively exercise of political talents.

(D) The special concern that Mr. Emerson and Mr. Leland demonstrated during their lives for the hungry and poor was an inspiration for others to work toward the goals of equality and justice for all.

(E) These two outstanding leaders maintained a special bond of friendship regardless of political affiliation and worked together to encourage future leaders to recognize and provide service to others, and therefore it is especially appropriate to honor the memory of Mr. Emerson and Mr. Leland by creating a fellowship program to develop and train the future leaders of the United States to pursue careers in humanitarian service.

(b) ESTABLISHMENT.—There is established as an independent entity of the legislative branch of the United States Government the Congressional Hunger Fellows Program (hereinafter in this section referred to as the "Program").

(c) BOARD OF TRUSTEES.—

(1) IN GENERAL.—The Program shall be subject to the supervision and direction of a Board of Trustees.

(2) MEMBERS OF THE BOARD OF TRUSTEES.—

(A) APPOINTMENT.—The Board shall be composed of 6 voting members appointed under clause (i) and one nonvoting ex officio member designated in clause (ii) as follows:

(i) VOTING MEMBERS.—(I) The Speaker of the House of Representatives shall appoint two members.

(II) The minority leader of the House of Representatives shall appoint one member.

(III) The majority leader of the Senate shall appoint two members.

(IV) The minority leader of the Senate shall appoint one member.

(ii) NONVOTING MEMBER.—The Executive Director of the program shall serve as a nonvoting ex officio member of the Board.

(B) TERMS.—Members of the Board shall serve a term of 4 years.

(C) VACANCY.—

(i) AUTHORITY OF BOARD.—A vacancy in the membership of the Board does not affect the power of the remaining members to carry out this section.

(ii) APPOINTMENT OF SUCCESSORS.—A vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

(iii) INCOMPLETE TERM.—If a member of the Board does not serve the full term applicable to the member, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(D) CHAIRPERSON.—As the first order of business of the first meeting of the Board, the members shall elect a Chairperson.

(E) COMPENSATION.—

(i) IN GENERAL.—Subject to clause (ii), members of the Board may not receive compensation for service on the Board.

(ii) TRAVEL.—Members of the Board may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the program.

(3) DUTIES.—

(A) BYLAWS.—

(i) ESTABLISHMENT.—The Board shall establish such bylaws and other regulations as may be appropriate to enable the Board to carry out this section, including the duties described in this paragraph.

(ii) CONTENTS.—Such bylaws and other regulations shall include provisions—

(I) for appropriate fiscal control, funds accountability, and operating principles;

(II) to prevent any conflict of interest, or the appearance of any conflict of interest, in the procurement and employment actions taken by the Board or by any officer or employee of the Board and in the selection and placement of individuals in the fellowships developed under the program;

(III) for the resolution of a tie vote of the members of the Board; and

(IV) for authorization of travel for members of the Board.

(iii) TRANSMITTAL TO CONGRESS.—Not later than 90 days after the date of the first meeting of the Board, the Chairperson of the Board shall transmit to the appropriate congressional committees a copy of such bylaws.

(B) BUDGET.—For each fiscal year the program is in operation, the Board shall determine a budget for the program for that fiscal year. All spending by the program shall be pursuant to such budget unless a change is approved by the Board.

(C) PROCESS FOR SELECTION AND PLACEMENT OF FELLOWS.—The Board shall review and approve the process established by the Executive Director for the selection and placement of individuals in the fellowships developed under the program.

(D) ALLOCATION OF FUNDS TO FELLOWSHIPS.—The Board of Trustees shall determine the priority of the programs to be carried out under this section and the amount of funds to be allocated for the Emerson and Leland fellowships.

(d) PURPOSES; AUTHORITY OF PROGRAM.—

(1) PURPOSES.—The purposes of the program are—

(A) to encourage future leaders of the United States to pursue careers in humanitarian service, to recognize the needs of people who are hungry and poor, and to provide assistance and compassion for those in need;

(B) to increase awareness of the importance of public service; and

(C) to provide training and development opportunities for such leaders through placement in programs operated by appropriate organizations or entities.

(2) AUTHORITY.—The program is authorized to develop such fellowships to carry out the purposes of this section, including the fellowships described in paragraph (3).

(3) FELLOWSHIPS.—

(A) IN GENERAL.—The program shall establish and carry out the Bill Emerson Hunger Fellowship and the Mickey Leland Hunger Fellowship.

(B) CURRICULUM.—

(i) IN GENERAL.—The fellowships established under subparagraph (A) shall provide experience and training to develop the skills and understanding necessary to improve the humanitarian conditions and the lives of individuals who suffer from hunger, including—

(I) training in direct service to the hungry in conjunction with community-based organizations through a program of field placement; and

(II) experience in policy development through placement in a governmental entity or nonprofit organization.

(ii) FOCUS OF BILL EMERSON HUNGER FELLOWSHIP.—The Bill Emerson Hunger Fellowship shall address hunger and other humanitarian needs in the United States.

(iii) FOCUS OF MICKEY LELAND HUNGER FELLOWSHIP.—The Mickey Leland Hunger Fellowship shall address international hunger and other humanitarian needs.

(iv) WORKPLAN.—To carry out clause (i) and to assist in the evaluation of the fellowships under paragraph (4), the program shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including specific duties and responsibilities related to those objectives.

(C) PERIOD OF FELLOWSHIP.—

(i) EMERSON FELLOW.—A Bill Emerson Hunger Fellowship awarded under this paragraph shall be for no more than 1 year.

(ii) LELAND FELLOW.—A Mickey Leland Hunger Fellowship awarded under this paragraph shall be for no more than 2 years. Not less than 1 year of the fellowship shall be dedicated to fulfilling the requirement of subparagraph (B)(i)(I).

(D) SELECTION OF FELLOWS.—

(i) IN GENERAL.—A fellowship shall be awarded pursuant to a nationwide competition established by the program.

(ii) QUALIFICATION.—A successful applicant shall be an individual who has demonstrated—

(I) an intent to pursue a career in humanitarian service and outstanding potential for such a career;

(II) a commitment to social change;

(III) leadership potential or actual leadership experience;

(IV) diverse life experience;

(V) proficient writing and speaking skills;

(VI) an ability to live in poor or diverse communities; and

(VII) such other attributes as determined to be appropriate by the Board.

(iii) AMOUNT OF AWARD.—

(I) IN GENERAL.—Each individual awarded a fellowship under this paragraph shall receive a living allowance and, subject to subclause (II), an end-of-service award as determined by the program.

(II) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Each individual awarded a fellowship under this paragraph shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service as determined by the Executive Director.

(iv) RECOGNITION OF FELLOWSHIP AWARD.—

(I) EMERSON FELLOW.—An individual awarded a fellowship from the Bill Emerson Hunger Fellowship shall be known as an "Emerson Fellow".

(II) LELAND FELLOW.—An individual awarded a fellowship from the Mickey Leland Hunger Fellowship shall be known as a "Leland Fellow".

(4) EVALUATION.—The program shall conduct periodic evaluations of the Bill Emerson and Mickey Leland Hunger Fellowships. Such evaluations shall include the following:

(A) An assessment of the successful completion of the work plan of the fellow.

(B) An assessment of the impact of the fellowship on the fellows.

(C) An assessment of the accomplishment of the purposes of the program.

(D) An assessment of the impact of the fellow on the community.

(e) TRUST FUND.—

(1) ESTABLISHMENT.—There is established the Congressional Hunger Fellows Trust Fund (hereinafter in this section referred to as the "Fund") in the Treasury of the United States, consisting of amounts appropriated to the Fund under subsection (i), amounts credited to it under paragraph (3), and amounts received under subsection (g)(3)(A).

(2) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest the full amount of the Fund. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary in consultation with the Board, has a maturity suitable for the Fund.

(3) RETURN ON INVESTMENT.—Except as provided in subsection (f)(2), the Secretary of the Treasury shall credit to the Fund the interest on, and the proceeds from the sale or redemption of, obligations held in the Fund.

(f) EXPENDITURES; AUDITS.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the program from the amounts described in subsection (e)(3) and subsection (g)(3)(A) such sums as the Board determines are necessary to enable the program to carry out the provisions of this section.

(2) LIMITATION.—The Secretary may not transfer to the program the amounts appropriated to the Fund under subsection (i).

(3) USE OF FUNDS.—Funds transferred to the program under paragraph (1) shall be used for the following purposes:

(A) STIPENDS FOR FELLOWS.—To provide for a living allowance for the fellows.

(B) TRAVEL OF FELLOWS.—To defray the costs of transportation of the fellows to the fellowship placement sites.

(C) INSURANCE.—To defray the costs of appropriate insurance of the fellows, the program, and the Board.

(D) TRAINING OF FELLOWS.—To defray the costs of preservice and midservice education and training of fellows.

(E) SUPPORT STAFF.—Staff described in subsection (g).

(F) AWARDS.—End-of-service awards under subsection (d)(3)(D)(iii)(II).

(G) ADDITIONAL APPROVED USES.—For such other purposes that the Board determines appropriate to carry out the program.

(4) AUDIT BY GAO.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct an annual audit of the accounts of the program.

(B) BOOKS.—The program shall make available to the Comptroller General all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the program and necessary to facilitate such audit.

(C) REPORT TO CONGRESS.—The Comptroller General shall submit a copy of the results of each such audit to the appropriate congressional committees.

(g) STAFF; POWERS OF PROGRAM.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Board shall appoint an Executive Director of the program who shall administer the program. The Executive Director shall carry out such other functions consistent with the provisions of this section as the Board shall prescribe.

(B) RESTRICTION.—The Executive Director may not serve as Chairperson of the Board.

(C) COMPENSATION.—The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—

(A) IN GENERAL.—With the approval of a majority of the Board, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers necessary and appropriate to carry out the functions of the provisions of this section.

(B) COMPENSATION.—An individual appointed under subparagraph (A) shall be paid at a rate not to exceed the rate of basic pay payable for level GS–15 of the General Schedule.

(3) POWERS.—In order to carry out the provisions of this section, the program may perform the following functions:

(A) GIFTS.—The program may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the program. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Fund and shall be available for disbursement upon order of the Board.

(B) EXPERTS AND CONSULTANTS.—The program may procure temporary and intermittent services under section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

(C) CONTRACT AUTHORITY.—The program may contract, with the approval of a majority of the members of the Board, with and compensate Government and private agencies or persons without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) OTHER NECESSARY EXPENDITURES.—The program shall make such other expenditures which the program considers necessary to carry out the provisions of this section, but excluding project development.

(h) REPORT.—Not later than December 31 of each year, the Board shall submit to the appropriate congressional committees a report on the activities of the program carried out during the previous fiscal year, and shall include the following:

(1) An analysis of the evaluations conducted under subsection (d)(4) (relating to evaluations of the Emerson and Leland fellowships and accomplishment of the program purposes) during that fiscal year.

(2) A statement of the total amount of funds attributable to gifts received by the program in that fiscal year (as authorized under subsection (g)(3)(A)), and the total amount of such funds that were expended to carry out the program that fiscal year.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $18,000,000 to carry out the provisions of this section.

(j) DEFINITION.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Agriculture and the Committee on International Relations of the House of Representatives; and

(2) the Committee on Agriculture, Nutrition and Forestry and the Committee on Foreign Relations of the Senate.

SEC. 462. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect on October 1, 2002.

TITLE V—CREDIT

Subtitle A—Farm Ownership Loans

SEC. 501. DIRECT LOANS.

Section 302(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922(b)(1)) is amended by striking "operated" and inserting "participated in the business operations of".

SEC. 502. FINANCING OF BRIDGE LOANS.

Section 303(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1923(a)(1)) is amended—

(1) in subparagraph (C), by striking "or" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(E) refinancing, during a fiscal year, a short-term, temporary bridge loan made by a commercial or cooperative lender to a beginning farmer or rancher for the acquisition of land for a farm or ranch, if—

"(i) the Secretary approved an application for a direct farm ownership loan to the beginning farmer or rancher for acquisition of the land; and

"(ii) funds for direct farm ownership loans under section 346(b) were not available at the time at which the application was approved.".

SEC. 503. LIMITATIONS ON AMOUNT OF FARM OWNERSHIP LOANS.

Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—The Secretary shall not make or insure a loan under section 302, 303, 304, 310D, or 310E that would cause the unpaid indebtedness under those sections of any 1 borrower to exceed the lesser of—

"(1) the value of the farm or other security; or

"(2)(A) in the case of a loan made by the Secretary—

"(i) to a beginning farmer or rancher, $250,000, as adjusted (beginning with fiscal year 2003) by the inflation percentage applicable to the fiscal year in which the loan is made; or

"(ii) to a borrower other than a beginning farmer or rancher, $200,000; or

"(B) in the case of a loan guaranteed by the Secretary, $700,000, as—

"(i) adjusted (beginning with fiscal year 2000) by the inflation percentage applicable to the fiscal year in which the loan is guaranteed; and

"(ii) reduced by the amount of any unpaid indebtedness of the borrower on loans under subtitle B that are guaranteed by the Secretary.".

SEC. 504. JOINT FINANCING ARRANGEMENTS.

Section 307(a)(3)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(D)) is amended—

(1) by striking "If" and inserting the following:

"(i) In general.—Subject to clause (ii), if"; and

(2) by adding at the end the following:

"(ii) Beginning farmers and ranchers.—The interest rate charged a beginning farmer or rancher for a loan described in clause (i) shall be 50 basis points less than the rate charged farmers and ranchers that are not beginning farmers or ranchers.".

SEC. 505. GUARANTEE PERCENTAGE FOR BEGINNING FARMERS AND RANCHERS.

Section 309(h)(6) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)(6)) is amended by striking "Guaranteed up" and all that follows through "more than" and inserting "Guaranteed at 95 percent.—The Secretary shall guarantee".

SEC. 506. GUARANTEE OF LOANS MADE UNDER STATE BEGINNING FARMER OR RANCHER PROGRAMS.

Section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) is amended by adding at the end the following:

"(j) Guarantee of Loans Made Under State Beginning Farmer or Rancher Programs.—The Secretary may guarantee under this title a loan made under a State beginning farmer or rancher program, including a loan financed by the net proceeds of a qualified small issue agricultural bond for land or property described in section 144(a)(12)(B)(ii) of the Internal Revenue Code of 1986.".

SEC. 507. DOWN PAYMENT LOAN PROGRAM.

Section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "30 percent" and inserting "40 percent"; and

(B) in paragraph (3), by striking "10 years" and inserting "20 years"; and

(2) in subsection (c)(3)(B), by striking "10-year" and inserting "20-year".

SEC. 508. BEGINNING FARMER AND RANCHER CONTRACT LAND SALES PROGRAM.

(a) In General.—Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et seq.) is amended by adding at the end the following:

"SEC. 310F. BEGINNING FARMER AND RANCHER CONTRACT LAND SALES PROGRAM.

"(a) In General.—Not later than October 1, 2002, the Secretary shall carry out a pilot program in not fewer than 10 geographically dispersed States, as determined by the Secretary, to guarantee up to 5 loans per State in each of fiscal years 2003 through 2006 made by a private seller of a farm or ranch to a qualified beginning farmer or rancher on a contract land sale basis, if the loan meets applicable underwriting criteria and a commercial lending institution agrees to serve as escrow agent.

"(b) Date of Commencement of Program.—The Secretary shall commence the pilot program on making a determination that guarantees of contract land sales present a risk that is comparable with the risk presented in the case of guarantees to commercial lenders.".

(b) Regulations.—

(1) In general.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall promulgate such regulations as are necessary to implement the amendment made by subsection (a).

(2) Procedure.—The promulgation of the regulations and administration of the amendment made by subsection (a) shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(3) Congressional review of agency rulemaking.—In carrying out the amendment made by subsection (a), the Secretary shall use the authority provided under section 808 of title 5, United States Code.

Subtitle B—Operating Loans

SEC. 511. DIRECT LOANS.

Section 311(c)(1)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(c)(1)(A)) is amended by striking "who has not" and all that follows through "5 years".

SEC. 512. AMOUNT OF GUARANTEE OF LOANS FOR TRIBAL FARM OPERATIONS; WAIVER OF LIMITATIONS FOR TRIBAL OPERATIONS AND OTHER OPERATIONS.

(a) Amount of Guarantee of Loans for Tribal Operations.—Section 309(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)) is amended—

(1) in paragraph (4), by striking "paragraphs (5) and (6)" and inserting "paragraphs (5), (6), and (7)"; and

(2) by adding at the end the following:

"(7) Amount of guarantee of loans for tribal operations.—In the case of an operating loan made to a Native American farmer or rancher whose farm or ranch is within an Indian reservation (as defined in section 335(e)(1)(A)(ii)), the Secretary shall guarantee 95 percent of the loan.".

(b) Waiver of Limitations.—Section 311(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(c)) is amended—

(1) in paragraph (1), by striking "paragraph (3)" and inserting "paragraphs (3) and (4)"; and

(2) by adding at the end the following:

"(4) Waivers.—

"(A) Tribal farm and ranch operations.—The Secretary shall waive the limitation under paragraph (1)(C) for a direct loan made under this subtitle to a Native American farmer or rancher whose farm or ranch is within an Indian reservation (as defined in section 335(e)(1)(A)(ii)) if the Secretary determines that commercial credit is not generally available for such farm or ranch operations.

"(B) Other farm and ranch operations.—On a case-by-case determination not subject to administrative appeal, the Secretary may grant a borrower a waiver, 1 time only for a period of 2 years, of the limitation under paragraph (1)(C) for a direct operating loan if the borrower demonstrates to the satisfaction of the Secretary that—

"(i) the borrower has a viable farm or ranch operation;

"(ii) the borrower applied for commercial credit from at least 2 commercial lenders;

"(iii) the borrower was unable to obtain a commercial loan (including a loan guaranteed by the Secretary); and

"(iv) the borrower successfully has completed, or will complete within 1 year, borrower training under section 359 (from which requirement the Secretary shall not grant a waiver under section 359(f)).".

Subtitle C—Administrative Provisions

SEC. 521. ELIGIBILITY OF LIMITED LIABILITY COMPANIES FOR FARM OWNERSHIP LOANS, FARM OPERATING LOANS, AND EMERGENCY LOANS.

(a) In General.—Sections 302(a), 311(a), and 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922(a), 1941(a), 1961(a)) are amended by striking "and joint operations" each place it appears and inserting "joint operations, and limited liability companies".

(b) Conforming Amendment.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking "or joint operations" each place it appears and inserting "joint operations, or limited liability companies".

SEC. 522. DEBT SETTLEMENT.

Section 331(b)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) is amended by striking "carried out—" and all that follows through "(B) after" and inserting "carried out after".

SEC. 523. TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS; PRIVATE COLLECTION AGENCIES.

(a) In General.—Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by striking subsections (d) and (e).

(b) Application.—The amendment made by subsection (a) shall not apply to a contract entered into before the effective date of this Act.

SEC. 524. INTEREST RATE OPTIONS FOR LOANS IN SERVICING.

Section 331B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981b) is amended—

(1) by striking "lower of (1) the" and inserting the following: "lowest of—

"(1) the"; and

(2) by striking "original loan or (2) the" and inserting the following: "original loan;

"(2) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time at which the borrower applies for a deferral, consolidation, rescheduling, or reamortization; or

"(3) the".

SEC. 525. ANNUAL REVIEW OF BORROWERS.

Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) is amended by striking paragraph (2) and inserting the following:

"(2) except with respect to a loan under section 306, 310B, or 314—

"(A) an annual review of the credit history and business operation of the borrower; and

"(B) an annual review of the continued eligibility of the borrower for the loan;".

SEC. 526. SIMPLIFIED LOAN APPLICATIONS.

Section 333A(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(g)(1)) is amended by striking "of loans the principal amount of which is $50,000 or less" and inserting "of farmer program loans the principal amount of which is $100,000 or less".

SEC. 527. INVENTORY PROPERTY.

Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) in clause (i), by striking "75 days" and inserting "135 days"; and

(ii) by adding at the end the following:

"(iv) Combining and dividing of property.—To the maximum extent practicable, the Secretary shall maximize the opportunity for beginning farmers and ranchers to purchase real property acquired by the Secretary under this title by combining or dividing inventory parcels of the property in such manner as the Secretary determines to be appropriate."; and

(B) in subparagraph (C)—

(i) by striking "75 days" and inserting "135 days"; and

(ii) by striking "75-day period" and inserting "135-day period";

(2) by striking paragraph (2) and inserting the following:

"(2) Previous lease.—In the case of real property acquired before April 4, 1996, that the Secretary leased before April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1)."; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)"; and

(B) by adding at the end the following:

"(C) Offer to sell or grant for farmland preservation.—For the purpose of farmland preservation, the Secretary shall—

"(i) in consultation with the State Conservationist of each State in which inventory property is located, identify each parcel of inventory property in the State that should be preserved for agricultural use; and

"(ii) offer to sell or grant an easement, restriction, development right, or similar legal right to each parcel identified under clause (i) to a State, a political subdivision of a State, or a private nonprofit organization separately from the underlying fee or other rights to the property owned by the United States.".

SEC. 528. DEFINITIONS.

(a) Qualified Beginning Farmer or Rancher.—Section 343(a)(11)(F) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(11)(F)) is amended by striking "25 percent" and inserting "30 percent".

(b) Debt Forgiveness.—Section 343(a)(12) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(12)) is amended by striking subparagraph (B) and inserting the following:

"(B) Exceptions.—The term 'debt forgiveness' does not include—

"(i) consolidation, rescheduling, reamortization, or deferral of a loan; or

"(ii) any write-down provided as part of a resolution of a discrimination complaint against the Secretary.".

SEC. 529. LOAN AUTHORIZATION LEVELS.

Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended—

(1) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

"(1) In general.—The Secretary may make or guarantee loans under subtitles A and B from the Agricultural Credit Insurance Fund provided for in section 309 for not more than $3,750,000,000 for each of fiscal years 2002 through 2006, of which, for each fiscal year—

"(A) $750,000,000 shall be for direct loans, of which—

"(i) $200,000,000 shall be for farm ownership loans under subtitle A; and

"(ii) $550,000,000 shall be for operating loans under subtitle B; and

"(B) $3,000,000,000 shall be for guaranteed loans, of which—

"(i) $1,000,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(ii) $2,000,000,000 shall be for guarantees of operating loans under subtitle B."; and

(B) in paragraph (2)(A)(ii), by striking "farmers and ranchers" and all that follows and inserting "farmers and ranchers 35 percent for each of fiscal years 2002 through 2006."; and

(2) in subsection (c), by striking the last sentence.

SEC. 530. INTEREST RATE REDUCTION PROGRAM.

Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended—

(1) in subsection (a)—

(A) by striking "Program.—" and all that follows through "The Secretary" and inserting "Program.—The Secretary"; and

(B) by striking paragraph (2);

(2) by striking subsection (c) and inserting the following:

"(c) Amount of Interest Rate Reduction.—

"(1) In general.—In return for a contract entered into by a lender under subsection (b) for the reduction of the interest rate paid on a loan, the Secretary shall make payments to the lender in an amount equal to not more than 100 percent of the cost of reducing the annual rate of interest payable on the loan, except that such payments shall not exceed the cost of reducing the rate by more than—

"(A) in the case of a borrower other than a beginning farmer or rancher, 3 percent; and

"(B) in the case of a beginning farmer or rancher, 4 percent.

"(2) Beginning farmers and ranchers.—The percentage reduction of the interest rate for which payments are authorized to be made for a beginning farmer or rancher under paragraph (1) shall be 1 percent more than the percentage reduction for farmers and ranchers that are not beginning farmers or ranchers."; and

(3) in subsection (e), by striking paragraph (2) and inserting the following:

"(2) Maximum amount of funds.—

"(A) In general.—The total amount of funds used by the Secretary to carry out this section for a fiscal year shall not exceed $750,000,000.

"(B) Beginning farmers and ranchers.—

"(i) In general.—The Secretary shall reserve not less than 25 percent of the funds used by the Secretary under subparagraph (A) to make payments for guaranteed loans made to beginning farmers and ranchers.

"(ii) Duration of reservation of funds.—Funds reserved for beginning farmers or ranchers under clause (i) for a fiscal year shall be reserved only until April 1 of the fiscal year.".

SEC. 531. OPTIONS FOR SATISFACTION OF OBLIGATION TO PAY RECAPTURE AMOUNT FOR SHARED APPRECIATION AGREEMENTS.

(a) In General.—Section 353(e)(7) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)(7)) is amended—

(1) in subparagraph (C), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the margins appropriately;

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the margins appropriately;

(3) by striking the paragraph heading and inserting the following:

"(7) Options for satisfaction of obligation to pay recapture amount.—

"(A) In general.—As an alternative to repaying the full recapture amount at the end of the term of the agreement (as determined by the Secretary in accordance with this section), a borrower may satisfy the obligation to pay the amount of recapture by—

"(i) financing the recapture payment in accordance with subparagraph (B); or

"(ii) granting the Secretary an agricultural use protection and conservation easement on the property subject to the shared appreciation agreement in accordance with subparagraph (C).

"(B) Financing of recapture payment.—"; and

(4) by adding at the end the following:

"(C) Agricultural use protection and conservation easement.—

"(i) In general.—Subject to clause (iii), the Secretary shall accept an agricultural use protection and conservation easement from the borrower for all of the real security property subject to the shared appreciation agreement in lieu of payment of the recapture amount.

"(ii) Term.—The term of an easement accepted by the Secretary under this subparagraph shall be 25 years.

"(iii) Conditions.—The easement shall require that the property subject to the easement shall continue to be used or conserved for agricultural and conservation uses in accordance with sound farming and conservation practices, as determined by the Secretary.

"(iv) Replacement of method of satisfying obligation.—A borrower that has begun financing of a recapture payment under subparagraph (B) may replace that financing with an agricultural use protection and conservation easement under this subparagraph.".

(b) Applicability.—The amendments made by subsection (a) shall apply to a shared appreciation agreement that—

(1) matures on or after the date of enactment of this Act; or

(2) matured before the date of enactment of this Act, if—

(A) the recapture amount was reamortized under section 353(e)(7) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)(7)) (as in effect on the day before the date of enactment of this Act); or

(B)(i) the recapture amount had not been paid before the date of enactment of this Act because of circumstances beyond the control of the borrower; and

(ii) the borrower acted in good faith (as determined by the Secretary) in attempting to repay the recapture amount.

SEC. 532. WAIVER OF BORROWER TRAINING CERTIFICATION REQUIREMENT.

Section 359 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006a) is amended by striking subsection (f) and inserting the following:

"(f) Waivers.—

"(1) In general.—The Secretary may waive the requirements of this section for an individual borrower if the Secretary determines that the borrower demonstrates adequate knowledge in areas described in this section.

"(2) Criteria.—The Secretary shall establish criteria providing for the application of paragraph (1) consistently in all counties nationwide.".

SEC. 533. ANNUAL REVIEW OF BORROWERS.

Section 360(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006b(d)(1)) is amended by striking "biannual" and inserting "annual".

Subtitle D—Farm Credit

SEC. 541. REPEAL OF BURDENSOME APPROVAL REQUIREMENTS.

(a) Banks for Cooperatives.—Section 3.1(11)(B) of the Farm Credit Act of 1971 (12 U.S.C. 2122(11)(B)) is amended—

(1) by striking clause (iii); and

(2) by redesignating clause (iv) as clause (iii).

(b) Other System Banks; Associations.—Section 4.18A of the Farm Credit Act of 1971 (12 U.S.C. 2206a) is amended—

(1) in subsection (a)(1), by striking "3.11(11)(B)(iv)" and inserting "3.11(11)(B)(iii)"; and

(2) by striking subsection (c).

SEC. 542. BANKS FOR COOPERATIVES.

Section 3.7(b) of the Farm Credit Act of 1971 (12 U.S.C. 2128(b)) is amended—

(1) in paragraphs (1) and (2)(A)(i), by striking "farm supplies" each place it appears and inserting "agricultural supplies"; and

(2) by adding at the end the following:

"(4) Definition of agricultural supply.—In this subsection, the term 'agricultural supply' includes—

"(A) a farm supply; and

"(B)(i) agriculture-related processing equipment;

"(ii) agriculture-related machinery; and

"(iii) other capital-related goods related to the storage or handling of agricultural commodities or products.".

SEC. 543. INSURANCE CORPORATION PREMIUMS.

(a) Reduction in Premiums for GSE-Guaranteed Loans.—

(1) In general.—Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–4) is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "government-guaranteed loans provided for in subparagraph (C)" and inserting "loans provided for in subparagraphs (C) and (D)";

(II) in subparagraph (B), by striking "and" at the end;

(III) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(IV) by adding at the end the following:

"(D) the annual average principal outstanding for such year on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans made by the bank that are in accrual status, multiplied by a factor, not to exceed 0.0015, determined by the Corporation at the sole discretion of the Corporation."; and

(ii) by adding at the end the following:

"(4) Definition of government sponsored enterprise-guaranteed loan.—In this section and sections 1.12(b) and 5.56(a), the term 'Government Sponsored Enterprise-guaranteed loan' means a loan or credit, or portion of a loan or credit, that is guaranteed by an entity that is chartered by Congress to serve a public purpose and the debt obligations of which are not explicitly guaranteed by the United States, including the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, and the Federal Agricultural Mortgage Corporation, but not including any other institution of the Farm Credit System."; and

(B) in subsection (e)(4)(B), by striking "government-guaranteed loans described in subsection (a)(1)(C)" and inserting "loans described in subparagraph (C) or (D) of subsection (a)(1)".

(2) Conforming amendments.—

(A) Section 1.12(b) of the Farm Credit Act of 1971 (12 U.S.C. 2020(b)) is amended—

(i) in paragraph (1), by inserting "and Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4)) provided for in paragraph (4)" after "government-guaranteed loans (as defined in section 5.55(a)(3)) provided for in paragraph (3)";

(ii) in paragraph (2), by striking "and" at the end;

(iii) in paragraph (3), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(4) the annual average principal outstanding for such year on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans (as so defined) made by the association, or by the other financing institution and funded by or discounted with the Farm Credit Bank, that are in accrual status, multiplied by the factor, not to exceed 0.0015, determined by the Corporation for the purpose of setting the premium for such guaranteed portions of loans under section 5.55(a)(1)(D).".

(B) Section 5.56(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–5(a)) is amended—

(i) in paragraph (1), by inserting "and Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4))" after "government-guaranteed loans";

(ii) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(iii) by inserting after paragraph (3) the following:

"(4) the annual average principal outstanding on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4)) that are in accrual status;".

(b) Effective Date.—The amendments made by subsection (a) take effect on the date on which Farm Credit System Insurance Corporation premiums are due from insured Farm Credit System banks under section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–4) for calendar year 2001.

SEC. 544. BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 8.2(b) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–2(b)) is amended—

(1) in paragraph (2)—

(A) by striking "15" and inserting "17";

(B) in subparagraph (A), by striking "common stock" and all that follows and inserting "Class A voting common stock;";

(C) in subparagraph (B), by striking "common stock" and all that follows and inserting "Class B voting common stock;";

(D) by redesignating subparagraph (C) as subparagraph (D); and

(E) by inserting after subparagraph (B) the following:

"(C) 2 members shall be elected by holders of Class A voting common stock and Class B voting common stock, 1 of whom shall be the chief executive officer of the Corporation and 1 of whom shall be another executive officer of the Corporation; and";

(2) in paragraph (3), by striking "(2)(C)" and inserting "(2)(D)";

(3) in paragraph (4)—

(A) in subparagraph (A), by striking "(A) or (B)" and inserting "(A), (B), or (C)"; and

(B) in subparagraph (B), by striking "(2)(C)" and inserting "(2)(D)";

(4) in paragraph (5)(A)—

(A) by inserting "executive officers of the Corporation or" after "from among persons who are"; and

(B) by striking "such a representative" and inserting "such an executive officer or representative";

(5) in paragraph (6)(B), by striking "(A) and (B)" and inserting "(A), (B), and (C)";

(6) in paragraph (7), by striking "8 members" and inserting "Nine members";

(7) in paragraph (8)—

(A) in the paragraph heading, by inserting "OR EXECUTIVE OFFICERS OF THE CORPORATION" after "EMPLOYEES"; and

(B) by inserting "or executive officers of the Corporation" after "United States"; and

(8) by striking paragraph (9) and inserting the following:

"(9) Chairperson.—

"(A) Election.—The permanent board shall annually elect a chairperson from among the members of the permanent board.

"(B) Term.—The term of the chairperson shall coincide with the term served by elected members of the permanent board under paragraph (6)(B).".

Subtitle E—General Provisions

SEC. 551. INAPPLICABILITY OF FINALITY RULE.

Section 281(a)(1) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7001(a)(1)) is amended—

(1) by striking "This subsection" and inserting the following:

"(A) In general.—Except as provided in subparagraph (B), this subsection"; and

(2) by adding at the end the following:

"(B) Agricultural credit decisions.—This subsection shall not apply with respect to an agricultural credit decision made by such a State, county, or area committee, or employee of such a committee, under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).".

SEC. 552. TECHNICAL AMENDMENTS.

(a) Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking "Disaster Relief and Emergency Assistance Act" each place it appears and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)".

(b) Section 336(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1986(b)) is amended in the second sentence by striking "provided for in section 332 of this title".

(c) Section 359(c)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006a(c)(1)) is amended by striking "established pursuant to section 332,".

(d) Section 360(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006b(a)) is amended by striking "established pursuant to section 332".

SEC. 553. EFFECT OF AMENDMENTS.

(a) In General.—Except as otherwise specifically provided in this title and notwithstanding any other provision of law, this title and the amendments made by this title, shall not affect the authority of the Secretary of Agriculture to carry out a farm credit program for any of the 1996 through 2001 fiscal years under a provision of law in effect immediately before the enactment of this Act.

(b) Liability.—A provision of this title or an amendment made by this title shall not affect the liability of any person under any provision of law as in effect immediately before the enactment of this Act.

SEC. 554. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b) and section 543(b), this title and the amendments made by this title take effect on October 1, 2001.

(b) Board of Directors of the Federal Agricultural Mortgage Corporation.—The amendments made by section 544 take effect on the date of enactment of this Act.

TITLE VI—RURAL DEVELOPMENT

SEC. 601. FUNDING FOR RURAL LOCAL TELEVISION BROADCAST SIGNAL LOAN GUARANTEES.

Section 1011(a) of the Launching Our Communities' Access to Local Television Act of 2000 (title X of H.R. 5548, as enacted by section 1(a)(2) of Public Law 106–553) is amended by adding at the end the following: "In addition, a total of $200,000,000 of the funds of the Commodity Credit Corporation shall be available during fiscal years 2002 through 2006, without fiscal year limitation, for loan guarantees under this title.".

SEC. 602. EXPANDED ELIGIBILITY FOR VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.

Section 231(a) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Establishment and Purposes.—

"(A) In general.—In each of fiscal years 2002 through 2011, the Secretary shall award competitive grants—

"(i) to eligible independent producers (as determined by the Secretary) of value-added agricultural commodities and products of agricultural commodities to assist an eligible producer—

"(I) to develop a business plan for viable marketing opportunities for a value-added agricultural commodity or product of an agricultural commodity; or

"(II) to develop strategies for the ventures that are intended to create marketing opportunities for the producers; and

"(ii) to public bodies, institutions of higher learning, and trade associations to assist such entities—

"(I) to develop a business plan for viable marketing opportunities in emerging markets for a value-added agricultural commodity or product of an agricultural commodity; or

"(II) to develop strategies for the ventures that are intended to create marketing opportunities in emerging markets for the producers.

"(B) Authorization of appropriations.—There is authorized to be appropriated to carry out this paragraph $50,000,000 for each of fiscal years 2002 through 2011.";

(2) by striking "producer" each place it appears thereafter and inserting "grantee"; and

(3) in the heading for paragraph (3), by striking "Producer" and inserting "Grantee".

SEC. 603. AGRICULTURE INNOVATION CENTER DEMONSTRATION PROGRAM.

(a) Purposes.—The purposes of this section are to carry out a demonstration program under which agricultural producers are provided—

(1) technical assistance, including engineering services, applied research, scale production, and similar services to enable the producers to establish businesses for further processing of agricultural products;

(2) marketing, market development, and business planning; and

(3) overall organizational, outreach, and development assistance to increase the viability, growth, and sustainability of value-added agricultural businesses.

(b) Nature of Program.—The Secretary of Agriculture (in this section referred to as the "Secretary") shall—

(1) make grants to eligible applicants for the purposes of enabling the applicants to obtain the assistance described in subsection (a); and

(2) provide assistance to eligible applicants through the research and technical services of the Department of Agriculture.

(c) Eligibility Requirements.—

(1) In general.—An applicant shall be eligible for a grant and assistance described in subsection (b) to establish an Agriculture Innovation Center if—

(A) the applicant—

(i) has provided services similar to those described in subsection (a); or

(ii) shows the capability of providing the services;

(B) the application of the applicant for the grant and assistance sets forth a plan, in accordance with regulations which shall be prescribed by the Secretary, outlining support of the applicant in the agricultural community, the technical and other expertise of the applicant, and the goals of the applicant for increasing and improving the ability of local producers to develop markets and processes for value-added agricultural products;

(C) the applicant demonstrates that resources (in cash or in kind) of definite value are available, or have been committed to be made available, to the applicant, to increase and improve the ability of local producers to develop markets and processes for value-added agricultural products; and

(D) the applicant meets the requirement of paragraph (2).

(2) Board of directors.—The requirement of this paragraph is that the applicant shall have a board of directors comprised of representatives of the following groups:

(A) The 2 general agricultural organizations with the greatest number of members in the State in which the applicant is located.

(B) The Department of Agriculture or similar State organization or department, for the State.

(C) Organizations representing the 4 highest grossing commodities produced in the State, according to annual gross cash sales.

(d) Grants and Assistance.—

(1) In general.—Subject to subsection (g), the Secretary shall make annual grants to eligible applicants under this section, each of which grants shall not exceed the lesser of—

(A) $1,000,000; or

(B) twice the dollar value of the resources (in cash or in kind) that the applicant has demonstrated are available, or have been committed to be made available, to the applicant in accordance with subsection (c)(1)(C).

(2) Initial limitation.—In the first year of the demonstration program under this section, the Secretary shall make grants under this section, on a competitive basis, to not more than 5 eligible applicants.

(3) Expansion of demonstration program.—In the second year of the demonstration program under this section, the Secretary may make grants under this section to not more than 10 eligible applicants, in addition to any entities to which grants are made under paragraph (2) for such year.

(4) State limitation.—In the first 3 years of the demonstration program under this section, the Secretary shall not make an Agricultural Innovation Center Demonstration Program grant under this section to more than 1 entity in a single State.

(e) Use of Funds.—An entity to which a grant is made under this section may use the grant only for the following purposes, but only to the extent that the use is not described in section 231(d) of the Agricultural Risk Protection Act of 2000:

(1) Applied research.

(2) Consulting services.

(3) Hiring of employees, at the discretion of the board of directors of the entity.

(4) The making of matching grants, each of which shall be not more than $5,000, to agricultural producers, so long as the aggregate amount of all such matching grants shall be not more than $50,000.

(5) Legal services.

(f) Rule of Interpretation.—This section shall not be construed to prevent a recipient of a grant under this section from collaborating with any other institution with respect to activities conducted using the grant.

(g) Availability of Funds.—Of the amount made available under section 231(a)(1) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 7 U.S.C. 1621 note), the Secretary shall use to carry out this section—

(1) not less than $5,000,000 for fiscal year 2002; and

(2) not less than $10,000,000 for each of the fiscal years 2003 and 2004.

(h) Report on Best Practices.—

(1) Effects on the agricultural sector.—The Secretary shall utilize $300,000 per year of the funds made available pursuant to this section to support research at any university into the effects of value-added projects on agricultural producers and the commodity markets. The research should systematically examine possible effects on demand for agricultural commodities, market prices, farm income, and Federal outlays on commodity programs using linked, long-term, global projections of the agricultural sector.

(2) Department of agriculture.—Not later than 3 years after the first 10 grants are made under this section, the Secretary shall prepare and submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and to the Committee on Agriculture of the House of Representatives a written report on the effectiveness of the demonstration program conducted under this section at improving the production of value-added agricultural products and on the effects of the program on the economic viability of the producers, which shall include the best practices and innovations found at each of the Agriculture Innovation Centers established under the demonstration program under this section, and detail the number and type of agricultural projects assisted, and the type of assistance provided, under this section.

SEC. 604. FUNDING OF COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

(a) Authorization of Appropriations.—There is authorized to be appropriated to carry out section 306A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a) $30,000,000 for each of fiscal years 2002 though 2011.

(b) Extension of Program.—Section 306A(i) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a(i)) is amended by striking "2002" and inserting "2011".

(c) Miscellaneous Amendments.—Section 306A of such Act (7 U.S.C. 1926a) is amended—

(1) in the heading by striking "**emergency**";

(2) in subsection (a)(1)—

(A) by striking "after" and inserting "when"; and

(B) by inserting "is imminent" after "communities"; and

(3) in subsection (c), by striking "shall—" and all that follows and inserting "shall be a public or private nonprofit entity.".

SEC. 605. LOAN GUARANTEES FOR THE FINANCING OF THE PURCHASE OF RENEWABLE ENERGY SYSTEMS.

Section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding after and below the end the following:

"(b) Loan Guarantees for the Financing of the Purchase of Renewable Energy Systems.—The Secretary may provide a loan guarantee, on such terms and conditions as the Secretary deems appropriate, for the purpose of financing the purchase of a renewable energy system, including a wind energy system and anaerobic digestors for the purpose of energy generation, by any person or individual who is a farmer, a rancher, or an owner of a small business (as defined by the Secretary) that is located in a rural area (as defined by the Secretary). In providing guarantees under this subsection, the Secretary shall give priority to loans used primarily for power generation on a farm, ranch, or small business (as so defined).".

SEC. 606. LOANS AND LOAN GUARANTEES FOR RENEWABLE ENERGY SYSTEMS.

Section 310B(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(3)) is amended by inserting "and other renewable energy systems including wind energy systems and anaerobic digestors for the purpose of energy generation" after "solar energy systems".

SEC. 607. RURAL BUSINESS OPPORTUNITY GRANTS.

Section 306(a)(11)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(D)) is amended by striking "2002" and inserting "2011".

SEC. 608. GRANTS FOR WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

Section 306D(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d(d)(1)) is amended by striking "and 2002" and inserting "through 2011".

SEC. 609. RURAL COOPERATIVE DEVELOPMENT GRANTS.

Section 310B(e)(9) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)(9)) is amended by striking "2002" and inserting "2011".

SEC. 610. NATIONAL RESERVE ACCOUNT OF RURAL DEVELOPMENT TRUST FUND.

Section 381E(e)(3)(F) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009d(e)(3)(F)) is amended by striking "fiscal year 2002" and inserting "each of the fiscal years 2002 through 2011".

SEC. 611. RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM.

Section 381O(b)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009n(b)(3)) is amended by striking "2002" and inserting "2011".

SEC. 612. INCREASE IN LIMIT ON CERTAIN LOANS FOR RURAL DEVELOPMENT.

Section 310B(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)) is amended by striking "$25,000,000" and inserting "$100,000,000".

SEC. 613. PILOT PROGRAM FOR DEVELOPMENT AND IMPLEMENTATION OF STRATEGIC REGIONAL DEVELOPMENT PLANS.

(a) DEVELOPMENT.—

(1) SELECTION OF STATES.—The Secretary of Agriculture (in this section referred to as the "Secretary") shall, on a competitive basis, select States in which to implement strategic regional development plans developed under this subsection.

(2) GRANTS.—

(A) AUTHORITY.—

(i) IN GENERAL.—From the funds made available to carry out this subsection, the Secretary shall make a matching grant to 1 or more entities in each State selected under subsection (a), to develop a strategic regional development plan that provides for rural economic development in a region in the State in which the entity is located.

(ii) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to entities that represent a regional coalition of community-based planning, development, governmental, and business organizations.

(B) TERMS OF MATCH.—In order for an entity to be eligible for a matching grant under this subsection, the entity shall make a commitment to the Secretary to provide funds for the development of a strategic regional development plan of the kind referred to in subparagraph (A) in an amount that is not less than the amount of the matching grant.

(C) LIMITATION.—The Secretary shall not make a grant under this subsection in an amount that exceeds $150,000.

(3) FUNDING.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section for each of fiscal years 2002 through 2011 the total obtained by adding—

(i) $2,000,000; and

(ii) $^{2}/_{13}$ of the amounts made available by section 943 of the Farm Security Act of 2001 for grants under this section.

(B) AVAILABILITY.—Funds made available pursuant to subparagraph (A) shall remain available without fiscal year limitation.

(b) STRATEGIC PLANNING IMPLEMENTATION.—

(1) The Secretary shall use the authorities provided in the provisions of law specified in section 793(c)(1)(A)(ii) of the Federal Agriculture Improvement and Reform Act of 1996 to implement the strategic regional development plans developed pursuant to subsection (a) of this section.

(2) FUNDING.—

(A) IN GENERAL.—The Secretary shall use $13,000,000 of the funds of the Commodity Credit Corporation, plus $^{11}/_{13}$ of the amounts made available by section 943 of the Farm Security Act of 2001 for grants under this section, in each of fiscal years 2002 through 2011 to carry out this subsection.

(B) AVAILABILITY.—Funds made available pursuant to subparagraph (A) shall remain available without fiscal year limitation.

(c) USE OF FUNDS.—The amounts made available under subsections (a) and (b) may be used as the Secretary deems appropriate to carry out any provision of this section.

SEC. 614. GRANTS TO NONPROFIT ORGANIZATIONS TO FINANCE THE CONSTRUCTION, REFURBISHING, AND SERVICING OF INDIVIDUALLY-OWNED HOUSEHOLD WATER WELL SYSTEMS IN RURAL AREAS FOR INDIVIDUALS WITH LOW OR MODERATE INCOMES.

(a) IN GENERAL.—Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922–1949) is amended by inserting after section 306D the following:

"SEC. 306E. GRANTS TO NONPROFIT ORGANIZATIONS TO FINANCE THE CONSTRUCTION, REFURBISHING, AND SERVICING OF INDIVIDUALLY-OWNED HOUSEHOLD WATER WELL SYSTEMS IN RURAL AREAS FOR INDIVIDUALS WITH LOW OR MODERATE INCOMES.

"(a) DEFINITION OF ELIGIBLE INDIVIDUAL.—In this section, the term 'eligible individual' means an individual who is a member of a household, the combined income of whose members for the most recent 12-month period for which the information is available, is not more than 100 percent of the median nonmetropolitan household income for the State or territory in which the individual resides, according to the most recent decennial census of the United States.

"(b) GRANTS.—The Secretary may make grants to private nonprofit organizations for the purpose of assisting eligible individuals in obtaining financing for the construction, refurbishing, and servicing of individual household water well systems in rural areas that are owned (or to be owned) by the eligible individuals.

"(c) USE OF FUNDS.—A grant made under this section may be—

"(1) used, or invested to provide income to be used, to carry out subsection (b); and

"(2) used to pay administrative expenses associated with providing the assistance described in subsection (b).

"(d) PRIORITY IN AWARDING GRANTS.—In awarding grants under this section, the Secretary shall give priority to an applicant that has substantial expertise and experience in promoting the safe and productive use of individually-owned household water well systems and ground water.".

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 2001.

SEC. 615. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.

Subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009-2009n) is amended by adding at the end the following:

"SEC. 381P. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.

"(a) RURAL AREA DEFINED.—In this section, the term 'rural area' means such areas as the Secretary may determine.

"(b) ESTABLISHMENT.—There is established a National Rural Development Partnership (in this section referred to as the 'Partnership'), which shall be composed of—

"(1) the National Rural Development Coordinating Committee established in accordance with subsection (c); and

"(2) State rural development councils established in accordance with subsection (d).

"(c) NATIONAL RURAL DEVELOPMENT COORDINATING COMMITTEE.—

"(1) COMPOSITION.—The National Rural Development Coordinating Committee (in this section referred to as the 'Coordinating Committee') may be composed of—

"(A) representatives of all Federal departments and agencies with policies and programs that affect or benefit rural areas;

"(B) representatives of national associations of State, regional, local, and tribal governments and intergovernmental and multijurisdictional agencies and organizations;

"(C) national public interest groups; and

"(D) other national nonprofit organizations that elect to participate in the activities of the Coordinating Committee.

"(2) FUNCTIONS.—The Coordinating Committee may—

"(A) provide support for the work of the State rural development councils established in accordance with subsection (d); and

"(B) develop and facilitate strategies to reduce or eliminate conflicting or duplicative administrative and regulatory impediments confronting rural areas.

"(d) STATE RURAL DEVELOPMENT COUNCILS.—

"(1) COMPOSITION.—A State rural development council may—

"(A) be composed of representatives of Federal, State, local, and tribal governments, and nonprofit organizations, the private sector, and other entities committed to rural advancement; and

"(B) have a nonpartisan and nondiscriminatory membership that is broad and representative of the economic, social, and political diversity of the State.

"(2) FUNCTIONS.—A State rural development council may—

"(A) facilitate collaboration among Federal, State, local, and tribal governments and the private and non-profit sectors in the planning and implementation of programs and policies that affect the rural areas of the State, and to do so in such a way that provides the greatest degree of flexibility and innovation in responding to the unique needs of the State and the rural areas; and

"(B) in conjunction with the Coordinating Committee, develop and facilitate strategies to reduce or eliminate conflicting or duplicative administrative and regulatory impediments confronting the rural areas of the State.

"(e) ADMINISTRATION OF THE PARTNERSHIP.—The Secretary may provide for any additional support staff to the Partnership as the Secretary determines to be necessary to carry out the duties of the Partnership.

"(f) TERMINATION.—The authority provided by this section shall terminate on the date that is 5 years after the date of the enactment of this section.".

SEC. 616. ELIGIBILITY OF RURAL EMPOWERMENT ZONES, RURAL ENTERPRISE COMMUNITIES, AND CHAMPION COMMUNITIES FOR DIRECT AND GUARANTEED LOANS FOR ESSENTIAL COMMUNITY FACILITIES.

Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting after the 1st sentence the following: "The Secretary may also make or insure loans to communities that have been designated as rural empowerment zones or rural enterprise communities pursuant to part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986, as rural enterprise communities pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, or as champion communities (as determined by the Secretary), to provide for the installation or improvement of essential community facilities including necessary related equipment, and to furnish financial assistance or other aid in planning projects for such purposes.".

SEC. 617. GRANTS TO TRAIN FARM WORKERS IN NEW TECHNOLOGIES AND TO TRAIN FARM WORKERS IN SPECIALIZED SKILLS NECESSARY FOR HIGHER VALUE CROPS.

(a) IN GENERAL.—The Secretary of Agriculture may make a grant to a nonprofit organization with the capacity to train farm workers, or to a consortium of non-profit organizations, agribusinesses, State and local governments, agricultural labor organizations, and community-based organizations with that capacity.

(b) USE OF FUNDS.—An entity to which a grant is made under this section shall use the grant to train farm workers to use new technologies and develop specialized skills for agricultural development.

(c) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there are authorized to be appropriated to the Secretary of Agriculture not more than $10,000,600 for each of fiscal years 2002 through 2011.

SEC. 618. LOAN GUARANTEES FOR THE PURCHASE OF STOCK IN A FARMER COOPERATIVE SEEKING TO MODERNIZE OR EXPAND.

Section 310B(g)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)(2)) is amended by striking "start-up" and all that follows and inserting "capital stock of a farmer cooperative established for an agricultural purpose.".

SEC. 619. INTANGIBLE ASSETS AND SUBORDINATED UNSECURED DEBT REQUIRED TO BE CONSIDERED IN DETERMINING ELIGIBILITY OF FARMER-OWNED COOPERATIVE FOR BUSINESS AND INDUSTRY GUARANTEED LOAN.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following:

"(h) INTANGIBLE ASSETS AND SUBORDINATED UNSECURED DEBT REQUIRED TO BE CONSIDERED IN DETERMINING ELIGIBILITY OF FARMER-OWNED COOPERATIVE FOR BUSINESS AND INDUSTRY GUARANTEED LOAN.—In determining whether a cooperative organization owned by farmers is eligible for a guaranteed loan under subsection (a)(1), the Secretary may consider the value of the intangible assets and subordinated unsecured debt of the cooperative organization.".

SEC. 620. BAN ON LIMITING ELIGIBILITY OF FARMER COOPERATIVE FOR BUSINESS AND INDUSTRY LOAN GUARANTEE BASED ON POPULATION OF AREA IN WHICH COOPERATIVE IS LOCATED; REFINANCING.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is further amended by adding at the end of the following:

"(i) SPECIAL RULES APPLICABLE TO FARMER COOPERATIVES UNDER THE BUSINESS AND INDUSTRY LOAN PROGRAM.—In determining whether a cooperative organization owned by farmers is eligible for a guaranteed loan under subsection (a)(1), the Secretary shall not apply any lending restriction based on population to the area in which the cooperative organization is located.

"(j) REFINANCING.—A cooperative organization owned by farmers that is eligible to receive a business or industry guaranteed loan under subsection (a) shall be eligible to refinance an existing loan with the same lender or a new lender if—

"(1) the original loan—

"(A) is current and performing; and

"(B) is not in default; and

"(2) the cooperative organization has adequate security or collateral (including tangible and intangible assets).".

SEC. 621. RURAL WATER AND WASTE FACILITY GRANTS.

Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended by striking "aggregating not to exceed $590,000,000 in any fiscal year".

SEC. 622. RURAL WATER CIRCUIT RIDER PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a national rural water and wastewater circuit rider grant program that shall be modeled after the National Rural Water Association Rural Water Circuit Rider Program that receives funding from the Rural Utilities Service.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out subsection (a), there are authorized to be appropriated to the Secretary of Agriculture $15,000,000 for each fiscal year.

SEC. 623. RURAL WATER GRASSROOTS SOURCE WATER PROTECTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a national grassroots source water protection program that will utilize the on-site technical assistance capabilities of State rural water associations that are operating wellhead or ground water protection programs in each State.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out subsection (a), there are authorized to be appropriated to the Secretary of Agriculture $5,000,000 for each fiscal year.

SEC. 624. DELTA REGIONAL AUTHORITY.

Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–13) is amended by striking "2002" and inserting "2011".

SEC. 625. PREDEVELOPMENT AND SMALL CAPITALIZATION LOAN FUND.

The Secretary of Agriculture may make grants to private, nonprofit, multi-State rural community assistance programs to capitalize revolving funds for the purpose of financing eligible projects of predevelopment, repair, and improvement costs of existing water and wastewater systems. Financing provided using funds appropriated to carry out this program may not exceed $300,000.

SEC. 626. RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM.

The Secretary of Agriculture may use an additional source of funding for economic development programs administered by the Department of Agriculture through guaranteeing fees on guarantees of bonds and notes issued by cooperative lenders for electricity and telecommunications purposes.

TITLE VII—RESEARCH AND RELATED MATTERS

Subtitle A—Extensions

SEC. 700. MARKET EXPANSION RESEARCH.

Section 1436(b)(3)(C) of the Food Security Act of 1985 (7 U.S.C. 1632(b)(3)(C)) is amended by striking "1990" and inserting "2011".

SEC. 701. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking "2002" and inserting "2011".

SEC. 702. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

Section 1417(l) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(l)) is amended by striking "2002" and inserting "2011".

SEC. 703. POLICY RESEARCH CENTERS.

Section 1419A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155(d)) is amended by striking "2002" and inserting "2011".

SEC. 704. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

Section 1424(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(d)) is amended by striking "2002" and inserting "2011".

SEC. 705. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.

Section 1424A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a(d)) is amended by striking "2002" and inserting "2011".

SEC. 706. NUTRITION EDUCATION PROGRAM.

Section 1425(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)(3)) is amended by striking "2002" and inserting "2011".

SEC. 707. CONTINUING ANIMAL HEALTH AND DISEASE RESEARCH PROGRAMS.

Section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) is amended by striking "2002" and inserting "2011".

SEC. 708. APPROPRIATIONS FOR RESEARCH ON NATIONAL OR REGIONAL PROBLEMS.

Section 1434(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(a)) is amended by striking "2002" and inserting "2011".

SEC. 709. GRANTS TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy. Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking "2002" and inserting "2011".

SEC. 710. NATIONAL RESEARCH AND TRAINING CENTENNIAL CENTERS AT 1890 LAND-GRANT INSTITUTIONS.

Sections 1448(a)(1) and (f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c(a)(1) and (f)) are amended by striking "2002" each place it appears and inserting "2011".

SEC. 711. HISPANIC-SERVING INSTITUTIONS.

Section 1455(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241(c)) is amended by striking "2002" and inserting "2011".

SEC. 712. COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.

Section 1459A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b(c)) is amended by striking "2002" and inserting "2011".

SEC. 713. UNIVERSITY RESEARCH.

Subsections (a) and (b) of section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a) and (b)) are amended by striking "2002" each place it appears and inserting "2011".

SEC. 714. EXTENSION SERVICE.

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking "2002" and inserting "2011".

SEC. 715. SUPPLEMENTAL AND ALTERNATIVE CROPS.

Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking "2002" and inserting "2011".

SEC. 716. AGRICULTURE RESEARCH FACILITIES.

The first sentence of section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking "2002" and inserting "2011".

SEC. 717. RANGELAND RESEARCH.

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking "2002" and inserting "2011".

SEC. 718. NATIONAL GENETICS RESOURCES PROGRAM.

Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking "2002" and inserting "2011".

SEC. 719. HIGH-PRIORITY RESEARCH AND EXTENSION INITIATIVES.

Section 1672(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(h)) is amended by striking "2002" and inserting "2011".

SEC. 720. NUTRIENT MANAGEMENT RESEARCH AND EXTENSION INITIATIVE.

Section 1672A(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925a(g)) is amended by striking "2002" and inserting "2011".

SEC. 721. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926(h)) is amended by striking "2002" and inserting "2011".

SEC. 722. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND.

(a) Authorization of Appropriations.—Section 1664(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5908(g)(1)) is amended by striking "2002" and inserting "2011".

(b) Capitalization.—Section 1664(g)(2) of such Act (7 U.S.C. 5908(g)(2)) is amended by striking "2002" and inserting "2011".

SEC. 723. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(c)(1)) is amended by striking "2002" and inserting "2011".

SEC. 724. PARTNERSHIPS FOR HIGH-VALUE AGRICULTURAL PRODUCT QUALITY RESEARCH.

Section 402(g) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622(g)) is amended by striking "2002" and inserting "2011".

SEC. 725. BIOBASED PRODUCTS.

(a) Pilot Project.—Section 404(e)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(e)(2)) is amended by striking "2001" and inserting "2011".

(b) Authorization of Appropriations.—Section 404(h) of such Act (7 U.S.C. 7624(h)) is amended by striking "2002" and inserting "2011".

SEC. 726. INTEGRATED RESEARCH, EDUCATION, AND EXTENSION COMPETITIVE GRANTS PROGRAM.

Section 406(e) of the Agricultural Research; Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(e)) is amended by striking "2002" and inserting "2011".

SEC. 727. INSTITUTIONAL CAPACITY BUILDING GRANTS.

(a) Generally.—Section 535(b)(1) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "2000" and inserting "2011".

(b) Authorization of Appropriations.—Section 535(c) of such Act is amended by striking "2000" and inserting "2011".

SEC. 728. 1994 INSTITUTION RESEARCH GRANTS.

Section 536(c) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "2002" and inserting "2011".

SEC. 729. ENDOWMENT FOR 1994 INSTITUTIONS.

The first sentence of section 533(b) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "$4,600,000" and all that follows through the period and inserting "such sums as are necessary to carry out this section for each of fiscal years 1996 through 2011.".

SEC. 730. PRECISION AGRICULTURE.

Section 403(i) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623(i)) is amended by striking "2002" and inserting "2011".

SEC. 731. THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.

Section 405(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625(h)) is amended by striking "2002" and inserting "2011".

SEC. 732. SUPPORT FOR RESEARCH REGARDING DISEASES OF WHEAT, TRITICALE, AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM OR BY TILLETIA INDICA.

Section 408(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628(e)) is amended by striking "2002" and inserting "2011".

SEC. 733. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.

Section 604 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7642) is amended by adding at the end the following:

"(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2002 through 2006.".

SEC. 734. OFFICE OF PEST MANAGEMENT POLICY.

Section 614(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7653(f)) is amended by striking "2002" and inserting "2011".

SEC. 735. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

Section 1408(h) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(h)) is amended by striking "2002" and inserting "2011".

SEC. 736. GRANTS FOR RESEARCH ON PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

Section 1419(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(d)) is amended by striking "2002" and inserting "2011".

SEC. 737. BIOMASS RESEARCH AND DEVELOPMENT.

Title III of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 7624 note) is amended—

(1) in section 307(f), by striking "2005" and inserting "2011"; and

(2) in section 310, by striking "2005" and inserting "2011".

SEC. 738. AGRICULTURAL EXPERIMENT STATIONS RESEARCH FACILITIES.

Section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) is amended by striking "2002" and inserting "2011".

SEC. 739. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS NATIONAL RESEARCH INITIATIVE.

Section 2(b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(10)) is amended by striking "2002" and inserting "2011".

SEC. 740. FEDERAL AGRICULTURAL RESEARCH FACILITIES AUTHORIZATION OF APPROPRIATIONS.

Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended by striking "2002" and inserting "2011".

SEC. 740A. COTTON CLASSIFICATION SERVICES.

The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act"; 7 U.S.C. 473a) is amended by striking "2002" and inserting "2011".

SEC. 740B. CRITICAL AGRICULTURAL MATERIALS RESEARCH.

Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking "2002" and inserting "2011".

SEC. 740C. PRIVATE NONINDUSTRIAL HARDWOOD RESEARCH PROGRAM.

(a) In General.—The Secretary shall establish a program to provide competitive grants to producers to be used for basic hardwood research projects directed at—

(1) improving timber management techniques;

(2) increasing timber production;

(3) expanding genetic research; and

(4) addressing invasive and endangered species.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2011.

Subtitle B—Modifications

SEC. 741. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.

(a) Authorization of Appropriations.—Section 534(a)(1)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "$50,000" and inserting "$100,000".

(b) Withdrawals and Expenditures.—Section 533(c)(4)(A) of such Act is amended by striking "section 390(3)" and all that follows through "1998)" and inserting "section 2(a)(7) of the Tribally Controlled College or University Assistance Act of 1978)".

(c) Accreditation.—Section 533(a)(3) of such Act is amended by striking "under sections 534 and 535" and inserting "under sections 534, 535, and 536".

(d) 1994 Institutions.—Section 532 of such Act is amended by striking paragraphs (1) through (30) and inserting the following:

"(1) Bay Mills Community College.

"(2) Blackfeet Community College.

"(3) Cankdeska Cikana Community College.

"(4) College of Menominee Nation.

"(5) Crownpoint Institute of Technology.

"(6) D–Q University.

"(7) Diné College.

"(8) Dull Knife Memorial College.

"(9) Fond du Lac Tribal and Community College.

"(10) Fort Belknap College.

"(11) Fort Berthold Community College.

"(12) Fort Peck Community College.

"(13) Haskell Indian Nations University.

"(14) Institute of American Indian and Alaska Native Culture and Arts Development.

"(15) Lac Courte Oreilles Ojibwa Community College.

"(16) Leech Lake Tribal College.

"(17) Little Big Horn College.

"(18) Little Priest Tribal College.

"(19) Nebraska Indian Community College.

"(20) Northwest Indian College.

"(21) Oglala Lakota College.

"(22) Salish Kootenai College.

"(23) Sinte Gleska University.

"(24) Sisseton Wahpeton Community College.

"(25) Si Tanka/Huron University.

"(26) Sitting Bull College.

"(27) Southwestern Indian Polytechnic Institute.

"(28) Stone Child College.

"(29) Turtle Mountain Community College.

"(30) United Tribes Technical College.".

SEC. 742. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

Section 1404(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(4)) is amended—

(1) by striking the period at the end of subparagraph (E) and inserting ", or"; and

(2) by adding at the end the following: "(F) is one of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994).".

SEC. 743. AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998.

(a) Priority Mission Areas.—Section 401(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(c)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(G) alternative fuels and renewable energy sources.".

(b) Precision Agriculture.—Section 403 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623) is amended—

(1) in subsection (a)(5)(F), by inserting "(including improved use of energy inputs)" after "farm production efficiencies"; and

(2) in subsection (d)—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) Improve on farm energy use efficiencies.".

(c) Thomas Jefferson Initiative for Crop Diversification.—Section 405(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625(a)) is amended by striking "and marketing" and inserting ", marketing, and efficient use".

(d) Coordinated Program of Research, Extension, and Education To Improve Viability of Small- and Medium-Size Dairy, Livestock, and Poultry Operations.—Section 407(b)(3) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627(b)(3)) is amended by inserting "(including improved use of energy inputs)" after "poultry systems that increase efficiencies".

(e) Support for Research Regarding Diseases of Wheat, Triticale, and Barley Caused by Fusarium Graminearum or By Tilletia Indica.—

(1) Research grant authorized.—Section 408(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628(a)) is amended to read as follows:

"(a) Research Grant Authorized.—The Secretary of Agriculture may make grants to consortia of land-grant colleges and universities to enhance the ability of the consortia to carry out multi-State research projects aimed at understanding and combating diseases of wheat, triticale, and barley caused by Fusarium graminearum and related fungi (referred to in this section as 'wheat scab') or by Tilletia indica and related fungi (referred to in this section as 'Karnal bunt').".

(2) Research components.—Section 408(b) of such Act (7 U.S.C. 7628(b)) is amended—

(A) in paragraph (1), by inserting "or of Karnal bunt," after "epidemiology of wheat scab";

(B) in paragraph (1), by inserting ", triticale," after "occurring in wheat";

(C) in paragraph (2), by inserting "or Karnal bunt" after "wheat scab";

(D) in paragraph (3)(A), by striking "and barley for the presence of" and inserting ", triticale, and barley for the presence of Karnal bunt or of";

(E) in paragraph (3)(B), by striking "and barley infected with wheat scab" and inserting ", triticale, and barley infected with wheat scab or with Karnal bunt";

(F) in paragraph (3)(C), by inserting "wheat scab" after "to render";

(G) in paragraph (4), by striking "and barley to wheat scab" and inserting ", triticale, and barley to wheat scab and to Karnal bunt"; and

(H) in paragraph (5)—

(i) by inserting "and Karnal bunt" after "wheat scab"; and

(ii) by inserting ", triticale," after "resistant wheat".

(3) Communications networks.—Section 408(c) of such Act (7 U.S.C. 7628(c)) is amended by inserting "or Karnal bunt" after "wheat scab".

(4) Technical amendments.—(A) The section heading for section 408 of such Act is amended by striking "**AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM**" and inserting "**, TRITICALE, AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM OR BY TILLETIA INDICA**".

(B) The table of sections for such Act is amended by striking "and barley caused by fusarium graminearum" in the item relating to section 408 and inserting ", triticale, and barley caused by Fusarium graminearum or by Tilletia indica".

(f) Program To Control Johne's Disease.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following new section:

"SEC. 409. BOVINE JOHNE'S DISEASE CONTROL PROGRAM.

"(a) Establishment.—The Secretary of Agriculture, in coordination with State veterinarians and other appropriate State animal health professionals, may establish a program to conduct research, testing, and evaluation of programs for the control and management of Johne's disease in livestock.

"(b) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section for each of fiscal years 2003 through 2011.".

SEC. 744. FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) Agricultural Genome Initiative.—Section 1671(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(b)) is amended—

(1) in paragraph (3), by inserting "pathogens and" before "diseases causing economic hardship";

(2) in paragraph (6), by striking "and" at the end;

(3) by redesignating paragraph (7) as paragraph (8); and

(4) by inserting after paragraph (6) the following new paragraph:

"(7) reducing the economic impact of plant pathogens on commercially important crop plants; and".

(b) High-Priority Research and Extension Initiatives.—Section 1672(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended by adding at the end the following new paragraphs:

"(25) Research to protect the United States food supply and agriculture from bioterrorism.—Research grants may be made under this section for the purpose of developing technologies, which support the capability to deal with the threat of agricultural bioterrorism.

"(26) Wind erosion research and extension.—Research and extension grants may be made under this section for the purpose of validating wind erosion models.

"(27) Crop loss research and extension.—Research and extension grants may be made under this section for the purpose of validating crop loss models.

"(28) Land use management research and extension.—Research and extension grants may be made under this section for the purposes of evaluating the environmental benefits of land use management tools such as those provided in the Farmland Protection Program.

"(29) Water and air quality research and extension.—Research and extension grants may be made under this section for the purpose of better understanding agricultural impacts to air and water quality and means to address them.

"(30) Revenue and insurance tools research and extension.—Research and extension grants may be made under this section for the purposes of better understanding the impact of revenue and insurance tools on farm income.

"(31) AGROTOURISM RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of better understanding the economic, environmental, and food systems impacts on agrotourism.

"(32) HARVESTING PRODUCTIVITY FOR FRUITS AND VEGETABLES.—Research and extension grants may be made under this section for the purpose of improving harvesting productivity for fruits and vegetables (including citrus), including the development of mechanical harvesting technologies and effective, economical, and safe abscission compounds.

"(33) NITROGEN-FIXATION BY PLANTS.—Research and extension grants may be made under this section for the purpose of enhancing the nitrogen-fixing ability and efficiency of legumes, developing new varieties of legumes that fix nitrogen more efficiently, and developing new varieties of other commercially important crops that potentially are able to fix nitrogen.

"(34) AGRICULTURAL MARKETING.—Extension grants may be made under this section for the purpose of providing education materials, information, and outreach programs regarding commodity and livestock marketing strategies for agricultural producers and for cooperatives and other marketers of any agricultural commodity, including livestock.

"(35) ENVIRONMENT AND PRIVATE LANDS RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of researching the use of computer models to aid in assessment of best management practices on a watershed basis, working with government, industry, and private landowners to help craft industry-led solutions to identified environmental issues, researching and monitoring water, air, or soil environmental quality to aid in the development of new approaches to local environmental concerns, and working with local, State, and federal officials to help craft effective environmental solutions that respect private property rights and agricultural production realities.

"(36) LIVESTOCK DISEASE RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of identifying possible livestock disease threats, educating the public regarding livestock disease threats, training persons to deal with such threats, and conducting related research.

"(37) PLANT GENE EXPRESSION.—Research and development grants may be made under this section for the purpose of plant gene expression research to accelerate the application of basic plant genomic science to the development and testing of new varieties of enhanced food crops, crops that can be used as renewable energy sources, and other alternative uses of agricultural crops.".

SEC. 745. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

(a) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMIC ADVISORY BOARD.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended—

(1) in subsection (b)(3)—

(A) by redesignating subparagraphs (R) through (DD) as subparagraphs (S) through (EE), respectively; and

(B) by inserting after subparagraph (Q) the following new subparagraph:

"(R) 1 member representing a nonland grant college or university with a historic commitment to research in the food and agricultural sciences.";

(2) in subsection (c)(1), by striking "and land-grant colleges and universities" and inserting ", land-grant colleges and universities, and the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations of the House of Representatives, and the Subcommittee on Agriculture, Rural Development and Related Agencies of the Committee on Appropriations of the Senate";

(3) in subsection (d)(1), inserting "consult with any appropriate agencies of the Department of Agriculture and" after "the Advisory Board shall"; and

(4) in subsection (b)(1), by striking "30 members" and inserting "31 members".

(b) GRANTS FOR RESEARCH ON PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.—Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is amended—

(1) in subsection (a)(2), by inserting "and animal fats and oils" after "industrial oilseed crops"; and

(2) in subsection (a)(4), by inserting "or triglycerides" after "other industrial hydrocarbons".

(c) FAS OVERSEAS INTERN PROGRAM.—Section 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(10) establish a program, to be coordinated by the Cooperative State Research, Education, and Extension Service and the Foreign Agricultural Service, to place interns from United States colleges and universities at Foreign Agricultural Service field offices overseas.".

SEC. 746. BIOMASS RESEARCH AND DEVELOPMENT.

Title III of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 7624 note) is amended—

(1) in section 302(3), by inserting "or biodiesel" after "such as ethanol";

(2) in section 303(3), by inserting "animal byproducts," after "fibers,"; and

(3) in section 306(b)(1)—

(A) by redesignating subparagraphs (E) through (J) as subparagraphs (F) through (K), respectively; and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) an individual affiliated with a livestock trade association;".

SEC. 747. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH.

Section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921) is amended to read as follows:

"SEC. 1668. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to authorize and support environmental assessment research to help identify and analyze environmental effects of biotechnology; and

"(2) to authorize research to help regulators develop long-term policies concerning the introduction of such technology.

"(b) GRANT PROGRAM.—The Secretary of Agriculture shall establish a grant program within the Cooperative State Research, Education, and Extension Service and the Agricultural Research Service to provide the necessary funding for environmental assessment research concerning the introduction of genetically engineered plants and animals into the environment.

"(c) TYPES OF RESEARCH.—Types of research for which grants may be made under this section shall include the following:

"(1) Research designed to identify and develop appropriate management practices to minimize physical and biological risks associated with genetically engineered animals and plants once they are introduced into the environment.

"(2) Research designed to develop methods to monitor the dispersal of genetically engineered animals and plants.

"(3) Research designed to further existing knowledge with respect to the characteristics, rates and methods of gene transfer that may occur between genetically engineered plants and animals and related wild and agricultural organisms.

"(4) Environmental assessment research designed to provide analysis, which compares the relative impacts of plants and animals modified through genetic engineering to other types of production systems.

"(5) Other areas of research designed to further the purposes of this section.

"(d) ELIGIBILITY REQUIREMENTS.—Grants under this section shall be—

"(1) made on the basis of the quality of the proposed research project; and

"(2) available to any public or private research or educational institution or organization.

"(e) CONSULTATION.—In considering specific areas of research for funding under this section, the Secretary of Agriculture shall consult with the Administrator of the Animal and Plant Health Inspection Service and the National Agricultural Research, Extension, Education, and Economics Advisory Board.

"(f) PROGRAM COORDINATION.—The Secretary of Agriculture shall coordinate research funded under this section with the Office of Research and Development of the Environmental Protection Agency in order to avoid duplication of research activities.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated such sums as necessary to carry out this section.

"(2) WITHHOLDINGS FROM BIOTECHNOLOGY OUTLAYS.—The Secretary of Agriculture shall withhold from outlays of the Department of Agriculture for research on biotechnology, as defined and determined by the Secretary, at least 3 percent of such amount for the purpose of making grants under this section for research on biotechnology risk assessment. Except that, funding from this authorization should be collected and applied to the maximum extent practicable to risk assessment research on all categories identified as biotechnology by the Secretary.".

SEC. 748. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

Section 2(a) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(a)) is amended by adding at the end the following new paragraph:

"(3) DETERMINATION OF HIGH PRIORITY RESEARCH.—Research priorities shall be determined by the Secretary on an annual basis, taking into account input as gathered by the Secretary through the National Agricultural Research, Extension, Education, and Economics Advisory Board.".

SEC. 749. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES OF 1890 INSTITUTIONS.

Section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d) is amended—

(1) by amending subsection (c) to read as follows:

"(c) Matching Formula.—For each of fiscal years 2003 through 2011, the State shall provide matching funds from non-Federal sources. Such matching funds shall be for an amount equal to not less than 60 percent of the formula funds to be distributed to the eligible institution, and shall increase by 10 percent each fiscal year thereafter until fiscal year 2007."; and

(2) by amending subsection (d) to read as follows:

"(d) Waiver Authority.—Notwithstanding subsection (f), the Secretary may waive the matching funds requirement under subsection (c) above the 50 percent level for fiscal years 2003 through 2011 for an eligible institution of a State if the Secretary determines that the State will be unlikely to satisfy the matching requirement.".

SEC. 749A. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES FOR THE UNITED STATES TERRITORIES.

(a) Research Matching Requirement.—Section 3(d)(4) of the Hatch Act of 1887 (7 U.S.C. 361c(d)(4)) is amended by striking "the same matching funds" and all that follows through the end of the sentence and inserting "matching funds requirements from non-Federal sources for fiscal years 2003 through 2011 in an amount equal to not less than 50 percent of the formula funds to be distributed to the Territory. The Secretary may waive the matching funds requirements for a Territory for any of the fiscal years 2003 through 2011 if the Secretary determines that the Territory will be unlikely to satisfy the matching funds requirement for that fiscal year.".

(b) Extension Matching Requirement.—Section 3(e)(4) of the Smith-Lever Act (7 U.S.C. 343(e)(4)) is amended by striking "the same matching funds" and all that follows through the end of the sentence and inserting "matching funds requirements from non-Federal sources for fiscal years 2003 through 2011 in an amount equal to not less than 50 percent of the formula funds to be distributed to the Territory. The Secretary may waive the matching funds requirements for a Territory for any of the fiscal years 2003 through 2011 if the Secretary determines that the Territory will be unlikely to satisfy the matching funds requirement for that fiscal year.".

SEC. 750. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

(a) Funding.—Section 401(b)(1) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)(1)) is amended to read as follows:

"(1) In general.—

"(A) Total amount to be transferred.—On October 1, 2003, and each October 1 thereafter through September 30, 2011, the Secretary of Agriculture shall deposit funds of the Commodity Credit Corporation into the Account. The total amount of Commodity Credit Corporation funds deposited into the Account under this subparagraph shall equal $1,160,000,000.

"(B) Equal amounts.—To the maximum extent practicable, the amounts deposited into the Account pursuant to subparagraph (A) shall be deposited in equal amounts for each fiscal year.

"(C) Availability of funds.—Amounts deposited into the Account pursuant to subparagraph (A) shall remain available until expended.".

(b) Availability of Funds.—Section 401(f)(6) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(f)(6)) is amended to read as follows:

"(6) Availability of funds.—Funds made available under this section to the Secretary prior to October 1, 2003, for grants under this section shall be available to the Secretary for a 2-year period.".

SEC. 751. CARBON CYCLE RESEARCH.

Section 221 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 114 Stat. 407) is amended—

(1) in subsection (a), by striking "Of the amount" and all that follows through "to provide" and inserting "To the extent funds are made available for this purpose, the Secretary shall provide";

(2) in subsection (d), by striking "under subsection (a)" and inserting "for this section"; and

(3) by adding at the end the following new subsection:

"(e) Authorization of Appropriations.—There are authorized to be appropriated for fiscal years 2002 through 2011 such sums as may be necessary to carry out this section.".

SEC. 752. DEFINITION OF FOOD AND AGRICULTURAL SCIENCES.

Section 2(3) of the Research Facilities Act (7 U.S.C. 390(2)(3)) is amended to read as follows:

"(3) Food and agricultural sciences.—The term 'food and agricultural sciences' has the meaning given that term in section 1404(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8)).".

SEC. 753. FEDERAL EXTENSION SERVICE.

Section 3(b)(3) of the Smith-Lever Act (7 U.S.C. 343(b)(3)) is amended by striking "$5,000,000" and inserting "such sums as are necessary".

SEC. 754. POLICY RESEARCH CENTERS.

Section 1419A(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155(c)(3)) is amended by striking "collect and analyze data" and inserting "collect, analyze, and disseminate data".

SEC. 755. ANIMALS USED IN RESEARCH.

Section 2(g) of the Animal Welfare Act (7 U.S.C. 2132(g)) is amended by inserting "birds, rats of the genus *Rattus*, and mice of the genus *Mus*, that are bred for use in research, and" after "excludes".

Subtitle C—Related Matters

SEC. 761. RESIDENT INSTRUCTION AT LAND-GRANT COLLEGES IN UNITED STATES TERRITORIES.

(a) Purpose.—It is the purpose of this section to promote and strengthen higher education in the food and agricultural sciences at agricultural and mechanical colleges located in the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau (hereinafter referred to in this section as "eligible institutions") by formulating and administering programs to enhance teaching programs in agriculture, natural resources, forestry, veterinary medicine, home economics, and disciplines closely allied to the food and agriculture production and delivery system.

(b) Grants.—The Secretary of Agriculture shall make competitive grants to those eligible institutions having a demonstrable capacity to carry out the teaching of food and agricultural sciences.

(c) Use of Grant Funds.—Grants made under subsection (b) shall be used to—

(1) strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international education needs in the food and agricultural sciences;

(2) attract and support undergraduate and graduate students in order to educate them in identified areas of national need to the food and agriculture sciences;

(3) facilitate cooperative initiatives between two or more eligible institutions or between eligible institutions and units of State Government, organizational in the private sector, to maximize the development and use of resources such as faculty, facilities, and equipment to improve food and agricultural sciences teaching programs; and

(4) conduct undergraduate scholarship programs to assist in meeting national needs for training food and agricultural scientists.

(d) Grant Requirements.—

(1) The Secretary of Agriculture shall ensure that each eligible institution, prior to receiving grant funds under subsection (b), shall have a significant demonstrable commitment to higher education programs in the food and agricultural sciences and to each specific subject area for which grant funds under this subsection are to be used.

(2) The Secretary of Agriculture may require that any grant awarded under this section contain provisions that require funds to be targeted to meet the needs identified in section 1402 of the National Agriculture Research, Extension, and Teaching Policy Act of 1977.

(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary for each of the fiscal years 2002 through 2011 to carry out this section.

SEC. 762. DECLARATION OF EXTRAORDINARY EMERGENCY AND RESULTING AUTHORITIES.

(a) Review of Payment of Compensation.—Section 415(e) of the Plant Protection Act (7 U.S.C. 7715(e)) is amended by inserting before the final period the following: "or review by any officer of the Government other than the Secretary or the designee of the Secretary".

(b) Review of Certain Decisions.—

(1) Plant protection act.—Section 442 of the Plant Protection Act (7 U.S.C. 7772) is amended by adding at the end following new subsection:

"(f) Secretarial Discretion.—The action of any officer, employee, or agent of the Secretary in carrying out this section, including determining the amount of and making any payment authorized to be made under this section, shall not be subject to review by any officer of the Government other than the Secretary or the designee of the Secretary.".

(2) Other plant and animal pest and disease laws.—Section 11 of the Act of May 29, 1884 (21 U.S.C. 114a; commonly known as the "Animal Industry Act") and the first section of the Act of September 25, 1981 (7 U.S.C. 147b), are each amended by adding at the end the following new sentence: "The action of

any officer, employee, or agent of the Secretary in carrying out this section, including determining the amount of and making any payment authorized to be made under this section, shall not be subject to review by any officer of the Government other than the Secretary or the designee of the Secretary.".

(c) METHYL BROMIDE.—The Plant Protection Act (7 U.S.C. 7701 et seq.) is amended by inserting after section 418 the following new section:

"SEC. 419. METHYL BROMIDE.

"(a) IN GENERAL.—The Secretary, upon request of State, local, or tribal authorities, shall determine whether methyl bromide treatments or applications required by State, local, or tribal authorities to prevent the introduction, establishment, or spread of plant pests (including diseases) or noxious weeds should be authorized as an official control or official requirement.

"(b) ADMINISTRATION.—

"(1) TIMELINE FOR DETERMINATION.—The Secretary shall make the determination required by subsection (a) not later than 90 days after receiving the request for such a determination.

"(2) REGULATIONS.—The promulgation of regulations for and the administration of this section shall be made without regard to—

"(A) the notice and comment provisions of section 553 of title 5, United States Code;

"(B) the Statement of Policy of the Secretary of Agriculture, effective July 24, 1971 (36 Fed. Reg. 13804; relating to notices of proposed rulemaking and public participation in rulemaking); and

"(C) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

"(c) REGISTRY.—Not later than 180 days after the date of the enactment of this section, the Secretary shall publish, and thereafter maintain, a registry of State, local, and tribal requirements authorized by the Secretary under this section.".

SEC. 763. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR THE DEVELOPING WORLD.

(a) GRANT PROGRAM.—The Secretary of Agriculture shall establish a program to award grants to entities described in subsection (b) for the development of agricultural biotechnology with respect to the developing world. The Secretary shall administer and oversee the program through the Foreign Agricultural Service of the Department of Agriculture.

(b) PARTNERSHIPS.—(1) In order to be eligible to receive a grant under this section, the grantee must be a participating institution of higher education, a nonprofit organization, or consortium of for profit institutions with in-country agricultural research institutions.

(2) A participating institution of higher education shall be an historically black or land-grant college or university, an Hispanic serving institution, or a tribal college or university that has agriculture or the biosciences in its curricula.

(c) COMPETITIVE AWARD.—Grants shall be awarded under this section on a merit-reviewed competitive basis.

(d) USE OF FUNDS.—The activities for which the grant funds may be expended include the following:

(1) Enhancing the nutritional content of agricultural products that can be grown in the developing world to address malnutrition through biotechnology.

(2) Increasing the yield and safety of agricultural products that can be grown in the developing world through biotechnology.

(3) Increasing through biotechnology the yield of agricultural products that can be grown in the developing world that are drought and stress-resistant.

(4) Extending the growing range of crops that can be grown in the developing world through biotechnology.

(5) Enhancing the shelf-life of fruits and vegetables grown in the developing world through biotechnology.

(6) Developing environmentally sustainable agricultural products through biotechnology.

(7) Developing vaccines to immunize against life-threatening illnesses and other medications that can be administered by consuming genetically engineered agricultural products.

(e) FUNDING SOURCE.—Of the funds deposited in the Treasury account known as the Initiative for Future Agriculture and Food Systems on October 1, 2003, and each October 1 thereafter through October 1, 2007, the Secretary of Agriculture shall use $5,000,000 during each of fiscal years 2004 through 2008 to carry out this section.

Subtitle D—Repeal of Certain Activities and Authorities

SEC. 771. FOOD SAFETY RESEARCH INFORMATION OFFICE AND NATIONAL CONFERENCE.

(a) REPEAL.—Subsections (b) and (c) of section 615 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7654(b) and (c)) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) GENERALLY.—Section 615 of such Act is amended—

(A) in the section heading, by striking "**AND NATIONAL CONFERENCE**";

(B) by striking "(a) FOOD SAFETY RESEARCH INFORMATION OFFICE.—";

(C) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively, and moving the margins 2 ems to the left;

(D) in subsection (b) (as so redesignated), by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and moving the margins 2 ems to the left; and

(E) in subsection (c) (as so redesignated), by striking "this subsection" and inserting "this section".

(2) TABLE OF SECTIONS.—The table of sections for such Act is amended by striking "and National Conference" in the item relating to section 615.

SEC. 772. REIMBURSEMENT OF EXPENSES UNDER SHEEP PROMOTION, RESEARCH, AND INFORMATION ACT OF 1994.

Section 617 of the Agricultural Research, Extension, and Education Reform Act of 1998 (Public Law 105–185; 112 Stat. 607) is repealed.

SEC. 773. NATIONAL GENETIC RESOURCES PROGRAM.

Section 1634 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5843) is repealed.

SEC. 774. NATIONAL ADVISORY BOARD ON AGRICULTURAL WEATHER.

(a) REPEAL.—Section 1639 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5853) is repealed.

(b) CONFORMING AMENDMENT.—Section 1640(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5854(b)) is amended by striking "take into" and all that follows through "Weather and".

SEC. 775. AGRICULTURAL INFORMATION EXCHANGE WITH IRELAND.

Section 1420 of the National Agricultural Research, Extension and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1551) is repealed.

SEC. 776. PESTICIDE RESISTANCE STUDY.

Section 1437 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1558) is repealed.

SEC. 777. EXPANSION OF EDUCATION STUDY.

Section 1438 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1559) is repealed.

SEC. 778. SUPPORT FOR ADVISORY BOARD.

(a) REPEAL.—Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) is repealed.

(b) CONFORMING AMENDMENT.—Section 1413(c) of such Act (7 U.S.C. 3128(c)) is amended by striking "section 1412 of this title and".

SEC. 779. TASK FORCE ON 10-YEAR STRATEGIC PLAN FOR AGRICULTURAL RESEARCH FACILITIES.

(a) REPEAL.—Section 4 of the Research Facilities Act (7 U.S.C. 390b) is repealed.

(b) CONFORMING AMENDMENT.—Section 2 of such Act (7 U.S.C. 390) is amended by striking paragraph (5).

Subtitle E—Agriculture Facility Protection

SEC. 790. ADDITIONAL PROTECTIONS FOR ANIMAL OR AGRICULTURAL ENTERPRISES, RESEARCH FACILITIES, AND OTHER ENTITIES.

(a) DEFINITIONS.—The Research Facilities Act (7 U.S.C. 390 et seq.) is amended—

(1) by redesignating section 6 as section 7; and

(2) by inserting after section 5 the following new section:

"SEC. 6. ADDITIONAL PROTECTIONS FOR ANIMAL OR AGRICULTURAL ENTERPRISES, RESEARCH FACILITIES, AND OTHER ENTITIES AGAINST DISRUPTION.

"(a) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) ANIMAL OR AGRICULTURAL ENTERPRISE.—The term 'animal or agricultural enterprise' means any of the following:

"(A) A commercial, governmental, or academic enterprise that uses animals, plants, or other biological materials for food or fiber production, breeding, processing, research, or testing.

"(B) A zoo, aquarium, circus, rodeo, or other entity that exhibits or uses animals, plants, or other biological materials for educational or entertainment purposes.

"(C) A fair or similar event intended to advance agricultural arts and sciences.

"(D) A facility managed or occupied by an association, federation, foundation, council, or other group or entity of food or fiber producers, processors, or agricultural or biomedical researchers intended to advance agricultural or biomedical arts and sciences.

"(2) ECONOMIC DAMAGE.—The term 'economic damage' means the replacement of the following:

"(A) The cost of lost or damaged property (including all real and personal property) of an animal or agricultural enterprise.

"(B) The cost of repeating an interrupted or invalidated experiment.

"(C) The loss of revenue (including costs related to business recovery) directly related to the disruption of an animal or agricultural enterprise.

"(D) The cost of the tuition and expenses of any student to complete an academic program that was disrupted, or to complete a replacement program, when the tuition and expenses are incurred as a result of the damage or loss of the property of an animal or agricultural enterprise.

"(3) PROPERTY OF AN ANIMAL OR AGRICULTURAL ENTERPRISE.—The term 'property of an animal or agricultural enterprise’ means real and personal property of or used by any of the following:

‘‘(A) An animal or agricultural enterprise.

‘‘(B) An employee of an animal or agricultural enterprise.

‘‘(C) A student attending an academic animal or agricultural enterprise.

‘‘(4) DISRUPTION.—The term ‘disruption’ does not include any lawful disruption that results from lawful public, governmental, or animal or agricultural enterprise employee reaction to the disclosure of information about an animal or agricultural enterprise.

‘‘(b) VIOLATION.—A person may not recklessly, knowingly, or intentionally cause, or contribute to, the disruption of the functioning of an animal or agricultural enterprise by damaging or causing the loss of any property of the animal or agricultural enterprise that results in economic damage, as determined by the Secretary.

‘‘(c) ASSESSMENT OF CIVIL PENALTY.—

‘‘(1) IN GENERAL.—The Secretary may impose on any person that the Secretary determines violates subsection (b) a civil penalty in an amount determined under paragraphs (2) and (3). The civil penalty may be assessed only on the record after an opportunity for a hearing.

‘‘(2) RECOVERY OF DEPARTMENT COSTS.—The civil penalty assessed by the Secretary against a person for a violation of subsection (b) shall be not less than the total cost incurred by the Secretary for investigation of the violation, conducting any hearing regarding the violation, and assessing the civil penalty.

‘‘(3) RECOVERY OF ECONOMIC DAMAGE.—In addition to the amount determined under paragraph (2), the amount of the civil penalty shall include an amount not less than the total cost (or, in the case of knowing or intentional disruption, not less than 150 percent of the total cost) of the economic damage incurred by the animal or agricultural enterprise, any employee of the animal or agricultural enterprise, or any student attending an academic animal or agricultural enterprise as a result of the damage or loss of the property of an animal or agricultural enterprise.

‘‘(d) IDENTIFICATION.—The Secretary shall identify for each civil penalty assessed under subsection (c), the portion of the amount of the civil penalty that represents the recovery of Department costs and the portion that represents the recovery of economic losses.

‘‘(e) OTHER FACTORS IN DETERMINING PENALTY.— In determining the amount of a civil penalty under subsection (c), the Secretary shall consider the following:

‘‘(1) The nature, circumstance, extent, and gravity of the violation or violations.

‘‘(2) The ability of the injured animal or agricultural enterprise to continue to operate, costs incurred by the animal or agricultural enterprise to recover lost business, and the effect of the violation on earnings of employees of the animal or agricultural enterprise.

‘‘(3) The interruptions experienced by students attending an academic animal or agricultural enterprise.

‘‘(4) Whether the violator has previously violated subsection (a).

‘‘(5) The violator’s degree of culpability.

‘‘(f) FUND TO ASSIST VICTIMS OF DISRUPTION.—

‘‘(1) FUND ESTABLISHED.—There is established in the Treasury a fund which shall consist of that portion of each civil penalty collected under subsection (c) that represents the recovery of economic damages.

‘‘(2) USE OF AMOUNTS IN FUND.—The Secretary of Agriculture shall use amounts in the fund to compensate animal or agricultural enterprises, employees of an animal or agricultural enterprise, and student attending an academic animal or agricultural enterprise for economic losses incurred as a result of the disruption of the functioning of an animal or agricultural enterprise in violation of subsection (b).’’.

TITLE VIII—FORESTRY INITIATIVES

SEC. 801. REPEAL OF FORESTRY INCENTIVES PROGRAM AND STEWARDSHIP INCENTIVE PROGRAM.

The Cooperative Forestry Assistance Act of 1978 is amended by striking section 4 (16 U.S.C. 2103) and section 6 (16 U.S.C. 2103b).

SEC. 802. ESTABLISHMENT OF FOREST LAND ENHANCEMENT PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) There is a growing dependence on private nonindustrial forest lands to supply the necessary market commodities and nonmarket values, such as habitat for fish and wildlife, aesthetics, outdoor recreation opportunities, and other forest resources, required by a growing population.

(2) There is a strong demand for expanded assistance programs for owners of nonindustrial private forest land since the majority of the wood supply of the United States comes from nonindustrial private forest land.

(3) The soil, carbon stores, water and air quality of the United States can be maintained and improved through good stewardship of nonindustrial private forest lands.

(4) The products and services resulting from stewardship of nonindustrial private forest lands provide income and employment that contribute to the economic health and diversity of rural communities.

(5) Wildfires threaten human lives, property, forests, and other resources, and Federal and State cooperation in forest fire prevention and control has proven effective and valuable, in that properly managed forest stands are less susceptible to catastrophic fire, as dramatized by the catastrophic fire seasons of 1998 and 2000.

(6) Owners of private nonindustrial forest lands are being faced with increased pressure to convert their forestland to development and other uses.

(7) Complex, long-rotation forest investments, including sustainable hardwood management, are often the most difficult commitment for small, nonindustrial private forest landowners and, thus, should receive equal consideration under cost-share programs.

(8) The investment of one Federal dollar in State and private forestry programs is estimated to leverage $9 on average from State, local, and private sources.

(b) PURPOSE.—It is the purpose of this section to strengthen the commitment of the Department of Agriculture to sustainable forestry and to establish a coordinated and cooperative Federal, State, and local sustainable forest program for the establishment, management, maintenance, enhancement, and restoration of forests on nonindustrial private forest lands in the United States.

(c) FOREST LAND ENHANCEMENT PROGRAM.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 3 (16 U.S.C. 2102) the following new section 4:

‘‘SEC. 4. FOREST LAND ENHANCEMENT PROGRAM.

‘‘(a) ESTABLISHMENT.—

‘‘(1) ESTABLISHMENT; PURPOSE.—The Secretary shall establish a Forest Land Enhancement Program (in this section referred to as the ‘Program’) for the purpose of providing financial, technical, educational, and related assistance to State foresters to encourage the long-term sustainability of nonindustrial private forest lands in the United States by assisting the owners of such lands in more actively managing their forest and related resources by utilizing existing State, Federal, and private sector resource management expertise, financial assistance, and educational programs.

‘‘(2) ADMINISTRATION.—The Secretary shall carry out the Program within, and administer the Program through, the Natural Resources Conservation Service.

‘‘(3) COORDINATION.—The Secretary shall implement the Program in coordination with State foresters.

‘‘(b) PROGRAM OBJECTIVES.—In implementing the Program, the Secretary shall target resources to achieve the following objectives:

‘‘(1) Investment in practices to establish, restore, protect, manage, maintain, and enhance the health and productivity of the nonindustrial private forest lands in the United States for timber, habitat for flora and fauna, water quality, and wetlands.

‘‘(2) Ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed to enhance and sustain the long-term productivity of timber and nontimber forest resources to help meet future public demand for all forest resources and provide environmental benefits.

‘‘(3) Reduce the risks and help restore, recover, and mitigate the damage to forests caused by fire, insects, invasive species, disease, and damaging weather.

‘‘(4) Increase and enhance carbon sequestration opportunities.

‘‘(5) Enhance implementation of agroforestry practices.

‘‘(6) Maintain and enhance the forest landbase and leverage State and local financial and technical assistance to owners that promote the same conservation and environmental values.

‘‘(c) ELIGIBILITY.—

‘‘(1) IN GENERAL.—An owner of nonindustrial private forest land is eligible for cost-sharing assistance under the Program if the owner—

‘‘(A) agrees to develop and implement an individual stewardship, forest, or stand management plan addressing site specific activities and practices in cooperation with, and approved by, the State forester, state official, or private sector program in consultation with the State forester;

‘‘(B) agrees to implement approved activities in accordance with the plan for a period of not less than 10 years, unless the State forester approves a modification to such plan; and

‘‘(C) meets the acreage restrictions as determined by the State forester in conjunction with the State Forest Stewardship Coordinating Committee established under section 19.

‘‘(2) STATE PRIORITIES.—The Secretary, in consultation with the State forester and the State Forest Stewardship Coordinating Committee may develop State priorities for cost sharing under the Program that will promote forest management objectives in that State.

‘‘(3) DEVELOPMENT OF PLAN.—An owner shall be eligible for cost-share assistance for the development of the individual stewardship, forest, or stand management plan required by paragraph (1).

“(d) APPROVED ACTIVITIES.—

“(1) DEVELOPMENT.—The Secretary, in consultation with the State forester and the State Forest Stewardship Coordinating Committee, shall develop a list of approved forest activities and practices that will be eligible for cost-share assistance under the Program within each State.

“(2) TYPE OF ACTIVITIES.—In developing a list of approved activities and practices under paragraph (1), the Secretary shall attempt to achieve the establishment, restoration, management, maintenance, and enhancement of forests and trees for the following:

“(A) The sustainable growth and management of forests for timber production.

“(B) The restoration, use, and enhancement of forest wetlands and riparian areas.

“(C) The protection of water quality and watersheds through the application of State-developed forestry best management practices.

“(D) Energy conservation and carbon sequestration purposes.

“(E) Habitat for flora and fauna.

“(F) The control, detection, and monitoring of invasive species on forestlands as well as preventing the spread and providing for the restoration of lands affected by invasive species.

“(G) Hazardous fuels reduction and other management activities that reduce the risks and help restore, recover, and mitigate the damage to forests caused by fire.

“(H) The development of forest or stand management plans.

“(I) Other activities approved by the Secretary, in coordination with the State forester and the State Forest Stewardship Coordinating Committee.

“(e) COOPERATION.—In implementing the Program, the Secretary shall cooperate with other Federal, State, and local natural resource management agencies, institutions of higher education, and the private sector.

“(f) REIMBURSEMENT OF ELIGIBLE ACTIVITIES.—

“(1) IN GENERAL.—The Secretary shall share the cost of implementing the approved activities that the Secretary determines are appropriate, in the case of an owner that has entered into an agreement to place nonindustrial private forest lands of the owner in the Program.

“(2) RATE.—The Secretary shall determine the appropriate reimbursement rate for cost-share payments under paragraph (1) and the schedule for making such payments.

“(3) MAXIMUM.—The Secretary shall not make cost-share payments under this subsection to an owner in an amount in excess of 75 percent of the total cost, or a lower percentage as determined by the State forester, to such owner for implementing the practices under an approved plan. The maximum payments to any one owner shall be determined by the Secretary.

“(4) CONSULTATION.—The Secretary shall make determinations under this subsection in consultation with the State forester.

“(g) RECAPTURE.—

“(1) IN GENERAL.—The Secretary shall establish and implement a mechanism to recapture payments made to an owner in the event that the owner fails to implement any approved activity specified in the individual stewardship, forest, or stand management plan for which such owner received cost-share payments.

“(2) ADDITIONAL REMEDY.—The remedy provided in paragraph (1) is in addition to any other remedy available to the Secretary.

“(h) DISTRIBUTION.—The Secretary shall distribute funds available for cost sharing under the Program among the States only after giving appropriate consideration to—

“(1) the total acreage of nonindustrial private forest land in each State;

“(2) the potential productivity of such land;

“(3) the number of owners eligible for cost sharing in each State;

“(4) the opportunities to enhance non-timber resources on such forest lands;

“(5) the anticipated demand for timber and nontimber resources in each State;

“(6) the need to improve forest health to minimize the damaging effects of catastrophic fire, insects, disease, or weather; and

“(7) the need and demand for agroforestry practices in each State.

“(i) DEFINITIONS.—In this section:

“(1) NONINDUSTRIAL PRIVATE FOREST LANDS.—The term ‘nonindustrial private forest lands’ means rural lands, as determined by the Secretary, that—

“(A) have existing tree cover or are suitable for growing trees; and

“(B) are owned or controlled by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity (other than a nonprofit private legal entity) so long as the individual, group, association, corporation, tribe, or entity has definitive decision-making authority over the lands, including through long-term leases and other land tenure systems, for a period of time long enough to ensure compliance with the Program.

“(2) OWNER.—The term ‘owner’ includes a private individual, group, association, corporation, Indian tribe, or other private legal entity (other than a nonprofit private legal entity) that has definitive decision-making authority over nonindustrial private forest lands through a long-term lease or other land tenure systems.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

“(4) STATE FORESTER.—The term ‘State forester’ means the director or other head of a State Forestry Agency or equivalent State official.

“(j) AVAILABILITY OF FUNDS.—The Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation to carry out the Program during the period beginning on October 1, 2001, and ending on September 30, 2011.”.

(d) CONFORMING AMENDMENT.—Section 246(b)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(2)) is amended by striking “forestry incentive program” and inserting “Forest Land Enhancement Program”.

SEC. 803. RENEWABLE RESOURCES EXTENSION ACTIVITIES.

(a) EXTENSION AND AUTHORIZATION INCREASE.—Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675) is amended—

(1) by striking “$15,000,000” and inserting “$30,000,000”; and

(2) by striking “2002” and inserting “2011”.

(b) SUSTAINABLE FORESTRY OUTREACH INITIATIVE.—The Renewable Resources Extension Act of 1978 is amended by inserting after section 5A (16 U.S.C. 1674a) the following new section:

“SEC. 5B. SUSTAINABLE FORESTRY OUTREACH INITIATIVE.

“The Secretary shall establish a program to be known as the ‘Sustainable Forestry Outreach Initiative’ for the purpose of educating landowners regarding the following:

“(1) The value and benefits of practicing sustainable forestry.

“(2) The importance of professional forestry advice in achieving their sustainable forestry objectives.

“(3) The variety of public and private sector resources available to assist them in planning for and practicing sustainable forestry.”.

SEC. 804. ENHANCED COMMUNITY FIRE PROTECTION.

(a) FINDINGS.—Congress finds the following:

(1) The severity and intensity of wildland fires has increased dramatically over the past few decades as a result of past fire and land management policies.

(2) The record 2000 fire season is a prime example of what can be expected if action is not taken.

(3) These wildfires threaten not only the nation's forested resources, but the thousands of communities intermingled with the wildlands in the wildland-urban interface.

(4) The National Fire Plan developed in response to the 2000 fire season is the proper, coordinated, and most effective means to address this wildfire issue.

(5) Whereas adequate authorities exist to tackle the wildfire issues at the landscape level on Federal lands, there is limited authority to take action on most private lands where the largest threat to life and property lies.

(6) There is a significant Federal interest in enhancing community protection from wildfire.

(b) ENHANCED PROTECTION.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 10 (16 U.S.C. 2106) the following new section:

“SEC. 10A. ENHANCED COMMUNITY FIRE PROTECTION.

“(a) COOPERATIVE MANAGEMENT RELATED TO WILDFIRE THREATS.—The Secretary may cooperate with State foresters and equivalent State officials in the management of lands in the United States for the following purposes:

“(1) Aid in wildfire prevention and control.

“(2) Protect communities from wildfire threats.

“(3) Enhance the growth and maintenance of trees and forests that promote overall forest health.

“(4) Ensure the continued production of all forest resources, including timber, outdoor recreation opportunities, wildlife habitat, and clean water, through conservation of forest cover on watersheds, shelterbelts, and windbreaks.

“(b) COMMUNITY AND PRIVATE LAND FIRE ASSISTANCE PROGRAM.—

“(1) ESTABLISHMENT; PURPOSE.—The Secretary shall establish a Community and Private Land Fire Assistance program (in this section referred to as the ‘Program’)—

“(A) to focus the Federal role in promoting optimal firefighting efficiency at the Federal, State, and local levels;

“(B) to augment Federal projects that establish landscape level protection from wildfires;

“(C) to expand outreach and education programs to homeowners and communities about fire prevention; and

“(D) to establish defensible space around private landowners homes and property against wildfires.

“(2) ADMINISTRATION AND IMPLEMENTATION.—The Program shall be administered by the Forest Service and implemented through the State forester or equivalent State official.

"(3) Components.—In coordination with existing authorities under this Act, the Secretary may undertake on both Federal and non-Federal lands—

"(A) fuel hazard mitigation and prevention;

"(B) invasive species management;

"(C) multi-resource wildfire planning;

"(D) community protection planning;

"(E) community and landowner education enterprises, including the program known as FIREWISE;

"(F) market development and expansion;

"(G) improved wood utilization;

"(H) special restoration projects.

"(4) Considerations.—The Secretary shall use local contract personnel wherever possible to carry out projects under the Program.

"(c) Authorization of Appropriations.—There are hereby authorized to be appropriated to the Secretary $35,000,000 for each of fiscal years 2002 through 2011, and such sums as may be necessary thereafter, to carry out this section.".

SEC. 805. INTERNATIONAL FORESTRY PROGRAM.

Section 2405(d) of the Global Climate Change Prevention Act of 1990 (title XXIV of Public Law 101–624; 7 U.S.C. 6704(d)) is amended by striking "2002" and inserting "2011".

SEC. 806. WILDFIRE PREVENTION AND HAZARDOUS FUEL PURCHASE PROGRAM.

(a) Findings.—Congress finds that—

(1) the damage caused by wildfire disasters has been equivalent in magnitude to the damage resulting from the Northridge earthquake, Hurricane Andrew, and the recent flooding of the Mississippi River and the Red River;

(2) more than 20,000 communities in the United States are at risk from wildfire and approximately 11,000 of those communities are located near Federal land;

(3) the accumulation of heavy forest fuel loads continues to increase as a result of disease, insect infestations, and drought, further increasing the risk of fire each year;

(4) modification of forest fuel load conditions through the removal of hazardous fuels would—

(A) minimize catastrophic damage from wildfires;

(B) reduce the need for emergency funding to respond to wildfires; and

(C) protect lives, communities, watersheds, and wildlife habitat;

(5) the hazardous fuels removed from forest land represent an abundant renewable resource, as well as a significant supply of biomass for biomass-to-energy facilities;

(6) the United States should invest in technologies that promote economic and entrepreneurial opportunities in processing forest products removed through hazardous fuel reduction activities; and

(7) the United States should—

(A) develop and expand markets for traditionally underused wood and other biomass as a value-added outlet for excessive forest fuels; and

(B) commit resources to support planning, assessments, and project reviews to ensure that hazardous fuels management is accomplished expeditiously and in an environmentally sound manner.

(b) Definitions.—In this section:

(1) Biomass-to-energy facility.—The term "biomass-to-energy facility" means a facility that uses biomass as a raw material to produce electric energy, useful heat, or a transportation fuel.

(2) Eligible community.—The term "eligible community" means—

(A) any town, township, municipality, or other similar unit of local government (as determined by the Secretary), or any area represented by a nonprofit corporation or institution organized under Federal or State law to promote broad-based economic development, that—

(i) has a population of not more than 10,000 individuals;

(ii) is located within a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries, such as recreation, forage production, and tourism; and

(iii) is located near forest land, the condition of which land the Secretary determines poses a substantial present or potential hazard to the safety of—

(I) a forest ecosystem;

(II) wildlife; or

(III) in the case of a wildfire, human, community, or firefighter safety, in a year in which drought conditions are present; and

(B) any county that is not contained within a metropolitan statistical area that meets the conditions described in clauses (ii) and (iii) of subparagraph (A).

(3) Forest biomass.—The term "forest biomass" means fuel and biomass accumulation from precommercial thinnings, slash, and brush on forest land of the United States.

(4) Hazardous fuel.—

(A) In general.—The term "hazardous fuel" means any excessive accumulation of organic material on public and private forest land (especially land in an urban-wildland interface area or in an area that is located near an eligible community and designated as condition class 2 under the report of the Forest Service entitled 'Protecting People and Sustainable Resources in Fire-Adapted Ecosystems', dated October 13, 2000, or that is designated as condition class 3 under that report) that the Secretary determines poses a substantial present or potential hazard to the safety of—

(i) a forest ecosystem;

(ii) wildlife; or

(iii) in the case of wildfire, human, community, or firefighter safety, in a year in which drought conditions are present.

(B) Exclusion.—The term "hazardous fuel" does not include forest biomass.

(5) Indian tribe.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) Secretary.—The term "Secretary" means—

(A) the Secretary of Agriculture (or a designee), with respect to National Forest System land and private land in the United States; and

(B) the Secretary of the Interior (or a designee) with respect to Federal land under the jurisdiction of the Secretary of the Interior or an Indian tribe.

(c) Hazardous Fuel Grant Program.—

(1) Grants.—

(A) In general.—Subject to the availability of appropriations, the Secretary may make grants to persons that operate biomass-to-energy facilities to offset the costs incurred by those persons in purchasing hazardous fuels derived from public and private forest land adjacent to eligible communities.

(B) Selection criteria.—The Secretary shall select recipients for grants under subparagraph (A) based on—

(i) planned purchases by the recipients of hazardous fuels, as demonstrated by the recipient through the submission to the Secretary of such assurances as the Secretary may require; and

(ii) the level of anticipated benefits of those purchases in reducing the risk of wildfires.

(2) Grant amounts.—

(A) In general.—A grant under this subsection shall—

(i) be based on—

(I) the distance required to transport hazardous fuels to a biomass-to-energy facility; and

(II) the cost of removal of hazardous fuels; and

(ii) be in an amount that is at least equal to the product obtained by multiplying—

(I) the number of tons of hazardous fuels delivered to a grant recipient; by

(II) an amount that is at least $5 but not more than $10 per ton of hazardous fuels, as determined by the Secretary taking into consideration the factors described in clause (i).

(B) Limitation on individual grants.—

(i) In general.—Except as provided in clause (ii), a grant under subparagraph (A) shall not exceed $1,500,000 for any biomass-to-energy facility for any year.

(ii) Small biomass-to-energy facilities.—A biomass-to-energy facility that has an annual production of 5 megawatts or less shall not be subject to the limitation under clause (i).

(3) Monitoring of grant recipient activities.—

(A) In general.—As a condition of receipt of a grant under this subsection, a grant recipient shall keep such records as the Secretary may require, including records that—

(i) completely and accurately disclose the use of grant funds; and

(ii) describe all transactions involved in the purchase of hazardous fuels derived from forest land.

(B) Access.—On notice by the Secretary, the operator of a biomass-to-energy facility that purchases hazardous fuels, or uses hazardous fuels purchased, with funds from a grant under this subsection shall provide the Secretary with—

(i) reasonable access to the biomass-to-facility; and

(ii) an opportunity to examine the inventory and records of the biomass-to-energy facility.

(4) Monitoring of effect of treatments.—The Secretary shall monitor Federal land from which hazardous fuels are removed and sold to a biomass-to-energy facility under this subsection to determine and document the reduction in fire hazards on that land.

(5) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $50,000,000 for each fiscal year.

(d) Long-Term Forest Stewardship Contracts for Hazardous Fuels Removal.—

(1) Annual assessment of treatment acreage.—

(A) In general.—Subject to the availability of appropriations, not later than March 1 of each of fiscal years 2002 through 2006, the Secretary shall submit to Congress an assessment of the number of acres of Federal forest land recommended to be treated during the subsequent fiscal year using stewardship end result contracts authorized by paragraph (3).

(B) Components.—The assessment shall—

(i) be based on the treatment schedules contained in the report entitled 'Protecting People and Sustaining Resources in Fire-

Adapted Ecosystems', dated October 13, 2000 and incorporated into the National Fire Plan;

(ii) identify the acreage by condition class, type of treatment, and treatment year to achieve the restoration goals outlined in the report within 10-, 15-, and 20-year time periods;

(iii) give priority to condition class 3 areas (as described in subsection (a)(4)(A)), include modifications in the restoration goals based on the effects of—

(I) fire;

(II) hazardous fuel treatments under the National Fire Plan; or

(III) updates in data;

(iv) provide information relating to the type of material and estimated quantities and range of sizes of material that shall be included in the treatments;

(v) describe the land allocation categories in which the contract authorities shall be used; and

(vi) give priority to areas described in subsection (a)(4)(A).

(2) Funding recommendation.—The Secretary shall include in the annual assessment under paragraph (1) a request for funds sufficient to implement the recommendations contained in the assessment using stewardship end result contracts described in paragraph (3) in any case in which the Secretary determines that the objectives of the National Fire Plan would best be accomplished through forest stewardship end result contracting.

(3) Stewardship end result contracting.—

(A) In general.—Subject to the availability of appropriations, the Secretary may enter into stewardship end result contracts to implement the National Fire Plan on National Forest System land based on the stewardship treatment schedules provided in the annual assessments conducted under paragraph (1).

(B) Period of contracts.—The contracting goals and authorities described in subsections (b) through (g) of section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (commonly known as the 'Stewardship End Result Contracting Demonstration Project') (16 U.S.C. 2104 note; Public Law 105–277), shall apply to contracts entered into under this paragraph, except that the period of each such contract shall be 10 years.

(C) Status report.—Beginning with the assessment required under paragraph (1) for fiscal year 2003, the Secretary shall include in the annual assessment under paragraph (1) a status report of the stewardship end result contracts entered into under this paragraph.

(4) Authorization of appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(e) Termination of Authority.—The authority provided under this section shall terminate on September 30, 2006.

SEC. 807. MCINTIRE-STENNIS COOPERATIVE FORESTRY RESEARCH PROGRAM.

It is the sense of Congress to reaffirm the importance of Public Law 87–88 (16 U.S.C. 582a et seq.), commonly known as the McIntire-Stennis Cooperative Forestry Act.

TITLE IX—MISCELLANEOUS PROVISIONS

Subtitle A—Tree Assistance Program

SEC. 901. ELIGIBILITY.

(a) Loss.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 902, to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of a natural disaster, as determined by the Secretary.

(b) Limitation.—An eligible orchardist shall qualify for assistance under subsection (a) only if such orchardist's tree mortality, as a result of the natural disaster, exceeds 15 percent (adjusted for normal mortality).

SEC. 902. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible orchardists for losses described in section 901 shall consist of either—

(1) reimbursement of 75 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient seedlings to reestablish the stand.

SA 2679. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of section 164 and insert a period and the following:

SEC. 165. RESTRICTION OF COMMODITY AND CROP INSURANCE PAYMENTS, LOANS, AND BENEFITS TO PREVIOUSLY CROPPED LAND; FOOD STAMP PROGRAM FUNDING INCREASES.

(a) Restriction.—Section 194 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 945) is amended to read as follows:

“SEC. 194. RESTRICTION OF COMMODITY AND CROP INSURANCE PAYMENTS, LOANS, AND BENEFITS TO PREVIOUSLY CROPPED LAND.

“(a) Definition of Agricultural Commodity.—In this section:

“(1) In general.—The term 'agricultural commodity' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

“(2) Exclusions.—The term 'agricultural commodity' does not include forage, livestock, timber, forest products, or hay.

“(b) Commodities.—

“(1) In general.—Notwithstanding any other provision of this title, except as provided in paragraph (2), the Secretary shall not provide a payment, loan, or other benefit under this title to an owner or producer, with respect to land or a loan commodity planted or considered planted on land during a crop year unless the land has been planted, considered planted, or devoted to an agricultural commodity during —

“(A) at least 1 of the 5 crop years preceding the 2002 crop year; or

“(B) at least 3 of the 10 crop years preceding the 2002 crop year.

“(2) Crop rotation.—Paragraph (1) shall not apply to an owner or producer, with respect to any agricultural commodity planted or considered planted, on land if the land—

“(A) has been planted, considered planted, or devoted to an agricultural commodity during at least 1 of the 20 crop years preceding the 2002 crop year; and

“(B) has been maintained, and will continue to be maintained, using long-term crop rotation practices, as determined by the Secretary.

“(c) Crop Insurance.—Notwithstanding any provision of the Federal Crop Insurance Act (7 U.S.C.1501 et seq.), the Federal Crop Insurance Corporation shall not pay premium subsidies or administrative costs of a reinsured company for insurance regarding a crop insurance policy of a producer under that Act unless, the land that is covered by the insurance policy—

“(1) has been planted, considered planted, or devoted to an agricultural commodity during—

“(A) at least 1 of the 5 crop years preceding the 2002 crop year; or

“(B) at least 3 of the 10 crop years preceding the 2002 crop year; or

“(2)(A) has been planted, considered planted, or devoted to an agricultural commodity during at least 1 of the 20 crop years preceding the 2002 crop year; and

“(B) has been maintained, and will continue to be maintained, using long-term crop rotation practices, as determined by the Secretary.

“(d) Conservation Reserve Land.—For purposes of this section, land that is enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C.3831 et seq.) shall be considered planted to an agricultural commodity.”.

(b) Food Stamp Program.—

(1) Exclusion of licensed vehicles from financial resources.—

(A) In general.—Section 5(g)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)) is amended by striking subparagraph (C) and inserting the following:

“(C) Excluded vehicles.—Financial resources under this paragraph shall not include—

“(i) 1 licensed vehicle per household; and

“(ii) a vehicle (and any other property, real or personal, to the extent that the property is directly related to the maintenance or use of the vehicle) if the vehicle is—

“(I) used to produce earned income;

“(II) necessary for the transportation of a physically disabled household member; or

“(III) depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.”.

(B) Conforming amendment.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (h).

(2) Nutrition assistance for elderly individuals.—

(A) Restoration of eligibility.—Section 402(a)(2)(I) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(I)) is amended by striking “who” and all that follows and inserting the following: “who—

“(i) is lawfully residing in the United States; and

“(ii) is 65 years of age or older.”.

(B) Conforming amendments.—

(i) Section 421(d)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(d)(3)) (as added by section 452(a)(2)(B)) is amended by striking “section 402(a)(2)(J)” and inserting “subparagraph (I) or (J) of section 402(a)(2)”.

(ii) Section 423(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1183a note; Public Law 104–193) is amended by adding at the end the following:

“(12) Benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).”.

(iii) Section 5(i)(2)(E) of the Food Stamp Act of 1977 (7 U.S.C. 2014(i)(2)(E)) (as amended by section 452(a)(2)(C)) is amended by inserting before the period at the end the following: "or is 65 years of age or older".

(C) Applicability.—The amendments made by this paragraph shall apply to fiscal year 2004 and each fiscal year thereafter.

SA 2680. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1022. STUDY OF PROPOSAL TO PROHIBIT PACKERS FROM OWNING, FEEDING, OR CONTROLLING LIVESTOCK.

(a) In General.—Not later than 270 days after the date of enactment of this Act, the Secretary of Agriculture shall complete a study to determine the impact that prohibiting packers described in subsection (b) from owning, feeding, or controlling livestock intended for slaughter more than 14 days prior to slaughter would have on—

(1) livestock producers that market under contract, grid, basis contract, or forward contract;

(2) rural communities and employees of commercial feedlots associated with a packer;

(3) private or cooperative joint ventures in packing facilities;

(4) livestock producers that market feeder livestock to feedlots owned or controlled by packers;

(5) the market price for livestock (both cash and future prices);

(6) the ability of livestock producers to obtain credit from commercial sources;

(7) specialized programs for marketing specific cuts of meat;

(8) the ability of the United States to compete in international livestock markets; and

(9) future investment decisions by packers and the potential location of new livestock packing operations.

(b) Packers.—The packers referred to in subsection (a) are packers that slaughter more than 2 percent of the slaughter of a particular type of livestock slaughtered in the United States in any year.

(c) Consideration.—In conducting the study under subsection (a), the Secretary of Agriculture shall—

(1) consider the legal conditions that have existed in the past regarding the feeding by packers of livestock intended for slaughter; and

(2) determine the impact of those legal conditions.

(d) Effectiveness of Other Provision.—The section entitled "**PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK**", amending section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), shall have no effect.

SA 2681. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 1731 to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . STUDY OF PROPOSAL TO PROHIBIT PACKERS FROM OWNING, FEEDING, OR CONTROLLING LIVESTOCK.

(a) In General.—Not later than 270 days after the date of enactment of this Act, the Secretary of Agriculture shall complete a study to determine the impact that prohibiting packers described in subsection (b) from owning, feeding, or controlling livestock intended for slaughter more than 14 days prior to slaughter would have on—

(1) livestock producers that market under contract, grid, basis contract, or forward contract;

(2) rural communities and employees of commercial feedlots associated with a packer;

(3) private or cooperative joint ventures in packing facilities;

(4) livestock producers that market feeder livestock to feedlots owned or controlled by packers;

(5) the market price for livestock (both cash and future prices);

(6) the ability of livestock producers to obtain credit from commercial sources;

(7) specialized programs for marketing specific cuts of meat;

(8) the ability of the United States to compete in international livestock markets; and

(9) future investment decisions by packers and the potential location of new livestock packing operations.

(b) Packers.—The packers referred to in subsection (a) are packers that slaughter more than 2 percent of the slaughter of a particular type of livestock slaughtered in the United States in any year.

(c) Consideration.—In conducting the study under subsection (a), the Secretary of Agriculture shall—

(1) consider the legal conditions that have existed in the past regarding the feeding by packers of livestock intended for slaughter; and

(2) determine the impact of those legal conditions.

(d) Effectiveness of Other Provision.—The section entitled "**PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK**", amending section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), shall have no effect.

SA 2682. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 165 and insert the following:

SEC. 165. PAYMENT AND NET INCOME LIMITATIONS.

(a) Payment Limitations.—

(1) In general.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) Limitation on direct payments.—The total amount of direct payments made to a person during any fiscal year may not exceed $80,000, with a separate limitation for—

"(A) all contract commodities; and

"(B) peanuts.

"(2) Limitation on counter-cyclical payments.—The total amount of counter-cyclical payments made to a person during any fiscal year may not exceed $75,000, with a separate limitation for—

"(A) all contract commodities; and

"(B) peanuts.

"(3) Limitation on marketing loan gains and loan deficiency payments.—

"(A) In general.—The total amount of the payments and benefits specified in subparagraph (B) that a person shall be entitled to receive under title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.) for 1 or more loan commodities during any crop year may not exceed $75,000, with a separate limitation for—

"(i) all loan commodities (other than wool and honey);

"(ii) wool;

"(iii) honey; and

"(iv) peanuts.

"(B) Description of payments and benefits subject to limitation.—The payments referred to in subparagraph (A) are the following:

"(i) Marketing loan gains.—Any gain realized by a producer from repaying a marketing assistance loan under section 131 or 158G(a) of the Federal Agriculture Improvement and Reform Act of 1996 for a crop of any loan commodity or peanuts, respectively, at a lower level than the original loan rate established for the loan commodity or peanuts under section 132 or 158G(d) of that Act, respectively.

"(ii) Loan deficiency payments.—Any loan deficiency payment received for a loan commodity or peanuts under section 135 or 158G(e) of that Act, respectively.

"(4) Definitions.—In paragraphs (1) through (3):

"(A) Contract commodity.—The term 'contract commodity' has the meaning given the term in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202).

"(B) Counter-cyclical payment.—The term 'counter-cyclical payment" means a payment made under section 114 or 158D of that Act.

"(C) Direct payment.—The term 'direct payment' means a payment made under section 113 or 158C of that Act.

"(D) Loan commodity.—The term 'loan commodity' has the meaning given the term in section 102 of that Act.

"(E) Secretary.—The term 'Secretary' means the Secretary of Agriculture.".

(2) Transition.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to fiscal year 2001 and the 2001 crop of any contract commodity or loan commodity (as defined in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202)).

(b) Net Income Limitation.—The Food Security Act of 1985 is amended by inserting after section 1001E (7 U.S.C. 1308–5) the following:

"SEC. 1001F. NET INCOME LIMITATION.

"(a) Definitions.—In this section:

"(1) Adjusted gross agricultural income.—The term 'adjusted gross agricultural income' means the adjusted gross income for all agricultural enterprises of an owner or producer in a year, excluding revenue earned from nonagricultural sources, as determined by the Secretary—

"(A) by taking into account gross receipts from the sale of crops and livestock on all agricultural enterprises of the owner or producer, including insurance indemnities resulting from losses in the agricultural enterprises;

"(B) by including all farm payments paid by the Secretary for all agricultural enterprises of the owner or producer, including payments and benefits described in section 1001(2)(B);

"(C) by deducting the cost or basis of livestock or other items purchased for resale, such as feeder livestock, on all agricultural enterprises of the owner or producer; and

"(D) as represented on a schedule F of the Federal income tax returns of the owner or producer or a comparable tax form related to the agricultural enterprises of the owner or producer, as approved by the Secretary.

"(2) ADJUSTED GROSS INCOME.—The term 'adjusted gross income' has the meaning given the term in section 62 of the Internal Revenue Code of 1986.

"(b) LIMITATION.—Notwithstanding any other provision of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.), an owner or producer shall not be eligible for a payment or benefit described in paragraphs (1) or (2) of section 1001 for a fiscal or crop year (as appropriate) if—

"(1) the average adjusted gross income of the owner or producer for each of the preceding 3 taxable years exceeds $2,500,000; and

"(2) less than 75 percent of the adjusted gross income of the owner or producer is adjusted gross agricultural income.".

(c) LOAN DEFICIENCY PAYMENTS.—

(1) ELIGIBILITY.—Section 135 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235) (as amended by section 126(1)) is amended by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—The Secretary may make loan deficiency payments available to—

"(1) producers on a farm that, although eligible to obtain a marketing assistance loan under section 131 with respect to a loan commodity, agree to forgo obtaining the loan for the covered commodity in return for payments under this section; and

"(2) effective only for the 2000 and 2001 crop years, producers that, although not eligible to obtain such a marketing assistance loan under section 131, produce a loan commodity.".

(2) BENEFICIAL INTEREST.—Section 135(e)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235(e)) (as amended by section 126(2)) is amended by striking "A producer" and inserting "Effective for the 2001 crop, a producer".

(d) PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.—Subtitle C of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231 et seq.) is amended by adding at the end the following:

"SEC. 138. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

"(a) IN GENERAL.—For each of the 2002 through 2006 crops of wheat, grain sorghum, barley, and oats, in the case of the producers on a farm that would be eligible for a loan deficiency payment under section 135 for wheat, grain sorghum, barley, or oats, but that elects to use acreage planted to the wheat, grain sorghum, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producers on the farm under this section if the producers on the farm enter into an agreement with the Secretary to forgo any other harvesting of the wheat, grain sorghum, barley, or oats on the acreage.

"(b) PAYMENT AMOUNT.—The amount of a payment made to the producers on a farm under this section shall be equal to the amount obtained by multiplying—

"(1) the loan deficiency payment rate determined under section 135(c) in effect, as of the date of the agreement, for the county in which the farm is located; by

"(2) the payment quantity obtained by multiplying—

"(A) the quantity of the grazed acreage on the farm with respect to which the producers on the farm elect to forgo harvesting of wheat, grain sorghum, barley, or oats; and

"(B) the payment yield for that contract commodity on the farm.

"(c) TIME, MANNER, AND AVAILABILITY OF PAYMENT.—

"(1) TIME AND MANNER.—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 135.

"(2) AVAILABILITY.—The Secretary shall establish an availability period for the payment authorized by this section that is consistent with the availability period for wheat, grain sorghum, barley, and oats established by the Secretary for marketing assistance loans authorized by this subtitle.

"(d) PROHIBITION ON CROP INSURANCE OR NONINSURED CROP ASSISTANCE.—The producers on a farm shall not be eligible for insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 with respect to a 2002 through 2006 crop of wheat, grain sorghum, barley, or oats planted on acreage that the producers on the farm elect, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop.".

SA 2683. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2568 submitted by Mr. HELMS and intended to be proposed to the amendment SA 2471 proposed by Mr. DASCHLE to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, in amendment No. 2568, insert the following:

SEC. 1 . UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

Title III of the Packers and Stockyards Act, 1921, (7 U.S.C. 201 et seq.) is amended by adding at the end the following:

"SEC. 318. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

"(a) DEFINITIONS.—In this section:

"(1) HUMANELY EUTHANIZE.—The term 'humanely euthanize' means to kill an animal by mechanical, chemical, or other means that immediately render the animal unconscious, with this state remaining until the animal's death.

"(2) NONAMBULATORY LIVESTOCK.—The term 'nonambulatory livestock' means any livestock that is unable to stand and walk unassisted.

"(b) UNLAWFUL PRACTICES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any stockyard owner, market agency, or dealer to buy, sell, give, receive, transfer, market, hold, or drag any nonambulatory livestock unless the nonambulatory livestock has been humanely euthanized.

"(2) EXCEPTIONS.—

"(A) NON-GIPSA FARMS.—Paragraph (1) shall not apply to any farm the animal care practices of which are not subject to the authority of the Grain Inspection, Packers, and Stockyards Administration.

"(B) VETERINARY CARE.—Paragraph (1) shall not apply in a case in which nonambulatory livestock receive veterinary care intended to render the livestock ambulatory.

"(c) APPLICATION OF PROHIBITION.—Subsection (b) shall apply beginning one year after the date of the enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2001. By the end of such period, the Secretary shall promulgate regulations to carry out this section.".

SA 2684. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of subtitle C of title X and insert a period and the following:

SEC. 1033. IMPORTATION OF MUNICIPAL SOLID WASTE.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—

(1) IN GENERAL.—In this section, the term "municipal solid waste" means waste material generated by—

(A) a household (including a single family or multifamily residence); and

(B) a commercial, industrial, or institutional entity, to the extent that the waste material—

(i) is essentially the same as waste normally generated by a household;

(ii) is collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services; and

(iii) contains a relative quantity of hazardous substances no greater than the relative quantity of hazardous substances contained in waste material generated by a typical single-family household.

(2) INCLUSIONS.—The term "municipal solid waste" includes—

(A) food and yard waste;

(B) paper;

(C) clothing;

(D) appliances;

(E) consumer product packaging;

(F) disposable diapers;

(G) office supplies;

(H) cosmetics;

(I) glass and metal food containers;

(J) elementary or secondary school science laboratory waste; and

(K) household hazardous waste.

(3) EXCLUSIONS.—The term "municipal solid waste" does not include—

(A) combustion ash generated by resource recovery facilities or municipal incinerators; or

(B) waste material from manufacturing or processing operations (including pollution control operations) that is not essentially the same as waste normally generated by households.

(b) IMPLEMENTATION OF AGREEMENTS.—As soon as practicable after the date of enactment of this Act, the President shall implement the agreement entitled "Agreement Between the Government of the United States and the Government of Canada Concerning the Transboundary Movement of Hazardous Waste, Ottawa, 1986", done at Ottawa on October 28, 1986 (TIAS 11099), as amended at Washington on November 4 and 25, 1992.

SA 2685. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . AGRICULTURAL RESEARCH AND TECHNOLOGY.

(a) FIELD STUDIES.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall conduct field studies on—

(A) the transmission of spongiform encephalopathy in deer, elk, and moose; and

(B) chronic wasting disease (including the risks that chronic wasting disease poses to livestock).

(2) REPORT.—Not later than February 1, 2002, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the field studies.

(b) RESEARCH AND EXTENSION GRANT PROGRAM.—As soon as practicable after the date of enactment of this Act, the Secretary shall establish a program to provide research and extension grants to eligible entities (as determined by the Secretary) to develop, for livestock production—

(1) prevention and control methodologies for infectious animal diseases that affect trade, including—

(A) vesicular stomatitis;

(B) bovine tuberculosis;

(C) transmissible spongiform encephalopathy;

(D) burcellosis; and

(E) E. coli 0157:H7 infection;

(2) laboratory tests to expedite detection of—

(A) infected livestock; and

(B) the presence of diseases within herds or flocks of livestock; and

(3) prevention strategies, including vaccination programs, for infectious diseases that affect livestock.

(c) OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the President shall—

(A) establish within the Office of Science and Technology Policy a noncareer, senior executive service appointment position for a Veterinary Advisor; and

(B) appoint an individual to the position.

(2) QUALIFICATIONS; DUTIES.—The individual appointed to the position described in paragraph (1) shall—

(A) hold the degree of Doctor of Veterinary Medicine from an accredited college of veterinary medicine in the United States; and

(B) provide to the science advisor of the President expertise in— .

(i) exotic animal disease detection, prevention, and control;

(ii) food safety; and

(iii) animal agriculture.

(3) EXECUTIVE SCHEDULE PAY RATES.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Veterinary Advisor, Office of Science and Technology Policy.".

(d) VACCINES.—

(1) VACCINE STORAGE STUDY.—Not later than December 1, 2001, the Secretary shall—

(A) conduct a study to determine the number of doses of livestock disease vaccines that should be available to protect against livestock diseases that could be introduced into the United States; and

(B) compare that number with the number of doses of the livestock disease vaccines that are available as of that date.

(2) STOCKPILING OF VACCINES.—If, after conducting the study and comparison described in paragraph (1), the Secretary determines that there is an insufficient number of doses of a particular vaccine referred to in that paragraph, the Secretary shall take such actions as are necessary to obtain the required additional doses of the vaccine.

(e) VETERINARY TRAINING.—Not later than December 1, 2001, the Secretary shall develop a plan to ensure that, during the 2-year period beginning on that date, veterinarians representing all regions of the United States, especially regions in which livestock production is a major industry, are trained to identify highly infectious livestock diseases.

(f) FUNDING FOR FISCAL YEAR 2002.—

(1) IN GENERAL.—On October 1, 2002, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $15,000,000 to carry out this section, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive the funds and shall accept the funds provided under paragraph (1), without further appropriation.

SA 2686. Mr. GRASSLEY (for himself, Mr. HAGEL, Mr. LUGAR, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter to be inserted, insert:

Notwithstanding any other provision of this act, the payment limitation provisions shall be:

SEC. . PAYMENT LIMITATIONS; NUTRITION AND COMMODITY PROGRAMS.

(a) PAYMENT LIMITATIONS.—

(1) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (6) and inserting the following:

"(1) LIMITATIONS ON DIRECT AND COUNTER-CYCLICAL PAYMENTS.—Subject to paragraph (5)(A), the total amount of direct payments and counter-cyclical payments made directly or indirectly to an individual or entity during any fiscal year may not exceed $75,000.

"(2) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—

"(A) IN GENERAL.—Subject to paragraph (5)(A), the total amount of the payments and benefits described in subparagraph (B) that an individual or entity may directly or indirectly receive during any crop year may not exceed $150,000.

"(B) PAYMENTS AND BENEFITS.—Subparagraph (A) shall apply to the following payments and benefits:

"(i) MARKETING LOAN GAINS.—

"(I) REPAYMENT GAINS.—Any gain realized by a producer from repaying a marketing assistance loan under section 131 or 158G(a) of the Federal Agriculture Improvement and Reform Act of 1996 for a crop of any loan commodity or peanuts, respectively, at a lower level than the original loan rate established for the loan commodity or peanuts under section 132 or 158G(d) of that Act, respectively.

"(II) FORFEITURE GAINS.—In the case of settlement of a marketing assistance loan under section 131 or 158G(a) of that Act for a crop of any loan commodity or peanuts, respectively, by forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

"(ii) LOAN DEFICIENCY PAYMENTS.—Any loan deficiency payment received for a loan commodity or peanuts under section 135 or 158G(e) of that Act, respectively.

"(iii) COMMODITY CERTIFICATES.—Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under section 131 or 158G(a) of that Act.

"(3) SETTLEMENT OF CERTAIN LOANS.—Notwithstanding subtitle C and section 158G of the Federal Agriculture Improvement and Reform Act of 1996, if the amount of payments and benefits described in paragraph (2)(B) attributed directly or indirectly to an individual or entity for a crop year reaches the limitation described in paragraph (2)(A), the portion of any unsettled marketing assistance loan made under section 131 or 158G(a) of that Act attributed directly or indirectly to the individual or entity shall be settled through the repayment of the total loan principal, plus applicable interest.

"(4) DEFINITIONS.—In this section and sections 1001A through 1001F:

"(A) COUNTER-CYCLICAL PAYMENT.—The term 'counter-cyclical payment" means a payment made under section 114 or 158D of the Federal Agriculture Improvement and Reform Act of 1996.

"(B) DIRECT PAYMENT.—The term 'direct payment' means a payment made under section 113 or 158C of that Act.

"(C) LOAN COMMODITY.—The term 'loan commodity' has the meaning given the term in section 102 of that Act.

"(D) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(5) APPLICATION OF LIMITATION.—

"(A) MARRIED COUPLES.—The total amount of payments and benefits described paragraphs (1) and (2) that a married couple may receive directly or indirectly may not exceed $275,000 during the fiscal or crop year (as appropriate).

"(B) TENANT RULE.—

"(i) IN GENERAL.—Any individual or entity that conducts a farming operation to produce a crop subject to the limitations established under this section as a tenant shall be ineligible to receive any payment or benefit described in paragraph (1) or (2), or subtitle D of title XII, with respect to the land unless the individual or entity makes a contribution of active personal labor to the operation that is at least equal to the lesser of—

"(I) 1000 hours; or

"(II) 40 percent of the minimum number of labor hours required to produce each commodity by the operation (as described in clause (ii)).

"(ii) MINIMUM NUMBER OF LABOR HOURS.—For the purpose of clause (i)(II), the minimum number of labor hours required to produce each commodity shall be equal to the number of hours that would be necessary to conduct a farming operation for the production of each commodity that is comparable in size to an individual or entity's commensurate share in the farming operation for the production of the commodity, based on the minimum number of hours per acre required to produce the commodity in the State where the farming operation is located, as determined by the Secretary.

"(6) PUBLIC SCHOOLS.—The provisions of this section that limit payments to any individual or entity shall not be applicable to land owned by a public school district or land owned by a State that is used to maintain a public school.".

(2) SUBSTANTIVE CHANGE.—Section 1001A(a) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)) is amended—

(A) in the section heading, by striking "**PREVENTION OF CREATION OF ENTITIES TO QUALITY AS SEPARATE PERSONS;" AND INSERTING "SUBSTANTIVE CHANGE;**";

(B) by striking "(a) PREVENTION" and all that follows through the end of paragraph (2) and inserting the following:

"(a) SUBSTANTIVE CHANGE.—

"(1) IN GENERAL.—The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of individuals or entities to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

"(2) FAMILY MEMBERS.—For the purpose of paragraph (1), the addition of a family member to a farming operation under the criteria established under subsection (b)(1)(B) shall be considered a bona fide and substantive change in the farming operation.";

(C) in the first sentence of paragraph (3)—

(i) by striking "as a separate person"; and

(ii) by inserting ", as determined by the Secretary" before the period at the end; and

(D) by striking paragraph (4).

(3) ACTIVELY ENGAGED IN FARMING.—Section 1001A(b) of the Food Security Act of 1985 (7 U.S.C. 1308–1(b)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—To be eligible to receive, directly or indirectly, payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) with respect to a particular farming operation an individual or entity shall be actively engaged in farming with respect to the operation, as provided under paragraphs (2), (3), and (4).";

(B) in paragraph (2), by adding at the end the following:

"(E) ACTIVE PERSONAL MANAGEMENT.—For an individual to be considered to be providing active personal management under this paragraph on behalf of the individual or a corporation or entity, the management provided by the individual shall be personally provided on a regular, substantial, and continuous basis through the direction supervision and direction of—

"(i) activities and labor involved in the farming operation; and

"(ii) on-site services that are directly related and necessary to the farming operation.";

(C) in paragraph (3)—

(i) by striking subparagraph (A) and inserting the following:

"(A) LANDOWNERS.—An individual or entity that is a landowner contributing the owned land to the farming operation and that meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A), if the landowner—

"(i) share rents the land; or

"(ii) makes a significant contribution of active personal management."; and

(ii) in subparagraph (B), by striking "persons" and inserting "individuals and entities"; and

(D) in paragraph (4)—

(i) in the paragraph heading, by striking "PERSONS" and inserting "INDIVIDUALS AND ENTITIES";

(ii) in the matter preceding subparagraph (A), by striking "persons" and inserting "individuals and entities"; and

(iii) in subparagraph (B)—

(I) in the subparagraph heading, by striking "PERSONS" and inserting "INDIVIDUALS AND ENTITIES"; and

(II) by striking "person, or class of persons" and inserting "individual or entity, or class of individuals or entities";

(E) by striking paragraph (5);

(F) in paragraph (6), by striking "a person" and inserting "an individual or entity"; and

(G) by redesignating paragraph (6) as paragraph (5).

(4) ADMINISTRATION.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended by adding at the end the following:

"(c) ADMINISTRATION.—

"(1) REVIEWS.—

"(A) IN GENERAL.—During each of fiscal years 2002 through 2006, the Office of Inspector General for the Department of Agriculture shall conduct a review of the administration of the requirements of this section and sections 1001, 1001B, 1001C, and 1001E in at least 6 States.

"(B) MINIMUM NUMBER OF COUNTIES.—Each State review described in subparagraph (A) shall cover at least 5 counties in the State.

"(C) REPORT.—Not later than 90 days after completing a review described in subparagraph (A), the Inspector General for the Department of Agriculture shall issue a final report to the Secretary of the findings of the Inspector General.

"(2) EFFECT OF REPORT.—If a report issued under paragraph (1) reveals that significant problems exist in the implementation of payment limitation requirements of this section and sections 1001, 1001B, 1001C, and 1001E in a State and the Secretary agrees that the problems exist, the Secretary—

"(A) shall initiate a training program regarding the payment limitation requirements; and

"(B) may require that all payment limitation determinations regarding farming operations in the State be issued from the headquarters of the Farm Service Agency.".

(5) SCHEME OR DEVICE.—Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended by striking "person" each place it appears and inserting "individual or entity".

(6) FOREIGN INDIVIDUALS AND ENTITIES.—Section 1001C(b) of the Food Security Act of 1985 (7 U.S.C. 1308–3(b)) is amended in the first sentence by striking "considered a person that is".

(7) EDUCATION PROGRAM.—Section 1001D(c) of the Food Security Act of 1985 (7 U.S.C. 1308–4(c)) is amended by striking "5 persons" and inserting "5 individuals or entities".

(8) REPORT TO CONGRESS.—No later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall provide a report to and to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes—

(A) how State and county office employees are trained regarding the payment limitation requirements of section 1001 through 1001E of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–5);

(B) the general procedures used by State and county office employees to identify potential violations of the payment limitation requirements;

(C) the requirements for State and county office employees to report serious violations of the payment limitation requirements, including violations of section 1001B of that Act to the county committee, higher level officials of the Farm Service Agency, and to the Office of Inspector General; and

(D) the sanctions imposed against State and county office employees who fail to report or investigate potential violations of the payment limitation requirements.

(b) NET INCOME LIMITATION.—The Food Security Act of 1985 is amended by inserting after section 1001E (7 U.S.C. 1308–5) the following:

"SEC. 1001F. NET INCOME LIMITATION.

"Notwithstanding any other provision of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.), an owner or producer shall not be eligible for a payment or benefit described in paragraphs (1) or (2) of section 1001 for a fiscal or crop year (as appropriate) if the average adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the owner or producer for each of the preceding 3 taxable years exceeds $2,500.000.".

(c) FOOD STAMP PROGRAM.—

(1) INCREASE IN BENEFITS TO HOUSEHOLDS WITH CHILDREN.—Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking paragraph (1) and inserting the following:

"(1) STANDARD DEDUCTION.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall allow for each household a standard deduction that is equal to the greater of—

"(i) the applicable percentage specified in subparagraph (D) of the applicable income standard of eligibility established under subsection (c)(1); or

"(ii) the minimum deduction specified in subparagraph (E).

"(B) GUAM.—The Secretary shall allow for each household in Guam a standard deduction that is—

"(i) equal to the applicable percentage specified in subparagraph (D) of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

"(ii) not less than the minimum deduction for Guam specified in subparagraph (E).

"(C) HOUSEHOLDS OF 6 OR MORE MEMBERS.—The income standard of eligibility established under subsection (c)(1) for a household of 6 members shall be used to calculate the standard deduction for each household of 6 or more members.

"(D) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (A), the applicable percentage shall be—

"(i) 8 percent for each of fiscal years 2002 through 2004;

"(ii) 8.25 percent for each of fiscal years 2005 and 2006;

"(iii) 8.5 percent for each of fiscal years 2007 and 2008;

"(iv) 8.75 percent for fiscal year 2009; and

"(v) 9 percent for each of fiscal years 2010 and 2011.

"(E) MINIMUM DEDUCTION.—The minimum deduction shall be $134, $229, $189, $269, and $118 for the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, respectively.".

(2) PARTICIPANT EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(I)(i)(I)) is amended by striking ", except that the State agency may limit such reimbursement to each participant to $25 per month".

(3) FEDERAL REIMBURSEMENT.—Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)) is amended by striking "such total amount shall not exceed an amount representing $25 per participant per month for costs of transportation and other actual costs (other than dependent care costs) and" and inserting "the amount of the reimbursement for dependent care expenses shall not exceed".

(4) EFFECTIVENESS OF CERTAIN PROVISIONS.—Section 413 and subsections (c) and (d) of section 433, and the amendments made by section 413 and subsections (c) and (d) of section 433, shall have no effect.

(d) EXCLUSION OF RETIREMENT ACCOUNTS FROM FINANCIAL RESOURCES.—SECTION 5(G)(2)(B) OF THE FOOD STAMP ACT OF 1977 (7 U.S.C. 2014(G)(2)(B)) (AS AMENDED BY SECTION 423(A)(1)) IS AMENDED BY STRIKING CLAUSE (IV) AND INSERTING THE FOLLOWING:

"(iv) any savings account (other than a retirement account (including an individual account)).".

(e) LOAN DEFICIENCY PAYMENTS.—

(1) ELIGIBILITY.—Section 135 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235) (as amended by section 126(1)) is amended by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—The Secretary may make loan deficiency payments available to—

"(1) producers on a farm that, although eligible to obtain a marketing assistance loan under section 131 with respect to a loan commodity, agree to forgo obtaining the loan for the covered commodity in return for payments under this section; and

"(2) effective only for the 2000 and 2001 crop years, producers that, although not eligible to obtain such a marketing assistance loan under section 131, produce a loan commodity.".

(2) BENEFICIAL INTEREST.—Section 135(e)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235(e)) (as amended by section 126(2)) is amended by striking "A producer" and inserting "Effective for the 2001 through 2006 crops, a producer".

(f) INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.—Section 401(b)(1) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)(1)) (as amended by section 741) is amended—

(1) in subparagraph (A), by striking "$120,000,000" and inserting "$130,000,000"; and

(2) in subparagraph (B), by striking "$145,000,000" and inserting "$225,000,000".

SA 2687. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3210, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Terrorism Reinsurance Loan and Grant Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Loan and grant programs.
Sec. 102. Credit for reinsurance.
Sec. 103. Mandatory coverage by property and casualty insurers for acts of terrorism.
Sec. 104. Monitoring and enforcement.
Sec. 105. Administrative provisions.
Sec. 106. Termination of programs.
Sec. 107. Definitions.

TITLE II—LOAN PROGRAM

Sec. 201. National terrorism reinsurance loan program.
Sec. 202. Repayment of loans.
Sec. 203. Reports by insurers.
Sec. 204. Rates; rate-making methodology and data.

TITLE III—GRANT PROGRAM

Sec. 301. National terrorism insurance loss grant program.
Sec. 302. Coverage provided.
Sec. 303. Authorization of appropriations.

TITLE IV—LITIGATION

Sec. 401. Procedures for civil actions.
Sec. 402. Punitive damages against insurers.

TITLE I—GENERAL PROVISIONS

SEC. 101. LOAN AND GRANT PROGRAMS.

(a) IN GENERAL.—If the Secretary determines that there are losses from terrorism on covered lines in calendar year 2002 then the Secretary shall—

(1) make loans to insurers under title II, to the extent that the aggregate amount of such losses does not exceed $10,000,000,000; and

(2) make grants under title III, to the extent that the aggregate amount of such losses exceeds $10,000,000,000.

(b) DETERMINATION.—

(1) INITIAL DETERMINATION.—The Secretary shall make an initial determination as to whether the losses were caused by an act of terrorism.

(2) NOTICE AND HEARING.—The Secretary shall give public notice of the initial determination and afford all interested parties an opportunity to be heard on the question of whether the losses were caused by an act of terrorism.

(3) FINAL DETERMINATION.—Within 30 days after the Secretary's initial determination, the Secretary shall make a final determination as to whether the losses were caused by an act of terrorism.

(4) STANDARD OF REVIEW.—The Secretary's determination shall be upheld upon judicial review if based upon substantial evidence.

SEC. 102. CREDIT FOR REINSURANCE.

Each State shall afford an insurer credit on the same basis and to the same extent that credit for reinsurance would be available to that insurer under applicable State law when reinsurance is obtained from an assuming insurer licensed or accredited in that State that is economically equivalent to that insurer's eligibility for loans under title II and grants under title III.

SEC. 103. MANDATORY COVERAGE BY PROPERTY AND CASUALTY INSURERS FOR ACTS OF TERRORISM.

(a) IN GENERAL.—An insurer that provides lines of coverage described in section 107(1)(A) or (B) may not—

(1) exclude or limit coverage in those lines for losses from acts of terrorism in the United States, its territories, and possessions in property and casualty insurance policy forms; or

(2) deny or cancel coverage solely due to the risk of losses from acts of terrorism in the United States.

(b) TERMS AND CONDITIONS.—Insurance against losses from acts of terrorism in the United States shall be covered with the same deductibles, limits, terms, and conditions as the standard provisions of the policy for non-catastrophic perils.

SEC. 104. MONITORING AND ENFORCEMENT.

(a) FTC ANALYSIS AND ENFORCEMENT.—The Federal Trade Commission shall review reports submitted by insurers under title II or III treating any proprietary data, privileged data, or trade or business secret information contained in the reports as privileged and confidential, for the purpose of determining whether any insurer is engaged in unfair methods of competition or unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45)).

(b) GAO REVIEW OF REPORTS AND STATE REGULATORS.—The Comptroller General shall—

(1) provide for review and analysis of the reports submitted under titles II and III;

(2) review the efforts of State insurance regulatory authorities to keep premium rates for insurance against losses from acts of terrorism on covered lines reasonable;

(3) if the Secretary makes any loans under this title, provide for the audit of loan claims filed by insurers as requested by the Secretary; and

(4) on a timely basis, make any recommendations the Comptroller General may deem appropriate to the Congress for improvements in the programs established by this title before its termination.

(c) APPLICATION OF CERTAIN LAWS.—Notwithstanding any limitation in the McCarran-Ferguson Act (15 U.S.C. 1011 et seq.) or section 6 of the Federal Trade Commission Act (15 U.S.C. 46), the Federal Trade Commission Act (15 U.S.C. 41 et seq.) shall apply to insurers receiving a loan or grant under this Act. In determining whether any such insurer has been, or is, using any unfair method of competition, or unfair or deceptive act or practice, in violation of section 5 of that Act (15 U.S.C. 45), the Federal Trade

Commission shall consider relevant information provided in reports submitted under this Act.

SEC. 105. ADMINISTRATIVE PROVISIONS.

In carrying out this Act, the Secretary may—

(1) issue such rules and regulations as may be necessary to administer this Act;

(2) make loans and grants and carry out the activities necessary to implement this Act;

(3) take appropriate action to collect premiums or assessments under this Act; and

(4) audit the reports, claims, books, and records of insurers to which the Secretary has made loans or grants under this Act.

SEC. 106. TERMINATION OF PROGRAMS.

(a) LOAN PROGRAM.

(1) IN GENERAL.—The authority of the Secretary to make loans under title II terminates on December 31, 2002, except to the extent necessary—

(A) to provide loans for losses from acts of terrorism occurring during calendar year 2002; and

(B) to recover the amount of any loans made under this title.

(2) ASSESSMENT AND COLLECTION OF LOAN REPAYMENTS.—The Secretary shall continue assessment and collection operations under title II as long as loans from the Secretary under that title are outstanding.

(3) REPORTING AND ENFORCEMENT.—The provisions of sections 202, 203, and 204 shall terminate when the authority of the Secretary to make loans under this title terminates.

(b) GRANT PROGRAM.—The authority of the Secretary to make grants under title III terminates on December 31, 2002.

SEC. 107. DEFINITIONS.

In this Act:

(1) COVERED LINE.

(A) IN GENERAL.—The term "covered line" means any one or a combination of the following, written on a direct basis, as reported by property and casualty insurers in required financial reports on Statutory Page 14 of the NAIC Annual Statement Blank:

(i) Fire.

(ii) Allied lines.

(iii) Commercial multiple peril.

(iv) Ocean marine.

(v) Inland marine.

(vi) Workers compensation.

(vii) Products liability.

(viii) Commercial auto no-fault (personal injury protection), other commercial auto liability, or commercial auto physical damage.

(ix) Aircraft (all peril).

(x) Fidelity and surety.

(xi) Burglary and theft.

(xii) Boiler and machinery.

(xiii) Any other line of insurance that is reported by property and casualty insurers in required financial reports on Statutory Page 14 of the NAIC Annual Statement Blank which is voluntarily elected by an insurer to be included in its terrorism coverage.

(B) OTHER LINES.—For purposes of clause (xiii), the lines of business that may be voluntarily selected are the following:

(i) Farmowners multiple peril.

(ii) Homeowners multiple peril.

(iii) Mortgage guaranty.

(iv) Financial guaranty.

(v) Private passenger automobile insurance

(C) ELECTION.—The election to voluntarily include another line of insurance, if made, must apply to all affiliated insurers that are members of an insurer group. Any voluntary election is on a one-time basis and is irrevocable.

(2) INSURER.

(A) IN GENERAL.—The term "insurer" means an entity writing covered lines on a direct basis and licensed as a property and casualty insurer, risk retention group, or other entity authorized by law as a residual market mechanism providing property or casualty coverage in at least one jurisdiction of the United States, its territories, or possessions and includes residual market insurers.

(B) VOLUNTARY PARTICIPATION.—A State workers' compensation, auto, or property insurance fund may voluntarily participate as an insurer.

(C) GROUP LIFE INSURERS.—The Secretary shall provide, by rule, for—

(i) the term "insurer" to include entities writing group life insurance on a direct basis and licensed as group life insurers; and

(ii) the term "covered line" to include group life insurance written on a direct basis, as reported by group life insurers in required financial reports on the appropriate NAIC Annual Statement Blank.

(3) LOSSES.—The term "losses" means direct incurred losses from an act of terrorism for covered lines, plus defense and cost containment expenses.

(4) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(5) SECRETARY.—Except where otherwise specifically provided, the term "Secretary" means the Secretary of Commerce.

(6) TERRORISM; ACT OF TERRORISM.

(A) IN GENERAL.—The terms "terrorism" and "act of terrorism" mean any act, certified by the Secretary in concurrence with the Secretary of State and the Attorney General, as a violent act or act dangerous to human life, property or infrastructure, within the United States, its territories and possessions, that is committed by an individual or individuals acting on behalf of foreign agents or foreign government) as part of an effort to coerce or intimidate the civilian population of the United States or to influence the policy or affect the conduct of the United States government.

(B) ACTS OF WAR.—No act shall be certified as an act of terrorism if the act is committed in the course of a war declared by the Congress of the United States or by a foreign government.

(C) FINALITY OF CERTIFICATION.—Any certification, or determination not to certify, by the Secretary under subparagraph (A) is final and not subject to judicial review.

TITLE II—LOAN PROGRAM

SEC. 201. NATIONAL TERRORISM REINSURANCE LOAN PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce shall establish and administer a program to provide loans to insurers for claims for losses due to acts of terrorism.

(b) 80 PERCENT COVERAGE.—If the Secretary makes the determination described in section 101(a), then the Secretary shall provide a loan to any insurer for losses on covered lines from acts of terrorism occurring in calendar 2002 equal to 80 percent of the aggregate amount of claims on covered lines.

(c) $800 MILLION LOAN LIMIT.—Notwithstanding any other provision of this title, the total amount of loans outstanding at any time to insurers from the Secretary under this title may not exceed $800,000,000.

(d) 7.5 PERCENT RETENTION MUST BE PAID BEFORE LOAN RECEIVED.—The Secretary may not make a loan under subsection (b) to an insurer until that insurer has paid claims on covered lines for losses from acts of terrorism occurring in calendar year 2002 equal to at least 7.5 percent of that insurer's aggregate liability for such losses.

(e) TERM AND INTEREST RATE.—The Secretary, after consultation with the Secretary of the Treasury and after taking into account market rates of interest, credit ratings of the borrowers, risk factors, and the purpose of this title, shall establish the term, repayment schedule, and the rate of interest for any loan made under subsection (a).

SEC. 202. REPAYMENT OF LOANS.

If the Secretary makes loans to insurers under section 201, the Secretary shall assess all insurers an annual assessment of not more than 3 percent of the direct written premium for covered lines. The annual assessment may be recovered by an insurer from its covered lines policyholders as a direct surcharge calculated as a uniform percentage of premium.

SEC. 203. REPORTS BY INSURERS.

(a) COVERAGE AND CAPACITY.

(1) REPORTING TERRORISM COVERAGE.—An insurer shall—

(A) report the amount of its terrorism insurance coverage to the insurance regulatory authority for each State in which it does business; and

(B) obtain a certification from the State that it is not providing terrorism insurance coverage in excess of its capacity under State solvency requirements.

(2) REPORTS TO SECRETARY.—The State regulator shall furnish a copy of the certification received under paragraph (1) to the Secretary.

(b) ADDITIONAL REPORTS.—Insurers receiving loans under this title shall submit reports on a quarterly or other basis (as required by the Secretary) to the Secretary, the Federal Trade Commission, and the General Accounting Office setting forth rates, premiums, risk analysis, coverage, reserves, claims made for loans from the Secretary, and such additional financial and actuarial information as the Secretary may require regarding lines of coverage described in section 107(1)(A) or (B). The information in these reports shall be treated as confidential by the recipient.

SEC. 204. RATES; RATE-MAKING METHODOLOGY AND DATA.

(a) PREMIUM MUST BE SEPARATELY STATED.—Each insurer offering insurance against losses from acts of terrorism in the United States on covered lines during calendar year 2002 shall state the premium for that insurance separately in any invoice, proposal, or other written communication to policyholders and prospective policyholders.

(b) RATE-MAKING METHODS AND DATA MUST BE PUBLICLY DISCLOSED.

(1) 45-DAY NOTICE.—Not less than 45 days before the date on which an insurer establishes or increases the premium rate for any covered line of insurance described in section 107(1) based, in whole or in part, on risk associated with insurance against losses due to acts of terrorism during calendar year 2002, the insurer shall file a report with the State insurance regulatory authority for the State in which the premium is effective that—

(A) sets forth the methodology and data used to determine the premium; and

(B) identifies the portion of the premium properly attributable to risk associated with insurance offered by that insurer against losses due to acts of terrorism; and

(C) demonstrates, by substantial evidence, why that premium is actuarially justified.

(2) COPY TO FEDERAL TRADE COMMISSION AND GENERAL ACCOUNTING OFFICE.—Each insurer filing a report under paragraph (1) shall file

a duplicate of the report with the Federal Trade Commission and the General Accounting Office at the same time as it is submitted to the State regulatory authority.

(3) REPORTS BY STATE REGULATORS.—Within 15 days after a State insurance regulatory authority receives a report from an insurer required by paragraph (1), the authority—

(A) shall submit a report to the Secretary of Commerce, the Federal Trade Commission, and the General Accounting Office;

(B) shall include in that report a determination with respect to whether an insurer has met the requirement of paragraph (1)(C);

(C) shall certify that—

(i) the methodology and data used by the insurer to determine the premium or increase are reasonable and adequate; and

(ii) the premium or increase is not excessive;

(D) shall disclose the methodology used by the authority to analyze the report and the methodology on which the authority based its certification; and

(E) may include with the report any commentary or analysis it deems appropriate.

(c) BASELINE DATA REPORTS.—Each insurer required to file a report under subsection (b) that provided insurance on covered lines against risk of loss from acts of terrorism in the United States on September 11, 2001, shall file a report with a report with the State insurance regulatory authority for the State in which that insurance was provided, the Federal Trade Commission, and the General Accounting Office that sets forth the methodology and data used to determine the premium for, or portion of the premium properly attributable to, insurance against risk of loss due to acts of terrorism in the United States under its insurance policies in effect on that date.

(d) SPECIAL RULE FOR INITIAL PERIOD.

(1) SEPARATE STATEMENT OF PREMIUM.—An insurer offering insurance against losses from acts of terrorism in the United States on covered lines after the date of enactment of this Act and before March 15, 2002, shall notify each policyholder in writing as soon as possible, but no later than March 1, 2002, of the premium, or portion of the premium, attributable to that insurance, stated separately from any premium or increase in premium attributable to insurance against losses from other risks. Each such insurer shall file a copy of each such policyholder notice with the State insurance regulatory authority for the State in which the premium is effective.

(2) JUSTIFICATION OF PREMIUM; BASELINE DATA.—As soon as possible after the date of enactment of this Act, but no later than March 1, 2002, each such insurer shall comply with—

(A) the requirements of subsection (b)(1) and (2), with respect to the premium or portion of the premium attributable to such insurance; and

(B) the requirements of subsection (c).

TITLE III—GRANT PROGRAM

SEC. 301. NATIONAL TERRORISM INSURANCE LOSS GRANT PROGRAM.

If the Secretary determines under section 101(a) that losses from terrorism on covered lines in calendar year 2002 exceed $10,000,000,000 in the aggregate, then the Secretary shall establish and administer a program under this title to provide grants to insurers for losses to the extent that the aggregate amount of such losses exceeds $10,000,000,000.

SEC. 302. GRANT AMOUNTS.

(a) IN GENERAL.—The Secretary shall make grants to insurers for 90 percent of losses in excess, in the aggregate, of $10,000,000,000 in calendar year 2002.

(b) $50,000,000,000 LIMIT.—Except as provided in subsection (c), the Secretary may not make grants in excess of a total amount for all insurers of $50,000,000,000.

(c) REPORTS TO STATE REGULATOR; CERTIFICATION.

(1) REPORTING TERRORISM COVERAGE.—An insurer shall—

(A) report the amount of its terrorism insurance coverage to the insurance regulatory authority for each State in which it does business; and

(B) obtain a certification from the State that it is not providing terrorism insurance coverage in excess of its capacity under State solvency requirements.

(2) REPORTS TO SECRETARY.—The State regulator shall furnish a copyof the certification received under paragraph (1) to the Secretary.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this title.

TITLE IV—LITIGATION

SEC. 401. PROCEDURES FOR CIVIL ACTIONS.

(a) FEDERAL CAUSE OF ACTION.—There shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from an act of terrorism, which shall be the exclusive cause of action and remedy for claims for property damage, personal injury, or death arising out of or resulting from an act of terrorism. All State causes of action of any kind for property damage, personal injury, or death otherwise available arising out of or resulting from an act of terrorism, are hereby preempted, except as provided in subsection (c).

(b) GOVERNING LAW.—The substantive law for decision in an action for property damage, personal injury, or death arising out of or resulting from an act of terrorism under this section shall be derived from the law, including applicable choice of law principles, of the State, or States determined to be required by the district court having jurisdiction over the action, unless such law is inconsistent with or otherwise preempted by Federal law.

(c) CLAIMS AGAINST TERRORISTS.—Nothing in this section shall in any way limit the ability of any plaintiff to seek any form of recovery from any person, government, or other entity that was a participant in, or aider and abettor of, any act of terrorism.

(d) EFFECTIVE PERIOD.—This section shall apply only to actions for property damage, personal injury, or death arising out of or resulting from acts of terrorism that occur during the period in which the Secretary is authorized to make loans and grants under this Act, including, if applicable, any extension of that period.

SEC. 402. PUNITIVE DAMAGES AGAINST INSURERS.

No punitive damages may be awarded in an action brought under section 401(a) against an insurer.

SA 2688. Mr. DODD (for himself, Mr. MCCONNELL, Mr. SCHUMER, Mr. BOND, Mr. TORRICELLI, Mr. MCCAIN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Equal Protection of Voting Rights Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

Sec. 101. Voting systems standards.
Sec. 102. Provisional voting and voting information requirements.
Sec. 103. Computerized statewide voter registration list requirements and requirements for voters who register by mail.
Sec. 104. Enforcement by the Civil Rights Division of the Department of Justice.

TITLE II—GRANT PROGRAMS

Subtitle A—Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program

Sec. 201. Establishment of the Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program.
Sec. 202. State plans.
Sec. 203. Application.
Sec. 204. Approval of applications.
Sec. 205. Authorized activities.
Sec. 206. Payments.
Sec. 207. Audits and examinations of States and localities.
Sec. 208. Reports to Congress and the Attorney General.
Sec. 209. Authorization of appropriations.
Sec. 210. Effective date.

Subtitle B—Federal Election Reform Incentive Grant Program

Sec. 211. Establishment of the Federal Election Reform Incentive Grant Program.
Sec. 212. Application.
Sec. 213. Approval of applications.
Sec. 214. Authorized activities.
Sec. 215. Payments; Federal share.
Sec. 216. Audits and examinations of States and localities.
Sec. 217. Reports to Congress and the Attorney General.
Sec. 218. Authorization of appropriations.
Sec. 219. Effective date.

Subtitle C—Federal Election Accessibility Grant Program

Sec. 221. Establishment of the Federal Election Accessibility Grant Program.
Sec. 222. Application.
Sec. 223. Approval of applications.
Sec. 224. Authorized activities.
Sec. 225. Payments; Federal share.
Sec. 226. Audits and examinations of States and localities.

Sec. 227. Reports to Congress and the Attorney General.
Sec. 228. Authorization of appropriations.
Sec. 229. Effective date.

TITLE III—ADMINISTRATION

Subtitle A—Election Administration Commission

Sec. 301. Establishment of the Election Administration Commission.
Sec. 302. Membership of the Commission.
Sec. 303. Duties of the Commission.
Sec. 304. Meetings of the Commission.
Sec. 305. Powers of the Commission.
Sec. 306. Commission personnel matters.
Sec. 307. Authorization of appropriations.

Subtitle B—Transition Provisions

Sec. 311. Equal Protection of Voting Rights Act of 2001.
Sec. 312. Federal Election Campaign Act of 1971.
Sec. 313. National Voter Registration Act of 1993.
Sec. 314. Transfer of property, records, and personnel.
Sec. 315. Coverage of Election Administration Commission under certain laws and programs.
Sec. 316. Effective date; transition.

TITLE IV—MISCELLANEOUS

Sec. 401. Criminal penalties.
Sec. 402. Relationship to other laws.

TITLE I—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

SEC. 101. VOTING SYSTEMS STANDARDS.

(a) REQUIREMENTS.—Each voting system used in an election for Federal office shall meet the following requirements:

(1) IN GENERAL.—

(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall—

(i) permit the voter to verify the votes selected by the voter on the ballot before the ballot is cast and counted;

(ii) provide the voter with the opportunity to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and

(iii) if the voter selects votes for more than 1 candidate for a single office, the voting system shall—

(I) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot;

(II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and

(III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

(B) A State or locality that uses a paper ballot voting system or a punchcard voting system may meet the requirement of subparagraph (A) by—

(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii) providing the voter with the opportunity to correct the ballot before it is cast and counted.

(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.

(2) AUDIT CAPACITY.—The voting system shall produce a record with an audit capacity for such system.

(3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—The voting system shall—

(A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;

(B) satisfy the requirement of subparagraph (A) through the use of at least 1 direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and

(C) meet the voting system standards for disability access if purchased with funds made available under title II on or after January 1, 2007.

(4) MULTILINGUAL VOTING MATERIALS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the voting system shall provide alternative language accessibility—

(i) with respect to a language other than English in a State or jurisdiction if, as determined by the Director of the Bureau of the Census—

(I)(aa) at least 5 percent of the total number of voting-age citizens who reside in such State or jurisdiction speak that language as their first language and who are limited-English proficient; or

(bb) there are at least 10,000 voting-age citizens who reside in that jurisdiction who speak that language as their first language and who are limited-English proficient; and

(II) the illiteracy rate of the group of citizens who speak that language is higher than the national illiteracy rate; or

(ii) with respect to a language other than English that is spoken by Native American or Alaskan native citizens in a jurisdiction that contains all or any part of an Indian reservation if, as determined by the Director of the Bureau of the Census—

(I) at least 5 percent of the total number of citizens on the reservation are voting-age Native American or Alaskan native citizens who speak that language as their first language and who are limited-English proficient; and

(II) the illiteracy rate of the group of citizens who speak that language is higher than the national illiteracy rate.

(B) EXCEPTION.—If a State meets the criteria of item (aa) of subparagraph (A)(i)(I) with respect to a language, a jurisdiction of that State shall not be required to provide alternative language accessibility under this paragraph with respect to that language if—

(i) less than 5 percent of the total number of voting age citizens who reside in that jurisdiction speak that language as their first language and are limited-English proficient; and

(ii) the jurisdiction does not meet the criteria of item (bb) of such subparagraph with respect to that language.

(5) ERROR RATES.—The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall not exceed the error rate standards established under the voting systems standards issued and maintained by the Director of the Office of Election Administration of the Federal Election Commission (as revised by the Director of such Office under subsection (c)).

(b) VOTING SYSTEM DEFINED.—In this section, the term "voting system" means—

(1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used—

(A) to define ballots;

(B) to cast and count votes;

(C) to report or display election results; and

(D) to maintain and produce any audit trail information;

(2) the practices and associated documentation used—

(A) to identify system components and versions of such components;

(B) to test the system during its development and maintenance;

(C) to maintain records of system errors and defects;

(D) to determine specific system changes to be made to a system after the initial qualification of the system; and

(E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

(c) ADMINISTRATION BY THE OFFICE OF ELECTION ADMINISTRATION.—

(1) IN GENERAL.—Not later than January 1, 2004, the Director of the Office of Election Administration of the Federal Election Commission, in consultation with the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)), shall promulgate standards revising the voting systems standards issued and maintained by the Director of such Office so that such standards meet the requirements established under subsection (a).

(2) QUADRENNIAL REVIEW.—The Director of the Office of Election Administration of the Federal Election Commission shall review the voting systems standards revised under paragraph (1) no less frequently than once every 4 years.

(d) CONSTRUCTION.—Nothing in this section shall require a jurisdiction to change the voting system or systems (including paper balloting systems, including in-person, absentee, and mail-in paper balloting systems, lever machine systems, punchcard systems, optical scanning systems, and direct recording electronic systems) used in an election in order to be in compliance with this Act.

(e) EFFECTIVE DATE.—Each State and locality shall be required to comply with the requirements of this section on and after January 1, 2006.

SEC. 102. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.

(a) REQUIREMENTS.—If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place, or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows:

(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.

(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is—

(A) a registered voter in the jurisdiction in which the individual desires to vote; and

(B) eligible to vote in that election.

(3) An election official at the polling place shall transmit the ballot cast by the individual to an appropriate State or local election official for prompt verification of the written affirmation executed by the individual under paragraph (2).

(4) If the appropriate State or local election official to whom the ballot is transmitted under paragraph (3) determines that the individual is eligible under State law to vote in the jurisdiction, the individual's provisional ballot shall be counted as a vote in that election.

(5) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that—

(A) the individual will not receive any further notification if the individual's vote is counted;

(B) if the individual's vote is not counted, the individual will be notified not later than the date that is 30 days after the date of the election that the vote was not counted; and

(C) regardless of whether the individual's vote was counted, any individual casting a provisional ballot will be able to ascertain through a free access system (such as a toll-free telephone number or an Internet website) whether the vote was counted, and if the vote was not counted, the reason that the vote was not counted.

(6) The appropriate State or local election official shall—

(A) notify the individual who cast the ballot in writing not later than the date that is 30 days after the date of the election if a provisional ballot that is cast under this subsection is not counted; and

(B) establish a free access system (such as a toll-free telephone number or an Internet website) that any individual casting a provisional ballot may access to discover the reason that such vote was not counted.

(b) Voting Information Requirements.—

(1) Public posting on election day.—The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

(2) Voting information defined.—In this section, the term "voting information" means—

(A) a sample version of the ballot that will be used for that election;

(B) information regarding the date of the election and the hours during which polling places will be open;

(C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;

(D) instructions for mail-in registrants and first-time voters under section 103(b); and

(E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.

(c) Administration by the Civil Rights Division.—Not later than January 1, 2003, the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice shall promulgate such guidelines as are necessary to implement the requirements of subsection (a).

(d) Effective Date.—

(1) Provisional voting.—Each State and locality shall be required to comply with the requirements of subsection (a) on and after January 1, 2004.

(2) Voting information.—Each State and locality shall be required to comply with the requirements of subsection (b) on and after the date of enactment of this Act.

SEC. 103. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.

(a) Computerized Statewide Voter Registration List Requirements.—

(1) Implementation.—

(A) In general.—Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement an interactive computerized statewide voter registration list that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the "computerized list").

(B) Exception.—The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.

(2) Access.—The computerized list shall be accessible to each State and local election official in the State.

(3) Computerized list maintenance.—

(A) In general.—The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:

(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg–6).

(ii) For purposes of removing names of ineligible voters from the official list of eligible voters—

(I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg–6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and

(II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg–6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death.

(B) Conduct.—The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that—

(i) the name of each registered voter appears in the computerized list;

(ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and

(iii) duplicate names are eliminated from the computerized list.

(b) Requirements for Voters Who Register by Mail.—

(1) In general.—Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–4(c)) and subject to paragraph (3), a State shall require an individual to meet the requirements of paragraph (2) if—

(A) the individual registered to vote in a jurisdiction by mail; and

(B) the individual has not previously voted in an election for Federal office in that jurisdiction.

(2) Requirements.—

(A) In general.—An individual meets the requirements of this paragraph if the individual—

(i) in the case of an individual who votes in person—

(I) presents to the appropriate State or local election official a current and valid photo identification; or

(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter; or

(ii) in the case of an individual who votes by mail, submits with the ballot—

(I) a copy of a current and valid photo identification; or

(II) a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter.

(B) Provisional voting.—An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 102(a).

(3) Inapplicability.—Paragraph (1) shall not apply in the case of a person—

(A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–4) and submits as part of such registration either—

(i) a copy of a current valid photo identification; or

(ii) a copy of a current utility bill, bank statement, Government check, paycheck, or Government document that shows the name and address of the voter; or

(B) who is described in a subparagraph of section 6(c)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–4(c)(2)).

(4) Contents of mail-in registration form.—The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–4) shall include:

(A) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(B) The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 or older on election day.

(C) The statement "If you checked 'no' in response to either of these questions, do not complete this form".

(c) Administration by the Civil Rights Division.—Not later than October 1, 2003, the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice shall promulgate such guidelines as are necessary to implement the requirements of subsection (a).

(d) Effective Date.—

(1) Computerized statewide voter registration list requirements.—Each State and locality shall be required to comply with the requirements of subsection (a) on and after January 1, 2004.

(2) Requirements for voters who register by mail.—Each State and locality shall be required to comply with the requirements of subsection (b) on and after the date of enactment of this Act.

SEC. 104. ENFORCEMENT BY THE CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE.

(a) In General.—Subject to subsection (b), the Attorney General, acting through the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice, may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this title.

(b) Safe Harbor.—

(1) In general.—Except as provided in paragraph (2), if a State or locality receives funds under a grant program under subtitle A or B of title II for the purpose of meeting

a requirement under section 101, 102, or 103, such State or locality shall be deemed to be in compliance with such requirement until January 1, 2010, and no action may be brought against such State or locality on the basis that the State or locality is not in compliance with such requirement before such date.

(2) Exception.—The safe harbor provision under paragraph (1) shall not apply with respect to the requirement described in section 101(a)(3).

(c) Relation to Other Laws.—The remedies established by this section are in addition to all other rights and remedies provided by law.

TITLE II—GRANT PROGRAMS

Subtitle A—Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program

SEC. 201. ESTABLISHMENT OF THE UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS GRANT PROGRAM.

(a) In General.—There is established a Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program under which the Attorney General, subject to the general policies and criteria for the approval of applications established under section 204 and in consultation with the Federal Election Commission and the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)), is authorized to make grants to States and localities to pay the costs of the activities described in section 205.

(b) Action Through Office of Justice Programs and Civil Rights Division.—In carrying out this subtitle, the Attorney General shall act through the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice and the Assistant Attorney General in charge of the Civil Rights Division of that Department.

SEC. 202. STATE PLANS.

(a) In General.—Each State that desires to receive a grant under this subtitle shall develop a State plan, in consultation with State and local election officials of that State, that provides for each of the following:

(1) Uniform and nondiscriminatory election technology and administration requirements.—A description of how the State will use the funds made available under this subtitle to meet each of the following requirements:

(A) The voting system standards under section 101.

(B) The provisional voting requirements under section 102.

(C) The computerized statewide voter registration list requirements under section 103(a), including a description of—

(i) how State and local election officials will ensure the accuracy of the list of eligible voters in the State to ensure that only registered voters appear in such list; and

(ii) the precautions that the State will take to prevent the removal of eligible voters from the list.

(D) The requirements for voters who register by mail under section 103(b), including the steps that the State will take to ensure—

(i) the accuracy of mail-in and absentee ballots; and

(ii) that the use of mail-in and absentee ballots does not result in duplicate votes.

(2) Identification, deterrence, and investigation of voting fraud.—An assessment of the susceptibility of elections for Federal office in the State to voting fraud and a description of how the State intends to identify, deter, and investigate such fraud.

(3) Compliance with existing Federal law.—Assurances that the State will comply with existing Federal laws, including the following:

(A) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), including sections 4(f)(4) and 203 of such Act (42 U.S.C. 1973b(f)(4) and 1973aa-1a).

(B) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(C) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(D) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(E) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(4) Timetable.—A timetable for meeting the elements of the State plan.

(b) Availability of State Plans for Review and Comment.—A State shall make the State plan developed under subsection (a) available for public review and comment before the submission of an application under section 203(a).

SEC. 203. APPLICATION.

(a) In General.—Each State or locality that desires to receive a grant under this subtitle shall submit an application to the Attorney General at such time and in such manner as the Attorney General may require, and containing the information required under subsection (b) and such other information as the Attorney General may require.

(b) Contents.—

(1) States.—Each application submitted by a State shall contain the State plan developed under section 202 and a description of how the State proposes to use funds made available under this subtitle to implement such State plan.

(2) Localities.—Each application submitted by a locality shall contain a description of how the locality proposes to use the funds made available under this subtitle in a manner that is consistent with the State plan developed under section 202.

(c) Safe Harbor.—No action may be brought against a State or locality on the basis of any information contained in the application submitted under subsection (a), including any information contained in the State plan developed under section 202.

SEC. 204. APPROVAL OF APPLICATIONS.

The Attorney General shall establish general policies and criteria with respect to the approval of applications submitted by States and localities under section 203(a) (including a review of State plans developed under section 202), the awarding of grants under this subtitle, and the use of assistance made available under this subtitle.

SEC. 205. AUTHORIZED ACTIVITIES.

A State or locality may use grant payments received under this subtitle for any of the following purposes:

(1) To implement voting system standards that meet the requirements of section 101.

(2) To provide for provisional voting that meets the requirements of section 102(a) and to meet the voting information requirements under section 102(b).

(3) To establish a computerized statewide voter registration list that meets the requirements of section 103(a) and to meet the requirements for voters who register by mail under section 103(b).

SEC. 206. PAYMENTS.

(a) In General.—The Attorney General shall pay to each State or locality having an application approved under section 203 the cost of the activities described in that application.

(b) Retroactive Payments.—The Attorney General may make retroactive payments to States and localities having an application approved under section 203 for any costs for election technology or administration that meets a requirement of section 101, 102, or 103 that were incurred during the period beginning on January 1, 2001, and ending on the date on which such application was approved under such section.

SEC. 207. AUDITS AND EXAMINATIONS OF STATES AND LOCALITIES.

(a) Recordkeeping Requirement.—Each recipient of a grant under this subtitle shall keep such records as the Attorney General, in consultation with the Federal Election Commission, shall prescribe.

(b) Audits and Examinations.—The Attorney General and the Comptroller General, or any authorized representative of the Attorney General or the Comptroller General, may audit or examine any recipient of a grant under this subtitle and shall, for the purpose of conducting an audit or examination, have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to the grant.

SEC. 208. REPORTS TO CONGRESS AND THE ATTORNEY GENERAL.

(a) Reports to Congress.—

(1) In general.—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the grant program established under this subtitle for the preceding year.

(2) Contents.—Each report submitted under paragraph (1) shall contain the following:

(A) A description and analysis of any activities funded by a grant awarded under this subtitle.

(B) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) Reports to the Attorney General.—The Attorney General shall require each recipient of a grant under this subtitle to submit reports to the Attorney General at such time, in such manner, and containing such information as the Attorney General considers appropriate.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to carry out the provisions of this subtitle the following amounts:

(1) For fiscal year 2003, $1,000,000,000.

(2) For fiscal year 2004, $1,300,000,000.

(3) For fiscal year 2005, $500,000,000.

(4) For fiscal year 2006, $200,000,000.

(5) For each subsequent fiscal year, such sums as may be necessary.

(b) Availability.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available until expended.

SEC. 210. EFFECTIVE DATE.

The Attorney General shall establish the general policies and criteria for the approval of applications under section 204 in a manner that ensures that the Attorney General is able to approve applications not later than October 1, 2002.

Subtitle B—Federal Election Reform Incentive Grant Program

SEC. 211. ESTABLISHMENT OF THE FEDERAL ELECTION REFORM INCENTIVE GRANT PROGRAM.

(a) In General.—There is established a Federal Election Reform Incentive Grant

Program under which the Attorney General, subject to the general policies and criteria for the approval of applications established under section 213(a) and in consultation with the Federal Election Commission and the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)), is authorized to make grants to States and localities to pay the costs of the activities described in section 214.

(b) Action Through Office of Justice Programs and Civil Rights Division.—In carrying out this subtitle, the Attorney General shall act through—

(1) the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice; and

(2) the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice (in this subtitle referred to as the "Assistant Attorney General for Civil Rights").

SEC. 212. APPLICATION.

(a) In General.—Each State or locality that desires to receive a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General shall require, consistent with the provisions of this section.

(b) Contents.—Each application submitted under subsection (a) shall—

(1) describe the activities for which assistance under this section is sought;

(2) contain a request for certification by the Assistant Attorney General for Civil Rights described in subsection (c);

(3) provide assurances that the State or locality will pay the non-Federal share of the cost of the activities for which assistance is sought from non-Federal sources; and

(4) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this subtitle.

(c) Request for Certification by the Civil Rights Division.—

(1) Compliance with current Federal election law.—

(A) In general.—Except as provided in subparagraph (B), each request for certification described in subsection (b)(2) shall contain a specific and detailed demonstration that the State or locality is in compliance with each of the following laws:

(i) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), including sections 4(f)(4) and 203 of such Act (42 U.S.C. 1973b(f)(4) and 1973aa-1a).

(ii) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(iii) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(iv) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(v) The Americans with Disabilities Act of 1990 (42 U.S.C. 1994 et seq.).

(vi) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(B) Applicants unable to meet requirements.—Each State or locality that, at the time it applies for a grant under this subtitle, does not demonstrate that it meets each requirement described in subparagraph (A), shall submit to the Attorney General a detailed and specific demonstration of how the State or locality intends to use grant funds to meet each such requirement.

(2) Uniform and nondiscriminatory requirements for election technology and administration.—In addition to the demonstration required under paragraph (1), each request for certification described in subsection (b)(2) shall contain a specific and detailed demonstration that the proposed use of grant funds by the State or locality is not inconsistent with the requirements under section 101, 102, or 103.

(d) Safe Harbor.—No action may be brought against a State or locality on the basis of any information contained in the application submitted under subsection (a), including any information contained in the request for certification described in subsection (c).

SEC. 213. APPROVAL OF APPLICATIONS.

(a) In General.—Subject to subsection (b), the Attorney General shall establish general policies and criteria for the approval of applications submitted under section 212(a).

(b) Certification Procedure.—

(1) In general.—The Attorney General may not approve an application of a State or locality submitted under section 212(a) unless the Attorney General has received a certification from the Assistant Attorney General for Civil Rights under paragraph (4) with respect to such State or locality.

(2) Transmittal of request.—Upon receipt of the request for certification submitted under section 212(b)(2), the Attorney General shall transmit such request to the Assistant Attorney General for Civil Rights.

(3) Certification; noncertification.—

(A) Certification.—If the Assistant Attorney General for Civil Rights finds that the request for certification demonstrates that—

(i) a State or locality meets the requirements of subparagraph (A) of section 212(c)(1), or that a State or locality has provided a detailed and specific demonstration of how it will use funds received under this section to meet such requirements under subparagraph (B) of such section; and

(ii) the proposed use of grant funds by the State or locality meets the requirements of section 212(c)(2),

the Assistant Attorney General for Civil Rights shall certify that the State or locality is eligible to receive a grant under this subtitle.

(B) Noncertification.—If the Assistant Attorney General for Civil Rights finds that the request for certification does not demonstrate that a State or locality meets the requirements described in subparagraph (A), the Assistant Attorney General for Civil Rights shall not certify that the State or locality is eligible to receive a grant under this subtitle.

(4) Transmittal of certification.—The Assistant Attorney General for Civil Rights shall transmit to the Attorney General either—

(A) a certification under subparagraph (A) of paragraph (3); or

(B) a notice of noncertification under subparagraph (B) of such paragraph, together with a report identifying the relevant deficiencies in the State's or locality's system for voting or administering elections for Federal office or in the request for certification submitted by the State or locality.

SEC. 214. AUTHORIZED ACTIVITIES.

A State or locality may use grant payments received under this subtitle—

(1) to improve, acquire, lease, modify, or replace voting systems and technology and to improve the accessibility of polling places, including providing physical access for individuals with disabilities, providing nonvisual access for individuals with visual impairments, and providing assistance to individuals with limited proficiency in the English language;

(2) to implement new election administration procedures to increase voter participation and to reduce disenfranchisement, such as "same-day" voter registration procedures;

(3) to educate voters concerning voting procedures, voting rights or voting technology, and to train election officials, poll workers, and election volunteers;

(4) to implement new election administration procedures such as requiring individuals to present identification at the polls and programs to identify, to deter, and to investigate voting fraud and to refer allegations of voting fraud to the appropriate authority;

(5) to meet the requirements of current Federal election law in accordance with the demonstration submitted under section 212(c)(1)(B) of such section; or

(6) to meet the requirements under section 101, 102, or 103.

SEC. 215. PAYMENTS; FEDERAL SHARE.

(a) Payments.—

(1) In general.—The Attorney General shall pay to each State or locality having an application approved under section 213 the Federal share of the costs of the activities described in that application.

(2) Retroactive payments.—The Attorney General may make retroactive payments to States and localities having an application approved under section 213 for the Federal share of any costs for election technology or administration that meets the requirements of sections 101, 102, and 103 that were incurred during the period beginning on January 1, 2001, and ending on the date on which such application was approved under such section.

(b) Federal Share.—

(1) In general.—Except as provided in paragraph (2), the Federal share of the costs shall be a percentage determined by the Attorney General that does not exceed 80 percent.

(2) Exception.—The Attorney General may provide for a Federal share of greater than 80 percent of the costs for a State or locality if the Attorney General determines that such greater percentage is necessary due to the lack of resources of the State or locality.

SEC. 216. AUDITS AND EXAMINATIONS OF STATES AND LOCALITIES.

(a) Recordkeeping Requirement.—Each recipient of a grant under this subtitle shall keep such records as the Attorney General, in consultation with the Federal Election Commission, shall prescribe.

(b) Audits and Examinations.—The Attorney General and the Comptroller General, or any authorized representative of the Attorney General or the Comptroller General, may audit or examine any recipient of a grant under this subtitle and shall, for the purpose of conducting an audit or examination, have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to the grant.

(c) Other Audits.—If the Assistant Attorney General for Civil Rights has certified a State or locality as eligible to receive a grant under this subtitle in order to meet a certification requirement described in section 212(c)(1)(A) (as permitted under section 214(5)) and such State or locality is a recipient of such a grant, such Assistant Attorney General, in consultation with the Federal Election Commission shall—

(1) audit such recipient to ensure that the recipient has achieved, or is achieving, compliance with the certification requirements described in section 212(c)(1)(A); and

(2) have access to any record of the recipient that the Attorney General determines may be related to such a grant for the purpose of conducting such an audit.

SEC. 217. REPORTS TO CONGRESS AND THE ATTORNEY GENERAL.

(a) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the grant program established under this subtitle for the preceding year.

(2) CONTENTS.—Each report submitted under paragraph (1) shall contain the following:

(A) A description and analysis of any activities funded by a grant awarded under this subtitle.

(B) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) REPORTS TO THE ATTORNEY GENERAL.—The Attorney General shall require each recipient of a grant under this subtitle to submit reports to the Attorney General at such time, in such manner, and containing such information as the Attorney General considers appropriate.

SEC. 218. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $400,000,000 for fiscal year 2002 to carry out the provisions of this subtitle.

(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available without fiscal year limitation until expended.

SEC. 219. EFFECTIVE DATE.

The Attorney General shall establish the general policies and criteria for the approval of applications under section 213(a) in a manner that ensures that the Attorney General is able to approve applications not later than October 1, 2002.

Subtitle C—Federal Election Accessibility Grant Program

SEC. 221. ESTABLISHMENT OF THE FEDERAL ELECTION ACCESSIBILITY GRANT PROGRAM.

(a) IN GENERAL.—There is established a Federal Election Accessibility Grant Program under which the Attorney General, subject to the general policies and criteria for the approval of applications established under section 223 by the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)) (in this subtitle referred to as the "Access Board"), is authorized to make grants to States and localities to pay the costs of the activities described in section 224.

(b) ACTION THROUGH OFFICE OF JUSTICE PROGRAMS AND CIVIL RIGHTS DIVISION.—In carrying out this subtitle, the Attorney General shall act through—

(1) the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice; and

(2) the Assistant Attorney General in charge of the Civil Rights Division of that Department.

SEC. 222. APPLICATION.

(a) IN GENERAL.—Each State or locality that desires to receive a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General shall require, consistent with the provisions of this section.

(b) CONTENTS.—Each application submitted under subsection (a) shall—

(1) describe the activities for which assistance under this section is sought;

(2) provide assurances that the State or locality will pay the non-Federal share of the cost of the activities for which assistance is sought from non-Federal sources; and

(3) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this subtitle.

(c) RELATION TO FEDERAL ELECTION REFORM INCENTIVE GRANT PROGRAM.—A State or locality that desires to do so may submit an application under this section as part of any application submitted under section 212(a).

(d) SAFE HARBOR.—No action may be brought against a State or locality on the basis of any information contained in the application submitted under subsection (a).

SEC. 223. APPROVAL OF APPLICATIONS.

The Access Board shall establish general policies and criteria for the approval of applications submitted under section 222(a).

SEC. 224. AUTHORIZED ACTIVITIES.

A State or locality may use grant payments received under this subtitle—

(1) to make polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; and

(2) to provide individuals with disabilities and the other individuals described in paragraph (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and to train election officials, poll workers, and election volunteers on how best to promote the access and participation of the individuals in elections for Federal office.

SEC. 225. PAYMENTS; FEDERAL SHARE.

(a) PAYMENTS.—The Attorney General shall pay to each State or locality having an application approved under section 223 the Federal share of the costs of the activities described in that application.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the costs shall be a percentage determined by the Attorney General that does not exceed 80 percent.

(2) EXCEPTION.—The Attorney General may provide for a Federal share of greater than 80 percent of the costs for a State or locality if the Attorney General determines that such greater percentage is necessary due to the lack of resources of the State or locality.

SEC. 226. AUDITS AND EXAMINATIONS OF STATES AND LOCALITIES.

(a) RECORDKEEPING REQUIREMENT.—Each recipient of a grant under this subtitle shall keep such records as the Attorney General, in consultation with the Access Board, shall prescribe.

(b) AUDITS AND EXAMINATIONS.—The Attorney General and the Comptroller General, or any authorized representative of the Attorney General or the Comptroller General, may audit or examine any recipient of a grant under this subtitle and shall, for the purpose of conducting an audit or examination, have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to the grant.

SEC. 227. REPORTS TO CONGRESS AND THE ATTORNEY GENERAL.

(a) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the grant program established under this subtitle for the preceding year.

(2) CONTENTS.—Each report submitted under paragraph (1) shall contain the following:

(A) A description and analysis of any activities funded by a grant awarded under this subtitle.

(B) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) REPORTS TO THE ATTORNEY GENERAL.—The Attorney General shall require each recipient of a grant under this subtitle to submit reports to the Attorney General at such time, in such manner, and containing such information as the Attorney General considers appropriate.

SEC. 228. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $100,000,000 for fiscal year 2002 to carry out the provisions of this subtitle.

(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available without fiscal year limitation until expended.

SEC. 229. EFFECTIVE DATE.

The Access Board shall establish the general policies and criteria for the approval of applications under section 223 in a manner that ensures that the Attorney General is able to approve applications not later than October 1, 2002.

TITLE III—ADMINISTRATION

Subtitle A—Election Administration Commission

SEC. 301. ESTABLISHMENT OF THE ELECTION ADMINISTRATION COMMISSION.

There is established the Election Administration Commission (in this subtitle referred to as the "Commission") as an independent establishment (as defined in section 104 of title 5, United States Code).

SEC. 302. MEMBERSHIP OF THE COMMISSION.

(a) NUMBER AND APPOINTMENT.—

(1) COMPOSITION.—The Commission shall be composed of 4 members appointed by the President, by and with the advice and consent of the Senate.

(2) RECOMMENDATIONS.—Before the initial appointment of the members of the Commission and before the appointment of any individual to fill a vacancy on the Commission, the Majority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives shall each submit to the President a candidate recommendation with respect to each vacancy on the Commission affiliated with the political party of the officer involved.

(b) QUALIFICATIONS.—

(1) IN GENERAL.—Each member appointed under subsection (a) shall be appointed on the basis of—

(A) knowledge of—

(i) and experience with, election law;

(ii) and experience with, election technology;

(iii) and experience with, Federal, State, or local election administration;

(iv) the Constitution; or

(v) the history of the United States; and

(B) integrity, impartiality, and good judgment.

(2) PARTY AFFILIATION.—Not more than 2 of the 4 members appointed under subsection (a) may be affiliated with the same political party.

(3) FEDERAL OFFICERS AND EMPLOYEES.—Members appointed under subsection (a)

shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees of the Federal Government.

(4) OTHER ACTIVITIES.—No member appointed to the Commission under subsection (a) may engage in any other business, vocation, or employment while serving as a member of the Commission and shall terminate or liquidate such business, vocation, or employment not later than the date on which the Commission first meets.

(c) DATE OF APPOINTMENT.—The appointments of the members of the Commission shall be made not later than the date that is 90 days after the date of enactment of this Act.

(d) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Members shall be appointed for a term of 6 years, except that, of the members first appointed, 2 of the members who are not affiliated with the same political party shall be appointed for a term of 4 years. Except as provided in paragraph (2), a member may only serve 1 term.

(2) VACANCIES.—

(A) IN GENERAL.—A vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made. The appointment made to fill the vacancy shall be subject to any conditions which applied with respect to the original appointment.

(B) EXPIRED TERMS.—A member of the Commission may serve on the Commission after the expiration of the member's term until the successor of such member has taken office as a member of the Commission.

(C) UNEXPIRED TERMS.—An individual appointed to fill a vacancy on the Commission occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the unexpired term of the member replaced. Such individual may be appointed to a full term in addition to the unexpired term for which that individual is appointed.

(e) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—The Commission shall elect a chairperson and vice chairperson from among its members for a term of 1 year.

(2) NUMBER OF TERMS.—A member of the Commission may serve as the chairperson only twice during the term of office to which such member is appointed.

(3) POLITICAL AFFILIATION.—The chairperson and vice chairperson may not be affiliated with the same political party.

SEC. 303. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission—

(1) shall serve as a clearinghouse, gather information, conduct studies, and issue reports concerning issues relating to elections for Federal office;

(2) shall carry out the provisions of section 9 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–7);

(3) shall make available information regarding the Federal election system to the public and media;

(4) shall compile and make available to the public the official certified results of elections for Federal office and statistics regarding national voter registration and turnout;

(5) shall establish an Internet website to facilitate public access, public comment, and public participation in the activities of the Commission, and shall make all information on such website available in print;

(6) shall conduct the study on election technology and administration under subsection (b)(1) and submit the report under subsection (b)(2); and

(7) beginning on the transition date (as defined in section 316(a)(2)), shall administer—

(A) the voting systems standards under section 101;

(B) the provisional voting requirements under section 102;

(C) the computerized statewide voter registration list requirements and requirements for voters who register by mail under section 103;

(D) the Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program under subtitle A of title II;

(E) the Federal Election Reform Incentive Grant Program under subtitle C of title II; and

(F) the Federal Election Accessibility Grant Program under subtitle B of title II.

(b) STUDIES AND REPORTS ON ELECTION TECHNOLOGY AND ADMINISTRATION.—

(1) STUDIES.—The Commission shall conduct periodic studies of—

(A) methods of election technology and voting systems in elections for Federal office, including the over-vote and under-vote notification capabilities of such technology and systems;

(B) ballot designs for elections for Federal office;

(C) methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including blind and disabled voters, and voters with limited proficiency in the English language;

(D) nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office;

(E) methods of voter intimidation;

(F) the recruitment and training of poll workers;

(G) the feasibility and advisability of conducting elections for Federal office on different days, at different places, and during different hours, including the advisability of establishing a uniform poll closing time and establishing election day as a Federal holiday;

(H) ways that the Federal Government can best assist State and local authorities to improve the administration of elections for Federal office and what levels of funding would be necessary to provide such assistance; and

(I) such other matters as the Commission determines are appropriate.

(2) REPORTS.—The Commission shall submit to the President and Congress a report on each study conducted under paragraph (1) together with such recommendations for administrative and legislative action as the Commission determines is appropriate.

SEC. 304. MEETINGS OF THE COMMISSION.

The Commission shall meet at the call of any member of the Commission, but may not meet less often than monthly.

SEC. 305. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this subtitle hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths as the Commission or such subcommittee or member considers advisable.

(b) VOTING.—

(1) IN GENERAL.—Each action of the Commission shall be approved by a majority vote of the members of the Commission and each member of the Commission shall have 1 vote.

(2) SPECIAL RULES.—

(A) UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS.—

(i) ADOPTION OR REVISION OF STANDARDS AND GUIDELINES.—If standards or guidelines have been promulgated under section 101, 102, or 103 as of the transition date (as defined in section 316(a)(2)), not later than 30 days after the transition date, the Commission shall—

(I) adopt such standards or guidelines by a majority vote of the members of the Commission; or

(II) promulgate revisions to such standards or guidelines and such revisions shall take effect only upon the approval of a majority of the members of the Commission.

(ii) ESTABLISHMENT OF STANDARDS AND GUIDELINES.—

(I) If standards or guidelines have not been promulgated under section 101, 102, or 103 as of the transition date (as defined in section 316(a)(2)), the Commission shall promulgate such standards or guidelines not later than the date described in subclause (II) and such standards or guidelines shall take effect only upon the approval of a majority of the members of the Commission.

(II) The date described this subclause is the later of—

(aa) the date described in section 101(c)(1), 102(c), or 103(c) (as applicable); or

(bb) the date that is 30 days after the transition date (as defined in section 316(a)(2)).

(B) GRANT PROGRAMS.—

(i) APPROVAL OR DENIAL.—The grants shall be approved or denied under sections 204, 213, and 223 by a majority vote of the members of the Commission not later than the date that is 30 days after the date on which the application is submitted to the Commission under section 203, 212, or 222.

(ii) ADOPTION OR REVISION OF GENERAL POLICIES AND CRITERIA.—If general policies and criteria for the approval of applications have been established under section 204, 213, or 223 as of the transition date (as defined in section 316(a)(2)), not later than 30 days after the transition date, the Commission shall—

(I) adopt such general policies and criteria by a majority vote of the members of the Commission; or

(II) promulgate revisions to such general policies and criteria and such revisions shall take effect only upon the approval of a majority of the members of the Commission.

(iii) ESTABLISHMENT OF GENERAL POLICIES AND CRITERIA.—

(I) If general policies and criteria for the approval of applications have been established under section 204, 213, or 223 as of the transition date (as defined in section 316(a)(2)), the Commission shall promulgate such general policies and criteria not later than the date described in subclause (II) and such general policies and criteria shall take effect only upon the approval of a majority of the members of the Commission.

(II) The date described this subclause is the later of—

(aa) the date described in section 101(c)(1), 102(c), or 103(c) (as applicable); or

(bb) the date that is 30 days after the transition date (as defined in section 316(a)(2)).

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this subtitle. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 306. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—Each member of the Commission shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) Staff.—

(1) Appointment and termination.—Subject to paragraph (2), the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate an Executive Director, a General Counsel, and such other personnel as may be necessary to enable the Commission to perform its duties.

(2) Executive director; general counsel.—

(A) Appointment and termination.—The appointment and termination of the Executive Director and General Counsel under paragraph (1) shall be approved by a majority of the members of the Commission.

(B) Initial appointment.—Beginning on the transition date (as defined in section 316(a)(2)), the Director of the Office of Election Administration of the Federal Election Commission shall serve as the Executive Director of the Commission until such date as a successor is appointed under paragraph (1).

(C) Term.—The term of the Executive Director and the General Counsel shall be for a period of 6 years. An individual may not serve for more than 2 terms as the Executive Director or the General Counsel. The appointment of an individual with respect to each term shall be approved by a majority of the members of the Commission.

(D) Continuance in office.—Notwithstanding subparagraph (C), the Executive Director and General Counsel shall continue in office until a successor is appointed under paragraph (1).

(3) Compensation.—The Commission may fix the compensation of the Executive Director, General Counsel, and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the Executive Director, General Counsel, and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) Procurement of Temporary and Intermittent Services.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this subtitle.

Subtitle B—Transition Provisions

SEC. 311. EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001.

(a) Transfer of Certain Functions of Federal Election Commission.—There are transferred to the Election Administration Commission established under section 301 all functions of the Federal Election Commission under section 101 and under subtitles A and B of title II before the transition date (as defined in section 316(a)(2)).

(b) Transfer of Certain Functions of the Attorney General.—

(1) Title I functions.—There are transferred to the Election Administration Commission established under section 301 all functions of the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice under sections 102 and 103 before the transition date (as defined in section 316(a)(2)).

(2) Grantmaking Functions.—

(A) In general.—Except as provided in paragraph (2), there are transferred to the Election Administration Commission established under section 301 all functions of the Attorney General, the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice, and the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice under subtitles A, B, and C of title II before the transition date (as defined in section 316(a)(2)).

(B) Exception.—The functions of the Attorney General relating to the review of State plans under section 204 and the certification requirements under section 213 shall not be transferred under paragraph (1).

(3) Enforcement.—The Attorney General shall remain responsible for any enforcement action required under this Act, including the enforcement of the voting systems standards through the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice under section 104 and the criminal penalties under section 401.

(c) Transfer of Certain Functions of the Access Board.—There are transferred to the Election Administration Commission established under section 301 all functions of the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)) under section 101 and under subtitles A, B, and C of title II before the transition date (as defined in section 316(a)(2)).

SEC. 312. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) Transfer of Functions of Office of Election Administration.—There are transferred to the Election Administration Commission established under section 301 all functions of the Director of the Office of the Election Administration of the Federal Election Commission before the transition date (as defined in section 316(a)(2)).

(b) Conforming Amendment.—Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) in paragraph (8), by inserting "and" at the end;

(2) in paragraph (9), by striking "; and" and inserting a period; and

(3) by striking paragraph (10) and the second and third sentences.

SEC. 313. NATIONAL VOTER REGISTRATION ACT OF 1993.

(a) Transfer of Functions.—There are transferred to the Election Administration Commission established under section 301 all functions of the Federal Election Commission under the National Voter Registration Act of 1993 before the transition date (as defined in section 316(a)(2)).

(b) Conforming Amendment.—For purposes of section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-7(a)), the reference to the Federal Election Commission shall be deemed to be a reference to the Election Administration Commission.

SEC. 314. TRANSFER OF PROPERTY, RECORDS, AND PERSONNEL.

(a) Property and Records.—The contracts, liabilities, records, property, and other assets and interests of, or made available in connection with, the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Administration Commission for appropriate allocation.

(b) Personnel.—The personnel employed in connection with the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Administration Commission.

SEC. 315. COVERAGE OF ELECTION ADMINISTRATION COMMISSION UNDER CERTAIN LAWS AND PROGRAMS.

(a) Treatment of Commission Personnel Under Certain Civil Service Laws.—

(1) Coverage under hatch act.—Section 7323(b)(2)(B)(i)(I) of title 5, United States Code, is amended by inserting "or the Election Administration Commission" after "Commission".

(2) Exclusion from senior executive service.—Section 3132(a)(1)(C) of title 5, United States Code, is amended by inserting "or the Election Administration Commission" after "Commission".

(b) Coverage Under Inspector General Act of 1978.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting ", the Election Administration Commission," after "Federal Election Commission,".

SEC. 316. EFFECTIVE DATE; TRANSITION.

(a) Effective Date.—

(1) In general.—This subtitle and the amendments made by this subtitle shall take effect on the transition date (as defined in paragraph (2)).

(2) Transition date defined.—In this section, the term "transition date" means the earlier of—

(A) the date that is 1 year after the date of enactment of this Act; or

(B) the date that is 60 days after the first date on which all of the members of the Election Administration Commission have been appointed under section 302.

(b) Transition.—With the consent of the entity involved, the Election Administration Commission is authorized to utilize the services of such officers, employees, and other personnel of the entities from which functions have been transferred to the Commission under this title or the amendments made by this title for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

TITLE IV—MISCELLANEOUS

SEC. 401. CRIMINAL PENALTIES.

(a) Conspiracy To Deprive Voters of a Fair Election.—Any individual who gives false information in registering or voting in violation of section 11(c) of the National Voting Rights Act of 1965 (42 U.S.C. 1973i(c)), or conspires with another to violate such section, shall be fined or imprisoned, or both, in accordance with such section.

(b) False Information in Registering and Voting.—Any individual who commits fraud or makes a false statement with respect to the naturalization, citizenry, or alien registry of such individual in violation of section 1015 of title 18, United States Code, shall be fined or imprisoned, or both, in accordance with such section.

SEC. 402. RELATIONSHIP TO OTHER LAWS.

(a) In General.—Except as otherwise provided in this Act, nothing in this Act may be construed to authorize or require conduct prohibited under the following laws, or supersede, restrict, or limit such laws:

(1) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(3) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(4) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(5) The Americans with Disabilities Act of 1990 (42 U.S.C. 1994 et seq.).

(6) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(b) NO EFFECT ON PRECLEARANCE OR OTHER REQUIREMENTS UNDER VOTING RIGHTS ACT.—The approval by the Attorney General of a State's application for a grant under title II, or any other action taken by the Attorney General or a State under such title, shall not be considered to have any effect on requirements for preclearance under section 5 of the Voting Rights Act of 1965 (42 U.S.C. 1973c) or any other requirements of such Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, December 19, 2001, immediately following the 1:15 p.m. cloture vote, to conduct a markup on the nominations of Ms. Vickers B. Meadows, of Virginia, to be an Assistant Secretary of Housing and Urban Development; and Ms. Diane L. Tomb, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, December 19, 2001, at 10 a.m. to consider the nomination of Edward Kingman, Jr. to be Assistant Secretary for Management Budget and Chief Financial Officer, U.S. Department of Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DURBIN. Mr. President, I ask unanimous consent that privilege of the floor be granted to Christopher Rhee, a detailee on the Judiciary Committee staff, during the remainder of the first session of the Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar No. 4, Treaty with Russia on Mutual Legal Assistance in Criminal Matters; that the treaty be considered as having advanced through its parliamentary stages up to and including the presentation of the resolution of ratification, and that the conditions be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. A division has been requested.

Senators in favor of the ratification of this treaty, please rise. (After a pause.) Those opposed will rise and stand until counted.

On a division vote with two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification, with its conditions, reads as follows:

Resolved (two thirds of the Senators present concurring therein),

SECTION 1. ADVICE AND CONSENT TO RATIFICATION OF THE TREATY WITH THE RUSSIAN FEDERATION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS, SUBJECT TO CONDITIONS.

The Senate advises and consents to the ratification of the Treaty Between the United States of America and the Russian Federation on Mutual Legal Assistance in Criminal Matters, signed at Washington on June 17, 1999 (Treaty Doc. 106–22; in this resolution referred to as the "Treaty"), subject to the conditions in section 2.

SEC. 2. CONDITIONS.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) TREATY INTERPRETATION.—The Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31 1996), approved by the Senate on May 14, 1997 (relating to condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988).

(2) LIMITATION ON ASSISTANCE.—Pursuant to the right of the United States under the Treaty to deny legal assistance under the Treaty that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 3(2) of the Treaty), after consultation with all appropriate intelligence, antinarcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(3) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes the enactment of legislation or the taking of any other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

Mr. REID. Mr. President, I ask unanimous consent that the motion to reconsider be laid upon the table, that any statements thereon be printed in the RECORD, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nominations: Calendar Nos. 583, 662, and the Air Force and Army promotions on the Secretary's desk; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C. section 601:

To be lieutenant general

Maj. Gen. Dennis D. Cavin, 8558.

AIR FORCE

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Larry D. New, 2557.
Colonel Michael F. Planert, 4078.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN1273 Air Force nominations (2) beginning Gerard W. Stalnaker, and ending Everett G. Willard, Jr., which nominations were received by the Senate and appeared in the Congressional Record of December 11, 2001.

PN1274 Air Force nominations (6) beginning James A. Barlow, and ending Glenn S. Roberts, which nominations were received by the Senate and appeared in the Congressional Record of December 11, 2001.

PN1275 Air Force nominations (8) beginning Cynthia M. Cadet, and ending David G. Young, III, which nominations were received by the Senate and appeared in the Congressional Record of December 11, 2001.

ARMY

PN1263 Army nomination of Robert W. Siegert, which was received by the Senate and appeared in the Congressional Record of December 5, 2001.

PN1264 Army nominations (5) beginning Catherine M. Banfield, and ending Jack M. Wedam, which nominations were received by the Senate and appeared in the Congressional Record of December 5, 2001.

PN1265 Army nominations (5) beginning Mary Carstensen, and ending William L.

Tozier, which nominations were received by the Senate and appeared in the Congressional Record of December 5, 2001.

PN1276 Army nominations (2) beginning Joseph L. Culver, and ending Charles R. James, Jr., which nominations were received by the Senate and appeared in the Congressional Record of December 11, 2001.

PN1277 Army nominations (2) beginning Barry D. Keeling, and ending Ernesto E. Marra, which nominations were received by the Senate and appeared in the Congressional Record of December 11, 2001.

PN1278 Army nomination of James J. Waldeck, III, which was received by the Senate and appeared in the Congressional Record of December 11, 2001.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

AUTHORIZING CERTAIN EMPLOYEES OF THE SENATE TO BE PLACED IN A LEAVE WITHOUT PAY STATUS

Mr. REID. Mr. President, I ask consent that the Senate proceed to the consideration of S. Res. 193 submitted earlier today by Senators DASCHLE and LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 193) authorizing certain employees of the Senate who perform service in the uniformed services to be placed in a leave without pay status, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements thereon be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 193) was agreed to.

(The resolution is printed in today's RECORD under "Submitted Resolutions.")

MEASURE READ THE FIRST TIME—H.R. 3343

Mr. REID. Mr. President, I understand that H.R. 3343, which was just received from the House, is at the desk, and I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3343) to amend title X of the Energy Policy Act of 1992, and for other purposes.

Mr. REID. Mr. President, I now ask for its second reading, and object to my own request on behalf of a number of my colleagues.

The PRESIDING OFFICER. The bill will remain at the desk.

ORDERS FOR THURSDAY, DECEMBER 20, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until 9:30 a.m., Thursday, December 20; that immediately following the prayer and Pledge, the Senate begin consideration of the Labor-HHS appropriations conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:04 p.m., recessed until Thursday, December 20, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 19, 2001:

THE JUDICIARY

JOHN M. ROGERS, OF KENTUCKY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE EUGENE E. SILER, JR., RETIRED.

TIMOTHY C. STANCEU, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF INTERNATIONAL TRADE, VICE RICHARD W. GOLDBERG, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 19, 2001:

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DENNIS D. CAVIN

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL LARRY D. NEW
COLONEL MICHAEL F. PLANERT

AIR FORCE NOMINATIONS BEGINNING GERARD W. STALNAKER AND ENDING EVERETT G. WILLARD, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 11, 2001.

AIR FORCE NOMINATIONS BEGINNING JAMES A. BARLOW AND ENDING GLENN S. ROBERTS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 11, 2001.

AIR FORCE NOMINATIONS BEGINNING CYNTHIA M. CADET AND ENDING DAVID G. YOUNG III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 11, 2001.

ARMY NOMINATION OF ROBERT W. SIEGERT.

ARMY NOMINATIONS BEGINNING CATHERINE M. BANFIELD AND ENDING JACK M. WEDAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 5, 2001.

ARMY NOMINATIONS BEGINNING MARY CARSTENSEN AND ENDING WILLIAM L. TOZIER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 5, 2001.

ARMY NOMINATIONS BEGINNING JOSEPH L. CULVER AND ENDING CHARLES R. JAMES, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 11, 2001.

ARMY NOMINATIONS BEGINNING BARRY D. KEELING AND ENDING ERNESTO E. MARRA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 11, 2001.

ARMY NOMINATION OF JAMES J. WALDECK III.

HOUSE OF REPRESENTATIVES—*Wednesday, December 19, 2001*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. ISAKSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 19, 2001.

I hereby appoint the Honorable JOHNNY ISAKSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

O Lord, You are our God. We will extol You and praise Your name, for You have fulfilled Your wonderful plans of old, faithful and true.

From the barren earth You bring forth new life. From injustice and disaster You draw forth goodness and promises that reshape the world. We look to You, O Lord, ever faithful, in the midst of darkness and fear, to give birth to wisdom, at a time pregnant with insecurity, and promise to breathe forth integrity.

Bless this Congress with Your almighty power and gentle grace. Let not today's problems be left for tomorrow, rather lead this Nation to take steps that prepare the way for Your swift coming with justice and peace. Fulfill in our day Your true promise of abundant life and lasting security. We praise Your holy name both now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. DOOLEY) come forward and lead the House in the Pledge of Allegiance.

Mr. DOOLEY of California led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 1-minutes from each side.

FAILED SCIENTIFIC PROCESS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, well, here we go again. Last week, the Department of Energy changed the ground rules once again for judging the suitability of Yucca Mountain.

How convenient for them to change the guidelines after scientists began to conclude the natural features of the mountain would not work.

You cannot change the rules of the game once the game has begun, Mr. Speaker. The audacity of the Department of Energy is deplorable. First, their own Inspector General cites 9 years of possible collusion of a corrupt law firm; then, the GAO warns that the plans the DOE has shown to Congress and the Nevadans may not describe the facility the GAO would actually build and develop. And now, after changing the regulations to suit their science, we, the American people, are supposed to trust them?

The Department of Energy should be ashamed of itself. It is time to put the safety of Nevadans and Americans ahead of their own desire to win at any cost.

TRIBUTE TO WASHINGTON, WEST ALLEGHENY, AND ROCHESTER HIGH SCHOOL FOOTBALL TEAMS

(Mr. MASCARA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MASCARA. Mr. Speaker, I rise today to recognize a very special group of high schools in western Pennsylvania: Washington, West Allegheny, and Rochester High Schools. All three became Pennsylvania State football champions in their respective divisions.

The Washington High School Little Prexies defeated Pen Argyle 19 to 12 to win their first Pennsylvania State championship. The Little Prexies finished their season with a perfect record of 15 and 0, the only team in their division to finish their season without a loss. They are also the first team in Washington County to win a State championship game.

The West Allegheny Indians defeated Strath Haven 28 to 13, breaking Strath Haven's 44-game winning streak. This is the third consecutive year these two teams have met in the State finals, and West Allegheny's first win.

The Rochester Rams defeated Southern Columbia 16 to 0 to win their third Pennsylvania State championship, only the fourth team ever to do so.

Mr. Speaker, I know the entire House of Representatives joins me in congratulating the Washington High School Little Prexies, the West Allegheny Indians, and the Rochester Rams on their well-deserved State championships.

IN HONOR OF PHILIP LAMONACO

(Mr. LoBIONDO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LoBIONDO. Mr. Speaker, I rise today in honor of a fallen New Jersey State Trooper, a man who served our State proudly. Twenty years ago Friday, Trooper Philip Lamonaco was shot and killed by two self-avowed revolutionaries during a traffic stop on a stretch of highway in Warren County. Trooper Lamonaco, who was named "Trooper of the Year" in 1979, left behind a wife and three children.

His murder sparked a dogged manhunt for his killers, and they were tracked down and jailed. Philip Lamonaco was the kind of law enforcement professional that inspires others to take up the fight to protect our communities. Since Philip's murder, his wife Donna, who I have met at several functions, has worked tirelessly as an advocate for police and their families. And earlier this year, Trooper Lamonaco's son Michael joined the New Jersey State Police, following the example of his father.

To the Lamonaco family, his friends and colleagues, I extend my condolences on this sad anniversary, and I extend the thanks of the people of New Jersey for his service. Philip Lamonaco will never be forgotten.

FAA MAILS PILOT LICENSES TO FOREIGN COUNTRIES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, while Congress continues to pass airline security measures, pilot licenses are flying to foreign countries faster than bin Laden's been running.

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Unbelievable, but check this out. My investigation shows the FAA regularly sends pilot licenses in the mail to places like Afghanistan, Iraq, Iran, Libya and Pakistan. Now, if that is not enough to drench some fire hydrant, these licenses are being sent to post office boxes, no less. Beam me up. I am asking that the GAO investigate this madness.

I yield back the fact that the FAA may have supplied bin Laden with an air force legally certified to attack America.

CAPTURING THE QUEST FOR EXCELLENCE IN TEACHING, RESEARCH, AND SERVICE

(Mr. RILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RILEY. Mr. Speaker, capturing the quest for excellence in teaching, research and service is the motto of the famed Tuskegee University, home of the World War II Tuskegee Airmen. And under the direction of University President Benjamin Payton, his faculty and staff, they have stood by this motto in the academic arena for years.

Founded in 1881 by Booker T. Washington, the School's distinguished list of accomplishments include the number one producer of African-American aerospace engineers in the nation, provider of more African-American general officers to the military than any other institution, and alma mater to over 75 percent of the African-American veterinarians in the world.

This year, Tuskegee University Golden Tigers have captured the quest for excellence in the athletic world, as well, by being named the 2001 Football Champions of the Southern Intercollegiate Athletic Conference. With an athletic record that includes 533 victories, 19 SIAC championships, 7 black college national championships, and 15 postseason bowl appearances, Tuskegee University has rightly been named the Nation's winningest historically black college.

As their representative, I have a lot of pride in this institution. Please join me in congratulating them in their many successes and wishing them the best of luck as they travel to Atlanta to compete in the Pioneer Bowl on December 22.

Congratulations to Dr. Payton, head coach Rick Comegy, and the Golden Tigers for excellence both on and off the football field.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later today.

TERRORIST BOMBINGS CONVENTION IMPLEMENTATION ACT OF 2001

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3275) to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes, as amended.

The Clerk read as follows:

H R. 3275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SUPPRESSION OF TERRORIST BOMBINGS

SEC. 101. SHORT TITLE.

This title may be cited as the "Terrorist Bombings Convention Implementation Act of 2001".

SEC. 102. BOMBING STATUTE.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332e the following new section:

"§ 2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities

"(a) OFFENSES.—

"(1) IN GENERAL.—Whoever unlawfully delivers, places, discharges, or detonates an explosive or other lethal device in, into, or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility—

"(A) with the intent to cause death or serious bodily injury, or

"(B) with the intent to cause extensive destruction of such a place, facility, or system, where such destruction results in or is likely to result in major economic loss,

shall be punished as prescribed in subsection (c).

"(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c).

"(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) if—

"(1) the offense takes place in the United States and—

"(A) the offense is committed against another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

"(B) the offense is committed in an attempt to compel another state or the United States to do or abstain from doing any act;

"(C) at the time the offense is committed, it is committed—

"(i) on board a vessel flying the flag of another state;

"(ii) on board an aircraft which is registered under the laws of another state; or

"(iii) on board an aircraft which is operated by the government of another state;

"(D) a perpetrator is found outside the United States;

"(E) a perpetrator is a national of another state or a stateless person; or

"(F) a victim is a national of another state or a stateless person;

"(2) the offense takes place outside the United States and—

"(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

"(B) a victim is a national of the United States;

"(C) a perpetrator is found in the United States;

"(D) the offense is committed in an attempt to compel the United States to do or abstain from doing any act;

"(E) the offense is committed against a state or government facility of the United States, including an embassy or other diplomatic or consular premises of the United States;

"(F) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed; or

"(G) the offense is committed on board an aircraft which is operated by the United States.

"(c) PENALTIES.—Whoever violates this section shall be imprisoned for any term of years or for life, and if death results from the violation, shall be punished by death or imprisoned for any term of years or for life.

"(d) EXEMPTIONS TO JURISDICTION.—This section does not apply to—

"(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law,

"(2) activities undertaken by military forces of a state in the exercise of their official duties; or

"(3) offenses committed within the United States, where the alleged offender and the victims are United States citizens and the alleged offender is found in the United States, or where jurisdiction is predicated solely on the nationality of the victims or the alleged offender and the offense has no substantial effect on interstate or foreign commerce.

"(e) DEFINITIONS.—As used in this section, the term—

"(1) 'serious bodily injury' has the meaning given that term in section 1365(g)(3) of this title;

"(2) 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(3) 'state or government facility' includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of Government, the legislature or the judiciary or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

"(4) 'intergovernmental organization' includes international organization (as defined in section 1116(b)(5) of this title);

"(5) 'infrastructure facility' means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel, or communications;

"(6) 'place of public use' means those parts of any building, land, street, waterway, or other location that are accessible or open to members of the public, whether continuously, periodically, or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational, or similar place that is so accessible or open to the public;

"(7) 'public transportation system' means all facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

"(8) 'explosive' has the meaning given in section 844(j) of this title insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage;

"(9) 'other lethal device' means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents or toxins (as those terms are defined in section 178 of this title), or radiation or radioactive material;

"(10) 'military forces of a state' means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;

"(11) 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature; and

"(12) 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding after the item relating to section 2332e the following:

"2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.".

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the applicability of any other Federal or State law which might pertain to the underlying conduct.

SEC. 103. EFFECTIVE DATE.

Section 102 of this title shall become effective on the date that the International Convention for the Suppression of Terrorist Bombings enters into force for the United States.

TITLE II—SUPPRESSION OF THE FINANCING OF TERRORISM

SEC. 201. SHORT TITLE.

This title may be cited as the "Suppression of the Financing of Terrorism Convention Implementation Act of 2001".

SEC. 202. TERRORISM FINANCING STATUTE.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by adding at the end thereof the following new section:

"§2339C. Prohibitions against the financing of terrorism

"(a) OFFENSES.—

"(1) IN GENERAL.—Whoever, in a circumstance described in subsection (c), by any means, directly or indirectly, unlawfully and willfully provides or collects funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out—

"(A) an act which constitutes an offense within the scope of a treaty specified in subsection (e)(7), as implemented by the United States, or

"(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).

"(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).

"(3) RELATIONSHIP TO PREDICATE ACT.—For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.

"(b) CONCEALMENT.—

"(1) IN GENERAL.—Whoever, in the United States, or outside the United States and a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions), knowingly conceals or disguises the nature, the location, the source, or the ownership or control of any material support or resources provided in violation of section 2339B of this chapter, or of any funds provided or collected in violation of subsection (a) or any proceeds of such funds, shall be punished as prescribed in subsection (d)(2).

"(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(2).

"(c) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

"(1) the offense takes place in the United States and—

"(A) a perpetrator was a national of another state or a stateless person;

"(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

"(C) on board an aircraft which is operated by the government of another state;

"(D) a perpetrator is found outside the United States;

"(E) was directed toward or resulted in the carrying out of a predicate act against—

"(i) a national of another state; or

"(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

"(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

"(G) was directed toward or resulted in the carrying out of a predicate act—

"(i) outside the United States; or

"(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

"(2) the offense takes place outside the United States and—

"(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

"(B) a perpetrator is found in the United States; or

"(C) was directed toward or resulted in the carrying out of a predicate act against—

"(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other diplomatic or consular premises of the United States;

"(ii) any person or property within the United States;

"(iii) any national of the United States or the property of such national; or

"(iv) any property of any legal entity organized under the laws of the United States, including any of its States, districts, commonwealths, territories, or possessions;

"(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

"(4) the offense is committed on board an aircraft which is operated by the United States; or

"(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) PENALTIES.—

"(1) Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 20 years, or both.

"(2) Whoever violates subsection (b) shall be fined under this title, imprisoned for not more than 10 years, or both.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'funds' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

"(2) the term 'government facility' means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

"(3) the term 'proceeds' means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

"(4) the term 'provides' includes giving, donating, and transmitting;

"(5) the term 'collects' includes raising and receiving;

"(6) the term 'predicate act' means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

"(7) the term 'treaty' means—

"(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

"(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

"(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

"(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

"(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

"(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

"(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

"(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

"(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

"(8) the term 'intergovernmental organization' includes international organizations;

"(9) the term 'international organization' has the same meaning as in section 1116(b)(5) of this title;

"(10) the term 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

"(11) the term 'serious bodily injury' has the same meaning as in section 1365(g)(3) of this title;

"(12) the term 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(13) the term 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.

"(f) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity located within the United States or organized under the laws of the United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least $10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end thereof the following:

"2339C. Prohibitions against the financing of terrorism.".

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the scope or applicability of any other Federal or State law.

SEC. 203. EFFECTIVE DATE.

Except for sections 2339C(c)(1)(D) and (2)(B) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of the Financing of Terrorism enters into force for the United States, and for the provisions of section 2339C(e)(7)(I) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of Terrorist Bombing enters into force for the United States, section 202 of this title shall be effective upon enactment.

TITLE III—ANCILLARY MEASURES

SEC. 301. ANCILLARY MEASURES.

(a) WIRETAP PREDICATES.—Section 2516(1)(q) of title 18, United States Code, is amended by—

(1) inserting "2332f," after "2332d,"; and

(2) striking "or 2339B" and inserting "2339B, or 2339C".

(b) FEDERAL CRIME OF TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by—

(1) inserting "2332f (relating to bombing of public places and facilities)," after "2332b (relating to acts of terrorism transcending national boundaries),"; and

(2) inserting "2339C (relating to financing of terrorism)," before "or 2340A (relating to torture)".

(c) PROVIDING MATERIAL SUPPORT TO TERRORISTS PREDICATE.—Section 2339A of title 18, United States Code, is amended by inserting "2332f," before "or 2340A".

(d) FORFEITURE OF FUNDS, PROCEEDS, AND INSTRUMENTALITIES.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(H) Any property, real or personal, involved in a violation or attempted violation, or which constitutes or is derived from proceeds traceable to a violation, of section 2339C of this title.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin, (Mr. SENSENBRENNER), and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 3275, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we have learned in recent months, the only effective way to fight terrorism is to fight it on a global scale. In order to accomplish this, it is important that we build an international framework for combating terrorism in all its forms. The first and most important piece of this framework is international cooperation. Passage of the bill before us today will allow the United States to reinforce the international community's intolerance for and condemnation of terrorist acts and their financing.

Mr. Speaker, on December 5, 2001, the Senate gave its advice and consent to ratify the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of Financing of Terrorism. H.R. 3275 makes appropriate changes to Title 18 of the United States Code in order to implement these treaties so that they can be ratified by the President.

The Terrorist Bombings Convention addresses the most utilized form of terrorism, the bombings of public places, State or government facilities, public transportation systems or infrastructure facilities, with the intent to cause death or serious bodily injury. H.R. 3275 enacts a new statute which would criminalize these acts if they have an international nexus, such as the bombing of a foreign embassy located in the United States. Nations who are a party to this treaty agree to extradite or prosecute persons accused of such offenses, and also agree to provide assistance in connection with the investigation of such crimes.

I am sure everyone is aware that there are already State and Federal laws that criminalize terrorist bombings. This legislation will supplement those laws and close any loopholes that an accused terrorist may try to exploit in a court of law. Furthermore, the legislation covers biological, chemical, and radiological weapons, as well as conventional explosives.

The Terrorist Financing Convention addresses a common element of every terrorist act, financing and other support. This treaty recognizes that the financial backers of terrorism are just as responsible as those who commit the terrorist acts themselves. H.R. 3275 makes it a crime to unlawfully and willingly provide or collect funds with the intention or knowledge that such funds are to be used to carry out any act intended to cause death or serious bodily injury to a civilian. As with the Terrorist Bombing Convention, there must be some international nexus with the terrorist financing, such as someone operating outside of the United States. Likewise, nations who are a party to this treaty also agree to extradite or prosecute and assist in criminal investigations.

The Terrorist Bombing and Terrorist Financing Conventions follow the general model of prior terrorism conventions negotiated by the United States. These conventions will significantly strengthen the network of anti-terrorism treaties built over the last 30 years by requiring nations to criminalize terrorist conduct identified in the treaties and to cooperate in the investigation and prosecution of the offenses. Given the global way that terrorists operate, it is imperative that we make sure that as many countries as possible have comparable laws against terrorism for an effective framework of investigation, extradition, and prosecution.

□ 1015

Mr. Speaker, I urge all Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 3275 which would implement the international convention for the suppression of terrorist bombings, and the international convention for the suppression of the financing of terrorism. I am not opposed to the bill because of the treaties, but because of the extraneous items that are in the treaties. These treaties have been pending for some time, and I applaud the President for his present resolve in having the treaties ratified.

There are many extraneous provisions in the bills that are not necessary, however, to ratify either of the treaties. The treaties require that we have such laws on the books which would do such things like criminalize terrorist bombings and the financing of terrorist activities.

A few weeks ago, we passed legislation which was represented by the administration as a comprehensive anti-terrorism bill designed to cover the full gamut terrorist threats in this country, as well as the support of terrorist activities. Upon that representation, we provided unprecedented extensions of wiretap, RICO asset forfeitures, and additional punishments were enacted into law. Now we are told that additional laws have to be passed.

One of the provisions that requires us to have a law prohibiting bombing of foreign embassies in the United States cannot possibly be necessary. It is obviously against the law in the United States to bomb any building, much less a foreign embassy. A lot of these statutes are not needed.

The provisions before us do not constitute the treaties. The treaties are embodied in other documents. There are provisions, for example, that are actually counterproductive. This bill includes certain death penalties. The death penalty actually works against us because many of our allies will not extradite their criminals to the United States because we have the death penalty. There are other provisions that are not necessary. We were told by the administration that the death penalty provisions were, in fact, not needed to implement the treaties, and yet here they are in the bill.

Given this situation, Mr. Speaker, and other provisions in the bill that are not necessary to implement the treaties, I would hope that we would defeat the bill and reconsider the bill just providing the provisions that are necessary to implement the treaty.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and am prepared to close if the gentleman from Virginia has no further speakers.

Mr. SCOTT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member for his kindness in yielding me this time, and I would also like to thank the gentleman from Wisconsin (Chairman SENSENBRENNER). I know that the chairman is working on a number of legislative initiatives that are coming to the floor of the House, and, that the gentleman is being required to move these legislative initiatives rather quickly. In fact, I also know that the gentleman has been working to help us move some legislation forward dealing with the access to legalization of immigrants, and I know that we have had some difficulties with that, but I thank him for his leadership and concern on those issues.

I say that because I do not think any Member has opposition to an international convention that deals with the suppression of terrorist bombings, and that we recognize the key importance of the international convention of the suppression of the financing of terrorism. There is not one iota of difference, I believe, with Members on both sides of the aisle on the importance of moving forward on finding terrorists, bringing terrorists to justice, and ensuring that our international colleagues, our friends around the world, the nations that are our allies and others around the world, should have a convention and treaty that puts us on the same page in fighting terrorism.

At the same time, I think it is important to note as we move forward on this legislation, and I raise a number of caution flags, for me to again offer my concerns about the existence of military tribunals without any set criteria and regulations upon which they are utilized. Members might ask the question where goes the relationship in connection with this legislation, but I think if we refuse to bring this up and continue in silence to accept the existence of military tribunals with what the other body has annunciated is not in place, meaning the other body asked the questions what kind of regulation, what kind of requirements, what kind of criteria do you use to try people at military tribunals? If we do not raise that issue even as we bring to the floor of the House this legislation, then we have a problem.

I acknowledge my concern with the quiet violation of the 6th Amendment, and that is individuals who are being listened to as their attorney is providing them counsel. If we do not raise these issues on the floor of the House, my concern about those policies is they have no criteria, they have no regulation, they have no governance.

Mr. Speaker, how can we claim to want to fairly deal with laws and pass an international convention on terrorism where we want everyone to join in around consistent rules and regulations, when we have these provisions in the United States with seemingly no basis and no need.

It is interesting that we are now going to try one of the terrorists found in the United States by a civil court, a judiciary system under the laws of the United States. I think that is commendable. It says that we are unsure of the reasons for the military tribunal, and whether or not we need to use them. And we have found that our judicial system, the third branch of government, is more than adequate to be able to try one of the alleged horrific terrorists that was involved in the September 11 attacks.

As it relates to this legislation, I would add my concerns to the passage of this legislation, without any commentary pro or con on the death penalty. I think it is important that we make the point that many of those who would be adhering to this treaty have great concern that we have language dealing with the death penalty, and that we could have cleaned this particular legislation up by accepting the amendment offered by the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Virginia (Mr. SCOTT) to delete the language, leaving in place the provision authorizing a maximum sentence of life imprisonment. That, I think, would have made this a more legitimate piece of legislation, in recognition of the fact that many of those who would join in on this treaty are absolutely opposed to the death penalty.

One of our known allies, France, in dealing with bringing people to justice who find themselves in France, is the refusal of that country to deport individuals for trial here in the United States because of the death penalty.

It is also worthy of noting that the administration acknowledged that capital punishment is not required to implement the conventions. For those Members listening to this debate and saying, here we go again on the debate of the death penalty, that is not the debate we are speaking about. We are talking about making an effective legislative initiative that deals with having a convention that will stand up.

Right now we have an Achilles heel. We have a failing in this legislation because we know that there are many who have argued that they will not participate or not join in or that there will be a problem because of the death penalty provision, and at the same time, we have an administration that says this is not necessary.

I am hoping as this legislation moves along, that we will take into consideration the point of view of some of our closest allies who have routinely refused to honor extradition requests by the United States unless their judicial authorities can be assured that the defendants will not face execution.

We have faced heinous acts against the people of the United States, and I offer my deepest sympathy to those who lost loved ones on September 11. Whether this legislation with the death penalty helps solve our problems, I think not, particularly if those who are harboring criminals would not extradite them because of the death penalty.

Mr. Speaker, in closing, tomorrow I will be holding a briefing dealing with the terrible atrocities or how the children of Afghanistan are being treated because I believe all Americans are concerned about two sides of the coin, the humanitarian side and the fighting terrorism side. This is good legislation, but I think it could have been better legislation if we had taken into consideration the viewpoints of those who we seek to convene or seek to engage in the treaty, and that is that we would have a life imprisonment provision as opposed to a death penalty provision which undermines our relationship with our allies who have opposition to this point of view.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I cannot believe what I just heard. We are told that we should not put a death penalty in this bill that relates to implementing a convention against terrorist bombings where a death or serious injury occur because the French do not like it. Well, the last time I read the United States Constitution, the elected representatives of the American people legislate for America, not the elected representatives of the French people. This is an issue of our national sovereignty and whether or not we believe that the death penalty is an appropriate option for those who are accused of crimes under the convention designed to combat terrorist bombings.

The overwhelming majority of the American people support the death penalty, particularly when it is with respect to a terrorist act. We should not let the parliament of any other country in the world make a determination on what the appropriate penalty is for those who are accused of these heinous crimes and are convicted by a unanimous verdict of 12 jurors who believe beyond a reasonable doubt that the defendant committed the crimes that are mentioned.

We already have provisions in the United States code providing for the death penalty for terrorist act that result in somebody's death. Without making this law parallel to the other penalties in the United States code, we are setting up a dual system of justice. If a defendant is indicted for violating one section, the defendant is subject to the death penalty. If a defendant is indicted for violating another section of the code as created by this bill, the defendant is not. That, I think, is the wrong message that we ought to send both domestically and internationally with respect to this issue.

I remind Members, Mr. Speaker, that since 1972, the death penalty is not automatic upon conviction of a crime. The same jury that has convicted someone of a capital defense is reimpaneled and hears aggravating and mitigating evidence, and makes a determination whether or not the death penalty should be imposed. Who is better equipped to do that but the jurors that listened to the trial on the merits, saw the demeanor of the defendant in court, whether or not the defendant testified in his or her own behalf, decided which witnesses were telling the truth and which witnesses were not, and were able to see the demeanor of every other participant in that trial.

I think that the message that we ought to send, purely and simply, is that the elected representatives of the American people will decide what these penalties are, not people in France or in Italy or in Sweden or Germany or anyplace else. I think that the American people want the death penalty for these types of crimes as an option when a defendant is indicted.

Mr. Speaker, I reserve the balance of my time.

□ 1030

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is designed to facilitate the fight against terrorism and working with our allies in that fight, and it is, frankly, not helpful in that process to have situations where our allies will not cooperate with us because of the death penalty.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I have to respectfully disagree with the chairman of the committee for the same reasons that were articulated by both the gentlewoman from Texas and the ranking member of the subcommittee. I think we have to put this in context and understand exactly what is required in terms of the Convention. The administration itself has acknowledged that this death penalty provision is not required to implement the Convention.

I have no disagreement with the gentleman's premise that it is the United States Congress that imposes or reflects, if you will, the will of the majority of the American people. At the same time, this provision is going to cause serious problems. In fact, not only is it not required under the Convention, but, as the gentleman from Virginia (Mr. SCOTT) indicated, it will actually impair the fight against international terrorism by making it harder for the Justice Department to secure extradition in these kinds of cases.

Our continued resort to the death penalty has brought condemnation from nations across the globe. Even some of our closest allies routinely refuse to honor extradition requests by the United States unless their judicial authorities can be assured that the defendants will not face execution. It has become a serious problem in terms of our legal relationships with our most steadfast allies, some of which were enumerated by the chairman of the committee.

Earlier this year, the Supreme Court of Canada ruled that the Canadian Charter of Rights and Freedoms precludes extradition to the United States unless U.S. authorities give assurances that the death penalty will not be imposed. Similar rulings have been made by governments and courts in France, South Africa and elsewhere.

I do not see how it serves American interests to enact additional provisions that do not exist currently in the law that will further complicate our ability to prosecute terrorists and further marginalize the U.S. within the family of nations.

Now, the administration justifies the new death penalty provision by claiming that it merely tracks current law with respect to comparable domestic crimes. That, I am sure, is accurate. But the fact that the current law presents an obstacle to our law enforcement objectives is hardly a persuasive argument for compounding the problem.

Reasonable people may continue to disagree with whether the death penalty serves as a deterrent to some categories of crimes, but I am at a loss to see how anyone can seriously believe that the prospect of the death penalty will deter suicide missions of the kind that this Nation witnessed on September 11. I dare say it will have no effect whatsoever, and I believe the administration implicitly concedes as much when it says that this new provision merely replicates existing death penalty provisions, provisions which did nothing to prevent those attacks from occurring.

Now, again, I support the Convention. I believe it should be ratified and implemented with all reasonable dispatch. But we have a responsibility to achieve that goal in a way that generally advances our national interests. I hope the Senate will fix this legislation so that that can happen.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is designed to implement a treaty. In order to be limited to that purpose, the bill goes well beyond what needs to be done, and, in fact, contains provisions that may be counterproductive. I therefore urge my colleagues to oppose the legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have now heard the proposition that passing this bill as it is with the death penalty provisions contained in it is somehow going to render ineffective the foreign policy of the United States.

I would draw the attention of the gentleman from Massachusetts, in particular, to House document 107-139, which is a legislative proposal transmitted by the President of the United

States to Congress on October 25, 2001, containing the death penalty. Now, under the Constitution, it is the President that conducts the foreign policy of the United States, and if he believed that the death penalty features in this legislation which involved terrorist bombings would somehow hamper his ability to put together an international coalition to fight the al Qaeda or any other terrorist organization, I am sure he would have said so in this message that he sent to the Congress. But he did not.

Giving prosecutors the opportunity to ask for the death penalty when there is a particularly heinous crime I think is something that should be an arrow in the quiver of the Justice Department. I regret that the opponents of this legislation have made their philosophical opposition to the death penalty a reason to vote down the implementation of a treaty designed to combat international terrorism such as bombing of public facilities that we have seen occur at our embassies in Africa and which, unfortunately, occur on an almost daily basis in Israel, but I think that the President is right that we should have the option of having a death penalty as one of the penalties, should someone be indicted, tried and convicted.

I would urge the membership to support this bill overwhelmingly.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3275, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3427

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 3427, the Afghanistan Freedom and Reconstruction Act.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

PROVIDING FOR PLACEMENT OF PLAQUE HONORING DR. JAMES HARVEY EARLY IN THE WILLIAMSBURG, KENTUCKY, POST OFFICE BUILDING

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1714) to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky, Post Office Building.

The Clerk read as follows:

S. 1714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INSTALLATION OF PLAQUE TO HONOR DR. JAMES HARVEY EARLY.

(a) IN GENERAL.—The United States Postmaster General shall install a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building located at 1000 North Highway 23 West, Williamsburg, Kentucky 40769.

(b) CONTENTS OF PLAQUE.—The plaque installed under subsection (a) shall contain the following text:

"Dr. James Harvey Early was born on June 14, 1808 in Knox County, Kentucky. He was appointed postmaster of the first United States Post Office that was opened in the town of Whitley Courthouse, now Williamsburg, Kentucky in 1829. In 1844 he served in the Kentucky Legislature. Dr. Early married twice, first to Frances Ann Hammond, died 1860; and then to Rebecca Cummins Sammons, died 1914. Dr. Early died at home in Rockhold, Kentucky on May 24, 1885 at the age of 77.".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1714.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate 1714, sponsored by Senator MITCH MCCONNELL, would install a plague to honor Dr. James Harvey Early in the Williamsburg, Kentucky, Post Office.

Mr. Speaker, I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

As a member of the Committee on Government Reform, I am pleased to join my colleague in the House consideration of S. 1714, which places a plague in the Post Office in Williamsburg, Kentucky, honoring Dr. James Harvey Early. This measure was introduced by Senator MITCH MCCONNELL on November 5, 2001.

Dr. James Harvey Early was born on June 4, 1808, in Knox County, Kentucky. He was appointed postmaster of the first United States Post Office that was opened in the town of Whitley Courthouse, now Williamsburg, Kentucky, in 1829. In 1844 he served in the Kentucky legislature.

Dr. Early died at home in Rockhold, Kentucky, on May 24, 1885, at the age of 77. He represents the significance of individuals who have made a tremendous impact on the development of our community for many, many years to come.

Mr. Speaker, I join with my colleague and urge swift passage of this resolution.

Mr. ROGERS of Kentucky. Mr. Speaker, I rise in strong support of S. 1714, a bill to provide for the installation of a plaque in the Williamsburg Kentucky Post Office Building to honor Dr. James Harvey Early.

Kentucky was one of the first frontiers, marked with rugged terrain and harsh conditions. In this challenging frontier land, Dr. Early helped shape his community through his many years of service. Born in Knox County, Kentucky in 1808, the young James Early served as the first Postmaster for the community of Whitley Courthouse, now known as Williamsburg, Kentucky. He went on to serve the community in the Kentucky State Legislature as a member of the Whig party in 1844 at the same time that he maintained a farm near Rockhold, Kentucky.

However, his greatest contribution to the community might well be his service as a doctor for nearly 30 years. Dr. Early practiced as a civilian doctor for the Union Army during the Civil War and continued as a country doctor until his death at the age of 77.

Married twice, Dr. Early helped raise 15 children, four of whom went on to serve this country in their own right by joining the Union Army during the war. Some of his descendants still live in Kentucky and continue to serve our commonwealth and this great nation in numerous ways.

Dr. James Harvey Early was a man who provided great service to his community through the trying and difficult times of war in this country, and it is fitting that we honor him today with this plaque.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the Senate bill, S. 1714.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DAVIS of Illinois. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

MAJOR LYN McINTOSH POST OFFICE BUILDING

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1432) to designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the "Major Lyn McIntosh Post Office Building".

The Clerk read as follows:

H.R. 1432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAJOR LYN McINTOSH POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, shall be known and designated as the "Major Lyn McIntosh Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Major Lyn McIntosh Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1432.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1432 would designate the post office located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the Major Lyn McIntosh Post Office Building.

Lyn Davis McIntosh was born in Valdosta, Georgia, on October 11, 1946. He went to school in Valdosta, graduating from Valdosta State College in 1968. He taught mathematics at Valdosta Junior High School. He enlisted in the Air Force and served overseas in Thailand. After returning to the United States, he was stationed at Travis Air Force Base, California, serving as a National Security Officer.

Major McIntosh returned to flying, joining the 8th Special Operations Squadron as an aircraft commander in 1979. On November 4, 1979, Iranians seized the U.S. Embassy in Tehran, taking 66 Americans hostage. Major McIntosh volunteered for the rescue mission. This extremely dangerous and complex rescue attempt ended in disaster in an Iranian desert on April 25, 1980. Major McIntosh was among those who lost their lives during this rescue mission.

In 1969, Major McIntosh married Ann Dixon and they had three sons, Scott, Mark and Stewart. Ann Dixon passed away on February 17, 2001.

This bill is a fitting tribute to this American patriot. I commend the gentleman from Georgia (Mr. BISHOP) and the other members of the Georgia delegation for sponsoring this bill.

Mr. Speaker, I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join my colleague in the House consideration of H.R. 1432, which names a Post Office in Valdosta, Georgia, after Major Lyn McIntosh. H.R. 1432 was introduced by my good and colleague, the gentleman from Georgia (Mr. BISHOP) on April 4, 2001. This bill, which meets the committee policy, is cosponsored by the entire Georgia delegation.

□ 1045

I commend the gentleman from Georgia (Mr. BISHOP) for seeking to honor Major McIntosh.

Major McIntosh grew up in Valdosta and received his education in his hometown. He enlisted in the United States Air Force and completed his pilot training. As a member of the Eighth Special Operations Squadron, he commanded an MC–130 aircraft. He later volunteered for a rescue mission to recover the hostages seized in Iran at the U.S. embassy in Tehran, Iran, in 1979. Sadly and unfortunately, he was killed on a ground aircraft collision on April 25, 1979. Here is another example of an individual who was willing to give all that he had for his country; and I think it is certainly fitting, proper and appropriate that we honor him by naming a post office for him. I urge my colleagues to vote in the affirmative for the passage of this resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. BISHOP), the author of this legislation.

Mr. BISHOP. Mr. Speaker, I thank the gentleman for yielding me this time. I thank the committee for the hard work on both sides that have been done to bring this bill to the floor. It is a very, very important and emotional piece of legislation for the people of south Georgia.

If one visits the city of Valdosta in deep central south Georgia and happens to be on the corner of North Ashley Street and Woodrow Wilson Drive, one will see a memorial that includes an F–86 fighter plane and a plaque commemorating the life of Major Lyn David McIntosh.

Lyn McIntosh was an extraordinary American.

He was raised in Valdosta; and he attended the public schools there, where he was involved in football and tennis, drama and student government, and as sports editor of the school paper. He graduated from Valdosta State College; and for a while, he taught math at Valdosta Junior High School. Later, he would earn a master's degree from the University of California.

Moody Air Force Base is located in Valdosta, and this outstanding young man decided that military service is what he wanted to do with his life. In 1969, two big things happened: he was married to Ann Dixon of Valdosta, and he joined the Air Force. In the years that followed, he became the father of three sons; and he served as an Air Force pilot and a commander throughout much of the world, and he earned a long list of commendations, including the Air Force Commendation Medal with two Oak Leaf Clusters. He flew with the Eighth Special Operations Squadron as an MC–130 aircraft commander in June of 1979.

As my colleagues know, on November 4, 1979, the Iranians seized the United States Embassy in Tehran, taking 66 Americans hostage. An extremely complex rescue mission was formed and Lyn volunteered for the mission. The rescue attempt began April 24, 1980; and it ended in a disaster in an Iranian desert on April 25. Lyn was among those who lost their lives in an on-the-ground aircraft collision. Unfortunately, this mission was aborted; and Lyn, unfortunately, was among those who died in this very, very tragic accident.

But today, we are here, grateful for Lyn's service to his country, grateful for his commitment, and we want to say "thank you" to his family; we want to say "thank you" in the way that Americans will always do for eternal gratitude for those who give that last full measure of devotion for our country.

Today, I would like to urge my colleagues to pass H.R. 1432, a bill to name the United States Post Office on the Inner Perimeter Road in Valdosta, Georgia, as the Major Lyn McIntosh Building in memory of a brave American. Lyn was indeed a great American. Greater love hath no man but that he lay down his life for his friends. Lyn was a friend to all Americans. He gave himself for those 66 hostages; and for that, we will be forever grateful.

Mr. Speaker, I urge passage of this resolution as a memorial to Lyn and his family and to all those who knew and all Americans who benefited from his service to our great country.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Georgia (Mr. KINGSTON), my distinguished colleague.

Mr. KINGSTON. Mr. Speaker, I thank the gentlewoman for yielding me time.

I wanted to say that the gentleman from Georgia (Mr. BISHOP), my good friend, has introduced a very timely resolution for a great American patriot. As somebody who will be representing Valdosta, Georgia, or part of Valdosta, Georgia, I look forward to participating in this. I do not know the McIntosh family personally, as does the gentleman from Georgia (Mr. BISHOP), but if one looks at the history of the United States of America in the last 10 or 15 years, it is clear that Mr. McIntosh has been a part of that history and has served his country well. During that very trying period in 1979 when Americans faced the ignominious situation in Iran, for somebody to step forward and volunteer on a rescue mission I think speaks volumes of his patriotism, love, and devotion for our country.

I look forward to supporting my colleague on this and working with him and the folks in the Senate to get this thing passed. I also look forward to getting to know the McIntosh family. I thank the gentleman from Georgia for introducing this piece of legislation.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, having no other speakers, I urge all of my colleagues to join me in supporting the passage of H.R. 1432.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 1432.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX ,and the Chair's prior announcement, further proceedings on this motion will be postponed.

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT OF 2001

Mrs. MORELLA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1202) to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2006.

The Clerk read as follows:

S. 1202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Government Ethics Authorization Act of 2001".

SEC. 2. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

Section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "1997 through 1999" and inserting "2002 through 2006".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. MORELLA).

GENERAL LEAVE

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1202 is critically important to ensuring honesty, integrity, and impartiality in the executive branch of the Federal Government. The bill would reauthorize the Office of Government Ethics through fiscal year 2006.

With a budget of $10 million and a staff of only 82, the Office of Government Ethics is a small agency. Despite its small size, however, it performs a vital function.

The office, established in 1978, fosters high ethical standards for government employees. It oversees compliance by Federal departments and agencies with a variety of ethics laws. It issues rules and regulations for Federal employees to follow on such matters as conflict of interest, post-employment restrictions, standards of conduct, and financial disclosure. The office also reviews financial disclosure statements of certain Presidential nominees and, when necessary, recommends corrective action if it finds violations of ethics laws.

In addition, the office trains employees in ethics, provides formal and informal guidance on the interpretation and application of various ethics laws, and it evaluates the effectiveness of conflict of interest and other ethics laws.

During the last Congress, the Subcommittee on Civil Service and Agency Organization of the Committee on Government Reform held an oversight hearing on the Office of Government Ethics. That hearing revealed that the office has performed its duties exceedingly well. There is no question that the office has earned reauthorization from this Congress.

So, Mr. Speaker, I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the ranking member of the Subcommittee on Civil Service and Agency Organization, I am pleased to join with the gentlewoman from Maryland in support of S. 1202, a bill to amend the Ethics in Government Act of 1978 to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2006.

OGE's mission is not only to prevent and resolve conflicts of interest and to foster high ethical standards for Federal employees, but also to strengthen the public's confidence so that the government's business is conducted with impartiality and integrity. OGE does this by, one, reviewing and certifying the financial disclosure forms filed by Presidential nominees requiring Senate confirmation; two, serving as the primary source of advice in counseling on conduct and financial disclosure issues; and, three, by providing information on promoting understanding of ethical standards in executive agencies.

OGE and its staff are well regarded by the Federal agencies with whom they do business. OGE has played an essential and significant role in fostering the public's trust in the integrity of government.

Mr. Speaker, there is no component of government more important than that of assuring the public's trust. OGE helps to build and maintain that kind of trust that is essential for an orderly, ethical, and respectable conduct of the Nation's business. For those reasons, I urge swift passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from Illinois (Mr. DAVIS) for his words and tell him that I do value working with him on the Subcommittee on Civil Service and Agency Organization. I also want to thank Senator LIEBERMAN who chairs the Senate Committee on Governmental Affairs for his sponsorship of this bill. Indeed, accolades to the gentleman from Indiana (Mr. BURTON), the chairman of the committee on Government Reform and Oversight, and the gentleman from California (Mr. WAXMAN), the ranking member, for their support of this legislation. Also, thanks should go to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for his cooperation in expediting consideration of this measure.

Mr. Speaker, promoting high ethical standards in the Federal Government is critically important if the citizens of this country are to have confidence in its operation. For this reason, I urge all Members to support S. 1202 and the reauthorization of the Office of Government Ethics..

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and pass the Senate bill, S. 1202.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DAVIS of Illinois. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1100

DISTRICT OF COLUMBIA FAMILY COURT ACT OF 2001

Mrs. MORELLA. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2657) to amend title 11, District of Columbia Code, to redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, to recruit and retain trained and experienced judges to serve in the Family Court, to promote consistency and efficiency in the assignment of judges to the Family Court and in the consideration of actions and proceedings in the Family Court, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Family Court Act of 2001".

SEC. 2. REDESIGNATION OF FAMILY DIVISION AS FAMILY COURT OF THE SUPERIOR COURT.

(a) In General.—Section 11–902, District of Columbia Code, is amended to read as follows:

"§ 11–902. Organization of the court

"(a) In General.—The Superior Court shall consist of the following:

"(1) The Civil Division.

"(2) The Criminal Division.

"(3) The Family Court.

"(4) The Probate Division.

"(5) The Tax Division.

"(b) Branches.—The divisions of the Superior Court may be divided into such branches as the Superior Court may by rule prescribe.

"(c) Designation of Presiding Judge of Family Court.—The chief judge of the Superior Court shall designate one of the judges assigned to the Family Court of the Superior Court to serve as the presiding judge of the Family Court of the Superior Court.

"(d) Jurisdiction Described.—The Family Court shall have original jurisdiction over the actions, applications, determinations, adjudications, and proceedings described in section 11–1101. Actions, applications, determinations, adjudications, and proceedings being assigned to cross-jurisdictional units established by the Superior Court, including the Domestic Violence Unit, on the date of enactment of this section may continue to be so assigned after the date of enactment of this section.".

(b) Conforming Amendment to Chapter 9.—Section 11–906(b), District of Columbia Code, is amended by inserting "the Family Court and" before "the various divisions".

(c) Conforming Amendments to Chapter 11.—(1) The heading for chapter 11 of title 11, District of Columbia, is amended by striking "FAMILY DIVISION" and inserting "FAMILY COURT".

(2) The item relating to chapter 11 in the table of chapters for title 11, District of Columbia, is amended by striking "FAMILY DIVISION" and inserting "FAMILY COURT".

(d) Conforming Amendments to Title 16.—

(1) Calculation of Child Support.—Section 16–916.1(o)(6), District of Columbia Code, is amended by striking "Family Division" and inserting "Family Court of the Superior Court".

(2) Expedited Judicial Hearing of Cases Brought Before Hearing Commissioners.—Section 16–924, District of Columbia Code, is amended by striking "Family Division" each place it appears in subsections (a) and (f) and inserting "Family Court".

(3) General References to Proceedings.—Chapter 23 of title 16, District of Columbia Code, is amended by inserting after section 16–2301 the following new section:

"§ 16–2301.1. References deemed to refer to Family Court of the Superior Court

"Any reference in this chapter or any other Federal or District of Columbia law, Executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Family Division of the Superior Court of the District of Columbia shall be deemed to refer to the Family Court of the Superior Court of the District of Columbia.".

(4) Clerical Amendment.—The table of sections for subchapter I of chapter 23 of title 16, District of Columbia, is amended by inserting after the item relating to section 16–2301 the following new item:

"16–2301.1. References deemed to refer to Family Court of the Superior Court.".

SEC. 3. APPOINTMENT AND ASSIGNMENT OF JUDGES; NUMBER AND QUALIFICATIONS.

(a) Number of Judges for Family Court; Qualifications and Terms of Service.—Chapter 9 of title 11, District of Columbia Code, is amended by inserting after section 11–908 the following new section:

"§ 11–908A. Special rules regarding assignment and service of judges of Family Court

"(a) Number of Judges.—

"(1) In General.—The number of judges serving on the Family Court of the Superior Court shall be not more than 15.

"(2) Emergency Reassignment.—If the chief judge determines that, in order to carry out the intent and purposes of the District of Columbia Family Court Act of 2001, an emergency exists such that the number of judges needed on the Family Court of the Superior Court at any time is more than 15—

"(A) the chief judge may temporarily reassign judges from other divisions of the Superior Court to serve on the Family Court who meet the requirements of paragraphs (1) and (3) of subsection (b) or senior judges who meet the requirements of those paragraphs, except such reassigned judges shall not be subject to the term of service requirements set forth in subsection (c); and

"(B) the chief judge shall, within 30 days of emergency temporary reassignment pursuant to subparagraph (A), submit a report to the President and Congress describing—

"(i) the nature of the emergency;

"(ii) how the emergency was addressed, including which judges were reassigned; and

"(iii) whether and why an increase in the number of Family Court judges authorized in subsection (a)(1) may be necessary to serve the needs of families and children in the District of Columbia.

"(3) Composition.—The total number of judges on the Superior Court may exceed the limit on such judges specified in section 11–903 to the extent necessary to maintain the requirements of this subsection if—

"(A) the number of judges serving on the Family Court is less than 15; and

"(B) the Chief Judge of the Superior Court—

"(i) is unable to secure a volunteer judge who is sitting on the Superior Court outside of the Family Court for reassignment to the Family Court;

"(ii) obtains approval of the Joint Committee on Judicial Administration; and

"(iii) reports to Congress regarding the circumstances that gave rise to the necessity to exceed the cap.

"(b) Qualifications.—The chief judge may not assign an individual to serve on the Family Court of the Superior Court or handle a Family Court case unless—

"(1) the individual has training or expertise in family law;

"(2) the individual certifies to the chief judge that the individual intends to serve the full term of service, except that this paragraph shall not apply with respect to individuals serving as senior judges under section 11–1504, individuals serving as temporary judges under section 11–908, and any other judge serving in another division of the Superior Court who is reassigned on an emergency temporary basis pursuant to subsection (a)(2);

"(3) the individual certifies to the chief judge that the individual will participate in the ongoing training programs carried out for judges of the Family Court under section 11–1104(c); and

"(4) the individual meets the requirements of section 11–1501(b).

"(c) Term of Service.—

"(1) In General.—Except as provided in paragraph (2), an individual assigned to serve as a judge of the Family Court of the Superior Court shall serve for a term of 5 years.

"(2) Special Rule for Judges Serving on Superior Court on Date of Enactment of Family Court Act of 2001.—

"(A) In General.—An individual assigned to serve as a judge of the Family Court of the Superior Court who is serving as a judge of the Superior Court on the date of the enactment of the District of Columbia Family Court Act of 2001 shall serve for a term of not fewer than 3 years.

"(B) Reduction of Period for Judges Serving in Family Division.—In the case of a judge of the Superior Court who is serving as a judge

in the Family Division of the Court on the date of the enactment of the District of Columbia Family Court Act of 2001, the 3-year term applicable under subparagraph (A) shall be reduced by the length of any period of consecutive service as a judge in such Division immediately preceding the date of the enactment of such Act.

"(3) ASSIGNMENT FOR ADDITIONAL SERVICE.—After the term of service of a judge of the Family Court (as described in paragraph (1)) expires, at the judge's request and with the approval of the chief judge, the judge may be assigned for additional service on the Family Court for a period of such duration (consistent with section 431(c) of the District of Columbia Home Rule Act) as the chief judge may provide.

"(4) PERMITTING SERVICE ON FAMILY COURT FOR ENTIRE TERM.—At the request of the judge and with the approval of the chief judge, a judge may serve as a judge of the Family Court for the judge's entire term of service as a judge of the Superior Court under section 431(c) of the District of Columbia Home Rule Act.

"(d) REASSIGNMENT TO OTHER DIVISIONS.—The chief judge may reassign a judge of the Family Court to any division of the Superior Court if the chief judge determines that in the interest of justice the judge is unable to continue serving in the Family Court.".

(b) PLAN FOR FAMILY COURT TRANSITION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the chief judge of the Superior Court of the District of Columbia shall prepare and submit to the President and Congress a transition plan for the Family Court of the Superior Court, and shall include in the plan the following:

(A) The chief judge's determination of the role and function of the presiding judge of the Family Court.

(B) The chief judge's determination of the number of judges needed to serve on the Family Court.

(C) The chief judge's determination of the number of magistrate judges of the Family Court needed for appointment under section 11-1732, District of Columbia Code.

(D) The chief judge's determination of the appropriate functions of such magistrate judges, together with the compensation of and other personnel matters pertaining to such magistrate judges.

(E) A plan for case flow, case management, and staffing needs (including the needs for both judicial and nonjudicial personnel) for the Family Court, including a description of how the Superior Court will handle the one family, one judge requirement pursuant to section 11-1104(a) for all cases and proceedings assigned to the Family Court.

(F) A plan for space, equipment, and other physical plant needs and requirements during the transition, as determined in consultation with the Administrator of General Services.

(G) An analysis of the number of magistrate judges needed under the expedited appointment procedures established under section 6(d) in reducing the number of pending actions and proceedings within the jurisdiction of the Family Court (as described in section 11-902(d), District of Columbia, as amended by subsection (a)).

(H) Consistent with the requirements of paragraph (2), a proposal for the disposition or transfer to the Family Court of child abuse and neglect actions pending as of the date of enactment of this Act (which were initiated in the Family Division but remain pending before judges serving in other Divisions of the Superior Court as of such date) in a manner consistent with applicable Federal and District of Columbia law and best practices, including best practices developed by the American Bar Association and the National Council of Juvenile and Family Court Judges.

(I) An estimate of the number of cases for which the deadline for disposition or transfer to the Family Court, specified in paragraph (2)(B), cannot be met and the reasons why such deadline cannot be met.

(2) IMPLEMENTATION OF THE PLAN FOR TRANSFER OR DISPOSITION OF ACTIONS AND PROCEEDINGS TO FAMILY COURT.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the chief judge of the Superior Court and the presiding judge of the Family Court shall take such steps as may be required as provided in the proposal for disposition of actions and proceedings under paragraph (1)(H) to ensure that each child abuse and neglect action of the Superior Court (as described in section 11-902(d), District of Columbia Code, as amended by subsection (a)) is transferred to the Family Court or otherwise disposed of as provided in subparagraph (B).

(B) DEADLINE.—

(i) IN GENERAL.—Notwithstanding any other provision of this Act or any amendment made by this Act and except as provided in subparagraph (C), no child abuse or neglect action shall remain pending with a judge not serving on the Family Court upon the expiration of 18 months after the filing of the transition plan required under paragraph (1).

(ii) RULE OF CONSTRUCTION.—The chief judge of the Superior Court should make every effort to provide for the earliest practicable disposition of actions. Nothing in this subparagraph shall preclude the immediate transfer of cases to the Family Court, particularly cases which have been filed with the court for less than 6 months prior to the date of enactment of this Act.

(C) RETAINED CASES.—Child abuse and neglect cases that were initiated in the Family Division but remain pending before judges, including senior judges as defined in section 11-1504, District of Columbia Code, in other Divisions of the Superior Court as of the date of enactment of this Act may remain before judges, including senior judges, in such other Divisions when—

(i) the case remains at all times in full compliance with Public Law 105-89, if applicable;

(ii) the chief judge determines, in consultation with the presiding judge of the Family Court, based on the record in the case and any unique expertise, training, or knowledge of the case that the judge might have, that permitting the judge to retain the case would lead to permanent placement of the child more quickly than reassignment to a judge in the Family Court.

(D) PRIORITY FOR CERTAIN ACTIONS AND PROCEEDINGS.—The chief judge of the Superior Court, in consultation with the presiding judge of the Family Court, shall give priority consideration to the disposition or transfer of the following actions and proceedings:

(i) The action or proceeding involves an allegation of abuse or neglect.

(ii) The action or proceeding was initiated in the family division prior to the 2-year period which ends on the date of enactment of this Act.

(iii) The judge to whom the action or proceeding is assigned as of the date of enactment of this Act is not assigned to the Family Division.

(E) PROGRESS REPORTS.—The chief judge of the Superior Court shall submit reports to the President, to the Committee on Appropriations of each House, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives at 6-month intervals for a period of 2 years after the date of submission of the transition plan required under paragraph (1) on the progress made towards disposing of actions or proceedings described in subparagraph (B).

(F) RULE OF CONSTRUCTION.—Nothing in this subsection shall preclude the chief judge, in consultation with the presiding judge of the Family Court, from transferring actions or proceedings pending before judges outside the Family Court at the enactment of this Act which do not involve allegations of abuse and neglect but which would otherwise fall under the jurisdiction of the Family Court to judges in the Family Court prior to the deadline as defined in subparagraph 2(B), particularly if such transfer would result in more efficient resolution of such actions or proceedings.

(3) EFFECTIVE DATE OF IMPLEMENTATION OF PLAN.—The chief judge of the Superior Court may not take any action to implement the transition plan under this subsection until the expiration of the 30-day period which begins on the date the chief judge submits the plan to the President and Congress under paragraph (1).

(c) TRANSITION TO REQUIRED NUMBER OF JUDGES.—

(1) ANALYSIS BY CHIEF JUDGE OF SUPERIOR COURT.—The chief judge of the Superior Court of the District of Columbia shall include in the transition plan prepared under subsection (b)—

(A) the chief judge's determination of the number of individuals serving as judges of the Superior Court who—

(i) meet the qualifications for judges of the Family Court of the Superior Court under section 11-908A, District of Columbia Code (as added by subsection (a)); and

(ii) are willing and able to serve on the Family Court; and

(B) if the chief judge determines that the number of individuals described in subparagraph (A) is less than 15, a request that the Judicial Nomination Commission recruit and the President nominate (in accordance with section 433 of the District of Columbia Home Rule Act) such additional number of individuals to serve on the Superior Court who meet the qualifications for judges of the Family Court under section 11-908A, District of Columbia Code, as may be required to enable the chief judge to make the required number of assignments.

(2) ROLE OF DISTRICT OF COLUMBIA JUDICIAL NOMINATION COMMISSION.—For purposes of section 434(d)(1) of the District of Columbia Home Rule Act, the submission of a request from the chief judge of the Superior Court of the District of Columbia under paragraph (1)(B) shall be deemed to create a number of vacancies in the position of judge of the Superior Court equal to the number of additional appointments so requested by the chief judge, except that the deadline for the submission by the District of Columbia Judicial Nomination Commission of nominees to fill such vacancies shall be 90 days after the creation of such vacancies. In carrying out this paragraph, the District of Columbia Judicial Nomination Commission shall recruit individuals for possible nomination and appointment to the Superior Court who meet the qualifications for judges of the Family Court of the Superior Court.

(d) REPORT BY COMPTROLLER GENERAL.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to Congress and the chief judge of the Superior Court of the District of Columbia a report on the implementation of this Act (including the implementation of the transition plan under subsection (b)), and shall include in the report the following:

(A) An analysis of the procedures used to make the initial appointments of judges of the Family Court under this Act and the amendments made by this Act, including an analysis of the time required to make such appointments and the effect of the qualification requirements for judges of the Court (including requirements relating to the length of service on the Court) on the time required to make such appointments.

(B) An analysis of the impact of magistrate judges for the Family Court (including the expedited initial appointment of magistrate judges *for the Court under section 6(d)) on the workload of judges and other personnel of the Court.*

(C) An analysis of the number of judges needed for the Family Court, including an analysis of how the number may be affected by the qualification requirements for judges, the availability of magistrate judges, and other provisions of this Act or the amendments made by this Act.

(D) An analysis of the timeliness of the resolution and disposition of pending actions and proceedings required under the transition plan (as described in paragraphs (1)(I) and (2) of subsection (b)), including an analysis of the effect of the availability of magistrate judges on the time required to resolve and dispose of such actions and proceedings.

(2) SUBMISSION TO CHIEF JUDGE OF SUPERIOR COURT.—Prior to submitting the report under paragraph (1) to Congress, the Comptroller General shall provide a preliminary version of the report to the chief judge of the Superior Court and shall take any comments and recommendations of the chief judge into consideration in preparing the final version of the report.

(e) CONFORMING AMENDMENT.—The first sentence of section 11–908(a), District of Columbia Code, is amended by striking "The chief judge" and inserting "Subject to section 11–908A, the chief judge".

(f) CLERICAL AMENDMENT.—The table of sections for chapter 9 of title 11, District of Columbia Code, is amended by inserting after the item relating to section 11–908 the following new item:

"11–908A. Special rules regarding assignment and service of judges of Family Court.".

SEC. 4. IMPROVING ADMINISTRATION OF CASES AND PROCEEDINGS IN FAMILY COURT.

(a) IN GENERAL.—Chapter 11 of title 11, District of Columbia, is amended by striking section 1101 and inserting the following:

"§ 11–1101. Jurisdiction of the Family Court

"(a) IN GENERAL.—The Family Court of the District of Columbia shall be assigned and have original jurisdiction over—

"(1) actions for divorce from the bond of marriage and legal separation from bed and board, including proceedings incidental thereto for alimony, pendente lite and permanent, and for support and custody of minor children;

"(2) applications for revocation of divorce from bed and board;

"(3) actions to enforce support of any person as required by law;

"(4) actions seeking custody of minor children, including petitions for writs of habeas corpus;

"(5) actions to declare marriages void;

"(6) actions to declare marriages valid;

"(7) actions for annulments of marriage;

"(8) determinations and adjudications of property rights, both real and personal, in any action referred to in this section, irrespective of any jurisdictional limitation imposed on the Superior Court;

"(9) proceedings in adoption;

"(10) proceedings under the Act of July 10, 1957 (D.C. Code, secs. 30–301 to 30–324);

"(11) proceedings to determine paternity of any child born out of wedlock;

"(12) civil proceedings for protection involving intrafamily offenses, instituted pursuant to chapter 10 of title 16;

"(13) proceedings in which a child, as defined in section 16–2301, is alleged to be delinquent, neglected, or in need of supervision;

"(14) proceedings under chapter 5 of title 21 relating to the commitment of the mentally ill;

"(15) proceedings under chapter 13 of title 7 relating to the commitment of the at least moderately mentally retarded; and

"(16) proceedings under Interstate Compact on Juveniles (described in title IV of the District of Columbia Court Reform and Criminal Procedure Act of 1970).

"(b) DEFINITION.—

"(1) IN GENERAL.—In this chapter, the term 'action or proceeding' with respect to the Family Court refers to cause of action described in paragraphs (1) through (16) of subsection (a).

"(2) EXCEPTION.—An action or proceeding may be assigned to or retained by cross-jurisdictional units established by the Superior Court, including the Domestic Violence Unit.

"§ 11–1102. Use of alternative dispute resolution

"To the greatest extent practicable and safe, cases and proceedings in the Family Court of the Superior Court shall be resolved through alternative dispute resolution procedures, in accordance with such rules as the Superior Court may promulgate.

"§ 11–1103. Standards of practice for appointed counsel

"The Superior Court shall establish standards of practice for attorneys appointed as counsel in the Family Court of the Superior Court.

"§ 11–1104. Administration

"(a) 'ONE FAMILY, ONE JUDGE' REQUIREMENT FOR CASES AND PROCEEDINGS.—To the greatest extent practicable, feasible, and lawful, if an individual who is a party to an action or proceeding assigned to the Family Court has an immediate family or household member who is a party to another action or proceeding assigned to the Family Court, the individual's action or proceeding shall be assigned to the same judge or magistrate judge to whom the immediate family member's action or proceeding is assigned.

"(b) RETENTION OF JURISDICTION OVER CASES.—

"(1) IN GENERAL.—In addition to the requirement of subsection (a), any action or proceeding assigned to the Family Court of the Superior Court shall remain under the jurisdiction of the Family Court until the action or proceeding is finally disposed, except as provided in paragraph (2)(D).

"(2) ONE FAMILY, ONE JUDGE.—

"(A) FOR THE DURATION.—An action or proceeding assigned pursuant to this subsection shall remain with the judge or magistrate judge in the Family Court to whom the action or proceeding is assigned for the duration of the action or proceeding to the greatest extent practicable, feasible, and lawful, subject to subparagraph (C).

"(B) ALL CASES INVOLVING AN INDIVIDUAL.—If an individual who is a party to an action or proceeding assigned to the Family Court becomes a party to another action or proceeding assigned to the Family Court, the individual's subsequent action or proceeding shall be assigned to the same judge or magistrate judge to whom the individual's initial action or proceeding is assigned to the greatest extent practicable and feasible.

"(C) FAMILY COURT CASE RETENTION.—If the full term of a Family Court judge to whom the action or proceeding is assigned is completed prior to the final disposition of the action or proceeding, the presiding judge of the Family Court shall ensure that the matter or proceeding is reassigned to a judge serving on the Family Court.

"(D) EXCEPTION.—A judge whose full term on the Family Court is completed but who remains in Superior Court may retain the case or proceeding for not more than 6 months or, in extraordinary circumstances, for not more than 12 months after ceasing to serve if—

"(i) the case remains at all times in full compliance with Public Law 105–89, if applicable; and

"(ii) if Public Law 105–89 is applicable, the chief judge determines, in consultation with the presiding judge of the Family Court, based on the record in the case and any unique expertise, training or knowledge of the case that the judge might have, that permitting the judge to retain the case would lead to permanent placement of the child more quickly than reassignment to a judge in the Family Court.

"(3) STANDARDS OF JUDICIAL ETHICS.—The actions of a judge or magistrate judge in retaining an action or proceeding under this paragraph shall be subject to applicable standards of judicial ethics.

"(c) TRAINING PROGRAM.—

"(1) IN GENERAL.—The chief judge, in consultation with the presiding judge of the Family Court, shall carry out an ongoing program to provide training in family law and related matters for judges of the Family Court and other judges of the Superior Court who are assigned Family Court cases, including magistrate judges, attorneys who practice in the Family Court, and appropriate nonjudicial personnel, and shall include in the program information and instruction regarding the following:

"(A) Child development.

"(B) Family dynamics, including domestic violence.

"(C) Relevant Federal and District of Columbia laws.

"(D) Permanency planning principles and practices.

"(E) Recognizing the risk factors for child abuse.

"(F) Any other matters the presiding judge considers appropriate.

"(2) USE OF CROSS-TRAINING.—The program carried out under this section shall use the resources of lawyers and legal professionals, social workers, and experts in the field of child development and other related fields.

"(d) ACCESSIBILITY OF MATERIALS, SERVICES, AND PROCEEDINGS; PROMOTION OF 'FAMILY-FRIENDLY' ENVIRONMENT.—

"(1) IN GENERAL.—To the greatest extent practicable, the chief judge and the presiding judge of the Family Court shall ensure that the materials and services provided by the Family Court are understandable and accessible to the individuals and families served by the Family Court, and that the Family Court carries out its duties in a manner which reflects the special needs of families with children.

"(2) LOCATION OF PROCEEDINGS.—To the maximum extent feasible, safe, and practicable, cases and proceedings in the Family Court shall be conducted at locations readily accessible to the parties involved.

"(e) INTEGRATED COMPUTERIZED CASE TRACKING AND MANAGEMENT SYSTEM.—The Executive Officer of the District of Columbia courts under section 11–1703 shall work with the chief judge of the Superior Court—

"(1) to ensure that all records and materials of cases and proceedings in the Family Court are stored and maintained in electronic format accessible by computers for the use of judges, magistrate judges, and nonjudicial personnel of the Family Court, and for the use of other appropriate offices of the District government in accordance with the plan for integrating computer systems prepared by the Mayor of the District of Columbia under section 4(b) of the District of Columbia Family Court Act of 2001;

"(2) to establish and operate an electronic tracking and management system for cases and proceedings in the Family Court for the use of judges and nonjudicial personnel of the Family Court, using the records and materials stored and maintained pursuant to paragraph (1); and

"(3) to expand such system to cover all divisions of the Superior Court as soon as practicable.

"§ 11–1105. Social services and other related services

"(a) ONSITE COORDINATION OF SERVICES AND INFORMATION.—

"(1) IN GENERAL.—The Mayor of the District of Columbia, in consultation with the chief judge of the Superior Court, shall ensure that representatives of the appropriate offices of the District government which provide social services and other related services to individuals and families served by the Family Court (including the District of Columbia Public Schools, the District of Columbia Housing Authority, the Child and Family Services Agency, the Office of the Corporation Counsel, the Metropolitan Police Department, the Department of Health, and other offices determined by the Mayor) are available on-site at the Family Court to coordinate the provision of such services and information regarding such services to such individuals and families.

"(2) DUTIES OF HEADS OF OFFICES.—The head of each office described in paragraph (1), including the Superintendent of the District of Columbia Public Schools and the Director of the District of Columbia Housing Authority, shall provide the Mayor with such information, assistance, and services as the Mayor may require to carry out such paragraph.

"(b) APPOINTMENT OF SOCIAL SERVICES LIAISON WITH FAMILY COURT.—The Mayor of the District of Columbia shall appoint an individual to serve as a liaison between the Family Court and the District government for purposes of subsection (a) and for coordinating the delivery of services provided by the District government with the activities of the Family Court and for providing information to the judges, magistrate judges, and nonjudicial personnel of the Family Court regarding the services available from the District government to the individuals and families served by the Family Court. The Mayor shall provide on an ongoing basis information to the chief judge of the Superior Court and the presiding judge of the Family Court regarding the services of the District government which are available for the individuals and families served by the Family Court.

"§ 11-1106. Reports to Congress

"Not later than 90 days after the end of each calendar year, the chief judge of the Superior Court shall submit a report to Congress on the activities of the Family Court during the year, and shall include in the report the following:

"(1) The chief judge's assessment of the productivity and success of the use of alternative dispute resolution pursuant to section 11-1102.

"(2) Goals and timetables as required by the Adoption and Safe Families Act of 1997 to improve the Family Court's performance in the following year.

"(3) Information on the extent to which the Family Court met deadlines and standards applicable under Federal and District of Columbia law to the review and disposition of actions and proceedings under the Family Court's jurisdiction during the year.

"(4) Information on the progress made in establishing locations and appropriate space for the Family Court that are consistent with the mission of the Family Court until such time as the locations and space are established.

"(5) Information on any factors which are not under the control of the Family Court which interfere with or prevent the Family Court from carrying out its responsibilities in the most effective manner possible.

"(6) Information on—

"(A) the number of judges serving on the Family Court as of the end of the year;

"(B) how long each such judge has served on the Family Court;

"(C) the number of cases retained outside the Family Court;

"(D) the number of reassignments to and from the Family Court; and

"(E) the ability to recruit qualified sitting judges to serve on the Family Court.

"(7) Based on outcome measures derived through the use of the information stored in electronic format under section 11-1104(d), an analysis of the Family Court's efficiency and effectiveness in managing its case load during the year, including an analysis of the time required to dispose of actions and proceedings among the various categories of the Family Court's jurisdiction, as prescribed by applicable law and best practices, including (but not limited to) best practices developed by the American Bar Association and the National Council of Juvenile and Family Court Judges.

"(8) If the Family Court failed to meet the deadlines, standards, and outcome measures described in the previous paragraphs, a proposed remedial action plan to address the failure.".

(b) EXPEDITED APPEALS FOR CERTAIN FAMILY COURT ACTIONS AND PROCEEDINGS.—Section 11-721, District of Columbia Code, is amended by adding at the end the following new subsection:

"(g) Any appeal from an order of the Family Court of the District of Columbia terminating parental rights or granting or denying a petition to adopt shall receive expedited review by the District of Columbia Court of Appeals.".

(c) PLAN FOR INTEGRATING COMPUTER SYSTEMS.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Mayor of the District of Columbia shall submit to the President and Congress a plan for integrating the computer systems of the District government with the computer systems of the Superior Court of the District of Columbia so that the Family Court of the Superior Court and the appropriate offices of the District government which provide social services and other related services to individuals and families served by the Family Court of the Superior Court (including the District of Columbia Public Schools, the District of Columbia Housing Authority, the Child and Family Services Agency, the Office of the Corporation Counsel, the Metropolitan Police Department, the Department of Health, and other offices determined by the Mayor) will be able to access and share information on the individuals and families served by the Family Court.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Mayor of the District of Columbia such sums as may be necessary to carry out paragraph (1).

(d) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, District of Columbia Code, is amended by adding at the end the following new items:

"11-1102. Use of alternative dispute resolution.
"11-1103. Standards of practice for appointed counsel.
"11-1104. Administration.
"11-1105. Social services and other related services.
"11-1106. Reports to Congress.".

SEC. 5. TREATMENT OF HEARING COMMISSIONERS AS MAGISTRATE JUDGES.

(a) IN GENERAL.—

(1) REDESIGNATION OF TITLE.—Section 11-1732, District of Columbia Code, is amended—

(A) by striking "hearing commissioners" each place it appears in subsection (a), subsection (b), subsection (d), subsection (i), subsection (l), and subsection (n) and inserting "magistrate judges";

(B) by striking "hearing commissioner" each place it appears in subsection (b), subsection (c), subsection (e), subsection (f), subsection (g), subsection (h), and subsection (j) and inserting "magistrate judge";

(C) by striking "hearing commissioner's" each place it appears in subsection (e) and subsection (k) and inserting "magistrate judge's";

(D) by striking "Hearing commissioners" each place it appears in subsections (b), (d), and (i) and inserting "Magistrate judges"; and

(E) in the heading, by striking "**Hearing commissioners**" and inserting "**Magistrate judges**".

(2) CONFORMING AMENDMENTS.—Section 16-924, District of Columbia Code, is amended—

(A) by striking "hearing commissioner" each place it appears and inserting "magistrate judge"; and

(B) in subsection (f), by striking "hearing commissioner's" and inserting "magistrate judge's".

(3) CLERICAL AMENDMENT.—The item relating to section 11-1732 of the table of sections of chapter 17 of title 11, D.C. Code, is amended to read as follows:

"11-1732. Magistrate judges.".

(b) TRANSITION PROVISION REGARDING HEARING COMMISSIONERS.—Any individual serving as a hearing commissioner under section 11-1732 of the District of Columbia Code as of the date of the enactment of this Act shall serve the remainder of such individual's term as a magistrate judge, and may be reappointed as a magistrate judge in accordance with section 11-1732(d), District of Columbia Code, except that any individual serving as a hearing commissioner as of the date of the enactment of this Act who was appointed as a hearing commissioner prior to the effective date of section 11-1732 of the District of Columbia Code shall not be required to be a resident of the District of Columbia to be eligible to be reappointed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6. SPECIAL RULES FOR MAGISTRATE JUDGES OF FAMILY COURT.

(a) IN GENERAL.—Chapter 17 of title 11, District of Columbia Code, is amended by inserting after section 11-1732 the following new section:

"§ 11-1732A. Special rules for magistrate judges of the Family Court of the Superior Court and the Domestic Violence Unit

"(a) USE OF SOCIAL WORKERS IN ADVISORY MERIT SELECTION PANEL.—The advisory selection merit panel used in the selection of magistrate judges for the Family Court of the Superior Court under section 11-1732(b) shall include certified social workers specializing in child welfare matters who are residents of the District and who are not employees of the District of Columbia Courts.

"(b) SPECIAL QUALIFICATIONS.—Notwithstanding section 11-1732(c), no individual shall be appointed or assigned as a magistrate judge for the Family Court of the Superior Court or as a magistrate judge for the Domestic Violence Unit handling actions or proceedings which would otherwise be under the jurisdiction of the Family Court unless that individual—

"(1) is a citizen of the United States;

"(2) is an active member of the unified District of Columbia Bar;

"(3) for the 5 years immediately preceding the appointment has been engaged in the active practice of law in the District, has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or District government, or any combination thereof;

"(4) has not fewer than 3 years of training or experience in the practice of family law as a lawyer or judicial officer; and

"(5)(A) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least 90 days immediately prior to appointment, and retains such residency during service as a magistrate judge; or

"(B) is a bona fide resident of the areas consisting of Montgomery and Prince George's Counties in Maryland, Arlington and Fairfax Counties, and the City of Alexandria in Virginia, has maintained an actual place of abode *in such area, areas, or the District of Columbia for at least 5 years prior to appointment, and certifies that the individual will become a bona fide resident of the District of Columbia not later than 90 days after appointment.*

"(c) SERVICE OF CURRENT HEARING COMMISSIONERS.—Those individuals serving as hearing commissioners under section 11–1732 on the effective date of this section who meet the qualifications described in subsection (b)(4) may request to be appointed as magistrate judges for the Family Court of the Superior Court under such section.

"(d) FUNCTIONS OF FAMILY COURT AND DOMESTIC VIOLENCE UNIT MAGISTRATES.—A magistrate judge, when specifically designated by the chief judge in consultation with the appropriate presiding judge to serve in the Family Court or in the Domestic Violence Unit and subject to the rules of the Superior Court and the right of review under section 11–1732(k), may perform the following functions:

"(1) Administer oaths and affirmations and take acknowledgements.

"(2) Subject to the rules of the Superior Court and applicable Federal and District of Columbia law, conduct hearings, make findings and enter interim and final orders or judgments in uncontested or contested proceedings within the jurisdiction of the Family Court and the Domestic Violence Unit of the Superior Court (as described in section 11–1101), excluding jury trials and trials of felony cases, as assigned by the appropriate presiding judge.

"(3) Subject to the rules of the Superior Court, enter an order punishing an individual for contempt, except that no individual may be detained pursuant to the authority of this paragraph for longer than 180 days.

"(e) LOCATION OF PROCEEDINGS.—To the maximum extent feasible, safe, and practicable, magistrate judges of the Family Court of the Superior Court shall conduct proceedings at locations readily accessible to the parties involved.

"(f) TRAINING.—The chief judge, in consultation with the presiding judge of the Family Court of the Superior Court, shall ensure that all magistrate judges of the Family Court receive training to enable them to fulfill their responsibilities, including specialized training in family law and related matters.".

(b) CONFORMING AMENDMENTS.—(1) Section 11–1732(a), District of Columbia Code, is amended by inserting after "the duties enumerated in subsection (j) of this section" the following: "(or, in the case of magistrate judges for the Family Court or the Domestic Violence Unit of the Superior Court, the duties enumerated in section 11–1732A(d))".

(2) Section 11–1732(c), District of Columbia Code, is amended by striking "No individual" and inserting "Except as provided in section 11–1732A(b), no individual".

(3) Section 11–1732(k), District of Columbia Code, is amended—

(A) by striking "subsection (j)," and inserting the following: "subsection (j) (or proceedings and hearings under section 11–1732A(d), in the case of magistrate judges for the Family Court or the Domestic Violence Unit of the Superior Court),"; and

(B) by inserting after "appropriate division" the following: "(or, in the case of an order or judgment of a magistrate judge of the Family Court or the Domestic Violence Unit of the Superior Court, by a judge of the Family Court or the Domestic Violence Unit)".

(4) Section 11–1732(l), District of Columbia Code, is amended by inserting after "responsibilities" the following: "(subject to the requirements of section 11–1732A(f) in the case of magistrate judges of the Family Court of the Superior Court or the Domestic Violence Unit)".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 17 of title 11, District of Columbia, is amended by inserting after the item relating to section 11–1732 the following new item:

"11–1732A. Special rules for magistrate judges of the Family Court of the Superior Court and the Domestic Violence Unit.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of enactment of this Act.

(2) EXPEDITED INITIAL APPOINTMENTS.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the chief judge of the Superior Court of the District of Columbia shall appoint individuals to serve as magistrate judges for the Family Division of the Superior Court in accordance with the requirements of sections 11–1732 and 11–1732A, District of Columbia Code (as added by subsection (a)), for the purpose of assisting with the implementation of the transition plan under section 3(b) of this Act, and in particular with the transition or disposal of actions or proceedings pursuant to section 3(b)(2) of this Act.

(B) TRANSITION RESPONSIBILITIES OF INITIALLY APPOINTED FAMILY COURT MAGISTRATES.—The chief judge of the Superior Court and the presiding judge of the Family Division of the Superior Court (acting jointly) shall first assign the magistrate judges of Family Court appointed under this paragraph to work with judges to whom the cases are currently assigned in making case disposition or transfer decisions as follows:

(i) The action or proceeding involves an allegation of abuse or neglect.

(ii) The judge to whom the action or proceeding is assigned as of the date of enactment of this Act is not assigned to the Family Division.

(iii) The action or proceeding was initiated in the Family Division prior to the 2-year period which ends on the date of enactment of this Act.

(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to preclude magistrate judges appointed pursuant to this subsection from performing upon appointment any or all of the functions of magistrate judges of the Family Court or Domestic Violence Unit as set forth in subsection 11–1732A(d).

SEC. 7. SENSE OF CONGRESS REGARDING BORDER AGREEMENT WITH MARYLAND AND VIRGINIA.

It is the sense of Congress that the State of Maryland, the Commonwealth of Virginia, and the District of Columbia should promptly enter into a border agreement to facilitate the timely and safe placement of children in the District of Columbia's welfare system in foster and kinship homes and other facilities in Maryland and Virginia.

SEC. 8. SENSE OF THE SENATE REGARDING THE USE OF COURT APPOINTED SPECIAL ADVOCATES.

It is the sense of the Senate that the chief judge of the Superior Court and the presiding judge of the Family Division should take all steps necessary to encourage, support, and improve the use of Court Appointed Special Advocates (CASA) in family court actions or proceedings.

SEC. 9. INTERIM REPORTS.

Not later than 12 months after the date of enactment of this Act, the chief judge of the Superior Court and the presiding judge of the Family Court—

(1) in consultation with the General Services Administration, shall submit to Congress a feasibility study for the construction, lease, or acquisition of appropriate permanent courts and facilities for the Family Court; and

(2) shall submit to Congress an analysis of the success of the use of magistrate judges under the expedited appointment procedures established under section 6(d) in reducing the number of pending actions and proceedings within the jurisdiction of the Family Court (as described in section 11–902(d), District of Columbia).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Courts of the District of Columbia and the District of Columbia such sums as may be necessary to carry out the amendments made by this Act.

SEC. 11. EFFECTIVE DATE.

The amendments made by this Act shall take effect upon enactment of this Act.

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to the rule, the gentlewoman from Maryland (Mrs. MORELLA) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. MORELLA).

GENERAL LEAVE

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the measure under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge all Members to concur in the Senate amendment to H.R. 2657, the District of Columbia Family Court Act of 2001. These Senate amendments have been approved by the sponsor of the legislation, the gentleman from Texas (Mr. DELAY), and the original cosponsors of the legislation, the gentleman from Virginia (Mr. DAVIS), the gentlewoman from District of Columbia (Ms. NORTON), and myself, following diligent work between staff of both houses.

The Senate amendments before us raise the ceiling of the number of judges for the Family Court to 15 judges. This provision would enable the chief judge to address unforeseeable needs if judges and magistrates are not able to keep up with the caseload.

The amended bill further allows for emergency temporary reassignment of certain judges who are qualified to serve on the Family Court and who would not be subject to the length of term, should the 15 Family Court judges not be able to keep up with the docket. These temporary emergency judges are encouraged to volunteer to serve in this capacity to the greatest extent possible.

These provisions modify the restriction in the District of Columbia Code to allow the chief judge of the Superior Court to exceed the overall cap of 59 judges if necessary to maintain a full complement of 15 judges in Family Court. The amendments further provide that cases outside of the Family Court be allowed an 18-month transition period to return to the Family Court, and provide limited exception based on the records of the case.

Additionally, the amended bill establishes a priority for returning the backlog of cases to the Family Court within the transition period, and requires that when a Family Court judge leaves the bench, all the cases must remain in the Family Court, except under extraordinary circumstances. The judge may have 6 months or 12 months, if it can be demonstrated to the chief judge that taking the case out of the Family Court will lead to permanent accomplishment of the child more quickly than if the case remained in the court.

These cases must be in compliance with the Adoption and Safe Families Act. It is hoped that only a small number of cases will be retained under this provision.

The Superior Court is required to report to Congress at 6-month intervals for 2 years. This provision will enable Congress to monitor the implementation of the reforms intended in the bill, including the transfer of cases back to the Family Court. Other reports are required by the Comptroller General, the chief judge, and the presiding judge of the Family Court at varying intervals.

The Senate amendments to the House measure, H.R. 2657, maintain the requirement of one family-one judge in cases decided by the Family Court, which include divorces, alimony, child support, adoptions, custody, writs of habeas corpus, and other proceedings. The core of this legislation is to serve the children and the families of our Nation's capital.

This legislation has been the culmination of many individual efforts, but I must especially thank the gentleman from Texas (Mr. DELAY) for his leadership in making this legislation a reality.

Mr. Speaker, I urge all Members to concur in the Senate amendments to H.R. 2657, and I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2657, and to ask the support of this House for the District of Columbia Family Court Act of 2001, a bill written as a bipartisan effort by the gentleman from Texas (Mr. DELAY) and me.

The bill contains the few amendments I informed the House on September 20 I could not add at that time because of the rush to get this bill to the floor in time to secure the necessary appropriation. I want to thank the Senate for assuring that these changes were included as Senate amendments to the bill.

I especially want to thank the current chairman of the Subcommittee on the District of Columbia, the gentlewoman from Maryland (Mrs. MORELLA), and the former chair, the gentleman from Texas (Mr. DELAY), for their leadership on this bill, but particular thanks are due to my friend and partner on this bill, the majority whip, the gentleman from Texas (Mr. DELAY).

The gentleman from Texas worked long and hard with me on this bill, and kept at it through tough negotiations when we had differences for more than a year until we both could agree on a final version. I appreciate the collegial way in which the gentleman from Texas (Mr. DELAY) worked with me throughout. He has my special gratitude for the extra $24 million that has been appropriated to fund the reforms that this bill mandates.

The Mayor and the City Council appreciate and support the work of the gentleman from Texas (Mr. DELAY) on the bill, as well, and the respect he has shown for home rule throughout his negotiations with me on this bill.

The need to update the family division became a priority after the tragic death of Brianna Blackmond, an infant who was returned to her troubled mother without a hearing after it was alleged that lawyers representing all the parties, the social workers and the guardians ad litem, had certified that the child should be returned.

I must continue to emphasize that the D.C. City Council is far more familiar with the children and families of the city than we in Congress, and of course was best qualified to write this bill. However, when the Home Rule Act was passed in 1973, Congress withheld jurisdiction over D.C. courts. Therefore, I asked the Council to pass a resolution in support of the reforms in this bill, after scrutinizing it and offering recommendations for changes.

We have also worked closely with Mayor Anthony Williams and Chief Judge Rufus King and the judges of the Superior Court in writing the bill. We respected the concerns of the District in negotiating this bill.

The D.C. Family Court Act of 2001 is the first overhaul of our family division since 1970, when it was upgraded to be part of the Superior Court of the District of Columbia. No court or other institutions should go a full 30 years without a close examination of its strengths and weaknesses. I know that the subcommittee will assure that there is appropriate oversight to the implementation of the bill by our subcommittee.

The Family Division has not been able to meet adequately intractable societal problems and additionally has had to depend on an outside agency, the Child Family Services Agency, which until recently had been in a Federal court receivership.

Our bill incorporates what we found in our investigation to be the best practices from successful independent family courts and family courts that are integrated into general jurisdiction courts all across the country.

These courts have in common these basic reforms: An independent family court or division; ample family court judges to handle family matters; terms for judges in the family court; family court judges, magistrate judges, and other court personnel trained or expert in family law; ongoing training of family court judges; alternative dispute resolution or mediation in family cases; only one judge for each family; family cases only in the Family Court; magistrate judges to assist family court judges with their caseloads; and special magistrate judges to assist judges with current pending cases.

The D.C. Family Court Act incorporates all these best practices.

Mr. Speaker, let me conclude by saying that I am particularly pleased that in the amendments to the bill we were able to address several problems with the House bill that I first raised on this floor.

These Senate amendments are important to ensure that, for example, the necessary work of disposing of a large volume of pending cases and continuing intake of new cases coming into the new Family Court does not overwhelm the new court, while it meets timetables mandated in the bill.

In addition, the Senate amendments will ensure that the jurisdiction of the court's successful domestic violence unit is not undermined.

We have all agreed that the successful disposition of these and other matters resolved with our Senate partners have produced a strong bipartisan consensus bill. I want to, once again, thank the gentleman from Texas (Mr. DELAY) for his tireless efforts and partnership with me on this bill, and for his great concern for the children and families of the District of Columbia; a concern that was always there, always evident, and that energized his hard work with me throughout; and, of course, the Chair of the subcommittee, the gentlewoman from Maryland (Mrs. MORELLA), as well as my good friend, the gentleman from Virginia (Mr. DAVIS), for their special efforts on this important piece of legislation.

Mr. Speaker, I urge all of our colleagues to support this bill, and thank all who assisted us on it.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the ranking member of the Subcommittee on the District of Columbia, the gentlewoman from the District of Columbia (Ms. NORTON), for her wonderful comments and for all the work that she put into this bill.

Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Texas (Mr. DELAY), who is not the sponsor but the genesis of this bill in terms of responding to the great needs in the District of Columbia, and he has been tenacious.

Mr. DELAY. Mr. Speaker, I thank the gentlewoman for yielding time to me, and congratulate her on a whole year of very hard work, the work she put in to bring this bill to the floor today.

I also want to add my thanks to the gentlewoman from the District of Columbia (Ms. NORTON), who was tireless in standing up for the abused and neglected children of the District of Columbia, understanding that the District desperately needs to focus on the welfare of these children and the best interests of these children.

She understands that, and in the name of Brianna Blackmond, and maybe we should have named this bill for Brianna Blackmond, because this is the beginning of what I hope is a total reform effort to bring the kind of services and safe and permanent homes for children that are seriously abused.

I also thank the staff that worked on it, particularly on my staff, Dr. Cassie Bevan, who is tenacious in her efforts to see that these children receive the kind of services that they deserve.

These are children, Mr. Speaker, that are the most oppressed, the most abused, not just in the District of Columbia, but all over the United States. The effort all over the United States is sort of focused here in our Nation's capital in trying to do the best we can.

There are 4,500 cases that are currently supervised outside the Family Division that can now be brought into the Family Division of the Superior Court upon the signature of the President of this bill, so maybe we can start working on this backlog and develop a system, a model system for the Nation's capital to take care of these children.

These are children that are dying, these are children that have been forgotten, in many cases. I remind my colleagues that this came to our attention not just through the death of Brianna Blackmond, but the child welfare system of the District was in receivership. It was in a mess.

The gentlewoman from the District of Columbia (Ms. NORTON) understood this and worked with us closely, and was the driving force in making this happen.

But I have to tell my colleagues, this is only the first step in a reform effort in the District of Columbia that is desperately needed. Just this last summer, over 100 files were lost, 100 files. Let me explain what that means.

A child makes an outcry, he or she is being abused and neglected in one way or another; and the stories that we hear of what is happening to children, not just in the District of Columbia, but all across the Nation are just horrendous.

But this child makes an outcry for help, and looking for someone to help them, and a file is created on this child and then lost. We do not even know what has happened to these children. The perpetrator of the abuse and neglect on this child knows now that the child made an outcry, and who knows what has been done to that child that made the outcry.

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This is abhorrent and we can not stand for it any longer and we are not. And by passing this bill, this is the beginning of what I hope is once and for all a process that we will go through in the District of Columbia to bring these children out of an abusive situation, give them the services that they need and, most importantly, find them a safe and permanent home where they can look forward and have hope for a future that other children enjoy today. I think that is vitally important.

This is going to be a showcase hopefully for the Nation. And, colleagues, children and families need a court that focuses exclusively on their welfare and their best interest. To realize this objective, the family court absolutely has to keep cases within its boundaries in order to be effective. This bill before us requires that the backlog of 4,500 cases have to be returned; and, second, that these cases which are currently under supervision of judges in the family division, remain there even after the individual judges leave the family bench. But most importantly, it gives us the opportunity to recruit judges that want to deal in this area of the law, that want to work with these children and these families to give these children the kind of future they deserve.

This bill also requires that each year a report is prepared to Congress that includes the number of cases retained outside the family court. It is our intention that this number be very low, because one of the major purposes of this Act is to keep all the cases in the specialized family court. So under the D.C. appropriations bill, as the gentlewoman from the District of Columbia (Ms. NORTON) has said, there is $24 million that has been appropriated to implement this legislation, to upgrade our computer systems, to expand its courtroom facilities and increase the number of judicial personnel to handle this huge backlog of cases.

The reforms required in this legislation combined with the money appropriated to support these reforms was designed with a single vital purpose, and that is to save the lives of abused and neglected children in the District of Columbia who are endangered by the status quo.

I am very proud to be associated with the gentlewoman from Maryland (Mrs. MORELLA), the gentleman from Virginia (Mr. TOM DAVIS), the delegation that serves the D.C. metroplex and, particularly, the gentlewoman from the District of Columbia (Ms. NORTON) who has done an outstanding job in working all this out and bringing this bill to the floor. The children will appreciate it in the future. We have dedicated it to Brianna Blackmond.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield back the balance of my time, I would like to thank two staff members by name, the gentleman from Texas (Mr. DELAY), staff member Cassie Bevan, and my own staff member, John Bouker, because in a very real sense, when Members are as deeply involved as the gentleman from Texas (Mr. DELAY) and I have been in this bill, the services of very high qualified, very smart staff people need to be involved, particularly given the many technical areas that were involved in this bill and the points of disagreement we had.

I want to, once again, say that I do not need to tell this House that the gentleman from Texas (Mr. DELAY) is a tough negotiator. And yet, throughout these negotiations, they were over a year, we never came to a point where we did not think there would be a bill. And this was largely because the gentleman from Texas (Mr. DELAY), although the District is not his district, felt so deeply about the children that he was willing to put personal time into this bill. That is difficult to do if you are a leader of the House. And I want to express my appreciation to the gentleman again for his personal involvement in this bill, and for never letting go of this bill. Although, I will say on this floor that there were times I wish he would have let go of this bill. But that is what a bipartisan bill is about. It is about working together, instead of turning over the tables, until we can get a bill we can agree upon.

The gentleman from Texas (Mr. DELAY) and I probably have parts of this bill that we would like to have seen done just a little differently. But in the name of the children who will profit, who will benefit from what this bill provides, in the name of the many families in the District of Columbia for whom this bill will mean something very real in their lives, he and I reached a resolution of any differences we had.

We are both very proud of this bill.

Mr. Speaker, I yield back the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, you can see this has been a collaborative effort that is going to help the children in the District of Columbia and be a model, I think, for the rest of the Nation. Anything good does not happen that easily. And so this is an example of something that has come from a lot of hard work.

Again, I commend the gentleman from Texas (Mr. Delay) for his leadership in making sure that this bill was negotiated throughout to come to this point, and also to the gentlewoman from the District of Columbia (Ms. Norton) for the work, her tenaciousness in having this bill again crafted and reach this point. The gentleman from Virginia (Mr. Davis) has always been involved with it, and I am certainly pleased that we have reached this point.

I want to thank the staff also, John Bouker. Certainly Cassie Statuto Bevan has been there every inch of the way. My staff, Russell Smith and Heea Vazirani-Fales and the others who worked on it.

Mr. Speaker, I identify myself with the idea that when you touch a rock, you touch the past; and when you touch a flower, you touch the present; but when you touch a child, you touch the future. And that is just what this bill does. So I urge all our colleagues to wholeheartedly endorse the bill.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in support of H.R. 2657, the District of Columbia Family Court Act of 2001, as amended. This is an important bill that will provide the Family Court with the structural and management reforms it needs to efficiently and effectively serve the children in the District's child welfare system.

After the tragic death of 23-month-old Brianna Blackmond, the D.C. Subcommittee held two hearing last year, which revealed the dire need for reforms to the various components of the District's child welfare system, including the Family Court. The recent series of articles in the Washington Post highlight long-term systemic problems in the child welfare system, and reemphasize the need for Court reform.

The Family Court must be equipped with the strategic tools and resource to assure the safety and well-being of the city's most vulnerable children. H.R. 2657 accomplishes this objective. It mandates longer judicial terms of service to ensure greater continuity in the handling of cases. New appointees to the Superior Court who are assigned to the Family Court will serve for 5 years. The bill also requires that judges appointed to serve on the Family Court have committed themselves to the practice of family law. Furthermore, it creates magistrate judges, who will be responsible for handling the backlog of 4,500 cases.

The bill imposes the critically important "one family, one judge" requirement on the Family Court to ensure that a judge is familiar with a family's history in order to make appropriate decisions regarding the safety and placement of the child.

The Court will create its own integrated computer system for use by judges, magistrate judges, and nonjudicial personnel, allowing them access to all pending cases related to children and their families. The bill also provides the judges and magistrate judges with access to information regarding the myriad social services available in D.C.

In addition to these key provisions, I support the Senate amendments. These include a provision requiring that when judges leave the Family Court, all of their cases remain in the Family Court. However, the bill does allow the judges an additional 6 months, and under extraordinary circumstances and additional 12 months, to retain a case if they can demonstrate to the Chief Judge that removing the child's case from the Family Court will result in more expeditious permanent placement. Let me emphasize that the application of this provision is only intended in rare situations.

The critical reforms in this legislation will help ensure that the Family Court can meet the needs of the city's children. I urge all of my colleagues to support H.R. 2657, as amended.

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2657.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. NORTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CONFERENCE REPORT ON H.R. 2506, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2002

Mr. KOLBE (during consideration of H.R. 2657) submitted the following conference report and statement on the bill (H.R. 2506) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002.

CONFERENCE REPORT (H. REPT. 107-345)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2506) "making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: Provided, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of this Act.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $727,323,000 to remain available until September 30, 2005: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such sums shall remain available until September 30, 2020 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 2002, 2003, 2004, and 2005: Provided further, That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, or related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: Provided further, That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $30,000 for official reception and representation expenses for members of the Board of Directors, $63,000,000: Provided, That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading: Provided further, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 2002.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: Provided, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $38,608,000: Provided further, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

Such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $50,024,000, to remain available until September 30, 2003.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2002, unless otherwise specified herein, as follows:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, and title I of Public Law 106–570, for child survival, reproductive health/family planning, assistance to combat tropical and other infectious diseases, and related activities, in addition to funds otherwise available for such purposes, $1,433,500,000, to remain available until expended: Provided, That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for displaced and orphaned children; (5) programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases; and (6) family planning/reproductive health: Provided further, That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health programs: Provided further, That of the funds appropriated under this heading, not to exceed $125,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: Provided further, That the following amounts should be allocated as follows: $315,000,000 for child survival and maternal health; $25,000,000 for vulnerable children; $435,000,000 for HIV/AIDS including not less than $15,000,000 which should be made available to support the development of microbicides as a means for combating HIV/AIDS; $165,000,000 for other infectious diseases, of which $65,000,000 should be made available for the prevention, treatment, and control of, and research on, tuberculosis, and of which $65,000,000 should be made available to combat malaria; $368,500,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species; and $120,000,000 for UNICEF: Provided further, That of the funds appropriated under this heading, up to $50,000,000 may be made available, notwithstanding any other provision of law for a United States contribution to a global fund to combat AIDS, tuberculosis, and malaria: Provided further, That in addition to the funds made available elsewhere under this heading and subject to the regular notification procedures of the Committees on Appropriations, the President may make available up to an additional $50,000,000, notwithstanding any other provision of law, for a United States contribution to a global fund to combat AIDS, tuberculosis, and malaria, which may be derived from funds appropriated in title II of this Act and in title II of prior Acts making appropriations for foreign operations, export financing, and related programs: Provided further, That of the funds appropriated under this heading, up to $53,000,000 may be made available for a United States contribution to The Vaccine Fund, and up to $10,000,000 may be made available for the International AIDS Vaccine Initiative: Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: Provided further, That none of the funds made available under this Act may be used to lobby for or against abortion: Provided further, That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations of the Senate and the House of Representatives, a report containing a description of such violation and the corrective action taken by the Agency: Provided further, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: Provided further, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961.

DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961, $1,178,000,000, to remain available until September 30, 2003: Provided, That $150,000,000 should be allocated for children's basic education: Provided further, That none of the funds appropriated under this heading may be made available for any activity which is in contravention to the Convention on International Trade in Endangered Species of Flora and Fauna: Provided further, That of the funds appropriated under this heading and the heading "Child Survival and Health Programs Fund", $2,000,000 should be made available for Laos: Provided further, That funds made available under the previous proviso should be made available only through nongovernmental organizations: Provided further, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $32,500, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: Provided further, That of the aggregate amount of the funds appropriated by this Act that are made available for agriculture and rural development programs, $25,000,000 should be made available for plant biotechnology research and development: Provided further, That not less than $2,300,000 should be made available for core support for the International Fertilizer Development Center: Provided further, That of the funds appropriated under this heading, not less than $18,000,000 should be made available for the American Schools and Hospitals Abroad program: Provided further, That of the funds appropriated under this heading, not less than $275,000,000 should be made available for programs and activities which directly protect tropical forests, biodiversity and endangered species, promote the sustainable use of natural resources, and promote a wide range of clean energy and energy conservation activities, including the transfer of cleaner and environmentally sustainable energy technologies, and related activities.

BURMA

Of the funds appropriated under the heading "Economic Support Fund", not less than $6,500,000 shall be made available to support democracy activities in Burma, democracy and humanitarian activities along the Burma-Thailand border, and for Burmese student groups and other organizations located outside Burma: Provided, That funds made available for Burma-related activities under this heading may be made available notwithstanding any other provision of law: Provided further, That the provision of *such funds shall be made available subject to the regular notification procedures of the Committees on Appropriations: Provided further, That title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, as enacted by section 101(a) of Public Law 106–429, is amended, under the heading "Burma", by inserting ", 'Child Survival and Disease Programs Fund'," after "Fund".*

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $235,500,000, to remain available until expended.

TRANSITION INITIATIVES

For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, $50,000,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: Provided, That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: Provided further, That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance.

DEVELOPMENT CREDIT AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans and loan guarantees, up to $18,500,000, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961: Provided, That such funds shall be derived by transfer from funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, and under the heading "Assistance for Eastern Europe and the Baltic States": Provided further, That such funds shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: Provided further, That during fiscal year 2002, commitments to guarantee loans shall not exceed $267,500,000: Provided further, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading. In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $7,500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: Provided further, That funds appropriated under this heading shall remain available until September 30, 2007.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $44,880,000.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $549,000,000: Provided, That none of the funds appropriated under this heading may be made available to finance the construction (including architect and engineering services), purchase, or long term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: Provided further, That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long term lease of offices does not exceed $1,000,000: Provided further, That of the funds appropriated under this heading, up to $10,000,000 may remain available until expended for security-related costs.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $31,500,000, to remain available until September 30, 2003, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,199,000,000, to remain available until September 30, 2003: Provided, That of the funds appropriated under this heading, not less than $720,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of the enactment of this Act or by October 31, 2001, whichever is later: Provided further, That not less than $655,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: Provided further, That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: Provided further, That of the funds appropriated under this heading, $150,000,000 should be made available for assistance for Jordan: Provided further, That of the funds appropriated under this heading, $50,000,000 should be made available for assistance for Indonesia: Provided further, That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: Provided further, That not less than $35,000,000 of the funds appropriated under this heading shall be made available for assistance for Lebanon to be used, among other programs, for scholarships and direct support of the American educational institutions in Lebanon: Provided further, That notwithstanding section 534(a) of this Act, funds appropriated under this heading that are made available for assistance for the Central Government of Lebanon shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That the Government of Lebanon should enforce the custody and international pickup orders, issued during calendar year 2001, of Lebanon's civil courts regarding abducted American children in Lebanon: Provided further, That of the funds appropriated under this heading, not less than $25,000,000 shall be made available for assistance for East Timor of which up to $1,000,000 may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: Provided further, That funds appropriated under this heading may be used, notwithstanding any other provision of law, to provide assistance to the National Democratic Alliance of Sudan to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by the Sudanese Government forces and its militia allies, and the provision of such funds shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That in the previous proviso, the term "assistance" includes non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, non-military vehicles, tents, and shoes: Provided further, That with respect to funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $25,000,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): Provided, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: Provided further, That funds made available under this heading shall remain available until September 30, 2003.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $621,000,000, to remain available until September 30, 2003, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States: Provided, That not to exceed $21,500,000 of the funds appropriated under this heading in this Act and in prior Acts making appropriations for foreign operations, export financing, and related programs, together with not to exceed $21,500,000 of the funds appropriated under the heading "Economic Support Fund" in this Act and such prior Acts, may be made available for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for the Federal Republic of Yugoslavia: Provided further, That funds made available for assistance for Kosovo from funds appropriated under this heading and under the headings "Economic Support Fund" and "International Narcotics Control and Law Enforcement" should not exceed 15 percent of the total resources pledged by all donors for calendar year 2002 for assistance for Kosovo as of March 31, 2002: Provided further, That none of the funds made available under this Act for assistance for Kosovo shall be made available for large scale physical infrastructure reconstruction.

(b) Funds appropriated under this heading or in prior appropriations Acts that are or have

been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(c) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(d) With regard to funds appropriated under this heading for the economic revitalization program in Bosnia and Herzegovina, and local currencies generated by such funds (including the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program) the Administrator of the United States Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and prior to the use of funds that have been returned or repaid to any lending facility or grantee.

(e) The provisions of section 529 of this Act shall apply to funds made available under subsection (d) and to funds appropriated under this heading: Provided, That notwithstanding any provision of this or any other Act, including provisions in this subsection regarding the application of section 529 of this Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989.

(f) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between Iranian officials and Bosnian officials has not been terminated.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the Independent States of the former Soviet Union and for related programs, $784,000,000, to remain available until September 30, 2003: Provided, That the provisions of such chapters shall apply to funds appropriated by this paragraph: Provided further, That of the funds made available for the Southern Caucasus region, notwithstanding any other provision of law, funds may be used for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: Provided further, That of the funds appropriated under this heading, not less than $1,500,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons: Provided further, That of the funds appropriated under this heading not less than $17,500,000 shall be made available solely for the Russian Far East: Provided further, That, notwithstanding any other provision of law funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, or related programs, that are made available pursuant to the provisions of section 807 of the FREEDOM Support Act (Public Law 102–511) shall be subject to the ceiling on administrative expenses contained in section 807(a)(5) of the FREEDOM Support Act. (b) Of the funds appropriated under this heading, not less than $154,000,000 should be made available for assistance for Ukraine: Provided, That of this amount, not less than $30,000,000 should be made available for nuclear reactor safety initiatives: Provided further, That not later than 60 days after the date of enactment of this Act, and 120 days thereafter, the Department of State shall submit to the Committees on Appropriations a report on progress by the Government of Ukraine in investigating and bringing to justice individuals responsible for the murders of Ukrainian journalists.

(c) Of the funds appropriated under this heading, not less than $90,000,000 shall be made available for assistance for Armenia.

(d) Of the funds appropriated under this heading, $90,000,000 should be made available for assistance for Georgia.

(e)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation:

(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

(2) Paragraph (1) shall not apply to—

(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(f) Of the funds appropriated under this heading, not less than $49,000,000 should be made available, in addition to funds otherwise available for such purposes, for assistance for child survival, environmental and reproductive health/family planning, and to combat HIV/AIDS, tuberculosis, and other infectious diseases, and for related activities.

(g)(1) Section 907 of the FREEDOM Support Act shall not apply to—

(A) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 or non-proliferation assistance;

(B) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(C) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(D) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(E) any financing provided under the Export-Import Bank Act of 1945; or

(F) humanitarian assistance.

(2) The President may waive section 907 of the FREEDOM Support Act if he determines and certifies to the Committees on Appropriations that to do so—

(A) is necessary to support United States efforts to counter international terrorism; or

(B) is necessary to support the operational readiness of United States Armed Forces or coalition partners to counter international terrorism; or

(C) is important to Azerbaijan's border security; and

(D) will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and Azerbaijan or be used for offensive purposes against Armenia.

(3) The authority of paragraph (2) may only be exercised through December 31, 2002.

(4) The President may extend the waiver authority provided in paragraph (2) on an annual basis on or after December 31, 2002 if he determines and certifies to the Committees on Appropriations in accordance with the provisions of paragraph (2).

(5) The Committees on Appropriations shall be consulted prior to the provision of any assistance made available pursuant to paragraph (2).

(6) Within 60 days of any exercise of the authority under paragraph (2) the President shall send a report to the appropriate congressional committees specifying in detail the following—

(A) the nature and quantity of all training and assistance provided to the Government of Azerbaijan pursuant to paragraph (2);

(B) the status of the military balance between Azerbaijan and Armenia and the impact of United States assistance on that balance; and

(C) the status of negotiations for a peaceful settlement between Armenia and Azerbaijan and the impact of United States assistance on those negotiations.

INDEPENDENT AGENCIES

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make commitments without regard to fiscal year limitations, as provided by 31 U.S.C. 9104(b)(3); $13,106,950.

AFRICAN DEVELOPMENT FOUNDATION

For expenses necessary to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, and to make commitments without regard to fiscal year limitations, as provided by 31 U.S.C. 9104(b)(3), $16,542,000: Provided, That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the President of the Foundation: Provided further, That interest earned shall be used only for the purposes for which the grant was made: Provided further, That this authority applies to interest earned both prior to and following enactment of this provision: Provided further, That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the board of directors of the Foundation may waive the $250,000 limitation contained in that section with respect to a project: Provided further, That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

PEACE CORPS

For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612), $275,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: Provided, That none of the funds appropriated under this heading shall be used to pay *for abortions: Provided further, That funds appropriated under this heading shall remain available until September 30, 2003.*

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $217,000,000, to remain available until expended: Provided, That any funds made available under this heading for anti-crime programs and activities shall be made available subject to the regular notification procedures of the Committees on Appropriations: Provided further, That during fiscal year 2002, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: Provided further, That of the funds appropriated under this heading, $10,000,000 should be made available for anti-trafficking in persons programs, including trafficking prevention, protection and assistance for victims, and prosecution of traffickers: Provided further, That of the funds appropriated under this heading, not more than $21,738,000 may be available for administrative expenses.

ANDEAN COUNTERDRUG INITIATIVE

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 solely to support counterdrug activities in the Andean region of South America, $625,000,000, to remain available until expended: Provided, That in addition to the funds appropriated under this heading and subject to the regular notification procedures of the Committees on Appropriations, the President may make available up to an additional $35,000,000 for the Andean Counterdrug Initiative, which may be derived from funds appropriated under the heading "International Narcotics Control and Law Enforcement" in this Act and in prior Acts making appropriations for foreign operations, export financing, and related programs: Provided further, That of the amount appropriated under this heading, not less than $215,000,000 shall be apportioned directly to the United States Agency for International Development, to be used for economic and social programs: Provided further, That funds appropriated by this Act that are used for the procurement of chemicals for aerial coca fumigation programs may be made available for such programs only if the Secretary of State, after consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Department of Agriculture, and, if appropriate, the Director of the Centers for Disease Control and Prevention, determines and reports to the Committees on Appropriations that (1) aerial coca fumigation is being carried out in accordance with regulatory controls required by the Environmental Protection Agency as labeled for use in the United States, and after consultation with the Colombian Government to ensure that the fumigation is in accordance with Colombian laws; (2) the chemicals used in the aerial fumigation of coca, in the manner in which they are being applied, do not pose unreasonable risks or adverse effects to humans or the environment; and (3) procedures are available to evaluate claims of local citizens that their health was harmed or their licit agricultural crops were damaged by such aerial coca fumigation, and to provide fair compensation for meritorious claims; and such funds may not be made available for such purposes after six months from the date of enactment of this Act unless alternative development programs have been developed, in consultation with communities and local authorities in the departments in which such aerial coca fumigation is planned, and in the departments in which such aerial coca fumigation has been conducted such programs are being implemented: Provided further, That none of the funds appropriated by this Act may be made available to support a Peruvian air interdiction program until the Secretary of State and Director of Central Intelligence certify to the Congress, 30 days before any resumption of United States involvement in a Peruvian air interdiction program, that an air interdiction program that permits the ability of the Peruvian Air Force to shoot down aircraft will include enhanced safeguards and procedures to prevent the occurrence of any incident similar to the April 20, 2001 incident: Provided further, That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: Provided further, That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961, as amended, shall be made available subject to the regular notification procedures of the Committees on Appropriations: Provided further, That section 3204(b)(1)(A) of Public Law 106–246 is amended by striking "500" and inserting in lieu thereof "400", and section 3204(b)(1)(B) of Public Law 106–246 is amended by striking "300" and inserting in lieu thereof "400": Provided further, That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States:. Provided further, That funds made available under this heading shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That of the funds appropriated under this heading, not more than $14,240,000 may be available for administrative expenses of the Department of State, and not more than $4,500,000 may be available for administrative expenses of the United States Agency for International Development.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $705,000,000, which shall remain available until expended: Provided, That not more than $16,000,000 may be available for administrative expenses: Provided further, That funds appropriated under this heading may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines (and so reports to the appropriate committees of the Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement: Provided further, That not less than $60,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $15,000,000, to remain available until expended: Provided, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Act which would limit the amount of funds which could be appropriated for this purpose.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism and related programs and activities, $313,500,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: Provided, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds for the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: Provided further, That of this amount not to exceed $14,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: Provided further, That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so following consultation with the appropriate committees of Congress: Provided further, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: Provided further, That of the funds made available for demining and related activities, not to exceed $500,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961 (relating to international affairs technical assistance activities), $6,500,000, to remain available until expended, which shall be available notwithstanding any other provision of law.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, and *of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended, and concessional loans, guarantees and credit agreements, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113, $229,000,000, to remain available until expended: Provided, That not less than $5,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961, and up to $20,000,000 of unobligated balances of funds available under this heading from prior year appropriations acts should be made available to carry out such provisions: Provided further, That funds appropriated or otherwise made available under this heading in this Act may be used by the Secretary of the Treasury to pay to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the International Bank for Reconstruction and Development amounts for the benefit of countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113: Provided further, That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—*

(1) the Inter-American Development Bank;

(2) the African Development Fund;

(3) the African Development Bank; and

(4) the Central American Bank for Economic Integration:

Provided further, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: Provided further, That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: Provided further, That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: Provided further, That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

(a) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institution to export-oriented commercial projects that generate foreign exchange which are generally referred to as "enclave" loans; and

(b) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

Provided further, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: Provided further, That none of the funds made available under this heading in this or any other appropriations Acts shall be made available for Sudan or Burma unless the Secretary of Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $70,000,000, of which up to $3,000,000 may remain available until expended: Provided, That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: Provided further, That funds appropriated under this heading for military education and training for Indonesia and Guatemala may only be available for expanded international military education and training and funds made available for Algeria, Indonesia and Guatemala may only be provided through the regular notification procedures of the Committees on Appropriations.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,650,000,000: Provided, That of the funds appropriated under this heading, not less than $2,040,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: Provided further, That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act or by October 31, 2001, whichever is later: Provided further, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $535,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: Provided further, That of the funds appropriated by this paragraph, not less than $75,000,000 shall be made available for assistance for Jordan: Provided further, That of the funds appropriated by this paragraph, not less than $3,500,000 should be made available for assistance for Tunisia: Provided further, That during fiscal year 2002, the President is authorized to, and shall, direct the drawdowns of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training of an aggregate value of not less than $5,000,000 under the authority of this proviso for Tunisia for the purposes of part II of the Foreign Assistance Act of 1961: Provided further, That of the funds appropriated by this paragraph and under the heading "International Narcotics Control and Law Enforcement", not less than $2,300,000 shall be made available for assistance for Thailand, of which not less than $1,000,000 shall be made available from funds appropriated under the heading "International Narcotics Control and Law Enforcement" and which shall be in addition to other funds available for such purposes: Provided further, That of the funds appropriated by this paragraph, not less than $4,000,000 shall be made available for assistance for Armenia: Provided further, That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: Provided further, That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: Provided, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: Provided further, That none of the funds appropriated under this heading shall be available for assistance for Sudan and Liberia: Provided further, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: Provided further, That none of the funds appropriated under this heading shall be available for assistance for Guatemala: Provided further, That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: Provided further, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: Provided further, That not more than $35,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: Provided further, That not more than $348,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2002 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: Provided further, That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2002 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act or by October 31, 2001, whichever is later: Provided further, That the ninth proviso under the heading "Foreign Military Financing Program" in title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, as enacted by Public Law 106–429, is amended by inserting "or 2002" after "2001".

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $135,000,000: Provided, That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

GLOBAL ENVIRONMENT FACILITY

For the United States contribution for the Global Environment Facility, $100,500,000, to the International Bank for Reconstruction and Development as trustee for the Global Environment Facility, by the Secretary of the Treasury, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $792,400,000, to remain available until expended: Provided, That in negotiating United States participation in the next replenishment of the International Development Association, the Secretary of the Treasury shall accord high priority to providing the International Development Association with the policy flexibility to provide new grant assistance to countries eligible for debt reduction under the enhanced HIPC Initiative: Provided further, That the Secretary of the Treasury should instruct the United States executive director to the International Bank for Reconstruction and Development to vote against any water or sewage project in India that does not prohibit the use of scavenger labor.

CONTRIBUTION TO THE MULTILATERAL INVESTMENT GUARANTEE AGENCY

For payment to the Multilateral Investment Guarantee Agency by the Secretary of the Treasury, $5,000,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Multilateral Investment Guarantee Agency may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $25,000,000.

CONTRIBUTION TO THE INTER-AMERICAN INVESTMENT CORPORATION

For payment to the Inter-American Investment Corporation, by the Secretary of the Treasury, $18,000,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended, $98,017,050, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, $5,100,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $79,991,500.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, $100,000,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $35,778,717, for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $123,237,803.

CONTRIBUTION TO THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For the United States contribution by the Secretary of the Treasury to increase the resources of the International Fund for Agricultural Development, $20,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $208,500,000: Provided, That none of the funds appropriated under this heading may be made available to the Korean Peninsula Energy Development Organization (KEDO) or the International Atomic Energy Agency (IAEA): Provided further, That not less than $6,000,000 should be made available to the World Food Program.

TITLE V—GENERAL PROVISIONS

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 percent of any appropriation item made available by this Act shall be obligated during the last month of availability.

PRIVATE AND VOLUNTARY ORGANIZATIONS

SEC. 502. (a) None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 percent of its total annual funding for international activities from sources other than the United States Government: Provided, That the Administrator of the United States Agency for International Development, after informing the Committees on Appropriations, may, on a case-by-case basis, waive the restriction contained in this subsection, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency.

(b) Funds appropriated or otherwise made available under title II of this Act should be made available to private and voluntary organizations at a level which is at least equivalent to the level provided in fiscal year 1995.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the United States Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the United States Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed $95,000 shall be available for representation allowances for the United States Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: Provided further, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,000 shall be available for entertainment expenses and not to exceed $125,000 shall be available for representation allowances: Provided further, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $50,000 shall be available for entertainment allowances: Provided further, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: Provided further, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: Provided further, That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed $2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506. None of the funds appropriated or made available (other than funds for "Nonproliferation, Anti-terrorism, Demining and Related Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Sudan, or Syria: Provided, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by decree or military coup: Provided, That assistance may be resumed to such government if the President determines and certifies to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office: Provided further, That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes: Provided further, That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: Provided, That the authority of this subsection may not be used in fiscal year 2002.

AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: Provided, That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, section 23 of the Arms Export Control Act, and funds provided under the heading "Assistance for Eastern Europe and the Baltic States", shall remain available for an additional four years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: Provided further, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.

COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: Provided, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: Provided, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515. For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for "Child Survival and Health Programs Fund", "Development Assistance", "International Organizations and Programs", "Trade and Development Agency", "International Narcotics Control and Law Enforcement", "Andean Counterdrug Initiative", "Assistance for Eastern Europe and the Baltic States", "Assistance for the Independent States of the Former Soviet Union", "Economic Support Fund", "Peacekeeping Operations", "Operating Expenses of the United States Agency for International Development", "Operating Expenses of the United States Agency for International Development Office of Inspector General", "Nonproliferation, Anti-terrorism, Demining and Related Programs", "Foreign Military Financing Program", "International Military Education and Training", "Peace Corps", and "Migration and Refugee Assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified 15 days in advance: Provided, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: Provided further, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: Provided further, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: Provided further, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: Provided further, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2003.

INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 517. (a) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for assistance for a government of an Independent State of the former Soviet Union—

(1) unless that government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

Assistance may be furnished without regard to this subsection if the President determines that to do so is in the national interest.

(b) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: Provided, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

(c) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for any state to enhance its military capability: Provided, That this restriction does not apply to demilitarization, demining or nonproliferation programs.

(d) Funds appropriated under the heading "Assistance for the Independent States of the

Former Soviet Union" for the Russian Federation, Armenia, Georgia, and Ukraine shall be subject to the regular notification procedures of the Committees on Appropriations.

(e) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(f) Funds appropriated in this or prior appropriations Acts that are or have been made available for an Enterprise Fund in the Independent States of the Former Soviet Union may be deposited by such Fund in interest-bearing accounts prior to the disbursement of such funds by the Fund for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(g) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading "Assistance for the Independent States of the Former Soviet Union" and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to the New Independent States and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 519. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 2002, for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs, and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: Provided, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated by this Act shall be obligated or expended for Colombia, Haiti, Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or the Democratic Republic of the Congo except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, "program, project, and activity" shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND HEALTH ACTIVITIES

SEC. 522. Up to $15,500,000 of the funds made available by this Act for assistance under the heading "Child Survival and Health Programs Fund", may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: Provided, That up to $3,000,000 of the funds made available by this Act for assistance under the heading "Development Assistance" may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: Provided further, That funds appropriated by this Act that are made available for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law: Provided further, That funds appropriated under title II of this Act may be made available pursuant to section 301 of the Foreign Assistance Act of 1961 if a primary purpose of the assistance is for child survival and related programs: Provided further, That of the funds appropriated under title II of this Act, $446,500,000 shall be made available for family planning/reproductive health.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or Sudan, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 524. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: Provided, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at $7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: Provided further, That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 525. Funds appropriated by this Act, except funds appropriated under the headings "Peace Corps" and "Trade and Development Agency"; may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

DEMOCRACY PROGRAMS

SEC. 526. (a) Funds appropriated by this Act that are provided to the National Endowment for Democracy may be made available notwithstanding any other provision of law or regulation: Provided, That notwithstanding any other provision of law, of the funds appropriated by this Act to carry out provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $10,000,000 shall be made available for assistance for activities to support democracy, human rights, and the rule of law in the People's Republic of China, of which not less than $5,000,000 should be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, for such activities, and of which not to exceed $3,000,000 may be made available to nongovernmental organizations located outside the People's Republic of China to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in Tibet: Provided further, That funds made available pursuant to the authority of this section for programs, projects, and activities in the People's Republic of China shall be subject to the regular notification procedures of the Committees on Appropriations.

(b) In addition to the funds made available in subsection (a), of the funds appropriated by this Act under the heading "Economic Support Fund", not less than $10,000,000 should be made available for programs and activities to foster democracy human rights, press freedoms, women's development, and the rule of law in countries with a significant Muslim population, and where such programs and activities would be important to United States efforts to respond to, deter, or prevent acts of international terrorism: Provided, That funds made available pursuant to the authority of this subsection should support new initiatives or bolster ongoing programs and activities in those countries: Provided further, That not less than $6,000,000 of such funds should be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, and not less than $4,000,000 of such funds should be made available to a private, non-profit organization authorized by Congress to strengthen democratic institutions worldwide through nongovernmental efforts: Provided further, That funds made available pursuant to the authority of this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 527. (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

DEBT-FOR-DEVELOPMENT

SEC. 528. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

SEC. 529. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities; or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).

(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 530. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 531. None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

SEC. 532. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 533. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States; or

(b) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: Provided, That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

SPECIAL AUTHORITIES

SEC. 534. (a) AFGHANISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds appropriated in titles I and II of this Act that are made available for Afghanistan, Lebanon, Montenegro, and for victims of war, displaced children, and displaced Burmese, may be made available notwithstanding any other provision of law: Provided, That any such funds that are made available for Cambodia shall be subject to the provisions of section 531(e) of the Foreign Assistance Act of 1961 and section 906 of the International Security and Development Cooperation Act of 1985.

(b) TROPICAL FORESTRY AND BIODIVERSITY CONSERVATION ACTIVITIES.—Funds appropriated by this Act to carry out the provisions of sections 103 through 106, and chapter 4 of part II, *of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions: Provided, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.*

(c) Personal Services Contractors.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 25 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities and managed by the agency until permanent direct hire personnel are hired and trained: Provided, That not more than 10 of such contractors shall be assigned to any bureau or office: Provided further, That such funds appropriated to carry out the Foreign Assistance Act of 1961 may be made available for personal services contractors assigned only to the Office of Health and Nutrition; the Office of Procurement; the Bureau for Africa; the Bureau for Latin America and the Caribbean; and the Bureau for Asia and the Near East: Provided further, That such funds appropriated to carry out title II of the Agricultural Trade Development and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

(d)(1) Waiver.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

(2) Period of Application of Waiver.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(e) During fiscal year 2002, the President may use up to $45,000,000 under the authority of section 451 of the Foreign Assistance Act, notwithstanding the funding ceiling in section 451(a).

(f) Small Business.—In entering into multiple award indefinite-quantity contracts with funds appropriated by this Act, the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.

POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL AND NORMALIZING RELATIONS WITH ISRAEL

Sec. 535. It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel and should normalize their relations with Israel;

(2) the decision by the Arab League in 1997 to reinstate the boycott against Israel was deeply troubling and disappointing;

(3) the fact that only three Arab countries maintain full diplomatic relations with Israel is also of deep concern;

(4) the Arab League should immediately rescind its decision on the boycott and its members should develop normal relations with their neighbor Israel; and

(5) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel and to normalize their relations with Israel;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said country;

(C) report to Congress annually on the specific steps being taken by the United States and the progress achieved to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel and to expand the process of normalizing ties between Arab League countries and Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ADMINISTRATION OF JUSTICE ACTIVITIES

Sec. 536. Of the funds appropriated or otherwise made available by this Act for "Economic Support Fund", assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean and in other regions consistent with the provisions of section 534(b) of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act. Funds made available pursuant to this section may be made available notwithstanding section 534(c) and the second and third sentences of section 534(e) of the Foreign Assistance Act of 1961.

ELIGIBILITY FOR ASSISTANCE

Sec. 537. (a) Assistance Through Nongovernmental Organizations.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States": Provided, That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: Provided further, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) Public Law 480.—During fiscal year 2002, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: Provided, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) Exception.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

EARMARKS

Sec. 538. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: Provided, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the United States Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: Provided, That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

Sec. 539. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

Sec. 540. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: Provided, That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

Sec. 541. To the maximum extent practicable, assistance provided under this Act should make full use of American resources, including commodities, products, and services.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

Sec. 542. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations or, from funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

NONGOVERNMENTAL ORGANIZATIONS—DOCUMENTATION

Sec. 543. None of the funds appropriated or made available pursuant to this Act shall be available to a nongovernmental organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the United States Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 544. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 545. (a) IN GENERAL.—Of the funds appropriated under this Act that are made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia and New York City, New York by such country as of the date of the enactment of this Act that were incurred after the first day of the fiscal year preceding the current fiscal year shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the governments of the District of Columbia and New York City, New York.

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 546. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: Provided, That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 547. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961, as amended, of up to $30,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: Provided, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): Provided further, That funds made available for tribunals other than Yugoslavia or Rwanda shall be made available subject to the regular notification procedures of the Committees on Appropriations.

LANDMINES

SEC. 548. Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe: Provided, That section 1365(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 22 U.S.C., 2778 note) is amended by striking "During the 11-year period beginning on October 23, 1992" and inserting "During the 16-year period beginning on October 23, 1992".

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 549. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: Provided, That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: Provided further, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 550. None of the funds appropriated or otherwise made available by this Act under the heading "International Military Education and Training" or "Foreign Military Financing Program" for Informational Program activities or under the headings "Child Survival and Health Programs Fund", "Development Assistance", and "Economic Support Fund" may be obligated or expended to pay for—

(1) alcoholic beverages; or

(2) entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 551. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

(2) credits extended or guarantees issued under the Arms Export Control Act; or

(3) any obligation or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501).

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 552. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS AGENCIES

SEC. 553. (a) PROHIBITION ON VOLUNTARY CONTRIBUTIONS FOR THE UNITED NATIONS.—None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) if the United Nations implements or imposes any taxation on any United States persons.

(b) CERTIFICATION REQUIRED FOR DISBURSEMENT OF FUNDS.—None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) unless the President certifies to the Congress 15 days in advance of such payment that the United Nations is not engaged in any effort to implement or impose any taxation on United States persons in order to raise revenue for the United Nations or any of its specialized agencies.

(c) DEFINITIONS.—As used in this section the term "United States person" refers to—'

(1) a natural person who is a citizen or national of the United States; or

(2) a corporation, partnership, or other legal entity organized under the United States or any State, territory, possession, or district of the United States.

HAITI COAST GUARD

SEC. 554. The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard: Provided, That the authority provided by this section shall be subject to the regular notification procedures of the Committees on Appropriations.

LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 555. (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

(c) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to subsection (b) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

LIMITATION ON ASSISTANCE TO SECURITY FORCES

SEC. 556. None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: Provided, That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights: Provided further, That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

DISCRIMINATION AGAINST MINORITY RELIGIOUS FAITHS IN THE RUSSIAN FEDERATION

SEC. 557. None of the funds appropriated under this Act may be made available for the Government of the Russian Federation, after 180 days from the date of the enactment of this Act, unless the President determines and certifies in writing to the Committees on Appropriations and the Committee on Foreign Relations of the Senate that the Government of the Russian Federation has implemented no statute, executive order, regulation or similar government action that would discriminate, or would have as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party.

ASSISTANCE FOR THE MIDDLE EAST

SEC. 558. Of the funds appropriated in titles II and III of this Act under the headings "Economic Support Fund", "Foreign Military Financing Program", "International Military Education and Training", "Peacekeeping Operations", for refugees resettling in Israel under the heading "Migration and Refugee Assistance", and for assistance for Israel to carry out provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs", not more than a total of $5,141,150,000 may be made available for Israel, Egypt, Jordan, Lebanon, the West Bank and Gaza, the Israel-Lebanon Monitoring Group, the Multinational Force and Observers, the Middle East Regional Democracy Fund, Middle East Regional Cooperation, and Middle East Multilateral Working Groups: Provided, That any funds that were appropriated under such headings in prior fiscal years and that were at the time of the enactment of this Act obligated or allocated for other recipients may not during fiscal year 2002 be made available for activities that, if funded under this Act, would be required to count against this ceiling: Provided further, That funds may be made available notwithstanding the requirements of this section if the President determines and certifies to the Committees on Appropriations that it is important to the national security interest of the United States to do so and any such additional funds shall only be provided through the regular notification procedures of the Committees on Appropriations.

ENERGY CONSERVATION AND CLEAN ENERGY PROGRAMS

SEC. 559. (a) FUNDING.—Of the funds appropriated by this Act, not less than $155,000,000 should be made available to support policies and actions in developing countries and countries in transition that promote energy conservation and efficient energy production and use; that measure, monitor, and reduce greenhouse gas emissions; increase carbon sequestration activities; and enhance climate change mitigation programs.

(b) GREENHOUSE GAS EMISSIONS REPORT.—Not later than 30 days after the date on which the President's fiscal year 2003 budget request is submitted to Congress, the President shall submit a report to the Committees on Appropriations describing in detail the following—

(1) all Federal agency obligations and expenditures, domestic and international, for climate change programs and activities in fiscal year 2002, including an accounting of expenditures by agency with each agency identifying climate change activities and associated costs by line item as presented in the President's Budget Appendix; and

(2) all fiscal year 2001 obligations and estimated expenditures, fiscal year 2002 estimated expenditures and estimated obligations, and fiscal year 2003 requested funds by the United States Agency for International Development, by country and central program, for each of the following: (1) to promote the transfer and deployment of United States clean energy technologies; (2) to assist in the measurement, monitoring, reporting, verification, and reduction of greenhouse gas emissions; (3) to promote carbon capture and sequestration measures; (4) to help meet such countries' responsibilities under the Framework Convention on Climate Change; and (5) to develop assessments of the vulnerability to impacts of climate change and response strategies.

ZIMBABWE

SEC. 560. The Secretary of the Treasury shall instruct the United States executive director to each international financial institution to vote against any extension by the respective institution of any loans, to the Government of Zimbabwe, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the Committees on Appropriations that the rule of law has been restored in Zimbabwe, including respect for *ownership and title to property, freedom of speech and association.*

CENTRAL AMERICA RELIEF AND RECONSTRUCTION

Sec. 561. Funds made available to the Comptroller General pursuant to title I, chapter 4 of Public Law 106–31, to monitor the provision of assistance to address the effects of hurricanes in Central America and the Caribbean and the earthquake in Colombia, shall also be available to the Comptroller General to monitor earthquake relief and reconstruction efforts in El Salvador.

ENTERPRISE FUND RESTRICTIONS

Sec. 562. Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

CAMBODIA

Sec. 563. (a) The Secretary of the Treasury should instruct the United States executive directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Central Government of Cambodia, except loans to meet basic human needs.

(b)(1) None of the funds appropriated by this Act may be made available for assistance for the Central Government of Cambodia unless the Secretary of State determines and reports to the Committees on Appropriations that the Central Government of Cambodia—

(A) is making significant progress in resolving outstanding human rights cases, including the 1994 grenade attack against the Buddhist Liberal Democratic Party, and the 1997 grenade attack against the Khmer Nation Party;

(B) has held local elections that are deemed free and fair by international and local election monitors; and

(C) is making significant progress in the protection, management, and conservation of the environment and natural resources, including in the promulgation and enforcement of laws and policies to protect forest resources.

(2) In the event the Secretary of State makes the determination under paragraph (1), assistance may be made available to the Central Government of Cambodia only through the regular notification procedures of the Committees on Appropriations.

(c) Notwithstanding subsection (b) of this section or any other provision of law, funds appropriated by this Act may be made available for assistance for basic education and for assistance to the Government of Cambodia's Ministry of Women and Veteran's Affairs to combat human trafficking, subject to the regular notification procedures of the Committees on Appropriations.

(d) None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to any tribunal established by the Government of Cambodia pursuant to a memorandum of understanding with the United Nations unless the President determines and certifies to Congress that the tribunal is capable of delivering justice for crimes against humanity and genocide in an impartial and credible manner.

FOREIGN MILITARY TRAINING REPORT

Sec. 564. (a) The Secretary of Defense and the Secretary of State shall jointly provide to the Congress by March 1, 2002, a report on all military training provided to foreign military personnel (excluding sales, and excluding training provided to the military personnel of countries belonging to the North Atlantic Treaty Organization) under programs administered by the Department of Defense and the Department of State during fiscal years 2001 and 2002, including those proposed for fiscal year 2002. This report shall include, for each such military training activity, the foreign policy justification and purpose for the training activity, the cost of the training activity, the number of foreign students trained and their units of operation, and the location of the training. In addition, this report shall also include, with respect to United States personnel, the operational benefits to United States forces derived from each such training activity and the United States military units involved in each such training activity. This report may include a classified annex if deemed necessary and appropriate.

(b) For purposes of this section a report to Congress shall be deemed to mean a report to the Appropriations and Foreign Relations Committees of the Senate and the Appropriations and International Relations Committees of the House of Representatives.

KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

Sec. 565. (a) Of the funds made available under the heading "Nonproliferation, Anti-terrorism, Demining and Related Programs", not to exceed $95,000,000 may be made available for the Korean Peninsula Energy Development Organization (hereafter referred to in this section as "KEDO"), notwithstanding any other provision of law, only for the administrative expenses and heavy fuel oil costs associated with the Agreed Framework.

(b) Such funds may be made available for KEDO only if, 15 days prior to such obligation of funds, the President certifies and so reports to Congress that—

(1) the parties to the Agreed Framework have taken and continue to take demonstrable steps to implement the Joint Declaration on Denuclearization of the Korean Peninsula;

(2) North Korea is complying with all provisions of the Agreed Framework; and

(3) the United States is continuing to make significant progress on eliminating the North Korean ballistic missile threat, including further missile tests and its ballistic missile exports.

(c) The President may waive the certification requirements of subsection (b) if the President determines that it is vital to the national security interests of the United States and provides written policy justifications to the appropriate congressional committees. No funds may be obligated for KEDO until 15 days after submission to Congress of such waiver.

(d) The Secretary of State shall, at the time of the annual presentation for appropriations, submit a report providing a full and detailed accounting of the fiscal year 2003 request for the United States contribution to KEDO, the expected operating bidget of KEDO, proposed annual costs associated with heavy fuel oil purchases, including unpaid debt, and the amount of funds pledged by other donor nations and organizations to support KEDO activities on a per country basis, and other related activities.

(e) The final proviso under the heading "International Organizations and Programs" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107) is repealed.

PLO COMPLIANCE REPORT

Sec. 566. (a) Reporting Requirement.—The President should, at the time specified in subsection (b), submit a report to the Congress assessing the steps that the Palestine Liberation Organization (PLO), or the Palestinian Authority, as appropriate, has taken to comply with its 1993 commitments to renounce the use of terrorism and all other acts of violence and to assume responsibility over all PLO or Palestinian Authority elements and personnel in order to assure their compliance, prevent violations, and discipline violators, including the arrest and prosecution of individuals involved in acts of terror and violence. The President should determine, based on such assessment, whether the PLO or the Palestinian Authority, as appropriate, has substantially complied with such commitments. If the President determines based on the assessment that such compliance has not occurred, then the President should, for a period of time of not less than six months, impose one or more of the following sanctions:

(1) Withdraw or terminate any waiver by the President of the requirements of section 1003 of the Foreign Relations Authorization Act of 1988 and 1989 (22 U.S.C. 5202) (prohibiting the establishment or maintenance of a Palestinian information office in the United States), such section to apply so as to prohibit the operation of a PLO or Palestinian Authority office in the United States from carrying out any function other than those functions carried out by the Palestinian information office in existence prior to the Oslo Accords.

(2) Designate the PLO, or one or more of its constituent groups (including Fatah and Tanzim) or groups operating as arms of the Palestinian Authority (including Force 17) as a foreign terrorist organization, in accordance with section 219(a) of the Immigration and Nationality Act.

(3) Terminate United States assistance (except humanitarian and development assistance) for the West Bank and Gaza Program.

(b) Submission of Report.—The report required under subsection (a) should be transmitted not later than 60 days after the date of enactment of this Act and shall cover the period commencing June 13, 2001.

(c) Update of Report.—The President should update the report submitted pursuant to subsection (a) as part of the next report required under the PLO Commitments Compliance Act of 1989 (title VIII of Public Law 101–246).

(d) Waiver Authority.—The President may waive any or all of the sanctions imposed under subsection (a) if the President determines and reports to the appropriate committees of the Congress that such a waiver is in the national security interests of the United States.

COLOMBIA

Sec. 567. (a) Determination and Certification Required.—Notwithstanding any other provision of law, funds appropriated by this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, may be made available for assistance for the Colombian Armed Forces as follows:

(1) not more than sixty percent of such funds may be obligated after a determination by the Secretary of State and a certification to the appropriate congressional committees that:

(A) the Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary groups;

(B) the Colombian Armed Forces are cooperating with civilian prosecutors and judicial authorities (including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses and relevant military documents and other information), in prosecuting and punishing in civilian courts those members of the Colombian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary groups;

(C) the Colombian Armed Forces are taking effective measures to sever links (including by denying access to military intelligence, vehicles,

and other equipment or supplies, and ceasing other forms of active or tacit cooperation), at the command, battalion, and brigade levels, with paramilitary groups, and to execute outstanding orders for capture for members of such groups; and

(2) the balance of such funds may be obligated after June 1, 2002, if the Secretary of State determines and certifies to the appropriate congressional committees that the Colombian Armed Forces are continuing to meet the criteria contained in paragraphs (1)(A), (B) and (C).

(b) CONSULTATIVE PROCESS.—At least ten days prior to making the determination and certification required by this section, and every 120 days thereafter during fiscal year 2002, the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions contained in subsection (a).

(c) REPORT.—One hundred and twenty days after the enactment of this Act, and every 120 days thereafter during fiscal year 2002, the Secretary of State shall submit a report to the Committees on Appropriations describing actions taken by the Colombian Armed Forces to meet the requirements set forth in subsections (a)(1)(A) through (a)(1)(C); and

(d) DEFINITIONS.—In this section:

(1) AIDED OR ABETTED.—The term "aided or abetted" means to provide any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

(2) PARAMILITARY GROUPS.—The term "paramilitary groups" means illegal self-defense groups and illegal security cooperatives.

ILLEGAL ARMED GROUPS

SEC. 568. (a) DENIAL OF VISAS TO SUPPORTERS OF COLOMBIAN ILLEGAL ARMED GROUPS.—Subject to subsection (b), the Secretary of State shall not issue a visa to any alien who the Secretary determines, based on credible evidence—

(1) has willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Self-Defense Forces of Colombia (AUC), including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups; or

(2) has committed, ordered, incited, assisted, or otherwise participated in the commission of gross violations of human rights, including extra-judicial killings, in Colombia.

(b) WAIVER.—Subsection (a) shall not apply if the Secretary of State determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

SEC. 569. None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

IRAQ

SEC. 570. Notwithstanding any other provision of law, funds appropriated under the heading "Economic Support Fund" may be made available for programs benefitting the Iraqi people and to support efforts to bring about a political transition in Iraq: Provided, That not more than 15 percent of the funds (except for costs related to broadcasting activities) may be used for administrative and representational expenses, including expenditures for salaries, office rent and equipment: Provided further, That not later than 60 days after the date of enactment of this Act, the Secretary of State shall consult with the Committees on Appropriations regarding plans for the expenditure of funds under this section: Provided further, That funds made available under this heading are made available subject to the regular notification procedures of the Committees on Appropriations.

WEST BANK AND GAZA PROGRAM

SEC. 571. For fiscal year 2002, 30 days prior to the initial obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the appropriate committees of Congress that procedures have been established to assure the Comptroller General of the United States will have access to appropriate United States financial information in order to review the uses of United States assistance for the Program funded under the heading "Economic Support Fund" for the West Bank and Gaza.

INDONESIA

SEC. 572. (a) Funds appropriated by this Act under the headings "International Military Education and Training" and "Foreign Military Financing Program" may be made available for assistance for Indonesian military personnel only if the President determines and submits a report to the appropriate congressional committees that the Government of Indonesia and the Indonesian Armed Forces are—

(1) taking effective measures to bring to justice members of the armed forces and militia groups against whom there is credible evidence of human rights violations in East Timor and Indonesia;

(2) taking effective measures to bring to justice members of the armed forces against whom there is credible evidence of aiding or abetting illegal militia groups in East Timor and Indonesia;

(3) allowing displaced persons and refugees to return home to East Timor, including providing safe passage for refugees returning from West Timor and demonstrating a commitment to preventing incursions into East Timor by members of militia groups in West Timor;

(4) demonstrating a commitment to accountability by cooperating with investigations and prosecutions of members of the armed forces and militia groups responsible for human rights violations in East Timor and Indonesia;

(5) demonstrating a commitment to civilian control of the armed forces by reporting to civilian authorities audits of receipts and expenditures of the armed forces;

(6) allowing United Nations and other international humanitarian organizations and representatives of recognized human rights organizations access to West Timor, Aceh, West Papua, and Maluka; and

(7) releasing political detainees.

BRIEFINGS ON POTENTIAL PURCHASES OF DEFENSE ARTICLES OR DEFENSE SERVICES BY TAIWAN

SEC. 573. (a) BRIEFINGS.—Not later than 90 days after the date of enactment of this Act, and not later than every 120 days thereafter during fiscal year 2002, the Department of State, in consultation with the Department of Defense, shall provide detailed briefings to the appropriate congressional committees (including the Committees on Appropriations) on any discussions conducted between any executive branch agency and the government of Taiwan during the preceding 120 days (or, in the case of the initial briefing, since the date of enactment of this Act) on any potential purchase of defense articles or defense services by the government of Taiwan.

(b) EXECUTIVE AGENCY DEFINED.—In this section, the term "executive branch agency" has the meaning given the term "agency" in section 551(1) of title 5, United States Code.

RESTRICTIONS ON ASSISTANCE TO GOVERNMENTS DESTABILIZING SIERRA LEONE

SEC. 574. (a) None of the funds appropriated by this Act may be made available for assistance for the government of any country for which the Secretary of State determines there is credible evidence that such government has knowingly facilitated the safe passage of weapons or other equipment, or has provided lethal or non-lethal military support or equipment, directly or through intermediaries, within the previous six months to the Sierra Leone Revolutionary United Front (RUF), Liberian Security Forces, or any other group intent on destabilizing the democratically elected government of the Republic of Sierra Leone.

(b) None of the funds appropriated by this Act may be made available for assistance for the government of any country for which the Secretary of State determines there is credible evidence that such government has aided or abetted, within the previous six months, in the illicit distribution, transportation, or sale of diamonds mined in Sierra Leone.

(c) Whenever the prohibition on assistance required under subsection (a) or (b) is exercised, the Secretary of State shall notify the Committees on Appropriations in a timely manner.

VOLUNTARY SEPARATION INCENTIVES

SEC. 575. Section 579(c)(2)(D) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, as enacted by section 1000(a)(2) of the Consolidated Appropriations Act, 2000 (Public Law 106–113), as amended, is amended by striking "December 31, 2001" and inserting in lieu thereof "December 31, 2002".

UNITED NATIONS POPULATION FUND

SEC. 576. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under "International Organizations and Programs", not more than $34,000,000 for fiscal year 2002 shall be made available for the United Nations Population Fund (hereafter in this section referred to as the "UNFPA").

(b) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under "International Organizations and Programs" may be made available for the UNFPA for a country program in the People's Republic of China.

(c) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under "International Organizations and Programs" for fiscal year 2002 for the UNFPA may not be made available to UNFPA unless—

(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

(3) the UNFPA does not fund abortions.

AMERICAN CHURCHWOMEN AND OTHER CITIZENS IN EL SALVADOR AND GUATEMALA

SEC. 577. (a) To the fullest extent possible information relevant to the December 2, 1980, murders of four American churchwomen in El Salvador, and the May 5, 2001, murder of Sister Barbara Ann Ford and the murders of six other American citizens in Guatemala since December 1999, should be investigated and made public.

(b) The Department of State is urged to pursue all reasonable avenues in assuring the collection and public release of information pertaining to the murders of the six American citizens in Guatemala.

(c) The President shall order all Federal agencies and departments, including the Federal Bureau of Investigation, that possess relevant information, to expeditiously declassify and release to the victims' families such information, consistent with existing standards and procedures on classification.

(d) In making determinations concerning declassification and release of relevant information, all Federal agencies and departments should use the discretion contained within such

existing standards and procedures on classification in support of releasing, rather than withholding, such information.

(e) All reasonable efforts should be taken by the American Embassy in Guatemala to work with relevant agencies of the Guatemalan Government to protect the safety of American citizens in Guatemala, and to assist in the investigations of violations of human rights.

PROCUREMENT AND FINANCIAL MANAGEMENT REFORM

SEC. 578. (a) FUNDING CONDITIONS.—Of the funds made available under the heading "International Financial Institutions" in this Act, 10 percent of the United States portion or payment to such International Financial Institution shall be withheld by the Secretary of the Treasury, until the Secretary certifies to the Committees on Appropriations that, to the extent pertinent to its lending programs, the institution is—

(1) implementing procedures for conducting annual audits by qualified independent auditors for all new investment lending;

(2) implementing procedures for annual independent external audits of central bank financial statements for countries making use of International Monetary Fund resources under new arrangements or agreements with the Fund;

(3) taking steps to establish an independent fraud and corruption investigative organization or office;

(4) implementing a process to assess a recipient country's procurement and financial management capabilities including an analysis of the risks of corruption prior to initiating new investment lending; and

(5) taking steps to fund and implement programs and policies to improve transparency and anti-corruption programs and procurement and financial management controls in recipient countries.

(b) DEFINITIONS.—The term "International Financial Institutions" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Enterprise for the Americas Multilateral Investment Fund, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the International Monetary Fund.

BASIC EDUCATION ASSISTANCE FOR INDONESIA AND PAKISTAN

SEC. 579. (a) Of the funds made available under the heading "Development Assistance" for basic education, $8,000,000 shall be made available to Indonesia and Pakistan.

(b) Of the funds made available under the heading "Economic Support Fund" for Pakistan, not less than $2,500,000 shall be transferred to "Operating Expenses of the United States Agency for International Development" for the purpose of monitoring and implementing United States economic support, including that provided under the provisions of Public Law 107–38 and this general provision, of basic education, health, and democracy and governance activities in Pakistan.

(c) Not more than 60 days after the enactment of this Act, the Administrator of the United States Agency for International Development shall report to the House Committees on Appropriations and International Relations and the Senate Committees on Appropriations and Foreign Relations on the Agency's proposed allocation of basic education funding for Indonesia and Pakistan, including in-country monitoring of budget support for basic education provided under Public Law 107–38.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 580. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

WAR CRIMINALS

SEC. 581. (a)(1) None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical assistance, to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia (the "Tribunal") all persons in their territory who have been publicly indicted by the Tribunal and to otherwise cooperate with the Tribunal.

(2) The provisions of this subsection shall not apply to humanitarian assistance or assistance for democratization.

(b) The provisions of subsection (a) shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are—

(1) cooperating with the Tribunal, including access for investigators, the provision of documents, and the surrender and transfer of publicly indicted persons or assistance in their apprehension; and

(2) are acting consistently with the Dayton Accords.

(c) Not less than 10 days before any vote in an international financial institution regarding the extension of any new project involving financial or technical assistance or grants to any country or entity described in subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committees on Appropriations a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(d) In carrying out this section, the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of the Treasury shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent publicly indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (a).

(e) The Secretary of State may waive the application of subsection (a) with respect to projects within a country, entity, or municipality upon a written determination to the Committees on Appropriations that such assistance directly supports the implementation of the Dayton Accords.

(f) DEFINITIONS.—As used in this section—

(1) COUNTRY.—The term "country" means Bosnia and Herzegovina, Croatia and Serbia.

(2) ENTITY.—The term "entity" refers to the Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska.

(3) MUNICIPALITY.—The term "municipality" means a city, town or other subdivision within a country or entity as defined herein.

(4) DAYTON ACCORDS.—The term "Dayton Accords" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

USER FEES

SEC. 582. The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act) and the International Monetary Fund to oppose any loan of these institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions' lending programs.

HEAVILY INDEBTED POOR COUNTRIES TRUST FUND AUTHORIZATION

SEC. 583. Section 801(b)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (Public Law 106–429) is amended by striking "$435,000,000" and inserting "$600,000,000".

FUNDING FOR SERBIA

SEC. 584. (a) Funds appropriated by this Act may be made available for assistance for Serbia after March 31, 2002, if the President has made the determination and certification contained in subsection (c).

(b) After March 31, 2002, the Secretary of the Treasury should instruct the United States executive directors to the international financial institutions to support loans and assistance to the Government of the Federal Republic of Yugoslavia subject to the conditions in subsection (c): Provided, That section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as amended, shall not apply to the provision of loans and assistance to the Federal Republic of Yugoslavia through international financial institutions.

(c) The determination and certification referred to in subsection (a) is a determination by the President and a certification to the Committees on Appropriations that the Government of the Federal Republic of Yugoslavia is—

(1) cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension;

(2) taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps to implement policies which reflect a respect for minority rights and the rule of law, including the release of political prisoners from Serbian jails and prisons.

(d) Subsections (b) and (c) shall not apply to Montenegro, Kosovo, humanitarian assistance or assistance to promote democracy in municipalities.

EL SALVADOR RECONSTRUCTION AND CENTRAL AMERICA DISASTER RELIEF

SEC. 585. (a) During fiscal year 2002, not less than $100,000,000 shall be made available for rehabilitation and reconstruction assistance for El Salvador: Provided, That such funds shall be derived as follows: (1) from funds appropriated by this Act, not less than $65,000,000, of which not less than $25,000,000 shall be from funds appropriated under the heading "Economic Support Fund", $25,000,000 should be from funds *appropriated under the heading "International Disaster Assistance", and not less than $15,000,000 shall be from funds appropriated under the headings "Child Survival and Health Programs Fund" and "Development Assistance"; and (2) from funds appropriated under such headings in Acts making appropriations for foreign operations, export financing, and related programs for fiscal year 1999 and prior years, not to exceed $35,000,000: Provided further, That none of the funds made available under this section may be obligated for nonproject assistance: Provided further, That prior to any obligation of funds made available under this section, the Administrator of the United States Agency for International Development (USAID) shall provide the Committees on Appropriations with a detailed report containing the amount of the proposed obligation and a description of the programs and projects, on a sector-by-sector basis, to be funded with such amount: Provided further, That of the funds made available under this section, up to $2,500,000 may be used for administrative expenses, including auditing costs, of USAID.*

(b) During fiscal year 2002, not less than $35,000,000 of the funds managed by the United States Agency for International Development should be made available for mitigation of the drought and rural food shortages elsewhere in Central America.

REPORTS ON CONDITIONS IN HONG KONG

SEC. 586. (a) Section 301 of the United States-Hong Kong Policy Act (22 U.S.C. 5731) is amended by striking "and March 31, 2000," and inserting: "March 31, 2000, March 31, 2001, March 31, 2002, March 31, 2003, March 31, 2004, March 31, 2005, and March 31, 2006".

(b) The requirement in section 301 of the United States-Hong Kong Policy Act, as amended by subsection (a), that a report under that section shall be transmitted not later than March 31, 2001, shall be considered satisfied by the transmittal of such report by August 7, 2001.

COMMUNITY-BASED POLICE ASSISTANCE

SEC. 587. (a) AUTHORITY.—Of the funds made available to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, up to $1,500,000 may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority in Jamaica through training and technical assistance in internationally recognized human rights, the rule of law, strategic planning, and through the promotion of civilian police roles that support democratic governance including programs to prevent conflict and foster improved police relations with the communities they serve.

(b) REPORT.—Twelve months after the initial obligation of funds for Jamaica for activities authorized under subsection (a), the Administrator of the United States Agency for International Development shall submit a report to the appropriate congressional committees describing the progress the program is making toward improving police relations with the communities they serve and institutionalizing an effective community-based police program.

(c) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to the regular notification procedures of the Committees on Appropriations.

AUTHORIZATIONS

SEC. 588. The Secretary of the Treasury may, to fulfill commitments of the United States, contribute on behalf of the United States to the fifth replenishment of the resources of the International Fund for Agricultural Development. The following amount is authorized to be appropriated without fiscal year limitation for payment by the Secretary of the Treasury: $30,000,000 for the International Fund for Agricultural Development: Provided, That notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of Public Law 103–428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through March 31, 2002.

EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTHERN EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

SEC. 589. Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during each of the fiscal years 2002 and 2003, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan: Provided, That section 105 of Public Law 104–164 is amended by striking "2000 and 2001" and inserting "2002 and 2003".

OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK RESTRICTIONS

SEC. 590. (a) LIMITATION ON USE OF FUNDS BY OPIC.—None of the funds made available in this Act may be used by the Overseas Private Investment Corporation to insure, reinsure, guarantee, or finance any investment in connection with a project involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(b) LIMITATION ON USE OF FUNDS BY THE EXPORT-IMPORT BANK.—None of the funds made available in this Act may be used by the Export-Import Bank of the United States to guarantee, insure, extend credit, or participate in an extension of credit in connection with the export of any goods to a country for use in an enterprise involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(c) REQUIREMENTS.—The requirements referred to in subsection (a) and (b) are that the country concerned is implementing a system of controls, or taking other appropriate measures, that the Secretary of State determines to contribute effectively to preventing and eliminating the trade in conflict diamonds.

MODIFICATION TO THE ANNUAL DRUG CERTIFICATION PROCEDURES

SEC. 591. During fiscal year 2002 funds in this Act that would otherwise be withheld from obligation or expenditure under section 490 of the Foreign Assistance Act of 1961 may be obligated or expended provided that:

(1) REPORT.—Not later than 45 days after enactment the President has submitted to the appropriate congressional committees a report identifying each country determined by the President to be a major drug-transit country or major illicit drug producing country.

(2) DESIGNATION AND JUSTIFICATION.—In each report under paragraph (1), the President shall also—

(A) designate each country, if any, identified in such report that has failed demonstrably, during the previous 12 months, to make substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961; and

(B) include a justification for each country so designated.

(3) LIMITATION ON ASSISTANCE FOR DESIGNATED COUNTRIES.—In the case of a country identified in a report for fiscal year 2002 under paragraph (1) that is also designated under paragraph (2) in the report, United States assistance may be provided under this Act to such country in fiscal year 2002 only if the President determines and reports to the appropriate congressional committees that—

(A) provision of such assistance to the country in such fiscal year is vital to the national interests of the United States; or

(B) commencing at any time 45 days after enactment, the country has made substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961.

(4) INTERNATIONAL COUNTERNARCOTICS AGREEMENT DEFINED.—In this section, the term "international counternarcotics agreement" means—

(A) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) any bilateral or multilateral agreement in force between the United States and another country or countries that addresses issues relating to the control of illicit drugs, such as—

(i) the production, distribution, and interdiction of illicit drugs,

(ii) demand reduction,

(iii) the activities of criminal organizations,

(iv) international legal cooperation among courts, prosecutors, and law enforcement agencies (including the exchange of information and evidence),

(v) the extradition of nationals and individuals involved in drug-related criminal activity,

(vi) the temporary transfer for prosecution of nationals and individuals involved in drug-related criminal activity,

(vii) border security,

(viii) money laundering,

(ix) illicit firearms trafficking,

(x) corruption,

(xi) control of precursor chemicals,

(xii) asset forfeiture, and

(xiii) related training and technical assistance;

and includes, where appropriate, timetables and objective and measurable standards to assess the progress made by participating countries with respect to such issues.

(5) APPLICATION.—Section 490 (a)–(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) shall not apply during fiscal year 2002 with respect to any country identified in paragraph (1) of this section.

(6) STATUTORY CONSTRUCTION.—Nothing in this section supersedes or modifies the requirement in section 489(a) of the Foreign Assistance Act of 1961 (with respect to the International Control Strategy Report) for the transmittal of a report not later than March 1, 2002 under that section.

KENNETH M. LUDDEN

SEC. 592. This Act may be cited as the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002".

And the Senate agree to the same.

JIM KOLBE,
SONNY CALLAHAN,
JOE KNOLLENBERG,
JACK KINGSTON,
JERRY LEWIS,
ROGER F. WICKER,
HENRY BONILLA,
JOHN E. SUNUNU,
BILL YOUNG,
NITA LOWEY,
NANCY PELOSI,

JESSE L. JACKSON, Jr.,
CAROLYN C. KILPATRICK,
STEVEN R. ROTHMAN,
DAVE OBEY,
Managers on the Part of the House.

PATRICK J. LEAHY,
DANIEL K. INOUYE,
TOM HARKIN,
TIM JOHNSON,
JACK REED,
ROBERT C. BYRD,
MITCH MCCONNELL,
JUDD GREGG,
RICHARD C. SHELBY,
ROBERT F. BENNETT,
BEN NIGHTHORSE CAMPBELL,
CHRISTOPHER BOND,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2506) "making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002", submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

SUBSIDY APPROPRIATION

The conference agreement appropriates $727,323,000 for the subsidy appropriation of the Export-Import Bank as proposed by the Senate, instead of $738,323,000 as proposed by the House. The managers have been informed that the level of subsidy provided will support a projected level of authorizations of $10,600,000,000 in 2002, approximately $1,400,000,000 higher than the level of authorizations in fiscal year 2001.

ADMINISTRATIVE EXPENSES

The conference agreement appropriates $63,000,000 for administrative expenses of the Export-Import Bank instead of $60,000,000 as proposed by the House and $64,000,000 as proposed by the Senate.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The managers are concerned about an announcement by OPIC that it intends to begin making bridge loans to non-governmental organizations (NGOs) and private voluntary organizations (PVOs). While OPIC has provided financing to several PVOs since 1999, the managers are concerned that OPIC has not adequately consulted and informed Congress on these projects. Therefore, the managers direct the President of OPIC to consult with the Committees on Appropriations in the House and the Senate before any future financing for NGOs or PVOs is approved.

The managers are also concerned that significant changes to the insurance market in the wake of the September 11, 2001 attacks against the United States may jeopardize coverage of American investments overseas. The managers note that the inability to obtain sufficient insurance coverage could have significant adverse impact on large infrastructure project support by U.S. corporations, U.S. commercial banks, the Export-Import Bank, and the Overseas Private Investment Corporation.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

COMPLIANCE WITH REPORT LANGUAGE

The managers note that at times in the past, the Department of State and USAID have failed to respond to recommendations in the House and Senate Appropriations Committee reports, choosing instead to recognize only language in the statement of the managers accompanying the Conference Report. The managers expect the Department of State and USAID to follow the recommendations in the House and Senate reports, unless those recommendations are modified in the statement of the managers. In the event that the House and Senate Appropriations Committee reports contain conflicting recommendations on the same subject, the managers expect the Department of State and USAID to consult with the House and Senate Appropriations Committees regarding those recommendations.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

The conference agreement appropriates $1,433,500,000 for the Child Survival and Health Programs Fund instead of $1,425,000,000 as proposed by the House and $1,510,500,000 as proposed by the Senate. The conference agreement also continues limitations on the use of the Fund for non-project assistance.

The conference agreement includes language allocating $1,430,500,000 among six program categories in the Child Survival and Health Programs Fund: $315,000,000 for child survival and maternal health, including vaccine-preventable diseases such as polio; $25,000,000 for vulnerable children; $435,000,000 for HIV/AIDS; $165,000,000 for other infectious diseases; $368,500,000 for reproductive health/family planning; and $120,000,000 for UNICEF. The managers expect that any change proposed subsequent to the allocation as directed in bill language will be subject to the requirements of section 515 of the Act. A definition of program categories and their components can be found on pages 9 through 11 of House Report 107–142 and under the heading "Family Planning/Reproductive Health" on page 12 of Senate Report 107–58.

Within the child survival and maternal health program, authority is provided to transfer up to $53,000,000 instead of $60,000,000 as proposed by the House and $50,500,000 as proposed by the Senate to The Vaccine Fund established for child immunization by the Global Alliance for Vaccines and Immunization (GAVI). The managers continue to be supportive of GAVI and again direct that the Committees be informed in writing 20 days prior to the obligation of any funds for GAVI on the proposed use of any U.S. contribution, particularly with regard to the amount to be donated for procurement of vaccines for children. Any in-kind contributions through USAID should be in addition to the $53,000,000 contribution to The Vaccine Fund.

The managers note that the vulnerable children program is not intended to be used to assist AIDS orphans, who will be major beneficiaries of the HIV/AIDS program. Although the conference agreement does not include bill language regarding funding for blind children, the managers recommend not less than $1,300,000 for assistance for blind children. The managers support efforts to eliminate iodine deficiency disorder, the leading cause of mental retardation, and expect that at least $2,500,000 from the Child Survival and Health Programs Fund and $2,225,000 from the Europe and Eurasia regional accounts be provided for the Kiwanis International/UNICEF–IDD partnership program. USAID is also encouraged to increase support for non-governmental organizations, such as Special Olympics, that work with older children, including those with cognitive disabilities and mild mental retardation, to teach life and job skills. The managers encourage USAID to explore expanding support for NGO programs for vulnerable children and adults in Southeast Asian countries where government policies impede the establishment of a regular USAID mission or limit government-to-government economic cooperation. The managers also direct that $27,500,000 be provided to combat polio.

The conference agreement includes $475,000,000 for HIV/AIDS, of which $435,000,000 is allocated within this account and not less than $40,000,000 in other accounts and programs. The conference agreement includes bill language on the development of microbicides. The managers expect that these funds will be managed by the director of the HIV/AIDS division at USAID. In addition, the conference agreement includes up to $10,000,000 for a United States contribution to the International AIDS Vaccine Initiative.

The managers note that the Global AIDS and Tuberculosis Relief Act of 2000 (P.L. 106–264) authorized that 65 percent of the HIV/AIDS funding be provided through non-governmental organizations (NGOs). The managers concur that NGOs, including faith-based organizations, provide invaluable services in the fight against HIV/AIDS. In anticipation of an increasing involvement of the public sector, particularly in the areas of treatment and the provision of interventions to reduce mother-to-child transmission, the managers agree that assistance provided through NGOs in cooperation with a foreign government or using government facilities may be counted against the 65 percent target in USAID's strategy to implement the Act.

The managers recognize the value of innovative projects to combat the ever-growing HIV/AIDS pandemic. The managers are aware of two innovative faith-based alliances and recommend that USAID provide not less than $2,000,000 to fund proposals by each NGO. The first is between a United States NGO and the southern African Anglican Church to provide information and communications technologies and platforms to strengthen community efforts to combat HIV/AIDS in southern Africa. The second is between Hope worldwide and a number of communities in southern Africa. The NGO seeks to replicate and extend its well-known Soweto Community Childcare program for orphans and other children affected by AIDS to other sites in Africa. The managers encourage USAID to seek out and support similar innovative programs, especially in Africa, South and Central Asia, and the Caribbean region.

Within the overall Child Survival and Health Programs Fund, authority is provided to transfer $50,000,000 to a proposed global fund to fight AIDS, tuberculosis and malaria. Of this amount, $10,000,000 would be transferred from the allocation for other infectious diseases, which include tuberculosis and malaria. In addition, the President may use up to $50,000,000 from other accounts in title II of this and prior Acts for the fund, for a total of $100,000,000 under the authorities provided in this Act.

The managers note that up to an additional $200,000,000 is available for the proposed global fund from two other appropriations Acts a total of $100,000,000 in the Child

Survival and Disease Programs Fund under a provision of Public Law 107–20, and another $100,000,000 from H.R. 3061, the Departments of Labor, Health and Human Services, and Education Appropriations Act, 2002. The managers further note that the President's request for the fund is $200,000,000.

The managers expect the Secretary of State and the Secretary of Health and Human Services to report to the Committees no later than April 30, 2002 on progress toward establishment of a global fund to combat AIDS, tuberculosis and malaria. If substantial progress has not been made by August 1, 2002, in establishing a global fund on terms mutually acceptable to the Secretaries and the Committees, the managers expect that the funds intended to be contributed to the proposed global fund will be made available for obligation, as needed, for ongoing bilateral programs to fight HIV/AIDS, tuberculosis, and malaria.

The managers urge that expanded resources be made available to mother-to-child transmission (MTCT) programs. As effective implementation of MTCT programs will take time, during which health care workers will be trained, laboratory and testing facilities established, and community based care services for HIV positive mothers developed, USAID not be able to meet the Global AIDS Act's 8.3 percent MTCT funding target in fiscal year 2002. The managers expect that USAID will achieve the MTCT target by the end of fiscal year 2003.

The conference agreement allocates $165,000,000 for other infectious diseases including $65,000,000 to address the global health threat from tuberculosis. The managers expect that a total of at least $75,000,000 will be provided for tuberculosis from all accounts.

The other infectious diseases program also includes $65,000,000 for efforts to reduce the incidence of malaria and $35,000,000 for antimicrobial resistance and infectious diseases surveillance. Proper antibiotic use and increasing global resistance have assumed a higher priority since the recent bioterrorism incidents, and the managers urge USAID to reserve part of its increase in funding to invest in public/private partnerships and alliances that promote more prudent uses of antibiotics in developing countries.

The managers are aware that the HIV/AIDS, tuberculosis and malaria crises require extraordinary efforts on the part of the U.S. Government. USAID is encouraged to use, as appropriate, its existing waiver authorities regarding financing and procurement of goods and services, and grant making, in order to expedite the provision of assistance to combat infectious diseases and enhance the efficiency of that assistance.

The conference agreement allocates $368,500,000 for family planning/reproductive health within the Child Survival and Health Programs Fund. The Senate amendment proposed that not less than $395,000,000 be made available from the Child Survival and Health Programs Fund to carry out section 104(b) of the Foreign Assistance Act, regarding international population planning assistance. The House bill allocated $358,000,000 from this account for bilateral reproductive health/family planning assistance. The conference agreement provides overall funding of $446,500,000 for bilateral family planning/reproductive health from this account, the Economic Support Fund, and the regional accounts for Eastern Europe and the former Soviet Union in section 522.

As the managers are concerned about logging, poaching and other development harmful to the environment in regions where population pressures threaten biodiversity and endangered species, such as Indonesia, Central Africa, and parts of Latin America, the conference agreement includes Senate language that urges USAID to undertake and implement reproductive health/family planning programs in these regions.

The managers also direct USAID to continue to provide the Committees with a detailed annual report not later than February 28, 2002, on the programs, projects, and activities undertaken by the Child Survival and Disease Programs Fund during fiscal year 2001.

Funds appropriated for the Child Survival and Health Programs Fund are appropriated for programs, projects and activities. Funds for administrative expenses to manage Fund activities are provided in a separate account, with two exceptions included in the conference agreement: authority for USAID's central and regional bureaus to use up to $125,000 from program funds for Operating Expense-funded personnel to better monitor and provide oversight of the Fund; and, in section 522, authority to use up to $15,500,000 to reimburse other government agencies and private institutions for professional services. Any proposed transfer of appropriations from the Fund for administrative expenses of USAID under any other authority shall be subject to section 515 of this Act.

None of the funds appropriated under this heading or the heading "Child Survival and Disease Programs Fund" in prior Acts making appropriations for foreign operations, export financing, and related programs may be allocated or reserved in USAID's operating year budget for a Global Development Alliance. Any proposed obligations for Global Development Alliance programs, projects or activities shall be subject to the regular notification procedures of the Committees on Appropriations.

DEVELOPMENT ASSISTANCE

The conference agreement appropriates $1,178,000,000 for "Development Assistance" instead of $1,098,000,000 as proposed by the House and $1,245,000,000 as proposed by the Senate.

The managers have increased funds for Development Assistance above the amount requested by the President in order to make additional funds available for urgent basic education, environment and energy conservation, and economic growth programs. Within the economic growth, agriculture and trade sector, environment and clean energy, trade promotion, and rule of law activities are of special interest.

The managers have agreed to provide $150,000,000 for basic education under the development assistance account, instead of $135,000,000 as proposed by the House bill and the Senate amendment. In addition, $15,000,000 should be derived from other accounts.

The managers also direct USAID to conduct an immediate review of basic education programs in countries whose assistance is primarily provided from the Economic Support Fund (ESF). Widespread anti-American sentiment in predominately Muslim countries has exposed a deficiency in basic education within countries that have received large amounts of U.S. assistance through ESF-funded programs. The managers urge that cooperative efforts be initiated with ESF-recipient countries to develop and implement creative basic education programs that strengthen the capacity and accessibility of public education systems. The conferees expect that expenditures from the ESF account for education will increase as a result of these efforts.

The managers continue to be concerned about worldwide trafficking of women and children and urge the Department of State and USAID to provide $20,000,000 from title II of this Act, including not less than $1,500,000 under the heading "Independent States" and not less than $10,000,000 under the heading "International Narcotics Control and Law Enforcement", to continue and expand anti-trafficking programs.

The conference agreement provides that, of the funds for agriculture and rural development programs, $25,000,000 should be provided for biotechnology research and development.

The managers strongly support the fertilizer-related research and development being conducted by the International Fertilizer Development Center (IFDC) and urge the Administrator of USAID to make at least $4,000,000 available to IFDC, including not less than $2,300,000 for its core grant, as provided under the Senate amendment and the House Report.

The managers expect USAID to increase funding for the Collaborative Research Support Programs (CRSPs) above the fiscal year 2001 level. The managers recommend that USAID should focus on increasing the overall funds available for CRSPs, and consult with the Committees on directives included in the House and Senate reports regarding funding for the CRSPs. The managers note the ongoing bipartisan and bicameral support for the Peanut CRSP.

The conference agreement does not contain language proposed in the Senate amendment providing up to $100,000 for an assessment of the causes of flooding along the Volta River in Accra, Ghana, and recommendations for solving the problem. The House did not address this matter. The managers support this endeavor, and expect $100,000 to be provided for the assessment.

The managers direct that not less than $500,000 be made available for the United States Telecommunications Training Institute, a long-standing and successful program that provides communications and broadcasting training to professionals around the world. The Senate amendment included bill language mandating that such funds be made available for this purpose. The House bill did not address this matter.

The conference agreement provides that $18,000,000 should be made available for the American Schools and Hospitals Abroad (ASHA) program. The Senate amendment included bill language mandating that $19,000,000 be made available for this purpose. The House bill did not address this matter. The managers direct ASHA to give full consideration to grant proposals from all qualified institutions. These may include grant proposals for curriculum, staff support, and related expenses and for expansion overseas facilities owned and operated by U.S. based, non-profit educational institutions. No regulation, statute, or congressional directive precludes ASHA funds from being utilized for these purposes.

The managers strongly support programs to protect the environment, including biodiversity and endangered species. They also support sustainable use of natural resources and sustainable agriculture and programs that conserve energy and promote efficient energy production and use in developing countries. The conference agreement includes language similar to the Senate bill, which provides that $275,000,000 should be made available for these activities. Of this amount, $100,000,000 should be made available for programs to protect biodiversity.

The conference agreement includes language similar to the Senate amendment, which provides that $2,000,000 should be made available from "Development Assistance" and the "Child Survival and Health Programs Fund" for activities in Laos. These funds are to be made available only through nongovernmental organizations to address basic human needs. The managers are extremely troubled by the repressive policies of the Government of Laos. In addition to condemning the wholesale denial of human rights to the people of Laos, particularly the Hmong, the managers are concerned about a recent event in which several European nationals were arrested, detained in inhumane conditions, and eventually expelled from Laos for demonstrating for democracy and the release of political prisoners. The House bill did not address this matter.

As a result of the situation since September 11, 2001, the managers support and urge USAID to include in its initiative to prevent conflict $2,500,000 to support environmental threat assessments and preventive solutions. The Foundation for Security and Sustainability is prepared to mobilize its interdisciplinary experts to address urgent challenges such as highly infectious diseases and environmental indicators to provide credible warnings as they pertain to the security of key regions.

The conferees continue to strongly support dairy development and urge the USAID to provide $8,000,000 to fund new projects in fiscal year 2002, the same level provided for the past two years. The program has helped the U.S. dairy industry become more competitive through promoting American technology, equipment, inputs and industry-based technical assistance in developing and market transition countries.

The managers support the language in House Report 107–142 regarding education and technology in Africa, especially with regard to the Education of Development and Democracy Initiative (EDDI) and the AFTECH initiative. As such, the managers strongly recommend that $17,000,000 be made available for EDDI in fiscal year 2002, instead of the multiyear funding recommendation in the House Report. The managers also support the Republic of Congo's (Brazzaville) efforts to achieve economic self sufficiency and democratic reform following its civil war. The conferees strongly encourage USAID to support the Congo Republic's multi-year effort to boost local production of agricultural foodstuffs. This project complements the Agency's ongoing effort to engage the private sector in developing methods to achieve food security in Africa.

The managers endorse House and Senate report language supporting assistance for victims of torture and recommend $10,000,000 for these activities, including treatment centers. The managers are also aware of the Hacia La Seguridad program in Quito, Ecuador and the United States-Honduras Program of Investments Alliance and encourage USAID to consider proposals for supporting both projects. The managers also endorse the Senate report language recommending support for the Navsarjan Trust in India.

The managers recognize the important contributions made by American volunteers through the Citizens Democracy Corps and the International Executive Service Corps (IESC), and support additional funding by USAID over and above existing grants and cooperative agreements for both PVOs. In particular, the managers support proposals by the IESC to renew its technical assistance activities in small and medium-sized enterprises in Latin America, Africa, and Asia.

The managers expect USAID to comply with the House Report directives, as modified below, as it develops more fully its Global Development Alliance concept. Until those recommendations have been implemented, as determined by the Committees, any proposed obligations from Development Assistance appropriations for Global Development Alliance programs, projects or activities shall be subject to the regular notification procedures of the Committees on Appropriations on a case-by-case basis. Overall, any allocation or reservation of funds for a Global Development Alliance in USAID's operating year budget shall be limited to $20,000,000 during fiscal year 2002.

BURMA

The conference agreement contains language that provides that of the funds appropriated for the Economic Support Fund, not less than $6,500,000 shall be made available to support democracy activities in Burma and for related activities outside of Burma. These funds are available notwithstanding any other provision of law, but shall be made available subject to the regular notification procedures of the Committees on Appropriations. The conference agreement also amends a similar provision for the fiscal year 2001 appropriations act to provide for the use of funds appropriated under "Child Survival and Disease Programs Fund" for activities in Burma. The conference agreement does not contain Senate language that conditioned the use of funds on the direct involvement of the National League for Democracy.

The managers expect that programs and activities conducted inside Burma will be carried out in consultation with the leadership of the National League for Democracy (NLD). The managers do not support the provision of any assistance to the State Peace and Development Council (SPDC), and encourage a just and peaceful settlement to the political stalemate.

The managers are deeply concerned with the detention of Burma's legitimately elected leader Daw Aung San Suu Kyi, and the imprisonment and torture of Burmese democracy activists. The managers recognize the humanitarian crises that exist in Burma today, including an explosive HIV/AIDS infection rate, and condemn the repressive policies of the SPDC that directly contribute to human suffering in that country. The managers denounce the SPDC's efforts to obtain a nuclear reactor and its recent decision to purchase ten MIG–29 fighter aircraft. These funds could be better used for basic health care for the Burmese people.

The managers note that talks have taken place between the NLD and the SPDC, and a few political prisoners have been released. However, at the current rate it will take a decade before all 1,800 political prisoners are set free. The managers urge the immediate and unconditional release of all prisoners of conscience in Burma. The SPDC is also urged to allow NLD offices to reopen throughout Burma and to operate without restriction.

The managers request that within 90 days of enactment of the Act, the Administrator of USAID, in consultation with the Under Secretary of State for Global Affairs, provide a report to the Committees on Appropriations on the extent of the HIV/AIDS epidemic in Burma, including recommendations for action that the United States Government could take to limit the spread of HIV/AIDS in Burma. The recommendations may not include direct support to the SPDC.

INTERNATIONAL DISASTER ASSISTANCE

The conference agreement appropriates $235,500,000 for "International Disaster Assistance", instead of $245,000,000 as proposed by the Senate and $201,000,000 as proposed by the House bill. The managers have agreed to a 17.5 percent increase above the request in anticipation that additional resources will be needed for humanitarian assistance, especially in Central America and sub-Saharan Africa. The director of the Office of Foreign Disaster Assistance is to consult with the Committees not less than every three months, on the current status of commitments, obligations, and expenditures by the Office and on any proposals to augment "International Disaster Assistance" by transfers from other accounts.

The conferees urge USAID to at least double its disaster preparedness programs and activities in South Asia by initiating offers of technical assistance in this area with the Governments of India and other regional states. Not less than $5,000,000 should be committed by the Office of Foreign Disaster Assistance to develop national and regional emergency response capabilities to prevent unnecessary loss of life and property during frequent natural disasters such as cyclones, earthquakes and floods. This program should be designed to promote regional cooperation and stability.

TRANSITION INITIATIVES

The conference agreement appropriates $50,000,000 for "Transition Initiatives" to support USAID's Office of Transition Initiatives (OTI). The House bill proposed $40,000,000 and the Senate amendment $52,500,000 for this account. The conference agreement requires that USAID submit a report to the Appropriations Committees not less than five days prior to beginning a new program of assistance. The House bill contained a similar provision.

The managers recognize the importance of identifying and supporting women leaders in post-conflict societies, and urge USAID and the Department of State to make women's leadership training a central part of U.S. transition assistance to the people of Afghanistan and the surrounding region. The Vital Voices Leadership Institute is among the groups with the expertise to move quickly to implement such a program. The conferees urge USAID and the State Department to quickly identify opportunities for such initiatives within Afghanistan.

DEVELOPMENT CREDIT AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

The conference agreement appropriates up to $18,500,000 by transfer from funds made available under the heading "Development Assistance" for the cost of loans and loan guarantees for USAID's Development Credit Authority, instead of $25,000,000 as proposed by the Senate and $12,500,000 as proposed by the House. In addition, the conference agreement includes urban programs among the potential beneficiaries and extends the availability of the credit subsidy authority until September 30, 2007, instead of until expended as proposed by the Senate.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

The conference agreement includes language providing that up to $10,000,000 may be made available until expended for security-related costs.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

The conference agreement appropriates $31,500,000 for Operating Expenses of the

United States Agency for International Development, Office of Inspector General, instead of $32,000,000 as proposed by the Senate and $30,000,000 as proposed by the House. The managers encourage the Inspector General to continue the policy of constructive and ongoing reviews of USAID's attempts to resolve its serious financial and human resource management and procurement challenges. The managers also request the Inspector General to inform the Committee promptly of any emerging deficiencies.

Other Bilateral Economic Assistance

ECONOMIC SUPPORT FUND

The conference agreement appropriates $2,199,000,000 for the Economic Support Fund as proposed by the House instead of $2,239,500,000 as proposed by the Senate.

The conference agreement includes language that provides not less than $200,000,000 for the Commodity Import Program in Egypt. The Senate amendment had proposed not less than $160,000,000 for this program, while the House bill did not address this matter.

The conference agreement also includes language that provides that not less than $150,000,000 should be made available for assistance for Jordan. The Senate language would have mandated this level of support. The House bill did not address this matter.

The conference agreement also includes language that provides that not less than $25,000,000 shall be made available for East Timor, including up to $1,000,000 which may be transferred to and merged with Operating Expenses of the United States Agency for International Development. The House bill did not address this matter.

The conference agreement includes Senate language that provides that not less $15,000,000 shall be available for assistance for Cyprus. The House bill had similar language, but it provided that $15,000,000 should be made available rather than making this level mandatory.

In addition, the conference report provides not less than $35,000,000 for assistance for Lebanon. The managers are concerned with the failure of the Government of Lebanon, despite repeated requests at the highest levels, to enforce the orders of Lebanese courts requiring the return of abducted American children in Lebanon. The conference agreement provides that the Government of Lebanon should enforce the custody and international pickup orders, issued during calendar year 2001, of Lebanon's civil courts regarding abducted American children in Lebanon. The House bill had language that provided this level of assistance for Lebanon, but did not include Senate language regarding child custody and international pickup orders.

The managers are deeply concerned by reports that the Government of Lebanon will not cooperate with the President's request, made pursuant to Executive Order 13224, to freeze the assets of Hezbollah, a group included on the State Department's list of terrorist organizations. The managers will closely monitor the Government of Lebanon's future cooperation with this and other aspects of the campaign against terrorism. The managers note that any funding provided in this account to the Central Government of Lebanon is subject to Congressional notification.

The conference agreement includes language that provides that $50,000,000 of the funds appropriated under this heading should be provided for Indonesia. The Senate amendment contained language that provided that $135,000,000 should be provided for Indonesia from "Economic Support Fund", as well as from "Development Assistance" and "Child Survival and Health Programs Fund". The House bill did not address this matter.

The conference agreement does not include Senate language providing that not less than $10,000,000 from various accounts should be made available for humanitarian, economic rehabilitation and reconstruction, political reconciliation and related activities in Aceh, Papua, West Timor and Malukus. However, the managers direct USAID to urgently pursue opportunities to provide such assistance to address urgent needs in these impoverished and politically volatile regions. Funds made available for these purposes may be made available to and managed by the Office of Transition Initiatives.

The managers remain concerned with the political situation in Indonesia, and encourage the Government to continue to implement needed political, legal, economic, and military reforms. While the managers appreciate the complex situation within Indonesia, they find criticism by President Megawati Sukarnoputri of American-led efforts to counter international terrorism to be dismaying.

The managers did not include Senate language relating to funding for the Documentation Center of Cambodia, but recognize the vital research the Center provides to the people of Cambodia on atrocities committed by the Khmer Rouge. The managers expect the Department of State and USAID to provide sufficient levels of funding to the Center, and endorse the Senate report language on this matter. The managers request the Secretary of State to report to the Committees on Appropriations not later than 60 days after the enactment of this Act on a multi-year funding strategy for the Documentation Center of Cambodia.

The conference agreement does not include Senate language that stated that not less than $12,000,000 should be made available for Mongolia. However, the managers support this level of funding for assistance for Mongolia, which is consistent with the budget request.

The managers direct that $53,000,000 of the funds appropriated in this account be provided for reproductive health/family planning, as assumed in the budget request.

The conferees reiterate their support for conflict prevention analysis in light of the events of September 11th, and urge the Administration to provide funding for groups previously cited, such as the International Crisis Group, whose work identifies and addresses the causes of conflict and the failed states which breed terrorism. The managers also reiterate support for important conflict resolution programs as described in the House and Senate reports, including funding of up to $1,000,000 for Seeds of Peace and up to $1,000,000 for the School for International Training's Conflict Transformation Across Cultures Program (CONTACT).

The managers endorse the House report language regarding support for the International Arid Lands Consortium. In addition, the managers express support for the House report language regarding the Blaustein Institute for Desert Research.

The conference agreement also includes House language that provides that funds from this account may be used, notwithstanding any other provision of law and subject to the regular notification procedures of the Committees on Appropriations, to provide certain specified assistance to the National Democratic Alliance of Sudan. The Senate amendment contained similar language, but included a ceiling of $10,000,000 on funds for this purpose.

Significant developments in Sudan have opened the door for historical changes for the suffering people there. A special humanitarian relief flight sponsored by the United States and cleared by the Sudan People's Liberation Movement (SPLM) and the government of Sudan has delivered over eight metric tons of wheat to the remote Nuba Mountain area that had been cut off from international assistance. The United States is negotiating expanded delivery of food aid through air drops to the Nuba Mountains to be implemented by the World Food Program. In order to set up and maintain these proposed initiatives, the managers support additional funding for new programs including expanded access for humanitarian assistance, education, agriculture, peace building, and reconciliation in war-affected areas of Sudan and to refugees in neighboring countries.

The conference agreement includes language that provides, with respect to funds appropriated under the heading "Economic Support Fund" in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated. The managers are concerned that the programs and activities funded through this account accurately reflect both the priorities of the Secretary of State and the budget justification material provided to the Committees on Appropriations, as modified by the conference agreement. The managers reiterate the importance of Congressional intent in the programming of funds appropriated to the Economic Support Fund, and anticipate a cooperative approach during fiscal year 2002 on funding allocations and programming decisions. To improve accountability for the delivery of assistance, the managers urge the Department of State and the Office of Management and Budget to streamline the current process of apportioning Economic Support Funds so that the bureau or agency designated by the Secretary or Deputy Secretary to obligate and manage the funds is able to do so in a more efficient and timely manner.

The managers endorse the Senate report language concerning the jurisdiction of and accelerated U.S. financial support for the war crimes tribunal for Sierra Leone.

The managers encourage the State Department to support programs designed to connect the information technology networks of Central Asian and Central and Eastern European members of the Partnership for Peace, to help strengthen integration and cooperation between these nations.

International Fund for Ireland

The conference agreement appropriates $25,000,000 as proposed by the House. The Senate amendment contained no provision on this matter.

Assistance for Eastern Europe and the Baltic States

The conference agreement appropriates $621,000,000, instead of $615,000,000 as proposed by the Senate and $600,000,000 as proposed by the House. The conference agreement also provides authority to provide up to

$43,000,000 for debt relief and restructuring for the Federal Republic of Yugoslavia (FRY), of which not to exceed $21,500,000 would be derived from funds appropriated in this and prior Acts under this account, and not to exceed $21,500,000 would be derived from funds appropriated in this and prior Acts for the Economic Support Fund. The managers note that a modification of direct loans and guarantees for the FRY using funds appropriated under this Act or under prior year foreign operations, export financing or related programs appropriations Acts shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

The conference report also contains Senate language making a reference in paragraph (e) to paragraph (d); this is a technical amendment.

The managers recommend that $3,000,000 be provided to the United Nations Children's Fund (UNICEF) for a program in Bosnia for the protection of unaccompanied children and children at risk of being institutionalized. The program would focus on reforming residential institutions, strengthening social welfare centers for children, and helping to prevent abuse of, and violence against, children in Bosnia.

The managers direct that $10,000,000 of the funds appropriated in this account be provided for reproductive health/family planning.

The managers recommend that funding should be provided for the Russian, Eurasian, and East European Research and Training Program (Title VIII) at a level of at least $5,000,000. The managers strongly recommend that the existing administrative mechanism within the Department of State for the Title VIII program be preserved.

Assistance for the Independent States of the Former Soviet Union

The conference agreement appropriates $784,000,000, instead of $768,000,000 as proposed by the House and $795,500,000 as proposed by the Senate.

The conference agreement includes not less than $49,000,000 only for child survival, environmental and other health activities, and programs to reduce the incidence of HIV/AIDS, tuberculosis, and other infectious diseases, including $15,000,000 for reproductive health/family planning.

The managers strongly support regional cooperation efforts among the countries of Armenia, Azerbaijan, and Georgia. To further regional cooperation, the conference agreement continues the current six exemptions from the statutory restrictions on assistance to the Government of Azerbaijan. The managers include a provision that funds available for the Southern Caucasus may be used for confidence-building measures and other activities related to the resolution of regional conflicts, notwithstanding any other provision of law, as proposed by the Senate.

The conference agreement includes not less than $90,000,000 for assistance for Armenia under the heading "Assistance for the Independent States of the Former Soviet Union" and $4,000,000 under the heading "Foreign Military Financing Program". In addition, the managers direct that not less than $300,000 be provided for Armenia under the heading "International Military Education and Training". The managers endorse the provision of $5,000,000 for an education initiative, proposed by the Senate amendment, to provide computer equipment, Internet access, and related assistance to primary and secondary schools in Armenia, and support the provision of assistance under title II of this Act for programs and activities to counter weapons of mass destruction, improve regional stability, increase inter-operational capabilities with the United States, and clear land mines.

The conference agreement includes Senate language that provides a conditional waiver of section 907 of the FREEDOM Support Act for the purposes of providing assistance to Azerbaijan to counter international terrorism. The language makes clear the intent of Congress that the provision of such assistance shall not hamper or deter ongoing efforts to negotiate a peaceful settlement of the Nagorno-Karabagh conflict, or be used for offensive purposes against any Armenian community in the Caucasus region. The waiver is conditional upon cooperation with the United States in the international fight against terrorism, and the managers intend to review and reserve the right to amend the waiver language in the fiscal year 2003 appropriations process. In undertaking its review, the managers expect to consider the progress of the investigation by the Government of Azerbaijan into the murder of John Alvis, a democracy worker with the International Republican Institute.

The conference agreement provides that $90,000,000 of the funds in this account should be provided for Georgia. The managers urge the Coordinator and USAID to allocate $3,000,000 for a small business project to promote private sector technology start-ups in Georgia and award grants directly to the ongoing Atlanta-Tbilisi Partnership's Sustained Healthcare Initiative, instead of through the American International Health Alliance as discussed in House Report 107–142.

The conference agreement includes language providing that $154,000,000 should be made available for Ukraine, instead of an earmark of $180,000,000 as proposed by the Senate and a ceiling of $125,000,000 as proposed by the House. Of the amount for Ukraine, not less than $30,000,000 should be provided for nuclear reactor safety programs. The managers also support the initiation of simulator projects at the Rivne and the Khmelnitsky reactors, and the provision of related safety simulator equipment at other reactors. The managers have also included a Senate provision requiring the Department of State to report on the progress in resolving the murders of Ukrainian journalists. The managers endorse House report language on child survival and health activities in Ukraine.

The managers have concluded that assistance for Ukraine can succeed only if the Government of Ukraine is committed to economic, legal, and democratic reforms. The managers note that assistance to Ukraine takes on heightened significance as Ukraine prepares for parliamentary elections in March 2002, the outcome of which may determine the country's future direction.

The conference agreement includes conditions on assistance to the Government of the Russian Federation, with exceptions for specified humanitarian and security programs, with respect to its adherence in the Northern Caucasus to certain conventional arms and human rights conventions and agreements, as proposed by both the House and the Senate. The managers reiterate language in the Statement of the Managers from prior years with regard to other limitations on assistance, "that assistance to combat infectious diseases, . . . support for regional and municipal governments, and partnerships between United States hospitals, universities, judicial training institutions and environmental organizations and counterparts in Russia should not be affected by this section."

The conference agreement includes language providing not less than $17,500,000 for the Russian Far East. The Senate amendment had included not less than $20,000,000 for this purpose. This matter was not addressed in the House bill.

The conference agreement does not include Senate bill language providing that not to exceed 8 percent of the funds provided for any single nuclear safety project may be used to pay for management costs incurred by a United States agency or national lab in administering said project. The House did not address this matter. The managers endorse this cap on management costs.

The conference agreement again directs the Coordinator of Assistance to the Independent States to obligate not less than $1,500,000, primarily through locally-based and indigenous private voluntary organizations, to reduce trafficking in women and children. The managers urge the Coordinator to augment anti-trafficking projects by continuing and strengthening law enforcement and other activities to reduce all forms of violence against women.

United States national security interests in Central Asia intensified as a result of the September 11th attack on the United States. The managers recognize that countries in the region are playing a supportive role in the international coalition allied against terrorism and are on the front line of U.S. efforts to isolate and destroy the Al Queda network.

The managers believe that the United States should develop a targeted foreign aid response for Central Asia to counter the destabilizing effects of the war against terrorism. As part of this response, the United States should actively consider micro-lending institutions. Such organizations can serve as a vehicle for increasing the economic participation and security of the working poor and thus constitute a strategy to limit further marginalization and foster economic stability and democracy in the region.

While only a fraction of the population of the Central Asia region has access to financial services, certain countries have strong or emerging micro-finance sectors. Kyrgyzstan has positioned itself as the regional leader in micro-enterprise development. In Pakistan, the government has recently taken steps to promote the development of a micro-finance industry.

The managers believe that micro-enterprise development is a potentially powerful tool in striking at the root causes of instability that arise from the economic disenfranchisement of peoples in the Central Asia region. The managers request that USAID provide, in coordination with the National Security Council, the Department of the Treasury, and the Office of Management & Budget, an addendum to the micro-enterprise report to Congress required by March, 2002 under the provisions of P.L. 106–309.

The managers recommend $2,000,000 to support expansion of the Primary Healthcare Initiative to become self-sustaining.

The managers remain concerned that the initial budget request for the U.S. Russia Investment Fund (TUSRIF) is inadequate. The managers therefore urge that the Fund receive no less than an additional $50,000,000 in fiscal year 2002. As with the enterprise fund in Poland the managers expect that more rapid capitalization of TUSRIF will lead over time to a similar repatriation of foreign aid funds to the U.S. Treasury. In return for a more rapid rate of investment the conferees also expect that TUSRIF will develop more opportunities for United States companies and investors throughout Russia.

The managers endorse House Report language under the heading "Expanded Threat Reduction" regarding collaborative research grants for American and Russian scholars.

Independent Agencies

Inter-American Foundation

The conference agreement appropriates $13,106,950 as proposed by the Senate instead of $12,000,000 as proposed by the House.

African Development Foundation

The conference agreement appropriates $16,542,000 as proposed by the Senate instead of $16,042,000 as proposed by the House.

Department of State

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

The conference agreement provides that $10,000,000 should be made available for anti-trafficking in persons programs, as proposed by the Senate. The House addressed this matter in a general provision.

The conference agreement makes available $21,738,000 for administrative expenses instead of $16,600,000 as proposed by the House and the Senate.

The managers endorse House report language regarding $10,000,000 in anti-crime programs for Africa.

ANDEAN COUNTERDRUG INITIATIVE

The conference agreement appropriates $625,000,000, instead of $675,000,000 as proposed by the House and $547,000,000 as proposed by the Senate.

Additionally, the conference agreement allows for the authority to provide up to $35,000,000 through a permissive transfer from the International Narcotics Control and Law Enforcement funds. The managers intend that this discretionary authority shall apply only to funds within the International Narcotics Control and Law Enforcement account in this Act and in prior Acts making appropriations for foreign operations, export financing, and related programs. Such a transfer is subject to the regular notification procedures of the House and Senate Committees on Appropriations. In the event of such a transfer, the managers intend for the funds to support interdiction, alternative development, or other economic assistance to the Andean countries. The managers emphasize that there are other funds for Andean nations in this Act that may be made available for the Andean Regional Initiative (ARI).

The conference agreement includes no earmarks for Bolivia, Ecuador, or Venezuela as proposed by the Senate. The House did not address this matter. The managers strongly support the provision of $86,000,000 for assistance for Bolivia, and $33,000,000 for assistance for Ecuador. The managers note the success these countries have had in combating narcotics cultivation and trafficking, and expect the Department of State to ensure that successful programs and activities continue under the ARI.

The conference agreement does not include Senate bill language making available $2,000,000 for democracy-building activities in Venezuela. The managers strongly support efforts to promote democracy, the rule of law, and civil society in Venezuela and note with concern that the country remains a significant transit route for illegal drugs destined for the United States.

The conference report does not include language proposed by the Administration that would have exempted funds appropriated in fiscal year 2002 and subsequent fiscal years from the limitation imposed in section 3204(a) of the Emergency Supplemental Act, 2000 (P.L. 106–246). It is the conferees' understanding that funds appropriated in this Act that are made available in support of Plan Colombia satisfy the conditions set forth in section 3204(a) of the Emergency Supplemental Act, 2000 (P.L. 106–246).

The managers are concerned that funds included in P.L. 106–246 for assistance for the Colombian Fiscalia Human Rights Office, have been allocated without consultation with the Appropriations Committees for purposes that do not address this unit's priority needs of security, mobility and communications equipment for prosecutors, in particular for those prosecutors based in secondary cities and outlying regions. The managers direct the Department of State and Department of Justice to consult with the committees prior to the obligation or expenditure of funds appropriated in this Act or in P.L. 106–246 for administration of justice programs in Colombia regarding the use of such funds.

The Colombian National Police (CNP) anti-drug unit has the lead law enforcement role in the overall fight against illicit drugs and a commendable human rights record. The CNP has already been provided at least 8 Black Hawks and nearly 30 Huey II helicopters by the United States to carry out this important drug fighting function including providing protection of the eradication planes. The managers believe it is vital that the CNP now be provided adequate spare parts and maintenance monies to keep this equipment flying at the high rates of operation that has been seen to date. The managers expect the Department of State to maximize the U.S. investment in these expensive helicopters and other equipment provided the CNP by providing adequate parts.

The conference agreement includes language, similar to the Senate amendment, requiring consultations, a determination and report by the Secretary of State to ensure that chemicals used in the aerial fumigation of coca do not pose unreasonable health or safety risks to humans or the environment, and that the fumigation is conducted in accordance with regulatory controls in the U.S. as described in the January 23, 2001 State Department health and safety report on aerial spraying. Additionally, the managers have required the Secretary of State to consult with the Colombian government to ensure that the spraying is in accordance with Colombian laws.

The managers are concerned with the lack of effective procedures for evaluating claims of local citizens that their health was harmed or their licit agricultural crops were damaged by such fumigation. The managers are informed that, in order to correct these problems, new procedures for handling claims have been put in place. The conference agreement requires the Secretary to determine and report that procedures are available to evaluate such claims, and the managers direct the Secretary to report to the Committees on Appropriations not later than 90 days after enactment on the effectiveness of these new procedures.

The managers are concerned that coca eradication in some areas has proceeded before effective alternative development programs have been in place, and that some farmers in those areas have already replanted coca. In order to ensure that farmers whose coca is eradicated have alternative sources of income, access to markets and social services, the Conference Agreement includes Senate language requiring that within 6 months of the date of enactment alternative development programs have been developed in consultation with communities and local authorities in each department in which aerial fumigation is planned, and that such programs are being implemented in each department in which aerial coca fumigation has been conducted.

The conference agreement includes the Senate provision requiring the return of any helicopter found to aid or abet paramilitary groups. The House did not address this matter.

While the managers fully appreciate the linkages between narco-traffickers and Colombian guerrilla movements and paramilitary organizations, they remain concerned with the prospects of involvement by the United States in Colombia's civil war. The managers strongly express reservations and objections to any mission creep in Colombia beyond ongoing counterdrug efforts.

The conference agreement includes a provision prohibiting funds for the resumption of flights in support of a Peruvian air interdiction program until a system of enhanced safeguards are in place. The conference agreement differs from the conditions on funding for Peru as proposed by the House. The first condition, the submission of a report by the Secretary of State, has been provided to the Congress. The second condition requires that the resumption of flights in Peru must include enhanced safeguards, and to date the State Department has not decided to resume flights in Peru. The Senate did not address this matter.

The conference agreement makes available $14,240,000 for administrative expenses of the Department of State and $4,500,000 for the U.S. Agency for International Development.

MIGRATION AND REFUGEE ASSISTANCE

The conference agreement appropriates $705,000,000, instead of $715,000,000 as proposed by the House and $735,000,000 as proposed by the Senate. The primary reason for this level of funding is that $100,000,000 in supplemental funding for Migration and Refugee Assistance has already been provided to deal with the refugee crisis in Central Asia, which will help to relieve pressure on the fiscal year 2002 budget for this account. The managers expect that this level of funding will not be misinterpreted as a lack of support for Migration and Refugee Assistance by the Administration when submitting future budget requests. The conference agreement makes available $16,000,000, for administrative expenses as proposed by the Senate instead of $15,000,000 as proposed in the House.

Although refugee crises are often temporary, the managers are aware that in many instances it is necessary to provide relief services over an extended period of time. The managers encourage USAID and the State Department to invest in basic health, education services, and food production industries in developing countries where there are longer-term refugee crises.

The conference agreement prohibits funds for headquarters costs of the International Committee of the Red Cross (ICRC) until the Secretary of State certifies that the Magen David Adom Society of Israel is not being denied participation in ICRC activities, as proposed by the House. The Senate amendment did not address this matter.

The managers are concerned with the increasing dangers facing humanitarian relief workers in conflict zones, and endorse Senate report language directing the Secretary of State to submit a report by April 1, 2002, on efforts to improve the safety of relief workers.

The conference agreement also includes Senate language that provides not less than $60,000,000 for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel. The House bill did not address this matter.

Nonproliferation, Anti-terrorism, Demining and Related Programs

The conference agreement appropriates $313,500,000 instead of $311,000,000 as proposed by the House and $318,500,000 as proposed by the Senate.

The managers intend that funds in this account be allocated as follows:

[In thousands of dollars]

Nonproliferation and Disarmament Fund	$14,000
Export control assistance	17,000
International Atomic Energy Agency	50,000
CTBT Preparatory Commission	20,000
Korean Peninsula Economic Development Organization (KEDO)	90,500
Anti-terrorism assistance	38,000
Terrorist Interdiction Program	4,000
Demining	40,000
Small arms destruction	3,000
Science Centers	37,000
Total	313,500

The conference agreement includes language that requires that the Secretary of State inform the Committees on Appropriations at least 15 days prior to the obligation of funds for the Comprehensive Nuclear Test Ban Treaty (CTBT) Preparatory Commission. The House bill would have required a 20 day informational period, while the Senate amendment would have required a 10 day informational period.

The conference agreement includes Senate language authorizing not to exceed $500,000 for administrative expenses associated with the demining program. The House bill did not address this matter. The conference agreement does not contain Senate language stating that $40,000,000 should be used for demining, clearance of unexploded ordnance and related activities; however, the managers support the budget request of $40,000,000 for these purposes.

The conference agreement does not contain Senate language providing that $3,500,000 should be available to support the Small Arms Destruction Initiative. The managers strongly support a level of $3,000,000 for this program and endorse the Senate report language on this matter.

Department of the Treasury

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

The conference agreement provides $6,500,000 for the International Affairs Technical Assistance program of the Department of the Treasury, instead of $6,000,000 as proposed by the House, the Senate, and the President's request. The managers direct that the additional $500,000 be used to assist HIPC countries in Africa and will be in addition to the $3,000,000 already dedicated to existing Treasury International Affairs Technical Assistance programs and activities in Africa.

DEBT RESTRUCTURING

The conference agreement appropriates $229,000,000 for debt restructuring instead of $224,000,000 as proposed by the House and $235,000,000 as proposed by the Senate. The managers make available $5,000,000 in fiscal year 2002 funds and up to $20,000,000 from unobligated balances for implementation of the Tropical Forest Conservation Act. The remainder of the amount provided for debt restructuring may be used at the Administration's discretion, subject to certain reporting and notification requirements, either for bilateral debt restructuring or for United States contributions to the Heavily Indebted Poor Country (HIPC) Trust Fund administered by the World Bank.

TITLE III—MILITARY ASSISTANCE

International Military Education and Training

The conference agreement appropriates $70,000,000, instead of $65,000,000 as proposed by the House and $75,000,000 as proposed by the Senate. The conference agreement also contains language providing that up to $3,000,000 may be available until expended, instead of $1,000,000 as proposed by the House and $5,000,000 as proposed by the Senate.

The conference agreement does not include Senate language that would have required notification for assistance for Zimbabwe, the Democratic Republic of Congo, Cote D'Ivoire and the Gambia. The managers note that assistance for Zimbabwe and the Democratic Republic of Congo is subject to the notification provisions of section 520 of this Act. Prior to any decision to obligate funds for Cote D'Ivoire, the managers expect that the Departments of State and Defense will consult with the Committees on Appropriations.

The conference agreement provides that funding for Algeria shall be subject to the regular notification procedures of the Committees on Appropriations as proposed by the Senate. The House bill did not address this matter.

The conference agreement does not contain language that would have provided not less than $600,000 for Armenia. However, the managers support funding for a program for Armenia at a level of not less than $300,000.

The managers urge that a program for Colombia to define structures and processes for responding to armed conflict and maintaining civilian control of the military be considered at the Naval Postgraduate School.

Foreign Military Financing Program

The conference agreement appropriates $3,650,000,000 instead of $3,627,000,000 as proposed by the House and $3,674,000,000 as proposed by the Senate.

The conference agreement includes Senate language that provides not less than $75,000,000 for assistance for Jordan. The House bill did not address this matter.

The conference agreement includes language that provides that not less than $3,500,000 in grant assistance should be made available for Tunisia, as well as language mandating not less than $5,000,000 in drawdowns of defense articles, services, and education and training for Tunisia. The Senate amendment directed the allocation of $5,000,000 and $5,000,000, respectively, for these activities. The House bill did not address this matter.

The conference agreement contains language that provides not less than $2,300,000 for assistance for Thailand, of which not less than $1,000,000 shall be derived from funds appropriated under the heading "International Narcotics Control and Law Enforcement" in addition to funds otherwise available for such purposes. The Senate amendment proposed similar language, but did not address a transfer from "International Narcotics Control and Law Enforcement". The House bill did not address this matter. The managers are agreed that this grant assistance shall be made available for one-time costs associated with border security.

The conference agreement contains Senate language that provides not less than $4,000,000 for assistance for Armenia. The House bill did not address this matter.

The conference agreement also contains Senate language that amends the ninth proviso under this heading in Public Law 106-429 to allow for a mandated drawdown of defense articles, services, and education and training for Georgia for 2001 or 2002. The House bill did not contain a provision on this matter.

Peacekeeping Operations

The conference agreement appropriates $135,000,000 as proposed by the House instead of $140,000,000 as proposed by the Senate.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

International Financial Institutions

GLOBAL ENVIRONMENT FACILITY

The conference agreement appropriates $100,500,000 for the Global Environment Facility instead of $82,500,000 as proposed by the House and $109,500,000 as proposed by the Senate.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

The conference agreement appropriates $792,400,000 instead of $803,400,000 as proposed by the House and $775,000,000 as proposed by the Senate. The managers have included modified language as proposed by the Senate, regarding instructions to the U.S. executive director to the International Bank for Reconstruction and Development (IBRD) to vote against water or sewage projects in India that do not prohibit the use of scavenger labor. The House did not address this matter. Manual scavenging is a particular occupation in India only for Dalits or "untouchables" that entails waste collection and disposal through primitive and squalid means. Over 500,000 Dalits in India are employed as manual scavengers, and Dalits who seek to avoid this demeaning and unhealthy labor are often denied other jobs. India is one of the largest borrowers from the World Bank with over $11 billion in IBRD loans in 2001, some of which fund government sanitation programs. Given that the Indian government has banned manual scavenging, once these laws are implemented there would be other employment opportunities for Dalits. The managers urge the IBRD to work with the Indian government to improve the economic and social status of Dalits.

CONTRIBUTION TO THE MULTILATERAL INVESTMENT GUARANTEE AGENCY

The conference agreement appropriates $5,000,000 for paid-in capital for the Multilateral Investment Guarantee Agency. Approval for a subscription to the appropriate amount of callable capital is also included in the conference agreement. The House and Senate included authority for callable capital only.

CONTRIBUTION TO THE INTER-AMERICAN INVESTMENT CORPORATION

The conference agreement appropriates $18,000,000 for a United States contribution to the Inter-American Investment Corporation, instead of $10,000,000 as proposed by the House and $20,000,000 as proposed by the Senate.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

The conference agreement appropriates $98,017,050 for the Asian Development Fund, instead of $93,017,050 as proposed by the House and $103,017,050 as proposed by the Senate.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

The conference agreement provides $208,500,000 instead of $196,000,000 as proposed by the House and $218,000,000 as proposed by Senate.

The conference agreement provides that $6,000,000 should be made available for the World Food Program, as proposed by the Senate. The House did not include this language.

The managers support $5,000,000 from this account for a United States contribution to the United Nations Voluntary Fund for Victims of Torture Program, as recommended in the House and Senate Reports, and $97,100,000 for the United Nations Development Program, as recommended in the House and Senate Reports.

The conferees urge that $60,000 be provided to cover the expenses relating to the development of a Guide to Best Practice by the Permanent Bureau of the Hague Convention on Private International Law to cover the application of the Hague Convention on Civil Aspects of International Child Abduction.

The managers intend that funds in this account be allocated as follows:

[In thousands of dollars]

UN Fund for Tech. Cooperation in Human Rights	$1,500
UN Voluntary Fund for Victims of Torture	5,000
OAS Fund for Strengthening Democracy	2,500
World Food Program	6,000
UNDP	97,100
UNIFEM	1,000
OAS Development Assistance	5,500
WTO	1,000
ICAO Aviation Programs	300
UNEP	10,750
Montreal Protocol	25,000
International Conservation Programs (CITES/ITTO/IUCN/Ramsar/CCD)	7,700
IPCC/UNFCCC	7,400
International Contributions for Scientific Educational & Cultural Activities	1,750
World Meteorological Organization	2,000
UNFPA	34,000
Total	208,500

TITLE V—GENERAL PROVISIONS

(Note: If House and Senate language is identical except for a different section number or minor technical differences, the section is not discussed in the Statement of Managers.)

Sec. 505. Limitation on Representational Allowances

The conference agreement sets a limitation of $125,000 on representation allowances from funds appropriated under "Foreign Military Financing Program," instead of $150,000 as proposed by the House and $100,000 as proposed by the Senate.

Sec. 507. Prohibition Against Direct Funding for Certain Countries

The conference agreement does not include Senate language that adds a prohibition of direct assistance to the government of any nation that the President determines is harboring, has financed, or is financing terrorists involved in the attacks of September 11, 2001. The House did not include such a provision. The managers note that the President has the authority to undertake this action and are confident he will exercise this authority should the need arise.

Sec. 508. Military Coups

The conference agreement includes revised language that specifies that funds shall be prohibited for the government of any country whose duly elected head of government is deposed by decree or military coup, but it does not include broader conditions for the resumption of assistance, as proposed by the House. The House bill and the Senate amendment did not include the words "government of". Prior year language has been further modified to permit the provision of assistance to promote democratic elections or public participation in democratic processes.

Sec. 515. Notification Requirements

The conference agreement reflects a technical change proposed by the Senate to include "Andean Counterdrug Initiative" in the list of accounts that are subject to notification pursuant to this section. The House did not address this matter. The conference agreement does not include Senate language, not in the House bill, that imposed notification requirements on drawdowns pursuant to section 506(a)(2) of the Foreign Assistance Act. The managers note that section 506(b)(1) of such Act already requires notifications for drawdowns made for the purposes and under the authorities of several provisions of law, including chapter 8 of part I of the Foreign Assistance Act relating to international narcotics control assistance.

Section 518. Prohibition on Funding for Abortions and Involuntary Sterilization

The conference agreement does not include prior year language prohibiting the use of funds to lobby for or against abortion, as proposed by the House bill. The conference agreement moves the ban on use of funds for lobbying to language under the heading "Child Survival and Health Programs Fund", as proposed by the Senate amendment.

Sec. 520. Special Notification Requirements

The conference agreement adds "Serbia" as proposed in the Senate amendment to the list of countries subject to the special notification procedures of this section, but does not include "Burma", "Ethiopia" and "Eritrea" as recommended by the Senate.

Sec. 522. Child Survival and Health Activities

The conference agreement authorizes USAID to use up to $15,500,000 from the "Child Survival and Health Programs Fund" and up to $3,000,000 from "Development Assistance" for technical experts from other government agencies, universities, and other institutions. The managers have increased this authority in order to accelerate implementation and oversight of USAID's expanded infectious disease and basic education activities. The managers direct USAID to provide the Committees with a detailed multi-year workforce planning strategy not later than March 15, 2002, that includes target dates and anticipated costs or savings to replace or reclassify the majority of the additional temporary personnel authorized by this section and by section 534(c) with direct hire USAID Operating Expenses-funded personnel.

A new subsection provides that $446,500,000 shall be made available for reproductive health/family planning activities from funds appropriated by this Act, including $368,500,000 from the Child Survival and Health Programs Fund, $53,000,000 from the Economic Support Fund, $15,000,000 from Assistance to the Independent States of the Former Soviet Union, and $10,000,000 from Assistance to Eastern Europe and the Baltic States. The managers have provided these funds in recognition of the continuing unmet need for basic reproductive health/family planning services in developing countries, where 95 percent of new births will occur. The managers have designated funds for the two regions of Eastern Europe and the former Soviet Union where the high frequency of abortion adversely affects women's reproductive health.

Section 523. Prohibition Against Indirect Funding to Certain Countries

The conference agreement does not include Senate language that adds a prohibition of indirect assistance to the government of any nation that the President determines is harboring, has financed, or is financing, terrorists involved in the attacks of September 11, 2001. The House did not include such a provision. The managers note that the President has the authority to undertake this action and are confident he will exercise this authority should the need arise.

Sec. 525. Authorization Requirement

The conference agreement includes language that provides that funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956, as provided in the House bill and the Senate amendment. It includes Senate language exempting the accounts "International Military Education and Training" and "Foreign Military Financing Program" from these waivers.

Sec. 526. Democracy Programs

The conference agreement contains language in subsection (a) that authorizes funding for certain democracy programs. It includes language similar to the Senate amendment that provides that not less than $10,000,000 shall be made available for activities to support democracy, human rights, and the rule of law in the People's Republic of China. Of these funds, the managers support the programming of not less than $5,000,000 through the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State. In addition, subsection (a) authorizes funding of not to exceed $3,000,000 for nongovernmental organizations located outside the People's Republic of China to support activities that preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in Tibet, as authorized in the House bill. The House bill did not address democracy activities in China. The managers are aware of the valuable assistance the Bridge Fund has provided to promote Tibetan-owned and operated businesses and educational, cultural, and natural resource conservation projects and urge that substantial funds be made available to the Bridge Fund and its subgrantees.

The conference agreement does not include Senate language that would have authorized funding of activities of the United States-Asia Environmental Partnership within China. The House bill did not address this matter.

The managers intend that within the amount identified above, funds be made available to continue support for democracy programs for Tibet and China as described in the House report.

The conference agreement also includes language in subsection (b) that recommends that not less than $10,000,000 from funds appropriated to the Economic Support Fund should be made available for programs and activities to foster democracy, human rights, press freedoms, women's development, and the rule of law in countries with a significant Muslim population, and where such programs and activities would be important to United States efforts to respond to, deter, or prevent acts of international terrorism. The language further specifies that such funds should support new initiatives or bolster ongoing programs and activities in those countries, and that not less than $6,000,000 should be made available for the State Department's Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights, and Labor, and not less than $4,000,000 should be made available for the National Endowment for Democracy (NED). The funds for NED should be made available using the authority of section 632(b) of the Foreign Assistance Act. The conference agreement is similar to language contained in section 592 of the Senate amendment. The House bill did not address these matters.

The conference agreement does not contain language allocating not less than $2,000,000 for programs and activities that train emerging Afghan women leaders in civil society development and democracy building. However, the managers strongly support such programs and urge the Department of State to provide up to $2,000,000 for such activities.

In addition to the funding authorized in this section and ongoing funding to support the maintenance of the Reagan/Fascell Fellowship Program, the managers support the budget request for the Human Rights and Democracy Fund of the Department of State.

Sec. 532. Authorities for the Peace Corps, Inter-American Foundation, and African Development Foundation

The conference agreement does not include language, as proposed by the Senate, to include a waiver of prohibitions against certain activities for the International Fund for Agricultural Development (IFAD) from International Organizations and Programs funds. IFAD is no longer funded from the International Organizations and Programs account.

Sec. 534. Special Authorities

The conference agreement deletes language proposed by the House that provided that section 576 of the Foreign Operations, Export Financing, and Related Programs Act, 1997, as amended, shall not apply to the provision of assistance to the Federal Republic of Yugoslavia. The Senate amendment contained identical language in a general provision, and this matter is addressed in section 584 of the conference agreement.

The conference agreement does not contain language from the House bill that was not in the Senate amendment that would have subjected energy programs aimed at reducing greenhouse gas emissions to the regular notification requirements of the Committees on Appropriations. In addition, it does not contain a reference in the Senate amendment that was not in the House bill that adds the Global Development Alliance initiative to the provisions of this section.

The conference agreement authorizes the President to use up to $45,000,000 under the authority of section 451 of the Foreign Assistance Act, rather than $50,000,000 as proposed by the House and $35,000,000 as proposed by the Senate.

The conference agreement includes language from the Senate amendment that was not in the House bill that states that in entering into multiple award indefinite-quantity contracts, USAID may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.

The managers request that USAID place a high priority on generating meaningful opportunities for small businesses to compete for procurement of the agency. Specifically, of the multiple award indefinite quantity contract that will replace the current Support for Economic Growth and Institutional Reform/Legal and Institutional Reform contract, the managers support USAID's decision to define "fair opportunity" for task orders in excess of $750,000 as requiring the submission of resumes of proposed personnel or technical proposals from businesses eligible to compete for such task orders.

By one year after enactment of this act, the managers look forward to a report on the effect of this change in promoting small business competition and participation in the contract, USAID's views as to whether such an approach should be extended to other multiple award indefinite quantity contracts, and an identification of annual benchmarks by which USAID will look to evaluate itself for advancing the ability of small businesses to participate and effectively compete in the procurement process.

USAID is strongly encouraged to take such other steps that would improve the participation of small businesses, as either prime or subcontractors, in future indefinite quantity contracts and to report to the Committees on Appropriations any legal or regulatory impediments to achieving this objective.

Sec. 539. Ceilings and Earmarks

The conference agreement includes Senate language that restores prior year language regarding earmarks and minimum funding levels. The House bill did not address this matter.

Sec. 545. Withholding of Assistance for Parking Fines Owed by Foreign Countries

The conference agreement allows 110 percent of the total amount of unpaid fully adjudicated parking fines and penalties owed by foreign countries to New York City, New York, to be withheld from obligation for assistance to such country, as proposed by the Senate. The managers have modified similar prior year language relating to parking fines and penalties owed by foreign governments to the District of Columbia.

Sec. 547. War Crimes Tribunals Drawdown

The conference agreement includes House language authorizing up to $30,000,000 in drawdowns of commodities or services for war crimes tribunals instead of $35,000,000 as proposed by the Senate. It includes Senate language that authorizes such drawdowns for tribunals authorized or established by the United Nations Security Council. The conference agreement deletes House language that specifies that any drawdown made under this section shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court. The managers note that section 705 of H.R. 3427, as enacted into law as part of H.R. 3194 (Public Law 106–113) prohibits the obligation of any funds for use by, or for support of, the International Criminal Court.

Sec. 548. Landmines

The conference agreement contains Senate language, not addressed in the House bill, that amends Public Law 102–484 to extend the ban on the export of landmines until October 23, 2008.

Sec. 553. Restrictions on Voluntary Contributions to United Nations Agencies

The conference agreement is the same as current law, as proposed by the House. The Senate did not address this matter.

Sec. 557. Discrimination Against Minority Religious Faiths in the Russian Federation

The conference agreement retains prior year language as proposed by the House bill. The Senate amendment proposed technical modifications.

Sec. 558. Assistance for the Middle East

The conference agreement contains House language that imposes a spending ceiling of $5,141,150,000 on specified assistance for the Middle East. The Senate amendment did not address this matter.

Sec. 559. Energy Conservation and Clean Energy Programs

The conference agreement requires the Executive Office of the President to submit an updated and revised annual government-wide report on federal activities and costs relating to climate change and greenhouse gas emissions. The report is due not later than 30 days following the date the President's budget is submitted to Congress, instead of on the same day that the budget is submitted as proposed by the Senate.

The managers have included a new provision, similar to the Senate proposal, that not less than $155,000,000 should be made available to support policies and actions in certain countries that promote energy conservation and efficient energy production and use; that measure, monitor, and reduce greenhouse gas emissions; increase carbon sequestration activities; and enhance climate change mitigation programs. The House bill did not address this matter.

Sec. 560. Zimbabwe

The conference agreement includes the provision as included in the Senate amendment to direct the Secretary of the Treasury to instruct the United States executive directors to the international financial institutions to vote against loans to the Government of Zimbabwe, except humanitarian assistance and the promotion of democracy. The House did not address this matter.

Sec. 561. Central America Relief and Reconstruction

The conference agreement extends current law by providing authority to allow funds appropriated in Public Law 106–31 to be used by the Comptroller General to monitor earthquake relief and reconstruction activities in El Salvador. The House did not address this matter.

Sec. 563. Cambodia

The conference agreement prohibits assistance to the central Government of Cambodia, unless the Secretary of State certifies to Congress that certain conditions have been met. The conditions governing the restoration of assistance are similar to those contained in the Senate amendment. However, exceptions to the ban on assistance are provided for basic education as proposed by the House and activities conducted by the Ministry of Women and Veteran's Affairs to combat human trafficking as proposed by the Senate. The conference agreement contains House language on the provision of assistance through international financial institutions.

The managers remain concerned with Cambodia's political, legal, and economic development, and the lack of independence of its judiciary. The managers strongly condemn acts of intimidation and violence against the democratic opposition in the run up to commune council elections next year, and note with concern human rights violations that are committed by government, police, and military officials with impunity. The conference agreement also contains the provisions of section 591 of the Senate amendment that conditions assistance to any Khmer Rouge tribunal established by the Government of Cambodia on a determination and certification to Congress that the tribunal is capable of delivering justice for crimes against humanity in an impartial and credible manner.

Section 566. PLO Compliance Report

The conference agreement contains language that states that the President should undertake certain assessments regarding actions of the Palestinian Liberation Organization or the Palestinian Authority, and should impose certain sanctions based on those assessments. The House bill would have mandated such assessments and certain sanctions. The Senate amendment did not address this matter.

Section 567. Colombia

The conference agreement includes a modified version of the Senate provision on Colombia. The House did not address this matter. The managers are concerned with the alarming number of human rights violations and massacres of civilians in Colombia by paramilitary forces, kidnapping and other abuses by guerrilla forces, as well as persistent reports of aiding and abetting of paramilitaries by some units of the Colombian Armed Forces. The conference agreement includes language that provides for the obligation of 60 percent of funds appropriated for the Colombian Armed Forces if certain conditions relating to human rights are met, and for the obligation of the balance of funds after June 1, 2002 if such are conditions are met.

The conditions on assistance to the Colombian Armed Forces require suspending individuals, of whatever rank, who have been credibly alleged to have committed gross violations of human rights or to have aided or abetted paramilitary groups. By "suspending" the managers refer to removal from active duty and assignment to administrative duties only without combat responsibilities or command of troops in the field, pending investigation and prosecution, when civilian prosecutors determine there is credible evidence to support such allegations.

The conditions on assistance to the Colombian Armed Forces also require their cooperation with civilian prosecutors and judicial authorities, in prosecuting and punishing in civilian courts members of the Armed Forces who have been credibly alleged to have committed gross violations of human rights or aided or abetted paramilitary groups, including members who have been suspended for allegedly committing such crimes.

Section 568. Illegal Armed Groups

The conference agreement includes the provision in the Senate amendment prohibiting the Secretary of State from issuing visas to individuals with ties to illegal armed groups in Colombia. The House did not address this matter.

Sec. 570. Iraq

The conference agreement includes language similar to that in the Senate amendment, which provides that funds from the Economic Support Fund may be made available for programs benefiting the Iraqi people and to support efforts to bring about political transition in Iraq. The conference agreement also includes language that establishes a ceiling of 15 percent on administrative and representational expenses, except for costs related to broadcasting activities. It also includes language that directs the Administration to consult with the Committees on Appropriations within 60 days of enactment regarding its plans for the use of these funds.

The managers are troubled by the recent audit conducted by the State Department Inspector General on the use of prior year funds appropriated for this program. The managers also note that this section does not impose restrictions on which groups may receive these funds or on the use of funds for activities inside Iraq. As part of the consultation process regarding the use of these funds, the managers expect the Department to identify options for the transfer of funding for this program to a more appropriate source.

Sec. 572. Indonesia

The conference agreement provision regarding military assistance to Indonesia is similar to current law, except that it allows for civilian officials to participate in Expanded IMET activities. The House bill and the Senate amendment both included 4 prior year provisions under which a Presidential report and determination could result in a resumption of military assistance to Indonesia that is funded in this bill. The revised language includes new subsections relating to civilian control of the armed forces and the release of political detainees and it expands the geographical scope of the retained subsections beyond Timor island to other parts of Indonesia.

While the conference agreement does not include a specific reference to the murders of American citizen Carlos Caceres and two other United Nations humanitarian workers in West Timor on September 6, 2000, the managers insist that any determination that effective measures are being taken to investigate and bring to justice militia groups involved in human rights violations would accord special consideration to the just punishment for the killers of the United Nations humanitarian workers in West Timor.

Sec. 573. Briefings on Potential Purchases of Defense Articles or Defense Services by Taiwan

The conference agreement includes language similar to the House bill, which requires the State Department, in consultation with the Department of Defense, to provide briefings to the appropriate congressional committees (including the Committees on Appropriations) on any discussions conducted between the Administration and the Government of Taiwan concerning the potential purchase of defense articles or defense services by the Government of Taiwan. The briefings are to occur 90 days after enactment and every 120 days thereafter, during fiscal year 2002.

Sec. 574. Restrictions on Assistance to Governments Destabilizing Sierra Leone

The conference agreement prohibits assistance to any government for which the Secretary of State has credible evidence that such government has, within the previous six months, provided military support for, facilitated safe passage of weapons or other equipment to, or which has assisted illicit diamond trading which benefits the Revolutionary United Front in Sierra Leone, Liberian security forces, or any other group intent on destabilizing Sierra Leone. This section is similar to the Senate amendment. The House provision was identical to current law.

Sec. 576. United Nations Population Fund

The conference agreement provides that not more than $34,000,000 from the "International Organizations and Programs" account shall be made available for the United Nations Fund for Population Activities, including UNFPA programs to combat HIV/AIDS, instead of not less than $40,000,000 as proposed by the Senate and not more than $25,000,000 as proposed by the House. The United States contribution to the UNFPA is subject to a number of conditions regarding UNFPA activities, including a provision relating to UNFPA activities in the People's Republic of China as proposed by the House.

The conference agreement provides that not more than $34,000,000 shall be made available for a United States contribution to the United Nations Fund for Population Activities (UNFPA). The managers recognize and support the family planning/reproductive health activities, and HIV/AIDS activities, conducted by UNFPA, and understand that a portion of the United States contribution to UNFPA will be used for HIV/AIDS activities. None of the United States contribution to UNFPA may be made available for activities in the People's Republic of China. The Senate amendment addressed this matter under the heading "International Organizations and Programs" in title IV.

Sec. 577. American Churchwomen and Other Citizens in El Salvador and Guatemala

The conference agreement contains language similar to that in the Senate amendment that provides that information on certain murders in El Salvador and Guatemala is being released to the victims' families. The House bill only addressed certain murders in El Salvador.

Sec. 578. Procurement and Financial Management Reform

The conference agreement includes language similar to a House provision withholding 10 percent of the funds made available for international financial institutions until the Secretary of the Treasury certifies that a number of procurement and financial management reforms are being implemented. The Senate did not address this matter. The modified provision deletes a reporting requirement.

Sec. 579. Basic Education Assistance for Indonesia and Pakistan

The conference agreement includes language that provides not less than $8,000,000 from Development Assistance for basic education activities in Indonesia and Pakistan. The managers expect that $3,000,000 will be provided for Indonesia and $5,000,000 for Pakistan. House and Senate language did not refer to Indonesia.

The managers have also included language providing that $2,500,000 from the Economic Support fund shall be transferred to Operating Expenses of the United States Agency for International Development for the purpose of monitoring and implementing United States economic and development assistance for Pakistan, including the $500,000,000 that was provided in economic assistance under the provisions of P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States, FY 2001 and the funds made available under this general provision for Pakistan. The funds would be derived from the amount for Pakistan in the fiscal year 2002 budget request for the Economic Support Fund.

The managers request the Administrator of USAID, after consultation with the Secretary of State, to report to the relevant committees not later than 60 days after enactment of the Act on the Agency's proposals for implementing basic education activities in Indonesia and expanding ongoing education assistance for Pakistan. The report should include USAID's plans to use its operating expenses to provide in-country monitoring of agreements between the United States and Pakistan to provide cash grants in support of Pakistan's education and other social sectors, utilizing funds made available under the provisions of Public Law 107–38.

Sec. 581. War Criminals

The conference agreement contains language similar to that in both the House bill and Senate amendment regarding war criminals in the Balkans.

Sec. 582. User Fees

The conference agreement extends current law by requiring the Secretary of the Treasury to instruct the United States executive directors of the international financial institutions (IFIs) to oppose loans that would impose user fees on poor people for primary education and healthcare. While the managers did not include Senate language adding structural adjustment schemes, debt relief, and Poverty Reduction Strategy Papers (PRSPs) to the prohibition, the managers do not intend this exclusion to be interpreted as an endorsement for user fees on the poor in such actions. It is the managers' understanding that the Treasury Department opposes user fees on the poor and that this is now Treasury's policy with regard to all IFI actions. The managers support this policy and expect it to continue and to be applied in Treasury's careful review process for PRSPs, which are subject to IFI review but not a vote. The managers direct the Secretary of the Treasury to examine the use of user fees by the World Bank, their impact on the poor, and whether such user fees exemption schemes for the poor are successful. The managers direct the Secretary to report back these findings to the House and Senate Committees on Appropriations before April 15, 2002.

Sec. 584. Funding for Serbia

The conference agreement authorizes funding for Serbia as proposed by the House but does not include a maximum funding level as proposed by the Senate. The conference agreement includes language similar to the House bill that conditions assistance for Serbia that may be made available after March 31, 2002, on continued cooperation with the International Criminal Tribúnal for the former Yugoslavia, the termination of financial and other support to Republika Srpska institutions, and respect for the rule of law including the release of political prisoners. The provision regarding the release of political prisoners was included in the Senate amendment but not in the House bill.

The managers recognize the efforts of Serbian democrats and reformers to implement much needed reforms necessitated by years of corruption and political violence, and expect that up to $115,000,000 will be provided for assistance for Serbia, in addition to regional funds that may become available, as appropriate. The managers have also provided authority for debt forgiveness for the Federal Republic of Yugoslavia in title II of this Act.

Sec. 585. El Salvador Reconstruction and Central America Disaster Relief

The conference agreement includes a modified version of the House and Senate provisions making $100,000,000 available for reconstruction assistance for El Salvador and $35,000,000 in USAID-managed assistance for drought victims elsewhere in Central America.

Sec. 586. Reports on Conditions in Hong Kong

The conference agreement contains Senate language that amends section 301 of the United States-Hong Kong Policy Act to allow for annual reports on conditions in Hong Kong until March 31, 2006. The House bill did not address this matter.

Sec. 587. Community-Based Police Assistance

The conference agreement includes language similar to the Senate language authorizing use of certain USAID-administered funds in title II of this Act for support for civilian police in Jamaica, notwithstanding section 660 of the Foreign Assistance Act. The House did not address this matter. The conference agreement includes a ceiling on funds for this purpose at a level of $1,500,000.

Sec. 588. Authorizations

The conference report includes the authorization for the International Fund for Agricultural Development; but not the Asian Development Fund. The Senate amendment included authorizations for both organizations. The House did not address this matter. The managers have also included an extension of the Export-Import Bank's charter until March 31, 2002.

Sec. 589. Excess Defense Articles for Central and Southern European Countries and Certain Other Countries

The conference agreement contains Senate language not in the House bill that authorizes the provision of excess defense articles for central and southern European countries and certain other countries. The House bill did not address this matter.

Sec. 591. Modification to the Annual Drug Certification Procedures

The conference agreement waives the annual drug certification process for one year on a global basis. The Senate amendment provided a waiver for the Western Hemisphere only. The House did not address this matter.

Sec. 592. Kenneth M. Ludden

The conference agreement includes language similar to that proposed by the Senate regarding a short title for the Act.

PROVISIONS NOT ADOPTED BY THE CONFEREES:

The conference agreement does not include section 567 of the House bill regarding "Man and the Biosphere". The Senate amendment did not address this matter.

The conference report does not include section 578 of the Senate amendment regarding "Funding for Private Organizations". The Senate amendment did not address this matter.

The conference report does not include section 580 of the House bill regarding "Improving Global Health Through Safe Injections". The Senate amendment did not address this matter. The managers concur with the language on safe injections under the heading "Child Survival and Health Programs" contained in Senate Report 107–58.

The conference report does not include section 580 of the Senate amendment regarding Cuba. The House did not address this matter. The managers are concerned about U.S. counternarcotics policy with respect to Cuba and the lack of authoritative information from the Government of Cuba with regard to drug trafficking through Cuba. The managers realize that Cuba's unique geography presents an appealing environment to air and maritime smugglers and recognize the national security threat posed by illicit drug production, distribution, and consumption, and crimes related thereto, particularly those in the Western Hemisphere. The managers are aware that there are reports of Cuba's willingness to cooperate with the U.S. in aiding U.S. interdiction of illicit drug distribution, as well as other reports that Cuba facilitates drug smuggling. Therefore the managers expect that not later than 6 months after the date of the enactment of this Act, the Secretary of State shall report to the Congress regarding the following: (1) the extent, if any, of the direct involvement of the Government of Cuba in illegal drug trafficking; (2) the likelihood that U.S. international narcotics assistance to the Government of Cuba would decrease the flow of drugs transiting through Cuba, and (3) the degree to which the Government of Cuba is exchanging with U.S. agencies drug-related law enforcement information. Additionally, the managers encourage the Administration, not later than 9 months after the date of the enactment of this Act, to transmit to Congress any legislation necessary to decrease the flow of drugs to or from Cuba.

The conference agreement does not include section 582 of the House bill prohibiting the use of funds in this Act for a contribution to the UN International Narcotics Control Board. Funds for such this purpose are not within the jurisdiction of this Act. The Senate did not address this matter.

The conference agreement does not include section 582 of the Senate amendment requiring that housing constructed with development assistance funds in this Act be wheelchair accessible. The House bill did not address this matter. However, the managers expect USAID to ensure that doors in houses or other facilities constructed with funds administered by USAID are of a sufficient width to accommodate wheelchairs.

The conference agreement does not include section 583 of the House bill regarding the "Buy America Act". The Senate amendment did not address this matter.

The conference agreement does not include section 584 of the House bill regarding the "Funding for Trafficking Victims Protection Act of 2000". The Senate amendment did not address this matter. However, the managers concur that trafficking in persons is a matter of urgency, and address related funding issues in report language under the heading "Development Assistance", and in bill and report language under the headings "Assistance for the Independent States of the Former Soviet Union" and "International Narcotics Control and Law Enforcement".

The conference agreement does not contain section 584 of the Senate amendment regarding democracy and human rights programs. This matter is addressed under section 526 of the conference report.

The conference agreement does not include section 585 of the Senate amendment regarding a report on the use of defense articles, defense services, and financial assistance to Uzbekistan. The House bill did not address this matter. The managers recognize and appreciate that Uzbekistan is providing logistical support and facilities for United States military and humanitarian operations in Afghanistan. However, the managers are aware of reports by the Department of State of serious human rights violations by members of Uzbek security forces. Therefore, the managers direct the Secretary of State to submit two reports to the appropriate congressional committees not later than four months after the date of enactment and ten months thereafter, describing in detail (1) the defense articles, defense services, and financial assistance provided by the United States to Uzbekistan during the six-month period ending 30 days prior to the submission of such report; and (2) the use during such period of defense articles, defense services, and financial assistance provided by the United States by units of the Uzbek Ministry of National Security or Ministry of Internal Affairs.

The conference agreement does not include section 586 of the Senate amendment expressing the Sense of the Senate on humanitarian assistance for Afghanistan. The House bill did not address this matter. The managers are concerned with the plight of Afghan refugees, and the status of women within Afghanistan who are emerging from years of repression under the Taliban. The managers support substantial United States contributions of humanitarian assistance for the people of Afghanistan, particularly through overland truck convoys, and efforts to ensure that Afghan women are included in planning the future reconstruction of Afghanistan and equal opportunities for women throughout Afghan society.

The conference agreement does not include section 589 of the Senate amendment expressing the Sense of the Senate regarding the role of women in the reconstruction of Afghanistan. The House bill did not address this matter. The managers address this matter under the heading "Development Assistance".

The conference agreement does not include section 591 of the Senate amendment regarding restrictions on funding for the Cambodian Genocide Tribunal. The substance of Senate section 591 is contained in section 563 of the conference report.

The conference agreement does not include section 593 of the Senate amendment regarding an increased Peace Corps presence in Muslim countries. The House bill did not address this matter. While the managers support the concept of the Senate language, a key concern of the managers is the safety of Peace Corps volunteers around the world. The managers direct the Director of the Peace Corps to undertake a study to determine the feasibility of an increase in volunteers in predominantly Muslim countries and to submit a report to the appropriate congressional committees not later than 6 months after the date of enactment. The study should make the determinations required by the Senate language but also should include a detailed description of measures the agency plans to implement in fiscal year 2002 to increase volunteers' safety.

The conference agreement does not include section 594 of the Senate amendment regarding machine readable passports. The House bill did not address this matter. The managers note that this matter has been addressed in Public Law 107-56.

The conference agreement does not include section 595 of the Senate amendment regarding Sudan. The House bill did not address this matter.

The conference agreement does not include section 598 of the Senate amendment regarding projects honoring the victims of terrorist attacks. The House bill did not address this matter.

The conference report does not include section 599 of the Senate bill regarding a conditional waiver of section 907 of the FREEDOM Support Act. This language is included in title II of the conference report. The House bill did not address this matter.

The conference report does not include section 599A of the Senate amendment regarding the Federal Investigation Enhancement Act of 2001. The House bill did not address this matter.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2002 recommended by the Committee of Conference, with comparisons to the fiscal year 2001 amount, the 2002 budget estimates, and the House and Senate bills for 2002 follow:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 2001	$15,021,168
Budget estimates of new (obligational) authority, fiscal year 2002	15,212,631
House bill, fiscal year 2002	15,212,173
Senate bill, fiscal year 2002	15,568,880
Conference agreement, fiscal year 2002	15,390,780
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2001	+369,612
Budget estimates of new (obligational) authority, fiscal year 2002	+178,149
House bill, fiscal year 2002	+178,607
Senate bill, fiscal year 2002	−178,100

Jim Kolbe,
Sonny Callahan,
Joe Knollenberg,
Jack Kingston,
Jerry Lewis,
Roger F. Wicker,
Henry Bonilla,
John E. Sununu,
Bill Young,
Nita Lowey,
Nancy Pelosi,
Jesse L. Jackson, Jr.,
Carolyn C. Kilpatrick,
Steven R. Rothman,
Dave Obey,
Managers on the Part of the House.

Patrick J. Leahy,
Daniel K. Inouye,
Tom Harkin,
Tim Johnson,
Jack Reed,
Robert C. Byrd,
Mitch McConnell,
Judd Gregg,
Richard C. Shelby,
Robert F. Bennett,
Ben Nighthorse Campbell,
Christopher Bond,
Ted Stevens,
Managers on the Part of the Senate.

DISTRICT OF COLUMBIA POLICE COORDINATION AMENDMENT ACT OF 2001

Mrs. MORELLA. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2199) to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes.

The Clerk read as follows:

Senate amendment:

Page 2, line 13, strike out "sec. 4–192(d)" and insert "sec. 5–133.17(d)".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Maryland (Mrs. Morella) and the gentlewoman from the District of Columbia (Ms. Norton) each will control 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. Morella).

GENERAL LEAVE

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2199.

The SPEAKER pro tempore (Mr. Isakson). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

I urge all Members to concur in the Senate amendments to H.R. 2199, entitled the District of Columbia Police Coordination Act of 2001. The Senate amendment is simply technical.

The Senate and the House versions of H.R. 2199 are identical in content. However, when the House version was prepared and introduced, reference was made to section 4–192(d) of the D.C. Code, and at that time, the newly codified version of the D.C. Code had not been received. Section 4–192(d) was one of many provisions that was redesignated as part of a new codification. Section 4–192(d) is now section 5–133.17(d) of the D.C. Official Code. The Senate amendment reflects this change.

Mr. Speaker, I urge all Members to concur in the Senate amendment to H.R. 2199, if they can understand it, the District of Columbia Police Coordination Act of 2001.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Today, I rise in strong support of H.R. 2199, the District of Columbia Police Coordination Amendment Act, as amended by the Senate, which will strengthen PL 105–33, legislation that has done much to cure uncoordinated efforts of Federal and local law enforcement officials in the Nation's capital. I want to thank the gentlewoman from Maryland (Mrs. Morella), the chair of our subcommittee, my good friend, for her leadership on this bill in the Subcommittee on the District of Columbia and in bringing this matter to the floor today.

H.R. 2199 amends the Police Coordination Act I introduced in 1997 by allowing agencies not named in the original legislation to assist the Metropolitan Police Department with local law enforcement in the District. Inadvertently, PL 105–33 failed to make the language sufficiently open-ended to include agencies not mentioned in the original bill.

Prior to the Police Coordination Act, Federal agencies often were confined to agency premises and were unable to enforce local laws on or near their premises. Therefore, although they were police officers, they could not adequately protect their agencies. Instead, for example, Federal officers often called 911, losing time in preventing crime and apprehending criminals, while taking hard-pressed D.C. police officers from urgent work in the city experiencing serious crimes. Federal officers were trained and willing to do the job but lacked the authority to do so before the passage of the Police Coordination Act.

Five agencies have already signed agreements with the U.S. attorney for the District of Columbia enabling them to assist the MPD, including the Federal Protective Service, the largest police force in the Federal service and the largest to participate. Now, over 400 officers are assisting D.C. police in protecting the District, as well as the Federal presence.

Federal agencies understand that the extension of their jurisdiction enhances safety and security within and around their agencies, while offering needed assistance as well to District residents, visitors and tourists. The Capitol Police and Amtrak Police, who have the longest experience with expanded jurisdiction, report that the morale of their officers has been affected positively because of the satisfaction that comes from being integrated into efforts to reduce and prevent crime in and around agencies and in the Nation's capital.

The only reason the House must again consider this bill, already passed once in the House and passed in the Senate last week, is because of a minor technical amendment included by the Senate that updates the bill language to reflect a recent recodification of the D.C. Code. This noncontroversial technical amendment to the Police Coordination Act is another step toward achieving my goal of assuring the most efficient use of all the available police resources to protect Federal agency staff, visitors and D.C. residents.

I urge my colleagues to support H.R. 2199.

Mr. Speaker, I yield back the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2199 was introduced by the gentlewoman from the District of Columbia (Ms. NORTON) and went through our subcommittee and the full committee, and I am pleased that the technical amendment from the Senate has come over because this is truly a Police Coordination Act and very needed.

What it does is it allows the Federal law enforcement agencies to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia, thus enhancing the safety and security of the residents and travelers in the District of Columbia.

I urge this Congress to adopt unanimously the H.R. 2199, as amended.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2199.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. NORTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

RECOGNIZING SERVICE OF CREW MEMBERS OF USS ENTERPRISE BATTLE GROUP FOR WAR EFFORT IN AFGHANISTAN

Mr. SCHROCK. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 279) recognizing the service of the crew members of the USS *Enterprise* Battle Group during its extended deployment for the war effort in Afghanistan, as amended.

The Clerk read as follows:

H. CON. RES. 279

Whereas the terrorist attacks of September 11, 2001, on the United States resulted in shifting the principal focus of the Armed Forces from preserving peace to prosecuting and winning a war against terrorism;

Whereas among the first military units to make this transition to wartime operations was the USS *Enterprise* Battle Group, which, on September 11, 2001, while en route back to the United States from a scheduled peacetime deployment, was immediately redeployed to conduct operations against terrorists;

Whereas elements of the Army, Navy, Air Force, and Marine Corps began deploying to the theater of war to secure bases and support combat operations as early as September 19, 2001; and

Whereas since then, not only have the special operations and conventional forces of all the services performed magnificently, but the members of the Armed Forces have repeatedly demonstrated an extraordinary level of commitment and professionalism: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress recognizes and commends the excellent service of all in the Armed Forces who are prosecuting the war to end terrorism and protecting the security of the Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCHROCK) and the gentlewoman from California (Ms. SANCHEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCHROCK).

GENERAL LEAVE

Mr. SCHROCK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 279.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

□ 1130

Mr. SCHROCK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank very much the majority leader, the gentleman from Texas (Mr. ARMEY); the chairman of the Committee on Armed Services, the gentleman from Arizona (Mr. STUMP); the ranking member, the gentleman from Missouri (Mr. SKELTON); and Members of the House leadership for allowing me to bring this resolution to the House floor today.

On November 10, the aircraft carrier USS *Enterprise* and her battle group returned to Norfolk, Virginia, after an extended deployment that included participation in the war on global terrorism in Afghanistan.

On September 11, while America was under attack, the USS *Enterprise* and her battle group had just begun their journey home from a routine deployment in the Persian Gulf in support of Operation Southern Watch over Iraq. Within 30 minutes after the first attack on New York City, the commanding officer of the *Enterprise* made a 180-degree turn, headed back towards the Middle East, and waited for orders from the National Command Authority here in Washington. The captain and his crew and accompanying ships were eager and ready to defend America against attack.

Mr. Speaker, I was privileged to serve in the United States Navy for 24 years. I am privileged today to represent the Second Congressional District of Virginia, home to the USS *Enterprise* Battle Group, a battle group that consists of 14,500 military personnel, 13 ships, and 8 squadrons of helos and airplanes.

The crew of this ship and her battle group were prepared to defend America every day of the year. September 11 was no exception. The first attacks on Afghanistan came from the USS *Enterprise* Battle Group. Our men and women wear the uniform of their Nation with more pride than any other Nation in the world.

I worked closely with the Committee on Armed Services to expand this resolution to thank all services fighting in the war against terrorism. The combined efforts of the Army, Navy, Air Force, Marine Corps and the Coast Guardsmen will win that war for America and rid this world of terrorism forever.

Mr. Speaker, let me say it once again: our soldiers, sailors, airmen, Marine Corps and Coast Guardsmen are the best in the world. The purpose of this resolution is to commend the USS *Enterprise* Battle Group and thank them for extending their deployment and for being the first ones to enter the battle against terrorism.

To all the soldiers, sailors, airmen, Marines, Coast Guardsmen on active duty and in the reserves fighting this battle today, I thank you for your commitment, your bravery, and for volunteering to defend our great country.

Mr. Speaker, I think I can speak for all of my colleagues when I say "thank you" to the men and women in the Armed Forces, who served with honor, respect and bravery. They are true American heroes. God bless them, God bless their families, and God bless America.

Mr. Speaker, I reserve the balance of my time.

Ms. SANCHEZ. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of House Concurrent Resolution 279 offered by my colleague, the gentleman from Virginia (Mr. SCHROCK). This legislation recognizes and commends members of the Armed Forces who are fighting the war against terrorism and protecting the security of our Nation.

The success we have had to date is due to our highly trained and dedicated American forces. Shortly after the tragic and deadly attack against the United States, military units were preparing to protect and defend Americans at home and around the world.

For example, on September 11, the USS *Enterprise* Battle Group was headed back to the United States after a 6-month deployment in the Persian Gulf. Upon learning of the attacks, the battle group returned to the Persian Gulf and remained on station for several additional months to conduct the initial counterterrorism operations. The first wave of air attacks against the Taliban and al Qaeda forces in Afghanistan included planes launched from that carrier group.

This war against terrorism has shown what our military services can do by working together to protect our country and its citizens. "United We Stand" means as much today at it has ever meant in America's history. We have had men and women in uniform on the front lines in this battle against terrorism since day one.

Army and Air Force Special Forces are deployed in Afghanistan to gather intelligence and tactical information. And the marines have been securing bases and protecting landing strips for follow-on forces in nongovernmental assistance organizations who are trying to help the people of Afghanistan. In the United States, our own National Guard is protecting our airports, our infrastructure, and even our Nation's Capitol.

On behalf of the American people, I want to recognize and commend all of our men and women in uniform for their dedication to the principles of democracy. I would like to especially commend the members of the USS *Enterprise* Battle Group for their tireless efforts in this war on terrorism. Their commitment and their service to our Nation is truly priceless, and I am proud to support this resolution here in the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I wish to thank my colleague, the gentleman from Virginia (Mr. SCHROCK), for introducing this resolution.

Since September 11, the United States has seen many in uniform who have displayed the courage that would allow them to face life-threatening danger and the sacrifice which would risk their own personal safety and comfort in order to protect our personal freedoms, defend our civil liberties, and guard our constitutional rights.

Mr. Speaker, courage and personal sacrifice are the two attributes that keep the attacks of September 11 from having happened in vain. It is that personal courage and sacrifice that our brave men and women aboard the USS *Enterprise* Battle Group displayed. They were en route back to the United States following a scheduled peacetime deployment from the Persian Gulf in support of Operation Southern Watch over Iraq when they were suddenly and unexpectedly redeployed to the war effort in Afghanistan.

Mr. Speaker, it is also that same courage and personal sacrifice that the families, friends, loved ones of the entire USS *Enterprise* Battle Group, the members of the United States Armed Forces, and the victims of the September 11 attack had to display and continue to have to display while keeping the faith that our Nation will be protected.

And so, Mr. Speaker, we ask our colleagues to support the resolution which recognizes the service, sacrifice, and courage of the crew members of the USS *Enterprise* Battle Group, the United States Armed Forces, and the families, friends and loved ones of those who have died or risked their lives on and after September 11.

I particularly, Mr. Speaker, want to thank my colleague, the gentleman from Virginia (Mr. SCHROCK), for his leadership in introducing this resolution.

Mr. SCHROCK. Mr. Speaker, I yield myself such time as I may consume to thank the gentlewoman from California (Ms. SANCHEZ) for assisting with this, and my good friend, the gentleman from Virginia (Mr. SCOTT).

These young men and women deserve all the praise we can heap on them, and I think when we do that from the floor of the House, it adds a little more oomph to what we are doing.

Mr. FORBES. Mr. Speaker as an original cosponsor of this resolution and a Representative of the Tidewater region of Virginia, I rise in strong support of H. Con. Res. 279.

I recently was honored to participate in the homecoming celebration of the USS *Enterprise* when it returned to Norfolk from its extended deployment in Afghanistan. These brave men sailed out of Norfolk in April and only just returned to their families, friends, and homes last month. They were given a true hero's welcome by their loved ones, their extended Naval family in Norfolk, and even their Commander-in-Chief. We were and are extraordinarily proud of their service and dedication, particularly in this time of war.

When it was first christened at the Newport News Shipbuilding and Drydock Company in 1960, the *Enterprise* had an impressive history to live up to. Its namesake was a highly decorated, World War II veteran that had participated in the Battle of Midway and Doolittle's raid on Tokyo. As the world's first and finest nuclear-powered aircraft carrier, this *Enterprise* has done its namesake proud.

The *Enterprise* Battle Group was among the first of the American fleet to participate in the new war on terrorism. And, should they be called to duty again in this war, I am certain that they will serve again with distinction. In the coming days, we will vote on the Defense Appropriations Act for Fiscal Year 2002. This legislation includes a much-deserved pay raise for these sailors and other servicemembers. I am proud to support that pay raise, and to do all that I can to support their mission from my position in Congress.

And, Mr. Speaker, while I do encourage my colleagues to approve that appropriations bill later this week, today, I ask for their support for this much-deserved but simple recognition for the crew of the USS *Enterprise* Battle Group.

Mr. SCHROCK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SANCHEZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Virginia (Mr. SCHROCK) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 279, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. SANCHEZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 643. An act to reauthorize the African Elephant Conservation Act.

H.R. 645. An act to reauthorize the Rhinoceros and Tiger Conservation Act of 1994.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 700. An act to reauthorize the Asian Elephant Conservation Act of 1997.

The message also announced that the Senate has passed joint resolutions and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S.J. Res. 8. Joint resolution designating 2002 as the "Year of the Rose".

S.J. Res. 13. Joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

S. Con. Res. 80. Concurrent Resolution expressing the sense of Congress regarding the 30th anniversary of the enactment of the Federal Water Pollution Control Act.

COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 2002

Mr. LoBIONDO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3507) to authorize appropriations for the Coast Guard for fiscal year 2002, and for other purposes.

The Clerk read as follows:

H.R. 3507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act for Fiscal Year 2002".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD

Sec. 101. Short title.
Sec. 102. Authorization of appropriations.
Sec. 103. Authorized levels of military strength and training.

TITLE II—MARITIME POLICY IMPROVEMENT

Sec. 201. Short title.
Sec. 202. Vessel COASTAL VENTURE.
Sec. 203. Expansion of American Merchant Marine Memorial Wall of Honor.
Sec. 204. Discharge of agricultural cargo residue.
Sec. 205. Recording and discharging maritime liens.
Sec. 206. Tonnage of R/V DAVIDSON.
Sec. 207. Miscellaneous certificates of documentation.
Sec. 208. Exemption for Victory Ships.
Sec. 209. Certificate of documentation for 3 barges.
Sec. 210. Certificate of documentation for the EAGLE.
Sec. 211. Waiver for vessels in New World Challenge Race.
Sec. 212. Vessel ASPHALT COMMANDER.

TITLE III—COAST GUARD PERSONNEL AND MARINE SAFETY

Sec. 301. Short title.

SUBTITLE A—PERSONNEL MANAGEMENT

Sec. 311. Coast Guard band director rank.
Sec. 312. Compensatory absence for isolated duty.
Sec. 313. Accelerated promotion of certain Coast Guard officers.

SUBTITLE B—MARINE SAFETY

Sec. 321. Extension of Territorial Sea for Vessel Bridge-to-Bridge Radiotelephone Act.
Sec. 322. Preservation of certain reporting requirements.
Sec. 323. Oil Spill Liability Trust Fund; emergency fund advancement authority.
Sec. 324. Merchant mariner documentation requirements.
Sec. 325. Penalties for negligent operations and interfering with safe operation.

SUBTITLE C—RENEWAL OF ADVISORY GROUPS

Sec. 331. Commercial Fishing Industry Vessel Advisory Committee.
Sec. 332. Houston-Galveston Navigation Safety Advisory Committee.
Sec. 333. Lower Mississippi River Waterway Advisory Committee.
Sec. 334. Navigation Safety Advisory Council.
Sec. 335. National Boating Safety Advisory Council.
Sec. 336. Towing Safety Advisory Committee.

SUBTITLE D—MISCELLANEOUS

Sec. 341. Patrol craft.
Sec. 342. Clarification of Coast Guard authority to control vessels in territorial waters of the United States.
Sec. 343. Caribbean support tender.
Sec. 344. Prohibition of new maritime user fees.
Sec. 345. Great Lakes lighthouses.
Sec. 346. Modernization of National Distress and Response System.
Sec. 347. Conveyance of Coast Guard property in Portland, Maine.
Sec. 348. Harbor safety committees.
Sec. 349. Miscellaneous conveyances.
Sec. 350. Boating safety.

TITLE IV—OMNIBUS MARITIME IMPROVEMENTS

Sec. 401. Short title.
Sec. 402. Extension of Coast Guard housing authorities.
Sec. 403. Inventory of vessels for cable laying, maintenance, and repair.
Sec. 404. Vessel escort operations and towing assistance.
Sec. 405. Search and rescue center standards.
Sec. 406. VHF communications services.
Sec. 407. Lower Columbia River maritime fire and safety activities.
Sec. 408. Conforming references to the former Merchant Marine and Fisheries Committee.
Sec. 409. Restriction on vessel documentation.
Sec. 410. Hypothermia protective clothing requirement.
Sec. 411. Reserve officer promotions.
Sec. 412. Regular lieutenant commanders and commanders; continuation upon failure of selection for promotion.
Sec. 413. Reserve student pre-commissioning assistance program.
Sec. 414. Continuation on active duty beyond thirty years.
Sec. 415. Payment of death gratuities on behalf of Coast Guard auxiliarists.
Sec. 416. Align Coast Guard severance pay and revocation of commission authority with Department of Defense authority.
Sec. 417. Long-term lease authority for lighthouse property.
Sec. 418. Maritime Drug Law Enforcement Act amendments.
Sec. 419. Wing-in-ground craft.
Sec. 420. Electronic filing of commercial instruments for vessels.
Sec. 421. Deletion of thumbprint requirement for merchant mariners' documents.
Sec. 422. Temporary certificates of documentation for recreational vessels.
Sec. 423. Marine casualty investigations involving foreign vessels.
Sec. 424. Conveyance of Coast Guard property in Hampton Township, Michigan.
Sec. 425. Conveyance of property in Traverse City, Michigan.
Sec. 426. Annual report on Coast Guard capabilities and readiness to fulfill national defense responsibilities.
Sec. 427. Extension of authorization for oil spill recovery institute.
Sec. 428. Miscellaneous certificates of documentation.
Sec. 429. Icebreaking services.
Sec. 430. Fishing vessel safety training.
Sec. 431. Limitation on liability of pilots at Coast Guard Vessel Traffic Services.
Sec. 432. Assistance for marine safety station on Chicago lakefront.
Sec. 433. Tonnage measurement for purposes of eligibility of certain vessels for fishery endorsement.
Sec. 434. Extension of time for recreational vessel and associated equipment recalls.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD

SEC. 101. SHORT TITLE.

This title may be cited as the "Coast Guard Authorization Act of 2001".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2002 for necessary expenses of the Coast Guard, as follows:

(1) For the operation and maintenance of the Coast Guard, $4,205,838,000, of which—

(A) $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990;

(B) $5,500,000 is authorized to be available for the commercial fishing vessel safety program; and

(C) $623,000,000 is authorized to be available for domestic maritime homeland security.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $717,823,000, of which—

(A) $20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990;

(B) $58,500,000 is authorized to be available for domestic maritime homeland security vessels and detection equipment; and

(C) $338,000,000 is authorized to be available to implement the Coast Guard's Integrated Deepwater System.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $21,722,000, to remain available until expended, of which $3,500,000 is authorized to be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $876,346,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $15,466,000, to remain available until expended, of which $1,750,000 may be available for a new Chelsea Street bridge in Boston, Massachusetts.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $16,927,000, to remain available until expended.

SEC. 103. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 44,000 as of September 30, 2002.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training for fiscal year 2002, 1,500 student years.

(2) For flight training for fiscal year 2002, 125 student years.

(3) For professional training in military and civilian institutions for fiscal year 2002, 300 student years.

(4) For officer acquisition for fiscal year 2002, 1,000 student years.

TITLE II—MARITIME POLICY IMPROVEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Maritime Policy Improvement Act of 2001".

SEC. 202. VESSEL COASTAL VENTURE.

Section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104-324; 110 Stat. 3978) is amended by inserting "COASTAL VENTURE (United States official number 971086)," after "vessels".

SEC. 203. EXPANSION OF AMERICAN MERCHANT MARINE MEMORIAL WALL OF HONOR.

(a) FINDINGS.—The Congress finds that—

(1) the United States Merchant Marine has served the people of the United States in all wars since 1775;

(2) the United States Merchant Marine served as the Nation's first navy and defeated the British Navy to help gain the Nation's independence;

(3) the United States Merchant Marine kept the lifeline of freedom open to the allies of the United States during the Second World War, making one of the most significant contributions made by any nation to the victory of the allies in that war;

(4) President Franklin D. Roosevelt and many military leaders praised the role of the United States Merchant Marine as the "Fourth Arm of Defense" during the Second World War;

(5) more than 250,000 men and women served in the United States Merchant Marine during the Second World War;

(6) during the Second World War, members of the United States Merchant Marine faced dangers from the elements and from submarines, mines, armed raiders, destroyers, aircraft, and "kamikaze" pilots;

(7) during the Second World War, at least 6,830 members of the United States Merchant Marine were killed at sea;

(8) during the Second World War, 11,000 members of the United States Merchant Marine were wounded, at least 1,100 of whom later died from their wounds;

(9) during the Second World War, 604 members of the United States Merchant Marine were taken prisoner;

(10) 1 in 32 members of the United States Merchant Marine serving in the Second World War died in the line of duty, suffering a higher percentage of war-related deaths than any of the other armed services of the United States; and

(11) the United States Merchant Marine continues to serve the United States, promoting freedom and meeting the high ideals of its former members.

(b) GRANTS TO CONSTRUCT ADDITION TO AMERICAN MERCHANT MARINE MEMORIAL WALL OF HONOR.—

(1) IN GENERAL.—The Secretary of Transportation may make grants to the American Merchant Marine Veterans Memorial Committee, Inc., to construct an addition to the American Merchant Marine Memorial Wall of Honor located at the Los Angeles Maritime Museum in San Pedro, California.

(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out with a grant made under this section shall be 50 percent.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000 for fiscal year 2002.

SEC. 204. DISCHARGE OF AGRICULTURAL CARGO RESIDUE.

Notwithstanding any other provision of law, the discharge from a vessel of any agricultural cargo residue material in the form of hold washings shall be governed exclusively by the provisions of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) that implement Annex V to the International Convention for the Prevention of Pollution from Ships.

SEC. 205. RECORDING AND DISCHARGING NOTICES OF CLAIM OF MARITIME LIEN.

(a) LIENS ON ANY DOCUMENTED VESSEL.—

(1) IN GENERAL.—Section 31343 of title 46, United States Code, is amended as follows:

(A) By amending the section heading to read as follows:

"§ 31343. Recording and discharging notices of claim of maritime lien".

(B) In subsection (a) by striking "covered by a preferred mortgage filed or recorded under this chapter" and inserting "documented, or for which an application for documentation has been filed, under chapter 121".

(C) By amending subsection (b) to read as follows:

"(b)(1) The Secretary shall record a notice complying with subsection (a) of this section if, when the notice is presented to the Secretary for recording, the person having the claim files with the notice a declaration stating the following:

"(A) The information in the notice is true and correct to the best of the knowledge, information, and belief of the individual who signed it.

"(B) A copy of the notice, as presented for recordation, has been sent to each of the following:

"(i) The owner of the vessel.

"(ii) Each person that recorded under section 31343(a) of this title an unexpired notice of a claim of an undischarged lien on the vessel.

"(iii) The mortgagee of each mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

"(2) A declaration under this subsection filed by a person that is not an individual must be signed by the president, member, partner, trustee, or other individual authorized to execute the declaration on behalf of the person.".

(D) By amending subsection (c) to read as follows:

"(c)(1) On full and final discharge of the indebtedness that is the basis for a notice of claim of lien recorded under subsection (b) of this section, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

"(2) The district courts of the United States shall have jurisdiction over a civil action to declare that a vessel is not subject to a lien claimed under subsection (b) of this section, or that the vessel is not subject to the notice of claim of lien, or both, regardless of the amount in controversy or the citizenship of the parties. Venue in such an action shall be in the district where the vessel is found, or where the claimant resides, or where the notice of claim of lien is recorded. The court may award costs and attorneys fees to the prevailing party, unless the court finds that the position of the other party was substantially justified or other circumstances make an award of costs and attorneys fees unjust. The Secretary shall record any such declaratory order.".

(E) By adding at the end the following:

"(e) A notice of claim of lien recorded under subsection (b) of this section shall expire 3 years after the date the lien was established, as such date is stated in the notice under subsection (a) of this section.

"(f) This section does not alter in any respect the law pertaining to the establishment of a maritime lien, the remedy provided by such a lien, or the defenses thereto, including any defense under the doctrine of laches.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 313 of title 46, United States Code, is amended by striking the item relating to section 31343 and inserting the following:

"31343. Recording and discharging notices of claim of maritime lien.".

(b) NOTICE REQUIREMENTS.—Section 31325 of title 46, United States Code, is amended as follows:

(1) In subsection (d)(1)(B) by striking "a notice of a claim" and inserting "an unexpired notice of a claim".

(2) In subsection (f)(1) by striking "a notice of a claim" and inserting "an unexpired notice of a claim".

(c) APPROVAL OF SURRENDER OF DOCUMENTATION.—Section 12111 of title 46, United States Code, is amended by adding at the end the following:

"(d)(1) The Secretary shall not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

"(2) The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.".

(d) TECHNICAL CORRECTION.—Section 9(c) of the Shipping Act, 1916 (46 App. U.S.C. 808(c)) is amended in the matter preceding paragraph (1) by striking "Except" and all that follows "12106(e) of title 46," and inserting "Except as provided in section 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181) and in section 12106(e) of title 46,".

(e) EFFECTIVE DATE.—This section shall take effect July 1, 2002.

SEC. 206. TONNAGE OF R/V DAVIDSON.

(a) IN GENERAL.—The Secretary of Transportation shall prescribe a tonnage measurement as a small passenger vessel as defined in section 2101 of title 46, United States Code, for the vessel R/V DAVIDSON (United States official number D1066485) for purposes of applying the optional regulatory measurement under section 14305 of that title.

(b) APPLICATION.—Subsection (a) shall apply only when the vessel is operating in compliance with the requirements of section 3301(8) of title 46, United States Code.

SEC. 207. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) LOOKING GLASS (United States official number 925735).

(2) YANKEE (United States official number 1076210).

(3) LUCKY DOG of St. Petersburg, Florida (State of Florida registration number FLZP7569E373).

(4) ENTERPRIZE (United States official number 1077571).

(5) M/V SANDPIPER (United States official number 1079439).

(6) FRITHA (United States official number 1085943).

(7) PUFFIN (United States official number 697029).

(8) VICTORY OF BURNHAM (United States official number 663780).

(9) R'ADVENTURE II (United States official number 905373).

(10) ANTJA (State of Florida registration number FL3475MA).

(11) SKIMMER, manufactured by Contour Yachts, Inc. (hull identification number QHG34031D001).

(12) TOKEENA (State of South Carolina registration number SC 1602 BJ).

(13) DOUBLE EAGLE2 (United States official number 1042549).

(14) ENCOUNTER (United States official number 998174).

(15) AJ (United States official number 599164).

(16) BARGE 10 (United States official number 1101368).

(17) NOT A SHOT (United States official number 911064).

(18) PRIDE OF MANY (Canadian official number 811529).

(19) AMAZING GRACE (United States official number 92769).

(20) SHEWHO (United States official number 1104094).

SEC. 208. EXEMPTION FOR VICTORY SHIPS.

Section 3302(l)(1) of title 46, United States Code, is amended by adding at the end the following:

"(D) The steamship SS Red Oak Victory (United States official number 249410), owned by the Richmond Museum Association, located in Richmond, California.

"(E) The SS American Victory (United States official number 248005), owned by Victory Ship, Inc., of Tampa, Florida.".

SEC. 209. CERTIFICATE OF DOCUMENTATION FOR 3 BARGES.

(a) DOCUMENTATION CERTIFICATE.—Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), and subject to subsection (c) of this section, the Secretary of Transportation may issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade for each of the vessels listed in subsection (b).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The former Navy deck barge JIM, having a length of 110 feet and a width of 34 feet.

(2) The former railroad car barge HUGH, having a length of 185 feet and a width of 34 feet.

(3) The former railroad car barge TOMMY, having a length of 185 feet and a width of 34 feet.

(c) LIMITATION ON OPERATION.—A vessel issued a certificate of documentation under this section may be used only as a floating platform for launching fireworks, including transportation of materials associated with that use.

SEC. 210. CERTIFICATE OF DOCUMENTATION FOR THE EAGLE.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), chapter 121 of title 46, United States Code, and section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292), the Secretary of Transportation shall issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EAGLE (hull number BK-1754, United States official number 1091389) if the vessel is—

(1) owned by a State, a political subdivision of a State, or a public authority chartered by a State;

(2) if chartered, chartered to a State, a political subdivision of a State, or a public authority chartered by a State;

(3) operated only in conjunction with—

(A) scour jet operations; or

(B) dredging services adjacent to facilities owned by the State, political subdivision, or public authority; and

(4) externally identified clearly as a vessel of that State, subdivision or authority.

SEC. 211. WAIVER FOR VESSELS IN NEW WORLD CHALLENGE RACE.

Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), beginning on April 1, 2002, the 10 sailboats participating in the New World Challenge Race may transport guests, who have not contributed consideration for their passage, from and around the ports of San Francisco and San Diego, California, before and during stops of that race. This section shall have no force or effect beginning on the earlier of—

(1) 60 days after the last competing sailboat reaches the end of that race in San Francisco, California; or

(2) December 31, 2003.

SEC. 212. VESSEL ASPHALT COMMANDER.

Notwithstanding any other law or agreement with the United States Government, the vessel ASPHALT COMMANDER (United States official number 663105) may be transferred to or placed under a foreign registry or sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

TITLE III—COAST GUARD PERSONNEL AND MARITIME SAFETY

SEC. 301. SHORT TITLE.

This title may be cited as the "Coast Guard Personnel and Maritime Safety Act of 2001".

Subtitle A—Personnel Management

SEC. 311. COAST GUARD BAND DIRECTOR RANK.

Section 336(d) of title 14, United States Code, is amended by striking "commander" and inserting "captain".

SEC. 312. COMPENSATORY ABSENCE FOR ISOLATED DUTY.

(a) IN GENERAL.—Section 511 of title 14, United States Code, is amended to read as follows:

"§511. Compensatory absence from duty for military personnel at isolated duty stations

"The Secretary may grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 13 of title 14, United States Code, is amended by striking the item relating to section 511 and inserting the following:

"511. Compensatory absence from duty for military personnel at isolated duty stations.".

SEC. 313. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS.

Title 14, United States Code, is amended—

(1) in section 259, by adding at the end a new subsection (c) to read as follows:

"(c)(1) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

"(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date on which the Secretary publishes a finding, based upon the results of the survey, that implementation of this subsection will improve Coast Guard officer retention.

"(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of

Representatives and the Committee on Commerce, Science, and Transportation of the Senate.";

(2) in section 260(a), by inserting "and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title" after "promotion"; and

(3) in section 271(a), by inserting at the end thereof the following: "The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.".

Subtitle B—Marine Safety

SEC. 321. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT.

Section 4(b) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(b)), is amended by striking "United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended." and inserting "United States, which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

SEC. 322. PRESERVATION OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

(1) Coast Guard operations and expenditures.—Section 651 of title 14, United States Code.

(2) Summary of marine casualties reported during prior fiscal year.—Section 6307(c) of title 46, United States Code.

(3) User fee activities and amounts.—Section 664 of title 46, United States Code.

(4) Conditions of public ports of the United States.—Section 308(c) of title 49, United States Code.

(5) Activities of Federal Maritime Commission.—Section 208 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1118).

(6) Activities of interagency coordinating committee on oil pollution research.—Section 7001(e) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(e)).

SEC. 323. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND ADVANCEMENT AUTHORITY.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C.. 2752(b)) is amended after the first sentence by inserting "To the extent that such amount is not adequate for removal of a discharge or the mitigation or prevention of a substantial threat of a discharge, the Coast Guard may obtain an advance from the Fund such sums as may be necessary, up to a maximum of $100,000,000, and within 30 days shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance. Amounts advanced shall be repaid to the Fund when, and to the extent that removal costs are recovered by the Coast Guard from responsible parties for the discharge or substantial threat of discharge.".

SEC. 324. MERCHANT MARINER DOCUMENTATION REQUIREMENTS.

(a) Interim Merchant Mariners' Documents.—Section 7302 of title 46, United States Code, is amended—

(1) by striking "A" in subsection (f) and inserting "Except as provided in subsection (g), a"; and

(2) by adding at the end the following:

"(g)(1) The Secretary may, pending receipt and review of information required under subsections (c) and (d), immediately issue an interim merchant mariner's document valid for a period not to exceed 120 days, to—

"(A) an individual to be employed as gaming personnel, entertainment personnel, wait staff, or other service personnel on board a passenger vessel not engaged in foreign service, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; or

"(B) an individual seeking renewal of, or qualifying for a supplemental endorsement to, a valid merchant mariner's document issued under this section.

"(2) No more than one interim document may be issued to an individual under paragraph (1)(A) of this subsection.".

(b) Exception.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking "and" after the semicolon in paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

"(9) a passenger vessel not engaged in a foreign voyage with respect to individuals on board employed for a period of not more than 30 service days within a 12 month period as entertainment personnel, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; and".

SEC. 325. PENALTIES FOR NEGLIGENT OPERATIONS AND INTERFERING WITH SAFE OPERATION.

Section 2302(a) of title 46, United States Code, is amended by striking "$1,000." and inserting "$5,000 in the case of a recreational vessel, or $25,000 in the case of any other vessel.".

Subtitle C—Renewal of Advisory Groups

SEC. 331. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

(a) Commercial Fishing Industry Vessel Advisory Committee.—Section 4508 of title 46, United States Code, is amended—

(1) by inserting "**Safety**" in the heading after "**Vessel**";

(2) by inserting "Safety" in subsection (a) after "Vessel";

(3) by striking "(5 App. U.S.C. 1 et seq.)" in subsection (e)(1)(I) and inserting "(5 App. U.S.C.)"; and

(4) by striking "of September 30, 2000" and inserting "on September 30, 2005".

(b) Conforming Amendment.—The chapter analysis for chapter 45 of title 46, United States Code, is amended by striking the item relating to section 4508 and inserting the following:

"4508. Commercial Fishing Industry Vessel Safety Advisory Committee.".

SEC. 332. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

Section 18(h) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking "September 30, 2000." and inserting "September 30, 2005.".

SEC. 333. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

Section 19 of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking "September 30, 2000" in subsection (g) and inserting "September 30, 2005".

SEC. 334. NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "September 30, 2000" in subsection (d) and inserting "September 30, 2005".

SEC. 335. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110 of title 46, United States Code, is amended by striking "September 30, 2000" in subsection (e) and inserting "September 30, 2005".

SEC. 336. TOWING SAFETY ADVISORY COMMITTEE.

The Act entitled "An Act to Establish a Towing Safety Advisory Committee in the Department of Transportation" (33 U.S.C. 1231a) is amended by striking "September 30, 2000." in subsection (e) and inserting "September 30, 2005.".

Subtitle D—Miscellaneous

SEC. 341. PATROL CRAFT.

Notwithstanding any other provision of law, the Secretary of Transportation may accept, by direct transfer without cost, for use by the Coast Guard primarily for expanded drug interdiction activities required to meet national supply reduction performance goals, up to 7 PC–170 patrol craft from the Department of Defense if it offers to transfer such craft.

SEC. 342. CLARIFICATION OF COAST GUARD AUTHORITY TO CONTROL VESSELS IN TERRITORIAL WATERS OF THE UNITED STATES.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by adding at the end the following:

"SEC. 15. ENTRY OF VESSELS INTO TERRITORIAL SEA; DIRECTION OF VESSELS BY COAST GUARD.

"(a) Notification of Coast Guard.—Under regulations prescribed by the Secretary, a commercial vessel entering the territorial sea of the United States shall notify the Secretary not later than 96 hours before that entry and provide the following information regarding the vessel:

"(1) The name of the vessel.

"(2) The route and port or place of destination in the United States.

"(3) The time of entry into the territorial sea.

"(4) Any information requested by the Secretary to demonstrate compliance with applicable international agreements to which the United States is a party.

"(5) If the vessel is carrying dangerous cargo, a description of that cargo.

"(6) A description of any hazardous conditions on the vessel.

"(7) Any other information requested by the Secretary.

"(b) Denial of Entry.—The Secretary may deny entry of a vessel into the territorial sea of the United States if—

"(1) the Secretary has not received notification for the vessel in accordance with subsection (a); or

"(2) the vessel is not in compliance with any other applicable law relating to marine safety, security, or environmental protection.

"(c) Direction of Vessel.—The Secretary may direct the operation of any vessel in the navigable waters of the United States as necessary during hazardous circumstances, including the absence of a pilot required by State or Federal law, weather, casualty, vessel traffic, or the poor condition of the vessel.

"(d) Implementation.—The Secretary shall implement this section consistent with section 4(d).".

SEC. 343. CARIBBEAN SUPPORT TENDER.

(a) In General.—The Coast Guard may operate and maintain a Caribbean Support

Tender (or similar type vessel) to provide technical assistance, including law enforcement training, for foreign coast guards, navies, and other maritime services.

(b) Medical and Dental Care for Caribbean Support Tender Personnel and Dependents.—

(1) Provision.—The Commandant may provide medical and dental care to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States—

(A) on an outpatient basis without cost; and

(B) on an inpatient basis if the United States is reimbursed for the costs of providing such care.

(2) Crediting of payments.—Payments received as reimbursement for the provision of such care shall be credited to the appropriations against which the charges were made for the provision of such care.

(3) Inpatient care without cost.—Notwithstanding paragraph (1)(B), the Commandant may provide inpatient medical and dental care in the United States without cost to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 344. PROHIBITION OF NEW MARITIME USER FEES.

Section 2110(k) of title 46, United States Code, is amended by striking "2001" and inserting "2006".

SEC. 345. GREAT LAKES LIGHTHOUSES.

(a) Findings.—The Congress finds the following:

(1) The Great Lakes are home to more than 400 lighthouses. 120 of these maritime landmarks are in the State of Michigan.

(2) Lighthouses are an important part of Great Lakes culture and stand as a testament to the importance of shipping in the region's political, economic, and social history.

(3) Advances in navigation technology have made many Great Lakes lighthouses obsolete. In Michigan alone, approximately 70 lighthouses will be designated as excess property of the Federal Government and will be transferred to the General Services Administration for disposal.

(4) Unfortunately, the Federal property disposal process is confusing, complicated, and not well-suited to disposal of historic lighthouses or to facilitate transfers to nonprofit organizations. This is especially troubling because, in many cases, local nonprofit historical organizations have dedicated tremendous resources to preserving and maintaining Great Lakes lighthouses.

(5) If Great Lakes lighthouses disappear, the public will be unaware of an important chapter in Great Lakes history.

(6) The National Trust for Historic Preservation has placed Michigan lighthouses on their list of Most Endangered Historic Places.

(b) Assistance for Great Lakes Lighthouse Preservation Efforts.—The Secretary of Transportation, acting through the Coast Guard, shall—

(1) continue to offer advice and technical assistance to organizations in the Great Lakes region that are dedicated to lighthouse stewardship; and

(2) promptly release information regarding the timing of designations of Coast Guard lighthouses on the Great Lakes as excess to the needs of the Coast Guard, to enable those organizations to mobilize and be prepared to take appropriate action with respect to the disposal of those properties.

SEC. 346. MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM.

(a) Report.—The Secretary of Transportation shall prepare a status report on the modernization of the National Distress and Response System and transmit the report, not later than 60 days after the date of enactment of this Act, and annually thereafter until completion of the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) Contents.—The report required by subsection (a) shall—

(1) set forth the scope of the modernization, the schedule for completion of the System, and information on progress in meeting the schedule and on any anticipated delays;

(2) specify the funding expended to-date on the System, the funding required to complete the System, and the purposes for which the funds were or will be expended;

(3) describe and map the existing public and private communications coverage throughout the waters of the coastal and internal regions of the continental United States, Alaska, Hawaii, Guam, and the Caribbean, and identify locations that possess direction-finding, asset-tracking communications, and digital selective calling service;

(4) identify areas of high risk to boaters and Coast Guard personnel due to communications gaps;

(5) specify steps taken by the Secretary to fill existing gaps in coverage, including obtaining direction-finding equipment, digital recording systems, asset-tracking communications, use of commercial VHF services, and digital selective calling services that meet or exceed Global Maritime Distress and Safety System requirements adopted under the International Convention for the Safety of Life at Sea;

(6) identify the number of VHF–FM radios equipped with digital selective calling sold to United States boaters;

(7) list all reported marine accidents, casualties, and fatalities occurring in areas with existing communications gaps or failures, including incidents associated with gaps in VHF–FM coverage or digital selected calling capabilities and failures associated with inadequate communications equipment aboard the involved vessels during calendar years 1997 forward;

(8) identify existing systems available to close identified marine safety gaps before January 1, 2003, including expeditious receipt and response by appropriate Coast Guard operations centers to VHF–FM digital selective calling distress signal; and

(9) identify actions taken to-date to implement the recommendations of the National Transportation Safety Board in its Report No. MAR–99–01.

SEC. 347. CONVEYANCE OF COAST GUARD PROPERTY IN PORTLAND, MAINE.

(a) Authority To Convey.—

(1) In general.—The Secretary of Transportation, or a designee of the Secretary, may convey to the Gulf of Maine Aquarium Development Corporation, its successors and assigns, without payment for consideration, all right, title, and interest of the United States in and to approximately 4.13 acres of land, including a pier and bulkhead, known as the Naval Reserve Pier property, together with any improvements thereon in their then current condition, located in Portland, Maine. All conditions placed with the deed of title shall be construed as covenants running with the land.

(2) Identification of property.—The Secretary, in consultation with the Commandant of the Coast Guard, may identify, describe, and determine the property to be conveyed under this section. The floating docks associated with or attached to the Naval Reserve Pier property shall remain the personal property of the United States.

(b) Lease to the United States.—

(1) Condition of conveyance.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into a lease agreement with the United States, the terms of which are mutually satisfactory to the Commandant and the Corporation, in which the Corporation shall lease a portion of the Naval Reserve Pier property to the United States for a term of 30 years without payment of consideration. The lease agreement shall be executed within 12 months after the date of enactment of this Act.

(2) Identification of leased premises.—The Secretary, in consultation with the Commandant, may identify and describe the leased premises and rights of access, including the following, in order to allow the Coast Guard to operate and perform missions from and upon the leased premises:

(A) The right of ingress and egress over the Naval Reserve Pier property, including the pier and bulkhead, at any time, without notice, for purposes of access to Coast Guard vessels and performance of Coast Guard missions and other mission-related activities.

(B) The right to berth Coast Guard cutters or other vessels as required, in the moorings along the east side of the Naval Reserve Pier property, and the right to attach floating docks which shall be owned and maintained at the United States' sole cost and expense.

(C) The right to operate, maintain, remove, relocate, or replace an aid to navigation located upon, or to install any aid to navigation upon, the Naval Reserve Pier property as the Coast Guard, in its sole discretion, may determine is needed for navigational purposes.

(D) The right to occupy up to 3,000 gross square feet at the Naval Reserve Pier property for storage and office space, which will be provided and constructed by the Corporation, at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(E) The right to occupy up to 1,200 gross square feet of offsite storage in a location other than the Naval Reserve Pier property, which will be provided by the Corporation at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(F) The right for Coast Guard personnel to park up to 60 vehicles, at no expense to the government, in the Corporation's parking spaces on the Naval Reserve Pier property or in parking spaces that the Corporation may secure within 1,000 feet of the Naval Reserve Pier property or within 1,000 feet of the Coast Guard Marine Safety Office Portland. Spaces for no less than 30 vehicles shall be located on the Naval Reserve Pier property.

(3) Renewal.—The lease described in paragraph (1) may be renewed, at the sole option of the United States, for additional lease terms.

(4) Limitation on subleases.—The United States may not sublease the leased premises to a third party or use the leased premises

for purposes other than fulfilling the missions of the Coast Guard and for other mission related activities.

(5) Termination.—In the event that the Coast Guard ceases to use the leased premises, the Secretary, in consultation with the Commandant, may terminate the lease with the Corporation.

(c) Improvement of Leased Premises.—

(1) In general.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States, subject to the Commandant's design specifications, project's schedule, and final project approval, to replace the bulkhead and pier which connects to, and provides access from, the bulkhead to the floating docks, at the Corporation's sole cost and expense, on the east side of the Naval Reserve Pier property within 30 months from the date of conveyance. The agreement to improve the leased premises shall be executed within 12 months after the date of enactment of this Act.

(2) Further improvements.—In addition to the improvements described in paragraph (1), the Commandant may to further improve the leased premises during the lease term, at the United States sole cost and expense.

(d) Utility Installation and Maintenance Obligations.—

(1) Utilities.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to allow the United States to operate and maintain existing utility lines and related equipment, at the United States sole cost and expense. At such time as the Corporation constructs its proposed public aquarium, the Corporation shall replace existing utility lines and related equipment and provide additional utility lines and equipment capable of supporting a third 110-foot Coast Guard cutter, with comparable, new, code compliant utility lines and equipment at the Corporation's sole cost and expense, maintain such utility lines and related equipment from an agreed upon demarcation point, and make such utility lines and equipment available for use by the United States, provided that the United States pays for its use of utilities at its sole cost and expense. The agreement concerning the operation and maintenance of utility lines and equipment shall be executed within 12 months after the date of enactment of this Act.

(2) Maintenance.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to maintain, at the Corporation's sole cost and expense, the bulkhead and pier on the east side of the Naval Reserve Pier property. The agreement concerning the maintenance of the bulkhead and pier shall be executed within 12 months after the date of enactment of this Act.

(3) Aids to navigation.—The United States shall be required to maintain, at its sole cost and expense, any Coast Guard active aid to navigation located upon the Naval Reserve Pier property.

(e) Additional Rights.—The conveyance of the Naval Reserve Pier property shall be made subject to conditions the Secretary considers necessary to ensure that—

(1) the Corporation shall not interfere or allow interference, in any manner, with use of the leased premises by the United States; and

(2) the Corporation shall not interfere or allow interference, in any manner, with any aid to navigation nor hinder activities required for the operation and maintenance of any aid to navigation, without the express written permission of the head of the agency responsible for operating and maintaining the aid to navigation.

(f) Remedies and Reversionary Interest.—The Naval Reserve Pier property, at the option of the Secretary, shall revert to the United States and be placed under the administrative control of the Secretary, if, and only if, the Corporation fails to abide by any of the terms of this section or any agreement entered into under subsection (b), (c), or (d) of this section.

(g) Liability of the Parties.—The liability of the United States and the Corporation for any injury, death, or damage to or loss of property occurring on the leased property shall be determined with reference to existing State or Federal law, as appropriate, and any such liability may not be modified or enlarged by this title or any agreement of the parties.

(h) Expiration of Authority To Convey.—The authority to convey the Naval Reserve property under this section shall expire 3 years after the date of enactment of this Act.

(i) Definitions.—In this section:

(1) Aid to navigation.—The term "aid to navigation" means equipment used for navigational purposes, including but not limited to, a light, antenna, sound signal, electronic navigation equipment, cameras, sensors power source, or other related equipment which are operated or maintained by the United States.

(2) Corporation.—The term "Corporation" means the Gulf of Maine Aquarium Development Corporation, its successors and assigns.

SEC. 348. HARBOR SAFETY COMMITTEES.

(a) Study.—The Coast Guard shall study existing harbor safety committees in the United States to identify—

(1) strategies for gaining successful cooperation among the various groups having an interest in the local port or waterway;

(2) organizational models that can be applied to new or existing harbor safety committees or to prototype harbor safety committees established under subsection (b);

(3) technological assistance that will help harbor safety committees overcome local impediments to safety, mobility, environmental protection, and port security; and

(4) recurring resources necessary to ensure the success of harbor safety committees.

(b) Prototype Committees.—The Coast Guard shall test the feasibility of expanding the harbor safety committee concept to small and medium-sized ports that are not generally served by a harbor safety committee by establishing 1 or more prototype harbor safety committees. In selecting a location or locations for the establishment of a prototype harbor safety committee, the Coast Guard shall—

(1) consider the results of the study conducted under subsection (a);

(2) consider identified safety issues for a particular port;

(3) compare the potential benefits of establishing such a committee with the burdens the establishment of such a committee would impose on participating agencies and organizations;

(4) consider the anticipated level of support from interested parties; and

(5) take into account such other factors as may be appropriate.

(c) Effect on Existing Programs and State Law.—Nothing in this section—

(1) limits the scope or activities of harbor safety committees in existence on the date of enactment of this Act;

(2) precludes the establishment of new harbor safety committees in locations not selected for the establishment of a prototype committee under subsection (b); or

(3) preempts State law.

(d) Nonapplication of FACA.—The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to harbor safety committees established under this section or any other provision of law.

(e) Harbor Safety Committee Defined.—In this section, the term "harbor safety committee" means a local coordinating body—

(1) whose responsibilities include recommending actions to improve the safety of a port or waterway; and

(2) the membership of which includes representatives of government agencies, maritime labor, maritime industry companies and organizations, environmental groups, and public interest groups.

SEC. 349. MISCELLANEOUS CONVEYANCES.

(a) Authority To Convey.—

(1) In general.—The Secretary of Transportation may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to each of the following properties:

(A) Coast Guard Slip Point Light Station, located in Clallam County, Washington, to Clallam County, Washington.

(B) The parcel of land on which is situated the Point Piños Light, located in Monterey County, California, to the city of Pacific Grove, California.

(2) Identification of property.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) Limitation.—The Secretary may not under this section convey—

(A) any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance; or

(B) any interest in submerged land.

(b) General Terms and Conditions.—

(1) In general.—Each conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Secretary may consider appropriate, including the reservation of easements and other rights on behalf of the United States.

(2) Reversionary interest.—In addition to any term or condition established under this section, each conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States, if—

(A) the property, or any part of the property—

(i) ceases to be available and accessible to the public, on a reasonable basis, for educational, park, recreational, cultural, historic preservation, or other similar purposes specified for the property in the terms of conveyance;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this title; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (4) established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary provides written notice to the owner that the property is needed for national security purposes.

(3) Maintenance of navigation functions.—Each conveyance of property under

this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining and inspecting aids to navigation, and for the purpose of enforcing compliance with this subsection; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OF PROPERTY.—(A) Subject to subparagraph (B), the owner of a property conveyed under this section shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the conveying authority pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.), and other applicable laws.

(B) The owner of a property conveyed under this section is not required to maintain any active aid to navigation equipment on the property, except private aids to navigation permitted under section 83 of title 14, United States Code.

(c) SPECIAL TERMS AND CONDITIONS.—The Secretary may retain all right, title, and interest of the United States in and to any portion of any parcel referred to in subsection (a)(1)(B) that the Secretary considers appropriate.

(d) DEFINITIONS.—In this section:

(1) AIDS TO NAVIGATION.—The term "aids to navigation" means equipment used for navigation purposes, including a light, antenna, radio, sound signal, electronic navigation equipment, or other associated equipment which are operated or maintained by the United States.

(2) COMMANDANT.—The term "Commandant" means the Commandant of the Coast Guard.

(3) OWNER.—The term "owner" means, for a property conveyed under this section, the person identified in subsection (a)(1) of the property, and includes any successor or assign of that person.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 350. BOATING SAFETY.

(a) FEDERAL FUNDING.—Section 4(b)(3) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(3)) is amended by striking "$82,000,000" and inserting "$83,000,000".

(b) STATE FUNDING.—Section 13102(a)(3) of title 46, United States Code, is amended by striking "general State revenue" and inserting "State funds, including amounts expended for the State's recreational boating safety program by a State agency, a public corporation established under State law, or any other State instrumentality, as determined by the Secretary".

TITLE IV—OMNIBUS MARITIME IMPROVEMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Omnibus Maritime and Coast Guard Improvements Act of 2001".

SEC. 402. EXTENSION OF COAST GUARD HOUSING AUTHORITIES.

(a) HOUSING CONTRACTORS.—Section 681(a) of title 14, United States Code, is amended by inserting ", including a small business concern qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a))," after "private persons".

(b) BUDGET AUTHORITY LIMITATION.—Section 687(f) of title 14, United States Code, is amended by striking "$20,000,000" and inserting "$40,000,000".

(c) DEMONSTRATION PROJECT.—Section 687 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(g) DEMONSTRATION PROJECT AUTHORIZED.—To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—

"(1) may develop and implement a Demonstration Project for acquisition or construction of military family housing and military unaccompanied housing at the Coast Guard installation at Kodiak, Alaska;

"(2) in implementing the Demonstration Project shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration's section 8(a) program;

"(3) shall, to the maximum extent possible, acquire or construct such housing through contracts with small business concerns qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) that have their principal place of business in the State of Alaska; and

"(4) shall report to Congress by September 1 of each year on the progress of activities under the Demonstration Project.".

(d) EXTENSION.—Section 689 of title 14, United States Code, is amended by striking "2001" and inserting "2006".

SEC. 403. INVENTORY OF VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.

(a) INVENTORY.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under chapter 121 of title 46, United States Code, are 200 feet or more in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classified as a cable ship or cable vessel.

(b) VESSEL INFORMATION.—For each vessel listed in the inventory, the Secretary shall include in the inventory—

(1) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

(2) the abilities and limitations of the vessel with respect to the laying, maintaining, and repairing of a submarine cable; and

(3) the name and address of the person to whom inquiries regarding the vessel may be made.

(c) PUBLICATION.—The Secretary shall—

(1) not later than 60 days after the date of enactment of this Act, publish in the Federal Register a current inventory developed under subsection (a); and

(2) every six months thereafter, publish an updated inventory.

SEC. 404. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE.

(a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States (as that term is defined in section 2101 of title 46, United States Code) may perform the following vessel escort operations and vessel towing assistance within the navigable waters of the United States:

(1) Operation or assistance that commences or terminates at a port or place in the United States.

(2) Operation or assistance required by United States law or regulation.

(3) Operation provided in whole or in part for the purpose of escorting or assisting a vessel within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to such facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

(b) DEFINITIONS.—In this section—

(1) the term "towing assistance" means operation by an assisting vessel in direct contact with an assisted vessel (including hull-to-hull, by towline, including if only pretethered, or made fast to that vessel by one or more lines) for purposes of exerting force on the assisted vessel to control, or to assist in controlling, the movement of the assisted vessel; and

(2) the term "escort operations" means accompanying a vessel for the purpose of providing towing or towing assistance to the vessel.

(c) PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $10,000 for each day during which the violation occurs.

SEC. 405. SEARCH AND RESCUE CENTER STANDARDS.

(a) IN GENERAL.—Title 14, United States Code, is amended by adding at the end of chapter 17 the following new section:

"§ 676. Search and rescue center standards

"(a) The Secretary shall establish, implement, and maintain the minimum standards necessary for the safe operation of all Coast Guard search and rescue center facilities, including with respect to the following:

"(1) The lighting, acoustics, and temperature in the facilities.

"(2) The number of individuals on a shift in the facility assigned search and rescue responsibilities (including communications), which may be adjusted based on seasonal workload.

"(3) The length of time an individual may serve on watch to minimize fatigue, based on the best scientific information available.

"(4) The scheduling of individuals having search and rescue responsibilities to minimize fatigue of the individual when on duty in the facility.

"(5) The workload of each individual engaged in search and rescue responsibilities in the facility.

"(6) Stress management for the individuals assigned search and rescue responsibilities in the facilities.

"(7) The design of equipment and facilities to minimize fatigue and enhance search and rescue operations.

"(8) Any other requirements that the Secretary believes will increase the safe operation of the search and rescue centers.

"(b) An individual on duty or watch in a Coast Guard search and rescue center facility, including a communications center, may not work more than 12 hours in a 24-hour period except in an emergency.".

(b) APPLICATION.—Section 676(b) of title 14, United States Code (as enacted by subsection (a) of this section) shall apply beginning on July 1, 2002.

(c) PRESCRIPTION OF STANDARDS.—The Secretary shall prescribe the standards required under section 676(a) of title 14, United States Code, as enacted by subsection (a) of this section, before July 1, 2002.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"676. Search and rescue center standards.".

SEC. 406. VHF COMMUNICATIONS SERVICES.

The Secretary of Transportation may authorize a person providing commercial VHF communications services to place commercial VHF communications equipment on real property under the administrative control of the Coast Guard (including towers) subject to any terms agreed to by the parties. The Secretary and that commercial VHF communications service provider also may enter into an agreement providing for VHF communications services to the Coast Guard (including digital selective calling and radio direction finding services) at a discounted rate or price based on providing such access to real property under the administrative control of the Coast Guard. Nothing in the section shall affect the rights or obligations of the United States under section 704(c) of the Telecommunications Act of 1996 (47 U.S.C. 332 note) with respect to the availability of property, or under section 359(d) of the Communications Act of 1934 (47 U.S.C. 357(d)) with respect to charges for transmission of distress messages.

SEC. 407. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES.

There is authorized to be appropriated to the Secretary of Transportation not more than $987,400 for lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Maritime Fire and Safety Association, to remain available until expended.

SEC. 408. CONFORMING REFERENCES TO THE FORMER MERCHANT MARINE AND FISHERIES COMMITTEE.

(a) LAWS CODIFIED IN TITLE 14, UNITED STATES CODE.—(1) Section 194(b)(2) of title 14, United States Code, is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(2) Section 663 of title 14, United States Code, is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(3) Section 664 of title 14, United States Code, is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(b) LAWS CODIFIED IN TITLE 33, UNITED STATES CODE.—(1) Section 3(d)(3) of the International Navigational Rules Act of 1977 (33 U.S.C. 1602(d)(3)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(2) Section 5004(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2734(2)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(c) LAWS CODIFIED IN TITLE 46, UNITED STATES CODE.—(1) Section 6307 of title 46, United States Code, is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(2) Section 901g(b)(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241k(b)(3)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(3) Section 913(b) of the International Maritime and Port Security Act (46 App. U.S.C. 1809(b)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

SEC. 409. RESTRICTION ON VESSEL DOCUMENTATION.

Section 12108(a) of title 46, United States Code, is amended by—

(1) amending paragraph (2) to read as follows:

"(2) was built in the United States;";

(2) striking "and" at the end of paragraph (3);

(3) inserting after paragraph (3) the following:

"(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and"; and

(4) redesignating paragraph (4) as paragraph (5).

SEC. 410. HYPOTHERMIA PROTECTIVE CLOTHING REQUIREMENT.

The Commandant of the Coast Guard shall ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing where appropriate, while performing search and rescue missions.

SEC. 411. RESERVE OFFICER PROMOTIONS.

(a) Section 729(i) of title 14, United States Code, is amended by inserting "on the date a vacancy occurs, or as soon thereafter as practicable, in the grade to which the officer was selected for promotion, or if promotion was determined in accordance with a running mate system," after "grade".

(b) Section 731(b) of title 14, United States Coast Code, is amended by striking the period at the end of the sentence and inserting ", or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

"(1) two years in the grade of lieutenant (junior grade);

"(2) three years in the grade of lieutenant;

"(3) four years in the grade of lieutenant commander;

"(4) four years in the grade of commander; and

"(5) three years in the grade of captain.".

(c) Section 736(a) of title 14, United States Code, is amended by inserting "the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event" after "subchapter,".

SEC. 412. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS; CONTINUATION UPON FAILURE OF SELECTION FOR PROMOTION.

Section 285 of title 14, United States Code, is amended—

(1) by striking "Each officer" and inserting "(a) Each officer"; and

(2) by adding at the end the following new subsections:

"(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

"(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

"(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.".

SEC. 413. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 21 of title 14, United States Code, is amended by inserting after section 709 the following new section:

"§ 709a. Reserve student pre-commissioning assistance program

"(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

"(1) a baccalaureate degree in not more than five academic years; or

"(2) a post-baccalaureate degree.

"(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve must—

"(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

"(B) enter into a written agreement with the Coast Guard described in paragraph (2).

"(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

"(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

"(B) to serve on active duty for up to five years; and

"(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

"(c) Expenses for which financial assistance may be provided under this section are—

"(1) tuition and fees charged by the institution of higher education involved;

"(2) the cost of books;

"(3) in the case of a program of education leading to a baccalaureate degree, laboratory expenses; and

"(4) such other expenses as deemed appropriate by the Secretary.

"(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed $25,000 for any academic year.

"(e) Financial assistance may be provided to a member under this section for up to five consecutive academic years.

"(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than four years, if the member—

"(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

"(2) fails to complete the academic requirements of the institution of higher education involved; or

"(3) fails to maintain eligibility for an original appointment as a commissioned officer.

"(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The member shall reimburse the United States in an amount that bears the same ratio to the total cost of the education provided to such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. An obligation to reimburse the United States imposed under this paragraph is for all purposes a debt owed to the United States.

"(2) The Secretary may waive the service obligated under subsection (f) of a member who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (b) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

"(h) As used in this section, 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).".

(b) Clerical Amendment.—The analysis at the beginning of chapter 21 of title 14, United States Code, is amended by adding the following new item after the item relating to section 709:

"709a. Reserve student pre-commissioning assistance program.".

SEC. 414. CONTINUATION ON ACTIVE DUTY BEYOND THIRTY YEARS.

Section 289 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.".

SEC. 415. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARISTS.

Section 823a(b) of title 14, United States Code, is amended by inserting the following new paragraph following paragraph (8):

"(9) On or after January 1, 2001, Public Law 104–208, section 651.".

SEC. 416. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE AUTHORITY.

(a) In General.—Chapter 11 of title 14, United States Code, is amended—

(1) in section 281—

(A) by striking "**three**" in the section heading and inserting "**five**"; and

(B) by striking "three" in the text and inserting "five";

(2) in section 283(b)(2)(A), by striking "severance" and inserting "separation";

(3) in section 286—

(A) by striking "**SEVERANCE**" in the section heading and inserting "**SEPARATION**"; and

(B) by striking subsection (b) and inserting the following:

"(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title who has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

"(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title, who has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

"(d) Notwithstanding subsections (a) or (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.";

(4) in section 286a—

(A) by striking "**SEVERANCE**" in the section heading and inserting "**SEPARATION**" in its place; and

(B) by striking subsections (a), (b), and (c) and inserting the following:

"(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

"(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

"(c) In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded."; and

(5) in section 327—

(A) by striking "**severance**" in the section heading and inserting "**separation**";

(B) by striking subsection (a)(2) and inserting in its place the following:

"(2) for discharge with separation benefits under section 286(c) of this title.";

(C) by striking subsection (a)(3);

(D) by striking subsection (b)(2) and inserting in its place the following:

"(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge."; and

(E) by striking subsection (b)(3).

(b) Clerical Amendment.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended—

(1) in the item relating to section 281, by striking "three" and inserting "five" in its place; and

(2) in the item relating to section 286, by striking "severance" and inserting "separation" in its place;

(3) in the item relating to section 286a, by striking "severance" and inserting "separation" in its place; and

(4) in the item relating to section 327, by striking "severance" and inserting "separation" in its place.

(c) Effective Date.—The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) shall take effect four years after the date of enactment of this Act, except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section shall take effect on enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) of this section shall take effect four years after the date of enactment of this Act.

SEC. 417. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY.

(a) In General.—Chapter 17 of title 14, United States Code, is amended by adding at the end a new section 672b to read as follows:

"§ 672b. Long-term lease authority for lighthouse property

"(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including, but not limited to, the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

"(b) Amounts received from leases made under this section, less expenses incurred, shall be deposited in the Treasury.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding after the item relating to section 672 the following:

"672b. Long-term lease authority for lighthouse property.".

SEC. 418. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) Section 3 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903) is amended—

(1) in subsection (c)(1)(D) by striking "and";

(2) in subsection (c)(1)(E) by striking "United States." and inserting "United States; and"; and

(3) by inserting after subsection (c)(1)(E) the following:

"(F) a vessel located in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999, and (i) is entering the United States, (ii) has departed the United States, or (iii) is a hovering vessel as defined in 19 U.S.C. 1401(k).".

(b) The second section 3 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1904) is amended—

(1) by inserting "(a)" before "Any property"; and

(2) by adding at the end the following:

"(b) Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under this chapter, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, inter alia, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of an offense under this chapter:

"(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

"(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

"(B) the presence of any compartment or equipment which is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

"(C) the presence of an auxiliary tank not installed in accordance with applicable law, or installed in such a manner as to enhance the vessel's smuggling capability;

"(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

"(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

"(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

"(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

"(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

"(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

"(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation, and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

"(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

"(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage, or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

"(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on a person aboard the vessel, of a quantity or other nature which reasonably indicates manufacturing or distribution activity.

"(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

"(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.".

SEC. 419. WING-IN-GROUND CRAFT.

(a) Section 2101(35) of title 46, United States Code, is amended by inserting "a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and" after the phrase "'small passenger vessel' means".

(b) Section 2101 of title 46, United States Code, is amended by adding at the end the following:

"(48) wing-in-ground craft means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water's surface.".

SEC. 420. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS.

Section 31321(a)(4) of title 46, United States Code, is amended—

(1) by striking "(A)"; and

(2) by striking subparagraph (B).

SEC. 421. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT MARINERS' DOCUMENTS.

Section 7303 of title 46, United States Code, is amended by striking "the thumbprint,".

SEC. 422. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS.

(a) Section 12103(a) of title 46, United States Code, is amended by inserting ", or a temporary certificate of documentation," after "certificate of documentation".

(b)(1) Chapter 121 of title 46, United States Code, is amended by adding after section 12103 the following:

"§ 12103a. Issuance of temporary certificate of documentation by third parties

"(a) The Secretary of Transportation may delegate, subject to the supervision and control of the Secretary and under terms set out by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel, if the applicant for the certificate of documentation meets the requirements set out in sections 12102 and 12103 of this chapter.

"(b) A temporary certificate of documentation issued under section 12103(a) and subsection (a) of this section is valid for up to 30 days from issuance.".

(2) The table of sections at the beginning of chapter 121 of title 46, United States Code, is amended by inserting after the item relating to section 12103 the following:

"12103a. Issuance of temporary certificate of documentation by third parties.".

SEC. 423. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS.

Section 6101 of title 46, United States Code, is amended—

(1) by redesignating the second subsection (e) as subsection (f); and

(2) by adding at the end the following new subsection:

"(g) To the extent consistent with generally recognized practices and procedures of international law, this part applies to a foreign vessel involved in a marine casualty or incident, as defined in the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents, where the United States is a Substantially Interested State and is, or has the consent of, the Lead Investigating State under the Code.".

SEC. 424. CONVEYANCE OF COAST GUARD PROPERTY IN HAMPTON TOWNSHIP, MICHIGAN.

(a) Requirement To Convey.—

(1) In general.—Notwithstanding any other law, the Secretary of Transportation (in this section referred to as the "Secretary") shall convey to BaySail, Inc. (a nonprofit corporation established under the laws of the State of Michigan; in this section referred to as "BaySail"), without monetary consideration, all right, title, and interest of the United States in and to property adjacent to Coast Guard Station Saginaw River, located in Hampton Township, Michigan, as identified under paragraph (2). No submerged lands may be conveyed under this section.

(2) Identification of property.—The Secretary, in consultation with the Commandant of the Coast Guard, shall identify, describe, and determine the property to be conveyed under this section.

(3) Survey.—The exact acreage and legal description of the property conveyed under paragraph (1), as identified under paragraph (2), and any easements or rights-of-way reserved by the United States under subsection (b), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by BaySail.

(b) Terms and Conditions of Conveyance.—The conveyance of property under this section shall be made subject to any terms and conditions the Secretary considers necessary, including the reservation of easements and other rights on behalf of the United States.

(c) Reversionary Interest.—

(1) In general.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized by subsection (a), the real property conveyed pursuant to this section, at the option of the Secretary, shall revert to the United States and be placed under the administrative control of the Secretary, if—

(A) BaySail sells, conveys, assigns, exchanges, or encumbers the property conveyed or any part thereof;

(B) BaySail fails to maintain the property conveyed in a manner consistent with the terms and conditions under subsection (b);

(C) BaySail conducts any commercial activity at the property conveyed, or any part thereof, without approval of the Secretary; or

(D) at least 30 days before the reversion, the Secretary provides written notice to the owner that the property or any part thereof is needed for national security purposes.

(2) Additional period.—The Secretary may, before the completion of the 5-year period described in paragraph (1), authorize an additional 5-year period during which paragraph (1) shall apply.

SEC. 425. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN.

Section 1005(c) of the Coast Guard Authorization Act of 1996 (110 Stat. 3957) is amended by striking "the Traverse City Area Public School District" and inserting "a public or private nonprofit entity for an educational or recreational purpose".

SEC. 426. ANNUAL REPORT ON COAST GUARD CAPABILITIES AND READINESS TO FULFILL NATIONAL DEFENSE RESPONSIBILITIES.

Not later than February 15 each year, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, prepared in conjunction with the Commandant of the Coast Guard, setting forth the capabilities and readiness of the Coast Guard to fulfill its national defense responsibilities.

SEC. 427. EXTENSION OF AUTHORIZATION FOR OIL SPILL RECOVERY INSTITUTE.

Section 5001(i) of the Oil Pollution Act of 1990 (33 U.S.C. 2731(i)) is amended by striking "10 years" and all that follows through the end of the sentence and inserting "September 30, 2012.".

SEC. 428. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for each of the following vessels:

(1) LAUDERDALE LADY (United States official number 1103520).

(2) SOVEREIGN (United States official number 1028144).

(3) CALEDONIA (United States official number 679530).

SEC. 429. ICEBREAKING SERVICES.

The Commandant of the Coast Guard shall not plan, implement, or finalize any regulation or take any other action which would result in the decommissioning of any WYTL-class harbor tugs unless and until the Commandant certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, that sufficient replacement capability has been procured by the Coast Guard to remediate any degradation in current icebreaking services that would be caused by such decommissioning.

SEC. 430. FISHING VESSEL SAFETY TRAINING.

(a) In General.—The Commandant of the Coast Guard may provide support, with or without reimbursement, to an entity engaged in fishing vessel safety training including—

(1) assistance in developing training curricula;

(2) use of Coast Guard personnel, including active duty members, members of the Coast Guard Reserve, and members of the Coast Guard Auxiliary, as temporary or adjunct instructors;

(3) sharing of appropriate Coast Guard informational and safety publications; and

(4) participation on applicable fishing vessel safety training advisory panels.

(b) No Interference With Other Functions.—In providing support under subsection (a), the Commandant shall ensure that the support does not interfere with any Coast Guard function or operation.

SEC. 431. LIMITATION ON LIABILITY OF PILOTS AT COAST GUARD VESSEL TRAFFIC SERVICES.

(a) In General.—Chapter 23 of title 46, United States Code, is amended by adding at the end the following:

"§ 2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots

"Any pilot, acting in the course and scope of his or her duties while at a United States Coast Guard Vessel Traffic Service, who provides information, advice, or communication assistance while under the supervision of a Coast Guard officer, member, or employee shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.".

(b) Clerical Amendment.—The chapter analysis for chapter 23 of title 46, United States Code, is amended by adding at the end the following:

"2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots.".

SEC. 432. ASSISTANCE FOR MARINE SAFETY STATION ON CHICAGO LAKEFRONT.

(a) Assistance Authorized.—The Secretary of Transportation may use amounts authorized under this section to provide financial assistance to the City of Chicago, Illinois, to pay the Federal share of the cost of a project to demolish the Old Coast Guard Station, located at the north end of the inner Chicago Harbor breakwater at the foot of Randolph Street, and to plan, engineer, design, and construct a new facility at that site for use as a marine safety station on the Chicago lakefront.

(b) Cost Sharing.—

(1) Federal share.—The Federal share of the cost of a project carried out with assistance under this section may not exceed one third of the total cost of the project or $2,000,000, whichever is less.

(2) Non-federal share.—There shall not be applied to the non-Federal share of a project carried out with assistance under this section—

(A) the value of land and existing facilities used for the project; and

(B) any costs incurred for site work performed before the date of the enactment of this Act, including costs for reconstruction of the east breakwater wall and associated utilities.

(c) Authorization of Appropriations.—In addition to the other amounts authorized by this Act, for providing financial assistance under this section there is authorized to be appropriated to the Secretary of Transportation $2,000,000 for fiscal year 2002, to remain available until expended.

SEC. 433. TONNAGE MEASUREMENT FOR PURPOSES OF ELIGIBILITY OF CERTAIN VESSELS FOR FISHERY ENDORSEMENT.

Section 12102(c)(5) of title 46. United States Code, is amended by striking "of more than 750 gross registered tons" and inserting "of more than 750 gross tons as measured under chapter 145 or 1900 gross tons as measured under chapter 143".

SEC. 434. EXTENSION OF TIME FOR RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT RECALLS.

Section 4310(c) of title 46, United States Code, is amended—

(1) in paragraph (2)(A) and (B) by striking "5" each place it appears and inserting "10"; and

(2) in paragraph (1)(A), (B), and (C) by inserting "by first class mail or" before "by certified mail".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. LoBiondo) and the gentlewoman from Florida (Ms. Brown) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. LoBiondo).

Mr. LoBIONDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Coast Guard Authorization Act of Fiscal Year 2002. Before I discuss this bill, however, I would like to thank the distinguished chairman of the full Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. Young); our ranking member, the gentleman from Minnesota (Mr. Oberstar); and the ranking Democratic member of the Subcommittee on Coast Guard and Maritime Transportation, the gentlewoman from Florida (Ms. Brown), and their staff for their help and cooperation on this legislation.

H.R. 3507 was developed in a very strong bipartisan manner and deserves the support of all of the Members of this body. The primary purpose of H.R. 3507 is to authorize expenditures for the United States Coast Guard for fiscal year 2002. Title I of the bill authorizes approximately $5.9 billion for Coast Guard programs and operations for fiscal year 2002. The bill funds the Coast Guard at the levels requested by the President, with an additional $823 million in Coast Guard operating expenses. Of this amount, $623 million will provide additional Coast Guard homeland maritime security operating resources. These additional operating resources will also allow the Coast Guard to address chronic budget shortfalls. Many of the Coast Guard's most urgent needs are similar to those experienced by the Department of Defense, including spare parts shortages and personnel training deficits.

Title I also provides for $717.8 million for Coast Guard acquisition, construction, and improvement funding. This funding level provides $58 million for 90 Coast Guard maritime safety and security boats as well as additional detection equipment to help the Coast Guard stop terrorist activities on our waterways and in our ports.

Immediately following the events of September 11, the Coast Guard launched the largest homeland port security operation since World War II. As part of Operation Noble Eagle and Operation Enduring Freedom, the Coast Guard established port and coastline patrols with 55 cutters, 42 aircraft, and hundreds of small boats. Over 2,800 Coast Guard reservists were called to active duty to support maritime homeland security operations in 350 of our Nation's ports.

Port security units patrol the ports of New York, New Jersey, Boston, Seattle, and Long Beach. The Coast Guard enforced over 118 maritime security zones around Navy vessels, cruise ships, nuclear power plants and other facilities. The Coast Guard now requires a 96-hour advance notice for all ships entering U.S. ports. The new Sea Marshall program is current under way in the ports of San Francisco, Los Angeles, and San Diego.

I want to commend the Coast Guard for their rapid response to the September 11 attacks on our Nation. Fortunately, we have already provided the Coast Guard with a broad legal authorities to implement the necessary security measures in U.S. ports. However, without substantial additional Coast Guard resources, and I want to repeat that, without substantial additional Coast Guard resources, we are not going to be able to significantly enhance maritime security as we should.

Finally, section 404 of this bill requires that a vessel engaged in towing assistance or towing escort must be a vessel of the United States and establishes a civil penalty for violation of the provision. The United States Navy has expressed concern that section 404 could hamper the ability of the Navy to render timely towing and salvage assistance to Navy vessels on a worldwide basis. I want to clarify that the restrictions in section 404 do not apply to U.S. Naval operations.

Mr. Speaker, I want to take this opportunity to commend the men and women of the Coast Guard for the exceptional services that they provide to our Nation on an ongoing basis. America benefits from a strong Coast Guard that is equipped to stop terrorists, drug smugglers, support the country's defense, and respond to national emergencies. We must now act to put the Coast Guard on sound financial footing to be ready to respond to our increased homeland security demands and other critical duties that the Coast Guard carries out on a daily basis.

The House has already overwhelmingly passed one authorization bill this year, while the other body has yet to act. We would like to urge our friends across the Capitol to pass this authorization bill and support the Coast Guard in the manner which they deserve. I urge all Members to support that bill.

Mr. Speaker, I reserve the balance of my time.

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Ms. BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the ranking member, and the gentleman from New Jersey (Mr. LOBIONDO) for their help in bringing this important legislation to the floor. The U.S. Coast Guard is a key player in protecting this country from harm, and we need to make sure that they have the tools they need to do their job.

This bill gives them the authority, but we absolutely must work harder when it comes to funding this premier law enforcement agency. The motto of the Coast Guard is Semper Paratus, always ready, and they proved this on September 11. As the tragedy was occurring, the Coast Guard had a plan in place, and within minutes began securing our ports and waterways and protecting our bridges from harm. Whenever we talk about homeland security, we are talking about the U.S. Coast Guard. They are out there every day protecting the world's citizens from harm.

The Coast Guard is responsible for protecting our ports and waterways, search and rescue missions, stopping drugs, stopping illegal immigration, and protecting our ships and carriers. But even with all of this, the toughest job they have is competing for money in the transportation budget. Let me repeat that. With all that they do, their toughest job is competing for money in the transportation budget. They have a difficult job, and they deserve adequate funding.

This legislation expands compensation and benefits for personnel, improves safety and safety training, upgrades Coast Guard communication systems, renews important advisory groups, and removes barriers to Coast Guard authority. This is a good bill and an important bill, and I am glad we are passing it before the new year begins. I thank the men and women in the U.S. Coast Guard for their hard work, and their dedication to this Nation. Have a wonderful holiday, and keep up the good work.

Mr. Speaker, I reserve the balance of my time.

Mr. LoBIONDO. Mr. Speaker, I reserve the balance of my time.

Ms. BROWN of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I would like to use my time in a colloquy with the chairman.

Mr. Speaker, the bill does a lot of good things, and some of the more heinous provisions of the bill that troubled me earlier, such as the licensing requirement on charter boat operators have been removed. Some very bad calls on Jones Act waivers have been removed, and I commend the gentleman for that. Obviously, this bill is important so the folks in the Coast Guard can get paid, and those things that need to be bought can be bought.

This bill still contains about 20 Jones Act waivers that I consider questionable. I understand that they passed the committee earlier in the year under some circumstances that I did not quite agree to. The gentleman from New Jersey and I both come from boatbuilding country. People in New Jersey are great boat builders; people in Mississippi are great boat builders.

Mr. Speaker, what I really object to when we grant Jones Act waivers is that law that says that every boat that is operated commercially in America must be American owned, American built and American crewed. When we allow somebody to buy a cheaper foreign vessel, it puts those guys who have lived by the rules and bought a boat in Mississippi or New Jersey, which is obviously going to cost more money because they are paying Americans to build it, it puts them at competitive disadvantage, pure and simple, and I do not think it is fair.

Mr. Speaker, because the bill does so many good things, I want to vote for it. The reason I am asking the gentleman for this colloquy is because in my heart I know that we failed our boat builders when we allowed those 20 waivers. I am asking for the chairman, and since the gentleman sets the schedule, if I can get the gentleman's assurance that we are going to take a tougher look in the future, that on every one of these waivers, we have the folks come before the committee, make a case on why that vessel deserves a waiver, which is the way we used to do it, and I would like to see that again.

If a person deserves a waiver, they get it. But as far as issuing blanket waivers, I think it is bad because it is simply not fair to those folks that build boats in this country. That is my first request.

Mr. LoBIONDO. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from New Jersey.

Mr. LoBIONDO. Mr. Speaker, I thank the gentleman from Mississippi (Mr. TAYLOR). I know the gentleman has been a strong supporter of the Coast Guard, and very involved in these issues. I can tell the gentleman that I understand the gentleman's concerns. We thought that which had gone through the process, a process that has integrity, along with the gentleman from Minnesota (Mr. OBERSTAR) and the gentlewoman from Florida (Ms. Brown), and there might have been some miscommunication. I thought the gentleman's office had signed off on some of this as well. I will try to work as closely in the future as is humanly possible.

Mr. TAYLOR of Mississippi. Mr. Speaker, I know we are human beings. I am just asking for consideration in the future to try and do better.

Mr. Speaker, my second request, as pointed out in the excellent hearing we had last week with the commandant of the Coast Guard, there is still a discrepancy as far as who has responsibility for our U.S. Naval vessels for their waterside security. The Navy thinks big ships, quite frankly. Given their limited budget, they want to buy ships with that money as opposed to small boats. The Coast Guard has a number of areas of responsibility that they are already overstretched on.

My request to the gentleman is if he can schedule a hearing where we have the chief of Naval operations and the commandant of the Coast Guard appear before the committee, and some time between now and next spring, an agreement be reached as to the responsibility for waterside security of our vessels so that what happened to the USS *Cole* never happens again.

Mr. LoBIONDO. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from New Jersey.

Mr. LoBIONDO. Mr. Speaker, I think that is an excellent idea. The gentleman has my commitment that we will try to do that expeditiously when we return next year.

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the chairman.

Mr. LoBIONDO. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. SIMMONS) for the purpose of a colloquy.

Mr. SIMMONS. Mr. Speaker, I rise in strong support of H.R. 3507, and thank the gentleman from New Jersey (Mr. LoBIONDO) for his hard work on this legislation and for allowing this colloquy.

The United States Coast Guard Academy is in my district in New London, Connecticut, and it is the only service academy in America that does not have a proper national museum for the service. For over 210 years, the Coast Guard has served as our Nation's guardian of the seas, and over the years, the Coast Guard has established a rich history, but this history cannot be properly told.

That is why earlier this year I introduced legislation to create a national Coast Guard museum in New London as part of the academic program of the Academy. A lot of things have happened, and I am mindful of the many challenges that we face; but I am hopeful that the gentleman from New Jersey (Mr. LoBIONDO) will work with me on this legislation next year to further explore the issue of a national Coast Guard museum.

Mr. LoBIONDO. Mr. Speaker, will the gentleman yield?

Mr. SIMMONS. I yield to the gentleman from New Jersey.

Mr. LoBIONDO. Mr. Speaker, I thank the gentleman from Connecticut and say that the gentleman has done an exceptional job on raising the level of awareness on this particular issue. The gentleman has been to me certainly if not a dozen times, two dozen times. Unfortunately, the events of September 11 have reorganized our priorities with the Coast Guard to a degree. It is a worthwhile effort, and I would like to work with the gentleman to explore what possibilities that we can enter into to see that this moves along.

Mr. SIMPSON. Mr. Speaker, I thank the gentleman for his response.

Ms. BROWN of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I rise in support of this bill. I got on a plane to come out here from Seattle on Tuesday morning, and sat down next to a man and asked him where he was going, what he was doing. He said my name is Viggo Bertelsen. I am the national commodore of the United States Coast Guard Auxiliary.

Mr. Speaker, I know that they are in town meeting with the commandant from all around the country and talking about the needs of the Coast Guard.

Being from Seattle, I am well aware of what the Coast Guard does. They control shipping in Puget Sound, and have a very big responsibility to prevent collisions in narrow spaces. They are dealing with all of the Customs problems and smuggling in the islands, bringing in drugs and everything else. The Coast Guard has been given many, many very difficult missions, and has not been recognized by the Congress for what they have done.

When I was a psychiatrist in the Navy in the Vietnam era, I had a sailor from the Coast Guard, or Coast Guardsman brought to me one day who had been hung over the side on a chair to paint the insignia on the side of Coast Guard ships. As mentioned before, the motto of the Coast Guard is semper paratus. This man was a little unhappy with the Coast Guard, and had written "simply forgot us."

Unfortunately, in many instances in this House, we have simply forgotten the Coast Guard's needs, and I think this is, while not a perfect bill, a step in the right direction, and I hope that all Members will vote for it, and not forget the Coast Guard and what they do.

Mr. LoBIONDO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I rise today in support of H.R. 3507, the Coast Guard Authorization Act for Fiscal Year 2002, and I also rise to thank the gentleman from New Jersey (Mr. LoBIONDO) and his subcommittee staff for their hard work on this bill.

Last year they agreed to work with the Coast Guard, the State of Illinois, the city of Chicago and me on a project to improve safety and security along Chicago's lakefront. Needless to say, this project became significantly more important after the events of September 11. Thanks to the committee's cooperation and assistance, this bill authorizes construction of a Marine Safety Station on Chicago's lakefront.

This new Chicago Marine Safety Station will house resources and personnel of the U.S. Coast Guard, the Chicago Marine Police and the Illinois Department of Natural Resources Conservation Police. With Coast Guard, State and city resources stretched thin by the need for heightened security in Chicago and U.S. ports, this project will significantly improve public safety and law enforcement efforts in one of the busiest recreational areas in the country.

On behalf of the city of Chicago, the State of Illinois, and all of us who enjoy Chicago's lakefront, I thank the chairman for bringing this project to fruition.

Ms. BROWN of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. LoBIONDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Washington (Mr. McDERMOTT) for his words of support for the Coast Guard. I would like to ask that all Members, the gentleman from Washington (Mr. McDERMOTT) and all Members who have risen today to speak on the bill, and I believe the overwhelming number of Members who will support this bill, to join with us in our effort when we get to the hard part, and this part today is easy for Members to stand up and say they are supporting the Coast Guard authorization. Well in excess of 400 Members voted in support of this measure when we brought it up the first time, but we have some difficult work to do.

There was recently an article in the Washington Post, I believe last week, that talked about our drug interdiction efforts suffering because of the Coast Guard's lack of resources. This is not what we want to see from this body. This is not what this Nation wants to see, and the only way we will remedy the situation is if we collectively join together, put our shoulders to the same wheel and make sure through the appropriations process that the Coast Guard receives the resources necessary to carry out the mission they have been mandated to do.

Mr. Speaker, I have visited the Coast Guard facilities in my district a number of times. We have the Coast Guard Recruit Training Center, the only one in the Nation in Cape May in the Second Congressional District. I also visited Group Air Station Atlanta City just a couple of weeks ago, and with Captain Durfee, I looked into the eyes of the men and women there, eager to serve their country, well trained, ready to go, boarding ships and checking foreign crews and manifests, making sure our ports are save, responding to anything in a moment's notice, willing to give up everything for our Nation.

We owe these men and women who have given us so much in their mission of drug interdiction, homeland security, interdiction of illegal immigrants, fishery law enforcement, all the different things, search and rescue operations, all of the things that are in jeopardy if we cannot get them the resources they need.

Mr. Speaker, I reserve the balance of my time.

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Ms. BROWN of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. LoBIONDO. Mr. Speaker, I yield myself the balance of my time.

I would in closing like to thank the gentlewoman from Florida (Ms. BROWN) and the minority staff for their strong cooperation and help with Coast Guard issues since I have been Chair of this committee. I have appreciated it a great deal. The gentleman from Minnesota (Mr. OBERSTAR) has been there every inch of the way, as has been the gentlewoman from Florida (Ms. BROWN) and their staff. Again, I would like to encourage all the Members to take a close look at the mission that the Coast Guard has been given to do, especially since September 11, and recognize that this is one step in a process that we are fighting through to make sure that these men and women have the resources necessary.

Mrs. CHRISTENSEN. Mr. Speaker, I rise to join Chairman LoBIONDO, and Ranking Member BROWN and my other colleagues in strong support of H.R. 3507, the Coast Guard Authorization Act.

Early in November I had the opportunity to visit with Commander Gene Brooks, of the Greater Antilles Section in San Juan Puerto Rico, which is responsible for my district the U.S. Virgin Islands. What was very clear from that meeting, Mr. Speaker, is that the Coast Guard is in dire need of assets and personnel to carry out their mission.

Since September 11, 2001 this has become more urgent, as much of what they had has been deployed elsewhere, and the primary assignment port security and escorting and protecting defense vessels, and hazardous materials, has taken them almost completely away from their role in drugs interdiction, border patrol and marine safety, as well as search and rescue.

Mr. Speaker, my district has several assets of national significance and importance. Additionally, because the Virgin Islands is a border of the United States we need a well-staffed and equipped Coast Guard. Mr. Speaker, the $5.9 billion authorized by this bill is a good start. I look forward to working with you and the subcommittee to give this and all the agencies, which secure our homeland, and support our armed forces, all the resources they need to do the job.

I urge my colleagues to support H.R. 3507.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from New Jersey (Mr. LoBIONDO) that the House suspend the rules and pass the bill, H.R. 3507.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. BROWN of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

REGARDING MONITORING OF WEAPONS DEVELOPMENT IN IRAQ

Mr. HYDE. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 75) regarding the monitoring of weapons development in Iraq, as required by United Nations Security Council Resolution 687 (April 3, 1991), as amended.

The Clerk read as follows:

H.J. RES. 75

Whereas the Iraqi regime of Saddam Hussein engaged the Islamic Republic of Iran, a nation of more than 55,000,000 Muslims, in a 10-year war, during which Saddam Hussein used chemical weapons against Iran and his own people;

Whereas Saddam Hussein has pursued a policy of ethnic cleansing against the Kurdish people, killing 5,000 Kurdish civilians with a chemical attack on March 16, 1988, and an estimated 50,000 to 182,000 in the forced relocation of Kurdish civilians in 1988;

Whereas on August 2, 1990, Iraq without provocation invaded the State of Kuwait, a nation of more than 1,500,000 Muslims;

Whereas on November 29, 1990, the United Nations Security Council adopted United Nations Security Council Resolution 678, which authorized nations cooperating with the State of Kuwait to use all necessary means to force Iraq to withdraw from Kuwait and to restore international peace and security to the area;

Whereas on January 17, 1991, the regime of Saddam Hussein without provocation fired 7 Scud missiles into the State of Israel, a nation of approximately 1,000,000 Muslims and 5,000,000 Jews;

Whereas on January 17, 1991, Iraq fired Scud missiles into the Kingdom of Saudi Arabia, a nation of more than 20,000,000 Muslims;

Whereas on January 29, 1991, Iraq attacked the city of Khafji in the Kingdom of Saudi Arabia;

Whereas the regime of Saddam Hussein is a threat to its neighbors and has demonstrated its willingness to use weapons of mass destruction;

Whereas on February 24, 1991, a broad international coalition of 38 Muslim and non-Muslim nations, including the United States, the United Kingdom of Great Britain and Northern Ireland, the State of Kuwait, the Arab Republic of Egypt, the Kingdom of Saudi Arabia, and the Syrian Arab Republic, began a coalition ground operation to liberate Kuwait;

Whereas on April 6, 1991, Iraq accepted the provisions of United Nations Security Council Resolution 687 (April 3, 1991) bringing a formal cease-fire into effect;

Whereas, in accordance with Security Council Resolution 687, Iraq unconditionally accepted the destruction, removal, or rendering harmless of "all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities related thereto", and "all ballistic missiles with a range greater than one hundred and fifty kilometers, and related major parts and repair and production facilities";

Whereas, in accordance with Security Council Resolution 687, Iraq unconditionally agreed not to acquire or develop any nuclear weapons, nuclear-weapons-usable material, nuclear-related subsystems or components, or nuclear-related research, development, support, or manufacturing facilities;

Whereas Security Council Resolution 687 calls for the creation of a United Nations special commission to "carry out immediate on-site inspection of Iraq's biological, chemical, and missile capabilities" and to assist and cooperate with the International Atomic Energy Agency in carrying out the "destruction, removal or rendering harmless" of all nuclear-related items and in developing a plan for the ongoing monitoring and verification of Iraq's compliance;

Whereas, in accordance with Security Council Resolution 687, the process of destruction, removal, or rendering harmless of Iraq's weapons of mass destruction was to have been completed within 45 days of approval by the United Nations Security Council of the weapons inspectors' plan for doing so;

Whereas Iraq has now been in breach of this requirement for more than a decade;

Whereas the regime of Saddam Hussein consistently impeded the work of United Nations weapons inspectors in Iraq between 1991 and 1998 by denying them access to crucial sites and documents and by obstructing their work in numerous other ways;

Whereas on October 31, 1998, Iraq banned the United Nations weapons inspectors despite its agreement and obligation to comply with Security Council Resolution 687;

Whereas on December 15, 1998, the chief United Nations weapons inspector reported that Iraq was withholding cooperation;

Whereas Congress declared in Public Law 105–235 (112 Stat. 1538) that "the Government of Iraq is in material and unacceptable breach of its international obligations, and therefore the President is urged to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations";

Whereas Security Council Resolution 687 was adopted under chapter VII of the United Nations Charter and violations of such resolution that threaten international peace and security may be dealt with through military action pursuant to Security Council Resolution 678;

Whereas the United States has reported that a high risk exists that Iraq has continued to develop weapons of mass destruction since the expulsion of United Nations weapons inspectors, in violation of Security Council Resolution 687 and subsequent resolutions;

Whereas such development is a threat to the United States and its friends and allies in the Middle East;

Whereas Congress declared in Public Law 105–338 (112 Stat. 3178) that it should be "the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime";

Whereas the attacks of September 11, 2001, illustrate the global reach of terrorists;

Whereas numerous terrorist groups are seeking to acquire weapons of mass destruction;

Whereas Iraq is a sponsor of terrorism and has trained members of several terrorist organizations;

Whereas the regime of Saddam Hussein plotted to assassinate former President

George Bush during his visit to the State of Kuwait in 1993;

Whereas the President has stated that "any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime" and has committed to "pursue nations that provide aid or safe haven to terrorism"; and

Whereas on November 26, 2001, President Bush warned that any nation that develops weapons of mass destruction in order to "terrorize" others "will be held accountable": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the United States and the United Nations Security Council should insist on a complete program of inspection and monitoring to prevent the development of weapons of mass destruction in Iraq;

(2) Iraq should allow United Nations weapons inspectors "immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect", as required by United Nations Security Council Resolutions 707 (August 15, 1991) and 1284 (December 17, 1999);

(3) the United States should ensure that the United Nations does not accept any inspection and monitoring regime that fails to guarantee weapons inspectors immediate, unconditional, and unrestricted access to any and all areas, facilities, equipment, records, and means of transportation which they wish to inspect;

(4) Iraq, as a result of its refusal to comply with the terms of United Nations Security Council Resolution 687 (April 3, 1991) and subsequent relevant resolutions, remains in material and unacceptable breach of its international obligations; and

(5) Iraq's refusal to allow United Nations weapons inspectors immediate, unconditional, and unrestricted access to facilities and documents covered by United Nations Security Council Resolution 687 and other relevant resolutions presents a mounting threat to the United States, its friends and allies, and international peace and security.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

Mr. PAUL. Mr. Speaker, I ask permission to have the time in opposition if neither gentleman is opposed to the bill.

The SPEAKER pro tempore. Is the gentleman from California opposed to the motion?

Mr. LANTOS. I am not opposed to the resolution, Mr. Speaker.

The SPEAKER pro tempore. Under the rule, the gentleman from Texas will control the time in opposition.

Mr. HYDE. Mr. Speaker, I ask unanimous consent to divide my 20 minutes with the gentleman from California (Mr. LANTOS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to call up House Joint Resolution 75, expressing our strong concern about Saddam Hussein's failure to comply with the weapons inspection requirements established by the United Nations at the end of the Persian Gulf War.

This resolution was introduced December 4 by our former colleague on the Committee on International Relations, the gentleman from South Carolina (Mr. GRAHAM); and I was proud to join him as an original cosponsor of the measure. I also want to express my appreciation for the strong support given to this resolution by our distinguished ranking Democratic member, the gentleman from California (Mr. LANTOS), and also by the chairman and ranking Democratic member of our Subcommittee on the Middle East and South Asia, the gentleman from New York (Mr. GILMAN) and the gentleman from New York (Mr. ACKERMAN).

The resolution draws attention to the growing threat to international peace and security posed by Saddam Hussein's refusal to comply with the terms of the cease-fire agreement ending the Persian Gulf War. Those terms were incorporated by the U.N. Security Council into Resolution 687 of 1991, and into subsequent resolutions addressing the situation in Iraq. Those terms required him to afford U.N. weapons inspectors unfettered access to sites in Iraq where weapons of mass destruction might be under development, as well as to other relevant locations and information in Iraq.

From 1991 until 1998, Saddam Hussein went through the motions of complying with these inspection requirements, while doing everything he could to prevent the weapons inspectors from discovering the truth about the history of his weapons programs. Since 1998, Saddam has stopped complying altogether. In other words, since 1998, Saddam's ability to reconstitute his nuclear weapons program, his biological weapons program, his chemical weapons program, and his long-range missile program has not been constrained by international inspectors. There is every reason to believe he has taken advantage of the absence of inspectors to revive these weapons programs.

The events of September 11 demonstrate the severity of this threat, and indeed to all civilized countries as well as the United States. The terrorists who attacked our country September 11 wanted to kill as many Americans as possible. They sought to use aircraft as weapons of mass destruction. There can be no doubt if they had had access to real weapons of mass destruction, they would have used them to kill as many of our fellow citizens as possible.

Saddam Hussein has a track record of developing such weapons and of using them not only against his enemies but against his own people. So he certainly would have no qualms about using them against us.

Just 2 weeks ago, our committee received testimony from two of our Nation's leading experts on biological weapons. These experts, Dr. Richard Spertzel and Dr. Ken Alibek, agreed that there was most likely state involvement in the anthrax attacks that our Nation has experienced, and that the most likely state to have been involved was Iraq. So we are confronting a very serious threat, something that is literally a matter of life and death. This resolution expresses our very strong desire to see something done about it.

This resolution does not seek to give the President legal authority to use force against Iraq. There is a debate about whether he already has such authority, and I happen to believe he does; but this resolution does not speak to that question. All it says is that Iraq is violating its obligations under international law and that this violation presents a mounting threat to our Nation, to our allies, and to international peace and security. These statements are demonstrably true, and the truly dangerous course would be to remain silent in the face of these facts.

For these reasons, I urge my colleagues to support the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

I first want to pay tribute to our colleague, the gentleman from South Carolina (Mr. GRAHAM), for introducing this resolution; and I want to thank the distinguished chairman of the Committee on International Relations, my friend, the gentleman from Illinois (Mr. HYDE), for his invaluable work in refining the resolution and in bringing it so promptly to the floor.

Mr. Speaker, I strongly support H.J. Res. 75, and I urge all of my colleagues to do so. Our Nation faces a critical terrorist threat that goes well beyond that posed by the Taliban and al Qaeda. The threat is from Saddam Hussein's Iraq, a nation that is both a supporter and a generator of international terrorism and a proliferator of weapons of mass destruction.

Increasingly, Mr. Speaker, the media is full of speculation as to whether Iraq is the next U.S. target in the war against terrorism. The resolution before us today speaks to that issue. Iraq has had more than a decade to comply with United Nations resolutions requiring it to end its weapons of mass destruction programs. Rather than comply, it has made a fool of the international community.

A vote for this resolution, Mr. Speaker, tells Saddam Hussein this: you must comply with the terms of your surrender, once and for all, and soon, or you will face the consequences.

In the past half century, no government has so consistently and flagrantly flouted the will of the international community as has Saddam Hussein's Iraq. No national leader has so regularly demonstrated that he is a threat to the lives of his citizens and his neighbors.

Without provocation, Saddam Hussein attacked Iran in 1980, swallowed up all of Kuwait in 1990, the first time, Mr. Speaker, since Hitler that one nation tried to wipe another off the map. He rained missiles on Saudi Arabia and Israel in 1991. He is the only current national leader to have employed weapons of mass destruction, using chemical weapons to attack Iran during the Iran-Iraq war and to murder some 5,000 Kurdish citizens of Iraq itself.

United Nations Security Council Resolution 687, the cease-fire resolution that ended the Gulf War in 1991, required Saddam Hussein to transfer his weapons of mass destruction and all related capabilities to the United Nations Special Commission on Iraq, widely known as UNSCOM, and to the International Atomic Energy Agency for purposes of destruction. This was to have been done by the middle of 1991, Mr. Speaker. Now, more than a decade later, Saddam Hussein continues to defy contemptuously the requirements of the international community. During the past 10 years, Saddam first obstructed and lied to the inspectors, then he effectively expelled them, and now he will not let them return.

Of course, Saddam Hussein has ignored virtually every United Nations Security Council demand, including those dealing with missing Kuwaitis taken prisoner by Iraq and property looted from Kuwait during Iraq's brutal 1990–1991 occupation. Meanwhile, the state-controlled Iraqi media continued to threaten Kuwait with another invasion.

Saddam Hussein's resort to terror is legendary, including an attempted assassination of our former President, George Bush. Most recently, we have been reminded of his terrorist activities by the capture of a 15-man Iraqi-trained terrorist cell in the West Bank. In view of Saddam Hussein's total disregard of the value of human life and of his demonstrated willingness to use weapons of mass destruction and terrorism to achieve his aims, nobody in Iraq, the Middle East, or the West, including the United States, is safe from his evil designs.

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The world, Mr. Speaker, can no longer live with a Saddam Hussein who is developing weapons of mass destruction, including nuclear weapons. An Iraqi defector who spent 20 years working on Saddam's nuclear program put it well. Khidhir Hamza wrote in the December 10 Wall Street Journal, "Saddam's express goal is to continue building up his chemical and biological stockpiles and to ultimately wield a nuclear weapon. Each day we wait we allow him to go further toward that goal."

Mr. Speaker, September 11 has demonstrated that we must take resolute action to prevent disasters before they occur. If our preferred recourse for now is to assure that UN's weapons inspectors return to Iraq, let this much be clear: The only acceptable inspection regime is one that assures, in the words of the UN Security Council resolution 707, "immediate, unconditional and unrestricted access" to all weapons of mass destruction facilities and documents.

I repeat, Mr. Speaker. Saddam Hussein must provide immediate, unconditional and unrestricted access to all facilities where weapons of mass destruction may be hidden or produced and to all documents relating to these programs. An inspection regime that enhances Saddam's legitimacy, while allowing him secretively to continue his weapons of mass destruction programs, is totally unacceptable.

The resolution before us today says, in effect, that Saddam Hussein has one last chance to do what he was obligated to do over a decade ago. I believe, Mr. Speaker, Saddam Hussein poses an imminent danger to our Nation, to our friends and to our allies, and there is little time to lose before we will have no choice but to take much stronger measures. I urge all of my colleagues to join me in supporting H.J. Res. 75.

Mr. Speaker, I reserve the balance of my time.

Mr. PAUL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to start off by thanking the chairman for having made some changes in this bill. The bill is not nearly as bad as it was at the beginning. However, I obviously cannot support it. But changing the tone was helpful in talking about Saddam Hussein versus Iraq, "Iraq" suggesting the people of Iraq, who are hardly enemies of the American people. Saddam Hussein is a different subject. Also changing the word "aggression" to "a mounting threat." Aggression means that we have to immediately retaliate, I would suppose. Even "a mounting threat" is a bit threatening to me, but at least it is better and moving in the direction of less confrontation with a nation 6,000 miles from our shore that I hardly see as a threat to our national security.

One of the reasons why I take an approach on foreign policy where we are less involved overseas is mainly because I feel that the number one obligation for us in Congress and for the people of this country is to preserve liberty and defend it from outside threats. The authors of this resolution, I am sure, have the same goals, but, over the years, I think those goals have been undermined. We as a Nation are now probably weaker rather than stronger and we are more threatened because of what we do overseas.

For instance, just this week, we had Stinger Missiles fired at our airplanes. Fortunately, they did not hit our airplanes. But we paid for those Stinger Missiles. And this week there was an attack in India by allies, supposedly, in Pakistan, who are receiving billions of dollars from us at the current time. This vacillation, shifting, on and off, friends one time, enemies the next time, this perpetual war seems to me not to be in the best interests of the United States.

Take, for instance, one of the whereas's in this resolution. "Whereas the Iraq attacked the Islamic Republic of Iran." We keep hearing this all the time. It was horrible. But they were our allies at the time. We were financing them, giving them money, helping them with technology.

So I see this as a perfect example of us always flip-flopping. Not only do we frequently have those weapons that we sell and give to support a so-called friend turn against us, we so often have the opponents in the wars around the world fighting each other with our weapons.

My idea of national defense is minding our own business, being strong, and making sure our borders are secure. After 9/11, we had to go to Germany and ask them for help for AWACS airplanes to patrol our shores. I understand our ports are not necessarily secure, and yet we have Coast Guard cutters down in Colombia and in the Mediterranean Sea. I think if we learn anything it is that we ought to work harder to protect our country and not make us so vulnerable, yet we continue along this way.

We criticize the possibility or suggest the possibility of what might be happening in Iraq, and, out of frustration, this amendment came up because there has been no evidence that Iraq is connected. Not that Saddam Hussein can be construed as any type of a good guy, but there has been no connection, so there had to be some new reason given to go into Iraq.

I tend to agree with the gentleman from Illinois (Chairman HYDE) that if there was evidence, we probably have, under the authority we have given the

President, to go in to Iraq. But that is not what we are talking about. We are talking about the perpetuation, the continuation of the Persian Gulf War, which at the time was designed as a fight for our oil. I think that is what this is all about.

Its been suggested that the anthrax came from Iraq. The mounting evidence today, sadly, suggests that it may well be coming from our CIA. Here we are almost ready to go to war against Iraq at the suggestion that our carelessness and our development of anthrax here in this country may have been a contributing factor to this anthrax being spread in this country.

It is suggested that it will be easy to overtake Iraq because we have had this tremendous success in Afghanistan, and we will have this uprising and the Kurds will be a reliable ally in this uprising. The plain truth is, the Kurds will not be the salvation of our securing Iraq. As a matter of fact, most of our allies, the Turks, although they may be bought and allow us to use their bases, they are very nervous about this plan to invade Iraq.

The whole idea that Iraq is the one that we have to be addressing, when you look at the problems throughout the world, when you look at what is happening in Saudi Arabia, Saudi Arabia has not cooperated, and yet we have troops on their soil antagonizing the people over there, and at the same time, people are saying that all we have to do is invade Iraq, get rid of Saddam Hussein, and everything is going to be okay.

Another "whereas," mentioning UN Resolution 678 it was declared that under Resolution 687, we have authority to go back in today. That is not true. As a matter of fact, 687 gave us the authority to get Saddam Hussein to withdraw from Kuwait. That does not mean that we can perpetuate war forever under that resolution.

As a matter of fact, if you want to go into Iraq and follow the rules and you are pretending you are following the rules, you ought to do a couple of things. If you believe in the United Nations, you have to go back to the United Nations, if you believe in the rule of law. Also you have to answer the question, why does this resolution need to be enforced versus other resolutions that have never been enforced? Why is it assumed that the United States has to enforce UN resolutions? When did it come to the point where the UN dictates foreign policy to us?

So, there are a lot of questions to answer about this desire to immediately go into Iraq. I think it actually poses a threat to our security, more than it helps us. So I am suggesting that we go more cautiously.

I am glad this resolution has been toned down a little bit, but it does represent those individuals who think that we should be at war with Iraq today, and I disagree with that.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. PAUL), the gentleman from Illinois (Mr. HYDE) and I each be given an additional 5 minutes, as we have other colleagues who wish to speak on this.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in whole-hearted support this joint resolution highlighting Saddam Hussein's refusal to allow weapons inspections and the threat that this refusal poses to international peace and security.

I want to thank the gentleman from Illinois (Chairman HYDE) and the ranking minority member, the gentleman from California (Mr. LANTOS), for bringing this measure to the floor at this time. I particularly want to thank the gentleman from South Carolina (Mr. GRAHAM) for his sponsorship of this very important measure.

There have been no substantive UN inspections in Iraq for more than 3 years, and there are numerous reports of Iraqi attempts to reconstitute its weapons of mass destruction. Having openly admitted to having produced anthrax and other biological agents, Iraq could transfer that capability to terrorist organizations it harbors, including the notorious Abu Nidal Organization and the Abu Abbas group. We must not risk Iraqi biological agents falling into the hands of such barbarians.

Iraq's weapons and biological programs must be stopped once and for all. Some in our Nation and in the Arab world contend, why go after Saddam now? He has been relatively quiet recently. That faulty rationale reminds us that following the bin Laden bombings of our two embassies in Africa, we heard similar arguments, that these threats are far away and that bin Laden cannot succeed if he were to attack the United States. That threat was minimized by the prior administration, regrettably resulting in the September 11 barbaric attacks on our Nation.

We must not repeat those risks when it comes to Saddam Hussein. He already invaded Kuwait, used chemical weapons against the Kurds and Iranians, fired ballistic missiles at our troops, at the Saudis and the Israelis. It is questionable if Saddam would be deterred by any U.S. military power. It is a risk we must not take.

Hopefully, this resolution is an important first step in our renewed campaign against Saddam Hussein. Not only does he need to be stripped of his weapons of mass destruction, but he should be ousted from power. He has shown no regard for international law nor for the Iraqi people, who, along with his neighbors, would welcome and be gratified to be rid of him. He has turned what should have been a rich, progressive nation into a bellicose, bully and pariah, working with an indigenous opposition.

We gave the Afghan people a brighter future. Working with the Iraqi opposition, we should give the Iraqi people no less. Accordingly, I urge my colleagues to fully support this important resolution.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 2 minutes to my friend, the gentleman from New York (Mr. CROWLEY), a distinguished member of Committee on International Relations.

Mr. CROWLEY. Mr. Speaker, I rise today in strong support of this resolution. More than 10 years have passed since the United States and coalition forces defeated Iraq, but the potential threat posed by Saddam Hussein remains today.

This is a man who has used chemical weapons against his own people. This is a man who invaded Kuwait and lobbed SKUD missiles into Israel and Saudi Arabia. This is a man who must be dealt with once and for all.

□ 1230

Between 1991 and 1998, Saddam Hussein played a game of hide and seek with his weapons of mass destruction. He would impede the progress of U.N. inspectors as it suited his needs, never fully adhering to U.N. Resolution 687 before expelling UNSCOM in 1998.

As the famous proverb goes, "When the cat is away, the mice will certainly play."

The Iraqi regime has spent the last 3 years developing and perfecting its chemical, biological, and nuclear program, while the international community has stood idly by. Inaction and indifference may have been the prevailing sentiments; but on the morning of September 12, we woke up to an entirely new and different world with a new and different attitude. We awoke to a world that values dialogue over destruction and peace over terror.

Mr. Hussein: no more delays. No more deliberations. No more deceptions. Your time is up. If you insist that you have nothing to hide, then allow the inspectors back into Iraq to do their job immediately. Failure to do so will answer all of the questions that we have.

The security of this region depends on it. The security of the world depends on it. Therefore, I urge my colleagues to support the resolution.

Mr. PAUL. Mr. Speaker, I yield myself 30 seconds.

It has been said that there have been no inspections in Iraq; and yet the

International Atomic Energy Agency was in Iraq this very year and this was the report: I am pleased to confirm that between 20 and 23 January 2001, a 4-person IAEA team carried out a physical inventory verification of the declared nuclear material remaining in Iraq under IAEA seal. For its part, Iraq provided the necessary cooperation for the inspection team to perform its activities effectively and efficiently.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, neither the gentleman from Texas (Mr. PAUL) nor I think Saddam Hussein is a nice man or good for the world. However, we rise in opposition to this resolution because of the way it is being done, the time in which it is being done, and what is implied by this resolution, but not clearly stated.

No one disputes Iraq's behavior. We encouraged the Kurds to rise against them, and then we abandoned them. We encouraged the Shia down in Bosnia to rise against them, and then we abandoned them. But we have not in this place forgotten what Saddam Hussein is about.

The question is, Why is there sudden rush to do this 48 hours before the Congress adjourns for a month, giving the President apparent unlimited ability to act?

Now, after September 11, with the exception of one person on this floor, we authorized the President to do what needed to be done with respect to the acts of 9–11. Things have gone reasonably well. They are not through yet. We do not know where Osama bin Laden is. We do not know whether we are precipitating further problems by al Qaeda going into Pakistan. We now have India on the borders, armed. We have all kinds of questions being raised about that area that have been precipitated by our actions. I think, certainly, we knew that some of that would happen, but we were willing to take that risk.

Now we come out here to pass a resolution. This resolution says: the President of the United States should insist on monitoring weapons development in Iraq. Nobody out here disagrees with that.

Iraq should allow U.N. weapons inspectors into Iraq as required by Security Council Resolution 687. No once disagrees with that.

Iraq remains a material and unacceptable breach of international obligations. No one disagrees with that.

And now we come to it. The refusal of Iraq to admit U.N. weapons inspectors into any facility covered by the provisions of Security Council Resolution 687 should be considered an act of aggression, an act of aggression against the United States and its allies.

This is the resolution that is laying on the table out here as the one that is being passed on this floor. I know someone is going to stand up and say, we have changed it. When we are doing it at 100 miles an hour, it is no wonder that Members who care cannot figure out what is going on.

So I would say to everybody here who is going to come down here and vote on this, just ask ourselves, are we back in 1964 in the House of Representatives when they brought the Gulf of Tonkin out here? They brought the Gulf of Tonkin into the Senate; and they were about to vote on it, and only two Members of that body voted against it, Earnest Gruening of Alaska and Mr. Morris from Oregon. A third member raised a question. His name was Nelson, Gaylord Nelson from Wisconsin, and he said, I want to put in an amendment here that says that this does not authorize the putting of troops on the ground in Vietnam.

Now, Bill Fulbright went down to the White House and said to Lyndon Johnson, Lyndon, old Gaylord is going to put an amendment on here that we cannot put troops on the ground. And Lyndon Johnson said, well, you just go up there and tell old Gaylord I have no intention of putting any troops on the ground. Mr. Speaker, 500-and-some-odd thousand later, 55,000 deaths, and Lyndon Johnson did not have any intention of putting anybody on the ground. We can understand why Gaylord voted no.

I do not know what the gentleman from South Carolina (Mr. GRAHAM) and his colleagues mean by this: a refusal by Iraq to admit the United States weapons inspectors be considered an act of aggression against the United States. Is that a declaration of war? Well, if it is a declaration of war, then maybe the Geneva Convention should now be called in.

The President of the United States, when we gave him this carte blanche in Afghanistan to do whatever he thought necessary, now we have military tribunals, secret tribunals. We have people all over this country being held without charge, in secrecy, with no access to attorneys, because the President deems that is what we are going to do.

Now, I do not want to go home having given the President carte blanche to do whatever he wants for the month of December and January in Iraq.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. (Mr. HASTINGS of Washington.) The gentleman's time has expired.

Mr. PAUL. Mr. Speaker, I yield the gentleman from Washington (Mr. McDERMOTT) an additional 2 minutes.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I was just going to suggest that my dear friend from Washington is in vain against a resolution that does not exist. We have taken the word "aggression" out. We took it out a long time ago. I do not know how it crept into the gentleman's copy, but I hope his other notes are more accurate.

Mr. McDERMOTT. Mr. Speaker, reclaiming my time, the gentleman from Illinois should know that this was picked up in the Speaker's lobby on the table where it is his responsibility to put the bills that are being considered on the floor. If this is not what it is, then he is going too fast, and that is the whole point of what the gentleman from Texas (Mr. PAUL) and I are saying.

We may not disagree. We may agree ultimately we need to go to Iraq, but not at 100 miles an hour without anybody understanding. Because this is what the gentleman put out there for me to read, and I learned to read in about the first grade, and I am reading what was here. If that is not what was supposed to be out there, I certainly would like to see people explain why this was put in on December 12, passed out of committee on the December 12, and is here, and we cannot get the right version printed to be in the House.

My colleagues do not care about the process, and the United States Congress is losing its power by this kind of action. When my colleagues walk away and allow people to put stuff out here without anybody reading it, they do not know. We may soon have a package of stimulus out here that repeals some parts of the campaign finance law. We are all watching carefully to see if we can catch it; but when we do it at 100 miles an hour, I have to vote against it.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in support, strong support of this resolution.

Ten years ago, the United States of America and our allies blew it. We had the opportunity to eliminate a major threat to world peace and world stability and a major dictator and tyrant to the people of Iraq, and we did not do the job. We did not finish the job.

Now is the time for us to finish that job. By not finishing the job before, we permitted, for example, the Kuwaitis to suffer with hundreds of their people still being held prisoners of war, MIAs, prisoners of war, the equivalent of 50,000 Americans would be held today without us knowing what Saddam Hussein has done to the Kuwaitis and still does to them. Saddam Hussein still has a vicious dictatorship; and Saddam Hussein is at war with the United States, most importantly.

I am very happy that the gentleman from Texas does not want us to be at war with Iraq. But the fact is, Saddam

Hussein is at war with us, no matter where we would like to be. And if we permit Saddam Hussein to have nuclear and chemical and biological weapons, weapons of mass destruction, he will kill millions of Americans. Make no mistake about it. He has a blood feud with us.

We are not talking about a war with Iraq; we are talking about a war with Saddam Hussein. We should liberate Iraq in the same way that we have liberated Afghanistan, now that we have the chance and the opportunity to do so.

How did we liberate Afghanistan? We simply supported the people; we helped the people liberate themselves from the Taliban tyranny. The people in Iraq hate Saddam Hussein much more than the people of Afghanistan hated the Taliban. By helping them liberate themselves, we are protecting our own population from a holocaust, we are protecting the world for peace, and we are doing what is right.

Mr. PAUL. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. PAUL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Rohrabacher).

Mr. ROHRABACHER. Mr. Speaker, I yield to the gentleman from Texas.

Mr. PAUL. Mr. Speaker, if the gentleman was to find out that China was much more involved in the Taliban and the terrorist attacks on 9–11 than anything Saddam Hussein has done, would the gentleman be willing to do to China what the gentleman is willing to do to Iraq?

Mr. ROHRABACHER. Mr. Speaker, reclaiming my time, let me put it this way. The answer is yes, but I would not right away. Like the President says, we must do things sequentially, and we must be absolutely committed to the job. If we do things sequentially, the next order of business is taking care of the threat in Iraq. And if China is, yes, helping terrorists murder thousands of Americans, yes, we should help the Chinese people overthrow their dictatorship as well.

Mr. PAUL. Mr. Speaker, if the gentleman will continue to yield, would the gentleman do the same thing to Pakistan and Syria and Saudi Arabia and Egypt?

Mr. ROHRABACHER. Mr. Speaker, reclaiming my time, I agree with the President of the United States that this is a sequential battle against terrorism. If those countries are engaged in supporting terrorists who kill thousands of Americans or continue a belligerency that threatens millions of our lives, yes, one at a time, we have to take care of them. If we do not, millions of our people will pay the price. Who could have ever guessed that by not taking care of Afghanistan, thousands of our people would be dead?

Mr. LANTOS. Mr. Speaker, I am delighted to yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS), my old friend, for his generosity. I can assure him I will not abuse it. I am also happy to join the former chairman of the House Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), in this discussion.

I want to just throw this out because I may not be correct; but is this measure, H.J. Resolution 75, a way of us expanding the war to Iraq? I assume the answer is yes.

Mr. LANTOS. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. LANTOS. Mr. Speaker, this measure is the exact opposite of what the gentleman has just suggested. It demands of Saddam Hussein what he agreed to 10 years ago: full and complete access to places where weapons of mass destruction are produced. It gives him one chance, one final chance to do what he agreed to do when he surrendered 10 years ago.

□ 1245

Mr. CONYERS. Mr. Speaker, I thank the ranking member for his comment.

Mr. Speaker, my colleague, the gentleman from California (Mr. ROHRABACHER), who is more an expert on foreign affairs matters than I, said "Now is the time to finish the job." I guess that is not very ambiguous, is it? And then he went on to explain something that could be troublesome: we are not at war with Iraq, but we are at war with Saddam Hussein.

Well, that introduces a new concept. I am only on the Committee on the Judiciary. Our impressions have always been that nations declare war on another, we do not declare war on terrorists or a head of a country, or anything else.

I see the gentleman from California in the aisle there.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, the gentleman's quote was a little bit mistaken. I said that we are not at war with Iraq, but Saddam Hussein is at war with us.

Mr. CONYERS. Okay. That is much better, because that means, then, that we do not have to declare war on China's leaders, either. They are at war with us, not the people? Did I get that right? I continue to yield to the gentleman.

Mr. ROHRABACHER. That was only based on if the assessment of the gentleman from Texas (Mr. PAUL) was correct and they are supporting terrorists and planning to kill thousands of Americans. Then, yes, they are at war with us.

Mr. CONYERS. Mr. Speaker, could we not tailor this document a little more narrowly than bringing China into this? The gentleman did not do it. All right.

Let me go to the next part. I asked my good friend, the gentleman from California (Mr. LANTOS), about the hearings. I was told that there were no hearings, no witnesses; but there was a markup last Wednesday.

Is that right? I have to get something right down here in the well before I return my time. Okay. That much is right.

Mr. Speaker, is there some reason that we did not have witnesses? Silence. All right. Then the only other thing that I could add, Mr. Speaker, is that there has been a change. There was original language that considered that Iraq's refusal to admit U.N. weapons inspectors pursuant to Security Resolution 687 should be considered an act of aggression against the United States and its allies, and that language has been struck.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, we did have hearings, I would say to the gentleman from Michigan, on December 4. We had two of the inspectors who were over and were shut out by Saddam Hussein, and a lady expert on arms control from the Clinton administration. So we had hearings.

Mr. CONYERS. Mr. Speaker, I thank the gentleman.

Okay, so none of my premises have been right so far. It is like the Detroit Lions who broke their record last week. Maybe I can do something here.

Okay. Now, am I right that we have substituted new language for this statement? I have them now. The original language was that Iraq's refusal to admit U.N. weapons inspectors pursuant to Security Resolution 687 ". . . should be considered an act of aggression against the United States and its allies," and that language has been removed; and we have inserted new language. Does anyone challenge that in the body? Okay. All right. I got that in.

And the new language says that 687 and 707 and other relevant resolutions "present a mounting threat to the United States, its allies, and international peace and security." Does anyone have anything to help me understand that better?

So, essentially, instead of an act of aggression, we have put in "a mounting threat," and I notice there seems to be general agreement on that. So we have had hearings and we have had a markup. We modified the language for people who may be nervous about where this might be going.

But I must confess, as I return to my seat, I am not sure if we should be expanding the war to Iraq.

Mr. PAUL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the emphasis in this H.J. resolution is that resolutions have been passed, and one in particular, a U.N. resolution against Iraq, must be enforced. I made the point earlier that there are many resolutions that are not enforced, so this one is special and has to be enforced; and the assumption is that it is the responsibility of the United States to do the enforcing.

Everybody knows that I am not too keen on the United Nations, but I am not too keen on the idea that we can use the United Nations as we please. Sometimes we follow the rules, and sometimes we do not. I think if we are participating, the argument should be that we should follow the rules.

There is no U.N. authority for us to use force against Saddam Hussein without a new U.N. resolution. It would be very difficult to legally mount another invasion of Iraq right now without a U.N. resolution. It would not go along with UN rules.

The other question I have about the rule of law and trying to follow the rules of the United Nations would be: Where have we gotten the authority to enforce the no-fly zones? The no-fly zones are really a contention in the Middle East, and have been a contention for a long time, because that, in combination with the embargoes and the sanctions against the Iraqi people is what the Arabs believe to be so detrimental to the children who have died in Iraq.

Whether Members agree with that or not, or they want to put all the blame on Saddam Hussein, is beside the point. Millions if not billions of Muslims and Iraqis happen to wonder about that policy: Where did we get the authority to continue bombing for now going on 12 years?

This legislation says that we know exactly what is going on in Iraq. I pointed out that the International Atomic Energy Agency has been in Iraq this year and found out that there is no evidence of nuclear weapons being built.

But there is one gentleman who has been in Iraq many times under the U.N., as a U.N. inspector, Scott Ritter. He has been there 30 times. Probably even the best junketeer in Congress I will bet has not been over there 30 times, but he has been there 30 times inspecting.

He was on a television interview the other day, and had an opinion as to what is going on in Iraq. I do not think Members can jump up and say Scott Ritter is not a true American, that he is not a true internationalist, that he does not know what he is talking about. But this is what he said on television when they asked about whether or not he thought Saddam Hussein and Iraq was a threat to our national security.

He said, "In terms of military threat, absolutely nothing. His military was devastated in 1991 in Operation Desert Storm, and Iraq has not had the ability to reconstitute itself in terms of weapons of mass destruction. We know that we achieved a 90 to 95 percent level of disarmament. Diplomatically, politically, Saddam is a little bit of a threat. In terms of a real national security threat to the United States, no, none."

Because he is a little bit of a political and a diplomatic threat, we are making these plans to pursue war or in reality continue the war because the Persian Gulf war has not really ended.

So once again, I ask my colleagues who are going to be voting on this shortly to think about it. If it is unnecessary and does not have any effect, why bring it to the floor? There would be no purpose. If Hussein is aligned with the terrorists, the President already has authority to do something about it. So what really is the reason for this, especially when it was first announced that this would be an act of aggression, which is really what they feel in their hearts, in their minds, what they want this to be? It has been toned down a little bit. But this resolution is a support for expanding the war and continuing what has been going on for 12 years.

Quite frankly, I think there is a better diplomatic way to handle things. I think it is a shame that our Secretary of State has not been given more authority to have his way on this issue, rather than being overruled by those and encouraged by many Members here in the Congress who want to prepare for war against Iraq, because of this fantastic success in Afghanistan, a country, probably the poorest country in the world that did not even have an airplane; and now, because of this tremendous success, we are ready to take on the next country.

But one thing that we have to realize is that there is a great chance, and there is some evidence, and I may get a chance to quote this later, that China may well have been involved. Now, the gentleman from California said, OK, so let us go after China. Everyone knows we are not going to go after China in the same manner we are planning to go after Iraq.

We are going into Iraq for other reasons, other than reasons of national security. That is my firm belief. It has a lot to do with the announcement when our government propagandized to go to war in the Persian Gulf War and it was to go to defend our oil. I still believe that is a major motivation that directs our foreign policy in the Middle East.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I have heard the same arguments made, or I have read about them in the twenties and the thirties, that our borders are all we need to worry about, and do not worry what happens in Europe.

During the twenties and thirties, that is what we did, we pulled a blanket over our heads, and a man named Hitler rearmed, and over across the Pacific Tojo rearmed, and the result of our indifference to what was going on was that millions of people died, millions of people died.

The gentleman from Texas says that the only business we have is to secure our borders. I suggest our borders do not end with California or New Jersey or New York, but what happens in Europe, what happens in Asia. In today's world, never mind when we walked away from the League of Nations, in today's world our borders are everywhere.

Why do we have to do it? Because we are the strongest country in the world, and if it does not get done by the United States, it will not be done.

Now, the gentleman disparages our concern for oil. Imagine, and it does not take a leap of imagination, if Saddam Hussein controlled the Persian Gulf, what that would do to the economies of the world. Talk about lines at gas stations; it is very important. No.

Now, about these inspections. The International Atomic Energy Commission conducts these inspections, and they are a joke. They are an embarrassing joke, because they only look at the premises that are declared by Saddam Hussein. The U.N. was kicked out because they conducted real inspections. They were intrusive, and they found things over there that embarrassed the International Atomic Energy Commission.

I just suggest to the Members that this is very important; that it is a challenge and a threat to civilization to have a monster like Saddam Hussein who used chemical warfare on his own people to have access to the facilities to create nuclear weapons and weapons of mass destruction.

□ 1300

We are not calling for war, we are calling for enforcement of the U.N. resolutions that were agreed to by Saddam.

Mr. HYDE. Mr. Speaker, I have one more speaker. Who gets to close?

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Illinois (Mr. HYDE) has the right to close. The gentleman from Texas (Mr. PAUL) has 30 seconds remaining on his time.

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois (Mr. HYDE) be granted an additional 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. PAUL. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

The gentleman from Texas (Mr. PAUL) has 30 seconds remaining on his time. The gentleman from Illinois (Mr. HYDE) has the right to close.

Mr. PAUL. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, very quickly, borders are important because that is what our Constitution gives us the authority to defend. Our Constitution does not give us the authority to defend Europe or anybody else. Also we have a moral authority to defend ourselves and not to pretend that we are the policemen of the world. What would Americans say if China were in the Gulf of Mexico and said it was their oil and had troops stationed in Texas. That is the equivalent of us having our Navy in the Persian Gulf and saying it is our oil and placing troops in Saudi Arabia.

Using gas on our own people? I understand a few people died at Waco, and it happened that illegal war gasses were used during that operation.

Mr. Speaker, I strongly oppose House Joint Resolution 75 because it solves none of our problems and only creates new ones. Though the legislation before us today does wisely excise the most objectionable part of the original text of H.J. Res. 75—the resolution clause stating that by not obeying a U.N. resolution Iraqi dictator Saddam Hussein has been committing an "act of aggression" against the United States—what remains in the legislation only serves to divert our attention from what should be our number one priority at this time: finding bringing to justice those who attacked the United Stats on September 11, 2001.

Saddam Hussein is a ruthless dictator. The Iraqi people would no doubt be better off without him and his despotic rule. But the call in some quarters for the United States to intervene to change Iraq's government is a voice that offers little in the way of a real solution to our problems in the Middle East—many of which were caused by our interventionism in the first place. Secretary of State Colin Powell underscored recently this lack of planning on Iraq, saying, "I never saw a plan that was going to take [Saddam] out. It was just some ideas coming from various quarters about, 'let's go bomb.'"

Mr. Speaker, House Joint Resolution 64, passed on September 14 just after the terrorist attack, states that, "The president is authorized to use all necessary and appropriate force against those nations, organizations or persons he determines planned, authorized, committed or aided the terrorist attacks that occurred on Sept. 11, 2001, or harbored such organizations or persons." From all that we know at present, Iraq appears to have had no such role. Indeed, we have seen "evidence" of Iraqi involvement in the attacks on the United States proven false over the past couple of weeks. Just this week, for example, the "smoking gun" of Iraqi involvement in the attack seems to have been debunked: The New York Times reported that "the Prague meeting (allegedly between al-Qaeda terrorist Mohamad Atta and an Iraqi intelligence agent) has emerged as an object lesson in the limits of intelligence reports rather than the cornerstone of the case against Iraq." The Times goes on to suggest that the "Mohamad Atta" who was in the Czech Republic this summer seems to have been Pakistani national who happened to have the same name. It appears that this meeting never took place, or at least not in the way it has been reported. This conclusion has also been drawn by the Czech media and is reviewed in a report on Radio Free Europe's Newsline. Even those asserting Iraqi involvement in the anthrax scare in the United Stats—a theory forwarded most aggressively by Iraqi defector Khidir Hamza and former CIA director James Woolsey—have, with the revelation that the anthrax is domestic, had their arguments silenced by the facts.

Absent Iraqi involvement in the attack on the United States, I can only wonder why so many in Congress seek to divert resources away from our efforts to bring those who did attack us to justice. That hardly seems a prudent move. Many will argue that it doesn't matter whether Iraq had a role in the attack on us, Iraq is a threat to the United States and therefore must be dealt with. Some on this committee have made this very argument. Mr. Speaker, most of us here have never been to Iraq, however those who have, like former UN chief Arms Inspector Scott Ritter—who lead some 30 inspection missions to Iraq—come to different conclusions on the country. Asked in November on Fox News Channel by John Kasich sitting in for Bill O'Reilly about how much of a threat Saddam Hussein poses to the United States, former Chief Inspector Ritter said, "In terms of military threat, absolutely nothing . . . Diplomatically, politically, Saddam's a little bit of a threat. In terms of real national security threat to the United States, no, none." Mr. Speaker, shouldn't we even stop for a moment to consider what some of these experts are saying before we move further down the road toward military confrontation?

The rationale for this legislation is suspect, not the least because it employs a revisionist view of recent Middle East history. This legislation brings up, as part of its indictment against Iraq, that Iraq attacked Iran some 20 years ago. What the legislation fails to mention is that at that time Iraq was an ally of the United States, and counted on technical and military support from the United States in its war on Iran. Similarly, the legislation mentions Iraq's invasion of Kuwait more than 10 years ago. But at that time U.S. foreign policy was sending Saddam Hussein mixed messages, as Iraq's dispute with Kuwait simmered. At the time, U.S. Ambassador April Glaspie was reported in the New York times as giving very ambiguous signals to Saddam Hussein regarding Kuwait, allegedly telling Hussein that the United States had no interest in Arab-Arab disputes.

We must also consider the damage a military invasion of Iraq will do to our alliance in this fight against terrorism. An attack on Iraq could destroy that international coalition against terrorism. Most of our European allies—critical in maintaining this coalition—have explicitly stated their opposition to any attack on Iraq. German Foreign Minister Joschka Fischer warned recently that Europe was "completely united" in opposition to any attack on Iraq. Russian President Valdimir Putin cautioned recently against American military action in Iraq. Mr. Putin urged the next step to be centered around cutting off the financial resources of terrorists worldwide. As for Iraq, the Russian president said. ". . . so far I have no confirmation, no evidence that Iraq is financing the terrorists that we are fighting against." Relations with our European allies would suffer should we continue down this path toward military conflict with Iraq.

Likewise, U.S. relations with the Gulf states like Saudi Arabia could collapse should the United States initiate an attack on Iraq. Not only would our Saudi allies deny us the use of their territory to launch the attack, but a certain backlash from all gulf and Arab states could well produce even an oil embargo against the United States. Egypt, a key ally in our fight against terrorism, has also warned against any attack on Iraq. Egyptian Foreign Minister Ahmed Maher said recently of the coalition that, "If we want to keep consensus . . . we should not resort, after Afghanistan, to military means."

Mr. Speaker, I do not understand this push to seek out another country to bomb next. Media and various politicians and pundits seem to delight in predicting from week to week which country should be next on our bombing list. Is military action now the foreign policy of first resort for the United States? When it comes to other countries and warring disputes, the United States counsels dialogue without exception. We urge the Catholics and Protestants to talk to each other, we urge the Israelis and Palestinians to talk to each other. Even at the height of the Cold War, when the Soviet Union had missiles pointed at us from 90 miles away in Cuba, we solved the dispute through dialogue and diplomacy. Why is it, in this post Cold War era, that the United States seems to turn first to the military to solve its foreign policy problems? Is diplomacy dead?

In conclusion, Mr. Speaker, this legislation, even in its watered-down form, moves us closer to conflict with Iraq. This is not in our interest at this time. It also, ironically enough, could serve to further Osama bin Laden's twisted plans for a clash of civilizations between Islam and the West. Invading Iraq, with the massive loss of life on both sides, would only forward bin Laden's hateful plan. I think we need to look at our priorities here. We are still seeking those most responsible for the attacks on the United States. Now hardly seems the time to go out in search of new battles.

Mr. HYDE. Mr. Speaker, I yield the remainder of my time to the gentleman from South Carolina (Mr. GRAHAM), to the author of this very contentious resolution.

Mr. GRAHAM. Mr. Speaker, a couple of statements.

Saddam Hussein kicked out the U.N. inspection team in 1998 in breach of the cease-fire agreement. If you think we are moving too fast, vote no. Last time I checked, it is December 2001. So if we are going too fast to make you feel comfortable, vote no.

The gentleman from Texas (Mr. PAUL) says that Saddam Hussein is a minor threat to this country. If you believe that, vote no. But you ought to go visit the CIA, and you ought to talk to our intelligence communities. He is building missiles beyond the agreement, cease-fire agreement, for a purpose, to kill people.

I admire the gentleman from California (Mr. LANTOS) so much because he suffered from the politics of appeasement. This is not 1964. This is the late 30's. This is Neville Chamberlain coming back. Peace in our time. What a joke. There will be no peace in our time as long as we have the politics of appeasement and let a guy like Saddam Hussein get away with building mobile biological weapons systems, larger missiles, procuring materials that could only be used in nuclear weapons. For us to sit back would be a national travesty, a world travesty. Never again shall we do this.

The hour is at hand. Immediate action must be taken by this Congress to support our President. We should have U.N. weapons inspectors on the ground now. And if he says no, that is a mounting threat to this country because he is procuring, as I speak, weapons of mass destruction.

No more head-in-the-sand politics. Act now or pay later, America. Let us act now to get rid of the tyrant who has abused and killed his own people, who is procuring weapons of mass destruction, substantial evidence to that fact. A failure to do so, we will pay dearly later.

Have we learned anything from September 11? I think we have, and I have every confidence in this body that they will reject the notion that we are moving too fast and that Saddam Hussein is a minor threat.

This resolution makes common sense. It makes legal sense. It is the morally right thing to do. America is a great country, and as the gentleman from Illinois (Mr. HYDE) said, we have to act greatly when we are threatened.

This is not about any other nation. It is about us. We are the target of Saddam Hussein. Us and Israel and his Arab neighbors. Anybody who does not want to do business they way he does. We are a threat. Let us stand up to this dictator. No more of the politics of appeasement. Let us vote as a united body.

The gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) have shown us we can work together for the common good. They are an example for all of us to follow. Please vote. Act now or we will pay later.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the joint resolution, H.J. Res. 75, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

H.R. 3275, by the yeas and nays;

Senate amendment to H.R. 2657, de novo;

Senate amendment to H.R. 2199, de novo.

Further proceedings on the remaining postponed questions will resume later today.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

TERRORIST BOMBINGS CONVENTION IMPLEMENTATION ACT OF 2001

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3275, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3275, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 381, nays 36, not voting 16, as follows:

[Roll No. 501]

YEAS—381

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Barton
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clement
Clyburn
Coble
Collins
Combest
Condit
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry

Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Wu
Wynn
Young (FL)

NAYS—36

Bartlett
Brown (OH)
Clay
Clayton
Conyers
Davis (IL)
DeGette
Delahunt
Ehlers
Fattah
Frank
Hilliard
Hinchey
Holt
Honda
Jones (OH)
Kilpatrick
Kucinich
Lee
Lewis (GA)
McCarthy (MO)
McDermott
McGovern
McKinney
Meeks (NY)
Olver
Owens
Paul
Payne
Rivers
Sabo
Scott
Tierney
Waters
Watt (NC)
Woolsey

NOT VOTING—16

Baker
Bereuter
Bonior
Burton
Cooksey
Cubin
Gephardt
Hall (OH)
Hastings (FL)
Luther
Meek (FL)
Rush
Stark
Vitter
Wexler
Young (AK)

☐ 1328

Mrs. JONES of Ohio, Mr. BARTLETT of Maryland, Ms. WATERS, Ms. KILPATRICK, Ms. BROWN of Florida, Messrs. TIERNEY, MEEKS of New York, EHLERS, BROWN of Ohio, and HOLT changed their vote from "yea" to "nay."

Mr. OTTER and Ms. SLAUGHTER changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BEREUTER. Mr. Speaker, on rollcall No. 501 I was inadvertently detained. Had I been present, I would have voted "yes."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GOODLATTE). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

DISTRICT OF COLUMBIA FAMILY COURT ACT OF 2001

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 2657.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2657.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

RECORDED VOTE

Mr. SCOTT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 418, noes 1, not voting 14, as follows:

[Roll No. 502]

AYES—418

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Combest
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOES—1

Coble

NOT VOTING—14

Baker
Cooksey
Cubin
Etheridge
Gephardt
Hall (OH)
Hastings (FL)
Luther
Meek (FL)
Meeks (NY)
Stark
Vitter
Wexler
Young (AK)

☐ 1340

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ETHERIDGE. Mr. Speaker, I was unavoidably detained on H.R. 2657—Rollcall

502. Had I been present I would have voted "aye."

DISTRICT OF COLUMBIA POLICE COORDINATION AMENDMENT ACT OF 2001

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The pending business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 2199.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2199.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

RECORDED VOTE

Mr. SCOTT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 420, noes 0, not voting 13, as follows:

[Roll No. 503]

AYES—420

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—13

Baker
Ballenger
Cooksey
Cubin
Gephardt
Hall (OH)
Hastings (FL)
Luther
Meek (FL)
Stark
Vitter
Wexler
Young (AK)

□ 1348

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 19, 2001.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from the Honorable Jim Miles, Secretary of State, State of South Carolina, indicating that, according to the unofficial returns of the Special Election held December 18, 2001, the Honorable Addison G. "Joe" Wilson was elected Representative in Congress for the Second Congressional District, State of South Carolina.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk.

Attachment.

STATE OF SOUTH CAROLINA,
OFFICE OF THE SECRETARY OF STATE,
Columbia, SC, December 19, 2001.

Hon. JEFF TRANDAHL,
Clerk, House of Representatives, the Capitol,
Washington, DC.

DEAR MR. TRANDAHL: This is to advise you that the unofficial results of the Special Election held on Tuesday December 18, 2001, for Representative in Congress from the Second Congressional District of South Carolina, show that Addison G. "Joe" Wilson received 73.01% of the total number of votes cast for that office.

It would appear from these unofficial results that Addison G. "Joe" Wilson was elected as Representative in Congress from the Second Congressional District of South Carolina.

As soon as the official results are certified to this office by the State Election Commission, an official Certificate of Election will be prepared for transmittal as required by law.

If you have any questions regarding this matter or if I can be of further assistance to you, please do not hesitate to contact Patricia Hamby at (803) 734-2512 or me at (803) 734-2156.

With warm regards, I am
Sincerely,

JIM MILES,
Secretary of State.

PROVIDING FOR SWEARING IN OF THE HONORABLE JOE WILSON, OF SOUTH CAROLINA, AS A MEMBER OF THE HOUSE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the gentleman from South Carolina (Mr. WILSON) be permitted to take the oath of office today. His certificate of election has not arrived; but there is no contest, and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

SWEARING IN OF THE HONORABLE JOE WILSON, OF SOUTH CAROLINA, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Representative-elect and the Members of the South Carolina delegation present themselves in the well. Will the Representative-elect from South Carolina (Mr. WILSON) come forward and raise his right hand.

Mr. WILSON of South Carolina appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are now a Member of the 107th Congress.

WELCOMING THE HONORABLE JOE WILSON TO THE HOUSE OF REPRESENTATIVES

(Mr. SPRATT asked and was given permission to address the House for 1 minute.)

Mr. SPRATT. Mr. Speaker, I have the pleasure of presenting our newest Member to the House of Representatives: ADDISON GRAVES WILSON, better known to us in South Carolina as just "JOE."

JOE WILSON will fill the seat held for 30 years by Floyd Spence and represent the Second District of South Carolina. In many ways he will also fill Floyd's shoes, because the people of that district have chosen a man closely akin to Floyd Spence in personality, in politics, and in dedication to public service. In fact, Floyd Spence was in many ways Joe Wilson's mentor. His first political experience, after college at Washington and Lee, was in working on Floyd's first campaign for Congress. He has worked on all of Floyd's campaigns since and served as manager or chairman of six.

JOE WILSON was first elected to office in his own right in 1984 when he won a seat in the South Carolina Senate to serve Lexington County. His legislative experience is extensive. This past year he served as chairman of the Senate Transportation Committee. He has also served on the Senate Judiciary Committee, the Education Committee, the Joint Committee on Aging, and the State House Committee.

Before being elected to the South Carolina Senate, JOE WILSON served in the Army Reserves. He is now a colonel in the Army National Guard, staff judge advocate for the 218th Mechanized Infantry Brigade. He is a graduate of the Command and General Staff College, and two sons have followed his footsteps into the military. One is a first lieutenant in the Army National Guard, another is an ensign in the Navy, attending the Armed Forces medical school in Bethesda right now.

JOE WILSON was born in Charleston, South Carolina, in 1947, to Hugh de Veaux Wilson and Wray Graves Wilson, both now deceased and unable to see their son attain, unfortunately, this high office. He is a lawyer, founder and senior partner in the law firm of Wilson, Moore, Taylor & Thomas in West Columbia.

JOE WILSON is happily married to Roxanne Dusenbury McCrory; and he and Roxanne are the proud parents of four children, Michael Alan McCrory-Wilson; Addison Graves, Jr.; Julian Dusenbury; and Hunter Taylor.

In addition to his legislative and military service, he has served as the deputy general counsel of the Department of Energy, and he has spent countless hours serving his community through a number of civic organizations.

Mr. Speaker, as dean of the South Carolina delegation, it is my privilege and my honor to welcome JOE WILSON of South Carolina to the United States House of Representatives.

Mr. Speaker, I yield to the gentleman from South Carolina (Mr. BROWN) who served in the General Assembly with JOE WILSON and would like to say a word of introduction himself.

Mr. BROWN of South Carolina. Mr. Speaker, it is a pleasure to have the honor to help receive my great friend today. JOE WILSON and I started our careers in the legislature about the same time. We served 16 years together, he in the Senate, I in the House. In fact, he was a good Senator to work with. I am proud to have him as my friend. JOE and his wife, Roxanne, became good friends of my family, and I have had the pleasure of watching his children grow up.

It is a pleasure to be here today, JOE, to welcome you to this great body. It is a pleasure to have the opportunity to serve with you again. I welcome you to the U.S. Congress.

EXPRESSING GRATITUDE FOR THE OPPORTUNITY TO SERVE AS A MEMBER OF CONGRESS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, very few experiences live vividly in one's heart for all the days of your life. For me, this is such a moment.

First, let me say how deeply and profoundly grateful and appreciative I am to every citizen of South Carolina. Because of the election that took place yesterday, a rite of passage borne out and preserved by time-honored tradition, my job is to represent every voter in my district, regardless of age, gender, creed, color or party affiliation to the best of my ability. Today, I pledge to do that, so help me God.

In taking this oath of office, I am not alone. The path which led me to this moment was well traveled by so many people to whom I owe debts of gratitude. These are debts that can never be repaid. First among those is my wife, Roxanne, and our family. Their love and strength are the greatest assets of my life. So many other people have given time, support, hard work, advice and prayers. I cannot possibly thank each by name; but without them, this moment would not have been possible.

Still, there is one name which should not be veiled in silence, one person who for 31 years was my mentor and friend. That name is former United States Congressman Floyd Spence. It was Congressman Spence who first inspired me to run for public office. It was Congressman Spence who taught me that the first duty of government is to defend freedom. And it was Congressman Spence who taught us all that true public service does not spring from ambition. Real public service cannot be bought and sold, but must come from the deep regions of the heart and soul, as an expression of love to our country and all who make it one united Nation under God.

Therefore, as I take this oath of office, I also make this pledge: I will do everything in my power to keep alive the legacy of service Congressman Spence exemplified. I pray that his spirit will always be with me.

At this moment in the history of our Nation, we face very serious challenges at home and around the world. I look forward to working with my colleagues and our President to face these challenges. I know we individually and collectively will respond to those challenges with courage, with virtue, and with an unfailing spirit.

Again to the people of South Carolina, thank you for the trust you have placed in me. I ask you to join me in that simple, majestic, one-sentence prayer that binds our Nation and hearts together: may God bless America.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I inadvertently missed rollcall vote 500. Had I been in attendance, I would have voted "aye."

□ 1400

MAKING IN ORDER AT ANY TIME ON WEDNESDAY, DECEMBER 19, 2001, CONSIDERATION OF CONFERENCE REPORT ON H.R. 2506, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2002

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that it shall be in order at any time on Wednesday, December 19, 2001, to consider the conference report to accompany the bill (H.R. 2506) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes; that all points of order against the conference report and against its consideration are waived; and that the conference report shall be considered as read.

The SPEAKER pro tempore (Mr. Simpson). Is there objection to the request of the gentleman from Arizona?

There was no objection.

DIRECTING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN ENROLLMENT OF H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 289) directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the resolving clause and insert:

That in the enrollment of the bill (H.R. 1) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, the Clerk of the House of Representatives shall make the following corrections:

(1) On page 1, in section 2 of the bill, insert the following after the item for section 5:

Sec. 6. Table of contents of Elementary and Secondary Education Act of 1965.

(2) On page 1, in the item for section 401 of the bill, strike "century" and insert the following: "Century".

(3) On page 1, strike the item for section 701 of the bill and insert the following:

Sec. 701. Indians, Native Hawaiians, and Alaska Natives.

(4) On page 2, in the item for section 1044 of the bill, strike "school" and insert the following: "School".

(5) On page 4, in the item for section 1121, strike "secretary" and "interior" and insert the following: "Secretary" and "Interior".

(6) On page 5, in the item for section 1222, strike "early reading first" and insert the following: "Early Reading First".

(7) On page 6, in the item for section 1504, strike "Close up" and insert the following: "Close Up".

(8) On page 6, strike the item for section 1708.

(9) On page 12, in the item for section 5441, strike "Learning Communities" and insert the following: "learning communities".

(10) On page 14, in the item for section 5596, strike "mination" and insert the following: "Termination".

(11) On page 25, line 31, strike "Any" and insert the following: "For any".

(12) On page 25, line 32, after "part" insert the following: ", the State educational agency".

(13) On page 25, line 33, after "developed" insert the following: "by the State educational agency,".

(14) On page 30, line 3, after "students" insert the following: "(defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years)".

(15) On page 33, after line 35, insert the following:

"(K) Accountability for charter schools.—The accountability provisions under this Act shall be overseen for charter schools in accordance with State charter school law.

(16) On page 34, lines 2, 15, and 31, strike "State" and insert the following: "State educational agency".

(17) On page 38, line 29, strike "section 6204(c)"and insert the following: "section 6113(a)(2)".

(18) On page 39, line 11, strike "(2)(i)(I)" and insert the following: "(2)(I)(i)".

(19) On page 40, line 22, strike "State" and insert the following: "State educational agency".

(20) On page 41, lines 28, 33 (the 2d place it appears), and 35 strike "State" and insert the following: "State educational agency".

(21) On page 42, lines 8, 19, 23 (each place it appears), and 27, strike "State" and insert the following: "State educational agency".

(22) On page 44, lines 24 and 35, strike "State" and insert the following: "State educational agency".

(23) On page 46, lines 6 and 7, strike "A State shall revise its State plan if' and insert the following: "A State plan shall be revised by the State educational agency if it is".

(24) On page 46, lines 12 and 13, strike "by the State, as necessary," and insert the following: "as necessary by the State educational agency".

(25) On page 46, lines 15 and 16, strike "If the State makes significant changes to its State plan" and insert the following: "If significant changes are made to a State's plan".

(26) On page 46, lines 19 and 20, strike "the State shall submit such information" and insert the following: "such information shall be submitted".

(27) On page 48, line 23, strike "(b)(2)(B)(vii)" and insert the following: "(b)(2)(C)(vi)".

(28) On page 50, lines 2, 12, and 18, strike "State" and insert the following: "State educational agency".

(29) On page 52, line 9, strike "State" and insert the following: "State educational agency".

(30) On page 62, lines 3 and 4, strike "baseline year described in section 1111(b)(2)(E)(ii)" and insert the following: "the end of the 2001–2002 school year".

(31) On page 90, line 10, strike "defined by the State" and insert the following: "set out in the State's plan".

(32) On page 94, line 32, strike "State" the first place it appears and insert the following: "State educational agency".

(33) On page 104, line 25, insert the following: "identify the local educational agency for improvement or" before "subject the local".

(34) On page 120, line 28, after "teachers" insert the following: "in those schools".

(35) On page 130, line 34, strike "subsection (b)" and insert the following: "subsection (c)".

(36) On page 185, lines 24 and 25, strike "fully qualified" and insert the following: "highly qualified".

(37) On page 227, line 16, strike "subsection (c)(1)(F)" and insert the following: "subsection (c)(1)".

(38) On page 227, line 17, strike "9302" and insert the following: "9305".

(39) On page 274, line 23, strike "States" and insert the following: "State".

(40) On page 274, line 33, strike "1111(b)" and insert the following: "1111(h)(2)".

(41) On page 275, line 19, insert a period after "school year".

(42) On page 276, lines 20 and 25, strike "supplemental services" and insert the following: "supplemental educational services".

(43) On page 283, line 25, strike "and" after the semicolon.

(44) On page 283, line 31, strike "(d)" and insert the following: "(e)".

(45) On page 284, line 1, strike "Congress".

(46) On page 284, line 6, strike "(e)" and insert the following: "(f)".

(47) On page 290, lines 14 and 22, strike "section" and insert the following: "part".

(48) On page 293, line 4, strike "section" and insert the following: "part".

(49) On page 556, line 1, strike "Definitions" and insert the following: "Definition".

(50) On page 599, line 23, strike "the No Child Left Behind Act of 2001" and insert the following: "under any title of this Act".

(51) On page 600, line 12, strike "the No Child Left Behind Act of 2001" and insert the following: "under any title of this Act".

(52) On page 601, line 4, strike "the No Child Left Behind Act of 2001" and insert the following: "under any title of this Act".

(53) On page 601, line 9, strike "Definitions" and insert the following: "Definition".

(54) On page 601, line 10, strike "terms 'firearm' and 'school' have" and insert the following: "term 'school' has".

(55) On page 620, line 22, strike "the No Child Left Behind Act of 2001" and insert the following: "under any title of this Act".

(56) On page 635, line 14, strike "(b)" and insert the following: "(c)".

(57) On page 635, line 20, strike "(c)" and insert the following: "(d)".

(58) On page 781, line 32, insert closing quotation marks and a period after the period.

(59) On page 873, line 25, amend the heading for section 701 to read as follows:

SEC. 701. INDIANS, NATIVE HAWAIIANS, AND ALASKA NATIVES.

(60) On page 955, after line 6, insert the following:

TITLE IX—GENERAL PROVISIONS

SEC. 901. GENERAL PROVISIONS.

Title IX (20 U.S.C. 7801 et seq.) is amended to read as follows:

(61) On page 1004, at the end of line 2, insert closed quotation marks and a period.

The SPEAKER pro tempore (during the reading). Without objection, the Senate amendment is considered as read and printed in the Record.

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GEORGE MILLER of California. Mr. Speaker, reserving the right to object, although I do not intend to object, I yield to the gentleman from Ohio (Mr. Boehner) for an explanation of his request.

Mr. BOEHNER. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, the concurrent resolution before us allows the Enrolling Clerk to make technical corrections to the conference report on H.R. 1, the No Child Left Behind Act of 2001, which passed the House overwhelmingly last week. These changes are technical and arose because putting together such a huge bill at very late hours almost always results in some mistakes.

All of these changes, and they are technical, have been agreed to by the conferees on both the House and Senate side. As we all know, the Senate adopted this resolution yesterday.

I urge my colleagues to support the resolution that we have before us.

Mr. GEORGE MILLER of California. Mr. Speaker, reclaiming my time, I thank the gentleman for his explanation.

Mr. GEORGE MILLER of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF MEASURES TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON WEDNESDAY, DECEMBER 19, 2001

Mr. BOEHNER. Mr. Speaker, pursuant to the notice requirements of House Resolution 314, I announce that the following measures will be considered under suspension of the rules on Wednesday, December 19, 2001: H.R. 2336; H.R. 3525; and H.R. 3423.

GENERAL LEAVE

Mr. REGULA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report accompanying H.R. 3061, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON H.R. 3061, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. REGULA. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 3061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, December 18, 2001, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, December 18, 2001.)

The SPEAKER pro tempore. The gentleman from Ohio (Mr. REGULA) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring before the House the conference report providing appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies for fiscal year 2002.

It is my pleasure to present this report today. It is the result of the dedication and hard work of the members of the subcommittee and staff, and I want to express my deep appreciation to each of them. I would especially like to thank the gentleman from Wisconsin (Mr. OBEY), the ranking member of both the full Committee on Appropriations and of this subcommittee. It has been a pleasure to work with him from the start as we crafted a bipartisan bill which passed this body earlier through our work together on the conference.

I would also like to thank the subcommittee staff on both sides of the aisle for their very hard work and the long hours they have put in to finalize the conference report before us. Thank you to Craig Higgins, the Clerk of the Committee, Carol Murphy, Susan Firth, Meg Snyder, Francine Mack-Salvador and Nicole Wheeler on the majority side, and to David Reich, Cheryl Smith and Linda Pagelsen on the minority side. They have been a great team. They have worked all night for the last two nights putting this together, and we owe them a vote of appreciation.

This conference report is a very good product. It contains the funding for many outstanding programs for people. First, is the funding for the President's education reform measures. Last week we passed landmark legislation setting the policy for elementary and secondary education reform, and today we are providing the funding that will make these reforms a reality.

We have funded State grants for improving teacher quality at $2.85 billion. This flexible grant will allow States to develop programs for teachers in areas most important to those States. In other words, we are recognizing States' rights to make the fundamental decisions on education.

I want to emphasize the commitment of the committee to teacher quality and support in the areas of math and science. We will later have a colloquy on that subject and the flexibility within this grant for such programs, in addition to a specific program for math and science partnerships.

I am also pleased that we have included funding for the Troops to Teachers/Transition to Teaching and the Teach for America programs for a total of $88 million. We hear a lot about the pending shortage of teachers, and I think this bill will do a lot to address that problem and to ensure that good people get into the classroom. The key to success in the classroom is a good teacher, and all of these programs show great promise in recruiting, training and keeping just those people.

In total, education programs receive a 16 percent increase in the bill, a majority of which is in three areas. These include elementary and secondary education, Special Education and Pell Grants. Grants to the States for Title I total $10.3 billion, grants to the States for Special Education total $7.5 billion, and Pell Grants are funded at a maximum grant level of $4,000 per student.

Although our current economic slowdown has sent more students back to school than has been anticipated, it was the belief of the members of the Conference Committee that we must uphold our commitment to the students and retain the maximum $4,000 level. Also the TRIO grant program receives $802.5 million.

In health programs, I am pleased to report that funding for the National Institutes of Health increases by 14.7 percent, at over $23 billion. This additional funding will allow a greater percentage of competitive research grant projects to receive funding in such important areas as Parkinson's disease, diabetes, heart disease, stroke, and even in many rare diseases. Again, we recognize particularly in these times after September 11 how important it is that we do research on health issues, and NIH is the flagship for this, not only for the United States, but for the entire world.

As the events of September 11 have impacted on each of us and changed our lives, we have come to recognize the important role of our public health system. Funding for the Centers for Disease Control and Prevention increases $600 million over last year, for a total of $4.3 billion. I might point out that the State health departments and local health departments, which are the shock troops, they are in the trenches on all of these threats that we hear about in anthrax and TB, basically start with the Centers for Disease Control. We have recognized that by increasing their budget.

Programs at the CDC are our first line of defense in threats of bioterrorism. They also put important research knowledge into practice through outreach and education, leading to improvements in the health of our Nation today. By the way, at the urging of our committee, they have a hotline now, so if you have a problem in your community, you have a 1-800 number, and you can get help immediately.

The conference report includes funding for several of the President's faith-based programs, including $30 million for the Compassion Capital Fund, a program which will support grants to public-private partnerships for charitable organizations in expanding or emulating model social service agencies. $70 million is included for the Safe and Stable Families program, and $5 million for the new Volunteers for Homeland Security.

Finally, Mr. Speaker, I would like to discuss briefly the issue of mental health parity. As many Members are aware, the Senate bill included an amendment requiring private sector companies that provide mental health insurance companies in their health plans to provide that coverage equally with the physical coverage in those plans.

The House conferees, regrettably, rejected this amendment on procedural grounds. We had received letters from the three chairmen of the authorizing committees of jurisdiction in the House expressing their opposition to this provision in the Labor, Health and Human Services bill.

However, we understand from the President and from the House chairmen that they intend to address this issue next year. In the meantime, with the support of the committee chairmen, we have included the extension of the current law on mental health coverage, which expired on September 30 in this conference report, an extension for 1 year.

Through jurisdiction of the appropriations bill, which is our proper jurisdiction, we are able to do very much for mental illness, and I would like to highlight these programs. The conference report provides $832 million for the Center for Mental Health, $433 million of which is the mental health block grant which goes to States to support prevention, treatment and rehabilitation services. This is a $50 million increase over last year's bill.

Over $1.2 billion is allocated for research into improving the diagnosis, treatment and overall care of those suffering from mental illnesses, and this is through the National Institute of Mental Health, one of the NIH institutes. This funding is increased by $100 million over last year.

Finally, the conference report commits $1.34 billion for community health centers nationwide. Community health centers provide a variety of health services to disadvantaged and medically underserved, including mental health services.

Mr. Speaker, these are only the highlights of the many outstanding and worthwhile programs in this $123.9 billion bill. Its programs touch the lives of Americans in many ways, the most important ways with the greatest potential, by supporting education, job training and health research and practices. They lay the groundwork in ensuring the long-term health and prosperity of our Nation.

There are many more programs. If Members are interested, there is a press release in the Office of the Committee on Appropriations across the hall that details all of these. There are a lot of programs here that our people back home will be very much interested in.

One thing I do want to say further, and that is, the chairman and the ranking member of the full committee, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY), did something I think this year that really worked well, and that is they worked out an agreement with the other body whereby each subcommittee had the same allocation. That meant that we could work together. We had a different mix than the other body did, but at least we are working at the same total. When we went to conference, it made it a lot easier to get a conference report out of the negotiations. I commend them very much. Not only that, they have been very supportive of this process. I say to my colleagues, this is a good bill.

□ 1415

A lot of good things are in here that help people. Every American in some way or another is affected by education or health research or health care. We are pleased. I say this on behalf of my subcommittee members, both parties, they were terrific. It has been a joy to work with the gentleman from Wisconsin (Mr. OBEY) as the ranking member on the subcommittee.

I urge the Members of this body to support this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 9 minutes.

Mr. Speaker, first of all, I too would like to thank all of the members of the staff involved. Some of the names have been mentioned, but I will mention them again. On the Democratic side, the associate staff: Dale Lewis, Scott Boule, Chris Kukla, Becky Salay, Sarah Walking, Charles Dujon, Sonia Virdi, Matthew Braunstein; as well as Harry Glenn, and all of the associates of the Republican subcommittee members. On the full committee: Jim Dyer, staff director, Dale Oak and Therese McCaullafe, Graig Higgins, the subcommittee staff director; Laurie Rowley, Carol Murphy, Susan Firth, Meg Snyder, Francine Salvador Mack, Nicole Wheeler; and on the Democratic side, David Reich, Cheryl Smith, Linda Pagelson, David Pomerantz, Norris Cochran, Lin Liu, Nick Ferraro; the Democratic staff director on the Committee on Appropriations Scott Lily, and also Christina Hamilton and Paul Carver. Each and every one of them know how hard they have worked and the Members certainly know how hard they have worked. They have gone nights without sleep; and they have, in the process, performed the kind of public service that the American public would be proud of, if they just knew about it.

Secondly, I would like to thank both the gentleman from Florida (Mr. YOUNG) and the gentleman from Ohio (Mr. REGULA). The gentleman from Florida has kept his commitments in terms of seeing to how this bill would be handled at the end of the year, as he has kept his commitments all year long. And the gentleman from Ohio (Mr. REGULA) has worked just not in his capacity on this subcommittee, but in his previous incarnation as the chair of the Subcommittee on the Interior. He has always performed his duties with grace and with fairness. It was indeed a pleasure to work with him and his staff.

I think that we have demonstrated on this bill that when it is approached in a bipartisan way, good things happen, not just for this institution, but the country.

I would like to say that I think this bill is an example of what a huge difference a few years make. Eight years ago when our Republican friends took over as the majority in this House, there was a cry to abolish the Department of Education, and we had some tumultuous battles on this bill. Over the last 5 years, in contrast to that, we have been able to negotiate, on average, a 13 percent increase in education funding over each of the last 5 years. This year, President Bush, in his budget submission, tried to cut that rate of increase to 5.8 percent. This bill, for education, will provide a 16 percent increase over last year. So it returns it to the bipartisan track that we were on in the previous 5 years, and it declines to accept the President's recommended reduction in the rate of increase in these bills.

As a result, for instance, for Title I, which is the centerpiece of the Federal effort to see to it that no child is left behind, if I can borrow a phrase, I would say that we are very pleased to see that Title I is funded at a level of $10.35 billion, a level of 14 percent over the President's budget request and 18 percent over last year. It contains $7.5 billion for special education State grants. That is 3 percent more than President Bush sought in his budget. It is $1.2 billion, or 19 percent, more than fiscal year 2001. I know there are people in this town who would like to see this program made an entitlement. I am not one of them. I think this demonstrates that we can make great progress in funding programs without making them entitlements, and we have provided a huge increase of $2.5 billion for this program since fiscal year 2000.

For teacher quality State grants, this bill is 31 percent over last year. For bilingual education State grants, it is 45 percent over the President's budget request. For after-school centers, which are badly needed, given the changing nature of our society and the strains that that puts on families with two earners outside of the house, we have provided an 18 percent increase over the President's request. We have provided for smaller learning communities to help make our larger schools more personalized and more intimate for students. We have a funding level of 14 percent over last year, and we have a variety of other, I think, fine achievements on the education front, including providing a $4,000 maximum grant for Pell grants, an increase of $150 over the request and 7 percent over last year.

In the health area, the gentleman from Ohio (Mr. REGULA) has already mentioned the $23 billion for the National Institutes of Health, a 15 percent increase. The National Institutes of Health are a national treasure and this committee has recognized them as such.

For community health centers, we have provided $51 million more than the President requested.

For the Community Access Program, to assist groups who are providing health care under safety net provisions in the law, the President's budget proposed to abolish this program. This bill funds it at $105 million.

This bill contains an increase of 7 percent above last year for health professions training programs in comparison to the President's efforts to cut this program.

For the Centers for Disease Control, the bill provides $597 million more than the administration's budget for items such as immunizing children. I think that is fully justified.

On the mental health front, I am sad to say that it does not include the provision that was attached in the Senate to provide mental health insurance parity. I think it ought to. I think it is a tragedy that it does not. But nonetheless, on the funding levels, we provided $50 million above last year and $66 million above the President's request for mental health programs.

For human services, the Low-Income Heating Assistance Program is funded at a level $300 million higher than the President requested. There are numerous other increases for programs such as Head Start, the Social Service block grant, and the Child Care Development block grant.

In the Department of Labor, dislocated workers will receive help, which is 12 percent above the President's request. Also the International Labor Program, to protect the American workforce from unfair competition through the production of foreign products producing with child labor or under virtual slave conditions; the conferees rejected the administration's proposal to slash this program by $76 million. We provided $148 million.

That is just a short summary of what is contained in this bill. I think it is a bill worthy of support of the House. I again thank the gentleman from Ohio (Mr. REGULA) for his balance and graciousness throughout, and the gentleman from Florida (Mr. YOUNG), the chairman of the full committee, as well.

I hope that before the week is out we will be able to pass this bill, the defense and foreign operations appropriations bills, and provide decent health care and unemployment assistance to workers in this country who very badly need that help; and having done all of that, I hope that somebody can find the off button so that we may, in fact, celebrate Christmas with our families.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the chairman of the full committee.

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of this conference report. I want to add my compliments to the chairman of the subcommittee, the gentleman from Ohio (Mr. REGULA), and the ranking member, the gentleman from Wisconsin (Mr. OBEY). The gentleman from Wisconsin (Mr. OBEY) plays a dual role. He is the ranking member on this subcommittee as well as the ranking member on the full Committee on Appropriations. They have done a good job.

The health part of this bill maintains our commitment to double the money invested in medical research over a 5-year period, and this bill keeps us on track. In addition, we have made major investments in educational programs; and I want to compliment the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, and the gentleman from California (Mr. GEORGE MILLER), his ranking member, for having passed H.R. 1 through the whole process. This bill that we have today and H.R. 1 are very compatible in the educational area. So a good job has been done by the Congress, both bodies, the House and the Senate; and we have a good package before us today.

It was interesting that the final conference committee meeting was held last night. Everyone seemed to be in good spirits and very cooperative. We resolved a lot of outstanding differences; and, Mr. Speaker, we might expect that this is the second largest appropriations bill, second only to Defense. But the two of them go together, because as we have evolved our military from a trench and over-the-top type of charge to the high-tech weapons and systems that we use today, without a good education, we would not have men and women properly prepared to deal with the high technology that our defense system requires.

So these two bills work hand in hand. They constitute over half of our discretionary accounts too, by the way, Mr. Speaker. But they have done a good job working out all of the many differences between the bodies, and I again compliment the gentleman from Ohio (Mr. REGULA). He is an outstanding subcommittee chairman. The gentleman from Wisconsin (Mr. OBEY) has been a tremendous partner. With the cooperation we have enjoyed on all of our appropriations bills, this year has just been tremendous. I want to thank all of the Members.

I want to say again, Mr. Speaker, the chairman of the subcommittee and the ranking member both mentioned the staff. I do not know how many committees go through the same drill that Committee on Appropriations staff do. On our bills, once we start to get a bill ready to read it, to write it, to prepare it to bring to the floor, staff will work very late into the night, four or five nights a week; and I am talking about 1 or 2 o'clock in the morning and come back in and start again at 8 o'clock the next morning. They devote a lot of time; they are very dedicated. They are very devoted to the job that they do, and we are lucky to have such an outstanding staff on the Committee on Appropriations. So I thought we might just say some good words about them so they can these words home and show it to mom and the kids or dad and the kids, whatever the case might be.

Mr. Speaker, this is a good bill. It is time to move it on. We will then have two more appropriations bills to finish, foreign operations and defense. The committee is prepared to present those bills at any time we are given time on the floor, and I would hope that the gentleman from Wisconsin (Mr. OBEY) and I can push the off button tomorrow afternoon sometime, and wish everyone a merry Christmas and a happy Hanukkah.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the ranking member for yielding, and I want to thank the gentleman from Ohio (Mr. REGULA), our chairman, who is new this year to this subcommittee, although certainly not new to the Committee on Appropriations, he is our senior member next to the gentleman from Florida (Mr. YOUNG), for their leadership. I want to talk not about the overall bill, as it is a good bill. I will enthusiastically vote for this.

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It speaks to the health needs of America. It speaks to the educational needs of our children. It speaks to working people, as well.

But I want to refer to a couple of specific items. First of all, immunization. Immunization, I believe, is a critical concern, not only of this bill but of this country. There are areas of this country where immunizations are not nearly where they ought to be. In fact, generally speaking, we went back about 1 percent, from 78 to 77, overall immunizations of children in this country.

It is inconceivable that in the year 2001, despite all of the technological and scientific advances that we achieved during the last century, Mr. Speaker, that nearly 1 million American children do not enjoy the benefits of full immunization. Indeed, only 77 percent of our 2-year-olds are adequately immunized. We need to continue to work to increase funding for this important program.

In addition, I would like to say how pleased I am that this conference report contains language that will continue to fund state-assistive technology programs. I want to thank the gentleman from Florida (Mr. YOUNG), the gentleman from Ohio (Mr. REGULA), and the gentleman from Wisconsin (Mr. OBEY) for focusing on this issue. In the scheme of things, in terms of the billions of dollars we are spending on this bill, this is a small item, but a very, very large item in ensuring that those with disabilities will fully participate in the opportunities of our society.

This assistive technology is critical. Many may not have known, but the current law for the assistive technology program includes a provision requiring a sunset of State grant programs, which was to occur in cycles, to gradually decrease States' funding until eliminated.

In fiscal year 2002, nine States would have been eliminated for funding: Arkansas, Colorado, Illinois, Kentucky, Maine, Minnesota, and Nebraska. We have turned that around. We have provided funds. I appreciate their leadership, again, on that issue, and say that this is a good bill. It is a good bill for our country, and it is a good work product of our committee.

I thank the gentleman from Alaska (Mr. YOUNG) for his leadership and the gentleman from Ohio (Mr. REGULA) and the gentleman from Wisconsin (Mr. OBEY), as well.

Mr. REGULA. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. WICKER), a very distinguished Member and a very good member of our committee.

Mr. WICKER. Mr. Speaker, I thank the chairman for yielding time to me, and I thank him for his kind words.

I, too, want to commend the staff. I am glad that the ranking member, as well as our two chairmen, have gone on at length about this. While most Americans were at Christmas parties and then in the wee hours nestled all snug in our beds with visions of Christmas, these staff members have been up two nights in a row without sleep at all.

I just hope that my colleagues, when they come to the floor and vote on final passage overwhelmingly for this bill, will go to both the minority and majority members of the staff and give them a hearty Christmas handshake and a word of thanks.

This is a good bill, Mr. Speaker. It is a bipartisan bill, as both sides have mentioned. It makes important strides in the areas of health and education. While we are providing the largest increase ever for Federal education programs, I am pleased that we are doing it in the right way. We are focusing on block grants. We are focusing on funding programs that reserve most education decisions for State and local officials.

I am also pleased, Mr. Speaker, that we have found a better way to fund Title I programs. The new formulas that we are adopting will make sure that Federal education funds are going to the poorest school districts and are reserved for the neediest children.

This bill also provides an increase of $1.2 billion over last year for State grants for special education. I am pleased that Congress has resisted the effort to make this important program an entitlement. That would have hindered our efforts to make needed reforms next year, and I look forward to working with the authorizing committee next year on the reauthorization of the IDEA program.

Finally, Mr. Speaker, with regard to health, this bill continues the bipartisan commitment to substantially increasing funding for the National Institutes of Health. We provide an additional $3 billion for NIH and have also dramatically increased funding for the Centers for Disease Control and Prevention, including important state-based chronic disease prevention and immunization programs, as my colleague, the gentleman from Maryland, has already mentioned.

Mr. Speaker, this is a good bill, it is an excellent bipartisan work product, and I believe it will receive bipartisan support. Mr. Speaker, I urge a "yes" vote.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO), also a member of the subcommittee.

Ms. DELAURO. Mr. Speaker, I am proud to rise in support of this conference report and am grateful for the leadership of the ranking member, the gentleman from Wisconsin (Mr. OBEY), and the chairman, the gentleman from Ohio (Mr. REGULA).

The bill provides a 15 percent increase over last year for the National Institutes of Health to fund groundbreaking medical research that continues us on our path of doubling the NIH budget by the year 2003.

We have provided funding for the post-traumatic stress disorder program to serve the mental health needs of children who witness or are victims of acts of serious violence. Each year, more than 1 million children are abused or neglected in their homes; 3 million children witness domestic violence; 600,000 children are victims of violent crime; 20,000 are wounded by gunfire; and a growing number are injured or killed at school. The psychological trauma associated with this violence could affect these children for years to come.

The events of September 11 make this program even more important. Over and over, our children saw what took place on that terrible day. Many lost parents, and there is an urgent need to make mental health services available to children to cope with the aftermath of these attacks.

We have also made a substantial investment in education, including $6.5 billion for Head Start and $2.1 billion for the Child Care Development block grant. Yes, the strength of our country is based on the education of our people.

I am disappointed that the House conferees stripped mental health parity from the bill. We missed an opportunity to do the right thing for American families to require the insurance industry to provide the same coverage for neurobiological illnesses as for physical illnesses. When mental illness goes untreated, costs escalate.

In the aftermath of September 11, access to mental health services becomes even more important. Just this morning, the front page of the Washington Post included an article about a woman who lost her husband at the World Trade Center and who just committed suicide. The majority assured us that they would consider this legislation next year, and I hope they will keep that promise and act on this critical legislation.

Mr. Speaker, overall, this is a strong bill; and I am proud to support it. I urge my colleagues to do the same.

Mr. REGULA. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETERSON), who has been a great advocate for vocational and technical education and makes an excellent contribution to the subcommittee's work on that.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding time to me, and I thank the chairman and the ranking member for their work.

I was excited when I got appointed to this committee. Having served in the State for 10 years as chairman of health and welfare issues, it was just exciting and exhilarating to get back into the issues that I loved.

I rise to support this conference report and commend the staff, who did a wonderful job and have been great to work with, and for the bipartisanship of resolving so many of these controversial issues.

I was pleased that we had a President that is leading us in education and making education funding more simple and easier for our small, rural school districts to use. Federal programs have not always been easy for small districts to obtain and utilize; and I think the bill we passed, H.R. 1, does a lot of that, and this funds it. I am just pleased to be part of that. I am pleased we have raised Pell grants to $4,000.

I am especially pleased that our children's hospitals in this bill have finally had the bias against them removed. Our teaching hospitals have always had general education money, except our children's hospitals that teach our pediatricians and people who treat the most vulnerable among us, who are children. This bill equalizes for the first time the funding that our children's hospitals will now receive, the same as our other teaching hospitals have historically received, to train those who treat our kids, our smallest.

I am pleased that this is the first decent increase we have had in vocational education, $80 million. I want to thank the chairman for his generous mark of $150 million, which we worked against the Senate, who did not have any increase, which was historic to this body for many years, flat funding for vocational technical education when the need for it has quadrupled.

The military used to train our poor. The volunteer army has changed that. Poor young men and women used to go into the military and get their skills. That does not happen anymore. We have never replaced that. This $80 million goes to our high schools and our community colleges. That is not a lot of money; but I am pleased, in talking with the chairman, that we are going to work with the Senate and next year try to get a sizeable increase.

I am also pleased with the adult education fund. This funds GEDs and allows people who have dropped out of the system to get back in. Our educational ladder has to reach from the ground up, and adult education needs to be looked at and I believe expanded, also, because we have a lot of adults that have slipped through our high school system in the past who got a degree but did not really get an education and need to get back on that educational ladder. It is only going to be through adult education. It is one I think we really need to look at.

Again, I want to conclude by thanking the staff and the gentleman from Ohio (Chairman REGULA). It has been a delight to work with him and with the gentleman from Wisconsin (Mr. OBEY). I excitedly look forward to what we started this year in technical education, and next year we are going to give it a better hit.

Mr. Speaker, I am pleased to urge all my colleagues to support this bill.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to tell the story of two journeys that end right at the Capitol of the United States. They are similar in some respects, but tragically different in others.

As a young mother, I was diagnosed with manic depressive disease, a serious brain disorder characterized by deep mood swings, and, for me, profound depression. I was lucky. I was able to get treatment, although at one point my medical care consumed over one-half of my family's take-home pay.

Every day I take a cocktail of medications to keep my condition in check. Those medications, along with continuing medical care, have given me my life back. Treatment allowed me to attend college and law school. I have served my community with competency and enthusiasm on the board of education, at the State House, and now on the floor of this magnificent building. My journey has a happy ending.

The other individual whose journey ended at this building was not as lucky as me. Rusty Weston was an unmedicated schizophrenic. For years, his parents had frantically searched for effective, affordable treatment for him, but they were unsuccessful. Finally, they threw him out because they were afraid of him.

When Rusty Weston arrived here at the Capitol, unmedicated, armed, and delusional, he killed two police officers, wounded several other individuals, and terrified the Capitol community.

Mr. Speaker, can the case for mental health parity be any clearer? It should be in this bill. Treatment works; indifference kills.

Mr. REGULA. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BOEHNER), who did yeoman's work and provided outstanding leadership, along with the gentleman from California (Mr. GEORGE MILLER), on bringing H.R. 1 to success and in ensuring that we make every effort to not leave any child behind.

Mr. BOEHNER. Mr. Speaker, I want to congratulate the gentleman from Florida (Chairman YOUNG); the gentleman from Wisconsin (Mr. OBEY); the dean of the Ohio delegation and my friend, the gentleman from Ohio (Mr. REGULA); the chairman; the subcommittee; and all the members of the Committee on Appropriations for working together to produce a bill that paves the way for meaningful reforms in education and in other national priorities.

As the chairman of the Committee on Education and the Workforce, I also want to thank the staff and the members of the Committee for working closely with me and the members of my committee and my staff to ensure that the reforms that were contained in H.R. 1, the President's education reform bill, are in fact funded and contained within this conference report.

Mr. Speaker, I believe the conference report lays the groundwork for the most significant reforms in education in a generation. The measure before us calls for a significant increase in Federal aid in public schools and for poor students. For the first time ever, major increases in Federal education funding would be linked to meaningful reform of our schools; and for the first time ever, we are insisting on results for our children.

The Labor-HHS conference report provides the resources necessary to implement the President's vision for education reform. It provides $387 million, or $67 million over the President's budget request, for States to develop annual assessment tests of students' reading and math skills. No national test will be created. And States will be responsible for selecting and designing their own assessments.

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The conference report also provides a $1.6 billion increase for Title I aid to disadvantaged students, $700 million increase for teacher quality, and a $205 million increase for bilingual education.

All three of these programs have been significantly reformed to expand State and local control and ensure greater accountability for results.

Last but not least in the education side, the conference report fully funds President Bush's Reading First and Early Reading Programs for a total of $975 million, tripling the Federal commitment to reading and encouraging States and schools to use proven methods based on scientific research.

The conference report before us also increases the Federal Government's commitment to fixing and funding special education. The measure recognizes that the Federal Government is still falling short of paying the fair share of the cost of special education. For a quarter of a century, Congress neglected this responsibility, but since 1994, we have increased special education funding by 173 percent. And the conference report before us provides another historic increase of $1.2 billion for IDEA part B.

With this increase, the Federal Government's role, we would spend an unprecedented $7.5 billion on IDEA in the next fiscal year and increase the Federal share of the burden to 16½ percent, the highest percentage since the Special Education Program was enacted. This increase is provided without turning special education funding into a new entitlement program, meaning Congress will be free to bring much needed reforms to IDEA as we fulfill our financial commitment.

This report also significantly increases the amount for Pell grants and other educational opportunities. I am pleased that the conference report increases Pell grant funds to some $4,000, the highest maximum grant in the program's history. And to strengthen historically black colleges and Hispanic-serving institutions and other related institutions, the measure provides an increase of $42.5 million from last year which, frankly, is a very significant boost.

Finally, on the labor side of our committee, the report before us wisely avoids taking hasty action on mental health parity that could jeopardize the health benefits for American workers.

The measure contains a provision that reauthorizes the 1996 mental health parity law. But the conferees did not agree to a provision added in the Senate that would have significantly expanded mental health parity for employee health benefits. This provision would have come up on top of huge increases in health care premiums in the vicinity of 15 to 30 percent. Hasty action on mental health parity will have serious consequences for employees, consequences many families may not be able to bear during the current economic crunch.

When employers' cost go up, employees often lose their health care coverage. If the law becomes too burdensome and expensive, it is very likely that employers will simply stop offering any type of health benefits to their employees. At the same time we recognize that mental illnesses are serious illnesses and must be treated accordingly. For that reason a simple 1-year reauthorization of the current laws is the right solution at this time.

I intend to take up this issue next year in my committee, and I intend to work with the supporters of expanded mental health parity, including Senator DOMENICI, the gentlewoman from New Jersey (Mrs. ROUKEMA), the gentlewoman from Connecticut (Mrs. JOHNSON) and others who have worked on behalf of mental health parity and we intend to do it in the next session.

Let me congratulate all of my colleagues, and especially my dean, the gentleman from Ohio (Mr. REGULA).

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER), the distinguished ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me time.

I want to congratulate the committee on the legislation that they have approved today. As many of my colleagues are all aware, we just finished the education reauthorization bill of the ESEA, and we are getting a lot of nice comments from around the country and from our Members in Congress about the bipartisan efforts to pass that legislation and to work out the differences that we have.

I want to say to all of the Members of Congress, that was facilitated by the fact that this committee and the Appropriations subcommittee was working in a bipartisan effort to support those efforts. They made it very clear they were willing to support the resources, the money necessary to bring about the reforms, but if the reforms were not there, they were not prepared to put the resources into the bill.

I want to thank the chairman, the gentleman from Ohio (Mr. REGULA). Much of what was in our bill dealing with the targeting of our resources, with teacher quality, came out of a number of conversations he and I had and his wife, Mary, about the importance of high quality teachers and teaching in poor schools, and I want to thank him for supporting that effort.

The same goes to the ranking member, the gentleman from Wisconsin (Mr. OBEY) for all of his support he has provided in this legislation that allowed us to bring about and agree, and I think bring about the most far-reaching reforms in the Elementary Education Act in 30 years. We did that by targeting the resources to the children most in need, to the schools most in need. And we were able to do that because this committee agreed to fund the more targeted of the formulas.

We did it by making sure that schools would have the resources necessary to improve their teacher quality, for professional development, for training, for retention of teachers. And, again, this committee provided the money so schools will have the flexibility to do that within their individual schools; and for the first time, to take those who have limited English proficiency and provide a formula base program so the money will go to where those students are as opposed to a haphazard grant program and this committee funded that.

I think that all of us who are terribly concerned about the balance between reform and resources, if you look at this bill as reported by the Subcommittee on Labor, Health and Human Services and Education, you will see that the commitment has been kept. The resources have been developed, the reform is out and the resources have been developed in this bill and I want to thank the member of the committee for that.

Mr. REGULA. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. REGULA) has 6 minutes and 30 seconds remaining. The gentleman from Wisconsin (Mr. OBEY) has 13 minutes remaining.

Mr. OBEY. Mr. Speaker, I yield 1 minute 20 seconds to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I rise in strong support of this conference report. I would like to share with my colleagues the appreciation we have of the chairmanship of the gentleman from Ohio (Mr. REGULA) on this committee who is known in this body as a very compassionate individual, and certainly the gentleman from Wisconsin (Mr. OBEY), the ranking member, who has long fought for these issues.

As we look at this bill, I hope everybody will vote in favor of it. It affects more people in America than any other appropriation we pass. This essentially is the basis for funding for education in America, for our workforce in America, for our health care, including our Centers for Disease Control and for the human services.

I think most importantly often overlooked is the issue that the gentlewoman from Michigan (Ms. RIVERS) just rose on, to talk about our commitment to mental health. If there is anything that is bipartisan in America, it is the support for mental health programs.

I am disappointed that the bill did not have parity for that that would have required every health care insurance plan in the United States to provide the exact same kind of health care level for mental health treatment as it does for other medical treatment. That failing, however, this bill does provide incredible increases to the mental health side, increases $2 million more; for local mental health programs, additional $13 million, totaling $433 million; children's mental health services, an additional $5 million, for $97 million.

It also deals with school violence, a treatment for children with post-traumatic syndrome, and probably most importantly, $2.2 billion for substance abuse prevention and treatment.

I say congratulations to the committee. They have done a good job. I look forward to supporting this conference report.

Mr. REGULA. Mr. Speaker, I yield as much time as he may consume to the gentleman from New Jersey (Mr. HOLT) for a colloquy.

Mr. HOLT. Mr. Speaker, I rise to enter in a colloquy with the gentleman from Ohio (Mr. REGULA).

Mr. Speaker, someone who casually observes the education part of this bill might think we will be spending less on math and science teacher programs this year than last, and as the United States falls increasingly behind the rest of the world in math and science performance, we need to pay attention to this area.

The conference report states, "The conferees believe that providing high-quality math and science instruction is of critical importance to our Nation's future competitiveness, and agree that math and science professional development opportunities should be expanded."

It is my understanding from this that it is the intention of the committee that no less money than last year be spent on teacher training for math and science; is this correct?

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. HOLT. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, that is correct. I would assure the gentleman, and also the gentleman from Michigan who will join our colloquy, we consider math and science teacher training to be an important part of preparing our students for the future. I assure my colleague that the conferees have provided adequate funding to allow the same or even increased effort in science and math teacher training. The conferees intend that, at a minimum, the current level of effort in science and math development be maintained.

Mr. HOLT. Mr. Speaker, I thank the gentleman for clarifying this.

I thank the gentleman from Ohio (Mr. REGULA), as well as the gentleman from Wisconsin (Mr. OBEY) for excellent work on this appropriations bill.

Mr. REGULA. Mr. Speaker, I yield as much time as he may consume to the gentleman from Michigan (Mr. EHLERS) for a colloquy. He has been, along with the gentleman from New Jersey (Mr. HOLT), a very strong supporter of math and science education.

Mr. EHLERS. Mr. Speaker, I rise to enter into a colloquy with the gentleman from Ohio (Mr. REGULA), and I do want to thank him very, very much for all his work to improve funding for education, particularly for math and science education.

Over the past few months, much attention has been placed on the poor state of our Nation's K–12 math and science education. International tests place our students in the bottom third of industrialized nations in their performance in science, and dead last among those nations in high school physics.

The 2000 NAEP results recently announced found no improvement in science literacy in the 4th and 8th grades, and a decline in science performance in grade 12 since 1996. This is simply unacceptable. Our country desperately needs more people trained in math and science. Over the past few years, I have advocated improving our Nation's science education programs and increasing the Federal funding for professional development for our Nation's math and science teachers.

Mr. Speaker, this bill consolidates funding for the Eisenhower program, which was the primary professional development program for math and science teachers, into the Title II Teacher Quality Grant program, which will receive an appropriation of $2.85 billion. The conference report states that as much as $375 million was actually expended on math and science in fiscal year 2001, and that the conferees therefore strongly urge the Secretary and the States to continue to fund math and science activities within the Teacher Quality Grant program at a comparable level in fiscal year 2002.

Mr. Speaker, it is my understanding that the intention of the conferees is that no less than $375 million be expended on math and science professional development in fiscal year 2001; is that correct?

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. EHLERS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, the answer is the gentleman is substantially correct. The report language does state that States should spend a comparable level on math and science professional development as was spent in fiscal year 2001. The conferees consider math and science education vitally important to our Nation's future competitiveness and believe that such spending should be enhanced in the future.

Mr. EHLERS. Mr. Speaker, if I may continue, the bill allocates only $12.5 million for the newly created Math and Science Partnership program. The conference report states that the conferees strongly urge the Secretary and States to utilize funding provided by the Teacher Quality Grant program, as well as other programs provided by the Federal Government, to strengthen math and science education programs across the Nation.

Mr. Speaker, it is my understanding that the intention of the committee is to strongly encourage States to use funding under the Teacher Quality Grant program to fund the Math and Science Partnerships; am I correct?

Mr. REGULA. Mr. Speaker, the gentleman from Michigan (Mr. EHLERS) is substantially correct. The conference report strongly encourages States to utilize the $2.85 billion allocated to Title II dollars toward math and science activities.

Mr. EHLERS. Mr. Speaker, I thank the gentleman from Ohio (Mr. REGULA) for his answers, and I thank him for his commitment to math and science education, and I look forward to working together on this issue in the future.

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Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. FATTAH. Mr. Speaker, I want to thank the ranking member, the gentleman from Wisconsin (Mr. OBEY), and the chairman, the gentleman from Ohio (Mr. REGULA), because they have crafted a bill that should enjoy unanimous support here in the House.

I want to just mention my thanks for the funding for the GEAR UP program and the TRIO program, and a number of other efforts in relation to higher education. And I also want to make note of the first-time funding for the Education Equity Incentive grant program, and a host of other, I think, very appropriate focus that the leadership has brought to bear on some of the real work that has to be done to improve our Nation's schools.

So I want to thank the gentleman from Wisconsin and the gentleman from Ohio for their work, and I would just hope as we go forward that we will find again the same type of bipartisan support for GEAR UP and our other efforts to improve our Nation's schools.

Mr. REGULA. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, I want to commend my good friends from Ohio and Wisconsin for their hard work on this bill, especially as it relates to putting in a program called Transition to Teaching. As the chairman has said many times, and I agree, the quality of teaching, getting a great person in that classroom, with good experience and mentoring skills, somebody to rely on for learning how somebody else has taught for 15 or 20 years, is very, very valuable.

The Transition to Teaching program that we have incorporated in this bill brings experience from the private sector in math and science and technology into the classrooms and into the public schools. So I commend the gentleman from Ohio (Mr. REGULA) and the gentleman from Wisconsin (Mr. OBEY) for that.

I do think that in the job of funding H.R. 1, the No Child Left Behind Act, which we just passed the other day, we are about $4 billion under what we authorized. We do, however, have about a 16 or 17 percent increase over last year's level. We have to continue to be ever vigilant, in that we fight for money to fund the reforms with sufficient resources to get the tests and remediate the children that we just passed.

Finally, I would say, on IDEA, we have a billion dollar increase. I hope the President puts new money in this new budget coming next year, and that we get that up to the mandated level.

I thank the Chair for his patience, and I again thank the gentleman from Wisconsin for his work on behalf of this bill.

Mr. REGULA. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. PELOSI), also a member of the subcommittee, and our new minority whip.

Ms. PELOSI. Mr. Speaker, I thank the gentleman very much, our distinguished ranking member, for yielding me this time. And I congratulate the ranking member, as well as the chairman of our subcommittee, for a job well done on this very important Labor-HHS and Education bill.

In a bipartisan manner our subcommittee has produced a well-balanced bill that strengthens our schools, invests in our workforce, and provides much-needed resources for biomedical research and our public health system.

Although the administration proposed the smallest increase in education in 5 years, the bill, instead, provides the largest funding increase in the history of the Department of Education. For the fourth year in a row, dramatic increases are also included for the National Institutes of Health. This keeps us on track to double the NIH funding over 5 years, an investment that is yielding phenomenal progress in our understanding of the human body and the search for better treatments.

Additional resources have also been provided for many other vital programs, including HIV/AIDS prevention and care, breast and cervical cancer screening, child care, drug treatment, bilingual education, and environmental health.

The bill makes important progress, but I am disappointed in one opportunity that was lost at last night's conference. We did not agree to the other body's inclusion of an amendment to require that group health plans' offering mental health benefits do not impose restrictions on mental health care that differ from limits on other physical health care. That was a disappointment.

On the other hand, we must remember that access to treatment for mental health has never been more important for our country. The New England Journal of Medicine reports that nearly half of our American adults report at least one symptom of substantial stress after September 11. We see articles in the paper every day how this situation has been exacerbated.

In any event, we know effective treatments are available for mental health. We hope that promises made will be kept as we go into the next session of Congress.

With that, Mr. Speaker, I want to again commend the chairman. This is a very important bill. We call it lamb-eat-lamb, because everything in it is so good, and when we try to transfer money from one account to another, it is a very difficult decision to make. Mr. Natcher always called it in "the people's bill."

We have a great tradition of bipartisanship on the committee. We were delighted to welcome our new member of the committee, who was our chairman, the gentleman from Ohio (Mr. REGULA), congratulate him on his first conference report, and thank the gentleman from Wisconsin (Mr. OBEY) for his extraordinary leadership in making the bill what it is today. It was a tough fight to get this to this point, but I commend both the chairman and the ranking member on the success that Members will be voting on today.

Again, higher numbers for education than the Bush administration requested; more responsive to the needs of the American people.

Mr. REGULA. Mr. Speaker, I yield 15 seconds to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I thank the chairman for yielding me this time, and I rise today to express my extreme dismay at the fact that the gentleman did not include the mental health parity provisions included by the Senate in this bill. I certainly pledge to work with everyone in this House to assure that next year that is a top priority. And, again, I am sorry that that goal could not have been accomplished in this bill.

I rise today to express my dismay that this final FY 2002 Labor-HHS Appropriations Conference Report does not retain the mental health parity language that was included in the Senate bill, especially since a majority of Members of both Chambers support full mental health parity in this report. The Labor-HHS Conferees should have heeded the wishes of Congress.

Discrimination against mental illness must end. Mental illness is no different than any other illness, yet our society continues to treat it as such. We cannot in good conscience allow discrepancies in mental health care coverage to continue. For years I have fought to eliminate discrimination in insurance coverage for mental illnesses and this year, the Senate did the right thing by passing full parity legislation. There is a strong unified voice in the Congress calling for mental health parity. I am stunned and dismayed that the Conferees did not answer our call.

I can assure you that I along with many colleagues will be working to assure passage of mental health parity next year before the end of this session of Congress. I know that Senator DOMENICI will be providing leadership yet again to eliminate this discrimination.

There is no debate about the devastating impact of mental illnesses on Americans from every walk of life. The Surgeon General has estimated that roughly 20 percent of the U.S. population—nearly 125,000 people in each of our districts—has a diagnosable mental disorder in any given year. A fifth of our nation's children have mental disorders with at least mild functional impairment. Suicide is the third leading cause of death for young Americans, and twenty percent of all suicides are seniors over age 65. Untreated mental illness costs American businesses $70 billion each year in lost productivity and worker absenteeism according to the Wall Street Journal. Other estimates are significantly higher.

The good news is that treatment works. Apparently, some in Congress apparently still do not understand this. Properly diagnosed and effectively treated, the overwhelming majority of those with mental illnesses can reclaim their lives, return to work, and once again become productive members of our society. Indeed, NIH data show that mental health treatments have greater success rates than treatments for heart disease and many other medical conditions.

Unfortunately for millions of Americans with mental disorders, access to effective treatment is impossible because health plans routinely and legally discriminate against them. The GAO reports that an appalling 87 percent of health plans routinely force patients to pay more for mental health care than other health care, put stricter limits on mental health treatment than on other health treatment, or both. The Surgeon General has unequivocally stated that such distinctions between mental and physical health care have no basis in science. The only reason to restrict mental health care is because of stigma and outdated stereotypes.

Again, by not acting to ensure parity in mental health coverage, Congress is allowing insurers to discriminate—blatantly—against patients who for not fault of their own have a mental illness. Congress would not stand idly by while insurance companies put up barriers to cancer treatments or care for patients with heart disease. Similarly, we in Congress should not tolerate such discrimination against patients in need of mental health care.

I understand some Conferees were concerned about the inclusion of parity because of procedure, not policy. The Chairmen of the authorizing Committees expressed interest in convening hearings on the subject. I am pleased that this Conference Report urges the authorizers to act on mental health parity as I have been urging the authorizing them to do for years.

There is no time to waste. This is a problem we need to address now. In the wake of the terrorist attacks on our country, millions of Americans are coping with profound feelings of fear and vulnerability. Experts tell us that the psychiatric consequences may not show for weeks or months in the form of post-traumatic stress disorder and other serious mental and emotional problems. Unfortunately, at a time when mental health care is of unprecedented importance, many will discover that their health plans hinder rather than help them receive treatment.

By not including mental health parity in this Conference Report, Congress is prolonging the discrimination against those who are already suffering. I ask House Leadership to move ahead with mental health parity as encouraged by the majority of the House and Senate. We must move this reform next year before the 107th Congress adjourns.

Mr. OBEY. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Wisconsin (Mr. OBEY) has 6¾ minutes remaining, and the gentleman from Ohio (Mr. REGULA) has 1¼ minutes remaining.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, every single American will benefit from the passage of this bill. Every single American has benefited over the last generation from the passage of similar labor, health, education, and social services bills. Every

American family that cares about educating children should be pleased with this bill.

This bill has also, through the years, absolutely revolutionized our ability to deal with disease. It has totally changed the way we attack disease. It has totally transformed our understanding of human disease, and it has armed us to provide some incredible advances in health care in the future. It is, to me, the most important bill that we pass each and every year in this House.

I again appreciate everything that the gentleman from Ohio (Mr. REGULA) has done to help move this bill forward.

Mr. Speaker, I yield back the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume for just one comment.

I hope that the authorizing committees will deal with the issue of mental health parity. We had a temporary amendment offered to ensure that there would be continued coverage after September 30. We recognize that this is something that should be done by the authorizing committees and hope that that will be done.

I also want to mention that we so many times hear that the other body does not work well with ours. I just want to say that at the staff level the team from the other body worked beautifully with the House team, Republicans and Democrats, to bring this package together. They worked extremely hard and have produced a wonderful bipartisan bill. It is bipartisan party-wise, and it is bipartisan House and Senate.

One last thing I do not think has been commented on is Job Corps. Today, in this economic crisis we are concerned about job training programs and dislocated workers. The Job Corps is funded at $1.459 billion, $60 million more than last year. The dislocated worker assistance is funded at $1.5 billion, $111 million over fiscal year 2001 and $166 million over the budget request.

I think this illustrates, as the gentleman from Wisconsin (Mr. OBEY) has said, that this bill is compassionate and it indicates our great concern. I would urge all of our colleagues to support this. They can go home and with pride say that they supported this bill. It truly is a people's bill.

Mr. KIND. Mr. Speaker, I rise in support of H.R. 3061 the FY2002 Labor, Health and Human Services, Education Appropriations bill. I am pleased that my colleagues on both sides of the aisle came together to provide an increase of $12.5 billion over FY2001 program level.

This legislation makes education a priority. It provides an increase of $6.7 billion over last year's education appropriation bill and includes a discretionary education appropriation of $48.9 billion. Furthermore, I am happy with the recent passage of H.R. 1, the No Child Left Behind Act. While this bill encompasses many reforms, one issue in which I was actively involved in during committee consideration of ESEA was improving professional development for our teachers, principals, and administrators. This year, the Teacher Quality State Grant received $2.85 billion, a 31% increase over last year's appropriation. I will continue to push for increased funding for professional development; our school leaders are critical to our children's success in the classroom. Educating our youth should be our nation's number one priority.

Regarding health issues, I am a strong supporter of doubling the budget for the National Institutes of Health (NIH) by fiscal year 2003, and complement the committee for providing an additional $3 billion. Congress' bipartisan support of medical research has led to substantial improvements in the health and well being of every American. We have now entered a new era of science with the mapping of the human genome and the potential in stem cell research. The opportunities for preventing, diagnosing, treating and curing diseases have never been greater. And, with the research and development of new vaccines to combat widespread disease epidemics, the NIH is in the forefront of the war on bioterrorism.

Further, I commend the committee for increasing funds to assist rural health care needs including $1.34 billion for community health centers and $40 million for rural hospitals. Further, I am happy that $12.5 million will be provided for the Rural Access to Emergency Devices program administered through the Rural Health Outreach Office. I was the author of the legislation creating this program that gives grants to community partnerships consisting of local emergency responders, police and fire departments, hospitals, and other community organizations to purchase automated external defibrillators (AEDs) and train potential respondents in their use, as well as in basic CPR and first aid.

Finally, it is imperative that we continue adequate funding for employment and training activities under the Department of Labor. During this period of economic uncertainty with workers losing their jobs each day, training and employment programs are critical in helping these workers get back on their feet. I am pleased that Congress chose to restore some of the cuts made to the programs in the administration's budget.

The Labor, Health and Human Services, Education Appropriations bill is often a contentious piece of legislation. I commend my colleagues for working in a bipartisan fashion to address many of our top domestic priorities in education, health care, and training. I urge my colleagues to support the bill.

Mr. CROWLEY. Mr. Speaker, I rise today to express my support for H.R. 3061, the Labor, Health and Human Services, Education and Related Agencies Appropriations Bill.

And would like to thank Chairman REGULA and Ranking Member OBEY as well as all members of the Subcommittee, especially Representative STENY HOYER, ROSA DELAURO, and NITA LOWEY for all of their work and dedication in crafting a bipartisan piece of legislation that funds our Nation's education, health infrastructure and labor programs. This bill provides $48 billion for education programs—an increase of almost $7 billion over last year.

Of this total, $6.54 billion is allocated for the Head Start Program, which represents a $338 million increase over last year's budget. This new funding will guarantee that we can avert a threatened reduction in current enrollment of as many as 2,500 children. This Head Start funding will benefit many Head Start Centers in New York, including the Little Angels Head Start Program in the Bronx. Additionally, this bill increases the ceiling for Pell Grants bringing the maximum award to $4000—the highest maximum grant in the program's history. This will mean more deserving students will have a chance to attend college and achieve the American dream.

The bill provides new resources for mentoring, training, salary enhancement, and other improvements that will support teachers by giving them the resources they need to do their job. With respect to teacher training, I was very pleased to see the great work being done by City University of New York Chancellor Matthew Goldstein, and the President of LaGuardia Community College, Gail Mellow acknowledged with a $600,000 grant for their Teacher Empowerment Zone Program at this great institution.

This bill also allocates $200 million more than what the President requested for bilingual education. These funds will provide instructional support and teacher training to assist the approximately 3.6 million students who have difficulty speaking English.

Mr. Speaker, this is wonderful news for my district, home to students who speak over 70 languages. H.R. 3061 provides the money needed to carry out the sweeping educational reforms outlined in the Leave No Child Behind Act—a bill that ensures teachers, students and parents have the resources to hold themselves to the highest educational standards.

Locally, this translates into $636 million this year for New York City Public Schools, a 28% increase from last year; and $141 million in Title I funding, a 20% increase over last year. With the New York City Board of Education threatening a 15% across the board cut in important education programs, this increased Federal funding is more important than ever. This bill will mean a lot to New York City and particularly the children back in Queens and the Bronx.

In addition, H.R. 3061 includes significant increases for medical research and health programs. I am particularly pleased at the inclusion of $23.3 billion towards the National Institutes of Health—an increase of $3 billion over last year's funding levels, and a $430 million increase for the Centers for Disease Control and Prevention. The CDC has a long history of doing exemplary work, particularly in disease prevention. Specifically, the CDC has led the charge in combating the West Nile Virus, a potentially deadly virus that was first discovered in North America in my district of Queens, New York. The programs at both the CDC and the NIH are not only a good investment in our communities, but they are vital to combating bioterrorism as our nation confronts new threats and challenges.

Furthermore, this bill also allocates $1.91 billion for the Ryan White AIDS program, which is a $103 million increase from last year, with specific increases for minority HIV/AIDS initiatives. With minority rates of HIV/AIDS infection increasing, this funding is both timely and desperately needed. In my district, Steinway Child and Family Services of Queens has done an outstanding job in providing HIV/AIDS education and prevention services programs, including an innovative program of teen mentoring in the schools. We must combat the scourge of AIDS, and this bill provides a down payment in this war. For our displaced and unemployed Americans, this Labor-HHS-Education Conference Report includes $1.55 billion for dislocated workers employment and training, an increase of almost 10% over last year. For my home State of New York, this will mean a tremendous amount as we strive to recover from the events of September 11th.

Stating that, I was disheartened to see the school construction and modernization that I have championed stripped from this bill, just as I was disappointed that a meaningful compromise was not reached to achieve mental health parity for insurance. Nevertheless applaud the hard work of the House and Senate conferees in bringing this important spending bill to the floor today and I proudly support this measure.

Mrs. CHRISTENSEN. Mr. Speaker, I rise today, to support the Labor Health and Human Services, and Education appropriation bill today, and to applaud the chairman, Mr. REGULA, and ranking member, Mr. OBEY, for their hard work, willingness to work with all of us, with our many and varied interests, and demands, and their unwavering commitment to the people of this country who depend on the work done in this important committee. As a family physician and chair of the Health Braintrust of the Congressional Black Caucus, I want to speak specifically to the Health funding.

Mr. Speaker, while we may not have gotten all that we wanted, I am pleased that funding that would have been flat or reduced under President Bush's budget request was restored or even increased. Although there are many instances where this has happened, I want to make specific reference to Healthy Start, the Health Careers Opportunity Program and the Minority AIDS initiative. On the Minority AIDS initiative we regret that the funding did not come closer to our request of $540 million that we determined was needed to extend the programs for HIV and AIDS to our hard to reach people of color who are at disproportionate risk, and suffer the most from the scourge of this virus.

We are most concerned that the language accompanying the funding for this important initiative still falls short, in that it fails to target this small section of AIDS funding narrowly, to ensure that the community organizations that are of the communities, which are most needy, are the ones to receive the funding. In not doing this, the intent of the Congressional Black and Hispanic Caucuses, to empower our community through resources and technical assistance may not be met—a risk we should not take given the devastation of HIV/AIDS on our communities. But the committee did well in providing us the 11% increase—far more than ensured by the President's budget, and for that we are grateful. We will redouble our efforts to get the full funding and better language next year.

Mr. Speaker, I want to say that I too share the disappointment voiced by several of my colleagues in that the measure which would have given mental health services parity with other healthcare is not included, and pledge to work with them, and our community and national organizations that this goal will be realized. To expect a perfect bill that includes all that everyone wanted is more than unrealistic, and in this period of crisis in our country it is impossible. The chair and ranking member and the committee has done well. We thank them, and we ask our colleagues to vote for this bill.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to express my support for the Labor-Health and Human Services Appropriations conference report. While the report contains increases which will strengthen many significant projects and initiatives such as: the Ryan White AIDS treatment programs, dislocated workers employment and training, the National Institutes of Health, special education, and Head Start; I am particularly pleased to see the inclusion of $850,000 for the AMISTAD America project.

AMISTAD America, Inc., is an educational foundation in Connecticut, which build and operates a full-size working replica of the ship *Amistad*. It serves as a unique and powerfully effective traveling educational exhibit that will make port visits down the Eastern Seaboard and around the country to educate students about the history and lessons of leadership, racial cooperation, perseverance, courage, justice, and freedom that are inherent in the Amistad Incident of 1839.

Constructed between 1998–2000 with grants from the State of Connecticut and various private donors, the Freedom Schooner *Amistad* is a wonderful example of public and private partnership. With this federal funding, the Freedom Schooner *Amistad* will serve as a tool to educate our school children about the Transatlantic Slave Trade. Moreover, AMISTAD America, Inc. will be able to share the rich history and lessons of the ship *Amistad* to the rest of America by coordinating with local school districts and schools to provide school children free admission, tours and history lessons on the Freedom Schooner *Amistad* vessel when it visits various ports in the United States. It will also hold teacher-training sessions, and distribute K–12 educational materials including the CDROM, The Amistad Incident: A Journey to Freedom . . . A Story of Heroism, to each school district preparing for a visit. In addition, with the help of Apple Computer, school children will be able to connect with Amistad Internet to conduct live, interactive chats with the captain and crew of the *Amistad*. This technology will allow *Amistad* to connect with as many individuals in as many places as possible, especially those communities that cannot be reached by the vessel.

I would like to note that *Amistad* project received support from all Members of the Connecticut Delegation, as well as the Congressional Black Caucus. I thank them for their efforts and assistance in securing funding for this very important educational tool. I would also like to give special thanks and recognition to Christopher Cloud and Will Mebane of Amistad America, Inc. and Fredericka Gray of Phoenix Home Life for their perseverance and dedication to the Freedom Schooner *Amistad* project.

Mr. Speaker, I applaud the hard work of the conferees in preparing this conference report and including this important project, which will help to enrich school children's knowledge and understanding of our nation's history in not only Connecticut, but the entire country. Therefore, I urge my colleagues to vote in favor of the conference report.

Mr. BEREUTER. Mr. Speaker, this Member wishes to add his strong support of the conference report for H.R. 3061, the Labor, Health and Human Services, and Education Appropriations Act for fiscal year 2002.

This Member would like to commend the distinguished gentleman from Ohio [Mr. REGULA], the chairman of the Appropriations Subcommittee on Labor, Health and Human Services and Education, and the distinguished gentleman from Wisconsin [Mr. OBEY], the ranking member of the House Appropriations Subcommittee on Labor, Health and Human Services and Education, for bringing this important legislation to the House Floor today. This Member is particularly pleased that this appropriations conference report includes $800,000 for the University of Nebraska-Lincoln to expand software education and training programs, as well as curriculum development. This funding, which was requested by this Member, is to be used to assist the University of Nebraska-Lincoln's unique honors program, called the Great Plains Software technology program. The program integrates computer science and business curriculums to educate students in technologies that are becoming the building blocks for the new economy.

This funding will be used for further development of this curriculum and will allow the University of Nebraska-Lincoln to serve additional students and provide them with challenging internships. By participating in the Honors Program, students will be prepared with the knowledge needed in the information technology arena so they can start their own companies or help expand existing businesses, thereby creating new jobs and opportunities in Nebraska. This Member is also pleased that the conference report provides $1.5 million for the Close Up Foundation. It is this Member's opinion that the Close Up Foundation is the best citizen education program that brings citizens of any age to Washington, D.C., to study our governmental system. It is a highly successful program that each year provides thousands of high school students with an extraordinary opportunity to learn how our government works. The funding, which was requested by this and other Members, will assist low-income students who want to attend the Close Up program.

This Member is also pleased that the conference report includes language, which this Member requested, expressing concern about the Administration's plans to abolish the Office for the Advancement of Telehealth and reassign these functions to the HIV/AIDS Bureau. This Member is pleased that the conferees have provided sufficient funds to continue the operations of this office as a component of the Office of the Administrator.

The Administration's decision to make such an organizational change came as a complete surprise to this Member, as he was given prior assurances of OAT's success as a leader in advancing higher quality health care for Americans living in rural and non-metropolitan parts of our country.

This Member was concerned about this move for several reasons. Despite any assurances that might be offered to the contrary, the abolition of the OAT and the placement of its function in the HIV/AIDS Bureau would likely divert the focus of the Office's efforts and program and staff resources away from using telehealth to provide better access to rural and underserved populations. The Office currently manages over 80 grants in 40 states and has improved the lives of over 100,000 individuals over the past year. Many of these grants have been highlighted by Members of Congress as being of significant importance to residents of their home districts. These grants were authorized by Congress to meet the unique needs of rural and underserved populations. The needs and requirements of expanding medical access to rural and underserved urban communities using telemedicine are quite different from the programmatic efforts of the HIV/AIDS Bureau.

Through the Office's efforts to foster communication and coordination among programs that are involved in telehealth activities, OAT has served as a critical focal point for such activities within the Federal Government. For example, its efforts to create and manage the Joint Working Group on Telemedicine have focused on improving the effectiveness of over 15 different Federal grant programs through education about new initiatives and participation in joint activities that reduce duplication of efforts. We are concerned that this reorganization will eliminate this function and bring about greater inefficiency and confusion among Federal programs. The Office currently serves as a model for the cost-effective expansion in delivering medical care through its grant program. For example, during a recent period (1999 to 2000) the program's grantees increased patient encounters by over 83 percent while its budget increased by only 56 percent. In addition, Federal dollars used by OAT grantees are used to leverage other funds, further expanding access to care while saving costs to the Federal Government.

Finally, following the horrific events of September 11, 2001, it is ever more important that we have a powerful OAT that can assist rural and underserved communities with the development of telehealth programs. The large Federal investment already made in establishing a network of programs providing telemedicine services can be used to educate rural medical professionals on how to diagnose, report, and respond to effects of terrorism. This education is critical since high mortality rates could occur if diseases resulting from the release of biowarfare agents and other terrorist actions are not recognized and treated properly in their early stages.

Mr. Speaker, in conclusion, this Member supports the conference report for H.R. 3061 and urges his colleagues to approve it.

Mr. MATHESON. Mr. Speaker, I am pleased to rise today in support of a bipartisan appropriations bill that provides resources to important federal priorities. First, I am pleased with the level of funding for education. Last week this House approved the most sweeping reform in federal education policy since 1965. That legislation was designed to elevate the quality of our nation's schools and bridge the achievement gaps that have been tolerated for too long in our country. It will require more of our students and teachers by setting higher standards and tracking progress over time.

While the H.R. 1 reform bill was a monumental achievement, it was hollow rhetoric until today. Today, we are taking the first step to provide the federal resources necessary to support the type of reforms and the level of excellence in education that we outlined in H.R. 1. today, we are moving closer to keeping the federal government's promises to our local schools and students.

The FY 2002 Labor-HHS-Education Appropriations Bill provides a 16 percent funding increase for education programs overall, including a 17 percent boost in elementary and secondary education programs and a 13 percent increase in the maximum Pell Grant. This will translate into helping local school districts hire 32,000 additional teachers and increasing the number of Pell Grant recipients to 4.3 million. In addition, it includes a boost in special education spending for the Individuals with Disabilities Education Act. Although I, like many of my colleagues, believe that supporting our local schools with 40 percent of the costs of special education is a high priority, this legislation will provide the highest level of funding ever for special education by boosting the federal percentage from 12 percent to 17 percent of all costs, a 19 percent increase over last year. I am pleased that we are doing so much to meet our obligations to our children and recognizing that education is an important long-term priority.

While Congress has done much lately to improve education, recent events have demonstrated the essential nature of preserving our health care infrastructure. Because a strong health care system improves the life of every American, I am pleased that this appropriations bill continues to move us down the track of doubling the funding for NIH over five years, by providing a 15 percent increase over last year's funding levels. Federal resources devoted to the National Institutes of Health are the backbone of biomedical research throughout the nation. This increase will invest in potentially life-saving discoveries about a plethora of disease processes and treatment techniques. In addition it will provide increased resources to assist rural areas by strengthening the federal assistance given to rural hospitals and increasing support for the National Health Service Corp.

This legislation also recognizes the evolving nature of our world and new priorities in health care response that we face in ensuring Homeland Security. It dedicates additional resources to public health prevention and bioterrorism preparedness. There is an 11 percent increase for the Centers for Disease Control (the front-line of our nation's bioterrorism preparedness and response team) and funding to begin establishing an environmental health tracking network to assist in monitoring and responding to disease trends.

Although I am disappointed that this legislation's strong commitment to public health does not include an expansion in the federal requirements for mental health parity, I am pleased that the Conference Committee had the foresight to include an extension of the existing regulations for an additional year. This coupled with a 6 percent increase in funds for the Mental Health Services Administration will assist more Americans who suffer from mental illness.

In many ways the long-term stability and prosperity of our nation is provided for in this legislation. Our education system is fortified; our health care system is equipped, and finally, our nation's workers are assisted. This legislation helps to adequately assist dislocated workers and provide training to adults and youth. Never in the last decade have we needed to be more aggressive about providing services for victims of economic downturn and investing in long-term priorities that will create long-term economic prosperity and national security.

Mr. BLUMENAUER. Mr. Speaker, last week we reauthorized funding of education programs with a solid balanced approach for the future. Today's Labor, Health, Human Services and Education bill provides the first year of funding on that vision. Nothing is more important for the future livability of our communities than a sound education system; schools are the building blocks of stable neighborhoods and healthy children.

I am pleased with the progress that has been made on education in this Congress. While there are pressing needs for security and defense, and the state of the economy is on everybody's minds, nothing will make more difference for the long term livability of Oregon and communities around the country than having a solid education system. Especially in these difficult economic times, assistance from the federal government plays a critical role. I enthusiastically support this bill, which provides a 16 percent increase over last year, an increase three times larger than the administration had requested. For special education, a critical need, the rate of increase is even higher at 19 percent.

I am also pleased with the improvements in health and Low-Income Home Energy Assistance (LIHEAP) funding. This conference report includes extra support for National Institutes of Health research, a vital 11% increase for the Centers for Disease Control. These important organizations are even more vital to our preparedness and security in light of the threats that face our nation. We have also maintained LIHEAP funding from FY01, $300 million over the President's request, to help low-income Oregonians and other Americans access heating assistance during a time of cold weather and skyrocketing energy costs. Finally, Congress will send the President a bill without the proposed cuts in Head Start funding, maintaining a program that is vital to the development of young children.

My hope is that we can build on this progress in the next session of congress to be able to assure that our children have stable education funding and that our communities have more resource to modernize schools and provide a full range of services that our children deserve and that citizens demand. The federal government needs to be a full partner; this bill goes a long way towards fulfilling that promise.

Mr. BACA. Mr. Speaker, the Labor H.H.S. conference report signals a bipartisan commitment to place education as a top priority. Education must be top priority not just for children of privilege, not just for those who speak English as their first language, all children deserve the opportunity to learn!

Latinos remain among the most educationally disadvantaged of all students. Education must be a top priority for all children. In education, our children are the underdogs. Our children are without a voice. As elected officials we have the responsibility of voicing loudly and plainly the educational realities of poor and disadvantaged children.

I can assure you that we in the Hispanic Caucus have not forgotten our roots. We are standing strong and fighting hard not only for our children but all children, so that no child is left behind. This bill makes significant strides in funding for our educational priorities but make no mistake that we as Hispanic members of Congress will continue pushing for adequate and protected funding for bilingual education, immigrant and special education.

We will continue fighting so that every poor child, eligible for services can receive assistance. We are not only fighting for our children to catch up we are also fighting for our children to move ahead, excel, fulfill their hopes and dreams and lead us into the 21st century.

We need to move out of the box to meet the needs of the changing population to meet the unique needs of our community. We need to provide the resources so that the opportunities for our children are real. We need to provide the resources so that all children, if they work hard, can succeed. That is the American promise. That is the American dream. We must remember the words of Cesar Chavez: Si se puede, Yes we can!

With the passage of this bill we are well on our way. I strongly support final passage of H.R. 3061.

Ms. KAPTUR. Mr. Speaker, I rise to express my sincere disappointment with the Republican House conferees and their leadership who gave the big insurance companies their holiday wish and abandoned the millions suffering from mental illness when they killed the mental health parity amendment in conference.

Mental illnesses are brain disorders. They are as much physical illness as diabetes or heart disease. Members of Congress and federal workers already have health insurance providing parity for mental health benefits. Other Americans deserve the same protection. The cost of parity is low and the benefits are significant. For example, in my own state of Ohio mental health and substance abuse costs for state employees dropped with parity.

There are 54 million Americans with mental illness, two-thirds of whom receive no treatment. The Wall Street Journal has estimated that untreated mental illnesses cost U.S. businesses $70 billion a year in lost productivity and absenteeism; other estimates are much higher. Parity is inexpensive, support for it is broad, the authorizers have not acted, and those who opposed the amendment should be ashamed for voting to protect unconscionable discrimination.

Mrs. LOWEY. Mr. Speaker, I rise today in strong support of the conference report and I urge its adoption. I want to thank the ranking member, Mr. OBEY, for yielding me this time and for his strong and forceful leadership not only on this bill, but also for the American people.

I want to recognize the chairman of our Subcommittee, Mr. REGULA. He has been an absolute pleasure to work with and has gone out of his way to ensure that the bill was crafted in a bipartisan manner and that the concerns of Members on both sides of the aisle were considered.

Mr. Speaker, this conference report provides tremendous increases for health, education and worker safety and training. We've been able to follow up on the promises we made on this floor last week when we passed the ESEA conference report in this bill. Increases in Title I funding will ensure that our most disadvantaged children have access to a quality education. Pell Grants will reach a maximum of $4,000 per student, giving low-income students a helping hand in paying for college. Overall, the bill boosts education funding by over $1 billion, to its highest level ever. In health programs, the bill continues to provide an unprecedented level of funding for medical research. We are in an age of tremendous discovery in medical research, and the resources provided to NIH will help find treatments and cures for many diseases. There are increases for mental health research and treatment, HIV/AIDS programs, and programs for the elderly. And, we address the growing threat of bioterrorism by giving the CDC, our leader in this fight, greater resources to help keep our nation secure.

Even with these vast increases for so many programs, we know that next year will be very different. The surpluses we've enjoyed have disappeared. And, the President's tax cuts will take up more and more of the federal budget as we go forward. We're just beginning to fund education and healthcare at the levels they deserve. I am concerned, as are many of my colleagues, that we will not be able to provide this same level of funding next year.

I want to mention one area of critical importance—the need to combat obesity in this country. The Surgeon General reported last week that two out of three American adults are overweight. In fact, he estimates that obesity will cause more deaths than smoking in the coming years. Reducing the rate of obesity can prevent unnecessary illness and death. We've been so successful in convincing people to quit smoking, and this should be the next big fight for public health. I know that Chairman REGULA and Mr. OBEY will be very interested in that effort, and I want to again thank the chairman and ranking member for their tireless efforts in putting this bill together. I urge adoption of the conference report.

Mr. REGULA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 30, not voting 11, as follows:

[Roll No. 504]

YEAS—393

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne

Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—30

Akin
Bartlett
Cantor
Chabot
Cox
Crane
Duncan
Flake
Goodlatte
Hayworth
Hefley
Hostettler
Jones (NC)
Kerns
McInnis
Otter
Paul
Pence
Pitts
Rohrabacher
Royce
Ryun (KS)
Schaffer
Sensenbrenner
Sessions
Shadegg
Smith (NJ)
Tancredo
Toomey
Weldon (FL)

NOT VOTING—11

Baker
Clement
Cubin
Hall (OH)
Hastings (FL)
Luther
Meek (FL)
Reyes
Stark
Wexler
Young (AK)

☐ 1532

Mr. GOODLATTE and Mr. PENCE changed their vote from "yea" to "nay."

Mrs. KELLY, Mr. DOGGETT and Mr. THOMAS changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT REGARDING LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. KOLBE. Mr. Speaker, pursuant to the notice requirements of House Resolution 314, I announce that the following measures will be considered under suspension of the rules on Wednesday, December 19, 2001: H.R. 2561 and H.R. 2751.

GENERAL LEAVE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report accompanying the bill (H.R. 2506) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Arizona?

There was no objection.

CONFERENCE REPORT ON H.R. 2506, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2002

Mr. KOLBE. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report accompanying the bill (H.R. 2506) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Arizona (Mr. KOLBE) and the gentlewoman from New York (Mrs. LOWEY) each will control 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Speaker, I yield myself such time as I may consume.

I am privileged to bring before the House today the conference report on H.R. 2506, making appropriations for foreign operations, export financing, and related programs for fiscal year 2002. I want to also pay special thanks today to my very able ranking minority member, the gentlewoman from New York (Mrs. LOWEY). She has been a full partner throughout this process, and I am very grateful for the support and the participation that she has provided to bring this bipartisan bill before the House today as a conference report.

It is important to note that this bill enjoyed widespread support when it came before the House the first time. We approved the bill on July 24 by a vote of 381 to 46, really unprecedented for a foreign operations bill. Senate passage occurred 3 months later, on October 24, by a vote of 96 to two. I think these votes in both the House and the Senate demonstrate the importance that most Members in both bodies attach to fulfilling our foreign obligations and assisting our friends and allies abroad.

As I stated when I brought the bill to the floor earlier this year, I had three priorities for this legislation: first was to reverse the spread of infectious diseases, such as HIV/AIDS, tuberculosis and malaria; second, encouraging economic growth through open trade and transparent laws in other countries; and, third, improving the accountability of the agencies that are funded by this bill. This conference agreement represents important progress in all three areas.

The conference agreement appropriates $15.346 billion in new discretionary budget authority. This figure represents an even split between the House and Senate allocations. It is $178 million above the House level, $178 million below the Senate-passed bill. Three major reasons for the increase are the needs to restore a portion of the administration's cut to the Export-Import Bank; to provide new funding for the Andean Counterdrug Initiative; and to intensify our efforts to combat HIV/AIDS and other communicable diseases.

For the Export-Import Bank, we restored $138 million of the proposed reduction of $232 million in the program funds of the bank. This level of funding will allow for loan authorizations estimated at $10.6 billion, approximately $1.4 billion higher than the current level.

Regarding the Andean Counterdrug Initiative, it is important to recall that a supplemental appropriation bill outside the boundaries of the subcommittee's fiscal year 2001 allocation funded the initial Plan Colombia adopted by Congress last year. Therefore, the $625 million the conference report recommends for these activities is significantly above the $154 million that was available in the regular 2001 appropriations act for these countries; hence, the requirement for more money for this initiative. I am disappointed that we could not provide a higher level for this important initiative. However, in the discussions that we had with the Senate on this matter, I often felt like I was a minority of one. We were able to provide the base funding of $625 million, plus transfer authority to provide $35 million in addition to these funds. That will allow for a total of $660 million for this program in fiscal year 2002.

In addition, the conference report includes an amended version of the general provisions as proposed by the Senate that modifies the annual counternarcotics certification process. I ask that the letter I received from the State Department dated December 14, 2001, supporting the recommendation of the conferees be included in the RECORD.

Over $2.8 billion of the funds provided in this conference report will be made available for military, economic, and refugee assistance for Israel. It is important that we pass this conference report as soon as possible, since Israel's economic assistance is a component of its fiscal year 2001 budget that expires at the end of December, this month, just a few days from now. Overall, the bill provides $5.14 billion for the Middle East, including assistance to Jordan, Egypt and Lebanon.

Total funding for activities to combat HIV/AIDS in this bill is $475 million, a very significant increase over the level of $315 million provided in fiscal year 2001. Within that level, the conference agreement appropriates $50 million for the international HIV/AIDS trust fund, as well as general authority to provide for an additional $50 million, if warranted, from other sources in this bill and from prior year funds.

Together with $100 million appropriated earlier this year in the supplemental appropriations act and $100 million appropriated in the Labor-HHS bill which we just completed on the floor a few moments ago, we have fully met and exceeded the President's request of $200 million in funding for the international fund to combat HIV/AIDS, malaria and tuberculosis. For bilateral assistance, no less than $395 million should be available for HIV/AIDS programs, assuming that $40 million is transferred to the proposed global fund. This amount exceeds the President's request by $66 million and the level authorized in law by $95 million. Some of the increase is for new programs in vulnerable countries such as Burma where little donor assistance is available to restrict the spread of AIDS.

Overall, for assistance programs managed solely by the Agency for International Development, the committee recommends a total of over $3.5 billion, of which $1.43 billion is for child survival and health programs. These totals include $120 million for a grant to UNICEF. In addition, $150 million is provided for basic education, an increase of $47 million over the fiscal year 2001 level. Again, I want to congratulate the gentlewoman from New York for her persistence in ensuring that assistance for basic education receive a high priority in this year's conference agreement.

□ 1545

Many children around the world have a great deal to be thankful to the gentlewoman from New York (Mrs. LOWEY) for.

For international financial institutions, the recommendation is $1.17 billion, which is $23 million over the 2001 level, but $40 million below the request. The bill also completes funding for the Heavily Indebted Poor Country Initiative, with a final $224 million, and provides an additional $25 million for the Tropical Forest Debt Relief Act; $5 million in new funds and $20 million from previous year balances. The President has called on the World Bank to dramatically increase the share of its funding for health and education in the poorest countries, but to do so with grants, rather than loans. Over the past few years, the committee has urged different administrations to adopt these policies, and I am pleased that President Bush has embraced them.

The conference report also includes language similar to that included in the bill that the House passed earlier this year regarding compliance by the Palestinian Authority and the Palestinian Liberation Organization with their commitments to halt violence and terrorism. Language in the conference agreement specifies the PLO and Palestinian Authority should abide by the cease-fire brokered by CIA Director George Tenet. If they are not in substantial compliance, the Secretary of State should impose at least one of three sanctions: First, the closure of the Palestinian information office in Washington; second, the designation of the PLO or one or more of its constituent groups as a terrorist organization; and, third, the cutting off of all except humanitarian aid to the West Bank and Gaza.

The President is allowed to waive these restrictions if he determines it is in the national security interests of the United States. Many of my colleagues wanted to go further in sanctioning the Palestinians; others felt that any language might upset potential negotiations that are either underway or will be underway in the future. The conference compromise, I believe, is a good indication of Congressional intent. I think it sends the right message to the Palestinians: Comply with your commitments regarding the enunciation of terror and violence and no sanctions will be imposed. I also believe it gives the President and the Secretary of State additional leverage in their discussions with Yasser Arafat and the Palestinian Authority.

The conference agreement also includes my proposal regarding the International Committee on the Red Cross. This otherwise noble institution has failed to admit the Magen David Adom Society of Israel to the International Red Cross and Red Crescent Movement. The American Red Cross has courageously fought to get the Society admitted to the Red Cross Movement. They have withheld their dues to the Geneva headquarters of the International Red Cross for the past 2 years. I am proposing that the United States Government do the same, until the Society is fully able to participate in the activities of the International Red Cross.

The bill also includes an additional $100 million to assist El Salvador in its recovery from two devastating earthquakes earlier this year. Many Members of the House are interested in assuring that additional assistance is provided for our friends in El Salvador, and the conference agreement provides that at least $100 million shall be made available for that purpose. The administrator of AID was in El Salvador last week and was able to make this announcement, and I can tell Members it was greeted with considerable satisfaction there.

For the International Fund for Ireland, we are recommending $25 million. That is the same as last year, but it is $5 million above the President's request. The program is designed to support the peace process in Northern Ireland and the border counties of the Republic of Ireland. Again, this is a matter that has strong support in the House and that the Senate did not address.

Our assistance program for Eastern Europe and the Balkans will receive $621 million in this conference report, an increase of $21 million over the fiscal year 2001 level. The major reason for the increase is the need to meet the last-minute requests of the administration for debt relief for Yugoslavia, which will assist the new democratic government of Serbia in its attempt to reform the economy of that country.

For the states of the former Soviet Union, funding would decline only slightly, from $810 million to $784 million. The committee continues its support to find a peaceful settlement in the Southern Caucasus region by providing $90 million for both Armenia and Georgia. While the committee does not set aside a specific amount for Azerbaijan, it waives a statutory restriction on assistance to its government as it cooperates in the fight against global terrorism.

The committee supports the struggle for a better life by the people of the Ukraine. Under this bill, the Ukraine will continue to receive $154 million, one of the largest single aid programs for any country on the globe.

Assistance for South and Southeast Asia is a relatively small part of our bill, but its importance is far more substantial than the number would indicate. Ongoing economic growth in health programs in India, the Philippines, Bangladesh and Indonesia provide the framework for subsequent investment by the private sector and multilateral development banks. The United States will participate in the effort to rebuild the Afghan economy, but substantial funds for that purpose have not yet been requested by the President, and so they are not included in this conference agreement.

For the second year, AID is encouraged to renew a basic education program in Pakistan. It is modest, but a very important start towards renewing a long-term economic assistance program in a country that has been seriously impacted by international terrorism.

The conference agreement also provides funding for several smaller programs that often do not get a lot of attention, including $38 million for antiterrorism assistance and $40 million for humanitarian demining programs around the world.

The Peace Corps is another program that has made an enormous difference in the world over the last several decades, and it has very strong support in the House. We recognize its value and its importance by providing the full funding request of $275 million.

Finally, Mr. Speaker, I want to, once again, thank our ranking minority member, the gentlewoman from New York (Mrs. LOWEY) for her cooperation in developing this year's bill and in reaching a conference agreement. We have had our disagreements from time to time, but we have approached them in the spirit of finding answers to them. We were both committed to developing a bipartisan bill that addresses the key priorities of the administration, as well as the Members of the House, both majority and minority, and, of course, the Senate in this conference report. It has been a great pleasure to work with the gentlewoman this year, and I am very grateful to have had her as my ranking member.

Before we close, Mr. Speaker, I would be remiss if I did not say we could not be here today without the extraordinary help of the staff of this subcommittee and our personal staffs that make it possible. I am speaking of the clerk of our subcommittee, Charlie Flickner, our professional staff, John Shank, Alice Grant and Lori Maes. On the other side of the aisle, Mark Murray; and our personal staffs, Sean Mulvaney from my staff, and Beth Tritter from the staff of the gentlewoman from New York (Mrs. LOWEY). They have been extraordinary in their efforts to work together and to find the answers, and in making sure that this bill came to the floor in a timely fashion and was one that can have strong bipartisan support.

Mr. Speaker, I thank all the members of the subcommittee for their invaluable assistance this year. I am proud that all the House conferees have signed this conference report, and I urge the entire House to vote in favor of this important legislation.

Mr. Speaker, I include the following for the RECORD:

DEPARTMENT OF STATE,
Washington, DC, December 14, 2001.

Hon. JIM KOBLE,
Chairman, Subcommittee on Foreign Operations, Export Financing, and Related Programs, Committee on Appropriations, House of Representatives.

DEAR CHAIRMAN KOLBE: This is in response to Mr. Mica's letter regarding proposed changes to the annual counter narcotics certification process. The general provision contained in the fiscal year 2002 Foreign Operations, Export Financing, and Related Programs Appropriations bill is a significant first step toward improving the current narcotics certification process. Moreover, it is important to remember that this provision to modify the certification process was negotiated, in good faith, by this Administration with the Senate Foreign Relations Committee under the leadership of then Chairman Helms.

We understand that the general provision contained in the final version of your bill would be applied on a worldwide basis and would place a premium on cooperation rather than confrontation with other governments. That cooperation is essential for combating international drug trafficking and traffickers, as well as combating international terrorism and terrorists.

Far from rendering meaningless the 15-year certification process or making it hard for us to fight illicit drugs and terrorism, the proposed legislation is a good measure of how far we have come since certifications began 15 years ago. At that time, we needed the blunt instrument of certification to get the attention of some governments. We are operating in a different world now, where the threat of international trafficking is better understood and where countries are more willing to work together to combat the problem.

The provision in the 2002 Foreign Operations bill retains the positive elements of the current system by continuing to link the counternarcotics efforts of major illicit drug producing and drug-transit countries to their eligibility for most forms of U.S. assistance, while eliminating some of the aspects that have created tension in our bilateral relationships. This provision continues to require the President to evaluate major illicit drug producing or drug-transit countries in their efforts to adhere to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

The 2002 counternarcotics provision further reduces one source of friction with many countries that are designated as major illicit drug producing or drug-transit countries by reducing the period countries must wait before they are eligible to receive the full amount of U.S. assistance in any fiscal year. The provision still retains the President's authority to waive the imposition of sanctions if he determines and reports to the appropriate congressional committees that it is vital to the national interests of the United States. Only countries that the President designates as having failed in their counter-narcotics efforts and who do not receive a waiver would be eligible for most U.S. assistance provided under the Foreign Operations. Appropriations Act in FY 2002.

Additionally, the 2002 language preserves the Department's annual *International, Narcotics Control Strategy Report* (INCSR), which is the single most important and complete survey anywhere of foreign drug control policies and practices.

The modification to the annual drug certification procedures contained in the general provisions of your bill provides that the new procedures would remain in place for one year, allowing the Department to monitor their effectiveness and to consider other options for the longer range during this period.

The Department is committed to combating the flow of illegal drugs into our country, particularly since the links between drug trafficking and international terrorism have been firmly established. We believe that the proposed modification to the current certification procedures will allow us to continue this important mission.

Sincerely,
PAUL B. KELLY,
Assistant Secretary,
Legislative Affairs.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 2002 (H.R. 2506)

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
TITLE I - EXPORT AND INVESTMENT ASSISTANCE						
EXPORT-IMPORT BANK OF THE UNITED STATES						
Subsidy appropriation	865,000	633,323	738,323	727,323	727,323	-137,677
(Direct loan authorization)	(865,000)	(152,000)	(950,000)	(950,000)	(950,000)	(+85,000)
(Guaranteed loan authorization)	(13,535,000)	(11,335,000)	(12,700,000)	(12,700,000)	(12,700,000)	(-835,000)
Administrative expenses	62,000	65,000	60,000	64,000	63,000	+1,000
Negative subsidy	-15,000	-11,000	-11,000	-11,000	-11,000	+4,000
Total, Export-Import Bank of the United States	912,000	687,323	787,323	780,323	779,323	-132,677
OVERSEAS PRIVATE INVESTMENT CORPORATION						
Noncredit account:						
Administrative expenses	38,000	38,608	38,608	38,608	38,608	+608
Insurance fees and other offsetting collections	-283,000	-290,000	-290,000	-290,000	-290,000	-7,000
Subsidy appropriation	24,000	....	....	....	....	-24,000
(Direct loan authorization)	(127,000)	(45,000)	(45,000)	(45,000)	(45,000)	(-82,000)
(Guaranteed loan authorization)	(1,000,000)	(1,152,000)	(1,152,000)	(1,152,000)	(1,152,000)	(+152,000)
Total, Overseas Private Investment Corporation	-221,000	-251,392	-251,392	-251,392	-251,392	-30,392
TRADE AND DEVELOPMENT AGENCY						
Trade and development agency	50,000	50,024	50,024	50,024	50,024	+24
Total, title I, Export and Investment assistance	741,000	485,955	585,955	578,955	577,955	-163,045
(Loan authorizations)	(15,527,000)	(12,684,000)	(14,847,000)	(14,847,000)	(14,847,000)	(-680,000)
TITLE II - BILATERAL ECONOMIC ASSISTANCE						
FUNDS APPROPRIATED TO THE PRESIDENT						
Agency for International Development						
Child survival and health programs fund	1,063,000	991,000	1,425,000	1,510,500	1,433,500	+370,500
Rescission of unobligated balances	-10,000	-20,000	....	....	....	+10,000
UNICEF	(110,000)	(110,000)	(120,000)	(120,000)	(120,000)	(+10,000)
Subtotal, Child survival (net)	1,053,000	971,000	1,425,000	1,510,500	1,433,500	+380,500
Development assistance	1,305,000	1,325,000	1,098,000	1,245,000	1,178,000	-127,000
International disaster assistance	165,000	200,000	201,000	245,000	235,500	+70,500
Supplemental funding	135,000	....	....	....	....	-135,000
Transition Initiatives	50,000	50,000	40,000	52,500	50,000	....
(By transfer)	(5,000)	....	....	....	....	(-5,000)
Micro & Small Enterprise Development program account:						
Subsidy appropriation	1,500	....	....	....	....	-1,500
(Guaranteed loan authorization)	(30,000)	....	....	....	....	(-30,000)
Administrative expenses	500	....	....	....	....	-500
Development credit authority:						
Subsidy appropriation	1,500	....	....	....	....	-1,500
(By transfer)	(5,000)	(25,000)	(12,500)	(25,000)	(18,500)	(+13,500)
(Guaranteed loan authorization)	(49,700)	(355,000)	(177,500)	(355,000)	(267,500)	(+217,800)
Administrative expenses	4,000	7,500	7,500	7,500	7,500	+3,500
Subtotal, development assistance	2,715,500	2,553,500	2,771,500	3,060,500	2,904,500	+189,000
Payment to the Foreign Service Retirement and Disability Fund	44,489	44,880	44,880	44,880	44,880	+391
Operating expenses of the Agency for International Development	520,000	549,000	549,000	549,000	549,000	+29,000
(By transfer)	(1,000)	....	....	....	(3,500)	(+2,500)
Supplemental funding	13,000	....	....	....	....	-13,000
Operating expenses of the Agency for International Development Office of Inspector General	27,000	32,000	30,000	32,000	31,500	+4,500
Total, Agency for International Development (net)	3,319,989	3,179,380	3,395,380	3,686,380	3,529,880	+209,891
Other Bilateral Economic Assistance						
Economic support fund:						
Camp David countries	1,535,000	1,375,000	1,375,000	1,375,000	1,375,000	-160,000
Other	760,000	879,000	824,000	884,500	824,000	+64,000
Rescission of unobligated balances	-10,000	-5,000	....	....	....	+10,000
Subtotal, Economic support fund (net)	2,285,000	2,249,000	2,199,000	2,239,500	2,199,000	-86,000
International Fund for Ireland	25,000	....	25,000	....	25,000	....
Assistance for Eastern Europe and the Baltic States	600,000	605,000	600,000	615,000	621,000	+21,000
Supplemental funding	75,825	....	....	....	....	-75,825
Assistance for the Independent States of the former Soviet Union	810,000	808,000	768,000	795,500	784,000	-26,000
Total, Other Bilateral Economic Assistance	3,795,825	3,662,000	3,592,000	3,650,000	3,629,000	-166,825

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 2002 (H.R. 2506) — continued

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
INDEPENDENT AGENCIES						
Inter-American Foundation						
Appropriation			12,000	13,107	13,107	+13,107
(By transfer)	(12,000)	(12,108)				(-12,000)
African Development Foundation						
Appropriation			16,042	16,542	16,542	+16,542
(By transfer)	(16,000)	(16,042)				(-16,000)
Peace Corps						
Appropriation	265,000	275,000	275,000	275,000	275,000	+10,000
Department of State						
International narcotics control and law enforcement	325,000	217,000	217,000	217,000	217,000	-108,000
Andean Counterdrug Initiative		731,000	675,000	547,000	625,000	+625,000
Migration and refugee assistance	700,000	715,000	715,000	735,000	705,000	+5,000
United States Emergency Refugee and Migration Assistance Fund	15,000	15,000	15,000	15,000	15,000	
Nonproliferation, anti-terrorism, demining and related programs	311,800	332,000	311,000	318,500	313,500	+1,900
Total, Department of State	1,351,800	2,010,000	1,933,000	1,832,500	1,875,500	+523,900
Department of the Treasury						
International affairs technical assistance	6,000	6,000	6,000	6,000	6,500	+500
Global Fund to Fight HIV/AIDS, Malaria, & Tuberculosis		100,000				
Debt restructuring	238,000	224,000	224,000	235,000	229,000	-9,000
Supplemental funding	210,000					-210,000
United States community adjustment and investment program		500				
Subtotal, Department of the Treasury	454,000	330,500	230,000	241,000	235,500	-218,500
Total, title II, Bilateral economic assistance (net)	9,186,414	9,456,880	9,453,422	9,714,529	9,574,529	+388,115
Appropriations	(8,772,589)	(9,481,880)	(9,453,422)	(9,714,529)	(9,574,529)	(+801,940)
Emergency appropriations	(433,825)					(-433,825)
Rescission	(-20,000)	(-25,000)				(+20,000)
(By transfer)	(39,000)	(53,150)	(12,500)	(25,000)	(22,000)	(-17,000)
(Loan authorizations)	(79,700)	(355,000)	(177,500)	(355,000)	(267,500)	(+187,800)
TITLE III - MILITARY ASSISTANCE						
FUNDS APPROPRIATED TO THE PRESIDENT						
International Military Education and Training	55,000	65,000	65,000	75,000	70,000	+15,000
Supplemental funding	2,875					-2,875
Foreign Military Financing Program:						
Grants:						
Camp David countries	3,280,000	3,340,000	3,340,000	3,340,000	3,340,000	+60,000
Other	265,000	334,000	287,000	334,000	310,000	+45,000
Subtotal, grants	3,545,000	3,674,000	3,627,000	3,674,000	3,650,000	+105,000
(Limitation on administrative expenses)	(33,000)	(35,000)	(35,000)	(35,000)	(35,000)	(+2,000)
Supplemental funding	31,000					-31,000
Total, Foreign Military Financing	3,576,000	3,674,000	3,627,000	3,674,000	3,650,000	+74,000
Peacekeeping operations	127,000	135,000	135,000	140,000	135,000	+8,000
Total, title III, Military assistance (net)	3,760,875	3,874,000	3,827,000	3,889,000	3,855,000	+94,125
Appropriations	(3,727,000)	(3,874,000)	(3,827,000)	(3,889,000)	(3,855,000)	(+128,000)
Emergency appropriations	(33,875)					(-33,875)
(Limitation on administrative expenses)	(33,000)	(35,000)	(35,000)	(35,000)	(35,000)	(+2,000)
TITLE IV - MULTILATERAL ECONOMIC ASSISTANCE						
FUNDS APPROPRIATED TO THE PRESIDENT						
International Financial Institutions						
World Bank Group						
Contribution to the International Bank for Reconstruction and Development: Global Environment Facility	108,000	107,500	82,500	109,500	100,500	-7,500
Contribution to the International Development Association	775,000	803,400	803,400	775,000	792,400	+17,400
Contribution to Multilateral Investment Guarantee Agency	10,000	10,000			5,000	-5,000
(Limitation on callable capital subscriptions)	(50,000)	(50,000)	(50,000)	(50,000)	(25,000)	(-25,000)
Total, World Bank Group	893,000	920,900	885,900	884,500	897,900	+4,900

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 2002 (H.R. 2506) — continued

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Contribution to the Inter-American Development Bank:						
Paid-in capital	....	....	....	....	....	....
Contribution to the Inter-American Investment Corporation	25,000	25,000	10,000	20,000	18,000	-7,000
Contribution to the Enterprise for the Americas Multilateral Investment Fund	10,000	....	....	....	....	-10,000
Total, contribution to the Inter-American Development Bank	35,000	25,000	10,000	20,000	18,000	-17,000
Contribution to the Asian Development Bank:						
Paid-in capital	....	....	....	....	....	....
Contribution to the Asian Development Fund	72,000	103,017	83,017	103,017	98,017	+26,017
Contribution to the African Development Bank:						
Paid-in capital	6,100	5,100	5,100	5,100	5,100	-1,000
(Limitation on callable capital subscriptions)	(97,549)	(79,992)	(79,992)	(79,992)	(79,992)	(-17,557)
Contribution to the African Development Fund	100,000	100,000	100,000	100,000	100,000	....
Total	106,100	105,100	105,100	105,100	105,100	-1,000
Contribution to the European Bank for Reconstruction and Development:						
Paid-in capital	35,779	35,779	35,779	35,779	35,779	....
(Limitation on callable capital subscriptions)	(123,238)	(123,238)	(123,238)	(123,238)	(123,238)	....
Contribution to the International Fund for Agricultural Development	5,000	20,000	20,000	20,000	20,000	+15,000
Total, International Financial Institutions	1,146,879	1,209,796	1,149,796	1,168,396	1,174,796	+27,917
(Limitation on callable capital subscript)	(270,787)	(253,230)	(253,230)	(253,230)	(228,230)	(-42,557)
International Organizations and Programs						
Appropriation	186,000	186,000	196,000	218,000	208,500	+22,500
Total, title IV, Multilateral economic assistance	1,332,879	1,395,796	1,345,796	1,386,396	1,383,296	+50,417
(Limitation on callable capital subscript)	(270,787)	(253,230)	(253,230)	(253,230)	(228,230)	(-42,557)
Grand total (net)	15,021,168	15,212,631	15,212,173	15,568,880	15,390,780	+369,612
Appropriations	(14,573,468)	(15,237,631)	(15,212,173)	(15,568,880)	(15,390,780)	(+817,312)
Rescissions	(-20,000)	(-25,000)	....	....	....	(+20,000)
Emergency appropriations	(467,700)	....	....	....	....	(-467,700)
(By transfer)	(39,000)	(53,150)	(12,500)	(25,000)	(22,000)	(-17,000)
(Limitation on administrative expenses)	(33,000)	(35,000)	(35,000)	(35,000)	(35,000)	(+2,000)
(Limitation on callable capital subscript)	(270,787)	(253,230)	(253,230)	(253,230)	(228,230)	(-42,557)
(Loan authorizations)	(15,606,700)	(13,039,000)	(15,024,500)	(15,202,000)	(15,114,500)	(-492,200)

Mr. Speaker, I reserve the balance of my time.

Mrs. LOWEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference report. I am very proud to join the gentleman from Arizona (Mr. KOLBE) today in presenting the final fiscal year 2002 foreign operations bill to our colleagues. We have worked closely with the Senate to come up with what I believe is a fine product.

The bill provides $15.324 billion, about $178 million above the President's request, for foreign assistance programs. I am pleased that we were able to provide funding levels for many programs, such as Child Survival and Development Assistance, which are well above the President's request. I believe this bill responds decisively to the HIV-AIDS crisis in Africa and around the world, providing a total of $475 million to fight this disease. This total is $150 million above last year's level and $285 million above the fiscal year 2000 level.

The gentleman from Arizona (Mr. KOLBE) and I worked hard to maximize the Congressional commitment to fighting HIV-AIDS within a budget that was simply too small to do all we know we must do, and I believe we have succeeded.

The bill also represents a first step toward a Congressional commitment to providing basic education for all of the world's poor children. Education is a cornerstone of development, and it is high time that the foreign operations bill reflected this priority. In fact, every study shows that educating children, and especially girls, yields extraordinary advances in health care, economic growth and the stability of developing societies.

The bill before us today provides a total of $165 million for basic education, up from just $115 million 1 year ago. This is a tremendous beginning to what I hope will be a multiyear scale-up of this program. Again, I thank the gentleman from Arizona (Mr. KOLBE) for working with me on this issue.

The bill also fully funds our commitments to the Middle East. It adequately funds export programs and meets other international commitments. It also includes a key provision urging the President to assess Palestinian Authority Chairman Yasser Arafat's compliance with basic agreements to disavow violence and terrorism and hold those who continue to pursue terror accountable. It also urges the President to take punitive action against Arafat and the PA if he has not complied.

The House-passed bill made this assessment mandatory, and I want to make it perfectly clear that I strongly preferred that this language stand. The events of recent weeks have made it obvious why Arafat must know if he reneges on his commitments, his relationship with the United States will suffer. I do believe the language in this conference agreement expresses the clear will of Congress on this matter, and I have already urged the President to comply.

We all know that conferencing a bill is a process of compromise, and I would like to discuss two provisions with which I continue to disagree. Specifically, I am concerned about the inclusion in this bill of an open-ended waiver of Section 907 of the Freedom Support Act. I had hoped that we would be able to amend the Senate-passed language to sunset the waiver and ensure the stability of Nagorno-Karabagh. We make clear in the Statement of Managers that we will revisit this issue next year, if necessary.

I also strenuously disagree with the decision to drop the Senate's Global Democracy Promotion language which would have repealed the President's executive order imposing the global gag rule on our bilateral family planning assistance. Although I am delighted we were able to increase bilateral international family planning assistance to $446.5 million, recipients of these funds will continue to be unfairly and onerously restricted by the gag rule. As I have said before, I believe this policy is a blight on our foreign assistance program.

I also regret that this bill has been held up for weeks by those in this body who oppose funding for the United Nations Population Fund, the UNFPA. The increase we have provided for this organization reflects the importance and quality of its work, not only in the family planning arena, but in combatting HIV-AIDS and helping the people of Afghanistan.

In fact, unfortunately, the bill could have been completed a month ago, and I can tell you it does make a huge difference to the implementers and recipients of these assistance programs as a result of the delay. Moving forward with all of the wonderful new initiatives we have discussed here today has been needlessly delayed.

Mr. Speaker, I think we can all agree that the last few months have sparked a new awareness on the part of all Americans of the importance of understanding and engaging with people around the world. We cannot go it alone, we know that, and we cannot deny the fact that what happened seemingly a world away can directly impact the lives of each and every American.

It is with this enhanced awareness of the complexities of the world that my colleagues and I approached this conference, and with it is with a heightened sense of purpose that I continue to support and urge my colleagues to support increased investments in our foreign policy priorities. We simply do not have enough in this year's bill to do what we must for Afghanistan, for HIV-AIDS, for basic education, health care, democracy and economic development, and we will be in the same position next year, unless we get a substantially increased request from the President come February. We must constantly build on our successes, because the stakes are far too high for us to rest on our laurels.

I want to include by thanking the wonderful Members of my committee. It has been a pleasure to work with them, both on the Democrat and Republican side, and the staff, who have been so instrumental in putting this bill together. I particularly appreciate the hard work of Mark Murray, Charlie Flickner, John Shank, Alice Grant, Lori Maes, Sean Mulvaney, Beth Tritter, and all of the associate staffers for the majority and minority members.

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I also must thank, of course, our big chairman, the gentleman from Florida (Mr. YOUNG), who I know is so committed. Finally, I cannot say enough about what a wonderful experience it has been to work with the gentleman from Arizona (Mr. KOLBE), the chairman of the subcommittee. Mr. Speaker, his dedication and hard work is evident in the bill before us today. I look forward to the good work we will do together in the future. It is really a pleasure for me to work with the gentleman from Arizona. I know that there are few issues that we have any disagreement on, and I look forward to working with him again in the future.

I also want to thank Chairman LEAHY and Senator MCCONNELL and their staff for their cooperation.

Mr. Speaker, I reserve the balance of my time.

Mr. KOLBE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida (Mr. YOUNG), the chairman of the full committee.

Mr. YOUNG of Florida. Mr. Speaker, this bill does not enjoy as much support as many of our other appropriations bills, but I really compliment the gentleman from Arizona (Mr. KOLBE) and the gentlewoman from New York (Mrs. LOWEY) for having been able to bring together a bill that has many reforms and that changes a lot of the foreign aid programs that are of interest to the United States. As I said, it is not the easiest bill to produce, but they have done a really good job. I know that we will all start to breathe a sigh of relief, because this is the next-to-the-last appropriations bill for this season. Tomorrow, we will have the last appropriations bill for this season.

I hope that we can proceed quickly with the completion of this bill and the rest of the business of today, and I would advise everybody to get a good night's rest, because the largest bill in our pack is tomorrow, and that is our bill for national defense and homeland security.

Mr. Speaker, this is the first year for the gentleman from Arizona (Mr. KOLBE) as chairman of this subcommittee. He had chaired another subcommittee for quite a long time, but because of the term limits that are self-imposed in the House, the gentleman changed to this job this year. I would say to the gentleman that he has done an outstanding job. He has visited with heads of State from all over this planet and has met them with great integrity and with mutual respect. He has done a really fine job representing the Congress as he deals with the foreign leaders, and the gentleman from Arizona deserves the pride of this House and the respect of this House for the great job that he has done. His partner, the gentlewoman from New York (Mrs. LOWEY), has, in fact, been a partner all the way through; and while there were some differences, most of them were overcome without too much difficulty. They have done a good job, and I think it is okay to vote for this bill today.

Mrs. LOWEY. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Michigan (Ms. KILPATRICK), an outstanding, hard-working member of the committee.

Ms. KILPATRICK. Mr. Speaker, I rise to support the foreign operations bill and the process by which it has gone through this United States Congress. I have been a member of this committee now for some 3 years and under the leadership of the former chairman of the subcommittee, the gentleman from Alabama (Mr. CALLAHAN), and now the gentleman from Arizona (Mr. KOLBE). I want to add my voice to those of support and to thank the chairman for his kindness, his inclusion, and the opportunity to work with him. I also want to thank my ranking member, the gentlewoman from New York (Mrs. LOWEY), for her leadership. In spite of the tragedy of our Nation and being from New York and all of the consequences that it must have had for the gentlewoman's family and her constituents, I appreciate her leadership and I appreciate her being here and allowing us to participate and represent as we have been sent here to do.

This is a good foreign operations bill, as has been said, and really has increased many of the lines where we need assistance to assist the countries around the world. Our Export-Import Bank has really been restored to the place that it needs to be to assist our businesses so that they can help not only increase their bottom lines, but to send American goods around the world and receive those goods that will help our communities.

The child survival and health account, most important during this time of pandemic proportions in our HIV/AIDS pandemic that strikes not only Africa, but Russia, India, Asia and our United States as well.

The UNICEF account. I thank my colleagues very much for the additional appropriation there for children around the world who basically need it. And then in our basic education accounts for children around the world to begin to receive the kind of education that they will need to take care of themselves and their families.

Mr. Speaker, this is a good bill. The one objection I do have, and nothing is perfect in this Congress, is the language that is retained that banned those organizations from receiving funds who counsel their clients on abortions in their family planning programs. Family planning is not giving abortions. Family planning is just that; and many people around the world, particularly poor women, need the counseling so that they can plan their children and be able to take care of their people and their families.

Mr. Speaker, I do support the foreign operations bill. I hope that we will go further next year and address the pandemic a little better and give the relief to women who need it around this country as they plan their families.

Mr. KOLBE. Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from Michigan (Mr. KNOLLENBERG), a member of the subcommittee who has done yeoman's work to help us get to this point.

Mr. KNOLLENBERG. Mr. Speaker, I rise in strong support of this conference report. As a member of this subcommittee for the last 7 years, I am proud of the bill that we have before us today; and I think that commendations should go to the gentleman from Arizona (Mr. KOLBE), the chairman of the subcommittee, who has been a great leader and who has brought what I think is an effective and responsible bill to completion. I also want to thank the gentlewoman from New York (Mrs. LOWEY) for her efforts as well.

As we have in past years, the entire subcommittee has worked together to make important progress on a number of foreign assistance issues; and along with that go some great thanks to the subcommittee staff, the entire staff who have performed admirably. I want to commend all of them. I will not mention their names. The gentleman from Arizona mentioned them, but they are all very important to this.

I am pleased that this agreement provides some 94.3 million in assistance to Armenia. This includes for the first time $4.3 million in military assistance. Providing military assistance marks a new stage in the U.S.-Armenia relationship.

The conference agreement also includes a Senate provision providing a limited conditional waiver of section 907. During the conference, new language was added to protect Armenians in the Caucasus region and explicitly expressed the intent of Congress to review this provision each year. I want to make it abundantly clear that this is a limited and conditional waiver which we will revisit next year in the fiscal year 2003 bill. Renewal of any waiver to section 907 will be closely scrutinized, and Azerbaijan's actions will be closely monitored.

Many friends of Armenia have worked to support these provisions, including the ranking member and others on the subcommittee and, of course, the gentleman from New Jersey (Mr. PALLONE), my caucus cochair, along with the Armenian Assembly of America. One of the most important contributions, Mr. Speaker, that this bill makes in the way of foreign policy commitments is the annual assistance package to the Middle East. Particularly at this difficult time, it is important to remember that we are providing funding. This funding that we are providing supports the pursuit of peace and stability in that region. Israel, of course, who is our principal ally in the region and shares our values of democracy and freedom, and I am pleased that this bill fully supports the administration's request for $2.8 billion in military and economic assistance to Israel, as well as $60 million to support the settlement of Jewish refugees.

The conference agreement also includes $35 million for Lebanon to protect and support the excellent USAID mission there. This funding supports the efforts of NGOs and the American educational institutions to help provide development stability, particularly in southern Lebanon.

The bill also includes $779 million for the Export-Import Bank, $92 million above the President's request. With the funding I hope the bank will be able to maintain at least the level of activity that we experienced last year. The Export-Import Bank has a critical role to play in support of American exports and the businesses and workers who supply these products.

North Korea. The conference agreement also includes $90 million for the Korean Peninsula Energy Development Organization called KEDO. I am pleased this is less than the administration's request. I have long opposed the 1994 agreed-to framework and funding for North Korea, a country which supports terrorism and continues to pursue weapons of mass destruction. I will continue to oppose this effort in the future.

Mr. Speaker, there are many other programs in this bill, including microenterprise loans, foreign military financing for the Baltic countries, and significant funding to continue the fight against HIV/AIDS and the crisis around the world, particularly in Africa.

Mr. Speaker, this is an excellent bill and represents a responsible contribution to our Nation's foreign policy, our national security, and our economic goals.

Once again, I want to commend the gentleman from Arizona (Mr. KOLBE), whom I have worked with on a great many matters, and I am particularly pleased with the way he has worked with all of us. I urge all of my colleagues to support, my colleagues on both sides of the aisle, and to vote in favor of this conference report today.

Mr. Speaker, I rise to strongly support this conference report. As a member of the Foreign Operations Subcommittee for the last seven years, I am proud of the bill we have before us today. I encourage all members to join me in voting aye.

I commend the gentleman from Arizona (Representative JIM KOLBE) for his hard work and leadership in bringing this effective and responsible bill to completion.

I also thank my friend from New York (Representative NITA LOWEY) for her efforts again this year.

As we have in years past, the entire Subcommittee has worked together to make important progress on a number of foreign assistance issues.

I also thank the Subcommittee staff for their tireless efforts, without which this bill would not be possible.

Mr. Speaker, the power of Congress, and particularly the House of Representatives, flows from the power of the purse. When it comes to foreign affairs, that means foreign assistance. As such, this bill serves as the most important contribution this body makes to our nation's foreign affairs. It supports our economic interests, national security, and overall foreign policy.

I'd like to specifically highlight a few areas.

This bill provides an important foundation to our policy toward the Southern Caucasus and particularly for our friend and ally Armenia. The agreement provides $94.3 million in assistance to Armenia. This amount is higher than either the House or Senate version of the bill, and $24.3 million higher than the President's request. This also includes, for the first time, $4.3 million in military assistance to Armenia.

Providing military assistance marks a new stage in the U.S.-Armenia relationship. The military financing will help maintain parity between Armenia and Azerbaijan. It will serve to strengthen and enhance Armenia's military as well as solidify its relationship with the United States armed forces.

This conference agreement also includes a Senate provision regarding limited changes to Section 907. As my colleagues know, I have long supported Section 907 and have fought over the last several years against any effort to repeal or waive this important provision. At the same time, in the aftermath of the events of September 11th, it became clear that certain changes to Section 907 of the Freedom Support Act were not only inevitable, but also necessary. President Bush specifically requested a national security waiver to Section 907 in order to counter al Qaeda terrorist organizations and elements operating with Azerbaijan. Amazingly and inexplicably, Azerbaijan news media reports periodically mischaracterize the Armenians of Nagorno Karabagh as terrorists. Clearly, this not the case and it would be my hope that this inflammatory rhetoric and misinformation campaign by Azerbaijan cease.

In working with the Administration and my House and Senate colleagues, we were able to craft a limited and conditional waiver to Section 907, which would enable the President to effectively combat the war on terrorism and ensure protection for Armenia and Nagorno Karabagh. I want to make it abundantly clear that this is a limited and conditional waiver and we will revisit this issue next year in the fiscal year 2003 bill. Renewal of any waiver to Section 907 will be closely scrutinized and Azerbaijan's actions will be closely monitored. If Azerbaijan abuses any assistance provided as a result of this waiver or attempts to use such assistance in an offensive manner against Armenia or Armenian communities in the South Caucasus, the limited waiver will be terminated.

I would like to associate myself with the remarks made by the Ranking Member of the Senate Foreign Operations Subcommittee (Sen. MITCH MCCONNELL) during consideration of this bill in the other body. In his statement, he made it clear that he will be closely following the developments in Azerbaijan and Turkey to lift the blockades against their neighbors. I concur whole-heartedly with these comments and want to emphasize the importance of lifting the ongoing blockades in place against Armenia and Nagorno Karabagh. It seems to me that lifting these blockades—now more than ever—is in the U.S. national interest. In the aftermath of September 11th, we must redouble our efforts in this regard.

I would like to thank my colleagues for their hard work on this issue, particularly the gentleman from Arizona (Representative JIM KOLBE) our Chairman and my friend from New York (Representative NITA LOWEY) our Ranking Member. I would also like to note the work of my Armenian Caucus Co-Chair, the gentleman from New Jersey (Representative FRANK PALLONE). Additionally, I would like to recognize the invaluable input and proactive leadership of those individuals and organizations from the Armenian-American community who understood the importance of America's efforts to combat terrorism and the new realities in a post September 11th environment. In particular, I would like to commend the Armenian Assembly of America for their tireless efforts to ensure that a balance was achieved.

Mr. Speaker, one of the most important contributions this bill makes to foreign policy is the annual assistance package to the Middle East. Particularly at this difficult time, it's important to remember, the funding we provide supports the pursuit of peace and stability.

Israel, of course, is our principal ally in the region and shares our values of democracy and freedom. Since its establishment, Israel has struggled to achieve its goal of peaceful existence and it is in our interest to provide any assistance necessary for Israel to achieve that goal. I am pleased this bill fully supports the administration's request for $2.8 billion in military and economic assistance to Israel, as well as $60 million to support the resettlement of Jewish refugees.

This bill also provides almost $2 billion to Egypt and $225 million to Jordan, both critical allies of the United States. This funding is a direct result of peace agreements these countries have signed with Israel, which the United States helped to facilitate. As Egypt and Jordan continue to support and advocate for peace with Israel and a cessation to the current violence, it is important for the United States to maintain this funding.

The bill also provides $35 million for Lebanon to support the excellent USAID mission there. This funding supports the efforts of NGO's and American educational institutions to help provide development and stability, particularly in southern Lebanon. Our assistance promotes our values of democracy and free markets among the Lebanese people. This is in the interest of the United States, Lebanon, and Israel. It helps build and strengthen relationships between the Lebanese people and the United States.

However, despite our efforts, violence and terrorism continue in the Middle East. We are now in the 15th month of an "intifada". In addition to our financial assistance, the United States has led efforts to bring violence to an end through the Mitchell Committee, the Tenet agreement, and General Zinni's efforts in recent weeks. Despite our efforts, on December first and second we saw perhaps the worst episode of Palestinian terrorism Israel has ever been forced to endure. These acts of terrorism continue.

Quite simply, violence must stop and terrorism must cease. This is now a test for Yasir Arafat and the Palestinian Authority. Arafat must take concrete action, including the arrest of all those responsible for terrorism against Israel. Arafat must bring down the terrorist groups who operate in territory under his control. I am pleased there is language in this bill that makes it clear, if Palestinian violence does not stop, the Palestinians' ties with the United States will be in serious jeopardy.

This bill also includes $790 million for the Export-Import Bank. With this funding, I hope the Bank will be able to maintain at least the level of activity experienced this year.

The Export-Import Bank has a critical role to play in support of American exports, and the businesses and workers who supply those products. Without support from Ex-Im, billions of dollars in American exports simply would not go forward. Ex-Im is especially important for small businesses, which benefit from over 80% of the Bank's transactions. These exports remain crucial to our economy.

The conference agreement also includes $90 million for the Korean Peninsula Energy Development Organization. I am pleased this is slightly less than the Administration's request. I have long opposed the 1994 Agreed Framework and funding for North Korea—a country that supports terrorism and continues to pursue weapons of mass destruction. I will continue to do this in the future. The United States simply should not provide foreign assistance to a country that supports terrorism.

Mr. Speaker, there are many other important programs in this bill including microenterprise loans, foreign military financing for the Baltic countries, and significant funding—beyond the President's request—to continue the fight against the HIV/AIDS crisis around the world and in Africa.

This is an excellent bill and represents a responsible contribution to our nation's foreign policy, national security, and economic goals.

I once again commend the Chairman and Ranking Member, and their staffs, for their efforts on this bill and I urge all my colleagues on both sides of the aisle to vote in favor of it today.

Mrs. LOWEY. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from New Jersey (Mr. ROTHMAN), a distinguished member of the committee.

Mr. ROTHMAN. Mr. Speaker, first let me thank and congratulate the chairman of our subcommittee, the gentleman from Arizona (Mr. KOLBE), and our ranking member, the gentlewoman from New York (Mrs. LOWEY), and their respective staffs for doing an outstanding job and being of such great assistance and cooperation to me and to other Members of the committee with interests in this bill. I also want to thank the gentleman from Florida (Mr. YOUNG), the chairman of the full committee, for his continuing leadership and kindnesses to me and other Members on the committee, and, of course, to our ranking member of the full committee, the gentleman from Wisconsin (Mr. OBEY).

Mr. Speaker, I rise today to express my strong support for the foreign operations appropriations bill on which we are about to vote. While I am pleased to see that there is additional money for the United Nations family planning program, I am disappointed that the Mexico City gag rule on a woman's right to choose remains in place. However, overall, this is a very good piece of legislation that comes at a crucial time in our Nation's history.

We all know that military action is essential to protect the American people here at home and abroad. But today's legislation will complement, will assist, that action. It is clear that it is in America's vital national interest to use a small portion of its budget to work and assist with other countries to make sure that those other countries around the world do not become breeding grounds for future Osama bin Ladens. As my colleagues may know, this foreign aid bill represents less than 1 percent of the budget of the United States of America, less than 1 percent; but it is money well spent.

Mr. Speaker, let me read from a recent editorial that appeared in a local newspaper in my district. It said, "There is a growing international consensus that long-term, wisely targeted foreign aid, designed not only to alleviate poverty, but also to help build strong civic institutions and social stability is an indispensable part of the struggle against terrorism."

I agree with that. The bill that we pass today takes a big step forward in creating the conditions which will allow people around the world to embrace democracy and tolerance and also to reject those who would be undemocratic and who would subjugate their own people.

Mr. Speaker, in this foreign aid bill, we not only fulfill our moral obligation to fight global poverty, spur economic development, support health and education programs, and build democratic institutions; but through this foreign assistance bill, we serve America's vital national interests. We do so now more than ever because it is important for us to reach out to other populations around the world to help them make the right choices, to choose peace, prosperity and democracy. Because after all, democracies do not wage war on one another. Democracies make great trading partners with one another, and democracies, having democracies around the world helps us as Americans fulfill our national manifest destiny, if you will, the destiny where we seek to have people live in freedom, to have a free people choose their own leaders, and to live in equality under the rule of law.

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This foreign aid bill, less than 1 percent of our national budget, achieves that goal; money very well spent. I urge my colleagues to support this bill.

Mr. KOLBE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LEWIS), another distinguished member of the subcommittee and chairman of one of the other subcommittees, and an individual who has contributed a great deal to the work of this committee.

Mr. LEWIS of California. Mr. Speaker, I thank the chairman for yielding time to me.

I had planned not to speak, but our full committee chairman was kind enough to mention that our defense bill was up tomorrow, and it is an item that has the largest funding of all the bills. It takes up over half of discretionary spending, because it is our national defense, after all.

But he also mentioned that this bill is sometimes tough in terms of a balance of votes on the floor. I am rising today really to say that that absolutely should not be our circumstance, for the bill that our chairman is bringing us today, representing only some $15 billion of funding, is absolutely one of the most important reasons for us to have a Congress in the first place.

National security, yes; but this bill reflects America's presence in the world during times of war, but also in times of peace, and uses $15 billion to make sure that the voice of freedom is heard around the world for America, the last remaining superpower; a small presence by way of this bill, able to reach out to countries attempting to make a new way for the lives of their people; the voice of freedom, the voice of independence and opportunity that is America's in the world; our chance to provide a kind of leadership that can impact the future of mankind. This bill is that important, $15 billion though it may be.

I said to the Secretary of State when he came to us not so long ago that he was the chairman of the Joint Chiefs. It was such an irony that I was sitting there listening to him asking for $15 billion when the defense bill represents over $300 billion.

The Members have done a great job, both the chairman and the ranking member, in bringing this bill forward. It is about time the American public understands that this is not just foreign aid, it is the voice for freedom in the world.

Mrs. LOWEY. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank my very good friend, the ranking member, the gentlewoman from New York (Mrs. LOWEY), for granting me this time; and also to the gentleman from Arizona (Mr. KOLBE), the chairman of the subcommittee, for moving this conference bill to the floor. I might add, much improved from when it left this Chamber initially.

September 11 reminded us all that neglect breeds violence, and an ounce of prevention is worth a pound of cure. This bill has a lot of pounds of cure in it.

Speaking as co-chair of the Ukrainian Caucus here in the House, I would like to speak specifically about Ukraine, noting that from when the bill left the House, the totals for that country have been raised from $125 million to $154 million, so Ukraine is no longer singled out as the only country in the world to receive a cut in foreign assistance, especially before their third parliamentary election, which will occur early next spring.

Our ultimate goal is to help the Ukrainian people participate fully in this third election so they keep moving forward and do not slip backwards, as has happened to Belarus right under our own eyes.

We hope that the funds in this bill will also help to make sure that not only their elections will be properly observed on Election Day, but they can be prepared to participate in the elections; that there will be monitoring of the electoral races, making sure that election laws are not violated and that the oligarchs are not buying votes; and that the government does not tamper with the candidates' rights to present their own platforms in those elections.

We should all do all we can do to help the Ukrainian elections to be truly free and truly fair. I urge support of this improved conference report as an improvement over the original House bill.

Again, I wish to thank the gentleman from Arizona (Mr. KOLBE), who was a very worthy and engaging advocate in this bill; and also the gentlewoman from New York (Mrs. LOWEY) for her incredible leadership always.

Mr. KOLBE. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Georgia (Mr. KINGSTON), one of the other distinguished members of the subcommittee who has also made very valuable contributions to the work of this subcommittee.

Mr. KINGSTON. Mr. Speaker, I thank the chairman for yielding time to me, and also the ranking member for all the hard work that has been put into this bill.

I want to make three points about it. There are some things in the bill that I do not particularly like, but there is always that case when we are trying to have influence around the globe. We do not all agree what must be done.

There are a lot of very good things in here. There are three things I want to highlight.

Number one is the war on drugs, the Andean counterdrug initiative. As the father of four children, I am amazed as I go into schools throughout the First District of Georgia and I visit lots and lots of schools, that one thing they all have in common, whether they are from a poor county, a rich county, a small county, a rural county, or an urban county, is that in the average high school in America, in just about all of them one can get drugs.

It is amazing, when we think about a product that is not made in America. It is not advertised. If one works for the drug distributor, there are no business cards. We do not see billboards about it, and there is no health care plan; yet somehow this remarkable, insidious product can get on every schoolyard in America.

This takes the battle abroad and says we want to stop it at its source. I appreciate the hard work of the gentleman from Illinois (Speaker HASTERT) on this, and I am glad that the subcommittee has continued to keep the battle against drugs coming into America going.

Number two, I want to mention our role in the Middle East and the situation that Israel is in right now. We are all very, very focused on the 9–11 attacks on America; but our partner in the Middle East, Israel, has also been under attack. While we have waged total war in Afghanistan in wiping out al Qaeda and the Taliban, we seem to often say to our ally, Israel: Restraint, hold back, do not go on a counterattack. Yet, that is kind of a double standard.

I am glad that this bill does fund military financing for Israel, so this keeps a very strong American commitment to Israel.

Finally, let me say this: for the American role around the globe, I think we have found out that we can get our allies, we can pull forces together, and we can stop a terrorist organization. We can have the same positive roles in agriculture and in finance and in population control, and this bill takes a step in that direction.

America is not the policeman for the world; but if there is one, would it not be nice to know that it is a peace officer like the United States of America?

Mrs. LOWEY. Mr. Speaker, I am very pleased to yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I thank the gentlewoman for yielding time to me.

I have one serious regret about this bill, but it is beyond the capacity of the members of the subcommittee or even the full committee to deal with. There is not enough money. We do not do enough to alleviate poverty in the world. We could do better.

In fact, right now we have taken on an obligation by the war we have waged in Afghanistan, which we had not just a right but an obligation to wage, and I am delighted with our success; but it has given us an obligation to go now into Afghanistan economically and politically and in other ways to try to make that a better society than it was before.

I have one other point that I want to comment on. I have long supported aid to Egypt. I was glad Egypt played the constructive role it did beginning in the late seventies in the Middle East.

But I am becoming less and less happy with the role Egypt plays. It is becoming less and less willing to be a constructive force. I want to say that I was particularly outraged when the Egyptian Government decided a few months ago to engage in blatant oppression of Egyptian men who happen to be homosexual. This happened long after this process had begun.

The Egyptian Government ought to understand that it cannot with impunity continue to be so oppressive towards people's human rights, and in particular, its most recent outbreak of severe, unjustified, blatant prejudice, jailing men for no good reason whatsoever. They cannot continue to do that and not have it have an effect on how people view Egypt here and how people deal with Egypt.

I hope Egypt will once again play a more active, constructive role in the Middle East. That is now in question. This bill does some good things with regard to sending a very strong message to the Palestinian Authority about the unacceptable lack of intervention on their part to maintain peace in the Middle East.

The Egyptian Government's record of late has deteriorated, and it has been particularly outrageous in this human rights field.

I will vote for this bill. I regret the fact that it does not have more money. I hope we will make sure that our moral obligation to help the people of Afghanistan deal with the devastation that has happened will not come at the expense of others, and I hope the Egyptian Government will pay attention.

Mrs. LOWEY. Mr. Speaker, I am pleased to yield 2 minutes to my distinguished colleague, the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise today in strong support of the Armenian-related provisions in the foreign ops bill, and I want to commend my colleagues on the subcommittee for striking the appropriate balance regarding section 907 of the Freedom Support Act.

In particular, I want to thank the ranking member, the gentlewoman from New York (Mrs. LOWEY), and in particular the co-chair of the Armenia Caucus, the gentleman from Michigan (Mr. KNOLLENBERG), who worked very hard on the Armenia provisions.

As my colleagues know, this important provision of law, section 907, was enacted in 1992 to address Azerbaijan's aggression and blockades against Armenia and Nagorno-Karabagh. While Congress has upheld this provision of law over the years, the tragic events of September 11 necessitated certain changes to section 907.

As Secretary of State Colin Powell indicated in a letter to Members of Congress, changes were needed to "enable Azerbaijan to counter terrorist organizations and elements operating within its borders."

In fact, I remain concerned about credible reports regarding the presence of al Qaeda cells operating within Azerbaijan that pose a direct threat to the United States and whose members participated in Azerbaijan's military campaign against the Armenians of Nagorno-Karabagh.

In his 1999 Defense & Foreign Affairs article by Yossef Bodansky, entitled "The New Azerbaijan Hub—How Islamist operations are targeting Russia, Armenia and Nagorno-Karabakh," Bodansky notes that radical Islamist forces used Azerbaijan as a launching base to conduct operations. As my colleagues may recall, Mr. Bodansky served as the Director of the Congressional Task Force on Terrorism and Unconventional Warfare.

Mr. Speaker, these cells not only pose a threat to Armenia and Karabagh, but also threaten all of us.

I include for the RECORD an article on this subject by Yossef Bodansky, as well as an Armenia Assembly issue brief on this subject and a press release.

The material referred to is as follows:

The New Azerbaijan Hub

(By Yossef Bodansky)

An ongoing study by Defense & Foreign Affairs has cited a significant number of highly-placed sources in Russia and the Caucasus who advise that radical Islamist forces are expanding their infrastructure in Azerbaijan in preparation for a sustained escalation, both in Caucasus and at the heart of Russia. Planned terrorist "spectaculars" include the use of suicide bombers.

Significantly, these developments are based on long-standing relationships and understandings between Azeri officials and the Islamist leaders involved in Chechnya, Pakistan and Afghanistan. The escalation bega in in 1997 when the Islamists basically agreed with the Azerbaijan Government of Gaydar Aliyev that they would—in exchange for allowing a free flow of people, weapons and ordnance through Azerbaijan—not interfere with or overthrow the Aliyev Government. As well, they committed to providing outside mujahedin to undertake operations against Armenia and Nagorno-Karabakh which could be credibly denied by the Aliyev Government.

This Azerbaijan-based infrastructure is aimed at both pushing arriving mujahedin to the forward training and operational bases in Chechnya, as well as launching operations against Russia and Armenia (including Nagorno-Kara- bakh) in the event of Russian bombing and raids on the islamist bases in Chechnya.

At present, the most important function of the infrastructure in Azerbaijan is the absorption, handling and initial acclimatization and indoctrination of foreign volunteers, mainly Arabs and Afghans/Pakistanis, as well as growing numbers of Central Asians, before being sent forward to terrorism and military training bases in central Chechnya, mainly the Saudi-born Islamist leader Khattab's main rear-area base near Urus-Martan, Chechnya. Among the mujahedin presently handled in Azerbaijan are numerous would-be shahids (suicide terrorists) who had been trained in Osama bin Laden's camps in Afghanistan. The Islamist infrastructure in Azerbaijan is build on the experience of bin Laden, Khattab and their companions in not only absorbing volunteers for Afghan jihad during the 1980s, but of transforming them into a cohesive élite corps (which is still cohesive and most active more than a decade after the Afghan Jihad).

The current Islamist build-up constitutes a major expansion of the so-called covert pipeline which has been running since the Winter of 1997–98. The primary objective of the original pipeline was to smuggle weapons, money and people arriving from Pakistan/Afghanistan into Chechnya. The two primary methods of transportation:

By truck from the Baku region through the mountains and into Dagestan and Chechnya; or

By light aircraft from several sites in Azerbaijan into the Vedeno gorge or to Nozhay-Yurtovskiy Rayon in Chechnya.

The weapons delivered have been both shipments from Pakistan/Afghanistan, as well as large consignments of weapons purchased locally either from the ex-Soviet stockpiles of the Azerbaijani armed forces or specially acquired from Ukrainian and other suppliers (these weapons were purchased the Azerbaijani official channels with Baku providing end-user certificates and the buyers paying large commissions to all involved).

The current phase started in early September 1999 following a decision in Baku to upgrade the support for the Chechen-Dagestani Islamist forces. The new policy was elucidated publicly on August 20, 1999, by Vafa Guluzade, an Adviser to Gaydar Aliyev and the Azeri Government on State Policy issues. "Chechen and Dagestani fighting should be regarded as a national liberation struggle, not as a terrorism as the Russian authorities are trying to present it," Vafa Guluzade declared. He said that "today Russia is actually continuing in the Caucasus the policy of serf Russia which in 19th Century subjugated with fire and the sword the freedom-loving Caucasian nations. . . . Carrying out military campaign in the Caucasus today, the biggest campaign after the first Caucasian war, Russia is declaring itself a successor of Tsarist Russia." Having gained their independence after hundreds of years of Russian subjugation, Guluzade believes, all Muslim states of the Caucasus should unite their efforts to compel Russia to "change its policy regarding the Caucasus and other national regions before it is too late".

The modalities for the running of the new facilities in Azerbaijan were defined during most of September. The new activities in support of Chechnya and Dagestan were defined in late September/early October during a supposedly—secret visit to Georgia and particularly Azerbaijan by Selim Beshayev, the Vice Speaker of the Chechen Parliament. Beshayev's talks with Azeri officials were aimed at ensuring the smooth flow of mujahedin and the specialized equipment they need without undue interference.

In Baku, Beshayev has spent a lot of time convincing the Azeri authorities to expand their direct involvement in the Islamist "cause" in the aftermath of the Russian exposure of the Turkey-Georgia pipeline. Beshayev used both carrots and sticks. He promised lavish "unofficial" foreign aid to Azerbaijan: large quantities of cash from diverse sources in Saudi Arabia and other Persian Gulf states which will most likely go to private pockets. Beshayev, also reiterated the Islamists' promise to assist Baku in "resolving the Karabakh problem" as expeditiously as possible. He was also willing to "guarantee" the security of the Baku-Novorossiysk oil pipeline. The concurrent expansion of Islamists activities in Azerbaijan proves the success of Beshayev's visit to Baku.

The key Islamist facilities are concealed as charity and educational organizations affiliated with the web used by bin Laden's networks. Moreover, the headquarters of these organizations are stuffed with Arab "teachers" and "managers" from the ranks of such organizations as the International Muslim Brotherhood, the Islamic Salvation Front, several branches of Islamic Jihad, and the National Islamic Front of Sudan. The key organizations are:

World Assembly of Islamic Youth (sometimes translated as World Islamic Youth Assembly). Its headquarters is located in Baku's residential district of Dzhandzhlik/Janjilk. The key principals are Muhammad Salim Abd-al-Hamid (Saudi papers), Muhammad Ali Khoroko (Somali papers), Arif Abdallah Abd-al-Hamid and Hayruzi Qa'id Abd-al-Rahman (both Yemenite papers). Another Saudi, Salah Salman, is the contact man with Islamist charity and financial organizations in Saudi Arabia;

The International Organization of Islamic Salvation. Its headquarters is on Narimanov Street, in the settlement (essentially remote suburb) of Azizbekovo near Baku. The three main functionaries are Muhammad Shama, Muhammad Salih al-Jarni and Arif Abdallah Abd-al-Hamid (same as above), all with Yemenite papers;

Al-Ibrahim Foundation. Very little is known about this Baku-based charity except that its Arab principals have huge amounts of cash in hard currency. They are involved in acquisition of real estate among other "educational" projects.

In the Fall of 1999, these charities began setting up several camps near Baku, where their students should be able "to study the Koran in a quiet setting". The primary function of the camps in the overall vicinity of Baku is the training of professional agitators. The students are a mixture of Arabs, Caucasians and Central Asians. Their primary mission is intended to be to "brainwash" the Muslim population of Dagestan (as well as of Uzbekistan and Kyrgyzstan) into supporting Islamist causes, subversion and terrorism. The Islamists have just established in these camps facilities for the production of printed, audio and video incitement and agitation material advocating anti-Russian and anti-Western jihad. Significantly, these "camps" are also engaged in agitation against hated Muslim governments, particularly the House of al-Saud. On one wall there is the slogan in Arabic: "The fate of the Shah of Iran, who was driven out of his own country by Islamic organizations, awaits the [Saudi] royal family."

The second phase in the expansion of the Islamist facilities has begun in the past few days. A group of Arabs—all with documents from Saudi Arabia, Sudan, Yemen, and Afghanistan—left the Baku area to newly established "religious field camps" in the remote mountains of north-eastern Azerbaijan, on the road to Chechnya and Dagestan. All three Islamist "charities" mentioned above established such camps virtually simultaneously. These are paramilitary camps where the students undergo basic military training as well as equipping before they move on toward Chechnya and Dagestan. Some of the leaders and commanders of these camps have been identified as "proxies of terrorist Osama bin Laden".

Meanwhile, in anticipation for escalation and expansion, senior officials of the International Muslim Brotherhood, the National Islamic Front, and several branches of Islamic Jihad arrived in Azerbaijan in the latter days of September 1999. By the first week of October, they were mainly arranging contacts with local Islamists in order to establish new routes for moving money, weapons and mujahedin into Chechnya. One of their priorities is the shipment of Stingers from Pakistan. In their conversations with Azerbaijani Islamists and "forthcoming" officials, these emissaries acknowledged that their primary objective is the consolidation in Azerbaijan of a "springboard for inserting their main forces [into Chechnya and Dagestan]". They also set up a flow of cash into the accounts of the Islamist charities and camps. Since late September 1999, there have been repeated transfers of funds from Saudi Arabia via Beirut totaling tens of millions of dollars.

Much of this money is then transferred to Chechnya by couriers. For example, one of the camps received an electronic transfer of $2-million from Al-Barakah Bank Lebanon (which is owned by the Saudi Sheikh Salih Abdallah Kamil). An Arab called Bin-Abdallah (UAE papers) received the money in cash and immediately carried it across the border into Chechnya. On October 5, 1999, Azerbaijani border guards arrested two Arabs (with Iraqi papers) near the village of Pashbir. They had US$300,000 in cash on them. They claimed they were volunteers working for a charity in Chechnya. All available evidence suggests that these known cases are but a small fraction of the present shipment of funds from Arab countries to Chechnya as well as the "Koranic camps" in Azerbaijan.

Another indicator of impending Islamist activities in and via Azerbaijan are the reconnaissance trips of Arab experts near the borders with Chechnya and Dagestan. For example, in the first week of October, a team from the Islamic Jihad traveled twice from Baku to the Azerbaijani-Dagestani border and carefully studied mountain passes and roads near the border. On October 5, 1999, a Turkish citizen called Yegid Rejeb was arrested on the Azerbaijani-Dagestani border *en route* to Khasavyurt with a Russian passport in the name of Magomed Sattarov. Rejeb is a graduate of one of the Baku area camps.

Meanwhile, the build-up of expert terrorist cadres has begun through other venues as well. On September 20, 1999, Chechen field commander Shamil Basayev announced the forthcoming establishment of a battalion of 400–500 *shahids*: would-be martyrs; that is, suicide terrorists. "These people will be ready and capable of carrying out the most difficult of tasks," he declared in Grozny. "Time and circumstances will tell" what specific tasks he had in mind for them.

Again, this was not an empty threat. Between October 3–5, 1999, a group of about 50 veteran Arab *mujahedin*—carrying papers from Kuwait, Saudi Arabia, Yemen and the Palestinian Authority—arrived at Khattab's main camp at Urus-Martan in central Chechnya. They traveled into Georgia legally on transit visas issued by the Georgian Consulate in Turkey. They are the first of about 100 Arab *mujahedin* known to have received Georgian visas together. Once this type of travel was exposed, the Georgian authorities in Turkey began dragging their feet in providing visas to walk-in Arabs. Therefore, the Islamists have expanded their search for new alternate routes into Chechnya and Dagestan via Azerbaijan.

AZERBAIJAN AND ISLAMIC TERRORISM

According to the Associated Press, the Congressional Research Services (CRS, 9/10/2001) issued a report noting that individuals and groups affiliated with the international terrorist Osama bin Laden and his Al Qaeda organization used Azerbaijan as one of the bases in its elaborate terrorist network. Some reports suggest that various radical Islamist groups had operated in Azerbaijan even before its 1991 independence. However, the real increase in their presence took place after the 1993 military coup, when the government of Heydar Aliyev approved a large-scale deployment of mujaheddin fighters from Afghanistan and other countries to join in the fighting against the Nagorno Karabagh Armenians.

Azerbaijan has used the Karabagh conflicts, characterizing it as a religious war, to cultivate ties in the Islamic world. These ties, including overtures to radical Jihad-oriented organizations, have been aimed at diplomatically isolating Armenia and raising financial and military assistance for a new military campaign against Karabagh. Since 1998, in the wake of the U.S. embassy bombings in Kenya and Tanzania, the Azerbaijani government came under pressure from Washington to clamp down on radical Islamist groups that operate in Azerbaijan. But as recent reports show, radical Islamist groups are entrenched in Azerbaijan and will be very difficult to eradicate. The information below refers to the main stages of development of Islamist terrorism in Azerbaijan in the past decade:

Azerbaijan experienced a wave of "Islamic Revival" in the late 1980s—early 1990s that led the way to the creation of many indigenous Islamist groups espousing violent ideology and establishment of relations with similar organizations abroad. The most overt expressions of Islamic solidarity by Azeris were made in 1990 and 1991, when residents of districts bordering Iran destroyed most of the frontier installations to fraternize with Iranians, just as several newly-established Azeri Islamist groups offered to provide volunteers to fight in the Gulf War on the side of Saddam Hussein. A member of Al Qaeda, Jamal Ahmed el-Fadl, arrested by the FBI for his role in the 1998 embassy bombings, claimed his organization became active in Azerbajan as early as 1989. (Trans-Caspian Project 10/3/00, Ekho 9/1/01)

In the summer of 1993, President Heydar Aliyev deployed over 1,000 Islamist mercenaries in the war against Karabagh Armenians. They were flown on civilian aircraft from Afghanistan to Azerbaijan. The mercenaries, which also included Arab veterans of the Afghan war (1979–89), took an active role in the Karabagh conflict. (Moscow News (9/13/00) A Bin Laden associate claimed that Bin Laden himself led mujaheddin in at least two Karabagh battles. (Associated Press 11/14/99)

Following the armistice that took hold in Karabagh in May 1994, most of the mujaheddin left Azerbaijan to fight in other hot spots, such as the North Caucasus and Balkans. Others, however, remained to establish what was soon described as "the new hub" for Islamist radicals that involved a network of training camps, mosques, charitable organizations and underground cells. Ibrahim Eidarous, later arrested in Europe by the FBI for his role in the 1998 embassy bombings, headed the Azerbaijani branch of al Qaeda between 1995 and 1997. In 1997, radical Islamist groups with branches in Azerbaijan reportedly pledged their support for President Heydar Aliyev against Armenians, in exchange for a safe haven in Azerbaijan. (Strategic Policy 10/99; Ekho 9/1/01)

In August 1998, the Azerbaijani branch of the "Islamic Jihad" organization, which by then had merged with Osama Bin Laden's al Qaeda, reportedly coordinated the bombings of the U.S. Embassies in Kenya and Tanzania that killed 224 people and wounded nearly 4,600. The FBI was able to trace about 60 phone calls made from the satellite phone used by Bin Laden to his associates in Baku and from them to operatives in East Africa. The U.S. Embassy in Azerbaijan also feared an attack, but as a local radical claimed, they did not attack the Embassy so as "not to spoil their good relations in Azerbaijan." (Zerkalo 7/22/00; Bill of Indictment in U.S.A. vs. Bin Laden et. al. 4/01; Washington Post 5/3/01; Ekho 8/23/01)

Following the 1998 embassy bombings, Azerbaijan came under increased U.S. pressure to curtail radical Islamist activity on its territory. However, Azerbaijan refused to hand over suspected terrorists to the U.S., so as not to "earn the ire of Islamist fundamentalists", extending them instead to their native countries. One of the extradited terrorism suspects, Ahmad Salam Mabrouk, who at the time headed the local branch of Al Qaeda, was detained while trying to acquire chemical and biological weapons in Azerbaijan. (Aviation Week & Space Technology 10/12/98; Agence France Presse 3/18/99; London's Sunday Times 7/18/99; Zerkalo 7/22/00; Ekho 8/29/01)

Azerbaijan, nevertheless, continues to be an attractive destination for the international terrorist networks, particularly those based in Afghanistan. In late 2000, head of the UNHCR mission in Azerbaijan Didier Laye noted that most asylum-seekers that arrive in Azerbaijan come from Afghanistan. (Azerbaijan and Afghanistan have no direct borders, are not ethnically related and there is no infrastructure in Azerbaijan to support these arrivals. In the absence of alternative reasons, Azerbaijan is an odd destination for Afghans.) In the Azeri capital, mosques influenced by Islamist radicals attract a large following. That following reportedly includes even some senior members of President Aliyev's staff. Most recently, the local media speculated that should Bin Laden be forced to flee Afghanistan, he may appear in Azerbaijan. Over the years, Bin Laden's sympathizers have moved out of Azerbaijan's capital, Baku, to establish camps in rural areas of the country, particularly in the remote mountainous areas in the largely Sunni Muslim north of the country. (Strategic Policy 10/99; Turan 11/21/00; Ekho 5/2/01)

In the words of one Islamic scholar, Azerbaijan is a part of the "Global Intifada" that also includes Palestine, the Balkans and Kashmir. As recently as a few weeks ago, sources in the Azerbaijani Ministry of National Security, cited by local media, confirmed that radical organizations, such as Bin Laden's Al Qaeda, continued to be active in Azerbaijan. Two weeks ago, Egyptian citizen Mahmoud Yaballah was arrested for his connection to the U.S. Embassy bombings, while trying to enter Canada after flying in from Azerbaijan. (Ekho 9/1/01)

Azerbaijan is an authoritarian state, where President and former KGB General Aliyev and his cohorts in effect control all spheres of life. The Aliyev government, which came to power by means of a military coup, has repeatedly banned political parties and media outlets, stolen elections and thrown thousands of its political opponents in jail. It is highly unlikely that groups such as Bin Laden's Al Qaeda could operate in Azerbaijan without at least some consent from President Aliyev. The Aliyev government is thus treading a thin line between international terrorists, whom it cultivated to fight its wars, and the international community, which can no longer ignore this reality.

SOURCES

In addition to reports in the above-noted and well recognized sources, such as AFP, AP, Aviation Week & Space Technology, The Times and Washington Post, this issue brief is based on the following additional sources:

Ekho and Zerkalo are leading Russian-language daily newspapers in Azerbaijan and can be found at *www.zerkalo-daily.com* and *www.zerkalo.az*. In August–September 2001, Ekho featured a series of articles on ties between Bin Laden and Azerbaijan written by its Deputy Editor Nair Aliyev.

Moscow News is a leading English-language liberal weekly newspaper published in Russia and can be found at *www.mn.ru*. In September 2000, it featured an article on connections between Chechnya, Azerbaijan, Afghanistan and the Islamist terrorist network, written by its Azerbaijan correspondent Sanobar Shermatova.

Strategic Policy (formerly Defense & Foreign Affairs) is a monthly international affairs report published in Alexandria, VA and found at *http://www.strategicstudies.org/dfa.htm*. Its October 1999 issue featured an extensive article by Yossef Bodansky, Director of the U.S. Congressional Task Force on Terrorism and Unconventional Warfare.

TransCaspian Project is an online reporting and analytical service on Caspian regional affairs (found at *http://www.transcaspian.ru*). Its October 3, 2000 report featured an analysis by Alexey Malashenko of the Moscow office of the Carnegie Endowment for International Peace.

Turan is the leading news agency in Azerbaijan and can be found at *http://www.turaninfo.com.*

NOVEMBER 5, 2001.

In the beginning of October the International Working Group on Search and Liberation of Missing Persons, Hostages and POWs of Karabagh Conflict once again visited Azerbaijan where it studied the issue of missing persons in the Nagorno Karabagh conflict. With the participation of the leadership of the Ministry of Defense, we discussed mechanisms for effective cooperation and drew up plans for future work.

We were pleased to see that the communication between people working on the issue of searching for the missing persons is improving and that a procedure for the return of prisoners of war has been established. The officials, who are responsible for dealing with the POWs no longer view them as "exchange material" and following check-ups they transfer intentional and unintentional violators of the border to the opposite side without preconditions.

In October, the responsible officers of the State Commission and the Defense Ministry of Azerbaijani Republic expressed their readiness to participate in a meeting of individuals, engaged in the search for missing persons and liberation of POWs of the Nagorno Karabagh conflict. The meeting was scheduled to take place in Germany on November 10–12 of 2001. The purpose of the meeting would be to intensify the humanitarian efforts in the search for missing persons. The consent to participate in the meeting reflected the fact that all structures on both the Armenian and the Azerbaijani side are ready to cooperate with the International Working Group. We were hoping that through direct contacts, citizens on both sides would be able to receive information about the destiny of their loved ones, possibly some would return home strengthening trust between the nations. Naturally, discussion of any political issues during that meeting was not envisaged and such a possibility was altogether excluded.

We have to state with great disappointment that on November 2 the Azerbaijani side refused to participate in that meeting.

Until this instance, in its long years of work on this conflict, the International Working Group has not seen any side backtrack on agreements.

This time the Azerbaijani side is not keeping its promise and refuses to participate in the meeting in Germany, which, as we strongly believe, is a substantial blow to the joint efforts to establish a humanitarian dialogue.

Human values are always a priority in our work. In every conflict we are always on the side of people who are suffering from the conflict. As a result of the Azerbaijani authorities' refusal to participate in the meeting, it is these people that will suffer again. Neither the early notification of the Armenian side about the meeting, nor the pressure of internal destructive forces can justify their suffering.

We believe that refusing to participate in the meeting, the Azerbaijani authorities make our efforts ineffective and seriously lower the level of confidence that the victims of the conflict have in us. For these reasons, the International Working Group plans to hold consultations on whether our engagement in the region is still feasible.

SVETLANA GANNUSHKINA.
BERNHARD CLASEN.
PAATA ZAKAREISHVILI.

Throughout this process, I have worked closely with my Armenian Caucus Co-Chair JOE KNOLLENBERG, who also serves on the House Foreign Operations Appropriations Subcommittee. I would like to thank him in particular for his efforts in ensuring a balanced approach to section 907.

Mr. Speaker, the bill's limited and conditional waiver to section 907 will enable the U.S. to effectively combat the war on terrorism while at the same time ensuring that Armenia and Armenian communities in the South Caucasus are safeguarded. The language makes it clear that no assistance can be provided to Azerbaijan unless the President determines and certifies that it is necessary to support counterterrorism and will not undermine the Nagorno-Karabagh peace process or be used for offensive purposes against Armenia or Armenian communities.

By maintaining section 907, we hold Azerbaijan accountable for their (ongoing blockades against Armenia and Nagorno Karabagh) actions. In addition, Azerbaijan's incessant war mongering is of great concern. Instead of taking a constructive approach, senior Azerbaijani officials continue to threaten military action despite calls from the OSCE to cease such provocations. Azerbaijan has also rejected U.S./European union calls for economic cooperation with Armenia. Moreover, progress in the Nagorno Karabagh peace talks have been hindered with President Heydar Aliyev backing away from commitments made in Paris, France and in Key West, Florida. I was also disappointed to learn that after agreeing to meet with their Nagorno Karabagh counterparts, Azerbaijan recently refused to participate in a meeting sponsored by the International Working Group on Search and Liberation of Missing Persons, Hostages and POWs of the Karabagh conflict. I ask unanimous consent to include the International Working Group's press release on this matter.

Mr. Speaker, I have seen a continued pattern whereby the Armenians reach out and take risks for peace and normal relations with its neighbors only to be rebuffed by Azerbaijan or Turkey. As my colleagues know, the resolution of conflicts in the Caucasus and the opening of closed borders are long-standing U.S. policy goals. In this regard, I expect to see some positive developments and, in fact, when Congress reviews the issue of the Section 907 waiver next year, renewal of any waiver should also be contingent upon Turkey's lifting its blockade of Armenia. Lifting the blockade is certainly in the U.S. national interest.

Mr. Speaker, I also strongly support the other Armenian-related provisions in the bill, including the $90 million earmark for Armenia and an additional $4 million for foreign military financing, and $300,000 for international military education training. Expanding our military cooperation is an important new step in U.S.-Armenian relations and I fully support it.

In this regard, I would note the importance for the United States to maintain parity in its military/security relationship between Armenia and Azerbaijan. Finally, I would also like to commend the Armenian Government as well as Armenian-American organizations and individuals who realized that conditional changes to section 907 were needed in the global war against terrorism.

Again, I want to thank the subcommittee members for what they did in this regard.

Mr. KOLBE. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Mississippi (Mr. WICKER), another member of the subcommittee.

Mr. WICKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is a pleasure to join my chairman and my friend, the gentlewoman from New York (Mrs. LOWEY), in supporting this bill and to urge my colleagues to adopt the conference report overwhelmingly.

Mr. Speaker, this is a bill that typically many people in the United States would just as soon we forget about. There are a lot of my colleagues, Mr. Speaker, who would go back to their town meetings and proudly tell some of their constituents that they never voted for any foreign assistance.

Yet, Mr. Speaker, those same people, when September 11 occurred and when we realized that the United States would have to drive the Taliban out of Afghanistan, that we would have to be engaged in that region, those very same Members who proudly said they never voted for a dime in foreign aid are glad that we have a friend or two in that region. They are proud and thankful that the United States has some influence there.

If by spending just a little money on international military education, demining activities, Peace Corps activities, UNICEF, child survival, HIV/AIDS, we have obtained a little influence in those regions, then I proudly say that that is money spent not only for doing good across the world, but also money spent in our national interest.

It has already been pointed out that this bill today, even with the small increase that we have, amounts to less than 1 percent of all of the money that the United States will spend for all purposes during this fiscal year.

□ 1630

And while some people around the country would not spend anything on this bill at all, I think most Americans, when informed that it is less than 1 percent, say that that is a good price to pay to extend our influence and our friendship around the world.

We are providing assistance in many good ways, Mr. Speaker. And make no mistake about it, we intend to do good with this bill and we are providing help to other nations. But the main reason we pass this bill today and the main reason that I vote for it as a fiscal conservative is that it is absolutely in the national interest of the United States of America for us to extend our influence around the globe.

I thank the gentleman from Arizona (Mr. KOLBE) and I thank the gentlewoman from New York (Mrs. LOWEY) for their hard work.

Mrs. LOWEY. Mr. Speaker, I yield 7 minutes to the gentlewoman from California (Ms. PELOSI), a distinguished member of the committee, a ranking member of the Permanent Select Committee on Intelligence, a former ranking member of the Subcommittee on Foreign Operations, Export Financing and Related Programs.

Ms. PELOSI. Mr. Speaker, first off, I want to commend the distinguished chairman of the subcommittee, the gentleman from Arizona (Mr. KOLBE) and the ranking member, the excellent ranking member of the committee for their strong bipartisan leadership which was so necessary to bring this bipartisan bill to the floor today.

It represent a great deal of work on their part and it was not without its difficult moments. I do intend to support the bill, although I am not thrilled with the way that some of the compromises were worked out, one would be the bill does contain the global gag rule, but I will talk about that in a moment.

The bill provides important foreign aid investments that will boost the economy of developing nations and take a giant step toward the alleviation of poverty.

On that note, Mr. Speaker, I want to say what I say every year when this bill comes up and when I was ranking member I did, and that is that all of us in our country are familiar with the great words of President Kennedy in his inaugural address which I, as a student, witnessed firsthand in the freezing cold in Washington, D.C. in 1960. In that address he said, and we all know these words to the people of America, "To the citizens of America, ask not what your country can do for you, but what you can do for your country." We all know that. Everyone knows those words.

But does everyone know that the very next sentence in the speech, the inaugural address, the very next sentence says, "To the citizens of the world, ask not what America can do for you, but what we can do working together for the freedom of mankind."

And I believe, Mr. Speaker, that President Kennedy's words are the clarion call for the bill that is before us today. Now, more than ever, we need to cooperate internationally and to follow the lead of President Kennedy. Since September 11 it is now, more than ever, important to address the root causes of instability in the world by working to alleviate poverty.

Alleviation of poverty would not have probably prevented what happened on September 11. But the alleviation of poverty will go a long way to alleviate also the fury of despair that springs from peoples who have no economic options. They have no recourse. They have no place to go. And so many of them are susceptible to demagogs. I think poverty produces violence throughout the world.

We do know that now more than ever it is a good investment for America to invest in stability in the world and in peace. Pope Paul, VI said, "If you want peace, work for justice." Part of that justice is, of course, economic justice. And this bill, with its investments across the world, helps to build the economies of a country, giving more economic opportunities to people, alleviating poverty, raising the standard of living, and again, hopefully defusing the fury of despair that is out there.

As I mentioned, Mr. Speaker, there are many excellent parts of the bill. The bill contains $475 million for HIV/AIDS funding, which is a significant increase over the amount requested by the administration. It is still not enough, mind you. We have a tremendous opportunity as far as AIDS is concerned and the leadership that the United States provides.

If you combined AIDS and poverty, you have a terrible combination. But that is the combination that many people are faced with throughout the world.

The bill also contains $50 million for the Global Health Trust Fund with an option for the President to invest $50 million more. I certainly had hoped for more funding for the Global Health Trust Fund. The funding provided is increased and combined with the Labor HHS bill that we passed earlier today in the supplemental appropriations bill, will advance the fight against AIDS and encourage other nations to join in contributing funding, what we can do together with other countries.

I want to especially commend the gentlewoman from New York (Mrs. LOWEY), the ranking member on the committee for her work on increasing funding for basic education. She has been a champion on this throughout the years, and her leadership and the amount of money in the bill, $165 million, is due to her efforts over the years, and certainly this year.

I mentioned about family planning. The bill contains a compromise on the family planning issue which enables international family planning to be funded at an increase in funding $446.5 million, and UNFPA at $34 million. This was a hard-fought compromise. But the price to pay for that is the global guide rule is not in the conference report. As my colleagues will recall, one of the first acts, well, the first official act that President Bush took when he became President of the United States was to revoke the language that had been in our foreign ops bill from last year, which eliminated the global gag rule from our public policy. Unfortunately that was in the bill.

The current restrictions of the gag rule erect barriers to the promotion of civil societies abroad and the enhancement of women's participation in the political process and the credibility of the United States in the international arena. Having expressed that dismay, I still, of course, intend to support the bill.

I had also hoped for more funding for disaster assistance for El Salvador in response to the devastating earthquakes. The chairman was successful in providing $100 million in the bill. Only a portion of this is new funding.

I look forward to working with the gentleman from Arizona (Mr. KOLBE) next year to provide needed construction funds to restore the infrastructure there.

There are many good things in the bill. I commend the leadership of the committee for increasing what we called when I was ranking member and the gentleman from Alabama (Mr. CALLAHAN) was chairman, the Callahan account to $1.43 billion for the child survival account, which is a significant increase over the President's budget.

Mr. Speaker, with that, I want to commend the distinguished chairman and the ranking member for a really a good piece of work. It is not without its difficulties. It is, in some respects, a compromise, and in other areas, it really made good strides in helping reach our international goals to help reflect the leadership role of our country in the world.

Now, more than ever, in light of September 11, we see what a small investment this bill is in protecting our people at home by promoting stability and alleviation of poverty and eradication of disease, not only AIDS, tuberculosis, malaria, et cetera.

So this is the Lord's work, in addition to which there is business in here, a trade promotion which is very important to our own economy. It is a good bill. I urge its support.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Arizona (Mr. KOLBE) has 2 minutes remaining. The gentlewoman from New York (Mrs. LOWEY) has 3 minutes remaining.

Mrs. LOWEY. Mr. Speaker, I yield back the balance of my time.

ANNOUNCEMENT OF MEASURES TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON WEDNESDAY, DECEMBER 19, 2001

Mr. KOLBE. Mr. Speaker, before I yield to the last speaker, I would like to make the following announcement for the leadership. Pursuant to the notice requirements of House Resolution 314, I announce that the following measures will be considered under suspension of the rules On Wednesday, December 19, 2001: H.R. 3487; H.R. 3504; and H. Con. Res. 292.

Mr. Speaker, I yield the remaining time to the gentleman from Illinois (Mr. KIRK). All the speakers that we have had on this side have been members of our subcommittee. To close this debate, I would like to call on an individual who has, over the years, contributed a great deal to establishing the foreign policy for this country through the work he has done here as a staff member, and today as a member of the Committee on Armed Services, contributes greatly to the national security of this country.

Mr. KIRK. Mr. Speaker, I rise in very strong support for the Foreign Operations conference report, and I want to especially commend the gentleman from Arizona (Mr. KOLBE) on his first bill, and the gentlewoman from New York (Mrs. LOWEY) for her work.

While the foreign assistance program may not be the most popular, the events of September 11 underscore its importance. By supporting U.S. allies in a time of war against terror, we reduce U.S. casualties and shorten this conflict.

Speaking as a member of the Committee on Armed Services, I would liken this program to its predecessor, the Land Lease Aid of World War II. Foreign assistance represents some of the most effective national defense dollars we provide, and also as a member of the Committee on the Budget, I will fight next year for function 150 funding to make this subcommittee's job easier.

I want to highlight two keys aspects of this bill. First, after great delay, this bill provides the full measure of assistance to our allies in the Middle East, including Israel. If there is anytime to show tangible support to Israel, it is now. Democracies should stick together and this bill does that.

I also want to commend the compromise to provide resources for family planning. The average Afghan woman has six children. Many young Afghans have few prospects and are tempted to extremism. This bill helps dry up the wells of discontent in central Asia, stabilizing new allies in the war on terror, both through the Agency for International Development, and especially through the UNFPA.

I want to commend the committee and staff of the subcommittee and urge rapid adoption of this bill.

Mr. CROWLEY. Mr. Speaker, I rise today in support of this conference report. I want to commend Chairman KOLBE and our ranking member, Congresswoman LOWEY, for crafting a fair and comprehensive bill that addresses the needs of many nations throughout the world.

As conflict continues around the globe, from Northern Ireland to the Middle East, this bill has taken the appropriate steps to provide the tools for future prosperity and the potential for reconciliation.

As the cycle of violence continues in the Middle East, it is essential that we take the appropriate steps to facilitate an atmosphere of peace. The Middle East package in this appropriations bill takes great strides toward that end by including balanced funding for Israel and Egypt, as well as essential support for Jordan and Lebanon.

Specifically, this bill provides economic funding in the amount of $720 million for Israel and $655 million for Egypt. Additionally, it provides $2.04 billion in military financing for Israel and $1.3 billion for Egypt.

I would like to make a special note to commend Israel for being the only country to voluntary request a reduction in its economic assistance. It is my sincere hope that this funding will foster an atmosphere for reconciliation that is so desperate needed. I would also like to thank the Committee for recognizing the work of the Galilee Society. The Galilee Society works with Israeli-Arabs and Israeli-Jews on projects that are in the mutual interest of both communities. From water purification to child immunizations, Galilee has looked beyond the religious and cultural differences that are often divisive in this part of the world, for the betterment of the society as a whole.

Furthermore, the funding provided for the International Fund for Ireland in the amount of $25 million is a crucial element in facilitating an environment in Northern Ireland in which all sides can live together and prosper for the common good. With the peace process on tenuous ground, programs such as the International Fund for Ireland are essential for Irish youth from the North and from the Republic to work together to improve the future of their respective homelands.

On behalf of the Congressional Caucus on Bangladesh and the South Asian Community in New York's Seventh Congressional District, I would like to express our gratitude for $23.5 million for International Disaster Assistance. Specifically, the $5 million earmark for relief efforts in South Asia. The South Asian region has been decimated by earthquakes and flooding throughout this difficult year. The funding included in this bill will make great progress toward rebuilding the communities hardest hit by these tragic events.

I wish to thank the Committee for the funding provided for the United Nations Population Fund. This important funding will save the lives of thousands of women and children throughout the developing world.

Though I am pleased overall with the funding levels included in this bill, I have many concerns regarding the Andean Initiative.

Despite the fact that this funding is a vast improvement over Plan Colombia, I believe that it fails to address the needs of countries, such as Ecuador, to effectively combat the spillover effect from the drug war in Colombia. Furthermore, this initiative continues to provide financial and military assistance to the Colombian military. With an abysmal human rights record, the Colombian military should receive no support from the United States.

It is my hope that these funding deficiencies will be addressed and rectified in future foreign aid packages.

I congratulate Mr. KOLBE and Mrs. LOWEY for their diligent work on this conference report, and I urge my colleagues to support its passage.

Mr. BLUMENAUER. Mr. Speaker, I will support this conference report with the express hope that we can do better next year. Foreign affairs is one of the most important investments we make as a nation, and that fact was underscored by the catastrophic events of September 11.

In his first public appearance after that tragic day, former President Jimmy Carter said on November 15 at the Carter Center that the chasm between rich and poor nations is "by far the most important single problem in the world." If more were done for the poor, he said, "there would be a lot less animosity and a lot less inclination to commit suicide to kill an American."

I congratulate my colleagues DOUG BEREUTER and HOWARD BERMAN for leading a letter to President Bush last month urging increased funding for the fiscal year 2003 function 150 International Affairs budget as part of our Nation's comprehensive response to the September 11 attack on America. Foreign assistance makes a difference. Since 1960, life expectancy in poor countries has risen from 45 to 64. Since 1970, the illiteracy rate has fallen from 47 percent to 25 percent. And, since 1980, the number of poor people has fallen by about 200 million—this at a time when world population increased by 1.6 billion. These are impressive gains, but the U.S. is not doing as much as we should.

Through the Organization for Economic Cooperation and Development and the Group of Seven, the world's richest economies have committed themselves to halving world poverty by 2015, and devoting .7 percent of their individual gross national products to overseas development assistance. As a percentage of national income, U.S. foreign aid has dropped steadily since the early 1990s, leaving the U.S. at the very bottom among the 22 OECD members, with barely .1 percent of GNP going to development assistance.

I commend to my colleagues the excellent Op-Ed I am submitting for the RECORD that was written by the CEO of Mercy Corps, headquartered in Portland, Oregon. In it, Neal Keny-Guyer states that "we have to speak plainly and forcibly about the resources required to confront the real battle. . . . As Congress ponders a blank check for military defenses, national and homeland security and increased intelligence capabilities, we have to significantly increase programs that attack the roots of terrorism."

I agree with Mr. Keny-Guyer's conclusion that, "We need to declare that it is a moral outrage to have the resources to reduce global poverty, but not the will to carry out change." I pledge to do what I can to work that will to strengthen U.S. foreign assistance along with my colleagues on the House International Relations Committee and through the FY03 budget process.

[From the Oregonian, Nov. 26, 2001]

HELP INJURED WORLD HEAL WITH A SUSTAINED EFFORT

(By Neal Keny-Guyer)

All the military might that America can muster will not end terrorism. Not by itself. It requires a sustained assault against those conditions on which terrorism breeds and feeds: abject poverty and social inequality, mass ignorance and disease, despair and intolerance, violence and conflict.

The frontline battalions and brigades in this war are the humanitarian organizations such as Oxfam, CARE, Save the Children and Mercy Corps. Never has their role been more important. And never have these organizations been more challenged to think and act differently.

It is no longer enough to attack the physical conditions of poverty—income levels, adequate housing, health care, infant mortality rates. Pure acts of mercy and relief may help alleviate individual suffering and make the actors of charity feel better, but they do not redress or affect root causes and conditions. Even if we were to lower global infant mortality rates by 25 percent tomorrow (and, of course, we should pursue this noble goal) it is not clear at all that the world would be a more stable, less violent place. It is not self-evident that the forces of terror would be in retreat.

So what is it that we aid agencies should really be doing to make a difference?

First, we have to speak plainly and forcibly about the resources required to confront the real battle. Americans are generous people, but the U.S. government's global aid budget needs to increase significantly beyond the paltry level of less than 1 percent of our federal budget that we give today. Most industrialized nations devote far greater percentages of their budgets to international relief and development. As Congress ponders a blank check for military defenses, national and homeland security and increased intelligence capabilities, we have to significantly increase programs that attack the roots of terrorism. But let's make sure that we are not just throwing money at good causes or buying political and military cooperation through aid.

Second, international aid agencies and nongovernmental organizations have to replace traditional programs that meet basic human needs and promote development with more innovative initiatives. We need programs that both feed the hungry and teach agriculture skills and, at the same time, promote land reform and democratic participation. Health programs must provide not only basic maternal and child medical care, but also promote basic rights for women and children. We need micro-credit programs that do not simply provide credit for the poor but that also link, for example, Serbian producers with Albanian suppliers in Kosovo. We need humanitarian assistance programs that consciously promote, if not require, active cooperation among various religious factions in so many down trodden countries.

In Afghanistan today, the role of aid agencies is not simply to feed starving people or to rebuild war-torn buildings and infrastructure. Our real job is to provide aid in a way that truly builds a foundation for a peaceful, pluralistic future. Our multi-ethnic, multitribal teams need to represent a working model of cooperation and tolerance. We need to witness against human rights abuses and reprisals while we help create Afghan models for a healthy civil society.

Humanitarian and development assistance, always and everywhere, has to promote political participation among marginalized groups, respect for human rights and the rule of law. Aid agencies, always and everywhere, have to deliver assistance in the ways that build bridges of understanding and cooperation among religious, ethnic and cultural communities affected by conflict.

It is no longer enough to be simple angels of mercy. Aid agencies today have to be ambassadors of peace, reconciliation and hope—hope for more secure, just and meaningful future.

Finally aid agencies today need to find creative, compelling ways to connect their supporters with a deeper understanding of the world. We need to declare that it is a moral outrage to have the resources to reduce global poverty, but not the will to carry out change. We cannot stand on the sidelines of history while 50 million people are refugees from war and persecution, while 25 million children are killed, maimed or made homeless in a decade's time, while 35,000 children die each day from hunger and disease.

A seamless web of compassion connects homeless child in Poland with a hungry, desperate child in Afghanistan. And when one child is helped anywhere, all of God's children can rejoice. In this understanding, terrorism cannot win. In this discovery, in this conviction, a better America and a better world will emerge.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for the conference report to H.R. 2506, the Foreign Operations appropriations bill. This Member would particularly like to thank the distinguished gentleman from Arizona (Mr. KOLBE), the Chairman of Foreign Operations Appropriations Subcommittee, for his efforts in bringing this conference report to the House Floor. Additionally, this Member would like to thank the distinguished gentleman from Florida (Mr. YOUNG) the Chairman of the Appropriations Committee, for his continued leadership.

This Member would like to focus on three following parts of this conference report to H.R. 2506: the 150 International Affairs Budget, the Export-Import Bank (Ex-Im Bank), and the International Fund for Agricultural Development (IFAD).

First, the conference report to H.R. 2506 includes appropriations for the 150 International Affairs budget. Through the 150 International Affairs budget, the U.S. funds its programs which are critical to protecting U.S. security, economic, and diplomatic interests overseas. Indeed, these programs, which include U.S. humanitarian assistance programs; foreign economic and military assistance; public diplomacy efforts; and export promotion programs, are the tools which American diplomats, aid workers, and businesses use to promote the American story of freedom, democracy, and free markets. Without these tools, other countries and regimes have a greater opportunity to define in an unfavorable light what America stands for and to promote causes which are in direct opposition to U.S. national interests.

Mr. Speaker, this Member joined his colleague, the distinguished gentleman from California (Mr. BERMAN), and 61 other distinguished Members of this Body from both sides of the aisle in sending to the President a letter which expresses support for an increase in the fiscal year 2003 150 International Affairs budget. Currently, funding for the 150 International Affairs budget comprises less than 1 percent of the overall Federal budget, and these funds will play a very crucial role in the war on terrorism. Indeed, increasing the 150 International Affairs Budget will provide the Administration more flexibility to wage the diplomatic component of the war on terrorism.

Second, this Member supports the $727 million appropriation for the program budget of the Ex-Im Bank and the $63 million appropriation for its administrative budget. The Ex-Im Bank is an independent U.S. Government agency which provides direct loans to buyers of U.S. exports, guarantees to commercial loans to buyers of U.S. products, and insurance products which greatly benefit short-term small business sales. To illustrate the importance of the Ex-Im Bank, in FY 2000, it supported over $15 billion worth of exports through loans, guarantees, and insurance for American businesses, both small and large.

As the Chairman of the House Financial Services Subcommittee on International Monetary Policy and Trade, this Member takes a particular interest in the appropriation for the Ex-Im Bank since he has introduced legislation (H.R. 2871) which would reauthorize the Ex-Im Bank for four years, until September 30, 2005. This legislation, the Export-Import Bank Reauthorization Act of 2001, passed the House Financial Services Committee on October 31, 2001. This Member is awaiting this legislation to be taken up on the House Floor. It should be noted that, at the request of certain U.S. Senators, the conference report includes an extension to March 31, 2001, for the authorization of the Ex-Im Bank.

With respect to the program budget, the conference report provides funding for Ex-Im Bank's loans, guarantees, and insurance products. In the administration's budget for fiscal year 2002, it reduced the program budget of the Ex-Im Bank to $633 million. The fiscal year 2001 level for the program budget was $865 million. This conference report restores some of the funding for the program budget by appropriating $727 million for fiscal 2002. It is important to note that under the Export-Import Bank Reauthorization Act of 2001, the program budget is effectively authorized for such sums as are appropriated through fiscal year 2005.

With regard to the administrative budget for the Ex-Im Bank, this conference report appropriates $63 million. This is an increase by $1 million over the $62 million level for the administrative budget for fiscal year 2002. Funding for the administrative budget is essential as the Ex-Im Bank is in a desperate need of a technology upgrade which would particularly benefit small business users of the Ex-Im Bank. To illustrate this importance, this Member's legislation, H.R. 2871, authorizes $80 million for the administrative budget, which includes funding for information technology for fiscal year 2002, and indexes this authorization level for inflation for fiscal year 2003 through fiscal year 2005.

This Member would also like to note that this conference report contains an authorization of $30 million to IFAD. IFAD provides loans and grants for agricultural and rural projects for the world's poor who live in such rural areas. Almost 75 percent of the world's 1.2 billion poorest people live in rural areas. Furthermore, approximately two-thirds of IFAD loans are concessional. This authorization of $30 million for the Fifth Replenishment for IFAD is identical to the Administration's request.

As the Chairman of the House Financial Services Subcommittee on International Monetary Policy and Trade, which has authorization responsibilities over the regional multilateral development banks including IFAD, this Member introduced H.R. 2604. This legislation reauthorizes the U.S. commitment to the Asian Development Fund and IFAD and sets forth additional policies regarding the other regional multilateral development institutions. This legislation, H.R. 2604, particularly addresses the subjects of HIV/AIDS, user fees, and transparency as it relates to the different regional multilateral development institutions.

This legislation, H.R. 2604, passed the House Financial Services Committee by a voice vote on October 31, 2001. This Member is awaiting this legislation to be taken up on the House Floor. It is important to note this conference report does not authorize the Asian Development Fund. The Administration had requested an authorization for a four year $412 million U.S. contribution to the Seventh replenishment of the Asian Development Fund. Since this authorization is not in the conference report of H.R. 2506, it is imperative that the House Floor take up this Member's legislation, H.R. 2604, in the immediate future since it contains the authorization for the Asian Development Fund.

In conclusion, for the above reasons and many others, this Member urges his colleagues to support the conference report to H.R. 2506, the Foreign Operations appropriations bill.

Mr. FORBES. Mr. Speaker, I rise in reluctant support of the Fiscal Year 2002 Foreign Operations Appropriations Act. Though the bill includes language that gives me serious pause—in particular that related to the United Nations Population Fund (UNFPA), I will cast my vote in support of this legislation today to ensure our continued support for the people of Israel in their time of great crisis.

The people of Israel have lived with violence and unrest since the birth of their nation more than 50 years ago. But in recent years, it has appeared that with serious effort, a reasonable peace could be achieved in that region. Over the past several weeks, however, that dream of peace has crumbled. The leadership of the Palestinian Authority has been lacking either the wherewithal or the will to control the escalating violence and the Israeli leadership has retaliated in the only way it can see fit. Regrettably, innocent lives on both sides often pay the price for this impasse.

In this time of turmoil, Mr. Speaker, we must show our support for our ally, Israel. This bill fully funds the President's requests for foreign military financing and economic assistance to Israel. Thus, despite my objections to the UNFPA language and other provisions, I must support this funding bill.

The compromise language developed by the conferees increases the appropriation for the UNFPA by 40 percent over last year. In recent months, the UNFPA has come under increasing scrutiny for its policies that support coercive abortion policies in China, Peru, and elsewhere. Furthermore, as Congressional criticism of their complicity in these inhumane policies has increased, the UNFPA has become less and less willing to provide information that Congress needs to conduct its required oversight. In fact, only two months ago, the UNFPA refused a request by the International Relations Committee to even testify on this matter.

There can be little doubt that coercive abortion and one-child policies prey upon the most vulnerable people in our global society. They force young women, disabled women, and poor women into giving up the families that they want through abortion or infanticide. They lead to the deaths of countless innocent children all around the world. By intentionally ignoring that these policies exist, the UNFPA passively supports them. And, this is a practice that must stop.

While I am opposed to the bottom-line increase in funding for UNFPA, I am encouraged by the fact that this funding level is meant to be an appropriations ceiling. I am very hopeful that the President and his Administration will use the discretion that this mechanism provides to ensure that funding is commensurate only with the appropriate purposes of this program and that it is not used to support these despicable family planning programs.

In addition to my concerns about the UNFPA funding, Mr. Speaker, I am also skeptical that it is appropriate to be increasing our international funding obligations to this extent at a time when our economy is still demonstrating a marked sluggishness. While I recognize the importance of remaining fully engaged in the international community in times of peace as well as in times of war, I am not certain that the increase in funding in this bill represents the appropriate balance of our national priorities. In fact, this funding bill includes a nearly $2 million increase over the funding level requested by the President.

Mr. Speaker, I do appreciate the difficult task that the conferees had in forging this compromise legislation. And, though I am conflicted on the merits of that compromise, I will support it today.

Mrs. MALONEY of New York. Mr. Speaker, I rise today in strong support of this bi-partisan conference report. I would like to thank my colleagues, Chairman KOLBE and Ranking Member LOWEY for their tireless work and impressive effort in producing this comprehensive report. I would also like to specifically thank Chairman YOUNG and Ranking Member OBEY for their support on a number of important issues.

Thanks to the hard work of this subcommittee and with the direction of Chairman YOUNG, over 250,000 "at risk" children in Bosnia will now be helped. Since the tragic war in Bosnia, it is estimated that 13 percent of children in Bosnia and Herzegovina live in extreme poverty and 2,673 children do not have parental care. These children need and deserve a stable, safe environment where they can grow up and enjoy the support of a loving family.

I am proud that my colleagues have addressed this need and have appropriated $3 million to help these children, many of whom live in terrible conditions.

I would also like to thank my colleagues for the increase of funding for the U.N. Population Fund to $34 million—a $12.5 million increase from last year! What a victory for women and children around the world! Thanks to Chairman KOLBE and Ranking Member LOWEY in the House and Senator LEAHY in the Senate, we can now directly fund effective modern contraception for nearly 1.6 million women in low-income countries, prevent 780,000 unintended pregnancies, prevent 365,000 unwanted births, help women avoid over 312,000 abortions, prevent thousands of maternal and child deaths, reduce the spread of HIV/AIDS infection in dozens of high-risk countries, and help poor countries develop stable economies.

This is truly a cause for celebration!

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 2506, the Foreign Operations Appropriations bill for FY 2002. With American forces engaged in battle, it is essential that Congress provide the Administration the tools it needs to meet our foreign policy objectives, which include playing an active role in the Middle East peace process.

The events of the past weeks have again reminded us the troubled waters through which we must tread in the Middle East. The cycle of violence that has embroiled the region for the last 14 months has in no way helped Israel or the Palestinians. The longer this violence persists, the worse it will be for all parties, including the United States. Already, American credibility vis-a-vis the peace process has been seriously questioned.

The violence unleashed in Jerusalem and Tel Aviv, and elsewhere by Palestinian suicide bombers is wrong. There is no justification for killing innocent civilians, and the deaths of 27 Israeli citizens is outrageous and must be condemned by all. I fail to comprehend what would compel a young man to strap explosives to his body, and surrender his life in an immoral, misguided effort to kill innocent people.

In response to the suicide attacks in Jerusalem and Tel Aviv, Israel has again launched a powerful military response intended to scare Palestinians into submission. This strike has caused numerous Palestinian casualties, and destroyed Yasser Arafat's headquarters. While Israel intended to send a message to Palestinians, I do not think the message they sent—delivered from helicopter gunships and F–16's—is one they wanted the Palestinians to receive. A commentator drew an apt parallel when he noted that if the English bombed Belfast and Dublin in response to an IRA attack, the Irish would hardly be more eager to work with the British on matters of security.

Mr. Speaker, the Israel-Palestinian conflict is headed toward a precipice, which poses a grave danger to Israel, the Palestinians, and the United States. On November 19, Secretary Colin Powell indicated a renewed, active U.S. initiative to end violence and get the peace process back on track. Powell noted that obtaining a just and lasting peace between Israelis and Palestinians is our central diplomatic challenge, and that our vision is to help build, "a region where Israelis and Arabs can live together in peace, security, and dignity." He also stated that both parties must take steps, some painful, in order to reach a just conclusion to this conflict.

This is not the time for our country and this body to play the role of partisan. We must not be pro or anti-Palestinian, nor must we be pro or anti-Israeli. We must sanction the conduct of those who insight violence or dictate their will by force alone, and criticize any activity that undermines confidence, security, and peace. We must urge both parties to rededicate themselves to the path of peace. This is the only path in the long-term interest of the United States, and is certainly the only one offering real security for Israel and statehood for the Palestinians.

Mr. Speaker, as the Secretary Powell noted, United Nations Security Council Resolutions 242 and 338, Camp David, and all agreements made in the last decade have spelled out the principles upon which a final peace settlement will be made. Israel will get security and the opportunity to forge economic, political, and cultural ties to its neighbors; Palestinians will get an independent state. Israeli and Palestinian citizens alike will all have the opportunity to live normal lives. Both parties win. Only rejectionist and extremists lose.

The first step to peace is implementing the Mitchell Committee Report. The Mitchell Committee studied the ongoing violence over a period of months, and the report is submitted included objective findings and constructive recommendations as to how to end the violence and rebuild confidence that will enable the parties to return to the negotiating table. Both Israel and the Palestinians have accepted the Mitchell Committee Report. It alone offers the one thing that is most needed today: hope.

Mr. Speaker, I would note that I have introduced H. Con. Res. 253, a resolution which expresses support for the Mitchell Commission report. It is supported by the Administration, and I would hope that more members would register their support for the peace process by endorsing Mitchell and cosponsoring H. Con. Res. 253.

"I truly tell you: we have before us today an opportunity for peace which time will never repeat and we must seize it if we are really serious in struggling for peace. If we weaken or fritter away this opportunity we shall end in a new blood-bath; he who has conspired to lose it will have the curse of humanity and history on his head."

Mr. Speaker, these are the words of Anwar Sadat spoken to the Knesset in 1977. Sadat, like Yitzak Rabin, paid the highest personal price for peace. Let us remember them, and champion efforts to bring about a just and lasting peace. Now is a historic opportunity for between peace and war. Let's be on the right side of history.

Mr. GILMAN. Mr. Speaker, while I support H.R. 2506, the Foreign Operations Conference Report, regrettably, the conference report before us does significantly damage the Annual Drug Certification Process. The certification process is an important Reagan era tool to garner the cooperation of major drug producer and major drug transit nations that want the benefit of US aid.

It is simply, the Drug Certification Procedure mandate that before a major illicit drug producer or major transit nation is entitled to our foreign aid, the President must certify to Congress that such nation is "fully cooperating" with us in our fight against these illicit drugs.

As we full know today illicit drugs helped finance global terrorism whether Bin Laden in Afghanistan, or the FARC and ELN in Colombia, or other terrorist networks around the world.

We need the full cooperation of these major producer and/or major transit nations to stop the flow of drugs here, and the profits to the global terrorists. Now is not the time to weaken American law in the fight against illicit drugs and global terrorism.

The Assistant Secretary of State for International Narcotics Control, Randy Beers, who served both Clinton and now under Bush, has said of the drug certification process that it is "a policy tool which is controversial, not because it has failed, but because it is working."

Yet in this year's annual foreign operations appropriations bill Secretary Beers negotiated a major change in the drug certification law, without our input that lowered the bar ("demonstrably fails") on the cooperation we are entitled to receive from these nations, which makes it harder for us to fight illicit drugs abroad.

We question, why now when we are in the fight of our lives against global terrorism would we want to surrender one of the most effective tools against the source of much of its financing, the illicit drug trade. It makes no sense.

It is the wrong message at the wrong time especially now as we fight global terrorism often financed by the illicit drug trade.

Accordingly, I urge Mr. KOLBE's Committee to re-examine the importance of preserving the Drug Certification Process.

Mr. CROWLEY. Mr. Speaker, I rise today in support of this conference report.

I want to commend Chairman KOLBE and my friend NITA LOWEY for negotiating a fair and comprehensive conference report that reflects the new challenges that we face in working with the international community.

On behalf of the Bangladeshi caucus and the entire South Asian Community in my district, I would like to express our most sincere gratitude for $235.5 million in funding for International Disaster assistance with at least $5 million going toward South Asia.

The South Asian region has been decimated by earthquakes and flooding throughout this difficult year.

The funding provided in this bill will make great strides toward rebuilding the communities hardest hit by these tragic events.

I would also like to express my gratitude for the inclusion of $25 million for the International Fund for Ireland.

The funding provided for IFI is crucial to facilitating an environment in Northern Ireland in which all sides can work together on issues of mutual concern and benefit.

Finally, I wish to thank the Committee for the funding provided for the United Nations Population Fund.

This important funding will save the lives of thousands of women and children throughout the world.

The projects of which I am supportive are too numerous to mention in such a short time, but suffice it to say that it is a privilege to vote in favor of this conference report.

Mr. SCHAFFER. Mr. Speaker, the Conference report related to foreign operations—currently under consideration by the House—contains an improved level of funding for Ukraine. These funds move us closer to achieving America's objectives there. The Conferees of the Foreign Operations Appropriations Bill are to be commended for realizing the strategic and economic significance of Ukraine to the United States and for favorably judging my recommendation for higher funding levels.

As you may recall, Mr. Speaker, I rose in opposition to the actions previously taken by this House when it funded America's activities in Ukraine at an amount substantially lower than that recommended by the president. The president's budget called for an expenditure of $169 million for fiscal year 2002. The House approved an amount not to exceed $124 million.

Upon passage of the House bill on foreign operations appropriations, I petitioned our colleagues in the Senate to set in its companion appropriations bill a figure for Ukraine in excess of the president's recommendation. My appeal was warmly received, and I am pleased by the Senate's reply in proposing the Ukrainian line be funded at no less than $180 million.

The figure proposed in the report before us now is $154 million which, while admittedly subordinate to our president's more prudent recommendation, strikes me as a reasonable compromise between the two chambers of the Congress and certainly worthy of our approval today. I appreciate the efforts of the House conferees to accommodate such a significant portion of my request, and I hereby pledge my continuing effort to monitor the efficacy of these scarce resources. I intend to continue in my capacity as Co-chairman of the Congressional Ukrainian Caucus, to oversee and judge the utility of the programs enabled by the generosity of the American people through the Congress. I will endeavor to routinely report to the subcommittee chairman and our colleagues in general regularly the conclusions of my findings. It is my earnest desire that my observations, and those of the Caucus, weigh heavily in the formulation of future budgets regarding our interests in Ukraine. Moreover, I am grateful for the Subcommittee Chairman's receptivity to this proposition.

Funding proposed in the current bill comes at a very critical point in Ukraine's development as a democracy. In March 2002, Ukrainians will have the opportunity to elect a new parliament. There is great concern internationally for the strong possibility of election tampering, outright fraud during this election, and compromised results. If Ukraine is to stay the course toward a mature democracy, the upcoming elections must yield a fair and accurate representation of popular intentions, attitudes, opinions, and beliefs.

Mr. Speaker, I warrant it the duty of the United States to promote democracy and freedom whenever and wherever possible. I have been this institution's strongest supporter of Ukraine in its struggle for democracy throughout my tenure in congress and long before my service here. I regard America's support integral to the growth of democracy, free-markets and property rights in Ukraine. Without question, America's continued help will hasten Ukraine overcoming the various threats of domestic corruption. Our financial assistance will help sustain Ukraine's unmistakable progress in achieving its place among the global community of democratic nations.

The United States Agency for International Development (USAID) is working in Ukraine, representing America's interests by coordinating many democracy-building projects. In fact, I have made various recommendations to USAID for specific programs designed to promote democracy and citizenship, and I'm confident this appropriation will foster timely development of these important projects.

This election will be a thorough test of USAID's effectiveness in Ukraine. If the elections are to be genuine, USAID must coordinate not only its assets for poll watching, but must preempt election fraud by guiding Ukrainian voting officials in providing ballot security, voter education, and legal compliance.

Prior to and throughout my years in Congress, I have had the privilege of meeting many Ukrainians and Ukrainian leaders. These people, whose history of democracy is short, understand its significance better than many who have enjoyed a lifetime in a free society.

It has been ten years since Ukraine discarded the yoke of Society-style communism and oppression and embarked on the road to freedom. The progress of reforms has been slow, to be sure, but this cannot deter American assistance. The case is now stronger than ever for assertive American assistance and leadership in Ukraine.

Despite slow reforms, Ukraine has consistently demonstrated its commitment to building alliances with the western world. Ukraine has supported the U.S. in various peacekeeping missions. Ukraine has been completely cooperative in non-proliferation issues and in nuclear disarmament. Ukraine supported America in the war on terrorism, opening air space and providing ground transportation for coalition supplies. Most recently, Ukraine has supported President Bush in withdrawing from the ABM Treaty, calling it a morally justified decision, and the treaty obsolete.

The Ukrainian people are resolute in their desire to live in a democracy and enjoy national self-determination. The United States stands to benefit greatly from a strong alliance with Ukraine, economically, strategically, and culturally. American support is paramount in the achievement of these important goals and I urge the House to look favorably on this particular portion of the Committee report.

Mr. KOLBE. Mr. Speaker, I urge Members to support this conference report.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 357, nays 66, not voting 11, as follows:

[Roll No. 505]

YEAS—357

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Baird
Baldacci
Baldwin
Ballenger
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clyburn
Coble
Collins
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Harman
Hart
Hastings (WA)
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stenholm
Strickland
Stupak
Sununu
Sweeney
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—66

Akin
Bachus
Barcia
Barr
Bartlett
Berry
Blunt
Chabot
Combest
Crane
Cunningham
Davis, Jo Ann
Deal
DeMint
Doolittle
Duncan
Everett
Flake
Goode
Goodlatte
Gutknecht
Hall (TX)
Hansen
Hayes
Hayworth
Hefley
Herger
Hilleary
Hostettler
Johnson, Sam
Jones (NC)
Kennedy (MN)
Kerns
Largent
Lewis (KY)
Lucas (OK)
Manzullo
McInnis
Mica
Miller, Jeff
Myrick
Norwood
Otter
Paul
Pence
Petri
Pitts
Platts
Pombo
Roemer
Rohrabacher
Royce
Ryun (KS)
Sensenbrenner
Shuster
Smith (MI)
Smith (NJ)
Stearns
Stump
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Toomey
Wamp
Weldon (FL)

NOT VOTING—11

Baker
Clement
Cubin
Hall (OH)
Hastings (FL)
Luther
Meek (FL)
Owens
Stark
Wexler
Young (AK)

□ 1704

Messrs. JONES of North Carolina, HANSEN, LEWIS of Kentucky, HILLEARY, BACHUS, LUCAS of Oklahoma, SAM JOHNSON of Texas, HAYWORTH, EVERETT, SHUSTER, and LARGENT changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

PERSONAL EXPLANATION

Mr. KUCINICH. Mr. Speaker, on December 4 and December 5, I was testifying in Federal bankruptcy court on behalf of the steelworkers and retirees of the LTV Steel Company, and was unable to cast votes here. If present, I would have voted "yes" on all of the following: Rollcall No. 466, H.R. 3323; rollcall No. 467, H.R. 3391; rollcall No. 468, S. 494; rollcall No. 469, H. Con. Res. 242; rollcall No. 470, H.R. 3348; rollcall

No. 471, H. Con. Res. 102; and rollcall No. 472, H. Res. 298.

REQUIRING UNITED STATES PLAN TO ENDORSE AND OBTAIN OBSERVER STATUS FOR TAIWAN AT WORLD HEALTH ASSEMBLY

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2739) to amend Public Law 107-10 to require a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO PUBLIC LAW 107-10.

(a) FINDINGS.—Section 1(a) of Public Law 107-10 (115 Stat. 17) is amended by adding at the end the following:

"(12) On May 11, 2001, President Bush stated in his letter to Senator Murkowski that the United States 'should find opportunities for Taiwan's voice to be heard in international organizations in order to make a contribution, even if membership is not possible', further stating that his Administration 'has focused on finding concrete ways for Taiwan to benefit and contribute to the WHO.'.

"(13) On May 16, 2001, as part of the United States delegation to the World Health Assembly meeting in Geneva, Switzerland, Secretary of Health and Human Services Tommy Thompson announced to the American International Club the Administration's support of Taiwan's participation in the activities of the WHO.".

(b) PLAN.—Section 1(b)(1) of Public Law 107-10 (115 Stat. 17) is amended by striking "May 2001" and inserting "May 2002".

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to voice my strong support of H.R. 2739 amending Public Law 107-10 to require a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May, 2002. The World Health Organization has allowed observers to participate in its past activities, including such activities as the Palestinian Liberation Organization, the Order of Malta, and the Holy Sea.

As a founding member of the World Health Organization, the Republican of China, Taiwan, had participated for 24 years as a full member in WHO's programs and activities, and made significant contributions to the fulfillment of that organization's objectives. Since the admission of the People's Republic of China to the U.N. forced Taiwan to depart from the World Health Organization in 1972, Taiwan, which has a population of more than 23 million, has more people than 75 percent of the member states in the WHO, but has been denied access to the WHO.

Over the years, Taiwan has offered its resources, scientists and health practitioners to people in need throughout the world. Taiwan's absence from the WHO system has become a missing link in the global framework of health and medical care, and it is long overdue that the world unites Taiwan's hands so that the world may benefit from its expertise.

Accordingly, Madam Speaker, I strongly support H.R. 2739 providing observer status for Taiwan and the World Health Organization, and I urge my colleagues to do the same.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this legislation. Let me first commend my colleague from Ohio (Mr. BROWN) for his persistence in pushing Taiwan's observer status at the WHO. I also commend the chairman, the gentleman from Illinois (Mr. HYDE) and chairman emeritus, the gentleman from New York (Mr. GILMAN) for their strong support of this legislation.

Congress has addressed this issue several times, Madam Speaker, and we will continue to raise it until this inequity is resolved. Madam Speaker, the World Health Organization makes a major contribution to the international community every single day. WHO has new and innovative programs to stop the spread of HIV-AIDS and other infectious diseases. It has programs of development of basic health care services throughout the developing world, and it provides humanitarian aid to those in need.

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As we speak, the World Health Organization is laying the groundwork for helping to meet health care needs in a post-conflict Afghanistan.

In this long and difficult struggle, the WHO and its member countries should be looking for help wherever they can get it. Unfortunately, due to opposition by the Chinese Government in Beijing, Taiwan's efforts to obtain observer status to the annual World Health Assembly meetings in Geneva have fallen on deaf ears. Although the administration has indicated support for Taiwan's bid for observer status, it is unwilling to ruffle any feathers in Beijing to make this bid a reality. The Department of State argues that the majority of WHO members would never support observer status for Taiwan and, therefore, the United States should not make an effort on Taiwan's behalf.

Madam Speaker, this committee should strongly reject this defeatist and weak-kneed logic. We should demand that the administration make a concerted effort to ensure that Taiwan participates in this critical international organization. Their bid may fail, but I can guarantee that Taiwan will never be allowed to participate unless we try to get them through the door.

Madam Speaker, Taiwan is a strong, prosperous and vibrant democracy. It has the financial, scientific, medical and humanitarian resources that can help the World Health Organization and all of its many member states who desperately need help. Taiwan is not even asking to join the WHO as a state but rather just as an observer. The case for Taiwan's observer status at the WHO is clear and the administration should do its utmost to make it happen.

I strongly support H.R. 2739 and urge all of my colleagues to do so, as well.

Madam Speaker, I reserve the balance of my time.

Mr. GILMAN. Madam Speaker, I want to thank the gentleman from California for his strong support of this measure. I also want to take this opportunity to thank the sponsor of the measure, the gentleman from Ohio (Mr. BROWN), and the gentleman from Ohio (Mr. CHABOT) for introducing the measure.

Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from California (Mr. ROHRABACHER), a member of our Committee on International Relations.

Mr. ROHRABACHER. Madam Speaker, I would like to thank the gentleman from Ohio (Mr. BROWN) for the leadership that he provides on this and issues that are tied to the Republic of China, also to the gentleman from California (Mr. LANTOS) and, of course, to the gentleman from New York (Mr. GILMAN). We do have a bipartisan committee. Although we do have some heated debates at times, it is measures like this that demonstrate that the basic values that bind us together are much stronger than the disagreements that we might have.

The Republic of China on Taiwan is a shining example to the world not only of democracy but of healthy and decent living, as well as, I might add, an example of charity. Over these last 50 years, the people who have lived on the island of Taiwan have seen their standard of living rise dramatically. This, of course, while in other parts of the world in other developing nations, some of those nations have not developed like that. And then some nations that have developed economically have not seen the benefits of that development translated into healthier living for their populations. But in Taiwan, one is amazed to find that not only have we seen a dramatic rise in their standard of living, but we see the health of the general population has increased dramatically as well.

Diseases which used to ravage the populations of the island nations in the Pacific and in Asia, those diseases on Taiwan have not only been brought under control but have been somewhat eradicated. This by a commitment to the inoculation of young children and, yes, the inoculation of the entire population against such diseases as well as this leveling of health standards which has made Taiwan a very nice place to visit and a very nice place to live and a very clean place to live as compared to other developing countries.

But not only in this standard of health and decency. They have a health care system there which is exemplary to other countries in Asia, but what we also see there is a spirit of charity that sometimes we do not see in developing nations. The Su Chi Foundation in Taiwan, for example, gives out hundreds of millions of dollars over the years to countries and to peoples who are in need in areas that are in distress. In Afghanistan yes, but in many other countries that people are in turmoil and other international institutions have not been able to provide help, the Su Chi Foundation have stepped in and given people in desperate circumstances aid in terms of health care, aid in terms of blankets and other humanitarian services. This spirit of charity is very exemplary of Taiwan. They have been very involved as a government as well, but the Su Chi Foundation, let me add, is all contributions made voluntarily by the people of Taiwan themselves.

The Republic of China on Taiwan has earned our respect and has accomplished great things. They should be included, at least if nothing else, as an observer for the World Health Organization. Why should the Republic of China have that right? Because they have earned it. They have earned our respect, they have treated their people decently, they have shown charity, they have had a commitment to health. What more do we need? They are also a democratic government.

Mr. LANTOS. Madam Speaker, I am pleased to yield 5 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA), a distinguished member of the Committee on International Relations.

Mr. FALEOMAVAEGA. Madam Speaker, I rise in strong support of the legislation before us, H.R. 2739, which facilitates Taiwan's participation in the World Health Organization.

In follow-up to earlier measures enacted into law by this Congress, H.R. 2739 requires the United States delegation to the World Health Organization meetings in Geneva next May to submit to Congress a detailed plan of action for obtaining observer status for Taiwan at the World Health Organization summit. I congratulate the author of the legislation, the distinguished gentleman from Ohio (Mr. BROWN), for his longtime leadership on this issue. I further commend the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, as well as my good friend, the gentleman from New York (Mr. GILMAN), who currently is the manager of this legislation, and, certainly our ranking Democratic member, the gentleman from California (Mr. LANTOS), for bringing this matter to the floor. I am deeply honored to join my colleagues in support of this bipartisan legislation.

Madam Speaker, the World Health Organization is the preeminent international health organization in the world. In its charter, the World Health Organization sets forth the crucial objectives of attaining the highest possible level of health care for all people. Yet today the 23 million citizens of the Republic of China on Taiwan are still denied appropriate and meaningful participation in the international health forums and programs conducted by the World Health Organization. This is simply wrong and inexcusable and must be corrected.

Access to the World Health Organization ensures that the highest standards of health, information and services are provided, facilitating the eradication of disease and improvement of public health worldwide. The work of the World Health Organization is particularly crucial today given the tremendous volume of international travel which has heightened the transmission of communicable diseases, such as HIV/AIDS, between borders.

With over some 190 countries participating in the World Health Organization, it is a travesty that Taiwan is not permitted to receive World Health Organization benefits, especially when you consider Taiwan's 23 million citizens outnumber the population of three-fourths of WHO's member states. This lack of access to WHO protections has caused the good people of Taiwan to suffer needlessly, such as in 1998 when a deadly, yet preventable, virus killed 70 Taiwanese children and infected more than 1,100 others.

Madam Speaker, there is no good nor valid reason why Taiwan should be denied at least observer status with the World Health Organization. As a strong democracy and one of the world's most robust economies, Taiwan rightfully should participate in the health services and medical protections offered by the WHO. Conversely, the World Health Organization stands to benefit significantly from the financial and technological contributions that Taiwan has offered many times in the past. This is particularly relevant at a time when the WHO's resources shall be severely stretched to address the health crisis in a rebuilding Afghanistan.

Madam Speaker, Congress has spoken out forcefully on this issue before and we should stop the foot dragging. This legislation before us mandates that the administration should develop and submit a detailed plan of action to achieve this goal, observer status for Taiwan at the May 2002 World Health Organization summit. I urge my colleagues to adopt this worthy legislation.

Madam Speaker, Taiwan a couple of weeks ago was just admitted as a member of the World Trade Organization and rightly so given the fact that Taiwan is one of the leading economic powers in the Asia-Pacific region and certainly with our own country. I am certain Taiwan will also contribute substantially in terms of funding projects and supporting scientific and health-related programs that are sponsored by the World Health Organization.

Just last week we were privileged to visit with the Secretary General of the Democratic Party of Taiwan as well as the chairperson of the Taiwan Mainland Council. Both leaders demonstrated a keen understanding of the issues affecting the Asia-Pacific region and more importantly a demonstration of how democracy has advanced in the course of the past 10 years in this country.

I urge my colleagues to support this legislation.

Mr. GILMAN. Madam Speaker. I rise to voice my strong support for H.R. 2793, amending Public Law 107–10 to require a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002. WHO has previously allowed observers to participate in its past activities, including the Palestine Liberation Organization, the Order of Malta, and the Holy See.

As a founding member of the WHO, the Republic of China (Taiwan) had participated for 24 years as a full member in WHO's programs and activities, and made great contributions to the fulfillment of the organization's objectives. Upon the admission of the People's Republic of China (PRC) to the UN, Taiwan was forced to depart from the WHO in 1972. Taiwan, with a population of more than 23 million and more people than 75 percent of the member states in the WHO, has been denied access to the WHO.

Over the years, Taiwan has offered its resources, scientists, and health practitioners to people in need around the world. Taiwan's absence from the WHO system has become a missing link in the global framework of health and medical care. It is long overdue that the world unties Taiwan's hands so that the world may benefit by its Resources and Special talents.

Accordingly, I strongly urge support for H.R. 2739, providing observer status for Taiwan in the World Health Organization.

Mr. FORBES. Madam Speaker, I rise in support of H.R. 2739, which would require the United States to take positive steps to ensure that Taiwan is afforded an opportunity to participate in the World Health Assembly in May 2002.

Taiwan, with its population of 23.5 million people, is a leader in its region in public health, surpassing its Asian neighbors in life expectancy and maintaining maternal and infant mortality rates comparable to those in western countries. They have participated in medical and humanitarian ventures, helping the people of El Salvador when they were devastated by an earthquake in January. Furthermore, the Taiwanese public health agency has demonstrated an interest in collaborating with its counterparts in other nations, including the United States' Centers for Disease Control and Prevention, on a wide range of public health issues. Taiwan has much to contribute to the global community and it should not be arbitrarily precluded from participating in the annual health assembly.

Earlier this year, the Congress passed legislation calling on the United States Government to take affirmative action to endorse and obtain observer status for Taiwan at the annual World Health Organization summit in Geneva, Switzerland. Taiwan is already a member of international bodies, such as the Asian Development Bank and Asia Pacific Economic Cooperation (APEC). Observer status at the World Health Organization is a logical next step. And, such observer status is not unusual, having been granted for the PLO, the Order of Malta and the Holy See in the past.

I am pleased that the President and Administration officials have voiced their support for Taiwan's participation in the activities of the World Health Organization. I encourage my colleagues to again show their strong support for this proposal and to support this legislation today.

Mr. LANTOS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and pass the bill, H.R. 2739, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend Public Law 107-10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes.".

A motion to reconsider was laid on the table.

MAKING PERMANENT THE AUTHORITY TO REDACT FINANCIAL DISCLOSURE STATEMENTS OF JUDICIAL EMPLOYEES AND JUDICIAL OFFICERS

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2336) to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. EXTENSION OF SUNSET PROVISION.

Section 105(b)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "2001" each place it appears and inserting "2005".

Amend the title so as to read: "An Act to extend for 4 years, through December 31, 2005, the authority to redact financial disclosure statements of judicial employees and judicial officers.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2336, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I have a lengthier statement which I will put in the RECORD, but in the interest of time let me explain the bill and the Senate amendment. Section 7 of the Identity Theft and Assumption Deterrence Act of 1998 allows the Judicial Conference to redact portions of financial disclosure statements for judges and other judicial officers and employees where the Judicial Conference makes a determination that public disclosure will jeopardize the safety of the judge, the judge's family, or the judicial officer or the judicial officer's family. This provision sunsets on December 31, 2001, in the absence of further legislative action. The House passed this legislation with a permanent extension of the redaction authority. The other body amended the House bill for a 4-year sunset. So with the 4-year sunset, the redaction authority would once again expire on December 31, 2005. I believe that it is a legitimate compromise. It allows the Congress in 4 years to review whether these redactions have been done in a manner that preserves the thrust of public disclosure without jeopardizing the lives and safety of judges and their families; and thus I would urge concurrence in the Senate amendment.

Madam Speaker, I reserve the balance of my time.

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Mr. BERMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to join the distinguished chairman of the Committee on the Judiciary in supporting House passage of H.R. 2336, as amended by the Senate. This bill allows a Federal judge to request redaction of her financial disclosure forms, but only if redaction is necessary to protect the judge against an identified security threat. Such authority exists under current law, but sunsets on December 31.

The September 11 tragedy and events thereafter heighten the security concerns that make this legislation necessary. On October 16, the House passed a slightly different version of H.R. 2336 under suspension of the rules. The House-passed version permanently extended the ability of judges to request redaction of their financial disclosure reports. The Senate version on which we vote today extends the redaction authority for only 4 years. While I continue to believe permanent extension would be preferable, the looming December 31 sunset of the redaction authority makes it imperative that we move quickly to enact the Senate amendment.

This redaction authority is appropriately limited, and, thus, does not raise concerns about undo restrictions on public access to financial disclosure reports. A judge's report may only be redacted if the Judicial Conference and the U.S. Marshals Service find that revealing personal and sensitive information could endanger that judge. Furthermore, the report can only be redacted to the extent necessary to protect a judge and only for as long as a danger exists.

It does not appear that the redaction authority has been abused to date. Of 2,350 judges filing reports in calendar year 2000, only 6 percent had their reports redacted, wholly or partially. Typically the information redacted is limited to such things as a spouse's place of work, the location of a judge's second home, or the school at which a judge teaches law. It is obvious how a person with ill will could misuse this information to harm a judge or her family.

The law requires that the Judicial Conference, in concert with the Department of Justice, file an annual report detailing the number and circumstances of redactions. This statutory reporting requirement enables Congress to monitor for any abuse of the redaction authority.

I think enactment of H.R. 2336 is necessary to protect the security of our Nation's judges, and I urge my colleagues to vote for it.

Madam Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2336.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BERMAN. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2001

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3525) to enhance the border security of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) Short Title.—This Act may be cited as the "Enhanced Border Security and Visa Entry Reform Act of 2001".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Definitions.

TITLE I—FUNDING

Sec. 101. Authorization of appropriations for hiring and training Government personnel.
Sec. 102. Authorization of appropriations for improvements in technology and infrastructure.
Sec. 103. Machine-readable visa fees.

TITLE II—INTERAGENCY INFORMATION SHARING

Sec. 201. Interim measures for access to and coordination of law enforcement and other information.
Sec. 202. Interoperable law enforcement and intelligence data system with name-matching capacity and training.
Sec. 203. Commission on interoperable data sharing.

TITLE III—VISA ISSUANCE

Sec. 301. Electronic provision of visa files.
Sec. 302. Implementation of an integrated entry and exit data system.
Sec. 303. Machine-readable, tamper-resistant entry and exit documents.
Sec. 304. Terrorist lookout committees.
Sec. 305. Improved training for consular officers.
Sec. 306. Restriction on issuance of visas to nonimmigrants who are from countries that are state sponsors of international terrorism.
Sec. 307. Designation of program countries under the Visa Waiver Program.
Sec. 308. Tracking system for stolen passports.
Sec. 309. Identification documents for certain newly admitted aliens.

TITLE IV—ADMISSION AND INSPECTION OF ALIENS

Sec. 401. Study of the feasibility of a North American National Security Program.
Sec. 402. Passenger manifests.
Sec. 405. Time period for inspections.

TITLE V—FOREIGN STUDENTS AND EXCHANGE VISITORS

Sec. 501. Foreign student monitoring program.
Sec. 502. Review of institutions and other entities authorized to enroll or sponsor certain nonimmigrants.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Extension of deadline for improvement in border crossing identification cards.
Sec. 602. General Accounting Office study.
Sec. 603. International cooperation.
Sec. 604. Statutory construction.
Sec. 605. Report on aliens who fail to appear after release on own recognizance.
Sec. 606. Retention of nonimmigrant visa applications by the Department of State.

SEC. 2. DEFINITIONS.

In this Act:

(1) Alien.—The term "alien" has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(2) Appropriate committees of Congress.—The term "appropriate committees of Congress" means the following:

(A) The Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate.

(B) The Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on International Relations of the House of Representatives.

(3) Federal law enforcement agencies.—The term "Federal law enforcement agencies" means the following:

(A) The United States Secret Service.

(B) The Drug Enforcement Administration.

(C) The Federal Bureau of Investigation.

(D) The Immigration and Naturalization Service.

(E) The United States Marshall Service.

(F) The Naval Criminal Investigative Service.

(G) The Coastal Security Service.

(H) The Diplomatic Security Service.

(I) The United States Postal Inspection Service.

(J) The Bureau of Alcohol, Tobacco, and Firearms.

(K) The United States Customs Service.

(L) The National Park Service.

(4) Intelligence community.—The term "intelligence community" has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(5) President.—The term "President" means the President of the United States, acting through the Assistant to the President for Homeland Security, in coordination with the Secretary of State, the Commissioner of Immigration and Naturalization, the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Secretary of Transportation, the Commissioner of Customs, and the Secretary of the Treasury.

(6) USA PATRIOT Act.—The term "USA PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56).

TITLE I—FUNDING

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR HIRING AND TRAINING GOVERNMENT PERSONNEL.

(a) Additional Personnel.—

(1) INS inspectors.—Subject to the availability of appropriations, during each of the fiscal years 2002 through 2006, the Attorney General shall increase the number of inspectors and associated support staff in the Immigration and Naturalization Service by the equivalent of at least 200 full-time employees over the number of inspectors and associated support staff in the Immigration and Naturalization Service authorized by the USA PATRIOT Act.

(2) INS investigative personnel.—Subject to the availability of appropriations, during each of the fiscal years 2002 through 2006, the Attorney General shall increase the number of investigative and associated support staff of the Immigration and Naturalization Service by the equivalent of at least 200 full-time employees over the number of investigators and associated support staff in the Immigration and Naturalization Service authorized by the USA PATRIOT Act.

(4) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection, including such sums as may be necessary to provide facilities, attorney personnel and support staff, and other resources needed to support the increased number of inspectors, investigative staff, and associated support staff.

(b) Waiver of FTE Limitation.—The Attorney General is authorized to waive any limitation on the number of full-time equivalent personnel assigned to the Immigration and Naturalization Service.

(c) Authorization of Appropriations for INS Staffing.—

(1) In general.—There are authorized to be appropriated for the Department of Justice such sums as may be necessary to provide an increase in the annual rate of basic pay—

(A) for all journeyman Border Patrol agents and inspectors who have completed at least one year's service and are receiving an annual rate of basic pay for positions at GS-9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS-9 of the General Schedule under such section 5332, to an annual rate of basic pay payable for positions at GS-11 of the General Schedule under such section 5332;

(B) for inspections assistants, from the annual rate of basic pay payable for positions at GS-5 of the General Schedule under section 5332 of title 5, United States Code, to an annual rate of basic pay payable for positions at GS-7 of the General Schedule under such section 5332; and

(C) for the support staff associated with the personnel described in subparagraphs (A) and (B), at the appropriate GS level of the General Schedule under such section 5332.

(d) Authorization of Appropriations for Training.—There are authorized to be appropriated such sums as may be necessary—

(1) to appropriately train Immigration and Naturalization Service personnel on an ongoing basis—

(A) to ensure that their proficiency levels are acceptable to protect the borders of the United States; and

(B) otherwise to enforce and administer the laws within their jurisdiction; and

(2) to provide adequate continuing cross-training to agencies staffing the United States border and ports of entry to effectively and correctly apply applicable United States laws;

(3) to fully train immigration officers to use the appropriate lookout databases and to monitor passenger traffic patterns; and

(4) to expand the Carrier Consultant Program described in section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225A(b)).

(e) Authorization of Appropriations for Consular Functions.—

(1) Responsibilities.—The Secretary of State shall—

(A) implement enhanced security measures for the review of visa applicants;

(B) staff the facilities and programs associated with the activities described in subparagraph (A); and

(C) provide ongoing training for consular officers and diplomatic security agents.

(2) Authorization of appropriations.—There are authorized to be appropriated for the Department of State such sums as may be necessary to carry out paragraph (1).

SEC. 102. AUTHORIZATION OF APPROPRIATIONS FOR IMPROVEMENTS IN TECHNOLOGY AND INFRASTRUCTURE.

(a) Funding of Technology.—

(1) Authorization of appropriations.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated $150,000,000 to the Immigration and Naturalization Service, for purposes of—

(A) making improvements in technology (including infrastructure support, computer security, and information technology development) for improving border security;

(B) expanding, utilizing, and improving technology to improve border security; and

(C) facilitating the flow of commerce and persons at ports of entry, including improving and expanding programs for preenrollment and preclearance.

(2) Waiver of fees.—Federal agencies involved in border security may waive all or part of enrollment fees for technology-based programs to encourage participation by United States citizens and aliens in such programs. Any agency that waives any part of any such fee may establish its fees for other services at a level that will ensure the recovery from other users of the amounts waived.

(3) Offset of increases in fees.—The Attorney General may, to the extent reasonable, increase land border fees for the issuance of arrival-departure documents to offset technology costs.

(b) Improvement and Expansion of INS, State Department, and Customs Facilities.—There are authorized to be appropriated to the Immigration and Naturalization Service and the Department of State such sums as may be necessary to improve and expand facilities for use by the personnel of those agencies.

SEC. 103. MACHINE-READABLE VISA FEES.

(a) Relation to Subsequent Authorization Acts.—Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended by striking paragraph (3).

(b) Fee Amount.—The machine-readable visa fee charged by the Department of State shall be the higher of $65 or the cost of the machine-readable visa service, as determined by the Secretary of State after conducting a study of the cost of such service.

(c) Surcharge.—The Department of State is authorized to charge a surcharge of $10, in addition to the machine-readable visa fee, for issuing a machine-readable visa in a non-machine-readable passport.

(d) Availability of Collected Fees.—Notwithstanding any other provision of law, amounts collected as fees described in this section shall be credited as an offsetting collection to any appropriation for the Department of State to recover costs of providing consular services. Amounts so credited shall be available, until expended, for the same purposes as the appropriation to which credited.

TITLE II—INTERAGENCY INFORMATION SHARING

SEC. 201. INTERIM MEASURES FOR ACCESS TO AND COORDINATION OF LAW ENFORCEMENT AND OTHER INFORMATION.

(a) Interim Directive.—Until the plan required by subsection (c) is implemented, Federal law enforcement agencies and the intelligence community shall, to the maximum extent practicable, share any information with the Department of State and the Immigration and Naturalization Service relevant to the admissibility and deportability of aliens, consistent with the plan described in subsection (c).

(b) Report Identifying Law Enforcement and Intelligence Information.—

(1) In general.—Not later than 120 days after the date of enactment of this Act, the President shall submit to the appropriate committees of Congress a report identifying Federal law enforcement and the intelligence community information needed by the Department of State to screen visa applicants, or by the Immigration and Naturalization Service to screen applicants for admission to the United States, and to identify those aliens inadmissible or deportable under the Immigration and Nationality Act.

(2) Repeal.—Section 414(d) of the USA PATRIOT Act is hereby repealed.

(c) Coordination Plan.—

(1) Requirement for plan.—Not later than one year after the date of enactment of the USA PATRIOT Act, the President shall develop and implement a plan based on the findings of the report under subsection (b) that requires Federal law enforcement agencies and the intelligence community to provide to the Department of State and the Immigration and Naturalization Service all information identified in that report as expeditiously as practicable.

(2) Consultation requirement.—In the preparation and implementation of the plan under this subsection, the President shall consult with the appropriate committees of Congress.

(3) Protections regarding information and uses thereof.—The plan under this subsection shall establish conditions for using the information described in subsection (b) received by the Department of State and Immigration and Naturalization Service—

(A) to limit the redissemination of such information;

(B) to ensure that such information is used solely to determine whether to issue a visa to an alien or to determine the admissibility or deportability of an alien to the United States, except as otherwise authorized under Federal law;

(C) to ensure the accuracy, security, and confidentiality of such information;

(D) to protect any privacy rights of individuals who are subjects of such information;

(E) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information; and

(F) in a manner that protects the sources and methods used to acquire intelligence information as required by section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6)).

(4) Criminal penalties for misuse of information.—Any person who obtains information under this subsection without authorization or exceeding authorized access (as defined in section 1030(e) of title 18, United States Code), and who uses such information in the manner described in any of the paragraphs (1) through (7) of section 1030(a) of such title, or attempts to use such information in such manner, shall be subject to the same penalties as are applicable under section 1030(c) of such title for violation of that paragraph.

(5) Advancing deadlines for a technology standard and report.—Section 403(c) of the USA PATRIOT Act is amended—

(A) in paragraph (1), by striking "2 years" and inserting "one year"; and

(B) in paragraph (4), by striking "18 months" and inserting "six months".

SEC. 202. INTEROPERABLE LAW ENFORCEMENT AND INTELLIGENCE DATA SYSTEM WITH NAME-MATCHING CAPACITY AND TRAINING.

(a) Interoperable Law Enforcement and Intelligence Electronic Data System.—

(1) Requirement for integrated immigration and naturalization data system.—The Immigration and Naturalization Service shall fully integrate all databases and data systems maintained by the Service that process or contain information on aliens. The fully integrated data system shall be an interoperable component of the electronic data system described in paragraph (2).

(2) Requirement for interoperable data system.—Upon the date of commencement of implementation of the plan required by section 201(c), the President shall develop and implement an interoperable electronic data system to provide current and immediate access to information in databases of Federal law enforcement agencies and the intelligence community that is relevant to determine whether to issue a visa or to determine the admissibility or deportability of an alien.

(3) Consultation requirement.—In the development and implementation of the data system under this subsection, the President shall consult with the Director of the National Institute of Standards and Technology (NIST) and any such other agency as may be deemed appropriate.

(4) Technology standard.—

(A) In general.—The data system developed and implemented under this subsection, and the databases referred to in paragraph (2), shall utilize the technology standard established pursuant to section 403(c) of the USA PATRIOT Act, as amended by section 201(c)(5) and subparagraph (B).

(B) Conforming amendment.—Section 403(c) of the USA PATRIOT Act, as amended by section 201(c)(5), is further amended—

(i) in paragraph (1), by inserting ", including appropriate biometric identifier standards," after "technology standard"; and

(ii) in paragraph (2) —

(I) by striking "INTEGRATED" and inserting "INTEROPERABLE"; and

(II) by striking "integrated" and inserting "interoperable".

(5) Access to information in data system.—Subject to paragraph (6), information in the data system under this subsection shall be readily and easily accessible—

(A) to any consular officer responsible for the issuance of visas;

(B) to any Federal official responsible for determining an alien's admissibility to or deportability from the United States; and

(C) to any Federal law enforcement or intelligence officer determined by regulation to be responsible for the investigation or identification of aliens.

(6) Limitation on access.—The President shall, in accordance with applicable Federal laws, establish procedures to restrict access to intelligence information in the data system under this subsection, and the databases referred to in paragraph (2), under circumstances in which such information is not to be disclosed directly to Government officials under paragraph (5).

(b) Name-Search Capacity and Support.—

(1) In general.—The interoperable electronic data system required by subsection (a) shall—

(A) have the capacity to compensate for disparate name formats among the different databases referred to in subsection (a);

(B) be searchable on a linguistically sensitive basis;

(C) provide adequate user support;

(D) to the extent practicable, utilize commercially available technology; and

(E) be adjusted and improved, based upon experience with the databases and improvements in the underlying technologies and sciences, on a continuing basis.

(2) Linguistically sensitive searches.—

(A) In general.—To satisfy the requirement of paragraph (1)(B), the interoperable electronic database shall be searchable based on linguistically sensitive algorithms that—

(i) account for variations in name formats and transliterations, including varied spellings and varied separation or combination of name elements, within a particular language; and

(ii) incorporate advanced linguistic, mathematical, statistical, and anthropological research and methods.

(B) Languages required.—

(i) Priority languages.—Linguistically sensitive algorithms shall be developed and implemented for no fewer than 4 languages designated as high priorities by the Secretary of State, after consultation with the Attorney General and the Director of Central Intelligence.

(ii) Implementation schedule.—Of the 4 linguistically sensitive algorithms required to be developed and implemented under clause (i)—

(I) the highest priority language algorithms shall be implemented within 18 months after the date of enactment of this Act; and

(II) an additional language algorithm shall be implemented each succeeding year for the next three years.

(3) Adequate user support.—The Secretary of State and the Attorney General shall jointly prescribe procedures to ensure that consular and immigration officers can, as required, obtain assistance in resolving identity and other questions that may arise about names of aliens seeking visas or admission to the United States that may be subject to variations in format, transliteration, or other similar phenomenon.

(4) Interim reports.—Six months after the date of enactment of this Act, the President shall submit a report to the appropriate committees of Congress on the progress in implementing each requirement of this section.

(5) Reports by intelligence agencies.—

(A) Current standards.—Not later than 60 days after the date of enactment of this Act, the Director of Central Intelligence shall complete the survey and issue the report previously required by section 309(a) of the Intelligence Authorization Act for Fiscal Year 1998 (50 U.S.C. 403–3 note).

(B) Guidelines.—Not later than 120 days after the date of enactment of this Act, the Director of Intelligence shall issue the guidelines and submit the copy of those guidelines previously required by section 309(b) of the Intelligence Authorization Act for Fiscal Year 1998 (50 U.S.C. 403–3 note).

(6) Authorization of appropriations.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subsection.

SEC. 203. COMMISSION ON INTEROPERABLE DATA SHARING.

(a) Establishment.—Not later than one year after the date of enactment of the USA PATRIOT Act, the President shall establish a Commission on Interoperable Data Sharing (in this section referred to as the "Commission"). The purposes of the Commission shall be to—

(1) monitor the protections described in section 201(c)(3);

(2) provide oversight of the interoperable electronic data system described in this title; and

(3) report to Congress annually on the Commission's findings and recommendations.

(b) Composition.—The Commission shall consist of nine members, who shall be appointed by the President, as follows:

(1) One member, who shall serve as Chair of the Commission.

(2) Eight members, who shall be appointed from a list of nominees jointly provided by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate.

(c) Considerations.—The Commission shall consider recommendations regarding the following issues:

(1) Adequate protection of privacy concerns inherent in the design, implementation, or operation of the interoperable electronic data system.

(2) Timely adoption of security innovations, consistent with generally accepted security standards, to protect the integrity and confidentiality of information to prevent against the risks of accidental or unauthorized loss, access, destruction, use modification, or disclosure of information.

(3) The adequacy of mechanisms to permit the timely correction of errors in data maintained by the interoperable data system.

(4) Other protections against unauthorized use of data to guard against the misuse of the interoperable data system or the data maintained by the system, including recommendations for modifications to existing laws and regulations to sanction misuse of the system.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

TITLE III—VISA ISSUANCE

SEC. 301. ELECTRONIC PROVISION OF VISA FILES.

Section 221(a) of the Immigration and Nationality Act (8 U.S.C. 1201(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" immediately after "(a)"; and

(3) by adding at the end the following:

"(2) The Secretary of State shall provide to the Service an electronic version of the visa file of an alien who has been issued a visa to ensure that the data in that visa file is available to immigration inspectors at the United States ports of entry before the arrival of the alien at such a port of entry.".

SEC. 302. IMPLEMENTATION OF AN INTEGRATED ENTRY AND EXIT DATA SYSTEM.

(a) Development of System.—In developing the integrated entry and exit data system for the ports of entry, as required by the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–215), the Attorney General and the Secretary of State shall—

(1) implement, fund, and use a technology standard under section 403(c) of the USA PATRIOT Act (as amended by sections 201(c)(5) and 202(a)(3)(B)) at United States ports of entry and at consular posts abroad;

(2) establish a database containing the arrival and departure data from machine-readable visas, passports, and other travel and entry documents possessed by aliens; and

(3) make interoperable all security databases relevant to making determinations of admissibility under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182).

(b) Implementation.—In implementing the provisions of subsection (a), the Immigration and Naturalization Service and the Department of State shall—

(1) utilize technologies that facilitate the lawful and efficient cross-border movement of commerce and persons without compromising the safety and security of the United States; and

(2) consider implementing the North American National Security Program described in section 401.

SEC. 303. MACHINE-READABLE, TAMPER-RESISTANT ENTRY AND EXIT DOCUMENTS.

(a) Report.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Attorney General, the Secretary of State, and the National Institute of Standards and Technology (NIST), acting jointly, shall submit to the appropriate committees of Congress a comprehensive report assessing the actions that will be necessary, and the considerations to be taken into account, to achieve fully, not later than October 26, 2003—

(A) implementation of the requirements of subsections (b) and (c); and

(B) deployment of the equipment and software to allow biometric comparison of the documents described in subsections (b) and (c).

(2) Estimates.—In addition to the assessment required by paragraph (1), each report shall include an estimate of the costs to be incurred, and the personnel, man-hours, and other support required, by the Department of Justice, the Department of State, and NIST to achieve the objectives of subparagraphs (A) and (B) of paragraph (1).

(b) Requirements.—

(1) In general.—Not later than October 26, 2003, the Attorney General and the Secretary of State shall issue to aliens only machine-readable, tamper-resistant visas and travel and entry documents that use biometric identifiers. The Attorney General and the Secretary of State shall jointly establish biometric identifiers standards to be employed on such visas and travel and entry documents from among those biometric identifiers recognized by domestic and international standards organizations.

(2) Readers and scanners at ports of entry.—

(A) In general.—Not later than October 26, 2003, the Attorney General, in consultation with the Secretary of State, shall install at all ports of entry of the United States equipment and software to allow biometric comparison of all United States visas and travel and entry documents issued to aliens, and passports issued pursuant to subsection (c)(1).

(B) Use of readers and scanners.—The Attorney General, in consultation with the Secretary of State, shall utilize biometric data readers and scanners that—

(i) domestic and international standards organizations determine to be highly accurate when used to verify identity; and

(ii) can read the biometric identifiers utilized under subsections (b)(1) and (c)(1).

(3) Use of technology standard.—The systems employed to implement paragraphs (1) and (2) shall utilize the technology standard established pursuant to section 403(c) of the USA PATRIOT Act, as amended by section 201(c)(5) and 202(a)(3)(B).

(c) Technology Standard for Visa Waiver Participants.—

(1) Certification requirement.—Not later than October 26, 2003, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act shall certify, as a condition for designation or continuation of that designation, that it has a program to issue to its nationals machine-readable passports that are tamper-resistant and incorporate biometric identifiers that comply with applicable biometric identifiers standards established by the International Civil Aviation Organization. This paragraph shall not be construed to rescind the requirement of section 217(a)(3) of the Immigration and Nationality Act.

(2) Use of technology standard.—On and after October 26, 2003, any alien applying for admission under the visa waiver program shall present a passport that meets the requirements of paragraph (1) unless the alien's passport was issued prior to that date.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including reimbursement to international and domestic standards organizations.

SEC. 304. TERRORIST LOOKOUT COMMITTEES.

(a) Establishment.—The Secretary of State shall require a terrorist lookout committee to be maintained within each United States mission.

(b) Purpose.—The purpose of each committee established under subsection (a) shall be—

(1) to utilize the cooperative resources of all elements of the United States mission in the country in which the consular post is located to identify known or potential terrorists and to develop information on those individuals;

(2) to ensure that such information is routinely and consistently brought to the attention of appropriate United States officials for use in administering the immigration laws of the United States; and

(3) to ensure that the names of known and suspected terrorists are entered into the appropriate lookout databases.

(c) Composition; Chair.—The Secretary shall establish rules governing the composition of such committees.

(d) Meetings.—The committee shall meet at least monthly to share information pertaining to the committee's purpose as described in subsection (b)(2).

(e) Periodic Reports.—The committee shall submit quarterly reports to the Secretary of State describing the committee's activities, whether or not information on known or suspected terrorists was developed during the quarter.

(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 305. IMPROVED TRAINING FOR CONSULAR OFFICERS.

(a) Training.—The Secretary of State shall require that all consular officers responsible for adjudicating visa applications, before undertaking to perform consular responsibilities, receive specialized training in the effective screening of visa applicants who pose a potential threat to the safety or security of the United States. Such officers shall be specially and extensively trained in the identification of aliens inadmissible under section 212(a)(3) (A) and (B) of the Immigration and Nationality Act, interagency and international intelligence sharing regarding terrorists and terrorism, and cultural-sensitivity toward visa applicants.

(b) Use of Foreign Intelligence Information.—As an ongoing component of the training required in subsection (a), the Secretary of State shall coordinate with the Assistant to the President for Homeland Security, Federal law enforcement agencies, and the intelligence community to compile and disseminate to the Bureau of Consular Affairs reports, bulletins, updates, and other current unclassified information relevant to terrorists and terrorism and to screening visa applicants who pose a potential threat to the safety or security of the United States.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 306. RESTRICTION ON ISSUANCE OF VISAS TO NONIMMIGRANTS FROM COUNTRIES THAT ARE STATE SPONSORS OF INTERNATIONAL TERRORISM.

(a) In General.—No nonimmigrant visa under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) shall be issued to any alien from a country that is a state sponsor of international terrorism unless the Secretary of State determines, in consultation with the Attorney General and the heads of other appropriate United States agencies, that such alien does not pose a threat to the safety or national security of the United States. In making a determination under this subsection, the Secretary of State shall apply standards developed by the Secretary of State, in consultation with the Attorney General and the heads of other appropriate United States agencies, that are applicable to the nationals of such states.

(b) State Sponsor of International Terrorism Defined.—

(1) In general.—In this section, the term "state sponsor of international terrorism" means any country the government of which has been determined by the Secretary of State under any of the laws specified in paragraph (2) to have repeatedly provided support for acts of international terrorism.

(2) Laws under which determinations were made.—The laws specified in this paragraph are the following:

(A) Section 6(j)(1)(A) of the Export Administration Act of 1979 (or successor statute).

(B) Section 40(d) of the Arms Export Control Act.

(C) Section 620A(a) of the Foreign Assistance Act of 1961.

SEC. 307. DESIGNATION OF PROGRAM COUNTRIES UNDER THE VISA WAIVER PROGRAM.

(a) Reporting Passport Thefts.—As a condition of a country's initial designation or continued designation for participation in the visa waiver program under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), the Attorney General and the Secretary of State shall consider whether the country reports to the United States Government on a timely basis the theft of blank passports issued by that country.

(b) Check of Lookout Databases.—Prior to the admission of an alien under the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), the Immigration and Naturalization Service shall determine that the applicant for admission does not appear in any of the appropriate lookout databases available to immigration inspectors at the time the alien seeks admission to the United States.

SEC. 308. TRACKING SYSTEM FOR STOLEN PASSPORTS.

(a) Entering Stolen Passport Identification Numbers in the Interoperable Data System.—

(1) In general.—Beginning with implementation under section 202 of the law enforcement and intelligence data system, not later than 72 hours after receiving notification of the loss or theft of a United States or foreign passport, the Attorney General and the Secretary of State, as appropriate, shall enter into such system the corresponding identification number for the lost or stolen passport.

(2) Entry of information on previously lost or stolen passports.—To the extent practicable, the Attorney General, in consultation with the Secretary of State, shall enter into such system the corresponding identification numbers for the United States and foreign passports lost or stolen prior to the implementation of such system.

(b) Transition Period.—Until such time as the law enforcement and intelligence data system described in section 202 is fully implemented, the Attorney General shall enter the data described in subsection (a) into an existing data system being used to determine the admissibility or deportability of aliens.

SEC. 309. IDENTIFICATION DOCUMENTS FOR CERTAIN NEWLY ADMITTED ALIENS.

Not later than 180 days after the date of enactment of this Act, the Attorney General shall ensure that, immediately upon the arrival in the United States of an individual admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or immediately upon an alien being granted asylum under section 208 of such Act (8 U.S.C. 1158), the alien will be issued an employment authorization document. Such document shall, at a minimum, contain the fingerprint and photograph of such alien.

TITLE IV—ADMISSION AND INSPECTION OF ALIENS

SEC. 401. STUDY OF THE FEASIBILITY OF A NORTH AMERICAN NATIONAL SECURITY PROGRAM.

(a) In General.—The President shall conduct a study of the feasibility of establishing a North American National Security Program to enhance the mutual security and safety of the United States, Canada, and Mexico.

(b) Study Elements.—In conducting the study required by subsection (a), the officials specified in subsection (a) shall consider the following:

(1) Preclearance.—The feasibility of establishing a program enabling foreign national travelers to the United States to submit voluntarily to a preclearance procedure established by the Department of State and the Immigration and Naturalization Service to determine whether such travelers are admissible to the United States under section 212 of the Immigration and Nationality Act

(8 U.S.C. 1182). Consideration shall be given to the feasibility of expanding the preclearance program to include the preclearance both of foreign nationals traveling to Canada and foreign nationals traveling to Mexico.

(2) Preinspection.—The feasibility of expanding preinspection facilities at foreign airports as described in section 235A of the Immigration and Nationality Act (8 U.S.C. 1225). Consideration shall be given to the feasibility of expanding preinspections to foreign nationals on air flights destined for Canada and Mexico, and the cross training and funding of inspectors from Canada and Mexico.

(3) Conditions.—A determination of the measures necessary to ensure that the conditions required by section 235A(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1225a(a)(5)) are satisfied, including consultation with experts recognized for their expertise regarding the conditions required by that section.

(c) Report.—Not later than 1 year after the date of enactment of this Act, the President shall submit to the appropriate committees of Congress a report setting forth the findings of the study conducted under subsection (a).

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 402. PASSENGER MANIFESTS.

(a) In General.—Section 231 of the Immigration and Nationality Act (8 U.S.C. 1221(a)) is amended—

(1) by striking subsections (a), (b), (d), and (e);

(2) by redesignating subsection (c) as subsection (i); and

(3) by inserting after “Sec. 231.” the following new subsections:

“(a) Arrival Manifests.—For each commercial vessel or aircraft transporting any person to any seaport or airport of the United States from any place outside the United States, it shall be the duty of an appropriate official specified in subsection (d) to provide to an immigration officer at that port manifest information about each passenger, crew member, and other occupant transported on such vessel or aircraft prior to arrival at that port.

“(b) Departure Manifests.—For each commercial vessel or aircraft taking passengers on board at any seaport or airport of the United States, who are destined to any place outside the United States, it shall be the duty of an appropriate official specified in subsection (d) to provide an immigration officer before departure from such port manifest information about each passenger, crew member, and other occupant to be transported.

“(c) Contents of Manifest.—The information to be provided with respect to each person listed on a manifest required to be provided under subsection (a) or (b) shall include—

“(1) complete name;

“(2) date of birth;

“(3) citizenship;

“(4) sex;

“(5) passport number and country of issuance;

“(6) country of residence;

“(7) United States visa number, date, and place of issuance, where applicable;

“(8) alien registration number, where applicable;

“(9) United States address while in the United States; and

“(10) such other information the Attorney General, in consultation with the Secretary of State, and the Secretary of Treasury determines as being necessary for the identification of the persons transported and for the enforcement of the immigration laws and to protect safety and national security.

“(d) Appropriate Officials Specified.—An appropriate official specified in this subsection is the master or commanding officer, or authorized agent, owner, or consignee, of the commercial vessel or aircraft concerned.

“(e) Deadline for Requirement of Electronic Transmission of Manifest Information.—Not later than January 1, 2003, manifest information required to be provided under subsection (a) or (b) shall be transmitted electronically by the appropriate official specified in subsection (d) to an immigration officer.

“(f) Prohibition.—No operator of any private or public carrier that is under a duty to provide manifest information under this section shall be granted clearance papers until the appropriate official specified in subsection (d) has complied with the requirements of this subsection, except that in the case of commercial vessels, aircraft, or land carriers that the Attorney General determines are making regular trips to the United States, the Attorney General may, when expedient, arrange for the provision of manifest information of persons departing the United States at a later date.

“(g) Penalties Against Noncomplying Shipments, Aircraft, or Carriers.—If it shall appear to the satisfaction of the Attorney General that an appropriate official specified in subsection (d), any public or private carrier, or the agent of any transportation line, as the case may be, has refused or failed to provide manifest information required by subsection (a) or (b), or that the manifest information provided is not accurate and full based on information provided to the carrier, such official, carrier, or agent, as the case may be, shall pay to the Commissioner the sum of $300 for each person with respect to whom such accurate and full manifest information is not provided, or with respect to whom the manifest information is not prepared as prescribed by this section or by regulations issued pursuant thereto. No commercial vessel, aircraft, or land carrier shall be granted clearance pending determination of the question of the liability to the payment of such penalty, or while it remains unpaid, and no such penalty shall be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the Commissioner of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such penalty.

“(h) Waiver.—The Attorney General may waive the requirements of subsection (a) or (b) upon such circumstances and conditions as the Attorney General may by regulation prescribe.”.

(b) Extension to Land Carriers.—Not later than two years after the date of enactment of this Act, the President shall conduct a study regarding the feasibility of extending the requirements of subsections (a) and (b) of section 231 of the Immigration and Nationality Act (8 U.S.C. 1221), as amended by subsection (a), to any commercial carrier transporting persons by land to or from the United States. The study shall focus on the manner in which such requirement would be implemented to enhance the national security of the United States and the efficient cross-border flow of commerce and persons.

(c) Effective Date.—The amendments made by subsection (a) shall apply with respect to persons arriving in, or departing from, the United States on or after the date of enactment of this Act.

SEC. 405. TIME PERIOD FOR INSPECTIONS.

(a) Repeal of Time Limitation on Inspections.—Section 286(g) of the Immigration and Nationality Act (8 U.S.C. 1356(g)) is amended by striking “, within forty-five minutes of their presentation for inspection,”.

(b) Staffing Levels at Ports of Entry.—The Immigration and Naturalization Service shall staff ports of entry at such levels that would be adequate to meet traffic flow and inspection time objectives efficiently without compromising the safety and security of the United States. Estimated staffing levels under workforce models for the Immigration and Naturalization Service shall be based on the goal of providing immigration services described in section 286(g) of such Act within 45 minutes of a passenger's presentation for inspection.

TITLE V—FOREIGN STUDENTS AND EXCHANGE VISITORS

SEC. 501. FOREIGN STUDENT MONITORING PROGRAM.

(a) Strengthening Requirements for Implementation of Monitoring Program.—

(1) Monitoring and verification of information.—Section 641(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)) is amended by adding at the end the following:

“(3) Aliens for whom a visa is required.—The Attorney General, in consultation with the Secretary of State, shall establish an electronic means to monitor and verify—

“(A) the issuance of documentation of acceptance of a foreign student by an approved institution of higher education or other approved educational institution, or of an exchange visitor program participant by a designated exchange visitor program;

“(B) the transmittal of the documentation referred to in subparagraph (A) to the Department of State for use by the Bureau of Consular Affairs;

“(C) the issuance of a visa to a foreign student or an exchange visitor program participant;

“(D) the admission into the United States of the foreign student or exchange visitor program participant;

“(E) the notification to an approved institution of higher education, other approved educational institution, or exchange visitor program sponsor that the foreign student or exchange visitor participant has been admitted into the United States;

“(F) the registration and enrollment of that foreign student in such approved institution of higher education or other approved educational institution, or the participation of that exchange visitor in such designated exchange visitor program, as the case may be; and

“(G) any other relevant act by the foreign student or exchange visitor program participant, including a changing of school or designated exchange visitor program and any termination of studies or participation in a designated exchange visitor program.

“(4) Reporting requirements.—Not later than 30 days after the deadline for registering for classes for an academic term of an approved institution of higher education or other approved educational institution for which documentation is issued for an alien as described in paragraph (3)(A), or the scheduled commencement of participation by an alien in a designated exchange visitor program, as the case may be, the institution or program, respectively, shall report to the

Immigration and Naturalization Service any failure of the alien to enroll or to commence participation.".

(2) Additional requirements for data to be collected.—Section 641(c)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(c)(1)) is amended—

(A) by striking "and" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(C) by adding at the end the following:

"(E) the date of entry and port of entry;

"(F) the date of the alien's enrollment in an approved institution of higher education, other approved educational institution, or designated exchange visitor program in the United States;

"(G) the degree program, if applicable, and field of study; and

"(H) the date of the alien's termination of enrollment and the reason for such termination (including graduation, disciplinary action or other dismissal, and failure to reenroll).".

(3) Reporting requirements.—Section 641(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(c)) is amended by adding at the end the following new paragraph:

"(5) Reporting requirements.—The Attorney General shall prescribe by regulation reporting requirements by taking into account the curriculum calendar of the approved institution of higher education, other approved educational institution, or exchange visitor program.".

(b) Information Required of the Visa Applicant.—Prior to the issuance of a visa under subparagraph (F), subparagraph (M), or, with respect to an alien seeking to attend an approved institution of higher education, subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), each alien applying for such visa shall provide to a consular officer the following information:

(1) The alien's address in the country of origin.

(2) The names and addresses of the alien's spouse, children, parents, and siblings.

(3) The names of contacts of the alien in the alien's country of residence who could verify information about the alien.

(4) Previous work history, if any, including the names and addresses of employers.

(c) Transitional Program.—

(1) In general.—Not later than 120 days after the date of enactment of this Act and until such time as the system described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act (as amended by subsection (a)) is fully implemented, the following requirements shall apply:

(A) Restrictions on issuance of visas.—A visa may not be issued to an alien under subparagraph (F), subparagraph (M), or, with respect to an alien seeking to attend an approved institution of higher education, subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), unless—

(i) the Department of State has received from an approved institution of higher education or other approved educational institution electronic evidence of documentation of the alien's acceptance at that institution; and

(ii) the consular officer has adequately reviewed the applicant's visa record.

(B) Notification upon visa issuance.—Upon the issuance of a visa under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F) or (M)) to an alien, the Secretary of State shall transmit to the Immigration and Naturalization Service a notification of the issuance of that visa.

(C) Notification upon admission of alien.—The Immigration and Naturalization Service shall notify the approved institution of higher education or other approved educational institution that an alien accepted for such institution or program has been admitted to the United States.

(D) Notification of failure of enrollment.—Not later than 30 days after the deadline for registering for classes for an academic term, the approved institution of higher education or other approved educational institution shall inform the Immigration and Naturalization Service through data-sharing arrangements of any failure of any alien described in subparagraph (C) to enroll or to commence participation.

(2) Requirement to submit list of approved institutions.—Not later than 30 days after the date of enactment of this Act, the Attorney General shall provide the Secretary of State with a list of all approved institutions of higher education or other approved educational institutions that are authorized to receive nonimmigrants under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F) or (M)).

(3) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SEC. 502. REVIEW OF INSTITUTIONS AND OTHER ENTITIES AUTHORIZED TO ENROLL OR SPONSOR CERTAIN NONIMMIGRANTS.

(a) Periodic Review of Compliance.—The Commissioner of Immigration and Naturalization, in consultation with the Secretary of Education, shall conduct periodic reviews of the institutions certified to receive nonimmigrants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)). Each review shall determine whether the institutions are in compliance with—

(1) recordkeeping and reporting requirements to receive nonimmigrants under section 101(a)(15) (F), (M), or (J) of that Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)); and

(2) recordkeeping and reporting requirements under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(b) Periodic Review of Sponsors of Exchange Visitors.—

(1) Requirement for reviews.—The Secretary of State shall conduct periodic reviews of the entities designated to sponsor exchange visitor program participants under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)).

(2) Determinations.—On the basis of reviews of entities under paragraph (1), the Secretary shall determine whether the entities are in compliance with—

(A) recordkeeping and reporting requirements to receive nonimmigrant exchange visitor program participants under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)); and

(B) recordkeeping and reporting requirements under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(c) Effect of Failure To Comply.—Failure of an institution or other entity to comply with the recordkeeping and reporting requirements to receive nonimmigrant students or exchange visitor program participants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (M), or (J)), or section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), may, at the election of the Commissioner of Immigration and Naturalization or the Secretary of State, result in the termination, suspension, or limitation of the institution's approval to receive such students or the termination of the other entity's designation to sponsor exchange visitor program participants, as the case may be.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. EXTENSION OF DEADLINE FOR IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARDS.

Section 104(b)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended by striking "5 years" and inserting "6 years".

SEC. 602. GENERAL ACCOUNTING OFFICE STUDY.

(a) Requirement for Study.—

(1) In general.—The Comptroller General of the United States shall conduct a study to determine the feasibility and utility of implementing a requirement that each nonimmigrant alien in the United States submit to the Commissioner of Immigration and Naturalization each year a current address and, where applicable, the name and address of an employer.

(2) Nonimmigrant alien defined.—In paragraph (1), the term "nonimmigrant alien" means an alien described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study under subsection (a). The report shall include the Comptroller General's findings, together with any recommendations that the Comptroller General considers appropriate.

SEC. 603. INTERNATIONAL COOPERATION.

(a) International Electronic Data System.—The Secretary of State and the Commissioner of Immigration and Naturalization, in consultation with the Assistant to the President for Homeland Security, shall jointly conduct a study of the alternative approaches (including the costs of, and procedures necessary for, each alternative approach) for encouraging or requiring Canada, Mexico, and countries treated as visa waiver program countries under section 217 of the Immigration and Nationality Act to develop an intergovernmental network of interoperable electronic data systems that—

(1) facilitates real-time access to that country's law enforcement and intelligence information that is needed by the Department of State and the Immigration and Naturalization Service to screen visa applicants and applicants for admission into the United States to identify aliens who are inadmissible or deportable under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);

(2) is interoperable with the electronic data system implemented under section 202; and

(3) performs in accordance with implementation of the technology standard referred to in section 202(a).

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary of State and the Attorney General shall submit to the appropriate committees of Congress a report setting forth the findings of the study conducted under subsection (a).

SEC. 604. STATUTORY CONSTRUCTION.

Nothing in this Act shall be construed to impose requirements that are inconsistent with the North American Free Trade Agreement or to require additional documents for aliens for whom documentary requirements are waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

SEC. 605. ANNUAL REPORT ON ALIENS WHO FAIL TO APPEAR AFTER RELEASE ON OWN RECOGNIZANCE.

(a) REQUIREMENT FOR REPORT.—Not later than January 15 of each year, the Attorney General shall submit to the appropriate committees of Congress a report on the total number of aliens who, during the preceding year, failed to attend a removal proceeding after having been arrested outside a port of entry, served a notice to appear under section 239(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1229(a)(1)), and released on the alien's own recognizance. The report shall also take into account the number of cases in which there were defects in notices of hearing or the service of notices of hearing, together with a description and analysis of the effects, if any, that the defects had on the attendance of aliens at the proceedings.

(b) INITIAL REPORT.—Notwithstanding the time for submission of the annual report provided in subsection (a), the report for 2001 shall be submitted not later than 6 months after the date of enactment of this Act.

SEC. 606. RETENTION OF NONIMMIGRANT VISA APPLICATIONS BY THE DEPARTMENT OF STATE.

The Department of State shall retain, for a period of seven years from the date of application, every application for a nonimmigrant visa under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) in a form that will be admissible in the courts of the United States or in administrative proceeding, including removal proceedings under such Act, without regard to whether the application was approved or denied.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3525, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume:

Madam Speaker, since September 11, we have learned how deeply vulnerable our immigration system is to exploitation by aliens who wish to harm Americans. H.R. 3525 makes needed changes to our immigration laws to fight terrorism and to prevent such exploitation.

I will outline some of the bill's most significant provisions. Most importantly, by October 2003, this bill requires the Attorney General and the Secretary of State to issue machine readable, tamper-resistant visas that use standardized biometric identifiers. This will allow immigration inspectors to determine whether a visa properly identifies the visa holder.

Similarly, aliens seeking to enter the United States under the visa waiver program with passports issued after October 2003 must possess tamper-resistant, machine readable passports with standardized biometric identifiers. The bill also requires the Attorney General to enter into a data system the identification numbers of stolen U.S. and foreign passports. Our military recently found blank European and United States passports in the caves of Afghanistan after the al Qaeda terrorists fled. We must ensure that passports and other documents presented to our inspectors are not counterfeit and are being used by the aliens to whom they were issued.

The bill directs our law enforcement agencies and intelligence community to share information with the State Department and the INS relevant to the admissibility and deportability of aliens. This will result in lookout lists that are much more thorough and will do more to prevent bad actors from obtaining U.S. visas or entering the United States.

As the Border Patrol succeeds in controlling the border, more aliens take a chance at ports of entry, placing a strain on the limited staff of immigration service inspectors. Likewise, INS investigative resource needs have long been neglected. This bill helps fill these critical gaps. H.R. 3525 authorizes appropriation to hire at least 200 full-time INS inspectors, and at least 200 full-time INS investigators.

Another long-standing problem at the INS is the low pay for Border Patrol agents and INS inspectors. This has led many trained Border Patrol agents and inspectors to leave the INS for other law enforcement agencies offering better pay, such as the Air Marshals. Former Border Patrol agents make up 75 percent of the first Air Marshals class. H.R. 3525 authorizes appropriations to increase the pay of Border Patrol agents and inspectors in order to help the INS retain its best people.

The bill requires the Secretary of State to give special training to all Consular officers in effective screening of visa applicants who pose a potential threat to the safety or security of the United States. The bill also requires a higher level of scrutiny of aliens from countries that sponsor international terrorism before nonimmigrant visas are issued. It requires Consular officers issuing visas to provide the INS an electronic version of the alien's visa file to ensure that the visa file data is available to immigration inspectors at U.S. ports of entry before the arrival of the alien at the port.

The bill strengthens the foreign student tracking system by requiring that it track the acceptance of aliens by educational institutions, the issuance of visas to aliens, the admission into the United States of the aliens, the notification of education institution of the admission of aliens slated to attend them, and the enrollment of aliens at the institutions.

Finally, the bill requires the State Department to keep visa applications, whether granted or denied, on file for 7 years, so that the government can determine whether an alien sought a visa in the past, what type of visa and whether the visa was granted or denied. The bill fills many gaps in our current immigration law enforcement system. We must put these essential tools into the hands of our law enforcement agents.

I urge my colleagues to pass this legislation.

Let me publicly thank everybody who has worked on this bill, particularly Senators KENNEDY, FEINSTEIN, BROWNBACK and KYL, the gentleman from Michigan (Mr. CONYERS), the gentlewoman from Texas (Ms. JACKSON-LEE), and the gentleman from Pennsylvania (Mr. GEKAS), and the staffs on both the Senate and House sides.

Let me also say that it is my regret that, because of jurisdictional problems, we cannot deal with giving the Customs Service more personnel to help them do their jobs at the border, and it is my hope that the Committee on Ways and Means will promptly pass legislation to fill this hole.

I also regret that we are not able to provide in this legislation a requirement that manifests of arriving and departing airplanes and vessels be filed with the immigration service so that visa numbers can be matched, so the INS particularly, for arriving airplanes and vessels, will be tipped off on who is on board them. It is my hope the Committee on Transportation and Infrastructure will deal with this issue promptly in other legislation.

Again, this is a good bill. It is a bill that is sorely needed. I urge Members to support it.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me, first of all, thank the chairman of the Committee on the Judiciary for his, again, persistence and determination in working through this legislation and working with the Senate. I might add my appreciation also to Senators KENNEDY, BROWNBACK, FEINSTEIN and KYL, and as well our ranking member, the gentleman from Michigan (Mr. CONYERS) and the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. GEKAS).

I can say to my colleagues that this legislation is long overdue. In fact, many of these issues have been issues that we have discussed dealing with redeveloping and refining the Nation's immigration policies even preceding the horrific acts of September 11. Now that that tragedy has occurred with the terrible loss of life of Americans, it focuses us to ensure that we understand this is even more important.

But as I rise to support this legislation, let me be very clear and be very cautious that it is important that we in this country separate out legitimate and focused immigration policy from the concept of ferreting out terrorists. I am glad that this legislation provides for foreign consulates an opportunity to identify potential terrorists by establishing terrorist lookout committees.

□ 1745

I am very grateful for that. Because one of the problems that generated out of September 11, the heinousness of the act, the ability of terrorists coming into this country, many of them had legitimate visas that they had received from our consulate offices overseas; and I guess to add extra insult to injury, some of those individuals were now illegal because they had overstayed their visas. That is an improvement, and I believe that this legislation, the Enhanced Border Security and Visa Entry Reform Act of 2001, is a plus to be able to add to the improvement of that terrible tragedy, or to fix the terrible tragedy by creating an opportunity for us to have a system where individuals can be checked before they even receive a visa.

Madam Speaker, there is something even more important, if you will, that is ongoing and that helps us establish an immigration policy, and that is the improving of the resources and training and technology available to our border personnel in a critical component of our efforts to improve border security. That is something that we should have been doing even preceding the horrible incident of September 11. We have a very large Canadian border and, of course, a very large southern border. We already have been working on the southern border, and I must say that the numbers of Border Patrol agents have worked very hard to balance their responsibilities with the enforcement responsibilities. We have worked very hard to avoid racial profiling, but we realize that we must give those who protect our borders the resources.

This legislation waives a limitation on the hiring of full-time personnel, giving greater control to decision-makers at the border and increasing the number of border personnel.

It raises the pay of INS naturalization service border personnel and provides Custom agents, Border Patrol, and INS inspectors with essential training and cross-training. Funds are authorized to the State Department to improve the screening of visa applicants and strengthen the coordination of international intelligence information. One of the failings that was discovered due to the tragedy on September 11, or out of the tragedy of September 11, was the inability or the lack of the utilization of sharing intelligence or information between agencies.

This bill focuses the agencies on the importance and the responsibility and gives them the tools and says to them, you must share intelligence, you must share information, you must help us thwart the terrible devastation of terrorists coming into this country or those coming here wanting to do harm.

Funds are also authorized to enhance technology available to the INS and Customs Service to improve and expand technology and to facilitate the flow of people and commerce at our ports of entry. To offset the cost of such improvements, the Attorney General is authorized to increase land border fees and the State Department is permitted to raise fees from the use of machine-readable visas. I do know that some aspects of the legislation have been deleted, and I hope that we will be able to ensure that all aspects of this legislation that may have been questioned as it relates to jurisdiction will get eventually added.

In addition, the Attorney General is required to use authorized funds for installing biometric data readers and scanners at U.S. ports of entry. One of the difficulties at the southern border was that the individuals coming across the Mexican borders have their biometric cards, but we did not have the staff nor the readers of those cards; and there was a great logjam of those individuals who were legally trying to access the United States and were doing everything that they should have done. We must not tolerate that, and improve the systems at the border.

We must also improve coordination and information-sharing between the State Department, the INS, law enforcement, and intelligence agencies. Building on the progress made by the antiterrorism bill, this legislation directs the President to devise and implement a comprehensive report and plan to provide the access these agencies need to safeguard our country against terrorism.

Further, this legislation requires the development of the interoperable electronic data system with specific name recognition capabilities to provide appropriate foreign service officers and Federal agents with immediate access to relevant law enforcement and intelligence database information.

We must also improve our ability to monitor foreign nationals who are present in the United States. Consulate offices who issue visas will be required to transmit electronic versions of visa files to the INS so that critical information is available. A key failure on September 11, individuals who had overstayed their visas, there was no way, or there was not any attempt to track them and determine that they needed to be removed from this country.

This legislation also gives greater direction to the integrated entry and exit system established in 1996 by IIRIRA, including use of specific technology standards and technologies to facilitate across the border. What this does, it provides the INS with state-of-the-art technology at our borders. There has to be a better way and a better system and that is to improve the technology of our particular needs at the border.

We are also working with our consulate offices in ensuring that there is a relationship with the Secretary of State. Gaps still exist in the monitoring of foreign students. Accordingly, this legislation expands the monitoring program to include flight schools, language-training programs, and vocational schools; and it improves the reporting requirements on the INS as to the individuals going to these schools. In addition, this legislation requires the INS, in consultation with the Department of Education, to periodically review institutions enrolling foreign students and receiving exchange visitors to ensure that they adhere to the reporting and recordkeeping responsibilities.

What we have, Madam Speaker, is an opportunity to address the failings of not only September 11, but we have the opportunities to address the problems that we have had heretofore.

Let me also note that we are very gratified with the inclusion of language from the legislation that the gentleman from Texas (Mr. REYES) and myself cosponsored that for all journeymen, border patrol agents, and inspectors who have completed at least 1 year of service and are receiving an annual rate of basic pay for positions GS–9 of the general schedule under section 5332 will receive an annual increase in their rate so that we can bind comparable and qualified individuals and provide a career pattern.

Let me simply say in closing, Madam Speaker, that I too have a disappointment in the comparing of the needs of developing a real immigration policy with the needs of finding terrorists. I really think that that is a reason why we were not able to bring 245(i) to the floor of the House, a simple bill that would allow for the adjustment of individuals who are here, who are accessing legalization in the right manner. Can we imagine that we could not bring this bill to the floor of the House to allow a simple adjustment so that these individuals could be reunited with their families for the holiday. I am hoping that we will come to our senses and realize that immigration is not terrorism, that immigration is not lawlessness, that we are a country of immigrants and, as well, laws, and we should find a way to pass 245(i) to reunite our families.

Madam Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield 3 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Madam Speaker, I thank the gentleman for yielding me this time.

I also rise in strong support of H.R. 3525, which does, indeed, improve our visa system and better secure our borders; and I want to thank the chairman and the House leadership for bringing this legislation up to date to improve our systems for border security and monitoring foreign visitors to the United States. This legislation, the Enhanced Border Security Act of Visa Entry Reform Act of 2001, is a sensible bill and a positive and urgently needed step toward securing our borders and protecting Americans from potential terrorist attacks.

It has been widely reported that the ringleaders and other terrorists involved in attacks on September 11 used expired or false visas to enter our Nation to plan and conduct their terrible deeds. These facts are the most damaging evidence of the ongoing problem that millions of foreign visitors overstay their visas and we need a much better system for enforcing the terms by which they enter and leave our country. An estimated 40 percent of the 5 million to 8 million illegal immigrants living in the United States last year were listed as overstays by the INS, although the agency admits that 1991 is the last year for which it could estimate the number of visa violators with any accuracy.

It is imperative that we make immediate changes in our ability to document and track foreign visitors to the United States to thwart future potential terrorist acts. This will require improved documentation and computerized systems for tracking the millions of foreign visitors who come to our Nation each year on a temporary basis with tourist, student, or temporary work visas. In 1998 the INS reported that 1 million foreign people came to the United States on a temporary basis.

A fresh look at the visa processing program is immediately needed. Six years ago, Congress directed the INS to gather the arrival and departure data of most foreign visitors to make sure they do not remain in the United States after the expiration of their authorized stays. A recent review by the Department of Justice Inspector General found INS officials mismanaged $31 million aimed at automating that system. Earlier this fall, I introduced legislation, the Visa Integrity and Security Act, or VISA Act, to strengthen our immigration system and to improve the ability of the INS to track all temporary visa holders. A number of the key provisions of that legislation were included in the important antiterrorism PATRIOT Act passed earlier this fall.

However, there is much work to be done; and H.R. 3525 takes much needed steps forward, such as implementing tamper-resistant visas using biometric identifiers for all aliens entering the U.S.; creating an electronic database to provide immediate access for U.S. officials to ensure visa applicants do not pose a threat to the United States; improving the system for tracking foreign student visas; and increasing funds for INS and Customs inspectors, Border Patrol agents, and State Department officers to perform these important screening duties.

Unfortunately, these dangerous times require us to better screen and track foreign visitors to the United States to ensure they are here for their stated purpose and only stay for the allotted time. Now is the time to make sure that these sound steps are implemented to improve the security of our country. We can still welcome and should welcome foreign visitors and we are a nation of immigrants; but we have the right and, indeed, the duty to know why they are in our Nation and if they are in for the right reasons, and that we set the terms for their stay.

For all of these reasons, I urge my colleagues to support H.R. 3525. We can take the additional steps needed to secure our borders while maintaining an open society.

Ms. JACKSON-LEE of Texas. Madam Speaker, it is my pleasure to yield 3 minutes to the distinguished gentleman from Texas (Mr. REYES), whose district is one of the districts that borders the southern border.

Mr. REYES. Madam Speaker, I thank the gentlewoman from Texas for yielding me this time.

Madam Speaker, let me begin by thanking the chairman of the Committee on the Judiciary (Mr. SENSENBRENNER) for bringing this important bill to the floor today. He has been willing to work with me on a number of issues in this bill, and I thank him for his efforts. I would also like to thank the ranking member, the gentleman from Michigan (Mr. CONYERS), for all of his assistance on this issue, as well as my colleague, the gentlewoman from Texas (Ms. JACKSON-LEE), for her hard work on bringing these issues forward and giving us these venues.

As the only Member of Congress with an immigration background, I have a unique perspective on many of these issues. The Enhanced Border Security and Visa Entry Reform Act is the product of a compromise between the House and the Senate and includes a number of issues that many of us have been working on for many, many years. This bill includes the extension of the deadline for replacing old border-crossing cards with new laser visas. This 1-year extension will benefit thousands of families and struggling businesses along the border, and I applaud the chairman and the ranking member for including this extension.

Since September 11, Madam Speaker, our Nation's borders have looked more like parking lots than entry points into this country. This bill provides additional personnel and technology at our ports of entry; and while we need more INS and Customs personnel and much more than $150 million in technology, this bill provides a good down payment for our border region.

This bill also provides the framework for information-sharing among Federal, State, and local law enforcement agencies. This cooperation is critical and vital to our homeland defense efforts. I am also supportive of the provision restricting the issuance of visas to nonimmigrants to countries that are state sponsors of terrorism.

Also included in this bill is a pay raise for hard-working Border Patrol agents and INS inspectors. We have been working on this for many, many years; and I am confident that this provision will help in our efforts in recruiting and retaining qualified Border Patrol agents and inspectors.

What is as important as what is in this bill is what is not included in this bill. Last night the White House and Senate and House negotiators agreed on this bill. The bill is what we have before us here today, with one notable exception, that is, the extension of section 245(i), which was pulled from the bill at the last minute at the insistence of a small group of Republican Members.

I am extremely disappointed, as are many other members of the Hispanic Caucus, that our leadership and the White House did not follow through on their commitment to immigrant families across this whole country. The President proclaimed that he supported the extension of 245(i), and we expected him to live up to his commitment to fight for this issue, as he has fought for many, many of these other priorities and issues such as tax cuts.

□ 1800

Sadly, last night we were again abandoned.

Madam Speaker, let us look at the facts surrounding the extension of 245(i). It allows immigrants who are otherwise eligible to adjust their status and to pay a fine and obtain their immigrant visas in the United States, instead of having to leave the country and pick up their visas.

Madam Speaker, all in all, I believe this is a good bill and I support it, and

I would ask all my colleagues to support this bill. It is important for our country and the security of our borders.

Mr. SENSENBRENNER. Madam Speaker, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, this is an issue I have been working on for a number of months, beginning with the introduction of the Visa Integrity and Security Act with the gentleman from Delaware (Mr. CASTLE) and the gentleman from Georgia (Mr. DEAL). This bill is an admirable and comprehensive enhancement of these efforts, which were largely included in the patriot antiterrorism legislation.

H.R. 3525 puts the focus of the problems in the system that will make it possible for terrorists to enter the country and live in the United States undetected, sometimes for years. By passing this bill, we are recognizing that those who are charged with defending the United States from persons who wish to do her harm will have the right tools necessary to man the front lines. This legislation provides the necessary tools.

From consular officers who will have the first encounter with visa applicants to the border officials that process their departure documents, this bill will utilize forward-looking technology to target those who are the problem: the terrorists, not the immigrants.

I urge passage of H.R. 3525.

Ms. JACKSON-LEE of Texas. Madam Speaker, it is my pleasure to yield 2 minutes to the distinguished gentleman from California (Mr. FILNER), who likewise has a district that has an extensive span at the southern border. We thank him for his leadership on this issue.

Mr. FILNER. Madam Speaker, I thank the gentlewoman for yielding time to me, and I thank the chairman for bringing us this bill.

I represent San Diego, California, home of the biggest border crossing between any two nations in the world. What we need more than anything is the dual job of stopping terrorists, but allowing the legal traffic to flow in an orderly fashion. Our businesses, our families, depend on a flow of traffic that can be predictable and it is regular.

What the chairman has done, as I understand it, is put 200 more positions for INS inspectors annually for the next 5 years, which will allow us to do both the security and the flow that is absolutely necessary.

I join the chairman in his regret that a jurisdictional dispute prevented Customs inspectors from being included in this bill, and I also join the gentleman in his call to bring that bill to us as quickly as possible. I am also pleased that the extension of the laser visa boarding crossing card has been extended for a year that will allow us to make sure that people can get that card and use it properly.

I am disappointed that at the last minute, for some reason, section 601, what was section 601, that granted law enforcement status to INS inspectors, was removed. This is an absolute necessity, not only for the INS but for Customs and for many other Federal agencies. I hope that we can bring back that long-awaited adjustment of status for these law enforcement officers. We honor them if they die on the Law Enforcement Memorial in Washington, D.C., but as they live, they are not accorded that status.

I join the gentleman from Texas (Mr. REYES) and the gentlewoman from Texas (Ms. JACKSON-LEE) in their regret that the 245 extension has been removed, but I thank the chairman for giving us the resources over the next few years to allow us to keep the Level I alert that is so absolutely necessary to keep out terrorism, but to allow the border to have the resources necessary to have the flow of legal traffic. I thank the gentlewoman for her time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Texas (Mr. RODRIGUEZ), who likewise has an expansive southern border, and has done a lot of work on this issue. I thank him for his leadership.

Mr. RODRIGUEZ. Madam Speaker, while I support the spirit of the bill, I am somewhat disappointed in the introduction and how we have heard the discussion on this bill, in that it is not allowing us an opportunity to place some very significant items on the bill.

As a Member who represents the border, I would have liked to have had the opportunity to provide some additional items. The border right now is having to struggle real hard after September 11. We are having a great deal of difficulty with long lines, long waits, as well as Customs that are having to work long hours and not being able to even take vacation during this Christmas period. We understand the reasons why, but we also have an obligation to provide the resources that are needed.

Since September 11, communities along the U.S.-Mexican borders have struggled to meet the new security demands. Long waiting times due to more thorough inspections, which are drastically needed, have adversely impacted many businesses also along the border that depend on the cross-border business that happens, and on commerce and traffic.

This is why I support providing more resources for the U.S. Customs Service to enhance their personnel and improve their technology capabilities. I am very pleased, and I want to thank the chairman for providing those resources.

The Customs Service currently needs over 900 additional Customs inspectors, not only to ease the situation along the northern border with Canada, but to provide assistance to those working long and difficult shifts on the southern border, as well.

While I understand the need to place more INS and Customs inspectors along the northern border, we should not be remiss on our obligations to improve inspections on the southern border.

Furthermore, I am also disappointed that despite the White House support of H.R. 3525, it fails to include provisions to grant the temporary section 245(i) extensions. The removal of section 245(i) has torn families apart, and we need to really look at putting those families together again.

Ms. JACKSON-LEE of Texas. Madam Speaker, I am very pleased to yield 3 minutes to the distinguished gentleman from Illinois (Mr. GUTIERREZ), one of the two chairs of the Immigration Task Force of the Democratic Caucus and a leader on these issues.

Mr. GUTIERREZ. Madam Speaker, I thank the gentlewoman for yielding time to me.

Madam Speaker, I come here thinking this is really a good bill, and at the same time, knowing and understanding that we had a better bill until last night, a bill which balanced the needs of our immigration policy; a bill that said 245(i) would be part of this bill.

I remember when I and other Members of the Hispanic Congressional Caucus early in this first term of President Bush met with the President, and he agreed to support 245(i). I remember once again when 245(i) ended in April 30 of this year, when I was heartened to hear the President of the United States come forward and say that we are going to continue with 245(i) and we are going to extend this important bill.

Many in America may ask, just what does it do? It allows families to stay together. It allows American citizens to get the permanent residency for their wives. It allows citizens of this country and permanent residents legally here in this country to allow their wives and their children, and yes, their moms and dads, their very immediate family, to stay here and not be separated.

Somebody would say, well, if they do not pay the penalty, what do they have to do? Well, they pay a huge penalty, and shame on this Congress and shame on those Members of this institution who yesterday went before those who were negotiating and said that we could not have 245(i).

While they come before this House repeatedly to talk about family values, here we had an opportunity to do something about family values. I am always thinking, when I listen to the President of the United States say, "This is a war against terrorists; this is not a war against Islam, this is not a war against Muslims," I wish he and other

Members of this institution would state as categorically and as clearly that this is not a war against immigrants.

The people who attacked us on September 11 were terrorists, who came here to destroy and be destructive in this country. Immigrants come here to build this country, to sweat and toil and make this the rich Nation that it is today. Shame on this institution for confusing one thing with the other.

I think it is really regrettable that we do not have 245(i), and I say that we redouble our efforts so we can keep families together. We need a sane immigration policy, an immigration policy based on keeping families together and uniting those families.

I just want to end by saying I thank the gentlewoman for giving me the time, and I thank the gentlewoman for her leadership, the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from Michigan (Mr. CONYERS), and all of those who truly believe.

I think when history is written, people will ask: Who stood up, who stood up for immigrants, for people who work? And shame on everybody in this Congress who walks on a shiny floor every day, knowing who mopped that floor; walks into a hotel room and says, my, it sure is clean, and has their laundry done, has their dishes washed, has all of the menial jobs done in their lives, and yet cannot vote to keep those families together.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me close by saying this: The eloquence of the gentleman from Illinois (Mr. GUTIERREZ) and the gentleman from Texas (Mr. RODRIGUEZ) and the gentleman from Texas (Mr. REYES) speaks for itself.

Just a few days after September 11, I held a town hall meeting to bring the community together to help them heal, to talk about the tragedies. It was open to everyone, and members of my immigrant community came.

Their greatest frustration was that they wanted to leave and serve this country. They wanted to go and join whatever military service would take them in. They wanted to stand up and be counted.

I believe, as I said to the gentleman from Wisconsin (Mr. SENSENBRENNER), and I thank him for his leadership, I am more than disappointed that we could not pass 245(i) to reunite families, to focus on what this country is all about, giving people the opportunity to contribute to the values of this Nation and stand up and be counted, and fight alongside of us to weed out terrorism because they believe and love this Nation.

This legislation is a good piece of legislation, but Madam Speaker, we have not finished our job. We are committed not to give up the fight, because there are families out there counting on us.

Let me simply acknowledge the work of George Fishman and Lora Ries and Leon Buck as staff, and Scott Deutchman and Perry Apelbaum, who worked on this in the wee hours and worked on it weeks before we were able to focus on this as the bill that has come before us now.

But the daunting question that we have is: Are we going to recognize that this is a Nation of immigrants and laws, and immigration does not equate to terrorism, and stop the kind of hysteria that is being created to label all immigrants as terrorists?

They no more want terrorists in this country than we do; they no more want to have people come in and harm us than we would. We must hold to our values of the Statue of Liberty, that we ask for those to come who are persecuted.

Madam Speaker, I ask my colleagues to support this legislation, and I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I think it is important that we get on the subject of what is before the House tonight; that is, legislation that does a number of important things: tightening up our visa issuing system; attempting to make sure that the visas and passports used by people entering this country are those that were issued to them; and to provide biometric information and various other types of antifraud devices.

I think it is important to point out that we provide more money for additional INS inspectors and investigators, and most importantly, provide a pay raise for them.

Since 9–11, I have made several visits to border areas. I have been to San Diego, I have been to Detroit, and I have been to the Miami airport. At each one of these stops, I have specifically requested to meet with representatives of the unions that represent the border patrol and INS inspectors, and I have heard again and again that good people are leaving because they can go to someplace else in law enforcement and get paid a lot more.

As a result, the turnover and the training time of those people who are actually on the borders enforcing the laws and protecting the people of this country becomes greater and greater. So this bill deals with those issues.

Again, I regret that the jurisdictional disputes prevent us from dealing with the aircraft and ship manifests and the chronic shortage of Customs inspectors, and once again, I urge the other committees of jurisdiction to promptly bring legislation before the House to deal with those issues.

With respect to what I have heard from the last several speakers, I will state categorically that this is not a war on immigrants, it is a war on terrorists. Immigrants have made this country what it is. With the exception of the descendents of Native Americans, all of our forefathers and foremothers were immigrants; granted that there were different waves of immigration from different parts of the world, but immigrants came to this country because of the economic opportunity and the freedom that we provide.

What we want to do is to make sure that the immigration is done pursuant to law, and to provide the proper documentation so that people who are here legally can go to work and help themselves and their families and our country.

Next year, we will be dealing with the restructuring and reorganization of the Immigration and Naturalization Service, which is the most dysfunctional agency in the Federal Government.

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Finally, with respect to 245(i), this House has voted in favor of extending 245(i). The chairman of the Subcommittee on Immigration and Claims, the gentleman from Pennsylvania (Mr. GEKAS) and I introduced H.R. 1885 on May 17, 2001. We brought it before the House under suspension of the rules four days later on May 21, 2001. And on a roll call of 336 to 43, the House passed the extension of 245(i).

Now, that bill provided an extension four months after the date of enactment. And as is the case with a lot of meritorious legislation, the other body did not deal with it promptly.

Now, I hope the time has come when we will be able to bring another 245(i) bill to the floor. But I do not think it accurately represents what 336 of us did on May 21, to say that we have turned our backs on those families. There were only 43 no votes on May 21. And I think the vast majority, the 336 of us who voted yes, will have our day in court some time in the future and a 245(i) extension that is fair to all will be sent to the President of the United States. I urge an aye vote on H.R. 3525.

Ms. ROYBAL-ALLARD. Madam Speaker, I rise in support of H.R. 3525, the Enhanced Border Security and Visa Entry Reform Act, because this bill strengthens the security of our borders, secures our visa entry system, and enhances our ability to deter potential terrorists. However, I also rise to express my displeasure that an extension of Section 245(i) of the Immigration and Nationality Act was dropped from the final version of this bill.

My support of H.R. 3525 is based on the fact that it improves the resources, training, and technology available to our border personnel to increase the effectiveness of our efforts to improve border security. This bill requires the Attorney General to begin installing biometric data readers and scanners at U.S. ports of entry so we can more accurately deter individuals with false passports or visas.

H.R. 3525 also improves coordination and information-sharing by the State Department, the Immigration and Naturalization Service (INS), and law enforcement and intelligence agencies. For example, consular officers who issue visas will now be required to transmit electronic versions of visa files to the INS, so that this critical information is available to immigration inspectors at U.S. ports of entry. By enhancing our ability to screen visitors to the U.S. before their arrival, we will help to keep terrorist cells from entering our country.

This bill also improves the monitoring of foreign students and exchange visitors. H.R. 3525 expands the current foreign student monitoring program in our colleges and universities to include flight schools, language training programs, and vocational schools. It also enhances the reporting requirements placed on the INS, the State Department and educational institutions. In addition, it requires the INS, in consultation with the Department of Education, to periodically review institutions enrolling foreign students and receiving exchange visitors, to ensure that they adhere to the mandated reporting and record-keeping requirements.

Madam Speaker, in spite of the many merits of this bill, I am however very disappointed that it does not include an extension of Section 245(i) of the Immigration and Nationality Act.

Section 245(i) allows eligible immigrants to stay in this country by paying a substantial fee of $1,000 to adjust their status to permanent residency based on a close family member or employer sponsor. Under Section 245(i), the only eligible immigrants are those who have been physically present in the United States since before December 1998 and have an established familiar relationship or employment based petition filed with the INS. Immigrants who qualify would be screened for criminal offenses, fraud, and would need to meet all other conditions of admissibility—just like any other immigrant who applies for a green card. An extension of 245(i) does not provide a loophole to our border security—anyone found to be linked to any criminal activity would continue to face deportation or detention.

A permanent extension of Section 245(i) is an issue of great importance to the Hispanic Caucus and the entire Latino community. President Bush publicly supported an extension, as have the AFL–CIO and the U.S. Chamber of Commerce. In fact, the House was scheduled to vote on an extension of this important provision, but due to the unconscionable attacks of September 11th this legislation was pulled from consideration and never rescheduled.

Since then, I along with other members of the Congressional Hispanic Caucus have been urging the leadership of the House to bring up and pass an extension to Section 245(i) before the end of the year. We felt confident that adding an extension of Section 245(i) to H.R. 3525 would create the right balance between the need to keep our borders safe from terrorist threats, and keep the avenues for legal permanent residency open to hard working immigrants.

Without an extension of Section 245(i), we are not helping to secure our borders; we are instead promoting the separation of families and the increase of individuals on our unemployment roles. It is therefore unfortunate that Section 245(i) has fallen victim to those who equate immigration with terrorism.

There is no doubt that our country needs long-term solutions to security problems at our borders, and H.R. 3525 is a positive step in that direction. In our effort to secure our nation however, we must not close the door to our ability to legalize employees of American companies or spouses and children of U.S. citizens. An extension of Section 245(i) is pro-family, pro-business, and good for America. I hope the Bush Administration will keep its promise and work with the bipartisan congressional supporters of Section 245(i) to gain passage of an extension before the end of the 107th Congress.

Mr. SENSENBRENNER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3525, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 3525, ENHANCED BORDER SECURITY ACT AND VISA ENTRY REFORM ACT OF 2001

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that in engrossment of the bill, H.R. 3525, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ELIGIBILITY OF CERTAIN PERSONS FOR BURIAL IN ARLINGTON NATIONAL CEMETERY

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3423) to amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery, as amended.

The Clerk read as follows:

H.R. 3423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY OF CERTAIN PERSONS FOR BURIAL IN ARLINGTON NATIONAL CEMETERY.

(a) IN GENERAL.—(1) Chapter 24 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 2412. Arlington National Cemetery: eligibility of certain persons for burial

"(a)(1) The remains of a member or former member of a reserve component of the Armed Forces who at the time of death was under 60 years of age and who, but for age, would have been eligible at the time of death for retired pay under chapter 1223 of title 10 may be buried in Arlington National Cemetery on the same basis as the remains of members of the Armed Forces entitled to retired pay under that chapter.

"(2) The remains of the dependents of a member whose remains are permitted under paragraph (1) to be buried in Arlington National Cemetery may be buried in that cemetery on the same basis as dependents of members of the Armed Forces entitled to retired pay under such chapter 1223.

"(b)(1) The remains of a member of a reserve component of the Armed Forces who dies in the line of duty while on active duty for training or inactive duty training may be buried in Arlington National Cemetery on the same basis as the remains of a member of the Armed Forces who dies while on active duty.

"(2) The remains of the dependents of a member whose remains are permitted under paragraph (1) to be buried in Arlington National Cemetery may be buried in that cemetery on the same basis as dependents of members on active duty.".

(2) The table of sections at the beginning of chapter 24 of title 38, United States Code, is amended by adding at the end the following new item:

"2412. Arlington National Cemetery: eligibility of certain persons for burial.".

(b) EFFECTIVE DATE.—Section 2412 of title 38, United States Code, as added by subsection (a), shall apply with respect to interments occurring on or after the date of the enactment of this Act.

SEC. 2. PLACEMENT OF MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING THE VICTIMS OF THE ACTS OF TERRORISM PERPETRATED AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001.

(a) AUTHORIZATION TO PLACE MEMORIAL.—The Secretary of the Army is authorized to construct and place in Arlington National Cemetery a memorial marker honoring the victims of the acts of terrorism perpetrated against the United States on September 11, 2001.

(b) CONSULTATION WITH FAMILIES OF VICTIMS BEFORE USE OF AUTHORITY.—The Secretary of the Army shall consult with the families of victims of such acts of terrorism prior to the exercise of the authority provided for under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased that the House is considering H.R. 3423, as amended, so promptly. This bill would change in-ground burial eligibility at Arlington National Cemetery by eliminating the requirement that retired reservists be in receipt of their retirement pay.

Reservists must be 60 years old to receive pay, and existing Army rules do not allow these gray zone retirees to be buried at Arlington. The bill would also make eligible for in-ground burial reservists who die in the line of duty during active or inactive training.

Madam Speaker, Arlington is the Nation's most famous veterans cemetery with a storied history of American heros who are buried there. However, there is limited space for in-ground burial at the cemetery. In 1967, the Army adopted rules restricting eligibility as to which veterans can be buried there. It should be noted that Arlington will provide space for cremated remains in its columbaria for honorably discharged veterans eligible for burial at any of the other national cemeteries.

In general, Army rules restrict in-ground burial at Arlington to veterans who were wounded in combat, died on active duty, received one of the military service's highest awards for gallantry or were held prisoner of war or retired from military service.

The bill before us, Madam Speaker, would amend those Army rules to ensure access for retired reservists such as Captain Charles Burlingame, III, the pilot of flight 77 which tragically crashed into the Pentagon on September 11. Indeed, Captain Burlingame, a former Navy F-4 Phantom fighter pilot, was one of the first casualties in the war on terrorism.

The existing Army rules, however, prevented Captain Burlingame, who was 51, from receiving full burial rights at Arlington National Cemetery solely because of his age at death.

In every other aspect, Captain Burlingame was fully qualified having served 20 years of service with distinction. Fortunately, Captain Burlingame was eventually approved for his own burial in his own grave site through a waiver approved by the Secretary of the Army. Captain Burlingame deserved the Nation's highest honor of burial at that hallowed ground of Arlington, not only because he gave his life trying to save his passengers, but because he did his duty to our Nation as a member of the Naval Reserve as a combat pilot.

Burial space is very limited, Madam Speaker, at Arlington; and I appreciate the interest in maintaining its strict eligibility rules. Those rules have remained essentially unchanged over the last 34 years. But the role of our reserve forces has changed markedly over the last number of years, the last 34 or so years.

In the Congress, we have recognized this by authorizing many benefits for reservists that previously were only provided to former active duty personnel. Reservists play a major role in the modern total force concept that protect our freedoms. Today we are unable to go to war without mobilizing reservists right from the start. It is inequitable, I would suggest, that a reservist who serves our Nation for a minimum of 20 years shall have been eligible for in-ground burial at Arlington simply because he or she had the misfortune to die prior to the age of 60. In addition to such distinguished retirees as Captain Burlingame, this legislation would make eligible members of the reserve components who die in the line of duty while performing weekend or two-week reserve duty.

Frankly, I see no reason why a reservist's eligibility for Arlington should be based on whether that person was or was not in training status when he or she died in the line of duty. In today's military, there is usually no practical difference.

Madam Speaker, the danger of serving in our Armed Forces is emphasized by the thousands of active duty deaths which occur each and every year. Almost all of these deaths occur not as a result of hostile action, but as the predictable toll of employing young men and women in sometimes dangerous and daunting tasks while operating complex weapons systems that put them at risk. Many of them are also the result of automobile accidents.

Under current law, we honor each of these service members by offering their families honors and benefits because their death occurred in the line of duty. One of those honors is to be buried at Arlington National Cemetery.

At our hearing on this last week, Madam Speaker, we received very compelling testimony from several witnesses that a military plane crash may end the lives of all on board, but that the status of those who died may range from active duty to inactive duty training. To afford burial at Arlington to one whose status was active duty while denying it to yet another who was inactive is illogical, and it is profoundly unfair. This bill would make the rules more equitable.

During the committee consideration of this measure, we agreed to adopt an amendment offered by the gentleman from Illinois (Mr. EVANS), my good friend and colleague, the ranking member of the Committee on Veterans' Affairs. The amendment authorizes but does not require the construction of a memorial at Arlington Cemetery to all of those that were killed on September 11. Under existing regulations, it is necessary for Congress to authorize a memorial such as the one contemplated in this bill.

I have met, Madam Speaker, with a number of the families of persons who were killed on September 11, and there would undoubtedly be constructed a national memorial to their loved ones. This legislation respects the desires of the families by requiring the Secretary of the Army to consult with them prior to determining whether the memorial should be built at Arlington and, if so, how it should be designed in a manner that is compatible with the existing cemetery.

Madam Speaker, this is a good bill. It is urgent that it be passed immediately.

Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 3423 as amended. Again, I want to thank the chairman of this committee for his leadership on this issue, as well as so many others during the course of this year. I also want to extend my thanks to the gentleman from Indiana (Mr. SIMPSON), chairman of the Subcommittee on Benefits, and the gentleman from Texas (Mr. REYES), the ranking member, for their outstanding efforts during what has been a demanding legislative year.

Recent events have highlighted for us that America's veterans continue to exemplify bravery, courage and conviction. Quite simply put, our veterans remain our heroes. I am pleased that this measure would revise the Department of Army's current eligibility requirements for burial at the Arlington Cemetery to better reflect today's military force structure.

This bill would eliminate the 60-year-age requirement for grade zone retired reservists. The need for these changes was highlighted by the death of Charles F. Burlingame, III, the pilot of American Airlines flight 77 that crashed into the Pentagon on September 11, 2001. He was a navy reservist for 17 years and was ineligible to be buried at Arlington. After much debate, I was pleased that the Army finally agreed to provide a hero's burial for Mr. Burlingame, but the need to eliminate this arbitrary rule still remains.

This bill would also provide Arlington burial for reservists who die in the line of duty when performing active or inactive duty training. I feel strongly that a member of America's military who was killed in the line of service deserves a hero's burial at Arlington. The military and veterans organizations that appeared before the committee at our hearing unanimously supported the bill.

Finally, this bill also provides discretionary authority to the Secretary of the Army for constructing and placing a memorial in the Arlington National Cemetery to all the innocent victims who lost their lives in the terrorist attacks against the United States on September 11, 2001. As a general rule, Arlington's memorials are largely restricted to honoring military history. However, past Congresses have provided for exceptions in order to memorialize the victims of extraordinary tragic events in America's history. For example, Congress has provided for memorials at Arlington honoring the Space Shuttle Challenger crew and the victims of the Pan Am Flight 103.

Madam Speaker, this is a good bill for America's veterans. I salute the chairman for bringing it quickly to the floor before the end of this year.

Madam Speaker, I rise today in support of H.R. 3423, as amended. I want to commend and thank the Chairman of the Committee, CHRIS SMITH, for his leadership on this issue and his successful efforts to work with Members on both sides of the aisle to so quickly bring this measure to the House floor today. I also extend my thanks to the Chairman of the Benefits Subcommittee, MIKE SIMPSON, and the Ranking Democratic Member, SILVESTRE REYES, of their outstanding efforts during what has been a demanding legislative year.

As a Marine and as a member of the Veterans' Affairs Committee since 1983, I know very well that Arlington National Cemetery is a cherished parcel of this Nation's most hallowed ground. In bringing this measure before the House for a vote today, every member of the Veterans' Affairs Committee has been unequivocal in their personal commitment to honor and revere Arlington National Cemetery on behalf of the brave men and women of America's military and our veterans.

Recent events have highlighted for us that America's veterans continue to exemplify the bravery, courage and conviction that are pillars beneath America's freedom and success throughout history. Quite simply, our veterans remain our heroes. I am pleased that H.R. 3423 would revise the Department of the Army's current eligibility requirements for burial at Arlington National Cemetery to better reflect this fact.

As reported unanimously by the Veterans' Affairs Committee, H.R. 3423 would revise the current burial rules that govern Arlington National Cemetery. Specifically, the bill would eliminate the requirement for reservists who are eligible for retirement pay and otherwise eligible for in-ground burial to be 60 years of age. H.R. 3423 would also provide for in-ground burial eligibility for members of the reserve components who die in the line of duty while serving their country performing active duty or inactive duty training.

Madam Speaker, when we consider Arlington's in-ground burial restrictions, we are immediately faced with conflicting needs. On the one hand, we must do our best to preserve Arlington Cemetery's limited space for those men and women whose level of commitment and heroism to the Nation has been truly extraordinary. On the other hand, we want to make a hero's burial available, to the fullest and most uniformly fair extent possible, to all our heroes who are so deserving of this honor.

Whether the rule should remain intact as it is now or whether we should reform the rule in some way is a question that required the careful thought and consideration of the Committee. After deliberating over H.R. 3423, the Committee found it quite difficult to find justification to distinguish between sacrifices and contributions to the Nation of a career reservist and those of an active duty servicemember. There are increasingly dynamic and pressing demands on today's modern military. As such, I believe strongly that our active duty and reserve forces should share equally when it comes to America's grateful show of final respects.

Similarly, I feel strongly that no reasonable grounds for distinction exist between the deaths of our active duty servicemembers and the deaths of our reservists who are engaged in active duty or inactive duty training. There is no question in my mind that a member of America's military who is killed in the line of duty deserves a hero's burial at Arlington National Cemetery. Moreover, the various military and veterans' organizations that appeared before the Committee at our hearing on H.R. 3423 were unanimously in favor of this provision of the bill.

Madam Speaker, on the morning of September 11, 2001, America experienced several tragic terrorist attacks in which thousands of civilians and military servicemembers perished. The terrorist attacks of September 11th were attacks against the United States and its citizens. They were acts of war that defined a day of violence, of horror and of profound sadness that can never be forgotten. It was also the greatest single loss of human life on American soil that we have ever had to endure in our history.

The victims of the terrorist attacks are heroes in every sense of the word. As ordinary people on an ordinary day, each would go on to display great courage in the face of disparity and unthinkable violence. Through our memories of them and their ultimate sacrifices, they live on to lead our current war against a faceless enemy.

H.R. 3423 is dedicated to honoring some of America's heroes. Whether at Arlington National Cemetery, or at one of our many other national, state or private cemeteries that span the globe, this Nation has chosen through time to honor its heroes with proper resting grounds and grateful recognition of their contributions and sacrifice.

In light of America's recent tragedies, I offered an amendment to H.R. 3423 during the Committee's markup of the bill that was subsequently passed and made part of the bill. As it has now been amended, H.R. 3423 provides discretionary authority to the Secretary of the Army for constructing and placing a memorial within the Arlington National Cemetery to honor all innocent victims who lost their lives in the terrorist attacks against the United States on September 11, 2001.

As the Ranking Democratic Member of the Veterans Affairs Committee and a member of the Armed Services Committee, I consider Arlington National Cemetery to be especially appropriate for this purpose as hundreds of the thousands who were killed on that day were active duty servicemembers and veterans. Under current law, memorials at Arlington are largely restricted to honoring military history. Congress has provided for a number of exceptions to this restriction, however, in order to memorialize the victims of extraordinarily tragic events in America's history. For example, Congress provided for the placement of memorials at Arlington in honor of the crew of the space Shuttle *Challenger*, as well as the victims of Pan Am Flight 103 who were lost to terrorism over Lockerbie, Scotland.

In remembering the tragedies of September 11, the Nation will undoubtedly choose to memorialize its victims in countless and different ways. President Bush acknowledged on Tuesday of last week that permanent memorials would surely be constructed in their honor. I agree with the President, and I believe we should act today to move forward toward achieving this goal. Arlington National Cemetery is an entirely fitting option for the placement of one such memorial for the victims of the tragedies of September 11.

I strongly urge my colleagues to support H.R. 3423, as amended.

December 18, 2001.

To: House Veterans' Affairs Committee Attention: Deborah Smith

From: Lawrence Kapp Analyst in National Defense Foreign Affairs, Defense, and Trade Division

Subject: Definitions of Inactive Duty For Training and Active Duty For Training

This memorandum is written in response to your request for a definition of "Inactive Duty Training" (IDT) and "Active Duty for Training" (ADT) as the terms are used in reference to the training status of military reservists. In accordance with your request, the definitions provided are general ones suitable for the non-specialist. I have also attached an extract from DoD Directive 1215.6, Uniform Reserve, Training, and Retirement Categories, which provides more comprehensive definitions.

Inactive Duty Training is training conducted by members of the Selected Reserve[1] when they are not on active duty. This type of training is often referred to as "drill," and is usually conducted one weekend per month. Typical duties include individual task training, collective task training, and completion of administrative requirements. Less frequently, IDT is used to support the operational missions of the active component.

Active Duty for Training (ADT) is one of several different types of active duty. ADT is typically used to fulfill individual or unit training requirements for reservists. For example, a reservist who is sent to a military school to become qualified in a specific military occupational speciality would normally attend the school in an ADT status. An important type of ADT for members of the Selected Reserve is Annual Training (AT), sometimes referred to colloquially as "summer camp." Members of the Selected Reserve are usually required to participate in AT for two weeks each year.

If you have further questions about training categories for reservists, please do not hesitate to call me at 202–707–7609.

E1. Enclosure 1 Definitions

E1.1.1. Active Duty (AD). Full-time duty in the active military service of the United States. It includes full-time training duty, annual training duty, and attendance, while in active military service, at a school designated as a service school by law and the Secretary of the Military Department concerned. It does not include full-time National Guard duty. For the RC, AD is comprised of the categories ADT and ADOT.

E1.1.2. Active Duty for Special Work (ADSW). A tour of AD for Reserve personnel authorized from military or Reserve personnel appropriations for work on AC or RC programs (ADSW-AC funded or ADSW-RC funded). The purposes of ADSW is to provide the necessary skills manpower assets to support existing or emerging requirements. By policy, ADSW tours are normally limited to 139 days, or less, in one fiscal year. Tours exceeding 180 days are accountable against AC or AGR end strength IAW 10 U.S.C. 115 (reference (d)), unless specifically provided for in public law. Training may occur in the conduct of ADSW.

E1.1.3. Active Duty for Training (ADT). A category of AD used to provide structured individual and/or unit training, or educational courses to RC members. Included in the ADT category are AT, IADT, and OTD. The primary purpose of ADT is to provide individual and/or unit readiness training, but ADT may support AC missions and requirments; i.e., operational support, thereby adding substance to the Total Force.

E1.1.4. Active Duty Other than for Training (ADOT). A category of AD used to provide RC support to either AC or RC missions. It includes the categories of ADSW, AGR duty, and involutionary AD IAW Sections 12301, 12302, and 12304 of reference (d) and 14 U.S.C. 712 (reference (f)). Training may occur in the conduct of ADOT.

E1.1.5. Active Guard and Reserve (AGR) Duty. AD performed by a member of an RC of the Army, Navy, Air Force, or Marine Corps, Coast Guard, or FTNGD performed by a member of the National Guard under an order to AD or FTNGD for a period of 180 consecutive days or more for organizing, administering, recruiting, instructing, or training the Reserve components. Personel performing such duty are included in the Full Time Support numbers for each RC under the collective title of AGR. This includes Navy Training and Administration of Reserves, Marine Corps Active Reserves, Reserves, and Coast Guard Reserve Program Administrators.

E1.1.6. Annual Training (AT). It is the minimum period of training that Reserve members must perform each year to satisfy the training requirements associated with their RC's assignment. The primary purpose of AT is to provide individual and/or unit readiness training, but AT may support AC missions and requirements; i.e., operational support, thereby adding substance to the Total Force.

E1.1.7. Contributory Support. Support to military operations or missions, other than war or contingency operations, provided by members or units of the RCs.

E.1.1.8. Full-Time National Guard Duty (FTNGD). Training or other duty, other than inactive duty, performed by a member of the ARNGUS or the ANGUS in a member's status as a member of the National Guard of a State territory, the Commonwealth or Puerto Rico, or the District of Columbia as described in 10 U.S.C. 101(d)(5) of reference (d). FTNGD is active service IAW Section 101(d)(3) of reference (d).

E1.1.9. Inactive Duty Training (IDT). Authorized training performed by members of an RC not on AD, and performed in connection with the prescribed activities of the RC, of which they are a member. It consists of regularly scheduled unit training periods, ATPs, and equivalent training as defined in DoD Instruction 1215.19 (reference (e)). The primary purpose of IDT is to provide individual and/or unit readiness training, but IDT may support AC missions and requirements, i.e., operational support, thereby adding substance to the Total Force. IDT also encompasses muster duty, in the performance of the annual screening program.

E1.1.10 Inital Active Duty Training (IADT). Training that provides basic military training and technical skill training required for all enlisted accessions. Provisions regarding IADT for non-prior Service persons, enlisted members receiving stipends under the Armed Forces Health Professions Stipend Program for Reserve Service, and all other enlistees and/or inductees are provided in reference(e).

E1.1.11. Involuntary Active Duty. Duty used in support of military operations when it is determined by the President or the Congress that RC forces are required to augment the AC. It is provided for within the provisions of Sections 12301 and 12302 of reference (d) for full and partial mobilization, respectively, Section 12304 of reference (d) for Presidential Selected Reserve Call-Up authority, and 14 U.S.C. 712 (reference (f)) for Secretary of Transportation Coast Guard Reserve call-ups for domestic emergencies. For other purposes, Secretaries concerned may order members involuntarily to AD IAW provisions of Section 12301(b) or 12303 of reference (d).

E1.1.12. Muster Duty (MD). A special category of IDT. Meets the continuous screening requirement established by Section 10149 of reference (d). A member of the Ready Reserve may be ordered without his consent to MD one time a year by an authority designated by the Secretary concerned IAW Section 12319 of reference (d).

E1.1.13. Other Training Duty (OTD). Training, other than IADT or AT, that provides all other structured training, to include on the job training, for individuals or units to enhance proficiency. OTD is authorized to provide for full-time attendance at organized and planned specialized skill training, refresher and proficiency training, and professional development education programs. It provides RC members with necessary skills and disciplines supporting RC missions. It should provide a primary training content to the recipient. The primary purpose of ODT is to provide individual and/or unit readiness training, but ODT may support AC missions and requirements; i.e., operational support, thereby adding substance to the Total Force.

E1.1.14. Reserve Component Categories (RCC). Categories identifying an individual's status in an RC. The three RCCs are Ready Reserve, Standby Reserve, and Retired Reserve. Each RC member is identified by a specific RCC designation.

E1.1.15. Training and Retired Categories (TRC). Categories identifying (by specific TRC designator) an RC member's training or retirement status in an RCC and an RC.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the distinguished gentleman from New York (Mr. GILMAN), the dean of the New York delegation.

Mr. GILMAN. Madam Speaker, I thank the gentleman from New Jersey (Mr. SMITH) for yielding me the time.

Madam Speaker, I rise in strong support of H.R. 3423, amending current eligibility requirements for certain veterans to be buried at Arlington National Cemetery, and I want to commend the gentleman from New Jersey (Mr. SMITH), our distinguished chairman of our Committee on Veterans' Affairs, who does so much for our veterans, and the gentleman from Illinois (Mr. EVANS), ranking minority member, for bringing this legislation before us this evening.

This legislation will make eligible for burial at Arlington Cemetery a member or former member of a reserve component of the Armed Forces who, at the time of death, was below the age of 60, who but for his or her age would have been eligible for military retired pay under U.S. Code Title X.

Moreover, the measure also extends eligibility to the member's dependents. This bill also makes eligible for burial at Arlington National Cemetery a member of a reserve component of the Armed Forces who dies in the line of duty while on active duty for training or inactive duty training.

H.R. 3423 further authorizes the Secretary of the Army to construct a memorial at Arlington National Cemetery honoring the victims of the terrorist attacks against the United States on September 11, and in this time when our courageous, dedicated, brave men and women are fighting for our Nation's freedom overseas, it is extremely important that we ensure those who have made the ultimate sacrifice are properly honored.

Accordingly, I urge my colleagues to support this vital veterans legislation.

Mr. EVANS. Madam Speaker, I yield as much time as she may consume to the gentlewoman from Indiana (Ms. CARSON) for any remarks she may make.

Ms. CARSON of Indiana. Madam Speaker, I thank the gentleman from New Jersey (Mr. SMITH), the honorable chairman, and certainly the gentleman from Illinois (Mr. EVANS), the ranking member, for doing a yeoman's job in behalf of those who are certainly deserving of congressional attention and support today bringing forth H.R. 3423, the Arlington National Cemetery bill.

☐ 1830

Captain Burlingame, a former Navy pilot and reservist, served his time well on behalf of these United States. This legislation, like the Constitution when it was written, was amended on several occasions, once we realized as a Nation that something was awry and needed to be addressed. Such is the same case with the Arlington National Cemetery, which received its designation on June 15, 1864, as a military cemetery to hold the Civil War dead. Subsequent to that, Madam Speaker, there have been others who were not a part of the Civil War who have been allowed to be buried in Arlington National Cemetery.

This particular legislation, I would trust, as we give homage to Mr. Burlingame, and certainly embrace the family that he so tragically and suddenly left behind, to his widow and to his children, a special commendation would be in order here on behalf of Captain Burlingame. That is why we believe that it is imperative that we modify the age requirement for those whose remains rest at Arlington Cemetery. And I would encourage those of us who are still blessed to have an opportunity to speak here today would be enthusiastically supportive of this measure and to reiterate our strong prayers and sympathy for the family that Captain Burlingame left behind.

While we cannot remove the pain and the horror that emitted from September 11, this is one act that we can at least do as Members of Congress to ensure the rightful placement of Captain Burlingame's remains in the Arlington National Cemetery.

Madam Speaker, I encourage unanimous support of this measure and also commend the ranking member for his successful amendment in terms of a monument at Arlington National Cemetery in recognition of all of those who prematurely lost their lives on September 11.

Mr. SMITH of New Jersey. Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3423, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SMITH of New Jersey. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

LIVING AMERICAN HERO APPRECIATION ACT

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2561) to increase the rate of special pension for recipients of the Medal of Honor, to authorize those recipients to be furnished an additional medal for display purposes, to increase the criminal penalties associated with misuse or fraud relating to the Medal of Honor, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Living American Hero Appreciation Act".

SEC. 2. INCREASE IN RATE OF SPECIAL PENSION FOR MEDAL OF HONOR RECIPIENTS AND RETROACTIVITY OF PAYMENTS TO DATE OF ACTION.

(a) INCREASE IN SPECIAL PENSION.—Section 1562(a) of title 38, United States Code, is amended by striking "a special pension at the rate of" and all that follows through the period at the end and inserting "a special pension, beginning as of the first day of the first month that begins after the date of the act for which that person was awarded the Medal of Honor. The special pension shall be at the rate of $1000, as increased from time to time under section 5312(a) of this title.".

(b) COST OF LIVING ADJUSTMENT.—Section 5312(a) of such title is amended by inserting after "children," the following: "the rate of special pension paid under section 1562 of this title,".

(c) LUMP SUM PAYMENT FOR EXISTING MEDAL OF HONOR RECIPIENTS.—The Secretary of Veterans Affairs shall, within 60 days after the date of the enactment of this Act, make a lump sum payment to each person who is, immediately before the date of the enactment of this Act, in receipt of the pension payable under section 1562 of title 38, United States Code (as amended by subsection (a)). Such payment shall be in the amount equal to the total amount of special pension that the person would have received had the person received special pension during the period beginning as of the first day of the first month that began after the date of the act for which that person was awarded the Medal of Honor and ending with the last day of the month preceding the month that such person's special pension in fact commenced. For each month of such period, the amount of special pension shall be determined using the rate of special pension that was in effect for that month.

SEC. 3. CRIMINAL PENALTY FOR UNAUTHORIZED PURCHASE OR POSSESSION OF MEDAL OF HONOR OR FOR FALSE PERSONATION AS A RECIPIENT OF MEDAL OF HONOR.

(a) UNAUTHORIZED PURCHASE OR POSSESSION.—Section 704 of title 18, United States Code; is amended—

(1) in subsection (a) by striking "IN GENERAL.—Whoever" and inserting "IN GENERAL.—Except as provided in subsection (b), whoever"; and

(2) by amending subsection (b) to read as follows:

"(b) MEDAL OF HONOR.—

"(1) IN GENERAL.—Whoever knowingly wears, possesses, manufactures, purchases, or sells a Medal of Honor, or the ribbon, button, or rosette of a Medal of Honor, or any colorable imitation thereof, except when authorized under regulations made pursuant to law, shall be fined under this title or imprisoned not more than one year, or both.

"(2) DEFINITIONS.—As used in this subsection:

"(A) The term 'Medal of Honor' means—

"(i) a medal of honor awarded under section 3741, 6241, or 8741 of title 10 or under section 491 of title 14;

"(ii) a duplicate medal of honor issued under section 3754, 6256, or 8753 of title 10 or under section 504 of title 14; or

"(iii) a replacement of a medal of honor provided under section 3747, 6253, or 8751 of title 10 or under section 501 of title 14.

"(B) The term 'sells' includes trades, barters, or exchanges for anything of value.".

(b) FALSE PERSONATION.—(1) Chapter 43 of such title is amended by adding at the end the following new section:

"§918. Medal of honor recipient

"(a) Whoever falsely or fraudulently holds himself out as having been, or represents or pretends himself to have been, awarded a medal of honor shall be fined under this title or imprisoned not more than one year, or both.

"(b) As used in this section, the term 'medal of honor' means a medal awarded under section 3741, 6241, or 8741 of title 10 or under section 491 of title 14.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"918. Medal of honor recipient.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise this afternoon in strong support of H.R. 2561, which increases to $1,000 per month the special pension payable to those veterans who have been awarded the Congressional Medal of Honor.

To date, 3,455 Medals of Honor have been awarded for 3,450 separate acts of heroism. There are today 149 living recipients of this highest of awards. Fifty-five percent of the living recipients earned their medals more than 50 years ago while serving in World War II or in Korea.

In April of 1916, Madam Speaker, monetary benefits were first established for Medal of Honor recipients in the amount of $10 per month. In 1961, the rate was increased to $100, and not increased again until 1978. Public Law 95–469 increased this pension to $200. The Medal of Honor pension remained at $200 until 1993, when it was increased to $400 in Public Law 103–161. Congress again increased the pension to $600 in 1998.

Madam Speaker, the Medal of Honor is the highest award for military valor that can be bestowed upon an individual serving in our Armed Forces. It is only fitting that living recipients, who are real heroes, be accorded this special recognition for the most supreme acts of bravery and sacrifice for our country.

Madam Speaker, I want to commend the gentleman from Pennsylvania (Mr. WELDON), the prime sponsor of this bill, for introducing it, for having the sensitivity to our great war heroes, and the great need that they have for this kind of recognition. It is a good bill.

Madam Speaker, I reserve the balance of my time

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume; and I am pleased to support H.R. 2561, the Living American Hero Appreciation Act. The bill was crafted to demonstrate our unequivocal support for Medal of Honor recipients, and I urge my colleagues to join me in doing this today.

In the name of the Congress, the President presents the Medal of Honor. It is the highest honor that can be bestowed on any American citizen. Only 3,455 Americans have been awarded Medals of Honor, and today only 149 of them are still living.

As the ranking Democrat on the Committee on Veterans' Affairs, as a senior member of the Committee on Armed Services, and as a United States Marine, I feel strongly that these heroes represent a rare breed. Their vigilant contributions must be honored and supported by all Americans.

Accordingly, I am pleased that this measure would increase from $600 to $1,000 the monthly amount paid to the recipients of the Medal of Honor. In addition, the bill will provide an additional medal for use in display or exhibits to those recipients who desire one. The bill would also permit space-available travel for medal recipients and their accompanying spouses, and directs the Secretary of Veterans Affairs to grant appropriated amounts for the Congressional Medal of Honor Society in order to operate that society's primary office.

H.R. 2561 would also provide criminal penalties for the unauthorized purchase or possession of a medal and also for making a false representation as a medal recipient. This bill deserves the support of all our colleagues.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WELDON), the author of the pending legislation.

Mr. WELDON of Pennsylvania. Madam Speaker, I thank my good friend and colleague and leader, the gentleman from New Jersey (Mr. SMITH), for his outstanding work on this bill, and my good friend and colleague, the gentleman from Illinois (Mr. EVANS), who is also a colleague on the Committee on Armed Services, for his great work on behalf of our veterans and on behalf of our military.

This is an important piece of legislation; and this Congress has really stood up, under the chairman and ranking member's leadership, to help out our veterans and our military. I am proud that this year, even though we had some terrible tragedies here in our country, that we are finally recognizing the true heroes in America. Because they are not in Hollywood, they are not on our ball fields, they are not in our State capitals, or even here in Washington. Our real heroes are the men and women who serve this country every day, either in the military or in our domestic support operations, our fire and EMS community.

When the defense bill passed this past week, we in fact authorized $900 million a year of new money to help our domestic heroes, our fire and EMS personnel. This bill completes the story by allowing us to finally provide the appropriate recognition for our Congressional Medal of Honor winners.

I was approached by the Society of the Congressional Medal of Honor recipients earlier this year with some frustrations they had had. One was that medals had in fact been stolen in the past, and there was not an appropriate level of jurisprudence for us to hold those people accountable who in fact had stolen medals. In fact, 5 years ago, we actually had a company produce false medals. This bill corrects that.

Second, there was a statement of a need to provide for a second medal so that Medal of Honor recipients can go out and tell their story. They can go to schools and speak on college campuses, to civic groups, and still have that medal back home. So they have two of the appropriate medals. This bill takes care of that.

Finally, it increases the stipend for the Medal of Honor recipients, because these are people that we should be encouraging to go out and speak to our young people. These are the real American heroes in this country. This bill provides an increase in their stipend and encourages them to go out and tell their story.

I am disappointed we could not get the approval from one of our committees to add a provision that would have allowed spouses to travel on space available on our military planes. But we will come back and fight that battle in another session. This bill does in fact show that our Congressional Medal of Honor recipients are the true heroes and that this Congress is responding to the work they have done on behalf of our country.

It is essential for me to acknowledge that without the persistent encouragement of two people, two patriotic Marines, Wally Nunn, my good friend, living in my sixth district, who is in fact the chairman of the board of the society, and Mike Linquist, the staff director, if they had not been involved, this bill would not be here today. And to all those who have received the Medal of Honor, and their families, we say, Job well done. We're proud of your work.

Madam Speaker, I will place into the RECORD the story of two great heroes, Secretary Barney Barnum and retired Major General Jim Livingston, and the actions that caused them to receive this highest award that America offers.

> At a place called Ky Phu in the Quang Tin Province of Vietnam, the now Secretary Barney Barnum along with his company were engulfed in severe enemy fire and cut off from the remainder of the battalion. With his friends dying around him, then Lieutenant removed the radio from the dead operator and assumed command of the rifle company. Moving into the midst of heavy fire, he reorganized the replacement of lost personnel and led the successful counterattack on enemy positions. After clearing an area and ordering the landing of transport helicopters for the evacuation of the dead and wounded, he joined those remaining in securing the area and seizing the battalion's objective.
>
> Three years later, Retired Major General Jim Livingston, the then commanding officer of E Company, led an assault on the heavily fortified village of Dai Do. The Captain maneuvered and encouraged his men to assault enemy positions across 500 meters of open rice paddy while under intense fire. Despite being wounded twice by grenade fragments, he led an attack that destroyed over 100 mutually supporting bunkers and emplacements around the village, but all was not done. After another company was suffering a damaging counterattack by the enemy, Jim Livingston and his men came to their support. Although wounded a third time and unable to walk, he remained in the not yet secure area to organize the safe evacuation of his men.

Mr. EVANS. Madam Speaker, I yield such time as she may consume to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Madam Speaker, first I would like to thank the chairman and the ranking member of the Committee on Veterans' Affairs for bringing this bill to the floor for a vote.

I rise today in strong support of H.R. 2561, the Living American Hero Appreciation Act. This legislation pays tribute to some of our Nation's bravest veterans, Medal of Honor recipients, by increasing their monthly special pension. H.R. 2561 will ensure fair and equal treatment in payment of pensions to all Medal of Honor recipients.

These individuals served our country faithfully and engaged in extraordinary acts of courage and heroism. Many of them gave their lives in preservation of our ideals, our freedom, and our way of life. Each of their stories is unique.

According to Department of Defense records, one Medal of Honor recipient fought alone in the face of enemy fire to prevent a surprise attack against the United States troops. Another Medal of Honor recipient put himself directly in the line of sniper fire while attempting to rescue a downed helicopter pilot and his crew.

Today, there are 151 living Medal of Honor recipients, and they are all truly special individuals. They deserve our gratitude, and I am pleased that today this House is taking steps to ensure that they receive fair pension pay.

Mr. SMITH of New Jersey. Madam Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Madam Speaker, I thank the gentleman for yielding me this time.

I am pleased today to rise to urge support for H.R. 2561, the Living American Hero Appreciation Act, a bill which was introduced by the gentleman from Pennsylvania (Mr. WELDON), which I cosponsored, and which increases from $600 to $1,000 the monthly special pension for Congressional Medal of Honor recipients.

I commend the gentleman from Pennsylvania (Mr. WELDON) for working on this measure and bringing it before us, and I commend too the distinguished chairman of our Committee on Veterans' Affairs, the gentleman from New Jersey (Mr. SMITH), and the ranking committee member, the gentleman from Illinois (Mr. EVANS), for their support.

H.R. 2561 makes such increases in the monthly special pension retroactive from the date the medal was awarded, and makes such amounts subject to an annual cost-of-living adjustment. It also directs the Secretary of Veterans Affairs to make a lump sum payment to existing medal recipients for any retroactive amounts due as a result of this increase.

☐ 1845

Moreover, the measure requires an individual awarded a medal, upon request, be issued another medal for display. The measure also requires criminal penalties for any unauthorized purchase or possession of a medal or for false representation as a medal recipient.

It also directs the Secretary to grant to the Congressional Medal of Honor Society appropriated amounts for the operation of its principal office, and directs the Secretary of Defense in providing space-available transportation to a medal recipient for an official Department of Defense activity, and provide such transportation to an accompanying spouse.

Madam Speaker, this measure is long overdue and recognizes the contributions made by the Medal of Honor recipients to secure the freedoms which we cherish in this Nation. I urge my colleagues to fully support this measure.

Mr. EVANS. Madam Speaker, I yield back the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 2561, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL SHELTON CONGRESSIONAL GOLD MEDAL ACT

Mr. KING. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2751) to authorize the President to award a gold medal on behalf of the Congress to General Henry H. Shelton and to provide for the production of bronze duplicates of such medal for sale to the public, as amended.

The Clerk read as follows:

H.R. 2751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Shelton Congressional Gold Medal Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) General Henry H. Shelton, Chairman of the Joint Chiefs of Staff, the principal military adviser to the President, the National Security Council, and the Secretary of Defense, has displayed strong leadership, competence, and professionalism in fulfilling his statutory responsibilities throughout Operation Allied Force.

(2) General Shelton and his subordinates brilliantly planned and coordinated at the national level the successful air campaign in support of Operation Allied Force.

(3) General Shelton's leadership, foresight, and determination were directly responsible for ensuring a decisive military victory without a single allied combat casualty in Kosovo in 1999.

(4) As the principal military adviser to the President of the United States, the National Security Council, and the Secretary of Defense, General Shelton's assessments, judgments, recommendations, and determination were invaluable and instrumental in the unprecedented military victory against the forces of Slobodan Milosevic.

(5) General Shelton's distinction as a "soldier's soldier", as Chairman of the Joint Chiefs of Staff, and throughout his military service, including command of the Special Operations Command, the 18th Airborne Corps at Fort Bragg, North Carolina, helicopter forces in Operation Desert Storm, and special forces Green Berets in Vietnam, serves as an inspiration to the Congress and the people of the United States, a grateful Nation.

SEC. 3. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to General Henry H. Shelton a gold medal of appropriate design in recognition of his performance as a military leader in coordinating the planning, strategy, and execution of the United States and NATO combat action and his invaluable contributions to the United States and to the successful return to peace in the Balkans as Chairman of the Joint Chiefs of Staff.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 4. DUPLICATE MEDALS.

The Secretary may strike bronze duplicates of the gold medal struck pursuant to section 3, under such regulations as the Secretary may prescribe, and may sell such bronze duplicates at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 5. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $30,000 to carry out section 3.

(b) PROCEEDS OF SALES.—Amounts received from sales of duplicate bronze medals under section 4 shall be credited to the appropriation made pursuant to the authorization provided in subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. KING) and the gentlewoman from New York (Mrs. MALONEY) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. KING).

GENERAL LEAVE

Mr. KING. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation, and insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KING. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise this evening to urge all Members to support H.R. 2751, the General Shelton Congressional Gold Medal Act which would grant the Congressional Gold Medal to General Hugh Shelton, former chairman of the Joint Chiefs of Staff, in recognition of his long and distinguished service to the Nation.

Madam Speaker, General Shelton was a soldier's soldier throughout his military service, which included command of the Special Operations Command, the 18th Airborne Corps at Fort Bragg, North Carolina, helicopter forces in Operation Desert Storm, and special forces Green Berets in Vietnam.

I want to especially congratulate the gentleman from North Carolina (Mr. ETHERIDGE) for his efforts in bringing this bill to the floor this evening.

Madam Speaker, as chairman of the Joint Chiefs, General Shelton was the principal adviser to the President, the National Security Council, and the Secretary of Defense. In that role, he displayed an extraordinary degree of ability and professionalism. His leadership, foresight and determination were directly responsible for ensuring that proper military force was applied to bring about decisive military victory without a single allied combat casualty in the Kosovo campaign in 1999. General Shelton's career serves as inspiration to the Congress and the people of the United States, which is indeed a grateful Nation. Madam Speaker, I urge adoption of the legislation.

Madam Speaker, I reserve the balance of my time.

Mrs. MALONEY of New York. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 2751, the General Shelton Congressional Gold Medal Act. This bill honors a truly great American hero and military leader.

In October of this year, General Hugh Shelton retired as Chairman of the Joint Chiefs of Staff. The General wore our Nation's uniform for 38 years, and America owes him a special debt of gratitude for his unsurpassed leadership as our senior military officer.

As the principal military adviser to the President and other civilian officials, General Shelton played a key role in the historic success of Operation Allied Force in extracting the Serbian forces of Slobodan Milosevic from Kosovo. His leadership, foresight and determination were directly responsible for this decisive and historic military victory without a single allied combat casualty. Throughout his near four decades of service to our Nation's military, General Shelton has displayed an admirable dedication to duty and professionalism.

The General Shelton Congressional Gold Medal Act will bestow a fitting tribute to this superior warrior and great American. I urge my colleagues to support H.R. 2751.

Madam Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. ETHERIDGE), and commend the gentleman on his hard work in bringing this important bill to the floor this evening.

Mr. ETHERIDGE. Madam Speaker, I thank the gentlewoman for yielding me this time. I thank the chairman and the ranking member of the Committee on Financial Services for approving this important piece of legislation and getting it to the floor this evening.

Madam Speaker, the two previous bills really set the stage for this piece of legislation this evening because we really are talking about our heroes in this country. I am reminded as we start to talk about this legislation this evening, I remember when I presented General Shelton to the Members of Congress right after he was sworn in as chairman of the Joint Chiefs.

He grew up in what was then my congressional district. North Carolina changed districts in 1998, and his parents now live in the district of the gentlewoman from North Carolina (Mrs. CLAYTON), but I said that evening that General Shelton and I came from areas so small that we would use the adjoining town to determine where we were from, we were from crossroads communities, but that has nothing to do with a man that has risen to the heights of General Shelton.

Madam Speaker, as Members have heard, on October 1, U.S. Army General Henry H. "Hugh" Shelton retired as Joint Chiefs of Staff of the United States. General Shelton's retirement capped an extraordinary military career that brought him from the farm fields of eastern North Carolina to the jungles of Vietnam, to Desert Storm and the sands in the Middle East, to the top command of the most powerful military force on the face of the earth.

This bipartisan bill will bestow a fitting tribute to this superior warrior and great American who served our Nation with distinction for 38 years. Henry H. Shelton was born in 1942 in a small, rural crossroads community of Speed, North Carolina. He earned a Bachelor of Science degree from North Carolina State University in my congressional district before going on to earn a Master of Science degree from Auburn University. Having joined ROTC, the Reserve Officer Training Corps, while in college, Hugh Shelton was commissioned as a Second Lieutenant in the infantry in 1963.

General Shelton served two tours of duty in Vietnam, the first with the Fifth Special Forces Group, the second with the 173rd Airborne Brigade, before rising to command the 1st Brigade of the 82nd Airborne Division at Fort Bragg, North Carolina. After promotion to brigadier general, he served with the 101st Airborne Division during his 7-month deployment to Saudi Arabia for Operation Desert Shield and Desert Storm. He returned to Fort Bragg after the Persian Gulf War and commanded the legendary 82nd Airborne Division. He served as Commander-in-Chief of United States Special Forces Command prior to his two tours as Chairman of the Joint Chiefs of Staff. General Shelton's awards, decorations and medals are too numerous to list now, but I include them for the RECORD.

The text of the article is as follows:

General Henry H. Shelton

CHAIRMAN OF THE JOINT CHIEFS OF STAFF

General Henry H. Shelton became the fourteenth Chairman of the Joint Chiefs of Staff on Oct. 1, 1997, and was reconfirmed by the Senate for a second two-year term in 1999. In this capacity, he serves as the principal military advisor to the President, the Secretary of Defense, and the National Security Council. Prior to becoming Chairman, he served as Commander in Chief of the United States Special Operations Command.

Born in Tarboro, North Carolina in January, 1942, General Shelton earned a Bachelor of Science degree from North Carolina State University and a Master of Science degree from Auburn University. His military education includes completion of the Air Command and Staff College and the National War College.

Commissioned a second lieutenant in the Infantry in 1963 through the Reserve Officer Training Corps, General Shelton spent the next 24 years in a variety of command and staff positions in the continental United States, Hawaii, and Vietnam. He served two tours in Vietnam—the first with the 5th Special Forces Group, the second with the 173d Airborne Brigade. He also commanded the 3d Battalion, 60th Infantry in the 9th Infantry Division at Fort Lewis, Washington, served as the 9th Infantry Division's assistant chief of staff for operations, commanded the 1st Brigade of the 82d Airborne Division at Fort Bragg, North Carolina, and served as the Chief of Staff of the 10th Mountain Division at Fort Drum, New York.

Following selection for brigadier general in 1987, General Shelton served two years in the Operations Directorate of the Joint Staff. In 1989, he began a two-year assignment as Assistant Division Commander for Operations of the 101st Airborne Division (Air Assault), a tour that included the Division's seven-month deployment to Saudi Arabia for Operations Desert Shield and Desert Storm. Upon returning from the Gulf War, General Shelton was promoted to major general and assigned to Fort Bragg, North Carolina, where he assumed command of the 82d Airborne Division. In 1993, he was promoted to lieutenant general and assumed command of the XVIIIth Airborne Corps. In 1994, while serving as corps commander, General Shelton commanded the Joint Task Force that conducted Operation Uphold Democracy in Haiti. In March 1996, he was promoted to general and became Commander in Chief of the U.S. Special Operations Command.

General Shelton's awards and decorations include the Defense Distinguished Service Medal (with 2 oak leaf clusters), Distinguished Service Medal, Legion of Merit (with oak leaf cluster), Bronze Star Medal with V device (with 3 oak leaf clusters), and the Purple Heart. He has also been awarded the Combat Infantryman Badge, Joint Chiefs of Staff Identification Badge, Master Parachutist Badge, Pathfinder Badge, Air Assault Badge, Military Freefall Badge, and Special Forces and Ranger Tabs.

General Shelton is married and has three sons.

Madam Speaker, General Shelton's leadership helped transform our Nation's military into the versatile power projector the world has witnessed in Afghanistan. General Shelton is a genuine American hero, and Congress has the opportunity to act this evening on this appropriate honor. H.R. 2751 is virtually identical to the legislation I introduced earlier, and virtually identical to legislation that was passed almost a decade ago honoring another Chairman of the Joint Chiefs, General Colin Powell, who is now our Secretary of State, and later it was awarded to General Norman Schwarzkopf.

Madam Speaker, I want to thank my many colleagues on both sides of the aisle who have worked with me over the past 2 years to bring this bill to the floor. I urge this House to pass this piece of legislation this evening to honor a great American.

Mr. KING. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN), the chairman emeritus of the Committee on International Relations.

Mr. GILMAN. Madam Speaker, I am pleased to rise in strong support of H.R. 2751 which authorizes the President to award the Congressional Gold Medal on behalf of the Congress to a good friend and an exceptional soldier, General Henry "Hugh" Shelton, the 14th Chairman of our Joint Chiefs of Staff.

On October 1, 2001, General Shelton concluded his second term as the principal military adviser to the President, the Secretary of Defense, and to the National Security Council. Madam Speaker, during his distinguished career, General Shelton served in a variety of command and staff positions in the United States and abroad, as a combat veteran of Vietnam and the Gulf War. During his two tours in Vietnam, he served with the 5th Special Forces Group and with the 173rd Airborne Brigade. It was during his service in Vietnam where he earned the Purple Heart.

A testament to General Shelton's exceptional leadership and his commitment to the Nation, was his meteoric rise through the Army's general officer ranks from brigadier general through general in 9 years. Madam Speaker, General Shelton sought and received the largest across-the-board pay increases for the military in nearly 2 decades, pushed for greater salary increases for mid-grade noncommissioned officers, and instituted a retirement reform package that reinstated benefits for those who entered our Nation's military after 1986. He implemented an enhanced housing allowance that gradually eliminated out-of-pocket expenses for service members living off their post or base, and advocated for medical health care reform which made health care more responsive to the needs of our military and their families, and included military retirees over the age of 65.

During General Shelton's distinguished career, he was awarded numerous awards and decorations, including the Defense Distinguished Service Medal with two oak leaf clusters, and Distinguished Service Medal, the Legion of Merit, the Bronze Star with V device with three oak leaf clusters, and a Purple Heart for injuries received during combat in Vietnam.

During his tenure as the 14th Chairman of the Joint Chiefs of Staff, General Shelton served our Nation with honor and distinction. And while he may have served as a senior military officer and operated at the highest levels of government, he never lost touch with his men and women in uniform, and no matter how busy or overcommitted he was, he always made time to assist others.

While H.R. 2751 authorizes the President to confer the Congressional Gold Medal on General Shelton, it also is conferred on his family for their support. General Shelton's wife, Carolyn, deserves our recognition and thanks for her hard work, tireless efforts, her dedication and support of our military families during her service to our Nation. General and Mrs. Shelton's three sons, Jonathan, Jeffrey and Mark, deserve our thanks for supporting their father during his distinguished service.

Madam Speaker, I urge my colleagues to join in expressing our gratitude to General Henry "Hugh" Shelton, the 14th chairman of our Joint Chiefs of Staff by supporting this measure and authorizing the President to award the Congressional Gold Medal to a superb leader, a quiet, diplomat warrior, a gentleman in the truest sense of the word, and a true friend of our great Nation.

□ 1900

Mrs. MALONEY of New York. Madam Speaker, I reserve the balance of my time.

Mr. KING. Madam Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Madam Speaker, I thank the gentleman for yielding me this time. I want to say to my friend, the gentleman from North Carolina (Mr. ETHERIDGE), one of my colleagues, that I fully support his H.R. 2751.

Madam Speaker, I am from eastern North Carolina. I am from a small area in rural America. My county of Pitt County actually connects with the county where General Shelton was from, Edgecombe County, a little town called Speed. I think if I wanted to make my comment for the record tonight, which we all have talked about his outstanding military record, and it is outstanding, there is no question about it, but the fact is that Hugh Shelton came from rural America where they fully understand the values of family, church and patriotism and dedication to this great Nation known as the United States of America. General Shelton, quite frankly, takes great pride in the fact, and I am sure that the gentleman from North Carolina (Mr. ETHERIDGE) mentioned this, that he is a graduate of NC State University, and he distinguished himself there as a student and also as he was in the ROTC program.

As Chairman GILMAN said, I have been on the Committee on Armed Services for 7 years, going on my eighth year now. Most of us on the Committee on Armed Services, both parties, we fully work together in a very bipartisan way for the good of our military. When you look at the leadership that General Shelton brought to the Armed Forces, in particular the Army, and then when he became Chairman of the Joint Chiefs, that he could be the leader to remind the Congress, quite frankly, that our men and women in uniform deserve the very best. He was a strong advocate for the men and women in uniform.

As has been mentioned by the gentleman from North Carolina (Mr. ETHERIDGE) and the gentleman from New York (Mr. GILMAN), General Shelton fully understood the quality-of-life issues that many in this Nation take for granted when we talk about our military. We must do more. That is what General Shelton fought for, to make sure that the men and women in uniform had the very best housing and adequate housing possible. He also was one who led the fight here in the Congress when he appeared before the committees on pay increases, that our men and women in uniform need to have the very best pay possible, because these are the men and women when called upon that will give their life for this Nation, like they are doing now in Afghanistan and other parts of the world.

I really cannot add a whole lot to what has been said already. General Shelton is very deserving of this award, should the Congress, which I am sure we will 100 percent, decide that he should be recognized in this way. I want to say to General Shelton and his family that he has been a great soldier for the United States of America, he has been a great leader of our military for the United States of America, and his service to this Nation will be long remembered.

I would just like to say to General Shelton, thank you for your leadership in wartime; thank you for your leadership in peace. God bless General Shelton and his family and God bless America.

Mr. KING. Madam Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Madam Speaker, I thank the gentleman for yielding me this time.

Today we are honoring a great American. I am proud to support this legislation that will award General Shelton the Congressional Gold Medal.

General Henry H. Shelton was born and raised in Edgecombe County, North Carolina. As Chairman of the Joint Chiefs of Staff, General Henry H. Shelton advised President Clinton and was his principal military strategist. He also played a great role in the air war in Kosovo in 1999. As a North Carolinian, I am most proud to say that General Shelton commanded both the 18th Airborne Corps and Special Operations Command in my district at Fort Bragg, North Carolina. General Shelton is distinguished as a "soldier's soldier" and time and time again has displayed an extraordinary degree of leadership, competence, and professionalism.

While it is right and appropriate that we recognize the service to our Nation that the General has performed today in Congress, I have also been working on commemorating him down home in my district in North Carolina right at Fort Bragg. Folks at Fort Bragg think of him as one of their own. In order to properly keep his legacy alive, it is proper to recognize him at Fort Bragg. That is why I worked to include language in the defense authorization bill for the fiscal year 2002 that was passed just this past Thursday to name a soldier support center currently being renovated on post in General Shelton's honor. So today while we honor General Hugh Shelton with the Congressional Gold Medal, we can be certain that the troops he led and commanded at Fort Bragg will also remember this great American.

I am proud that today we are recognizing the accomplishments and service of General Hugh Shelton and commemorate General Shelton for his dedication and selfless contribution to our great Nation.

I thank the gentleman from North Carolina (Mr. ETHERIDGE) for bringing this forward.

Mrs. MALONEY of New York. Madam Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. MCINTYRE).

Mr. MCINTYRE. Madam Speaker, General Shelton is a man of concern, commitment, and courage. His concern for freedom and family and faith led him in his desire to join the ROTC when he was a young man at North Carolina State University. His commitment to God and to his country and to his fellow man led to his staying in the U.S. Army not only after college but, as we all know, for quite a long and distinguished career. His courage to withstand the assaults upon liberty and freedom as a general throughout serving all the ranks in the Army as well as ultimately serving as Chairman of the Joint Chiefs of Staff led him to serve the United States of America with character and integrity, a testimony both to his Christian faith and to his unselfish sense of public service.

We in the United States Congress should be pleased to have this opportunity to stand with a man who has stood for what America is all about through his concern, his commitment, and his courage.

May God bless us with more leaders like Hugh Shelton, and may we honor General Shelton here tonight with this legislation that is pending before us.

Mrs. MALONEY of New York. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KING. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New York (Mr. KING) that the House suspend the rules and pass the bill, H.R. 2751, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2751, GENERAL SHELTON CONGRESSIONAL GOLD MEDAL ACT

Mr. KING. Madam Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 2751) the Clerk be authorized to correct section numbers, punctuation, and make such other technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDING PUBLIC HEALTH SERVICE ACT WITH RESPECT TO ORGAN PROCUREMENT ORGANIZATIONS

Mr. BILIRAKIS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3504) to amend the Public Health Service Act with respect to qualified organ procurement organizations.

The Clerk read as follows:

H.R. 3504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 371(b)(1) of the Public Health Service Act (42 U.S.C. 273(b)(1)) is amended by striking subparagraph (D) and all that follows and inserting the following:

"(D) notwithstanding any other provision of law, has met the other requirements of this section and has been certified or recertified by the Secretary as meeting the performance standards to be a qualified organ procurement organization through a process that granted certification or recertification with such certification or recertification in effect as of January 1, 2000, and remaining in effect through the completion of certification or recertification, no earlier than July 31, 2004, as is defined through regulations that are promulgated by the Secretary that—

"(i) require recertifications of qualified organ procurement organizations not more frequently than once every 4 years,

"(ii) rely on outcome and process performance measures that are based on empirical evidence, obtained through reasonable efforts, of organ donor potential and other related factors in each service area of qualified organ procurement organizations,

"(iii) use multiple outcome measures as part of the certification process, and

"(iv) provide for a qualified organ procurement organization to appeal a decertification to the Secretary on substantive and procedural grounds,

"(E) has procedures to obtain payment for non-renal organs provided to transplant centers,

"(F) has a defined service area that is of sufficient size to assure maximum effectiveness in the procurement and equitable distribution of organs, and that either includes an entire metropolitan statistical area (as specified by the Director of the Office of Management and Budget) or does not include any part of the area,

"(G) has a director and such other staff, including the organ donation coordinators and organ procurement specialists necessary to effectively obtain organs from donors in its service area, and

"(H) has a board of directors or an advisory board which—

"(i) is composed of—

"(I) members who represent hospital administrators, intensive care or emergency room personnel, tissue banks, and voluntary health associations in its service area,

"(II) members who represent the public residing in such area,

"(III) a physician with knowledge, experience, or skill in the field of histocompatibility or an individual with a doctorate degree in a biological science with knowledge, experience, or skill in the field of histocompatibility,

"(IV) a physician with knowledge or skill in the field of neurology, and

"(V) from each transplant center in its service area which has arrangements described in paragraph (3)(G) with the organization, a member who is a surgeon who has practicing privileges in such center and who performs organ transplant surgery,

"(ii) has the authority to recommend policies for the procurement of organs and the other functions described in paragraph (3), and

"(iii) has no authority over any other activity of the organization.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today I rise in support of H.R. 3504, a bill to clarify certification requirements for organ procurement organizations, OPOs as we refer to them. Last Congress, the House of Representatives approved a bill to address concerns regarding our national organ transplant system. As we all know, we do not have enough organs in this country to satisfy the needs of those awaiting a transplant. This legislation recognized the importance of the vital network of organ procurement organizations which are responsible for developing, establishing, and maintaining medical criteria and standards for organ procurement and transplantation.

Today the House will consider legislation to clarify that important measure. Last year's legislation changed the 2-year organ procurement organization certification cycle to a 4-year cycle. Switching to a 4-year cycle allows the OPOs to focus on recovering donated organs. Today's legislation will make a technical change to define the start date for the 4-year OPO certification cycle adopted last year by Congress.

This legislation, Madam Speaker, is important for guaranteeing that the 4-year cycle is implemented as quickly as possible to allow for organ procurement organizations to concentrate on organ donation and on serving those Americans in need of organ transplants. Madam Speaker, this is a technical correction to a very important organ donation bill. I urge my colleagues to join me in supporting H.R. 3504.

Madam Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Madam Speaker, I yield myself such time as I may consume.

Last year Congress passed a bill sponsored by my friend and colleague from New Jersey (Mr. PALLONE), a valuable member of the Subcommittee on Health, to allow organ procurement organizations to better obtain their recertification. Current practice is causing OPOs to lose their certification due to an inaccurate way of assessing their performance. This process is disruptive to obtaining organs and tissue for transplant.

The gentleman from New Jersey's bill corrected the existing problems, ensuring the smooth recertification of these important organizations. But to implement the OPO organization language, the Centers for Medicare and Medicaid Services requested clarification from Congress.

This language, Madam Speaker, will ensure that OPO certification will be conducted fairly and will improve the system of procuring organs for transplant and tissue.

Madam Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Madam Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN), chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Madam Speaker, I thank the chairman of the subcommittee, the gentleman from Florida (Mr. BILIRAKIS), for the excellent work he has done here and the gentleman from North Carolina (Mr. BURR) and the gentleman from New Jersey (Mr. PALLONE) for putting this important bill together, because this bill literally will protect the operations of the organ donor organizations and continue their certification through the year 2004 or 2005, which is extremely important if we are going to keep up the business by which Americans contribute organs to the ongoing living needs of those who need organ transplants in our society.

This is the season of giving; and while we pass this important bill to improve the organ transplant structure in this country by ensuring the certification of these organizations, I wanted to give you a good Christmas-giving story that is ongoing at this moment.

Just this afternoon, the children of my State in Louisiana, recognizing this incredible time of year when Americans care for one another and appreciate the coming of the Christ child with gifts to one another, the children of my State came together in a very loving and wonderful way. This afternoon at the White House, the Governor of my State, Governor Foster, arrived with the former Speaker of the House, Hunt Downer, who headed up the project, along with National Guardsmen and State troopers who accompanied them with a brand new fire truck that the children of Louisiana raised in the last several months with nickels and dimes and pennies they collected. They forgave the right to Christmas gifts this year, many of them, to contribute to this fund.

This all began when the Governor of our State, Governor Foster, in his weekly live network of talk on radio that he carries on with the citizens of my State was delivered with the suggestion that the State do this as a gesture of our support in Louisiana for the victims of the awful atrocities that occurred here in Washington and in Pennsylvania and, of course, most dramatically in New York where we saw the heroes, the firemen and the other rescue workers, who were killed in trying to save others' lives in that horrible tragedy.

□ 1915

So the children of my State, with their little nickels and dimes and quarters, and the other folks in our State, got together and contracted with Ferrara Industries in Louisiana, which is one of the largest manufacturers of fire engines, the workers of that plant gave up their overtime, free, to make sure that the project could be conducted under cost, and today they stopped by the White House with this brand new fire engine that the children of Louisiana are presenting to the people of New York and to the brave firemen of that great State who suffered such great losses on September 11.

Not only did they generously raise the money to build that fire engine, but it turns out that they raised twice as much as they expected, and it looks like they may be able to buy and deliver a second fire engine to the fire company in New York and to the citizens of that great State.

This is a beautiful Christmas story. It is a story that I wanted to tell when we took up this organ transplant bill, because it is all about giving. It is all about us remembering our obligations as citizens of this great land to care for one another, particularly when we find ourselves in trouble.

So, from one of the poorest states in America, the State that has some of the highest unemployment and the highest uninsured, one of the lowest per capita income States, the children of one of the poorest states in America, reacting generously at a time of need for fellow citizens in New York, I bring you the greetings of that great State, of our Governor, of our legislature, of our National Guard, of our workers, of our citizens, and, most importantly, of our children, who extend to the folks in New York our sincerest sorrow for what they have gone through, and our sense of bonding with them and this gift that our citizens and our children are making to that great State.

It is in that same spirit that Americans donate organs and that the organ donor organizations work. That is why this bill is so important.

In another minute we will take up another bill dealing with a nursing shortage in this country, a nursing shortage that is going to be felt in New York and was felt in this community when care personnel were unfortunately short and unavailable when so many people were in need. This nursing shortage has to be addressed, and I want to congratulate the gentlewoman from California (Mrs. CAPPS) and the gentleman from Florida (Mr. BILIRAKIS) again for the extraordinary work they did on that bill to begin addressing that great need in our country.

So as we get closer and closer to Christmas Day, when all of us will gather with our families and celebrate the coming of the Christ Child and the spirit of giving, these two bills come before us, one to make sure the organ transplant system continues to work, the second to beef up and to strengthen our nursing corps in America, and on this day the children of Louisiana make this gift to the citizens of New York.

This, unfortunately, while we are still in session waiting for Christmas to come, and hopefully we will get out in time for it, this is still a good day, and it is a good story, and bears repeating and bears mentioning on the floor of the House today. I am proud of my State and the children in Louisiana, as all of us in our delegation are, and we are equally proud of the people of New York and the heroes we saw in New York responding to the awful tragedy and atrocities of September 11. We stand together as one great people, and we stand together as a strong Nation that cares about one another. That is what this bill is about, and that is what the kids in Louisiana are about.

Madam Speaker, I rise in support of H.R. 3504, which makes technical corrections to organ procurement organization legislation the House passed in October 2000. Mr. BURR and Mr. PALLONE are to be commended for their hard work in drafting this bill.

Last year the House passed, and the President signed into law, the Public Health Improvement Act. Among other things, that legislation addressed a very important need in the area of organ donation and procurement. The law recognizes the importance of the vital network of organ procurement organizations, otherwise known as "O-P-O's", around the country and clarified in law the process the Department of Health and Human Services should use in certifying these OPO's and to measure their performance. Members on both sides of the aisle, and in both bodies, worked hard to ensure that HHS's process and procedures will keep pace with change and with technological improvements in the organ donation area.

Our intent last year was clear, Madam Speaker. We intended to create a four-year re-certification cycle for the OPO's. Now, however, we are told by the accrediting agency, CMS, that the statute is unclear on one of the most important provisions of law. Under their interpretation, CMS believes they may have the authority to de-certify OPO's even though

CMS has yet to develop the new criteria for judging OPO's.

Madam Speaker, this is a vitally important issue for our OPO's. They need clarity on the process by which they will be reviewed by HHS. Without this technical correction language, OPO's believe that ambiguity will once again dictate the circumstances under which they are certified and later recertified. This language will ensure all OPO's which were certified as of 2000 will be certified through mid-2004.

Let's let the OPO's do what they do best: increasing the supply of organs to meet our organ transplantation needs. Vote yes on this bill.

Mr. BROWN of Ohio. Madam Speaker, in the bipartisan spirit of the evening, I yield 3 minutes to my friend, the gentleman from North Carolina (Mr. BURR), who has helped write this bill with the gentleman from New Jersey (Mr. PALLONE).

Mr. BURR of North Carolina. Madam Speaker, I thank my good friend for the 3 minutes, and I give my 3 minutes that the subcommittee chairman was going to allow me back to him.

Madam Speaker, it is tough to get up after the chairman of my committee so eloquently told the story of the children in Louisiana, but, you know, I believe every Member of this body can tell a story about some group that reaches out to folks in New York or folks at the Pentagon, whether it is King Elementary School, where the kids just donated $16,000 to charities in New York, or Pinnacle Elementary, that wrote a check to people that they did not see, had never seen and will never know.

But the fact is that it tells us that we are doing something right in this country; that we are raising the next generation of leaders in the right way, where they are giving and not necessarily taking.

We are here today to make sure that the American people understand that there is a system to give life to individuals who need it. We are here to make sure that there is a 4-year certification for those organizations that make sure that organs are provided to individuals whose difference in life is the receipt of that organ, that their ability to continue a normal life, and sometimes to continue life, is the difference between whether they receive the organ or whether they do not.

As the chairman said, this is a technical change to make sure that these organizations have 4 years between certification. Four years makes a tremendous difference in their ability to function in the job that they carry out.

My only hope today, Madam Speaker, is that all Members will take the opportunity as we begin to fix this bill, that they will start a massive campaign in their districts and across this country to get more and more people to donate organs, to make sure that the organs are available for the individuals that need them today. The only way that we will let the American people down is if we cannot promote organ donation in a bigger and more effective way than we do today.

So I thank the gentleman from Florida (Mr. BILIRAKIS), the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Ohio (Mr. BROWN). This is truly a bipartisan effort to make a technical change to a piece of legislation, but it will touch many, many lives.

Mr. BROWN of Ohio. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 3504.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BROWN of Ohio. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

NURSE REINVESTMENT ACT

Mr. BILIRAKIS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3487) to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

The Clerk read as follows:

H.R. 3487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nurse Reinvestment Act".

SEC. 2. PUBLIC SERVICE ANNOUNCEMENTS REGARDING NURSING PROFESSION.

Title VIII of the Public Health Service Act (42 U.S.C. 296 et seq.) is amended by adding at the end the following:

"PART H—PUBLIC SERVICE ANNOUNCEMENTS

"SEC. 851. PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—The Secretary shall develop and issue public service announcements that advertise and promote the nursing profession, highlight the advantages and rewards of nursing, and encourage individuals to enter the nursing profession.

"(b) METHOD.—The public service announcements described in subsection (a) shall be broadcast through appropriate media outlets, including television or radio, in a manner intended to reach as wide and diverse an audience as possible.

"SEC. 852. STATE AND LOCAL PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—The Secretary shall award grants to eligible entities to support State and local advertising campaigns via appropriate media outlets to promote the nursing profession, highlight the advantages and rewards of nursing, and encourage individuals from disadvantaged backgrounds to enter the nursing profession.

"(b) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds received through such grant to acquire local television and radio time, place advertisements in local newspapers, and post information on billboards or on the Internet, in order to—

"(1) advertise and promote the nursing profession;

"(2) promote nursing education programs;

"(3) inform the public of public assistance regarding such education programs;

"(4) highlight individuals in the community that are presently practicing nursing in order to recruit new nurses; and

"(5) provide any other information to recruit individuals for the nursing profession.

"(c) METHOD.—The campaigns described in subsection (a) shall be broadcast on television or radio, or placed in newspapers as advertisements, or posted on billboards or the Internet, in a manner intended to reach as wide and diverse an audience as possible.".

SEC. 3. LOAN REPAYMENT PROGRAM; SCHOLARSHIPS.

(a) LOAN REPAYMENT PROGRAM; ADDITIONAL ASSIGNMENT AUTHORITIES.—Section 846(a) of the Public Health Service Act (42 U.S.C. 297n(a)) is amended—

(1) in paragraph (3)—

(A) by striking "in a public hospital," and inserting "in a public or private hospital (including a critical access hospital or a rural hospital),"; and

(B) by inserting after "rural health clinic," the following: "in a State or local department of public health, in a skilled nursing facility, in a home health agency, in a hospice program (including home settings), in an ambulatory surgical center,"; and

(2) by adding at the end the following: "In the case of a private entity that is not a nonprofit entity and is pursuant to paragraph (3) eligible for an assignment of a nurse, the Secretary may not assign a nurse to such an entity after the expiration of the three-year period beginning on the date of the enactment of the Nurse Reinvestment Act.".

(b) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—Section 846 of the Public Health Service Act (42 U.S.C. 297n) is amended—

(1) in the heading for the section, by striking "PROGRAM" and inserting "AND SCHOLARSHIP PROGRAMS";

(2) by redesignating subsections (d), (f), (g), and (h) as subsections (f), (h), (i), and (g), respectively;

(3) by transferring subsections (f) and (g) (as so redesignated) from their current placements, by inserting subsection (f) after subsection (e), and by inserting subsection (g) after subsection (f) (as so inserted); and

(4) by inserting after subsection (c) the following subsection:

"(d) SCHOLARSHIP PROGRAM.—

"(1) IN GENERAL.—The Secretary may carry out a program of entering into contracts with eligible individuals under which such individuals agree to serve as nurses in designated health facilities in consideration of the Federal Government agreeing to provide to the individuals scholarships for attendance at schools of nursing.

"(2) Eligible Individuals; Designated Health Facilities.—For purposes of this subsection:

"(A) The term 'eligible individual' means an individual who is enrolled or accepted for enrollment as a full-time student in a school of nursing.

"(B) The term 'designated health facility' means any entity that is eligible under subsection (a) for an assignment of a nurse, subject to the provisions of such subsection relating to private entities that are not nonprofit entities.

"(3) Applicability of Certain Provisions.—With respect to the National Health Service Corps Scholarship Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with this section, apply to the program established in paragraph (1) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Scholarship Program established in such subpart.".

(c) Preferences Regarding Participants.—Section 846(e) of the Public Health Service Act (42 U.S.C. 297n(e)) is amended in the matter preceding paragraph (1) by striking "subsection (a)" and inserting "subsection (a) or (d)".

(d) Definitions.—Section 846 of the Public Health Service Act (42 U.S.C. 297n) is amended in subsection (h) (as redesignated by subsection (b)(2) of this section) by amending the subsection to read as follows:

"(h) Definitions.—For purposes of this section:

"(1) The term 'ambulatory surgical center' has the meaning applicable to such term under title XVIII of the Social Security Act.

"(2) The term 'community health center' has the meaning applicable to such term under section 330.

"(3) The term 'home health agency' has the meaning given such term in section 1861(o) of the Social Security Act.

"(4) The term 'hospice program' has the meaning given such term in section 1861(dd)(2) of the Social Security Act.

"(5) The term 'migrant health center' has the meaning applicable to such term under section 330.

"(6) The term 'rural health clinic' has the meaning given such term in section 1861(aa)(2) of the Social Security Act.

"(7) The term 'rural hospital' means a hospital located in a rural area, as defined in section 1886(d)(2)(D) of the Social Security Act.

"(8) The term 'skilled nursing facility' has the meaning given such term in section 1819(a) of the Social Security Act.".

(e) Funding.—Section 846 of the Public Health Service Act (42 U.S.C. 297n) is amended in subsection (i) (as redesignated by subsection (b)(2) of this section) by amending the subsection to read as follows:

"(i) Funding.—

"(1) Authorization of Appropriations.—For the purpose of payments under agreements entered into under subsection (a) or (d), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2007.

"(2) Allocations.—Of the amounts appropriated under paragraph (1), the Secretary may as determined appropriate by the Secretary allocate amounts between the program under subsection (a) and the program under subsection (d).".

SEC. 4. STUDIES BY GENERAL ACCOUNTING OFFICE.

(a) Hiring Differences Among Certain Private Entities.—The Comptroller General of the United States shall conduct a study to determine differences in the hiring of nurses by nonprofit private entities as compared to the hiring of nurses by private entities that are not nonprofit. In carrying out the study, the Comptroller General shall determine the effect of the inclusion of private entities that are not nonprofit in the program under section 846 of the Public Health Service Act. Not later than two years after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report describing the findings of the study.

(b) Nurse Faculty.—

(1) Determination Regarding Shortage of Faculty.—The Comptroller General of the United States shall conduct a study to determine whether and to what extent there is a shortage of faculty for schools of nursing. Not later than June 30, 2002, the Comptroller General shall submit to the Congress a report describing the findings of the study.

(2) Recommendations.—If the Comptroller General determines pursuant to paragraph (1) that there is or will be a shortage of faculty for schools of nursing, the Comptroller General shall, not later than September 30, 2002, submit to the Congress a report providing the recommendations of the Comptroller General for developing scholarship programs, loan repayment programs, private-public partnerships, or other programs through the Department of Health and Human Services to provide for an increase in the number of such faculty, including recommendations on appropriate incentives for nurses to become such faculty.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3487.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 3487, the Nurse Reinvestment Act. Recently we have all read about and heard about issues with recruitment and retention of nursing staff, including both nurses and nurse aides. Our health and long-term care systems rely heavily on the services of these health care professionals.

I would like to thank my colleague, the gentlewoman from California (Mrs. CAPPS), for being such a strong advocate in this field, and I mean strong advocate in this field. We worked together with the gentleman from Louisiana (Mr. TAUZIN); the ranking member, the gentleman from Michigan (Mr. DINGELL); the gentleman from Ohio (Mr. BROWN); the gentleman from Maryland (Mr. EHRLICH); the gentleman from Kentucky (Mr. WHITFIELD); and the gentlewoman from New York (Mrs. KELLY) to craft this bipartisan legislation that addresses the nursing shortage.

Nurses provide the critical medical services necessary to ensure comfortable quality health care. A nurse shortage could seriously diminish the level of medical care in health care facilities. Experts and providers are reporting a current shortage of nurses, partly as a result of patients' increasingly complex care needs.

Unfortunately, young Americans today are not entering the nursing profession. To encourage young people to choose this challenging and fulfilling career, this legislation directs the Secretary of Health and Human Services to create public service announcements, PSAs, designed to promote nursing and nursing education programs and to highlight the benefits and rewards of a career in nursing.

Furthermore, H.R. 3487 expands Title VIII of the Public Health Service Act to include scholarships for students entering the nursing profession. In exchange for a commitment to serve in a health care facility determined to have a critical shortage of nurses, students will receive scholarships to nursing schools.

This bill includes a sunset, to take place after 3 years, on the inclusion of private facilities in this scholarship and loan repayment program. A Government Accounting Office study required under the bill to examine the hiring practices of private and nonprofit facilities is due prior to this sunset. The goal of this legislation is to ensure a strong pool of talented nurses throughout the country for years to come.

Again, Madam Speaker, I would like to recognize the work of the gentlewoman from California (Mrs. CAPPS) in this legislation and thank her for her dedication and persistence on this issue. As a nurse, the gentlewoman from California (Mrs. CAPPS) understands the importance of nurses in our health care system and recognizes the dangers patients could encounter without proper nursing care.

I would also like to thank, in no little way, the gentlewoman from New York (Mrs. KELLY) for taking a leadership role on this issue, particularly on this side of the aisle. Many times, many times, she has talked to me about the need to do something to help solve this problem.

I would like to also mention legislative counsel, Pete Goodloe, for his efforts to work with the Committee on Energy and Commerce on this issue and so many others on the floor possibly today, but at other times. His dedication and service should be not overlooked and certainly deserve more than a brief mention.

I would also like to thank staff who worked so hard on this issue, including Anne Esposito, Jeremy Sharp, John Ford, Katie Porter, and Erin Ockunzzi on our side.

Nurses are invaluable to the success and quality of our health care delivery system. This legislation helps ensure that the Nation will have a well-trained supply of nurses on which to rely. I urge my colleagues to join me and the gentlewoman from California (Mrs. CAPPS) and the gentlewoman from New York (Mrs. KELLY) in support of H.R. 3487, the Nurse Reinvestment Act.

Madam Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, I want to thank both the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Florida (Mr. BILIRAKIS) for their commitment to work with the gentleman from Michigan (Mr. DINGELL) and with the gentlewoman from California (Mrs. CAPPS), whose idea this bill was, and for the particularly good work she did, and to work with me on this modest but important legislation.

The gentlewoman from California (Mrs. CAPPS) has particularly led the charge on an omnibus, more comprehensive bill to deal with the nursing shortage, and this is a very important step we hope we can address in more detail later.

Special thanks to staff members Anne Esposito and Jeremy Sharp for their hard work on this legislation. Anne has been terrific to work with on this bill and many others. Jeremy's father I served with my first term in the legislature, and he was one of the most hard-working, decent people I have had the pleasure to know in my 9 years in this institution.

There is, Madam Speaker, a nursing shortage in this country. It is jeopardizing health care access and quality, and it is getting worse. It is not a theoretical problem; it is a fact.

We especially, as I said earlier, owe a debt of gratitude to the gentlewoman from California (Mrs. CAPPS), the top health care expert in Congress, a registered nurse, a valuable member of the Subcommittee on Health Care, for making sure that this body finally is doing something about it.

The problem is easy to define: There are not enough nurses in the workforce to replace those expected to retire in the next 10 years. But the problem is difficult to address. A host of factors, ranging from working conditions to competing professional opportunities, have contributed to the current shortage.

This bill is not intended to provide all the answers. Its modest but crucial purpose is to get the ball rolling. To alleviate the nursing shortage, we must jump-start recruitment and foster retention.

Key provisions of the bill would establish a nursing degree scholarship program and a major public awareness and recruitment campaign. These strategies make sense. They can be deployed quickly and they will make a difference.

I want to again thank my friend, the gentlewoman from California (Mrs. CAPPS) as well as the gentlewoman from New York (Mrs. KELLY) for raising the profile of the nursing shortage issue.

I urge my colleagues to support this legislation.

Madam Speaker, I ask unanimous consent to yield the balance of my time to the author of this bill, the gentlewoman from California (Mrs. CAPPS), and I ask that she be permitted to yield time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BILIRAKIS. Madam Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. EHRLICH), who, along with the gentleman from Kentucky (Mr. WHITFIELD), has really been just so very strongly in support of doing something regarding this shortage.

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Mr. EHRLICH. Mr. Speaker, I rise to commend this Congress for bringing to this floor important legislation to address the national nursing shortage.

This bill, which the gentlewoman from California (Mrs. CAPPS) has worked so hard to pass, will assist the Secretary of HHS in addressing the nursing shortage around the country.

As we have heard, the bill amends the Public Health Service act to empower the Secretary to develop and issue public service announcements to advertise and promote the nursing profession. The bill allows for national public service announcements, as well as authorizes the Secretary to provide grants to State and local communities to promote nursing, highlight the advantages and rewards of nursing, and encourage individuals from disadvantaged backgrounds to enter the profession.

Second, the legislation establishes a scholarship program to allow the Secretary to enter into contracts with individuals to serve in medically underserved areas. In return for service to those in need, sometimes in dire need, the Federal Government will provide to these nurses scholarships to pay for the cost of their education.

The third provision of the bill instructs the GAO to conduct a study of the shortage of highly trained nurse faculty who are charged with educating bedside nurses. The study has two parts: the first, due by June 30, 2002, will address whether and to what extent there is a shortage of nursing faculty; the second part, due by September 30, 2002, will report on recommendations to address a potential shortage of nursing faculty through the Department of Health and Human Services.

I have been pleased to work with many Members on this bill, and the names have been mentioned. Our terrific chairman, the gentleman from Florida (Mr. BILIRAKIS), his work speaks for itself. I really appreciate his willingness and his attitude and everything he has done to bring this bill to the floor. The gentlewoman from California (Mrs. CAPPS), we could not get it done without her. The gentleman from Kentucky (Mr. WHITFIELD) and the gentlewoman from New York (Mrs. KELLY), who I believe is going to speak, and the gentleman from Ohio (Mr. BROWN) as well. Finally, the gentleman from Louisiana (Mr. TAUZIN), of course. Everybody talks about staff, and the American public should know that these bills do not get done without bipartisan cooperation, not just between Members, but also with regard to staff as well. So I congratulate staff on both sides of the aisle. Also, the gentleman from Michigan (Mr. DINGELL), of course, the ranking member of the full committee and, as I said, the gentleman from Louisiana (Mr. TAUZIN), the full committee chairman.

Mr. Speaker, I thank the gentleman from Florida (Mr. BILIRAKIS) very much for bringing this bill to the floor. I mean that. I have bugged him time and time again, and I know it is a friendly bug and I was preaching to the choir; and the gentleman from Florida, in turn, went to the leadership and got this done. So I congratulate the gentleman.

This bipartisan legislation puts patients first by investing in high quality, highly trained nurses. I urge all of my colleagues to support it.

Mrs. CAPPS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Nurse Reinvestment Act, and I urge my colleagues to vote for this important legislation, H.R. 3487. I want to thank the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Louisiana (Mr. TAUZIN) for their hard work on this issue and their willingness to help us get this legislation to the floor this year. The staff members Ann Esposito and Jeremy Sharp have been mentioned, and I want to add two others, John Ford and Katie Porter. I also particularly want to thank the gentleman from Michigan (Mr. DINGELL), the ranking member of the full committee, and the gentleman from Ohio (Mr. BROWN), the ranking member of the subcommittee, for their unswerving support for this effort. They have made this bill a priority, and I doubt if we would have seen this action so quickly without their dedication. They and their staff have made the effort to see that this legislation could move in the waning days of this session.

This bill is based on legislation that I introduced in April, H.R. 1436. That bill was the product of a lot of hard work of the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN), and a variety of nursing and health care groups, including the American Nurses Association, the American Organization of Nurse Executives, and the American Association of Colleges of Nursing. H.R. 1436 now has 228 bipartisan cosponsors.

The bill before us will authorize new scholarships to help prospective nurses complete their education more quickly. These scholarships will help a broader range of people to find their way into a very rewarding career, one that will be in much great demand, no matter the strength or weaknesses of the economy. It will also authorize public service announcements to educate the public about the need for more nurses, the opportunities available for educational assistance, and the rewards of a care-giving career.

Our profession needs the positive and accurate description within this PR campaign. One of the major problems we face is the misperception that nursing is an unappealing career and that it is women's work. These PSAs will help us counter that impression and explain the value and benefits of a career in nursing. These benefits have been brought to sharp relief for us by the events of September 11.

The bill will direct the General Accounting Office to study the faculty needs of our nursing schools and education programs. As my colleagues know, I am one of three nurses currently serving in the Congress. Before I was elected to this House, I served the people of Santa Barbara County in California as a public health nurse for 20 years. I know firsthand the challenges facing our hospitals and our health care providers and the consequences if we fail to meet them.

One of the most important difficulties we face is a shortage of nurses, especially registered nurses. Current events, as I have said, have highlighted the importance of having a strong and effective public health system. September 11 and the recent spate of anthrax letters reminds us that our safety and our well-being depend on the ability of our hospitals to care for us and our loved ones, and having enough nurses is a critical component, both in the hospital and in many public health settings.

Nurses are the first line of defense in our health care system. They will be the ones treating victims of biological or conventional terror attacks; and right now, we do not have enough of them, not enough of them even for our daily needs.

Last week, we passed legislation to address many of our Nation's needs in terms of bioterrorism, and now it is time to make sure we have the workforce necessary to carry out that bill's provisions. Data on the nursing workforce show that staffing shortages are increasing, and recruiting new registered nurses is becoming progressively more difficult. We already need 125,000 registered nurses to fill the existing vacancies of today, according to the American Hospital Association; and by 2010, less than 9 years from now, 40 percent of the RN workforce will be over 50 years old. In contrast, the number of RNs under 35 has fallen to 18 percent. Simply put, there are not enough new nurses joining the workforce to replace those expected to retire in the next 10 years, and this problem will be compounded by the 78 million baby boomers retiring and needing more health care.

Congress needs to act on this problem quickly. We need to pass the Nurse Reinvestment Act. This bill represents several good steps toward a comprehensive solution to the nursing shortage and, to be sure, as has been mentioned, there is much more we will need to do, including increasing funding for nurse education programs; but this is an excellent start. I will be pleased if we can move it forward. I urge all of my colleagues to support nurses and vote for the Nurse Reinvestment Act.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I rise in strong support of the Nurse Reinvestment Act, which is a substantial first step in addressing the growing shortage of nurses currently being experienced by health care facilities nationwide.

Today we are working on both short- and long-term solutions to the problem, and I thank the gentleman from Florida (Mr. BILIRAKIS) and the gentlewoman from California (Mrs. CAPPS) for their hard work in bringing the legislation to the floor. It is my hope that this is the first of many steps that Congress will take to make sure there are enough health care professionals to care for a growing number of patients.

Let us think about what nurses do for a minute. They are there at our birth; they are more than likely there at our death. And in between, nurses are apt to be there to support and care for us during every single serious medical crisis that we face, helping us through good news and bad. They care for patients, they advocate for patients, they are there for our long-term care, and those who are nurse anesthetists make us comfortable during surgery and during medical stress.

Now more than ever, attention needs to be focused on the ability of our health care personnel to respond to critical situations, and we have a crisis on our hands. The shortage of nurses in our Nation's hospitals and the pending retirement of many nurses should be worrisome to all of us. Hospitals cannot run without nurses. Without adequate nursing staff, hospitals are forced to close units, turn away patients, and redirect emergency cases. This results in long waits and reduced quality of care. In critical situations, time is everything; and when patients have to travel farther or wait longer for care, they are less likely to have a positive recovery.

So let us consider this bill. It focuses on attracting students to nursing by educating them about the benefits of a nursing career. Its outreach and public awareness campaigns should help ensure stronger registration at nursing schools so that we have a steady supply of well-trained nurses to replace the retiring RNs; and, believe me, they are retiring very rapidly. In New York, the average age of a nurse is 48 years old. We need to attract new people, people who may not traditionally have considered a career in health care. The bill expands loan repayment assistance to encourage nurses to serve after graduation in an area that is experiencing a shortage.

This bill will not only facilitate the entry of students into nursing schools, it also anticipates additional issues that we may encounter. It requires the GAO to evaluate the need for nursing faculty recruitment. In New York State, our faculty average age is somewhere around 52 to 53 years old. We need to raise the consciousness of nurses that they can enhance their skills and become a part of faculty.

This provision particularly is important, since we need qualified educators to train those who want to enter the field and seek to expand their expertise into the advanced practice of nursing specialties.

In short, the bill does a simple thing. It sets forth a method to get more nurses into the field. This should give relief to the nursing staff that are already stretched too thin and provide much-needed care to patients. It is a small step, but it is a necessary beginning. There is much more to be done.

Mr. Speaker, I look forward to the passage of this legislation and to continuing to explore new innovative solutions to relieve America's nursing shortage. I urge my colleagues to support America's nurses and support this bill and strengthen our Nation's health care in the workforce.

Mrs. CAPPS. Mr. Speaker, I am very pleased to yield 3 minutes to the distinguished gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Commerce.

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentlewoman from California for yielding me this time.

I rise in support of the Nurse Reinvestment Act, a solid piece of legislation, one which does great credit to the gentlewoman from California and one which is a solid down payment on our effort to address severe shortages in the nursing professions. We need to do more, and we must do more. But for a variety of reasons, this is about as good as we can do today. It is, however, a valuable bill.

As with any bill of importance, this is a very important bill and much of the credit goes to the colleagues of ours who are willing to do the hard work. No one has worked harder for the nursing profession than my distinguished friend and colleague from California (Mrs. CAPPS). She has been tireless and, today, that effort bears fruit. I congratulate her and salute her for a job well done. Of course, we would not be here without bipartisan support and cooperation; and I thank the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health, and the gentleman from Ohio (Mr. BROWN), the subcommittee ranking member, and, of course, the gentleman from Louisiana (Mr. TAUZIN), the chairman of the full committee, for their support of this undertaking.

The bill will help us recruit more nurses through public service announcements and other educational programs. These will inform the public about the nursing profession as a career and will tell potential nurses about resources available to them if they choose to enter this wonderful, caring, and giving profession. This legislation mandates the study of the shortage in the nursing faculty and requests an analysis of the methods by which we may address effectively the faculty shortages and other shortages in the industry.

Finally, the bill has educational scholarships to the loan repayment program for nurse education. This is an important new tool, and it is a significant step in the right direction. Educational assistance in the form of scholarships reaches a new pool of applicants, and it also pays additional dividends in delivering quality health care to underserved areas as aspiring nurses work off their scholarship commitments.

The types of facilities that can accept nurses through this program have expanded, which will add to the appeal of the programs, both for nurses and for the health care facilities in which they serve.

Mr. Speaker, we are looking at a severe shortage of nurses which we can anticipate will get worse because of lack of adequate pay, because of lack of adequate responsibility, because of excessive hours, and a wide array of other things. This will be a small step forward towards ending those unfortunate situation; but we hope that we will shortly be moving forward on other legislation which will continue and in new ways address the concerns which we confront in this area of providing adequate nursing care to the people of this country.

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I would note that the nurses are a wonderful group of public servants to whom we owe a great debt.

I again thank my distinguished colleague, the gentlewoman from California (Mrs. Capps), and my other colleagues who have brought us this far.

I urge my colleagues to join us in support of this bill.

Mr. BILIRAKIS. Mr. Speaker, I reserve the balance of my time.

Mrs. CAPPS. Mr. Speaker, I am very pleased to yield 2½ minutes to my colleague, the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, first of all, let me commend and congratulate all of the members of the Committee on Commerce, especially its leadership, the gentleman from Louisiana (Chairman TAUZIN); the dean of the House, the gentleman from Michigan (Mr. DINGELL); both the chairman and the ranking member of the subcommittee; and especially my colleague, the gentlewoman from California (Mrs. CAPPS).

They have all put their fingers on a most severe problem in our country, and I was just sitting there thinking how much of a Christmas present this is going to be for all of the hospitals.

I represent a district that has 23 hospitals, four university medical centers, nine nurses' training programs, 25 community health centers. Health for my district is one of the most important elements of it.

I just finished meeting with the deans of our nursing schools. Every one of them recognizes this shortage. I just finished meeting with the owners of nursing homes, and they all point out the problem that they have. As a matter of fact, we have even had hospitals seek waivers so that they could import nurses from other countries.

So we thank the gentleman for America, but especially do I want to thank this committee for the people of the Seventh Congressional District in Illinois. They have given us a tremendous Christmas present.

Mrs. CAPPS. Mr. Speaker, I am very pleased to yield 2½ minutes to my distinguished colleague, the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong support of the bipartisan Nurse Reinvestment Act; and I thank the gentlewoman from California (Mrs. CAPPS), the gentleman from Ohio (Mr. Brown), the gentleman from Florida (Mr. BILIRAKIS), and the gentlewoman from New York (Mrs. KELLY) for their commitment to addressing our Nation's nursing shortage.

They have worked so hard to ensure this body could take the first steps in addressing the concerns of nurses and the issues which have plagued the nursing profession.

In Connecticut, more than 3,200 nurses have left the State or given up their licenses since 1996. Nurse vacancy rates are up 50 percent since 1996, and the number of newly licensed nurses is down 25 percent from 4 years ago.

Further, the average age of licensed nurses in my State is 45, compared to the national average of 42. There is a widening gap between the increasing need for nursing care and the number of women and men who will be there to provide the care that their patients need.

This year I sat down with a group of nurses in my district to discuss the shortage and the effect it is having on patient care. One nurse shared with me the critical nature of her work and the difficulty of providing care to all patients with so few nurses.

Another spoke to me of how difficult working conditions are, driving women and men away from the profession. If allowed to persist, the nursing shortage will have grave effects on the quality of life for America's nurses and the quality of care they are able to provide to their patients.

Substandard conditions must change. Nurses must feel valued, working conditions must improve, and we must recruit the next generation of nurses to care for our loved ones and ourselves. Nurses play a critical role and are often underappreciated in our health care system. Anyone who has spent time in any hospital knows how hard nurses work and the high quality of care that they provide.

I spent several months in the hospital a number of years ago; and while I applaud what the medical profession did for me and the wonderful doctors, it was the care, the feeding, the constant attention that I received from nurses that carried me through those months.

Congress needs to support nurses, just as they support us and our loved ones when we need it the most. The Nurse Reinvestment Act is that first step to achieve these goals. I am proud that nurses have been the driving force behind this bill. Together, they played a large role in developing the legislation and fighting for its passage. They were out on the front lines. They know better than anyone the challenges that nurses face day in and day out, and their experience and ideas informed this bipartisan effort and built a strong piece of legislation.

This much-needed legislation will provide for educational scholarships in exchange for a commitment to serve in health care facilities that are experiencing a critical shortage of nurses.

The bill provides for public service announcements to educate the public about the nursing profession and the rewards of a nursing career.

Finally, it would require the GAO to study the nursing faculty work force to determine if there is a shortage. I strongly support the Nurse Investment Act. I thank my colleagues who spent so many hours in making this a reality. It is an investment that will build a strong force of nurses and improve the quality of health care in America.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Speaker, I rise tonight in strong support and admiration of the cosponsors, the lead sponsors of this legislation. There is perhaps no more important issue that we face than the one of health care, certainly in Kansas, with the demographics of an aging population and our desire to make certain that all of our citizens across the country have access to adequate and affordable health care.

As I talked to hospital administrators, hospital trustees across the State of Kansas, the greatest concern they have is the lack of health care professionals. At the top of the list is the front line providers of health care service, our nurses. That nursing profession is so important.

I recently visited the school of nursing at Emporia State University, where I met with students who wanted to be nurses. I asked them the question, Why do you want to be a nurse? The answers were wonderful. They were about, when I was a young girl my grandmother was ill, and in the hospital the nurse took care of her. I watched how she cared for my grandmother and our family, and all my life I wanted to be a nurse. Today I am in nursing school so I can fulfill that ambition.

They were the kind of stories about human care and alleviating human suffering, and it made me very proud to know that there were still people who want to enter a profession to care for others.

Unfortunately, we have had a number of nurses retire, we have had a number of nurses change professions, and we have a number of people who still want to meet the needs of other citizens, meet their health care needs.

I think it is so appropriate that we step forward tonight to create the incentives and the environment for our schools of nursing and for potential nursing students to fulfill their life ambition to help other people.

It is important that we do things in the long run to make the nursing profession one that is rewarding and enjoyable, and we have issues of reimbursement and salaries that come from concerns we all share about Medicare reimbursement to local health care providers.

We have certainly bureaucratic and paperwork issues that our nurses face. We want to make certain that our nurses do not spend their days charting results, filling out paperwork, and that they really are involved in patient care. While we work on those more long-term solutions to our health care challenges in our country, we must take the steps forward that this legislation represents in providing an opportunity for young men and women to move forward in their profession, to seek that opportunity to help other people, and to save lives.

I strongly support and encourage the enactment of this legislation and again commend our primary sponsors for their help in bringing this very critical issue to us. It is about saving lives, it is about fulfilling lifetime goals, and it is about taking the young person or even the middle-aged or elderly person who wants to change careers or move up the nursing ladder to a different aspect of nursing.

So tonight we have that opportunity, and I urge its passage.

Mrs. CAPPS. Mr. Speaker, I am pleased to yield 3 minutes to my colleague, the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentlewoman's courtesy in allowing me to speak on this legislation.

I am not going to join in the parade in acknowledging all the leaders who have stepped forward to make this possible. I will, however, say that I salute the gentlewoman from California (Mrs. CAPPS) for being the conscience of the House on this issue.

I think this would be a better institution if we had more nurses who were Members of this body. But frankly, we cannot afford them because they are needed in the field, and we really probably need the three that are here now out there caring for people.

Yes, it is true that nursing is a great profession, with caring, rewarding work that makes people really light up, which they really enjoy. It takes a special person, and they get special rewards. But we ought to acknowledge that it is also difficult work. It is demanding work, while it is more important than ever before, more critical, we have seen with actions that have taken place in recent months.

We are learning some hard lessons at home in my community with an unpleasant labor dispute that is taking place between a teaching hospital and a nurses' association.

It is not just the demographics that are working against us today. Frankly, I hear from friends of mine in the nursing profession and other health care professionals that the management of the health care system today is increasingly a negative factor. We are going to have to fight harder to keep these professionals, and we are going to have to work to make sure that the system works for them.

I think this legislation is a small step in the right direction. It is not quite the legislation that some of us signed onto. Frankly, I hope before it wends its way through the legislative process, as it comes back from the Senate, that we will have stronger legislation, because frankly, I like the provisions that expand the nurse education loan repayment program. That is great. But it is also going to take more than public service announcements and more studies. We know how important it is. We know that there is a need. We know that there needs to be a greater Federal commitment if we are going to have the nursing professionals we need when we need them.

I commend the members of the committee for bringing this legislation forward. I hope that it starts the momentum towards the Federal commitment that the public and the nursing profession demand.

Mr. BILIRAKIS. Mr. Speaker, in the spirit of bipartisanship, I am glad to yield 3 minutes to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I rise in support of the Nurse Reinvestment Act, and I thank my friend and colleague, the gentleman from Florida (Mr. BILIRAKIS), for yielding me the time.

Mr. Speaker, I am a cosponsor of this legislation, which will help to ensure that we have enough nurses to care for our increasingly older population. The nursing shortage hits my rural congressional district, where it is difficult to attract and retain almost all health care professionals.

Statistics indicate that my State of Ohio is licensing fewer and fewer nurses. According to the Ohio Hospital Association, in 1995, 6,875 new Ohio licenses were issued through the exam process. This number has dropped each year through the year 2000, when only 4,662 licenses were issued. And recently, the Ohio Bureau of Employment Services estimated that Ohio will have 2,800 openings for registered nurses by the year 2002 which will probably go unfilled.

Inadequate staffing that is the result of our nursing workforce shortage in our nursing homes and other long-term care facilities contributes to poor feeding, malnutrition, dehydration, and the hospitalization of nursing home residents. Studies show that there is a direct correlation between higher nurse staffing levels and better outcomes of nursing home care.

This bill addresses these problems by expanding the nurse education loan repayment program to include scholarships if a nurse is willing to commit to serving in an area with a critical shortage of nurses. Like the National Health Service Corps, this provision gives nurses the incentives they may need to work in an area suffering from a critical workforce shortage, such as southern Ohio.

The provision also gives nurses a longer list of facilities at which a nurse can complete his or her service commitment, including departments of public health, home health agencies, and long-term care facilities.

□ 2000

In addition, the bill authorizes public service announcements to educate the public regarding the nursing profession. Ensuring a strong workforce of health professionals would be particularly important in the events of a bioterrorist attack, when trained nurses would be critical to our Nation's effective identification of and response to the dissemination of a biological or chemical weapon.

I want to thank my friend, the gentlewoman from California (Mrs. CAPPS). She is a nurse. I am a psychologist. Others in this body are physicians. There was a time when most of us who served here were attorneys. And I think what the gentlewoman from California (Mrs. CAPPS) and the other nurses in this body have accomplished with this legislation is a testament to the strength that we have and the current diversity of those of us who make up this wonderful House of Representatives.

Mrs. CAPPS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. TOWNS).

Mr. TOWNS. Mr. Speaker, let me thank the gentlewoman from California (Mrs. CAPPS) for yielding me time. I would like to thank the gentleman from Florida (Mr. BILIRAKIS) and the gentlewoman from California (Mrs. CAPPS) for moving this legislation forward.

We have been doing a lot of talk about the nursing situation but we have not done very much. So I am happy to come tonight in terms of the fact and be supportive of the Nurse Investment Act. I think that the time is here to take action.

People are living longer now, so the fact that people are living longer we need more nursing personnel. We, right now, are 100,000 short nationwide in our nursing homes. And, of course, this is a small step in the right direction. Sure it is not a solution to the total problem, but it sure begins to move us in the right direction.

In my earlier life, I was on the administrative staff of Beth-Israel Hospital in New York and I had the opportunity to work very closely about nurses. And I know in terms of the kind of job that they do on behalf of patients. But then it became very close to me. On September 11, I had the opportunity to visit a few hospitals in New York during the crisis there. And to watch to see in terms of the functions, the way the nurses carried themselves, and I tell you it is very difficult work; but I want you to know that they were performing in grand style.

I think that we need to do everything that we can to encourage people to stay in nursing, encourage people to come into nursing. And I think this has to be a greater Federal commitment. I think that we have to begin to look at the salary scale, look at the kind of training they have and to see what we can do. Look at a situation that we might be able to provide scholarships in large way, a loan forgiveness. We need to find ways to make certain that we are being very friendly to that profession.

I think it has not been treated fairly. I think that this legislation helps us to begin to look at it in a way that we should look at it. But the point is do not think this legislation is a solution. Let us look at what we can do with this now and then come back and do more.

I want to thank my friend, the gentlewoman from California (Mrs. CAPPS) for staying there and working on this, and, of course, my friend, the gentleman from Florida (Mr. BILIRAKIS) and saying that we must stop talking about it and begin to do something. And now we are doing something.

Mr. BILIRAKIS. Mr. Speaker, I would say amen to that.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CAPPS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take a minute to again thank the chairman of the Subcommittee on Health, the gentleman from Florida (Mr. BILIRAKIS) for his excellent leadership in this legislation. I also keep in mind the many nurses across this country with whom I have worked closely and who have supported this legislation who know firsthand the importance of it and their patients who will benefit from it.

Ms. PELOSI. Mr. Speaker, I rise in support of H.R. 3487, the Nurse Reinvestment Act, and commend my colleague Representative CAPPS for her leadership in addressing the current nursing shortage.

Today, health care institutions across the nation are experiencing a crisis in nurse staffing. In my district, hospital emergency departments divert patients to other hospitals over 75 percent of the time because of inadequate nurses to staff the critical care units where most emergency admissions are transferred for care. In a recent meeting with San Francisco's emergency response leaders, the Director of Emergency Health Services cited inadequate nurse staffing for emergency departments, critical care units, and surgical units as a major problem.

The shortage of educated, licensed Registered Nurses poses a significant threat to our nation's health care system, and we must act. The Nurse Reinvestment Act responds to this shortage by advertising and promoting the nursing profession to young people making career choices, broadening critical loan repayment programs and increasing the number of scholarships available for nursing students.

Employers in hospitals, long-term care facilities are having difficulty finding experienced nurses, especially in emergency room and long term care. The safety and quality of care provided in the nation's health care facilities is directly related to the number and mix of direct care nursing staff. Studies show that when there are more nurses, there are lower mortality rates, shorter lengths of stay, lower costs, and fewer complications. The Institute of Medicine has documented that increased mortality and morbidity in long term facilities, where our most frail spend their final months, is directly related to inadequate nurse staffing.

This shortage is compounded by the lack of young people entering the nursing profession, the rapid aging of the nursing workforce, and the impending health care needs of the baby boom generation.

As new opportunities have opened up for young women and new stresses have been added to the profession of nursing, fewer people have opted to choose nursing as a career. For the past six years, new admissions into nursing schools have consistently dropped. Without sufficient numbers of young people entering nursing, the average age of nurses has increased steadily. As a result, the average working RN is over 43 years old and large numbers of nurses are expected to retire over the next decade. At the same time, the need for complex nursing services will only increase due to the aging of the population.

Now is the time to begin to address this impending public health crisis. I urge my colleagues to vote yes on the Nurse Reinvestment Act.

Mr. TAUZIN. Mr. Speaker, I rise in support of H.R. 3487, the Nurse Reinvestment Act. The United States health care system relies heavily on the services provided by nurses who are essential for ensuring comfortable and quality care for all patients. Unfortunately, health care providers and recent media reports have reported rising vacancy rates in the nursing profession.

Due to the lack of young people entering the nursing profession, the average age of the working nurse has increased to over 43 years old. If we do not encourage more young people to choose a career in nursing, the nursing workforce may reach dangerously low levels. This is taking place during a time when our demand for nursing services is growing, and will continue to grow into the future.

To combat this problem and encourage more young people to enter the nursing profession, this legislation provides for public service announcements that highlight the rewards of a career in nursing. Additionally, the bill expands Title 8 of the Public Health Service Act to provide scholarships for nursing students. Students receiving these loans and scholarships will be required to serve in a health care facility that has a shortage of nurses.

H.R. 3487 also provides for a study on nursing faculty. As more and more people enter nursing school, it is necessary to ensure there will be an adequate number of faculty to train them.

I commend Chairman BILIRAKIS and Mrs. CAPPS for working in a truly bipartisan manner to craft this legislation to ensure our nation will have enough nursing professionals to ensure quality patient care. I urge my colleagues to join me in supporting the Nurse Reinvestment Act.

Mr. TOWNS. Mr. Speaker, I rise today in support of H.R. 3487, the Nurse Reinvestment Act.

While today's bill is a start toward the Nation's nursing shortage problems, we still have a series of outstanding issues which have not been addressed in this bill. Chief among them is the 100,000 nursing personnel shortage for long-term care facilities. The shortages include RNs, Licensed Practical Nurses (LPNs) and Certified Nurse Assistants (CNAs). Recent General Accounting Office (GAO) report indicates that "With the aging of the population, demand for nurse aides is expected to grow dramatically, with the supply of workers who have traditionally filled these jobs will remain virtually unchanged." Other reports suggest that the current nurse workforce issues are part of a larger healthcare workforce shortage that includes a shortage of Nurse Aides.

Additionally, we must address the lack of minority representation in the nursing profession as well as resources to ensure that we have sufficient Advance Practice Nurses to provide primary preventative care in underserved communities. I look forward to working with my colleagues to address these concerns as part of the Reauthorization of the Health Professions Act next session. None of the above issues can be solved simply by "Market Forces." If it was a question of simple economics, then we would not have a 100,000 personnel shortage. The Healthcare Industry needs our intervention to make sure that our Nation's patients have workers who are sufficiently trained to their health care needs. Let's support the Reinvestment Act today with the acknowledgement that much more remains to be done.

Mrs. CAPPS. Mr. Speaker, I have no further requests for time; and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 3487.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. CAPPS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

SUPPORTING THE GOALS OF THE YEAR OF THE ROSE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 292) to support the goals of the Year of the Rose.

The Clerk read as follows:

H. CON. RES. 292

Whereas the study of fossils has shown that the rose has been a native wild flower in North America for over 35,000,000 years;

Whereas the rose is grown today in every State in the United States;

Whereas the rose has long been used to symbolize love, friendship, beauty, peace, and the devotion of the people of the United States to their Nation;

Whereas the rose has been cultivated and grown in gardens for over 5,000 years, and is referred to in both the Old and New Testaments;

Whereas the rose has for many years captivated the affection of humankind and it has been revered in art, music, and literature;

Whereas George Washington was a breeder of roses and one of his varieties, named after his mother, is still grown today;

Whereas in 1986 the rose was designated as the national floral emblem of the United States; and

Whereas the American Rose Society has designated 2002 as the Year of the Rose: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) supports the goals of the Year of the Rose; and

(2) encourages the President to issue a proclamation calling on the people of the United States to observe the year with appropriate ceremonies and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 292.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 292. This resolutions supports the goals of the Year of the Rose and it encourages the President to issue a proclamation asking Americans to observe the year with appropriate ceremonies and activities.

I commend my distinguished colleague, the gentleman from Louisiana (Mr. MCCRERY) for his hard work to bring this resolution to the floor.

The rose has been an important symbol of love in our society for centuries. Its sheer beauty illuminates thousands of flower gardens across our great land, from the East to the West Coast and from North to South. The rose is grown and cultivated in every state of the Union.

Fossil studies have concluded that the rose has been a native wild flower in North America for some 35 million years. It is also referred to in passages of the Old and New Testaments in the Bible.

One of our great public servants, the first President of the United States, George Washington, was a breeder of roses. In fact, one of his varieties, named after his mother, Mary Ball Washington, is still grown today. For many years the rose has captivated the affection of humankind and has been revered in art, music and literature.

In 1986, the rose was designated as the national floral emblem of the United States. This is a distinct honor for a flower that has touched the hearts and lives of millions of Americans for many, many years. The American Rose Society has designated the year 2002 as the Year of the Rose.

Mr. Speaker, I urge all Members to support this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

As the ranking member of the Subcommittee on Civil Service and Agency Organization, I am pleased to join with my colleague in the House in consideration of H. Con. Res. 292, a resolution introduced by the gentleman from Louisiana (Mr. MCCRERY).

Roses are beautiful and have long been used to symbolize love, friendship, and peace. Indeed, four States in this country currently list some variation of rose as their official state flower: New York, Iowa, Georgia, North Dakota currently recognize this beautiful flower.

The resolution before us speaks to the fact that the rose was designated as the national emblem of the United States and that the American Rose Society has designated the year 2002, next year, as the Year of the Rose.

Of course, Mr. Speaker, we all know that individually in our own lives, roses have played serious roles. They are used by people to extend friendship. I can imagine that all of us who are males have, at some point in time, picked up a dozen roses or, if not a dozen, at least a half a dozen, to convey in some way, shape, form, or fashion an appreciation that we may have had.

So I think this is an excellent resolution. As a matter of fact, I even fondly remember my father teaching me how to date, and he told me that when I wanted to convey to whoever the date might be, that I ought to say to them, roses are red, violets are blue, sugar is sweet and so are you.

Well, Mr. Speaker, in a very serious way, roses do, in fact, convey not only a level of appreciation, but also a level of respect, and I commend the gentleman for introducing this resolution.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Speaker, I thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS) for yielding me the time.

Mr. Speaker, I thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) for their eloquent statements on behalf of the support of this resolution for the Year of the Rose.

Mr. Speaker, the American Rose Society is headquartered in my hometown of Shreveport, Louisiana. The American Rose Society has designated 2002 as the Year of the Rose, and at a time in which images of violence and war are a constant reminder of the capacity of man to be cruel to its fellow man, the rose stands as a reminder of the beauty and the fragility of life.

It is my hope, Mr. Speaker, that this resolution will call public attention to the worthy goals of the Year of the Rose, and I urge its adoption.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, having no other speakers, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 292.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DAVIS of Illinois. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

REPORT ON NATION'S ACHIEVEMENTS IN AERONAUTICS AND SPACE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science:

To the Congress of the United States:

I am pleased to transmit this report on the Nation's achievements in aeronautics and space during Fiscal Year (FY) 2000, as required under section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476). Aeronautics and space activities involved 11 contributing departments and agencies of the Federal Government, and the results of their ongoing research and development affect the Nation in many ways.

A wide variety of aeronautics and space developments took place during FY 2000. The National Aeronautic and Space Administration (NASA) successfully completed four Space shuttle flights. In terms of robotic space flights, there were 24 U.S. expendable launch vehicle launches in FY 2000. Five of these launches were NASA-managed missions, nine were Department of Defense (DoD)-managed missions, and eight were FAA-licensed commercial launches. In addition, NASA flew one payload as a secondary payload on one of the FAA-licensed commercial launches. This year, two new launch vehicles debuted: the Lockheed Martin Atlas IIIA and the Boeing Delta III, each serving as transition vehicles leading the way for the new generation of evolved expendable launch vehicles.

Scientists also made some dramatic new discoveries in various space-related fields such as space science, Earth science and remote sensing, and life and microgravity science. In aerospace, achievements included the demonstration of technologies that will reduce the environmental impact of aircraft operations, reinvigorate the general aviation industry, improve the safety and efficiency of U.S. commercial airlines and air traffic control system, and reduce the future cost of access to space.

The United States also entered into many new agreements for cooperation with its international partners around the world in many areas of space activity.

Thus, FY 2000 was a very successful one for U.S. aeronautics and space programs. Efforts in these areas have contributed significantly to the Nation's scientific and technical knowledge, international cooperation, a healthier environment, and a more competitive economy.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 19, 2001.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 12 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2130

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LATOURETTE) at 9 o'clock and 30 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3529, ECONOMIC SECURITY AND WORKER ASSISTANCE ACT OF 2001

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–348) on the resolution (H. Res. 320) providing for consideration of the bill (H.R. 3529) to provide tax incentives for economic recovery and assistance to displaced workers, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–349) on the resolution (H. Res. 321) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 319 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 319

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of Wednesday, December 19, 2001, providing for consideration or disposition of a bill to provide tax incentives for economic recovery, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my colleague, the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 319 waives clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules.

The rule applies the waiver to a special rule reported on the legislative day of December 19, 2001, providing for consideration or disposition of the bill to provide tax incentives for economic recovery, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

The rule also allows this body to once again take up stimulus legislation, making it possible for prompt consideration of this much-needed and long overdue measure to create jobs and promote long-term economic growth.

This body passed an economic stimulus bill nearly 2 months ago, but our colleagues in the other Chamber have not yet acted; and in failing to act, we put American jobs and the stability of our economy at risk. The downward trend we now face has been over a year in the making, and it has been compounded by the recent attacks on our Nation.

Americans deserve this relief, and not just because of September 11. We owe it to them to proceed without further delay. I can think of no better holiday gift for America than an economic stimulus bill. It is imperative that we move forward at once.

I strongly urge my colleagues to support this rule so we may proceed with debate on this time-sensitive legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know we all want to finish the business of the House this week. I know we all have plans to be with our families in the days ahead.

But, Mr. Speaker, those plans and our desires to finish our business for the year should not serve as an excuse for Republican leaders to ram legislation through this body, legislation that is just plain dangerous to the U.S. economy and the Social Security and Medicare trust funds, and which they know will not be voted on in the United States Senate in the next day or two.

Mr. Speaker, the House has been kept in session all night long two nights in a row just to allow the Committee on Rules to meet at 8 o'clock in the morning to report martial law rules for a so-called stimulus package. Negotiations have been on and then they have been off and then on again.

But this morning, Republican leaders finally pulled the plug on bipartisanship. For Republican leaders, Mr. Speaker, it seems that ramming through another budget-busting wish list of Republican tax cuts, tax breaks for big corporations, and tax breaks for wealthier and presumably employed, individuals, is more important than the needs of real working Americans; a package, by the way, that will cost $250 billion over a 10-year period, much greater than anything ever proposed by the Democrats.

The Republican majority seems to be more interested in scoring partisan and ideological points than in helping unemployed Americans and their families make it through this recession.

Mr. Speaker, the Committee on Rules is indeed an arm of the leadership, and the Republican leadership of this House is showing its true colors tonight as we consider this rule, which allows a bill to come up on the floor without anyone, except perhaps a select few, having had the opportunity to look at it.

This is nothing more than political theater. This is nothing more than a cheap charade. The American people want and deserve better from their elected representatives, Mr. Speaker. It is a real shame that they will not be getting it here tonight.

I urge defeat of this rule and of the rule that will immediately follow, and of the so-called bipartisan and so-called economic stimulus package the Republicans are attempting to ram through this body today.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I will congratulate my Republican colleagues on one thing: they have enough humanity left to be completely embarrassed by what they are now doing: leaving the gentleman from New York alone at his post to defend what is really the last step in what has been an ongoing Republican assault on the notion that in the House of Representatives of the United States Congress, democracy with a small "d" ought to be practiced.

I guess there is one other thing I can say in their defense: they understand that this is a wholly unserious effort. If this were in fact a serious legislative effort, it would be an outrage. But it is not an outrage; it is a farce.

The gentleman from New York talked about how urgent this was. It is so urgent that now, 9:35 at night on the day before we are probably going to adjourn, knowing that, they bring forward a bill which no one has seen; and, of course, the less one has seen of this bill, the more one thinks of it.

They bring forth the bill under very extraordinary procedures. It is going to take rules. First, they have to have a rule that suspends the rule that says we have to have enough time to read the bill. Then they bring forth a rule when they ram this through that says there will be no amendment in order, no substitute, no alternative.

Yes, the Democrats will be given, as the rules of the House minimally require, a motion to recommit. That allows for 10 minutes of debate on the substance of that motion. So we have got the Republicans completely dismantling democracy.

And one thing is predictable, Mr. Speaker: the Speaker and every Republican will vote for this. I do want to congratulate my Republican colleagues, as someone who has been a student of legislative bodies. When the Contract with America was promulgated many years ago, one aspect of it was a series of constitutional amendments, none of which, fortunately, passed. Never have so many constitutional amendments been proposed since the days immediately after the Civil War.

All of them were defeated, but the Republican Party has managed to achieve a de facto constitutional change. We used to believe in the separation of powers, and we used to believe that the House of Representatives was an independent body, independent of the executive, independent of other bodies, and it was a place where Members were elected and came and deliberated and made decisions.

By the extraordinary control they exercise over individual Members, the Republican Party has brought about a parliamentary revolution in America. We now have in the House of Representatives one large rubber stamp. Whatever the Republican leadership says is to be done is done.

I do not think ever before in American history we have seen such obedience. I do not know if we are allowed to pipe music in here, and I know C-SPAN pipes in music when we are voting sometimes. I want to suggest that what they ought to be playing is the March of the Siamese Children, because the monarch of the day gives his orders and down they march obediently. They are going to all vote for this bill.

We had an earlier stimulus. There is one other thing I can say about this stimulus: it is at least a repudiation of the earlier outrage they voted for. They voted for a stimulus very different in many ways previously, and they all voted for it, and they will all vote for this one.

As we said before, the way the Republican leadership gets obedience from its Members has wrought a constitutional change. We are in a parliamentary situation. The only place left on this side of the Capitol that Members can find checks and balances is in the bank accounts of the Members.

Now, what is it they are trying to do? Why did we not have a real stimulus package? Very simply, because the Republican Party has brought us back David Stockman. What we have had on the part of the Republican Party all year is a deliberate effort to create deficits.

They pretend to dislike deficits, but they regard them as their saviors. They understand that if we were to continue the surpluses that were inherited from the previous administration of President Clinton, there would be a demand for a prescription drug program. There will not be one now if the Republican tax policy is followed. We will be told we cannot afford it.

There would have been a demand for a housing production program to deal with the terrible housing crisis we have. Every witness before the Republican hearings this year said we needed it, but we will not be able to afford it. We will pull cops off the streets. We will cut back on environmental programs. There will be no money to help with sewer and water or transit.

What we have had on the obedient Republican side is a deliberate effort to reduce government revenues, not to stimulate the economy; but because they understand that if we were fairly able to debate these with an adequate revenue base, the public would insist on meeting public needs, to the dislike of the ideologues who control the Republican Party, and who control it so thoroughly that they are able to compel the obedience of Members who will tell their voters something else, and then show up here and march down and vote the other way.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I came to the Congress as a majority member only 3 years ago; but before that I spent 10 years in the State House, overwhelmingly Democratic, where I could not even get a name on a bill as a cosponsor. Or in the 6 years before that in the Erie County legislature where I served in the minority, and having the opportunity to serve in leadership in both of those, I could hear the frustration of many, many years of being in the minority.

As I sit here, I have to remember and remind my colleagues that in 1995, when the Republicans became a majority in this House, they said that they would guarantee a motion to recommit on every single bill: take it to the bank, one bite at the apple. No matter what bill it is, we will have a motion to recommit, as we have today.

I would remind the gentleman who spoke that that was not always the case when the Republicans were in the minority for 40 years before that. But it also looks at the fact that I see hope that this majority will be permanent, because I am listening to grousing on process. I am listening to the fact we are going to ram through, and only the first part of this year, with a majority of six, we were not going to be able to pass anything.

The reality is that this House time and time again as a Republican majority brought together an agenda of new ideas and vision for the American people on the mandates they were given by its President and by its Members in the Congress.

So when I listen to "ram through" tonight or listen to some of the other things, it was only so few months ago when it was said of this body that we will be stopped in our tracks as a majority, bringing new, fresh ideas, rather than the failed liberal policies of the past.

So I am optimistic that the minority and some of those who will speak tonight see it as the fact that they are in a permanent minority; they are in a permanent minority because of some of the failed policies they have had over the last 40 years.

I look forward to moving through the rule tonight on same-day, moving forward to the rule to bring forth the legislation on economic stimulus in a bipartisan, bicameral approach so that the debate can be held, not for a half hour, not for an hour; but for 2 full hours we will have that debate tonight.

We can let America judge for itself as we conclude our work on the economic stimulus if we are moving forward in order to help put people back to work and create private sector jobs and take care of displaced workers, or whether we are going to talk about it and try to dismantle it here in the Congress.

I have faith in my colleagues, and I have faith in the American people that we will get the job done tonight.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means.

□ 2145

Mr. RANGEL. Mr. Speaker, I remember when I was in law school, one of my professors said when the law is not on your side, raise your voice. Sometimes it works. Sometimes it does not. But these new, fresh ideas, I guess the best time to get them is in the middle of the night when people are sleeping. These new, fresh ideas cannot stand the light of scrutiny in the committee with hearings where people can come and testify. These new ideas we have to wait until 8:00 at night to find out what is going to happen at 9:00.

These new, exciting, fresh ideas are not bipartisan ideas. It is just a couple of Republicans going in the cloakroom coming out wondering what will sound great on television because it is abundantly clear there is not one Republican in this House that is so naive that he or she believes that what they are doing tonight is going to become law. The reporters know it. The television anchor people know it. So what are they doing?

Well, they do not like the word rammed through. But what they intend to do is put out a wish list of the things that they would like to do for corporate America, the things they would like to do for wealthy Americans, and then at the same time says, oh, yes, we promised to do something for the displaced workers.

What does displaced workers got to do with repugnant tax cuts? Did not the President and did not the leadership here say that when we were bailing out the airline industry that we would have compassion for the other people that got hit by the war, that got hit by the recession? Yes.

When did this new, fresh idea for Republicans come up that we should help those people who are not working? If I recall, they were trying to get a bill passed which they did by two votes or one vote. And they promised Republicans, if you vote for this bad bill, we will do something for the unemployed. Then all of the sudden, it became a part of the stimulus package for the first time.

Now, we were willing to give on a whole lot of these tax problems because no one likes to go home saying they did not give tax cuts, but we really thought that the Republicans would find the same type of fresh, new ideas for people who were not working as they found some fresh new ideas how to establish some loopholes in the tax code. But they did not do that. And I do hope those that come to the floor would start asking some questions.

Why could there not be a new, fresh idea that if somebody was not eligible under existing law for unemployment compensation that they would be covered? Why could Republicans not come up with some new, fresh idea that those people who were not getting an adequate amount of wages to keep their families together, to keep their kids in school, to pay the mortgage, that we would try to meet them half way.

Why did they not come up with a new, fresh idea that these people would be guaranteed coverage and not a block guarantee to be given to governors to do what they want but in health care. Why could we not get a dynamic, exciting, new, fresh idea that we only got to do this for a year? That is all the President has asked. Why cannot we take the existing health system that we have, where people who have been working and they are guaranteed that they would be getting health insurance as paid for in part by the employer, that if they lose their job, that the Federal Government would come in and pay 75 percent of it under COBRA, and if they could not pay the 25 percent, that Medicaid would come in. But oh, no.

If nothing is remembered tonight, I hope someone would ask the majority tonight what is the new Republican health plan? What is this refreshing new idea that they have to cancel the care that we have now? The answer is the Secretary of the Treasury will tell them how to do this plan. They have not the slightest clue as to the provisions that they would have to provide health care for the unemployed. But as tonight goes on into the morning and as they have make this up as they go along, one thing I can say for my friends on the Republican side, at least they know it will never, never, never become law.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am reminded of the great President Ronald Reagan when he would have to say, "There you go again." Because some of those new ideas we are talking about, I think that the distinguished ranking member of the Committee on Ways and Means was a co-sponsor of that with the Liberty Zones in New York and rebuilding the lower Manhattan and those 15 blocks that bring 15 percent of the revenue to the State of which we both hail.

That was a new idea. Maybe it worked a little different from some of the other ones going back to enterprise zones and other concepts. That was a new idea that was joined by many New Yorkers as a solution that the governor put forth and that many of us, including in my recollection, the gentleman from New York (Mr. RANGEL).

But when you look at the failed ideas, Mr. Speaker, the failed ideas, I have talked about the last 40 years of liberal Democratic vision, the recommit proposal that the gentleman from New York (Mr. RANGEL) has before us again, takes and raises taxes again. We spend our time trying to bring the tax rate down. We try to tell America that we want to have you invest your money, save your money but have you have control of it.

And about the time we take our eyes off it, we have the Democratic minority on a recommit bill that want to raise that top rate right back up and raise taxes. Make no mistake about it. This is not some slick or other type move around here. This is a move that if you vote to recommit, you are voting to raise taxes in America.

That is the same failed ideas that brought us a lot of problems. It is so difficult around here to look at tax cuts as part of the solution to get America moving again. And that is the problem we face here in our Congress is looking at philosophical differences from those who want to have a smaller, smarter government and let people have control of their own destinies and their own money, and those who want a large, bigger government that has more regulations and more control over the American viewpoint.

When I say with the Thomas legislation that is coming before us tonight, if we pass these rules, is a compromise. It is a compromise that not all Members in this House are going to want to look at. They are going to look at it as a compromise, a consensus. Not a Thomas bill, not a Rangel bill, a bipartisan bill that brings the solution of the best of those ideas before the House and to have it pass the House and move forward as it goes to the Senate and have the other body make its consideration and its will under what the President has brought in his leadership is the best bill possible to get America moving again to protect and create new jobs and protect displaced workers.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I can see the gentleman from New York (Mr. REYNOLDS) is right. To some extent we are trying to protect one of those ideas from 40 years ago that he so denigrates.

One in particular is called Medicare. It is about 36 years old. It is part of that 40-year history. It was when it was opposed by most Republican. They have grudgingly accepted its existence, but they continue to try to whittle it away, and one consequence of this tax cutting for the wealthy that the Republicans have indulged in is to endanger Medicare, and in fact, one casualty of their policy was that prescription drug program for the elderly.

The lock box to which they all pledged fealty long since went out the window, and we all now have clearly a policy which makes the prescription drug program for the elderly impossible. The President has instead offered them a card so they can go get some retail druggist to give a discount out of the retail druggist pocket.

Yes, the gentleman is right, some of us are defending some of the ideas that came during the previous 40 years, and Medicare is a prime example of one of those policies which resulted from Democrats beating Republicans over that 40 years and the Republicans trying to get their revenge on it today.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, the gentleman from Texas (Mr. FROST) said this bill cost $250 billion and that no Democrat ever proposed such a thing or to that amount.

First of all, by definition, I understand why no Democrat called for $250 billion because they do not call for tax cuts or relief. They call for tax increases. No Democrat ever calls for tax decreases but tax increases, and by definition, the Democrats call cost giving working men and women their own money.

It does not belong to the Congress. It does not belong to the gentleman from Texas (Mr. FROST). It does not belong to the Democrats. It belongs to the people. It is not cost. It is a fact that they do not have to send it here in the first place. So, by definition.

Secondly, in 1993, when the Democrats controlled the White House, the House and the Senate, the gentleman from Missouri (Mr. GEPHARDT) claimed that they were going to have tax relief for the middle class, and they had control of the House, the Senate and the White House, and what did they do? They increased the tax on the middle class. They increased the tax on Social Security.

The gentleman from Texas (Mr. FROST) said, oh, look at the Social Security and Medicare trust fund; In that bill, they took every dime out of the Social Security and Medicare trust fund and used it for spending. They increased the Social Security tax. They increased taxes for Americans and increased spending forever. They also took every dime out of the Social Security trust fund, increased gas taxes and had deficits forever.

So, no, no Democrat ever proposed $250 billion worth of tax relief. They only asked for tax increases.

I would tell the gentleman, stimulus packages, why are big businesses laying off people today? Look across this country at the number of jobs, not just from September 11, but across the country because businesses are failing, and they need that stimulus package to go.

The Democrats call it tax break for the rich. The socialistic jargon that goes on here and the class warfare on tax breaks for the rich go over and over and over again on this side. Quit talking about Karl Marx and talk about stimulus package.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California, Mr. SHERMAN.

Mr. SHERMAN. Mr. Speaker, let me tell my colleagues a Christmas story. It is the dead of night. Congress is anxious to adjourn. Members can hear Christmas carols in their heads. Some are so anxious to leave town that they are willing to vote for a so-called stimulus bill, even though it was revealed just an hour ago—a quarter trillion dollar program that virtually none of us, or any of our staffs, have had a chance to fully analyze.

Ah, but the tale goes on. One party, acting alone, ignoring Democrats even at a time when national crisis demands bipartisan and bicameral consultation. One party reveals a $250 billion program that they are understandably reluctant to debate under the regular rules, or to reveal in the light of day. Because, Mr. Speaker, two-thirds of the cost of this program, two-thirds of the transfers from the U.S. Treasury to the private sector, occur in fiscal years 2003 and 2004 and 2005 and 2006. Long after there is any perceived need for stimulus, we will be stimulating an economy which at that time may already be overstimulated.

For this is not a stimulus bill, designed to deal with a short term economic downturn. Rather, it is a permanent transfer of enormous wealth to giant corporations, cynically disguised as an attempt to help the victims of September 11.

Thank God for the United States Senate.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS) for yielding me the time, and I think tonight we are faced with a fundamental difference between Democrats and the Republican. The question is simply this: Would someone rather have an unemployment check or would someone rather have a job. It is very simple.

The Republican party stands on the side of jobs. The Democrats have the old kind of socialistic government knows best how to spend your money approach to economic problems, just like the country of Japan, just like the country of France, just like the country of Switzerland. When they got in their recession, they wanted to spend their way out of it, and as a result of such approach, Japan is now in its 12th year of recession.

□ 2200

They have gone from a 4 percent growth rate to a 1 percent growth rate.

Take the country of Ireland, on the other hand. It said, cut government spending, return the money to the wage earners, who made the money, and let them spend it. So they did, and now Ireland has one of the strongest economies in Europe.

Economic security is not about tax cuts or spending more money. It is about jobs, and the Republican Party is working to create jobs, jobs for real people with real problems. These are people that I know.

There is Bob, who worked in an airplane factory, up until around September, and then he was laid off. Now he is the father of three kids and does not have a job.

Or Ed, who has a small electrical contracting business in Savannah, Georgia. He does not have any work right now, so he is looking at his eight employees and deciding which one of those guys he has to lay off and how he should tell them that at Christmas time.

Then there is my friend Mark, who works for the International Paper Company, as did his dad. My friend Mark, who is in his mid-40s, had put in 18 years on the clock and was a good union man. Now he does not have a job. Thank goodness his wife, on the side, makes birthday cakes for people. They decided, well, maybe we could start a bakery. It is not going to be as good a job, it will not be as high paying, but we cannot just sit around.

Mr. Speaker, that is what this package is about. My colleagues know this is about jobs. It is about real people. It is not about this wage here and this little Tax Code change there. It is about people in Savannah, Georgia, people in New York City, people in Arizona.

This House has come together after the 9–11 tragedy, but time and time again the Democrats in the Senate and some of the Democrats over here have held up the progress. They have dilly-dallied on airport security, they dilly-dallied on bioterrorism, they have dilly-dallied on the energy package. It is almost Christmas Eve. Why not give the people of America a Christmas present they would really like, and that would be an opportunity to get back to work. Give the American people a paycheck, not an unemployment check.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind all Members that Members should avoid characterizing Senate action or nonaction.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

The gentleman from Georgia made some interesting observations about delay and about not bringing matters to the floor. It was, of course, the majority whip, who hopes to be majority leader, who delayed and prevented the airport security bill from being passed for weeks. It was not the Democrats.

Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Speaker, I thank the gentleman for yielding me this time, and I would follow up on the comments of the gentleman from Texas (Mr. FROST) regarding the previous gentleman's comments, my good friend from Georgia. He also mentioned that we are very close to Christmas Eve. I would point out to my colleagues that we are on the final evening, the last day of this session of the 107th Congress, but I have in my hand a copy of a headline from one of my local newspapers talking about "The Last Shift," and the death of a steel mill.

I am not so interested tonight, I must tell my colleagues, about stimulating anyone. I am trying to save people's economic lives. In October of this year, many of us sought to be allowed to offer an amendment to the last stimulus package to provide relief for legacy costs, to remove a liability facing the domestic steel industry so it could save itself after the International Trade Commission, pursuant to an investigation initiated gratefully by President Bush, that serious injury had occurred because of violations of our international trade law. We were denied that opportunity.

In November, a similar attempt was made by myself and others, who joined together because we felt this was also an issue not only of saving economic lives but of our national defense, to attach this relief to the national security appropriations bill for people who are losing their economic life every day. We were denied.

It is my understanding that some of my colleagues, as late as this evening, attempted to try to provide relief for guaranteed loans that are set aside for companies such as that enumerated in "The Last Shift," and they were denied.

The fact is, we ought to act in a responsible fashion to preserve the economic and industrial base of this country, our national security, and our jobs. From my observations, the underlying bill that is being debated because of the rule that is before us, does not do that. For that reason I adamantly am opposed to that. I am adamantly opposed to these bills.

I implore my colleagues to understand that if we do not act and act now we will lose the integrated steel industry in the United States of America. They cannot wait until March because they have already had their last shift.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, tonight one can only imagine the response of the American people as they listen to their holiday songs and Christmas carols. One can almost see in their mind's eye, based on the unfortunate but predictable reaction of my friends on the left, that it is the "most cynical time of the year."

If we want to go back and engage in instant revisionism of history, I suppose that can feed the hour's time; to pose for sufficient outrage, to concentrate on ingenious insults, to try to claim what has gone before. But the fact is tonight, and this point I will agree with my colleague from Indiana who preceded me in the well, people are hurting. People need help.

We have reached out in a sense of compromise and consensus to offer health plans now for people who are hurting. So let me see if I follow the logic. No, we are not going to vote for the rule. No, we are not going to vote for the bill. We will do nothing, and that way we will help our constituents. We will do nothing to expand health benefits. We will do nothing to reinvigorate the economy. We will stand here with our arms crossed and affect poses of outrage, but in fact be apathetic, disinterested, and play a game of power rather than putting people ahead of politics.

That is basically the choice tonight. When we strip away all the rhetoric and strip away all the revisionist history and take the finger that points and curl it back and put it into our pockets, the question remains: Are my Democrat colleagues willing to meet us halfway; or is this a give-and-take where we give and give and give and you take and take and take?

We have a chance to move forward. We have a chance this evening, Mr. Speaker, to get something done for the American people. It will require special rules, but the time grows late and the need is real. And to say we will respond with nothing at all, or name calling, or inaccurate, deliberately inaccurate, representations of the consensus plan that has been drafted, small wonder, Mr. Speaker, that those who look in will call this "the most cynical time of the year."

For once, Mr. Speaker, let me appeal to my friends on the left. I understand what happens in terms of the pursuit of power. I understand the frustrations. But tonight cast a vote on behalf of constituents who are out of work. Let us get this economy moving again. The American people face challenges, but they are not insurmountable if we work together. Support the rule, support the legislation. Let us get people back to work, and let us help those who are hurting.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the Committee on Rules tonight denied Democrats, denied the minority party, the opportunity to offer a substitute; and that is why we oppose this bill. We have a substitute that is paid for, that does not add $250 billion to the deficit. We have a substitute that provides health insurance now rather than much later; a substitute that provides real unemployment benefits, rather than what the Republicans offered. They denied us the opportunity to offer a meaningful substitute, and that is why we are against the bill.

We would love to vote tonight, and we would love to vote on a real piece of legislation that does not take $250 billion out of the Social Security trust fund, as is being proposed by the majority.

Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I think some of our colleagues at this special time of the year need to get a smile on their face and feel a little better about things.

And, really, we need to give credit where credit is due. The House Republican leadership here got in the Christmas spirit ahead of a lot of other folks. Indeed, almost from the moment that they were sworn in last January. There are some Christmas sales underway, some pre-Christmas clearances underway by some stores I see here in town, but our Republican colleagues here in the House got into the business of giveaways long before any of these stores: giving away public lands to be mined on for practically nothing; rolling back health and safety rules; and tax breaks, lots of tax breaks, one after another for every special interest that lined up with a limousine at the Capitol.

It is the season of red and green. Well, red ink has been in favor here in the House all year long. This surplus is being used up by Republican borrowing to finance more corporate tax breaks. And green, well, that is the long green of special interest campaign contributions. And we have seen a lot of that this year too.

Even the Wall Street Journal this week labeled what is going on tonight as "a feeding frenzy among corporate tax lobbyists." Not to worry, though. They say there is enough for everyone. Well, not quite. Yes, Virginia, there may be a Santa Claus, but this year we are having a Republican Christmas. That is where Santa just stuffs the silk stockings. And for the working families of this country, they have a hole in their sock. They have heard of the story of Scrooge and of the Grinch, and their relief is slipping out the bottom of the stocking.

Federal Reserve Chairman Alan Greenspan warned us that "it is far more important to be right than to be quick." Well, this bill manages to fail both. It prefers to be wrong and to be late, very late into the evening. Who would want to do this in the light of day?

The stimulus stalled because the Republicans insisted on putting billions of dollars into tax breaks to set up various Christmas trees, as we call them around here, loaded with favors for well-heeled lobbyists. Enron, for example, from my State of Texas, which has had its problems of late, under the original Republican bill would get $254 million, getting its taxes rebated to 1986.

But only a lump of coal is left for working families who are out there wondering, "this Christmas do we buy presents for the kids or will we have enough to pay our health insurance premium next month?" "Who is going to pay the mortgage or pay the rent when the unemployment runs out?" I think it is time to dump the corporate lobbyists from Santa's knee and make room for those folks who have been working hard to build this great country and are now facing the problems created by this economic downturn.

Our Republican colleagues can wrap up this package tonight, they can slap a bow on it, they can call it a stimulus. But a pretty box that for most Americans is empty is not any present at all. This stimulus package, I believe, is a hollow Republican plan. That is why it is being rushed through under this martial law provision.

There is only one gift that our Republican colleagues are equal opportunity on, and they are going to spread that around to every citizen in this country, whatever their rank, philosophy, or party, and that is more debt. And we are going to get a heck of a lot of additional debt. We have got the Bush administration planning to come in here in a few weeks and ask us to raise the public debt ceiling because of schemes and shenanigans just like those going on tonight.

So I wish them well for the Christmas spirit. I know they have lots of it. But it would be nice if everybody in America could share a little more than packages wrapped up that only mean more public debt for them, their children, and their grandchildren.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

As I listen here very patiently to some of the partisan political rhetoric and excuses of why not to do something, I would like to ask this House to come back to why we are here. And the question is, Do we want to save the jobs of working Americans? Do we want to give working Americans the opportunity to go back to work?

□ 2215

I know I do. I know my Republican colleagues on the Republican side do. My hope is some of our Democratic colleagues will join with us in saving American jobs tonight.

Let us remember when President Bush was sworn in, he inherited a weakening economy. The September 11 attack on America had a psychological impact on our Nation, causing consumers and business investors to step back from decisions to invest and decisions to buy. It has come at a terrible cost, a cost where we have now seen, on average, 8,000 Americans lose their jobs every week.

Today in the Chicago area it was announced that Motorola was going to lay off 9,400 more employees. Think about that. 9,400 moms and dads are going home this week to tell their children that they no longer have a job. I want to do something about that. I want those citizens and constituents of mine in Illinois to get their jobs back. We have to remember that it was investment and creation of jobs that drove this economy in the past decade.

The Economic Security and Recovery Act provides that opportunity to invest in the creation of new jobs. I would point to two provisions. Technology created one-third of the jobs in the economy in the last decade, according to the Federal Reserve, and it was investment in technology that created those jobs in companies like Motorola. I note that two provisions in this package can make a difference, a 30 percent expensing, rewarding investment in computers and pickup trucks or automobiles. Somebody has to make and operate them. The 30 percent expensing will reward investment and creation of those jobs, giving someone an opportunity to make that product; and, of course, the worker hired to operate that product. We also have to recognize there are companies losing money this year, particularly as a result of the consequences of September 11.

While the net operating loss, the NOL carry-back allowing companies to go back 5 years against a profitable year, essentially get a little bit of a tax refund, which will free up capital so they can invest back in their company and protect current jobs.

Mr. Speaker, let us remember what this is all about. I want to go home at the end of this year, before Christmas, having done something for the people that work and raise families in the district that I represent. There is always an excuse not to do something. We are hearing those excuses from the other side. Let us pass this legislation. It is bipartisan legislation with bipartisan support here in the House, as well as bipartisan support in the Senate. Our job here in the House of Representatives is to pass this legislation and get America working again.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, normally I do not stand on the floor and talk about the tax cuts; but after listening to the debate tonight and seeing where we are at, and my frustration with this process, I do not know what part of reality my colleagues on the Republican side do not understand. America needs a stimulus plan that includes tax cuts, but not every half-thought-out scheme to shut down the vital functions of government that we need. The reality is that we are at war, and we have layoffs. We must pay for the defense of the Nation, and corporate give-backs will not pay for an increase for our troops or better equipment.

A laid-off worker cannot use a tax credit to pay this month's health insurance premium or to buy Christmas gifts for their family. They cannot use a tax credit that will come up next year, but all the other side of the aisle wants to do is give a tax credit. They have a one-size-fits-all. One answer for every problem. American workers out of a job, we will give a tax cut. A Nation at war, we will give a tax cut.

Mr. Speaker, how do we pay for the war or assistance to the employed? It will come out of the Social Security trust fund and further prolong the prescription drug benefit needed by our Nation's seniors.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the remarks of the gentleman on the other side, I just want to correct the gentleman, it is a refundable tax credit for the purchase of health insurance, contrary to what the gentleman's remarks were according to our information.

I think it might be a good time to talk about the fact that health care is something that the Thomas legislation reaches out to all Americans affected as they are displaced workers, not just a select few under COBRA, and there are an outline of a number of those.

When I think about middle America, the fact of reducing the current 27.5 percent tax rate to 25 percent effective January 2002 will strengthen working families across this country. There are a number of extensions of important pieces of legislation that are incorporated in this bill that are time sensitive, 2 years and 1 year, and permanent extensions of others.

When we look at this, not only have we looked across America, but the 2 months that the New York stimulus package has been kicking around that authorizes $15 billion of tax exempt bonds and bonus depreciation deductions, reduce the recovery period for leasehold improvements, increasing small business expensing and increasing time periods for reinvesting gains, many of those are right in the aspect of revitalizing New York City and the lower Manhattan area which has been so devastated.

Also in this legislation is victims' tax relief. That is going to the Oklahoma bombing and the anthrax attacks that have occurred in this country.

I also remind Members before when we listened that this was not enough and this was a Republican plan, we look at the Thomas plan which is a consensus, a bicameral approach of reaching consensus, in many aspects supported by the President of the United States, bringing forth solutions of compromise that is not just one fashion. It is a consensus of the best ideas. If we pass this rule, we will bring this legislation before the House and then see the will of this body as we consider this legislation tonight.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise in strong support of the same day rule and the underlying economic recovery bill.

The familiar sounds of the season, Mr. Speaker, silk stockings hanging by the chimney, Republicans as Grinch. The demagoguery of the day. But, Mr. Speaker, I offer that this rhetoric does nothing for the 1 million families facing this holiday with the uncertainty, the embarrassment and the despair of being out of work at Christmas.

I know whereof I speak, Mr. Speaker. In 1993, with my wife expecting our third, with Michael, my son, age 2, and Charlotte, my daughter, age 1, I was out of work. I endured going to the family parties with the uncertainty of where the next paycheck would be from. I can tell, Mr. Speaker, it is a grievous time.

Yet some even on the floor tonight complaining of the lateness of the hour say we should not act on this economic recovery bill, they say we should only help the wage earner, but not the wage payer. But the truth is always somewhere in between, as it is in this compromise bill, a bill that provides 6 times the unemployment relief of the original legislation that passed out of the House, and also recognizes that the best welfare program is a good job, and we help to create and stimulate the wage earner by bringing those loyal employees back into the fold.

Let us not think about the demagoguery and the political advantage of the day, let us think of the moms and dads stretching to make this Christmas special, and trusting us in this Congress in both parties to pursue policies that will lead them and our Nation out of this present recession.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I want to throw another category in the debate tonight that has not been mentioned, and that is the grandkids. We can all agree tonight that we need to do something for the workers. I certainly agree with most of the components of the tax cut, that it does something to provide jobs. But I hope the enthusiasm that I hear tonight from this side of the aisle will be here in February and March when we have to increase the debt ceiling from $5.95 trillion to $6.7 trillion. I look for the same enthusiasm as Members are showing tonight for spending this money, I look for it in February and March when we have to increase the debt ceiling.

I agree with the gentleman from New York (Mr. REYNOLDS), it is not much fun being in the minority. I agree that the majority can do anything that it wishes to do, and the majority are doing it again tonight, as the majority has done time and time again this year, and then claim to have bipartisanship; but that dog will not hunt. The majority can do it, and I respect their right to do it. But I also expect the majority to come to the floor and be just as enthusiastic when they raise the debt ceiling. I want the majority to be just as responsible when they say to the people out there that we are trying to help tonight, the Social Security trust fund dollars are being spent for these purposes.

What I ask for, and the Blue Dogs have asked for, is to please pay for it. What happened to the conservative principles of this body when we used to stand on this floor and argue, pay for government, pay as we go. There is not one word about that, but we are going to have to pay next year. We ought to think about the grandkids as well as the unemployed, as well as those who need the incentive to provide the jobs.

We are completely ignoring that. The chickens are going to come home to roost next year, and I hope the enthusiasm will be there.

Mr. Speaker, I hope Members are ready to increase the debt ceiling and borrow the money in order to return it for the purposes. I pray that the gentleman is right; I disagree with the gentleman, but the majority has every right to do what they are doing. Ramp it through, and then pay the consequences next year.

Mr. REYNOLDS. Mr. Speaker, I yield to the gentleman from Florida (Mr. WELDON) for 3 minutes.

Mr. WELDON of Florida. Mr. Speaker, this Nation suffered a great tragedy on September 11. Our economy was slowing down. The statistical analysis tells us we probably went into a recession some time in the spring, and we have suffered tremendous numbers of layoffs, unemployment is way up. The best way to make sure Social Security is solvent in the future is to get the economy going. I think we all agree the thing that brings prosperity to this country allows us to have programs like Medicare and Social Security.

What allows us to have a strong military is the fact that we have a very, very strong and robust economy. But right now the economy is not good. We have got hundreds of thousands of people who have lost their job. The most important thing that we can do to get those people back to work is to make it profitable for the corporations that previously employed them to hire them back.

Now, I think the product that the gentleman from California (Mr. THOMAS) and the White House and the leadership have put together is a good product that has, I think, some real potential to help get our economy going again; and, indeed, bring more money into the treasury to allow us to continue to fund all of the important things that we do.

Now there are some Members who are fond of calling this corporate welfare and just a big payout to business, but I would assert that we cannot create any prosperity here in this House, that we do not create jobs, that the private sector creates jobs. And the private sector right now is not creating any jobs. The private sector right now is laying people off. The best thing we can do is pass, at this time, an economic stimulus package that helps American business create more jobs.

□ 2230

To characterize this as some kind of big payoff to big business, in my opinion, is just demagoguery. Our stock markets have gone down in value. The NASDAQ has lost more than half of its value over the past year and a half. Millions of Americans who we all claim to represent have seen their retirement portfolios devastated by what is going on. This is the exact kind of package we need to help get this economy going again and put people back to work. And, yes, ultimately in the end achieve security for programs like Medicare and Social Security.

I encourage all my colleagues to vote for this.

Mr. FROST. Mr. Speaker, I yield 2¼ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, tonight at about 10:30 I think what we can all ask for is a focus on priorities. I would like to be going home and presenting to the constituents that I represent some relief. Houston has been hard hit by unemployment over the last couple of weeks. We have certainly been well known in the news for the ups and downs in our economy that we have been facing. But what we have here tonight as I oppose the martial law rule and certainly will oppose the rule that has been promoted is that we do not have an establishment of priorities. And frankly what we have is a letting down of the American people and certainly those who are facing unemployment.

It is a terrible shame in this time of unemployment that we cannot provide a greater relief than what this stimulus package provides. I might acknowledge that there has been a lot of work. We also realize that the other body will not be doing any work on this, and so we will have nothing to give to the American people.

I noted with the good work that was done by the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Ohio (Mr. REGULA) on the Labor-HHS bill; they still could not pass a parity proposal for mental health. I do not know if it was about no money, but I do believe that we can throw this particular legislation to the wind because it is too much money. It is too much money in the AMT prospectively giving away tax dollars that the Federal Government can ill afford; not providing the bridge for health insurance that these unemployed persons definitely need; giving to the individuals who are unemployed a tax credit that they cannot afford. My State alone on the 30 percent depreciation amendment that I offered in the Committee on Rules that was not accepted will lose $340 million every single year for 3 years. That is in this bill. They cannot afford to lose $340 million in revenue for 3 years. I offered an amendment to add $5 billion to the bill to provide for the loss of revenues that the State would be losing. It was not accepted.

Giving 13 weeks of unemployment is not acceptable, Mr. Speaker. We need 26 weeks to be able to provide for those who are unemployed. We could do better. This bill gives away money out of Social Security that we do not have, and again taking money away from the States that they do not have. Our State of Texas faced Tropical Storm Allison. We are still paying for that, even with the FEMA moneys, and here we are taking $340 million for 3 years with no relief in sight.

Mr. Speaker, again I believe that we can do better. I would ask my colleagues to reject this legislation. Let us go back to the drawing board and do better for the American people.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is a very clear choice. We have a responsible bill that we would like to vote on tonight, a substitute put together by the gentleman from New York (Mr. RANGEL), the ranking member on the committee. The Republicans have refused to make that in order. I assume they fear that our substitute is sufficiently attractive that it might actually pass. Let me repeat. They have refused to give us a straight up or down vote on the substitute put together by the gentleman from New York (Mr. Rangel). If they really wanted to act in a bipartisan way and if they really wanted to bring this matter to a conclusion so we could all help the unemployed people who need health insurance and who need unemployment benefits, why did they not permit a simple vote on our substitute? They know that the bill that they have proposed does not have the support of the United States Senate, so they are engaging in an empty act tonight. If they had permitted us to have a vote on our substitute, and if our substitute were to pass, that is quite possibly a bill that the Senate would take up and pass tomorrow. So the Republican leadership has guaranteed by the way they have structured the debate tonight that we will all go home without having passed a stimulus package.

Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I would like to just bring the debate back to perspective where we are. We are on a rule for same day consideration. If that rule passes, it will allow us to consider a rule which will bring the economic stimulus package before this House tonight. I would like to remind not only the Members, but for those who might be observing the Congress, we have been here all year. We have had a stimulus package before Congress for 2 months that has been stalled in the other body. We are now approaching the holidays. We are now getting ready to conclude our year's work and go back to our families and our States. So time is of the essence as we consider this legislation before us tonight and have the will of the House speak as we conclude.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I would like to congratulate him on his management of this rule and the next rule he is going to manage after we pass this one.

Mr. Speaker, I woke up this morning to National Public Radio. Yes, I am one of those Republicans who listens to "Morning Edition" on National Public Radio. There was a story about three of the most prominent tacticians of the Democratic Party: Mr. Greenberg, Mr. Carville, and Mr. Schrum. Those three have authored a memorandum in which they talk about the need for Democrats to praise President Bush's superb handling of this extraordinary war that we are facing, and the American people are behind him, 90 percent of them, and the world has united behind the President. But in this memorandum, Mr. Speaker, they talk about the need for Democrats to attack George Bush on the economy, to attack Republicans in the House of Representatives on the issue of the economy.

Mr. Speaker, as I have listened to the outrage demonstrated by so many of my colleagues here, I wonder whether or not they have read the Schrum-Greenberg-Carville memorandum. I can only assume that they must have, because the attempts that they have made to block this legislation are really unprecedented.

They are unprecedented because this morning we saw the President of the United States do something that I have never known of before. He came not only to meet with Republican Members of the House of Representatives and Republican Members of the United States Senate, but he went that extra mile to meet with the Democratic Caucus. He is trying so hard, having met with the leaders of this body, Mr. GEPHARDT, the leader of the other body, Mr. DASCHLE and the Speaker of the House and the Senate minority leader. Mr. Speaker, the President has done everything that he possibly can to put together a very decent bill.

The gentleman from Texas (Mr. FROST) has just talked about the need for the minority to have an opportunity to offer a substitute proposal. Mr. Speaker, while the gentleman from Texas (Mr. FROST) said we have denied the minority the opportunity to offer that, we in 1994, when we won the majority, guaranteed the minority the right to offer a recommittal motion. Members of the minority will be able to put together that substitute, and we will be able to have an up or down vote on it with the motion to recommit.

There are, in fact, Americans out there who are hurting. There are people who have been devastated by what took place economically here following the tragedy of September 11. I believe that it is absolutely essential that we move this legislation to the United States Senate, that we do everything that we can to recognize that this is a bipartisan package. It is one in which we have tried to build support from the other side of the aisle on. I am convinced that as we move through this very fair rule and consider the next one and have consideration of it, we will be able to provide that much needed assistance to the American people.

I urge support of this rule, the next rule, and this compromise package.

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 214, nays 206, not voting 14, as follows:

[Roll No. 506]

YEAS—214

Abercrombie
Aderholt
Akin
Armey
Bachus
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf

NAYS—206

Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank
Frost
Gonzalez
Gordon
Green (TX)
Gutierrez
Gutknecht
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer
Schakowsky
Schiff
Scott
Serrano
Shadegg
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—14

Baker
Clement
Cubin
Gephardt
Hall (OH)
Hastings (FL)
Luther
Meek (FL)
Owens
Rangel
Stark
Wexler
Young (AK)
Young (FL)

☐ 2303

Messrs. BOYD, INSLEE, JACKSON of Illinois, FLAKE, NADLER, and SCHAFFER changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

Mr. LEWIS of California (during the debate on H. Res. 320) submitted the following conference report and statement on the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 107-350)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3338) "making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, for military functions administered by the Department of Defense, and for other purposes, namely:

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS, 2002

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $23,752,384,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $19,551,484,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $7,345,340,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $19,724,014,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,670,197,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,654,523,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $471,200,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,061,160,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,041,695,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,784,654,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $10,794,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $22,335,074,000: Provided, That of the funds made available under this heading, $1,000,000, to remain available until expended, shall be transferred to "National Park Service—Construction" within 30 days of the enactment of this Act, only for necessary infrastructure repair improvements at Fort Baker, under the management of the Golden Gate Recreation Area: Provided further, That of the funds appropriated in this paragraph, not less than $355,000,000 shall be made available only for conventional ammunition care and maintenance.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $6,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $26,876,636,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $2,931,934,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,998,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $26,026,789,000: Provided, That notwithstanding any other provision of law, that of the funds available under this heading, $750,000 shall only be available to the Secretary of the Air Force for a grant to Florida Memorial College for the purpose of funding minority aviation training.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $12,773,270,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $33,500,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided, That notwithstanding any other provision of law, of the funds provided in this Act for Civil Military programs under this heading, $750,000 shall be available for a grant for Outdoor Odyssey, Roaring Run, Pennsylvania, to support the Youth Development and Leadership program and Department of Defense STARBASE program: Provided further, That of the funds made available in this paragraph, $1,000,000 shall be available only for continuation of the Middle East Regional Security Issues program: Provided further, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,771,246,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,003,690,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $144,023,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,024,866,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $3,768,058,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $3,988,961,000.

OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces, $50,000,000, to remain available until expended: Provided, That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title; the Defense Health Program appropriation; procurement accounts; research, development, test and evaluation accounts; and to working capital funds: Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $9,096,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $389,800,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $257,517,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $385,437,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $23,492,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period *as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.*

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $222,255,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), $49,700,000, to remain available until September 30, 2003.

SUPPORT FOR INTERNATIONAL SPORTING COMPETITIONS, DEFENSE

For logistical and security support for international sporting competitions (including pay and non-travel related allowances only for members of the Reserve Components of the Armed Forces of the United States called or ordered to active duty in connection with providing such support), $15,800,000, to remain available until expended.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,984,391,000, to remain available for obligation until September 30, 2004.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,079,330,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,193,746,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,200,465,000, to remain available for obligation until September 30, 2004.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 29 passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,183,736,000, to remain available for obligation until September 30, 2004.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $7,938,143,000, to remain available for obligation until September 30, 2004.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $1,429,592,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $461,399,000, to remain available for obligation until September 30, 2004.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $138,890,000;
SSGN (AP), $365,440,000;
NSSN, $1,578,914,000;
NSSN (AP), $684,288,000;
CVN Refuelings, $1,148,124,000;
CVN Refuelings (AP), $73,707,000;
Submarine Refuelings, $382,265,000;
Submarine Refuelings (AP), $77,750,000;
DDG–51 destroyer program, $2,966,036,000;
DDG–51 (AP), $125,000,000;
Cruiser conversion (AP), $75,000,000;
LPD–17 (AP), $155,000,000;
T–AKE, $370,818,000;
LHD–8, $267,238,000;
LCAC landing craft air cushion program, $46,091,000;
Prior year shipbuilding costs, $729,248,000;
Mine Hunter SWATH, $1,000,000;
Yard Oilers, $3,000,000; and
For craft, outfitting, post delivery, conversions, and first destination transformation transportation, $302,230,000;

In all: $9,490,039,000, to remain available for obligation until September 30, 2006: Provided, That additional obligations may be incurred after September 30, 2006, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of *the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.*

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 152 passenger motor vehicles for replacement only, and the purchase of five vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per unit for two units and not to exceed $115,000 per unit for the remaining three units; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $4,270,976,000, to remain available for obligation until September 30, 2004.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 25 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $995,442,000, to remain available for obligation until September 30, 2004.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $10,567,038,000, to remain available for obligation until September 30, 2004.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $2,989,524,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $866,644,000, to remain available for obligation until September 30, 2004.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 216 passenger motor vehicles for replacement only, and the purchase of three vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $8,085,863,000, to remain available for obligation until September 30, 2004.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 65 passenger motor vehicles for replacement only; the purchase of 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,389,490,000, to remain available for obligation until September 30, 2004: Provided, That funds provided under this heading for Patriot Advanced Capability 3 (PAC–3) missiles may be used for procurement of critical parts for PAC–3 missiles to support production of such missiles in future fiscal years.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $40,000,000 to remain available until expended, of which, $2,000,000 may be used for a Processible Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) to develop affordable production methods and a domestic supplier for military and commercial processible rigid-rod materials.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $699,130,000, to remain available for obligation until September 30, 2004: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component: Provided further, That of the funds appropriated under this heading, $148,430,000 shall be available only for the procurement of C–130J aircraft to be used solely for western states firefighting.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $7,106,074,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $11,498,506,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $14,669,931,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $15,415,275,000, to remain available for obligation until September 30, 2003: Provided, That for funds provided under this heading for ballistic missile defense programs, the minimum amount applicable under section 9(f)(1)(C) of the Small Business Act (15 U.S.C. 638(f)(1)(C)) shall be $75,000,000 (in lieu of the amount otherwise applicable for those programs under that section).

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $231,855,000, to remain available for obligation until September 30, 2003.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, $1,312,986,000: Provided, That during fiscal year 2002, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 330 passenger carrying motor vehicles for replacement only for the Defense Security Service.

National Defense Sealift Fund

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $432,408,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That, notwithstanding any other provision of law, $25,000,000 of the funds available under this heading shall be available only to finance the cost of constructing additional sealift capacity.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $18,391,194,000, of which $17,659,475,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2003; of which $267,915,000, to remain available for obligation until September 30, 2004, shall be for Procurement; of which $463,804,000, to remain available for obligation until September 30, 2003, shall be for Research, development, test and evaluation, and of which $14,000,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted in African nations.

Chemical Agents and Munitions Destruction, Army

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,105,557,000, of which $739,020,000 shall be for Operation and maintenance to remain available until September 30, 2003, $164,158,000 shall be for Procurement to remain available until September 30, 2004, and $202,379,000 shall be for Research, development, test and evaluation to remain available until September 30, 2003.

Drug Interdiction and Counter-Drug Activities, Defense

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $842,581,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

Office of the Inspector General

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $152,021,000, of which $150,221,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,800,000 to remain available until September 30, 2004, shall be for Procurement.

TITLE VII

RELATED AGENCIES

Central Intelligence Agency Retirement and Disability System Fund

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $212,000,000.

Intelligence Community Management Account

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $160,429,000, of which $28,003,000 for the Advanced Research and Development Committee shall remain available until September 30, 2003: Provided, That of the funds appropriated under this heading, $42,752,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2004, and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2003: Provided further, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities to conduct document exploitation of materials collected in Federal, State, and local law enforcement activity.

Payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, $67,500,000, to remain available until expended.

National Security Education Trust Fund

For the purposes of title VIII of Public Law 102–183, $8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS—DEPARTMENT OF DEFENSE

Sec. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Sec. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

Sec. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

Sec. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

Sec. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $2,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to May 1, 2002.

(TRANSFER OF FUNDS)

Sec. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the

"Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

UH–60/CH–60 aircraft;
C–17; and
F/A–18E and F engine.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress as of September 30 of each year: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2002, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2003 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2003.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: Provided, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent ownership by an Indian tribe, as defined in section 450b(e) of title 25, United States Code, or a Native Hawaiian organization, as defined in section 637(a)(15) of title 15, United States Code.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act and hereafter may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for fiscal year 2003 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8021. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8022. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a subcontractor at any tier shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8023. During the current fiscal year and hereafter, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, United States Code, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, United States Code, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, United States Code, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.

SEC. 8024. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8025. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8026. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8027. Of the funds made available in this Act, not less than $55,000,000 shall be available to maintain an attrition reserve force of 18 B–52 aircraft, of which $3,300,000 shall be available from "Military Personnel, Air Force", $37,400,000 shall be available from "Operation and Maintenance, Air Force", and $14,300,000 shall be available from "Aircraft Procurement, Air Force": Provided, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2002: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2003 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8028. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8029. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8030. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8031. Of the funds made available in this Act, not less than $23,003,000 shall be available for the Civil Air Patrol Corporation, of which $21,503,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes $1,500,000 for the Civil Air Patrol counterdrug program: Provided, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8032. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2002 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2002, not more than 6,227 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,029 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2003 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $40,000,000.

SEC. 8033. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided *further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.*

SEC. 8034. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8035. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8036. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2002. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8037. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8039. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8040. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8041. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8042. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8043. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000: Provided, That the $100,000 limitation shall not apply to amounts appropriated in this Act under the heading "Operation and Maintenance, Defense-Wide" for expenses related to certain classified activities.

SEC. 8044. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2003 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2003 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8045. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2003: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: Provided further, That any funds appropriated or transferred to the Central Intelligence Agency for agent operations and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2003.

SEC. 8046. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8047. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8048. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year and hereafter pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

(TRANSFER OF FUNDS)

SEC. 8049. In addition to the amounts appropriated elsewhere in this Act, $10,000,000 is hereby appropriated to the Department of Defense: Provided, That at the direction of the Assistant Secretary of Defense for Reserve Affairs, these funds shall be transferred to the Reserve component personnel accounts in Title I of this Act: Provided further, That these funds shall be used for incentive and bonus programs that address the most pressing recruitment and retention issues in the Reserve components.

SEC. 8050. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally

affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8051. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8052. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8053. Notwithstanding section 303 of Public Law 96–487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: Provided, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8054. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Former Soviet Union Threat Reduction, 2000/2002", $32,000,000;

"Other Procurement, Navy, 2000/2002", $15,300,000;

"Aircraft Procurement, Air Force, 2000/2002", $8,500,000;

"Other Procurement, Air Force, 2000/2002", $20,000,000;

"Aircraft Procurement, Army, 2001/2003", $16,000,000;

"Procurement of Ammunition, Army, 2001/2003", $27,400,000;

"Other Procurement, Army, 2001/2003", $28,745,000;

"Aircraft Procurement, Navy, 2001/2003", $8,600,000;

"Weapons Procurement, Navy, 2001/2003", $20,000,000;

"Other Procurement, Navy, 2001/2003", $7,600,000;

"Procurement, Marine Corps, 2001/2003", $1,000,000;

"Aircraft Procurement, Air Force, 2001/2003", $63,283,000;

"Missile Procurement, Air Force, 2001/2003", $58,450,000;

"Procurement of Ammunition, Air Force, 2001/2003", $5,800,000;

"Other Procurement, Air Force, 2001/2003", $10,200,000;

"Procurement, Defense-Wide, 2001/2003", $113,434,000;

"Research, Development, Test and Evaluation, Army, 2001/2002", $6,300,000;

"Research, Development, Test and Evaluation, Navy, 2001/2002", $18,800,000;

"Research, Development, Test and Evaluation, Air Force, 2001/2002", $69,283,000; and

"Research, Development, Test and Evaluation, Defense-Wide, 2001/2002", $780,000.

SEC. 8055. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8056. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8057. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8058. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8059. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2001 level: Provided, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8060. (a) LIMITATION ON PENTAGON RENOVATION COSTS.—Not later than the date each year on which the President submits to Congress the budget under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a certification that the total cost for the planning, design, construction, and installation of equipment for the renovation of wedges 2 through 5 of the Pentagon Reservation, cumulatively, will not exceed four times the total cost for the planning, design, construction, and installation of equipment for the renovation of wedge 1.

(b) ANNUAL ADJUSTMENT.—For purposes of applying the limitation in subsection (a), the Secretary shall adjust the cost for the renovation of wedge 1 by any increase or decrease in costs attributable to economic inflation, based on the most recent economic assumptions issued by the Office of Management and Budget for use in preparation of the budget of the United States under section 1104 of title 31, United States Code.

(c) EXCLUSION OF CERTAIN COSTS.—For purposes of calculating the limitation in subsection (a), the total cost for wedges 2 through 5 shall not include—

(1) any repair or reconstruction cost incurred as a result of the terrorist attack on the Pentagon that occurred on September 11, 2001;

(2) any increase in costs for wedges 2 through 5 attributable to compliance with new requirements of Federal, State, or local laws; and

(3) any increase in costs attributable to additional security requirements that the Secretary of Defense considers essential to provide a safe and secure working environment.

(d) CERTIFICATION COST REPORTS.—As part of the annual certification under subsection (a), the Secretary shall report the projected cost (as of the time of the certification) for—

(1) the renovation of each wedge, including the amount adjusted or otherwise excluded for such wedge under the authority of paragraphs (2) and (3) of subsection (c) for the period covered by the certification; and

(2) the repair and reconstruction of wedges 1 and 2 in response to the terrorist attack on the Pentagon that occurred on September 11, 2001.

(e) DURATION OF CERTIFICATION REQUIREMENT.—The requirement to make an annual certification under subsection (a) shall apply until the Secretary certifies to Congress that the renovation of the Pentagon Reservation is completed.

SEC. 8061. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act, for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8062. Of the funds made available under the heading "Operation and Maintenance, Air Force", $10,200,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

SEC. 8063. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8064. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8065. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8066. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8067. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8068. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8069. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8070. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: Provided, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8071. Of the funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide", up to $5,000,000 shall be available to provide assistance, by grant or otherwise, to public school systems that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments: Provided further, That up to $2,000,000 shall be available for DOD to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, That to the extent a federal agency provides this assistance, by contract, grant or otherwise, it may accept and expend non-federal funds in combination with these federal funds to provide assistance for the authorized purpose, if the non-federal entity requests such assistance and the non-federal funds are provided on a reimbursable basis.

SEC. 8072. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8073. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8074. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8075. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8076. Up to $3,000,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems critical to base operations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8077. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8078. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8079. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which *has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—*

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8080. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: Provided, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8081. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: Provided, That costs for which reimbursement is waived pursuant to this section shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8082. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8083. Using funds available by this Act or any other Act, the Secretary of the Air Force,. pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8084. Notwithstanding 31 U.S.C. 3902, during the current fiscal year and hereafter, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8085. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8086. Of the funds made available under the heading "Operation and Maintenance, Air Force", not less than $1,500,000 shall be made available by grant or otherwise, to the Council of Athabascan Tribal Governments, to provide assistance for health care, monitoring and related issues associated with research conducted from 1955 to 1957 by the former Arctic Aeromedical Laboratory.

SEC. 8087. In addition to the amounts appropriated or otherwise made available in this Act, $3,500,000, to remain available until September 30, 2002, is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $3,500,000 to the American Red Cross for Armed Forces Emergency Services.

SEC. 8088. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8089. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8090. Funds made available to the Civil Air Patrol in this Act under the heading "Drug Interdiction and Counter-Drug Activities, Defense" may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; and for equipment needed for mission support or performance: Provided, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8091. Section 8125 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259), is hereby repealed.

SEC. 8092. Of the funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Navy", up to $2,600,000 may be made available for a Maritime Fire Training Center at Barbers Point, including provision for laboratories, construction, and other efforts associated with research, development, and other programs of major importance to the Department of Defense.

SEC. 8093. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8094. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8095. The total amount appropriated in this Act is hereby reduced by $240,000,000 to reflect savings from favorable foreign currency fluctuations, to be derived as follows:

"Military Personnel, Army", $39,400,000;

"Military Personnel, Navy", $800,000;

"Military Personnel, Marine Corps", $9,900,000;

"Military Personnel, Air Force", $19,500,000;

"Operation and Maintenance, Army", $87,600,000;

"Operation and Maintenance, Navy", $18,300,000;

"Operation and Maintenance, Marine Corps", $1,300,000;

"Operation and Maintenance, Air Force", $33,800,000; and

"Operation and Maintenance, Defense-Wide", $29,400,000.

SEC. 8096. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T–AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8097. The budget of the President for fiscal year 2003 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Fund, the Operation and Maintenance accounts, and the Procurement accounts: Provided, That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: Provided further, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: Provided further, That these documents shall include budget exhibits OP–5 and OP–32, as defined in the Department of Defense Financial Management Regulation, for the Overseas Contingency Operations Transfer Fund for fiscal years 2001 and 2002.

SEC. 8098. Notwithstanding any other provision of law, the total amount appropriated in this Act under Title I and Title II is hereby reduced by $50,000,000: Provided, That during the current fiscal year, not more than 250 military and civilian personnel of the Department of Defense shall be assigned to legislative affairs or legislative liaison functions: Provided further, That of the 250 personnel assigned to legislative liaison or legislative affairs functions, 20 percent shall be assigned to the Office of the Secretary of Defense and the Office of the Chairman of the Joint Chiefs of Staff, 20 percent shall be assigned to the Department of the Army, 20 percent shall be assigned to the Department of the Navy, 20 percent shall be assigned to the Department of the Air Force, and 20 percent shall be assigned to the combatant commands: Provided further, That of the personnel assigned to legislative liaison and legislative affairs functions, no fewer than 20 percent shall be assigned to the Under Secretary of Defense (Comptroller), the Assistant Secretary of the Army (Financial Management and Comptroller), the Assistant Secretary of the Navy (Financial Management and Comptroller), and the Assistant Secretary of the Air Force (Financial Management and Comptroller).

SEC. 8099. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8100. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8101. Notwithstanding any other provision of law, for the purpose of establishing all Department of Defense policies governing the provision of care provided by and financed under the military health care system's case management program under 10 U.S.C. 1079(a)(17), the term "custodial care" shall be defined as care designed essentially to assist an individual in meeting the activities of daily living and which does not require the supervision of trained medical, nursing, paramedical or other specially trained individuals: Provided, That the case management program shall provide that members and retired members of the military services, and their dependents and survivors, have access to all medically necessary health care through the health care delivery system of the military services regardless of the health care status of the person seeking the health care: Provided further, That the case management program shall be the primary obligor for payment of medically necessary services and shall not be considered as secondarily liable to title XIX of the Social Security Act, other welfare programs or charity based care.

SEC. 8102. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $262,000,000, to reduce cost growth in travel, to be distributed as follows:

"Operation and Maintenance, Army", $21,000,000;

"Operation and Maintenance, Navy", $14,000,000;

"Operation and Maintenance, Marine Corps", $4,000,000;

"Operation and Maintenance, Air Force", $180,000,000;

"Operation and Maintenance, Defense-wide", $20,000,000;

"Operation and Maintenance, Army Reserve", $4,000,000;

"Operation and Maintenance, Navy Reserve", 2,000,000;

"Operation and Maintenance, Air Force Reserve", $5,000,000;

"Operation and Maintenance, Army National Guard", $6,000,000; and

"Operation and Maintenance, Air National Guard", $6,000,000.

SEC. 8103. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8104. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—(1) During the current fiscal year, a financial management major automated information system may not receive Milestone I approval, Milestone II approval, or Milestone III approval, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c) DEFINITIONS.—For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term "major automated information system" has the meaning given that term in Department of Defense Directive 5000.1.

SEC. 8105. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8106. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API–T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8107. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8108. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8109. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

SEC. 8110. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8111. In addition to the amounts provided elsewhere in this Act, the amount of $8,500,000 is hereby appropriated for "Operation and Maintenance, Defense-Wide", to be available, notwithstanding any other provision of law, only for a grant to the United Service Organizations Incorporated, a federally chartered corporation under chapter 2201 of title 36, United States Code. The grant provided under authority of this section is in addition to any grant provided for under any other provision of law.

SEC. 8112. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $131,700,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, $97,700,000 shall be made available for the purpose of continuing the Arrow System Improvement Program (ASIP), continuing ballistic missile defense interoperability with Israel, and establishing an Arrow production capability in the United States: Provided further, That the remainder, $34,000,000, shall be available for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defense of Israel for the Arrow Deployability Program.

SEC. 8113. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8114. Of the amounts appropriated in this Act under the heading, "Operation and Maintenance, Defense-Wide", $115,000,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8115. None of the funds appropriated in this Act under the heading "Overseas Contingency Operations Transfer Fund" may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: Provided, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the "Overseas Contingency Operations Transfer Fund": Provided further, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

SEC. 8116. In addition to amounts appropriated elsewhere in this Act, $4,500,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of the Army shall make a grant in the amount of $4,500,000 to the Fort Des Moines Memorial Park and Education Center.

SEC. 8117. In addition to amounts appropriated elsewhere in this Act, $4,250,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $4,250,000 to the National D-Day Museum.

SEC. 8118. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

SEC. 8119. In addition to amounts provided in this Act, $1,700,000 is hereby appropriated for "Defense Health Program", to remain available for obligation until expended: Provided, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 8120. (a) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106–79) is amended—

(1) by redesignating subsection (m) as subsection (o); and

(2) by adding after subsection (l) the following:

"(m) AUTHORITY TO ESTABLISH MEMORIAL.—

"(1) IN GENERAL.—The Commission may establish a permanent memorial to Dwight D. Eisenhower on land under the jurisdiction of the Secretary of the Interior in the District of Columbia or its environs.

"(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).".

(b) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106–79) is amended—

(1) in subsection (j)(2), by striking "accept gifts" and inserting "solicit and accept contributions"; and

(2) by inserting after subsection (m) (as added by subsection (a)(2)) the following:

"(n) MEMORIAL FUND.—

"(1) ESTABLISHMENT.—There is created in the Treasury a fund for the memorial to Dwight D. Eisenhower that includes amounts contributed under subsection (j)(2).

"(2) USE OF FUND.—The fund shall be used for the expenses of establishing the memorial.

"(3) INTEREST.—The Secretary of the Treasury shall credit to the fund the interest on obligations held in the fund.".

(c) In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $2,600,000, to remain available until expended is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $2,600,000 to the Dwight D. Eisenhower Memorial Commission for direct administrative support.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8121. In addition to the amounts appropriated elsewhere in this Act, $1,700,000, to remain available until expended, is hereby appropriated to the Department of Defense: Provided, That not later than 30 days after the enactment of this Act, the Secretary of Defense shall transfer these funds to the Department of Energy appropriation account "Fossil Energy Research and Development", only for a proposed conceptual design study to examine the feasibility of a zero emissions, steam injection process with possible applications for increased power generation efficiency, enhanced oil recovery and carbon sequestration.

SEC. 8122. In addition to amounts appropriated elsewhere in this Act, $8,000,000 shall be available only for the settlement of subcontractor claims for payment associated with the Air Force contract F19628–97–C–0105, Clear Radar Upgrade, at Clear AFS, Alaska: Provided, That all affected subcontractors shall mutually resolve the amounts claimed for payment by cooperative negotiation, third-party mediation or other form of alternative dispute resolution and shall present such claims to the Secretary of the Air Force: Provided further, That the Secretary of the Air Force shall evaluate claims as may be submitted by subcontractors, engaged under the contract, and, notwithstanding any other provision of law shall pay such amounts from the funds provided in this paragraph which the Secretary deems appropriate to settle completely any claims which the Secretary determines to have merit, with no right of appeal in any forum: Provided further, That subcontractors are to be paid interest, calculated in accordance with the Contract Disputes Act of 1978, 41 U.S.C. Sections 601–613, on any claims which the Secretary determines to have merit: Provided further, That the Secretary of the Air Force may delegate evaluation and payment as above to the U.S. Army Corps of Engineers, Alaska District on a reimbursable basis.

SEC. 8123. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by $1,650,000,000, to reflect savings to be achieved from business process reforms, management efficiencies, and procurement of administrative and management support: Provided, That none of the funds provided in this Act may be used for consulting and advisory services for legislative affairs and legislative liaison functions.

SEC. 8124. Funds appropriated for Operation and Maintenance in title II of this Act may be used to complete certain projects for which funds have been provided from—

(1) amounts appropriated for "Operation and Maintenance, Navy" in section 110 of the Emergency Supplemental Act, 2000 (division B of Public Law 106–246; 114 Stat. 530); or

(2) amounts appropriated for "Operation and Maintenance, Navy" in section 9001(a)(2)(i) of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 709).

SEC. 8125. In addition to amounts provided elsewhere in this Act, $17,900,000 is hereby appropriated for the Secretary of Defense, to remain available until expended, to establish a Regional Defense Counter-terrorism Fellowship Program: Provided, That funding provided herein may be used by the Secretary to fund foreign military officers to attend U.S. military educational institutions and selected regional centers for non-lethal training: Provided further, That United States Regional Commanders in Chief will be the nominative authority for candidates and schools for attendance with joint staff review and approval by the Secretary of Defense: Provided further, That the Secretary of Defense shall establish rules to govern the administration of this program.

SEC. 8126. Notwithstanding any other provision of law, from funds appropriated in this or any other Act under the heading, "Aircraft Procurement, Air Force", that remain available for obligation, not to exceed $26,700,000 shall be available for recording, adjusting, and liquidating obligations for the C–17 aircraft properly chargeable to the fiscal year 1998 and 1999 "Aircraft Procurement, Air Force" account: Provided, That the Secretary of the Air Force shall notify the congressional defense committees 30 days prior to obligation of all of the specific sources of funds to be used for such purpose.

SEC. 8127. Notwithstanding any other provision of law, from funds appropriated in this or any other Act under the heading, "Missile Procurement, Air Force", that remain available for obligation, not to exceed $50,000,000 shall be available for recording, adjusting, and liquidating obligations properly chargeable to fiscal year 1997 and 1998 "Missile Procurement, Air Force" accounts: Provided, That the Secretary of the Air Force shall notify the congressional defense committees 30 days prior to obligation of all of the specific sources of funds to be used for such purpose.

SEC. 8128. Notwithstanding any provisions of the Southern Nevada Public Land Management Act of 1998, Public Law 105–263, or the land use planning provision of Section 202 of the Federal Land Policy and Management Act of 1976, Public Law 94–579, or of any other law to the contrary, the Secretary of the Interior may acquire non-federal lands adjacent to Nellis Air Force Base, through a land exchange in Nevada, to ensure the continued safe operation of live ordnance departure areas at Nellis Air Force Base, Las Vegas, Nevada. The Secretary of the Air Force shall identify up to 220 acres of non-federal lands needed to ensure the continued safe operation of the live ordnance departure areas at Nellis Air Force Base. Any such identified property acquired by exchange by the Secretary of the Interior shall be transferred by the Secretary of the Interior to the jurisdiction, custody, and control of the Secretary of the Air Force to be managed as a part of Nellis Air Force Base. To the extent the Secretary of the Interior is unable to acquire non-federal lands by exchange, the Secretary of the Air Force is authorized to purchase those lands at fair market value subject to available appropriations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8129. Of the amounts appropriated in this Act under the heading, "Shipbuilding and Conversion, Navy", $729,248,000 shall be available until September 30, 2002, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1995/2002":

Carrier Replacement Program, $169,364,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2002":

LPD–17 Amphibious Transport Dock Ship Program, $172,989,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1997/2002":

DDG–51 Destroyer Program, $35,200,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

NSSN Program, $166,561,000;

DDG–51 Destroyer Program, $108,457,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2002":

NSSN Program, $60,429,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2001/2005":

Submarine Refuelings, $16,248,000.

(TRANSFER OF FUNDS)

SEC. 8130. Upon enactment of this Act, the Secretary of the Navy shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purpose as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/2002":

TRIDENT ballistic missile submarine program, $78,000;

SSN–21 attack submarine program, $66,000;

DDG–51 destroyer program, $6,100,000;

ENTERPRISE refueling/modernization program, $964,000;

LSD–41 dock landing ship cargo variant ship program, $237,000;

MCM mine countermeasures program, $118,000;

Oceanographic ship program, $2,317,000;

AOE combat support ship program, $164,000;

AO conversion program, $56,000;

Coast Guard icebreaker ship program, $863,000;

Craft, outfitting, post delivery, and ship special support equipment, $529,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002": DDG–51 destroyer program, $11,492,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1993/2002":

DDG–51 destroyer program, $3,986,000;

LHD–1 amphibious assault ship program, $85,000;

LSD–41 dock landing ship cargo variant program, $428,000;

AOE combat support ship program, $516,000;

Craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $1,034,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002": DDG–51 destroyer program, $6,049,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8131. Of the funds appropriated by this Act under the heading, "Operation and Maintenance, Navy", $56,000,000 shall remain available until expended, only for costs associated with the stabilization, return, refitting, necessary force protection upgrades, and repair of the U.S.S. COLE: Provided, That the Secretary of Defense may transfer these funds to appropriations accounts for procurement and that the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: Provided further, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense.

SEC. 8132. (a) The Secretary of Defense shall convey to Gwitchyaa Zhee Corporation the lands withdrawn by Public Land Order No. 1996, Lot 1 of United States Survey 7008, Public Land Order No. 1396, a portion of Lot 3 of United States Survey 7161, lands reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916, Lot 13 of United States Survey 7161, Lot 1 of United States Survey 7008 described in Public Land Order No. 1996, and Lot 13 of the United States Survey 7161 reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916.

(b) Following site restoration and survey by the Department of the Air Force that portion of Lot 3 of United States Survey 7161 withdrawn by Public Land Order No. 1396 and no longer needed by the Air Force shall be conveyed to Gwitchyaa Zhee Corporation.

SEC. 8133. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8134. Notwithstanding section 229(a) of the Social Security Act, no wages shall be deemed to have been paid to any individual pursuant to that section in any calendar year after 2001.

SEC. 8135. The total amount appropriated in this Act is hereby reduced by $105,000,000 to reflect fact-of-life changes in utilities costs, to be derived as follows:

"Operation and Maintenance, Army", $34,700,000;

"Operation and Maintenance, Navy", $8,800,000;

"Operation and Maintenance, Marine Corps", $7,200,000;

"Operation and Maintenance, Air Force", $28,800,000;

"Operation and Maintenance, Defense-Wide", $4,500,000;

"Operation and Maintenance, Army Reserve", $2,700,000;

"Operation and Maintenance, Army National Guard", $2,700,000;

"Operation and Maintenance, Air National Guard", $3,400,000;

"Defense Working Capital Funds", $7,100,000; and

"Defense Health Program", $5,100,000.

SEC. 8136. (a) Of the total amount appropriated for "Operation and Maintenance, Air Force", $2,100,000, to remain available until expended, shall be available to the Secretary of *the Air Force only for the purpose of making a grant in the amount of $2,100,000 to the Lafayette Escadrille Memorial Foundation, Inc., to be used to perform the repair, restoration, and preservation of the structure, plaza, and surrounding grounds of the Lafayette Escadrille Memorial in Marnes la-Coguette, France.*

(b) The Secretary shall require as a condition of the grant—

(1) that the funds provided through the grant be used only for costs associated with such repair, restoration, and preservation; and

(2) that none of those funds may be used for remuneration of any entity or individual associated with fund raising for the project to carry out such repair, restoration, and preservation.

SEC. 8137. (a) DESIGNATION OF NATIONAL MEMORIAL.—The five-foot-tall white cross first erected by the Veterans of Foreign Wars of the United States in 1934 along Cima Road in San Bernardino County, California, and now located within the boundary of the Mojave National Preserve, as well as a limited amount of adjoining Preserve property to be designated by the Secretary of the Interior, is hereby designated as a national memorial commemorating United States participation in World War I and honoring the American veterans of that war.

(b) LEGAL DESCRIPTION.—The memorial cross referred to in subsection (a) is located at latitude 35.316 North and longitude 115.548 West. The exact acreage and legal description of the property to be included by the Secretary of the Interior in the national World War I memorial shall be determined by a survey prepared by the Secretary.

(c) REINSTALLATION OF MEMORIAL PLAQUE.—The Secretary of the Interior shall use not more than $10,000 of funds available for the administration of the Mojave National Preserve to acquire a replica of the original memorial plaque and cross placed at the national World War I memorial designated by subsection (a) and to install the plaque in a suitable location on the grounds of the memorial.

SEC. 8138. In addition to the amounts provided elsewhere in this Act, the amount of $4,200,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Navy". Such amount shall be used by the Secretary of the Navy only to make a grant in the amount of $4,200,000 to the U.S.S. Alabama Battleship Foundation, a nonprofit organization established under the laws of the State of Alabama, to be available only for the preservation of the former U.S.S. ALABAMA (ex BB–60) as a museum and memorial.

SEC. 8139. In addition to the amounts provided elsewhere in this Act, the amount of $4,250,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Navy". Such amount shall be used by the Secretary of the Navy only to make a grant in the amount of $4,250,000 to the Intrepid Sea-Air-Space Foundation only for the preservation of the former U.S.S. INTREPID (CV 11) as a museum and memorial.

SEC. 8140. In addition to the amounts provided elsewhere in this Act, the amount of $6,000,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Air Force". Such amount shall be used by the Secretary of the Air Force only to make a grant in the amount of $6,000,000 to the Medical Lake School District, Washington State school district number 326, for relocation of the Fairchild Air Force Base Elementary School within the boundary of Fairchild Air Force Base, Washington.

SEC. 8141. In addition to the amounts provided elsewhere in this Act, the amount of $3,500,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Navy". Such amount shall be used by the Secretary of the Navy only to make a grant in the amount of $3,500,000 to the Central Kitsap School District, Washington State school district number 401, for the purchase and installation of equipment for a special needs learning center to meet the needs of Department of Defense special needs students at Submarine Base Bangor, Washington.

SEC. 8142. (a) In addition to amounts provided elsewhere in this Act, the amount of $8,500,000 is hereby appropriated for "Operation and Maintenance, Defense-Wide", to be available to the Secretary of Defense only for the purpose of making a grant for the purpose specified in section 8156 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 707), as amended by subsection (b). Such grant shall be made not later than 90 days after the date of the enactment of this Act.

(b) Section 8156 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 707), is amended by striking the comma after "California" the first place it appears and all that follows through "96–8867)".

SEC. 8143. (a) ACTIVITIES UNDER FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM.—Subject to subsections (b) through (e) of section 611 of Public Law 106–60 (113 Stat. 502; 10 U.S.C. 2701 note), the Secretary of the Army, acting through the Chief of Engineers, under the Formerly Utilized Sites Remedial Action Program shall undertake the functions and activities specified in subsection (a) of such section in order to—

(1) clean up radioactive contamination at the Shpack Landfill site located in Norton and Attleboro, Massachusetts; and

(2) clean up radioactive waste at the Shallow Land Disposal Area located in Parks Township, Armstrong County, Pennsylvania, consistent with the Memorandum of Understanding Between the United States Nuclear Regulatory Commission and the United States Army Corps of Engineers for Coordination on Cleanup and Decommissioning of the Formerly Utilized Sites Remedial Action Program (FUSRAP) Sites with NRC-Licensed Facilities, dated July 5, 2001.

(b) SPECIAL RULES REGARDING SHALLOW LAND DISPOSAL AREA.—The Secretary of the Army shall seek to recover response costs incurred by the Army Corps of Engineers for cleanup of the Shallow Land Disposal Area from appropriate responsible parties in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.). The Secretary of the Army and the Corps of Engineers shall not, by virtue of this cleanup, become liable for the actions or omissions of past, current, or future licensees, owners, or operators of the Shallow Land Disposal Area.

(c) FUNDING SOURCES.—Amounts appropriated to the Army Corps of Engineers for fiscal year 2001 and subsequent fiscal years and available for the Formerly Utilized Sites Remedial Action Program shall be available to carry out this section.

SEC. 8144. In addition to amounts otherwise appropriated or made available by this Act, $3,000,000 is appropriated to the Secretary of the Air Force and shall be used by the Secretary to reestablish the Tethered Aerostat Radar System at Morgan City, Louisiana, previously used by the Air Force in maritime, air, and land counter-drug detection and monitoring. Of the amounts appropriated or otherwise made available for operation and maintenance for the Air Force, the Secretary shall use $3,000,000 to operate such Tethered Aerostat Radar System upon its reestablishment.

SEC. 8145. The $100,000 limitation established by section 8046 in Public Law 106–79 and section 8043 of Public Law 106–259, shall not apply to amounts appropriated in that Act under the heading "Operation and Maintenance, Defense-Wide" for expenses related to certain classified activities associated with foreign material.

SEC. 8146. The total amount appropriated in this Act for Operation and Maintenance is hereby reduced by $100,000,000, to reflect savings attributable to improved supervision in determining appropriate purchases to be made using the Government purchase card, to be derived as follows:

"Operation and Maintenance, Army", $37,000,000;

"Operation and Maintenance, Navy", $29,000,000;

"Operation and Maintenance, Marine Corps", $3,000,000;

"Operation and Maintenance, Air Force", $24,000,000; and

"Operation and Maintenance, Defense-Wide", $7,000,000.

SEC. 8147. The Secretary of Defense and the Secretary of Veterans Affairs shall jointly conduct a comprehensive assessment that identifies and evaluates changes to Department of Defense and Department of Veterans Affairs health care delivery policies, methods, practices, and procedures in order to provide improved health care services at reduced costs to the taxpayer. This assessment shall include a detailed independent review, based on a statement of work authored by the Secretaries of both departments, of options to collocate or share facilities and care providers in areas where duplication and excess capacity may exist, optimize economies of scale through joint procurement of supplies and services, institute cooperative service agreements, and partially or fully integrate DOD and VA systems providing telehealth services, computerized patient records, provider credentialing, surgical quality assessment, rehabilitation services, administrative services, and centers of excellence for specialized health care services. The Secretaries shall jointly transmit a report to Congress by no later than March 1, 2002, explaining the findings and conclusions of this assessment, including detailed estimates of the costs, cost savings, and service benefits of each recommendation, and making legislative and administrative recommendations to implement the results of this effort: Provided, That of the funds provided under the heading "Defense Health Program" $2,500,000 shall be made available only for the purpose of conducting the assessment described in this section.

SEC. 8148. (a) Notwithstanding any other provision of law, operation and maintenance funds provided in this Act may be used for the purchase of ultralightweight camouflage net systems as unit spares in order to modernize the current inventory of camouflage screens to state-of-the-art protection standards more quickly than would otherwise be the case.

(b) The authority provided by subsection (a) may not be used until the Secretary of the Army submits to the congressional defense committees a report certifying that, compared to the current system that can be purchased with Army Operation and Maintenance funds, the ultralightweight camouflage net system—

(1) is technically superior against multi-spectral threat sensors;

(2) is less costly per unit; and

(3) provides improved overall force protection.

SEC. 8149. ARMY ACQUISITION MANAGEMENT. (a) FUNDING REDUCTION.—The amount appropriated in this Act for "Operation and Maintenance, Army" is hereby reduced by $5,000,000 to reflect efficiencies in Army acquisition management practices.

(b) REPORT TO CONGRESS ON ARMY REORGANIZATION.—The Secretary of the Army shall submit a report to the congressional defense committees no later than April 15, 2002 providing a detailed explanation of the final plans for realigning Army requirements generation, acquisition, resource management, and Departmental headquarters functions and systems. Such report shall include an independent assessment of

the Army plan by the Center for Naval Analyses. Such report shall also include an analysis of the annual budget and personnel savings derived from this reorganization plan by major function compared to the fiscal year 2001 baseline for fiscal years 2002 through 2008.

SEC. 8150. (a) NON-PROFIT ARMY VENTURE CAPITAL CORPORATION.—Of the funds made available for "Research, Development, Test and Evaluation, Army", $25,000,000 shall be available to the Secretary of the Army only for the purpose of funding a venture capital investment corporation established pursuant to section 2371 of title 10 United States Code, to be derived as specified in subsection (b).

(b) FUNDING.—The amount specified in subsection (a) shall be derived by reducing, on a pro rata basis, amounts made available to the Army for basic research and applied research, except for amounts for research projects designated as congressional special interest items and amounts available to the Army for research, development, test, and evaluation relating to the Future Combat System.

SEC. 8151. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of 38 U.S.C. 7403(g) for occupations listed in 38 U.S.C. 7403(a)(2) as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of 38 U.S.C. 7403(g)(1)(A) shall apply.

(B) The limitations of 38 U.S.C. 7403(g)(1)(B) shall not apply.

SEC. 8152. (a) The Secretary of Defense may waive any requirement that the fiscal year 2001 Department of Defense financial statement include the accounts and associated activities of the Department of the Army and the Department of the Navy, to the extent that the Secretary determines necessary due to the effects of the terrorist attack on the Pentagon of September 11, 2001.

(b) If any accounts and associated activities of the Department of the Army or the Department of the Navy are excluded from the fiscal year 2001 Department of Defense financial statement pursuant to subsection (a), the Secretary of Defense shall, as soon as practicable after March 1, 2002, prepare and submit to the Director of the Office of Management and Budget, a revised audited financial statement for fiscal year 2001 that includes all such accounts and activities.

(c) For purposes of this section, the term "fiscal year 2001 Department of Defense financial statement" means the audited financial statement of the Department of Defense for fiscal year 2001 required by section 3515 of title 31, United States Code, to be submitted to the Director of the Office of Management and Budget not later than March 1, 2002.

SEC. 8153. Notwithstanding any other provision of this Act, the Secretary of the Air Force may enter into a multiyear contract, or extend an existing multiyear contract, for the C–17 aircraft: Provided, That the authority to enter into such a contract (or contract extension) may not be exercised until a period of not less than 30 days has elapsed after the date of the submission of a report under paragraph (4) of section 2306b(l) of title 10, United States Code: Provided further, That the authorities provided in this section shall not be available until the Secretary of Defense submits to the congressional defense committees a certification that the applicable requirements under section 2306b of title 10, United States Code, and section 8008 of this Act with respect to such a contract (or contract extension) have been met.

SEC. 8154. Notwithstanding any other provision of law, of the funds appropriated in this Act under the heading "Operation and Maintenance, Defense-Wide", $1,450,000, to remain available until expended, is provided only for payment of any expenses incurred after April 1, 2002 of the Commission on the Future of the United States Aerospace Industry pursuant to section 1092(e)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 165A–215).

SEC. 8155. Of the funds appropriated in this Act under the heading "Operation and Maintenance, Defense-Wide", $1,000,000, to remain available until expended, shall be made available to the Secretary of Defense, notwithstanding any other provision of law, only for a grant or grants to the Somerset County Board of Commissioners (in the Commonwealth of Pennsylvania), to design and construct a memorial (including operating and maintenance expenses for appropriate security measures to protect the site) at the airplane crash site in Somerset County, Pennsylvania honoring the brave men, women, and children who perished following a valiant struggle with terrorists aboard United Airlines Flight 93 on September 11, 2001.

SEC. 8156. (a) FINDINGS.—The Congress finds that—

(1) in times when our national security is threatened by possible attacks from foreign and domestic enemies, it is necessary that the United States have a sufficient supply of certain products that are essential for defending this Nation; and

(2) it has been the consistent intent of Congress that the Department of Defense, when purchasing items to support the Armed Forces, choose items that are wholly of domestic content and manufacture, especially items identified as essential to our national defense.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it is vital that the United States maintain a domestic manufacturing base for certain products necessary to national security, so that our Nation does not become reliant on foreign sources for such products and thereby vulnerable to disruptions in international trade; and

(2) in cases where such domestic manufacturing base is threatened, the United States should take action to preserve such manufacturing base.

SEC. 8157. (a) Not later than February 1, 2002, the Secretary of Defense shall report to the congressional defense committees on the status of the safety and security of munitions shipments that use commercial trucking carriers within the United States.

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the Department of Defense's policies and practices for conducting background investigations of current and prospective drivers of munitions shipments.

(2) A description of current requirements for periodic safety and security reviews of commercial trucking carriers that carry munitions.

(3) A review of the Department of Defense's efforts to establish uniform safety and security standards for cargo terminals not operated by the Department that store munitions shipments.

(4) An assessment of current capabilities to provide for escort security vehicles for shipments that contain dangerous munitions or sensitive technology, or pass through high-risk areas.

(5) A description of current requirements for depots and other defense facilities to remain open outside normal operating hours to receive munitions shipments.

(6) Legislative proposals, if any, to correct deficiencies identified by the Department of Defense in the report under subsection (a).

(c) Not later than six months after enactment of this Act, the Secretary shall report to Congress on safety and security procedures used for U.S. munitions shipments in European NATO countries, and provide recommendations on what procedures or technologies used in those countries should be adopted for shipments in the United States.

SEC. 8158. In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $15,000,000, to remain available until September 30, 2002 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $15,000,000 to the Citadel for the Padgett Thomas Barracks in Charleston, South Carolina.

SEC. 8159. MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM. (a) The Secretary of the Air Force may, from funds provided in this Act or any future appropriations Act, establish and make payments on a multi-year pilot program for leasing general purpose Boeing 767 aircraft and Boeing 737 aircraft in commercial configuration.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease Pilot Program authorized by this section:

(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein.

(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease.

(4) Subchapter IV of chapter 15 of Title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A–11, as in effect at the time of the lease.

(6) Lease arrangements authorized by this section may not commence until:

(A) The Secretary submits a report to the congressional defense committees outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

(B) A period of not less than 30 calendar days has elapsed after submitting the report.

(7) Not later than 1 year after the date on which the first aircraft is delivered under this Pilot Program, and yearly thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least 6 months of experience in operating the Pilot Program.

(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

(d) No lease entered into under this authority shall provide for—

(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

(f) The authority provided under this section may be used to lease not more than a total of one hundred Boeing 767 aircraft and four Boeing 737 aircraft for the purposes specified herein.

SEC. 8160. From within amounts made available in the Title II of this Act, under the heading "Operation and Maintenance, Army National Guard", and notwithstanding any other provision of law, $2,200,000 shall be available only for repairs and safety improvements to the segment of Camp McCain Road which extends from Highway 8 south toward the boundary of Camp McCain, Mississippi and originating intersection of Camp McCain Road; and for repairs and safety improvements to the segment of Greensboro Road which connects the Administration Offices of Camp McCain to the Troutt Rifle Range: Provided, That these funds shall remain available until expended: Provided further, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings.

SEC. 8161. From funds made available under Title II of this Act, the Secretary of the Army may make available a grant of $2,100,000 to the Chicago Park District for renovation of the Broadway Armory, a former National Guard facility in the Edgewater community in Chicago.

SEC. 8162. SENSE OF CONGRESS CONCERNING THE MILITARY INDUSTRIAL BASE. (a) IN GENERAL.— It is the sense of the Congress that the military aircraft industrial base of the United States be preserved. In order to ensure this we must retain—

(1) adequate competition in the design, engineering, production, sale and support of military aircraft;

(2) continued innovation in the development and manufacture of military aircraft;

(3) actual and future capability of more than one aircraft company to design, engineer, produce and support military aircraft.

(b) STUDY OF IMPACT ON THE INDUSTRIAL BASE.—In order to determine the current and future adequacy of the military aircraft industrial base a study shall be conducted. Of the funds made available under the heading "PROCUREMENT, DEFENSE-WIDE" in this Act, up to $1,500,000 may be made available for a comprehensive analysis of and report on the risks to innovation and cost of limited or no competition in contracting for military aircraft and related weapon systems for the Department of Defense, including the cost of contracting where there is no more than one primary manufacturer with the capacity to bid for and build military aircraft and related weapon systems, the impact of any limited competition in primary contracting on innovation in the design, development, and construction of military aircraft and related weapon systems, the impact of limited competition in primary contracting on the current and future capacity of manufacturers to design, engineer and build military aircraft and weapon systems. The Secretary of Defense shall report to the House and Senate Committees on Appropriations on the design of this analysis, and shall submit a report to these committees no later than 6 months from the date of enactment of this Act.

SEC. 8163. In addition to the amounts appropriated or otherwise made available in this Act, $5,200,000, to remain available until September 30, 2002, is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $5,200,000 to the Armed Forces Retirement Homes.

SEC. 8164. (a) ASSESSMENT REQUIRED.—Not later than March 15, 2002, the Secretary of the Army shall submit to the Committees on Appropriations of the Senate and House of Representatives a report containing an assessment of current risks under, and various alternatives to, the current Army plan for the destruction of chemical weapons.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description and assessment of the current risks in the storage of chemical weapons arising from potential terrorist attacks.

(2) A description and assessment of the current risks in the storage of chemical weapons arising from storage of such weapons after April 2007, the required date for disposal of such weapons as stated in the Chemical Weapons Convention.

(3) A description and assessment of various options for eliminating or reducing the risks described in paragraphs (1) and (2).

(c) CONSIDERATIONS.—In preparing the report, the Secretary shall take into account the plan for the disassembly and neutralization of the agents in chemical weapons as described in Army engineering studies in 1985 and 1996, the 1991 Department of Defense Safety Contingency Plan, and the 1993 findings of the National Academy of Sciences on disassembly and neutralization of chemical weapons.

SEC. 8165. Of the amount appropriated by title II for operation and maintenance, Defense-wide, $47,261,000 may be available for the Defense Leadership and Management Program.

SEC. 8166. SENSE OF THE CONGRESS REGARDING ENVIRONMENTAL CONTAMINATION IN THE PHILIPPINES. It is the sense of the Congress that—

(1) the Secretary of State, in cooperation with the Secretary of Defense, should continue to work with the Government of the Philippines and with appropriate non-governmental organizations in the United States and the Philippines to fully identify and share all relevant information concerning environmental contamination and health effects emanating from former United States military facilities in the Philippines following the departure of the United States military forces from the Philippines in 1992;

(2) the United States and the Government of the Philippines should continue to build upon the agreements outlined in the Joint Statement by the United States and the Republic of the Philippines on a Framework for Bilateral Cooperation in the Environment and Public Health, signed on July 27, 2000; and

(3) Congress should encourage an objective non-governmental study, which would examine environmental contamination and health effects emanating from former United States military facilities in the Philippines, following the departure of United States military forces from the Philippines in 1992.

SEC. 8167. (a) AUTHORITY FOR BURIAL OF CERTAIN INDIVIDUALS AT ARLINGTON NATIONAL CEMETERY.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) ELIGIBILITY OF SURVIVING SPOUSE.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

SEC. 8168. In fiscal year 2002, the Department of the Interior National Business Center may continue to enter into grants, cooperative agreements, and other transactions, under the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, and other related legislation.

SEC. 8169. Of the total amount appropriated by this division for "Operation and Maintenance, Defense-Wide", $3,500,000 may be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77).

SEC. 8170. Of the total amount appropriated by this division for "Operation and Maintenance, Air National Guard", $435,000 may be available (subject to section 2805(c) of title 10, United States Code) for the replacement of deteriorating gas lines, mains, valves, and fittings at the Air National Guard facility at Rosecrans Memorial Airport, St. Joseph, Missouri, and (subject to section 2811 of title 10, United States Code) for the repair of the roof of the Aerial Port Facility at that airport.

SEC. 8171. Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in cooperation with the Secretaries of State and Energy, shall submit a report to Congress describing the steps that have been taken to develop cooperative threat reduction programs with India and Pakistan. Such report shall include recommendations for changes in any provision of existing law that is currently an impediment to the full establishment of such programs, a timetable for implementation of such programs, and an estimated five-year budget that will be required to fully fund such programs.

SEC. 8172. (a) MODIFICATION OF GENERAL REQUIREMENTS.—Section 1078(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–283) is amended—

(1) in paragraph (1), by inserting ", or its contractors or subcontractors," after "Department of Defense"; and

(2) in paragraph (3), by striking "stored, assembled, disassembled, or maintained" and inserting "manufactured, assembled, or disassembled".

(b) DETERMINATION OF EXPOSURES AT IAAP.—The Secretary of Defense shall take appropriate actions to determine the nature and extent of the exposure of current and former employees at the Army facility at the Iowa Army Ammunition Plant, including contractor and subcontractor employees at the facility, to radioactive or other hazardous substances at the facility, including possible pathways for the exposure of such employees to such substances.

(c) NOTIFICATION OF EMPLOYEES REGARDING EXPOSURE.—(1) The Secretary shall take appropriate actions to—

(A) identify current and former employees at the facility referred to in subsection (b), including contractor and subcontractor employees at the facility; and

(B) notify such employees of known or possible exposures to radioactive or other hazardous substances at the facility.

(2) Notice under paragraph (1)(B) shall include—

(A) information on the discussion of exposures covered by such notice with health care providers and other appropriate persons who do not hold a security clearance; and

(B) if necessary, appropriate guidance on contacting health care providers and officials involved with cleanup of the facility who hold an appropriate security clearance.

(3) Notice under paragraph (1)(B) shall be by mail or other appropriate means, as determined by the Secretary.

(d) DEADLINE FOR ACTIONS.—The Secretary shall complete the actions required by subsections (b) and (c) not later than 90 days after the date of the enactment of this Act.

(e) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the results of the actions undertaken by the Secretary under this section, including any determinations under subsection (b), the number of workers identified under subsection (c)(1)(A), the content of the notice to such workers under subsection (c)(1)(B), and the status of progress on the provision of the notice to such workers under subsection (c)(1)(B).

SEC. 8173. None of the funds made available in division A of this Act may be used to provide support or other assistance to the International Criminal court or to any criminal investigation or other prosecutorial activity of the International Criminal Court.

TITLE IX

COUNTER-TERRORISM AND DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For protection against terrorist attacks that might employ either conventional means or weapons of mass destruction, and to prepare against the consequences of such attacks; to deny unauthorized users the opportunity to modify, steal, inappropriately disclose, or destroy sensitive military data or networks; and to accelerate improvements in information networks and operations, $478,000,000: Provided, That of the amounts made available under this heading, $333,000,000 is available only for improving force protection and chemical and biological defense capabilities of the Department of Defense, and improving capabilities to respond to attacks using weapons of mass destruction: Provided further, That $70,000,000 is available only for improving the effectiveness of Department of Defense capabilities in the areas of information assurance and critical infrastructure protection, and information operations; and $75,000,000 is available only to develop and demonstrate systems to protect against unconventional nuclear threats: Provided further, That in order to carry out the specified purposes under this heading, funds made available under this heading may be transferred to any appropriation account otherwise enacted by this Act: Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority available to the Department of Defense: Provided further, That within 90 days of enactment of this Act, the Secretary of Defense shall provide to the Congress a report specifying the projects and accounts to which funds provided under this heading are to be transferred.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $403,000,000, to remain available until September 30, 2004: Provided, That of the amounts provided under this heading, $12,750,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

This division may be cited as the "Department of Defense Appropriations Act, 2002".

DIVISION B—TRANSFERS FROM THE EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107–38

The funds appropriated in Public Law 107–38 subject to subsequent enactment and previously designated as an emergency by the President and Congress under the Balanced Budget and Emergency Deficit Control Act of 1985, are transferred to the following chapters and accounts as follows:

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Office of the Secretary", $80,919,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $40,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

BUILDINGS AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Buildings and Facilities", $73,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $105,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $50,000,000 may be transferred to and merged with the Agricultural Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Buildings and Facilities", $14,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FOOD SAFETY AND INSPECTION SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Food Safety and Inspection Service", $15,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)", $39,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38: Provided, That of the amounts provided in this Act and any amounts available for reallocation in fiscal year 2002, the Secretary shall reallocate funds under section 17(g)(2) of the Child Nutrition Act of 1966 in the manner and under the formula the Secretary deems necessary to respond to the effects of unemployment and other conditions, and starting no later than March 1, 2002, such reallocation shall occur no less frequently than every other month throughout the fiscal year.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $151,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCY

COMMODITY FUTURES TRADING COMMISSION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Commodity Futures Trading Commission", $16,900,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 101. Title VI of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107–76) is amended under the heading "Food and Drug Administration, Salaries and Expenses" by striking "$13,207,000" and inserting "$13,357,000".

SEC. 102. Section 741(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107–76), is amended by striking "20,000,000 pounds" and inserting "5,000,000 pounds".

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

USA PATRIOT ACT ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Patriot Act Activities", $5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which up to $2,000,000 may be available for a feasibility report, as authorized by Section 405 of Public Law 107–56: Provided, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ADMINISTRATIVE REVIEW AND APPEALS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Administrative Review and Appeals", $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United

States, for "Salaries and Expenses, General Legal Activities", $12,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Attorneys", $56,370,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses, United States Marshals Service", $10,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $5,000,000 shall be for courthouse security equipment.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $9,125,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $745,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

ENFORCEMENT AND BORDER AFFAIRS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $449,800,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction", $99,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Justice Assistance", $400,000,000, to remain available until expended, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and section 1014 of the USA PATRIOT ACT (Public Law 107–56) and for other counter terrorism programs, to be obligated from amounts made available in Public Law 107–38, of which $9,800,000 is for an aircraft for counterterrorism and other required activities for the City of New York.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $251,100,000 shall be for discretionary grants, including equipment, under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CRIME VICTIMS FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Crime Victims Fund", $68,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Administration", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations and Administration", $1,756,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Public Telecommunications Facilities, Planning and Construction", $8,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That matching requirements set forth in section 392(b) of the Communications Act of 1934, as amended, shall not apply to funds provided in this Act.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Scientific and Technical Research and Services", $5,000,000 for a cyber security initiative, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION OF RESEARCH FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Construction of Research Facilities", $1,225,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations, Research, and Facilities", $2,750,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $4,776,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Care of the Building and Grounds", $30,000,000, to remain available until expended for security enhancements, to be obligated from amounts made available in Public Law 107–38.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $5,000,000, is for Emergency Communications Equipment, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COURT SECURITY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Court Security", $57,521,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for security of the Federal judiciary, of which not less than $4,000,000 shall be available to reimburse the United States Marshals Service for a Supervisory Deputy Marshal responsible for coordinating security in each judicial district and circuit: Provided, That the funds may be expended directly or transferred to the United States Marshals Service.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $2,879,000, to remain available until expended, to enhance security at the Thurgood Marshall Federal Judiciary Building, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF STATE AND RELATED AGENCY

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "International Broadcasting Operations", $9,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

BROADCASTING CAPITAL IMPROVEMENTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Broadcasting Capital Improvements", $10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses," $1,301,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38..

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $20,705,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

For emergency expenses for the cost of loan subsidies and for loan modifications as authorized by section 203 of this Act, for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania on September 11, 2001, for "Business Loans Program Account", $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DISASTER LOANS PROGRAM ACCOUNT

For emergency expenses for the cost of loan subsidies and for loan modifications as authorized by section 202 of this Act, for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania on September 11, 2001, for "Disaster Loans Program Account", $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 201. Funds appropriated by this Act for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, and section 15 of the State Department Basic Authorities Act of 1956, as amended.

SEC. 202. For purposes of assistance available under section 7(b)(2) and (4) of the Small Business Act (15 U.S.C. 636(b)(2) and (4)) to small business concerns located in disaster areas declared as a result of the September 11, 2001, terrorist attacks—

(i) the term "small business concern" shall include not-for-profit institutions and small business concerns described in United States Industry Codes 522320, 522390, 523210, 523920, 523991, 524113, 524114, 524126, 524128, 524210, 524291, 524292, and 524298 of the North American Industry Classification System (as described in 13 C.F.R. 121.201, as in effect on January 2, 2001);

(ii) the Administrator may apply such size standards as may be promulgated under such section 121.201 after the date of enactment of this provision, but no later than one year following the date of enactment of this Act; and

(iii) payments of interest and principal shall be deferred, and no interest shall accrue during the two-year period following the issuance of such disaster loan.

SEC. 203. Notwithstanding any other provision of law, the limitation on the total amount of loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) outstanding and committed to a borrower in the disaster areas declared in response to the September 11, 2001, terrorist attacks shall be increased to $10,000,000 and the Administrator shall, in lieu of the fee collected under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect an annual fee of 0.25 percent of the outstanding balance of deferred participation loans made under section 7(a) to small businesses adversely affected by the September 11, 2001, terrorist attacks and their aftermath, for a period of one year following the date of enactment and to the extent the costs of such reduced fees are offset by appropriations provided by this Act.

SEC. 204. Not later than April 1, 2002, the Secretary of State shall submit to the Committees on Appropriations, in both classified and unclassified form, a report on the United States-People's Republic of China Science and Technology Agreement of 1979, including all protocols. The report is intended to provide a comprehensive evaluation of the benefits of the agreement to the Chinese economy, military, and defense industrial base. The report shall include the following elements:

(1) an accounting of all activities conducted under the Agreement for the past five years, and a projection of activities to be undertaken through 2010;

(2) an estimate of the annual cost to the United States to administer the Agreement;

(3) an assessment of how the Agreement has influenced the policies of the People's Republic of China toward scientific and technological cooperation with the United States;

(4) an analysis of the involvement of Chinese nuclear weapons and military missile specialists in the activities of the Joint Commission;

(5) a determination of the extent to which the activities conducted under the Agreement have enhanced the military and industrial base of the People's Republic of China, and an assessment of the impact of projected activities through 2010, including transfers of technology, on China's economic and military capabilities; and

(6) recommendations on improving the monitoring of the activities of the Commission by the Secretaries of Defense and State.

The report shall be developed in consultation with the Secretaries of Commerce, Defense, and Energy, the Directors of the National Science Foundation and the Federal Bureau of Investigation, and the intelligence community.

SEC. 205. From within funds available to the State of Alaska or the Alaska Region of the National Marine Fisheries Service, an additional $500,000 may be made available for the cost of guaranteeing the reduction loan authorized under section 144(d)(4)(A) of title I, division B of Public Law 106–554 (114 Stat. 2763A–242) and that subparagraph is amended to read as follows: "(4)(A) The fishing capacity reduction program required under this subsection is authorized to be financed through a reduction loan of $100,000,000 under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g).".

SEC. 206. Title IV of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the third proviso of the first undesignated paragraph under the heading "Diplomatic and Consular Programs" by striking "this heading" and inserting "the appropriations accounts within the Administration of Foreign Affairs".

SEC. 207. Title V of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the proviso under the heading "Commission on Ocean Policy" by striking "appointment" and inserting "the first meeting of the Commission".

SEC. 208. Section 626(c) of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended by striking "1:00CV03110(ESG)" and inserting "1:00CV03110(EGS)".

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY OPERATION AND MAINTENANCE

DEFENSE EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Defense Emergency Response Fund", $3,395,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, as follows:

(1) For increased situational awareness, $850,000,000;

(2) For increased worldwide posture, $1,495,000,000;

(3) For offensive counterterrorism, $372,000,000;

(4) For initial crisis response, $39,100,000;

(5) For the Pentagon Reservation Maintenance Revolving Fund, $475,000,000;

(6) For relocation costs and other purposes, $164,500,000: Provided, That $500,000 shall be made available only for the White House Commission on the National Moment of Remembrance:

Provided further, That from funding available under the heading "Former Soviet Union Threat Reduction", $30,000,000 shall be transferred to "Department of State, Nonproliferation, Antiterrorism, Demining, and Related Programs" only for the purpose of supporting expansion of the Biological Weapons Redirect and International Science and Technology Centers programs, to prevent former Soviet biological weapons experts from emigrating to proliferant states and to reconfigure former Soviet biological weapons production facilities for peaceful uses.

GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING TRANSFER OF FUNDS)

SEC. 301. Amounts available in the "Defense Emergency Response Fund" (the "Fund") shall be available for the purposes set forth in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38): Provided, That the Fund may be used to reimburse other appropriations or funds of the Department of Defense, including activities of the National Foreign Intelligence Program funded in defense appropriations acts, only for costs incurred for such purposes on or after September 11, 2001: Provided further, That the Fund may be used to liquidate obligations incurred by the Department of Defense under the authorities in section 3732 of the Revised Statutes (41 U.S.C. 11; popularly known as the "Food and Forage Act") for any costs incurred for such purposes between September 11 and September 30, 2001: Provided further, That the Secretary of Defense may transfer to the Fund amounts from any current appropriation made available in defense appropriations acts, only for the purpose of adjusting and liquidating obligations properly chargeable to the Fund: Provided further, That the authority granted in the preceding proviso shall only be exercised after the Secretary of Defense makes a determination that amounts in the Fund are insufficient to liquidate obligations made using appropriations in the Fund, and not prior to 30 days after notifying the congressional defense committees in writing regarding each proposed transfer of funds: Provided further, That in order to carry out the specified purposes under this heading, the Secretary of Defense may transfer funds from the Fund to any defense appropriation account enacted in appropriations acts, including "Support for International Sporting Competitions, Defense": Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority available to the Department of Defense: Provided further, That within 30 days of enactment of this Act, and quarterly thereafter, the Secretary of Defense and the Director of Central Intelligence shall each provide to the Congress a report (in unclassified and classified form, as needed) specifying the projects and accounts to which funds provided in this chapter are to be transferred.

SEC. 302. Amounts in the appropriation account "Support for International Sporting Competitions, Defense", may be used to support essential security and safety for the 2002 Winter Olympic Games in Salt Lake City, Utah, without the certification required under subsection 10 U.S.C. 2564(a): Provided, That the term "active duty", in section 5802 of Public Law 104–208 shall include State active duty and full-time National Guard duty performed by members of the Army National Guard and Air National Guard in connection with providing essential security and safety support to the 2002 Winter Olympic

Games and logistical and security support to the 2002 Paralympic Games.

Sec. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

Sec. 304. Notwithstanding any other provision of law, of the amounts appropriated in Public Law 107–38 which remained available in the Defense Emergency Response Fund on December 18, 2001, not to exceed $100,000,000 may be available for payments to Pakistan and Jordan for logistical and military support provided, or to be provided, to United States military operations in connection with Operation Enduring Freedom: Provided, That such payments may be made in amounts as the Secretary may determine in his discretion, and such determination is final and conclusive upon the accounting officers of the United States.

(INCLUDING TRANSFER OF FUNDS)

Sec. 305. (a) During the current fiscal year, $475,000,000 of appropriations provided in this Act shall be transferred to the Pentagon Reservation Maintenance Revolving Fund only to reconstruct the Pentagon Reservation and for related activities as a result of the events of September 11, 2001.

(b) In addition to the amounts provided in subsection (a) or otherwise appropriated in this Act, out of funds appropriated by Public Law 107–38 but not subject to subsequent enactment, not subject to the restrictions of the fifth proviso of that Act, and not transferred before December 18, 2001, the amount of $300,000,000 is transferred to the Pentagon Reservation Maintenance Revolving Fund only to finance accelerated building renovation activities for military command centers and related activities at the Pentagon Reservation in order to accelerate completion of the currently planned Pentagon renovation project by up to 4 years: Provided, That notwithstanding any other provision of law, funds allocated and transferred under this section shall be made available until expended: Provided further, That the cost to accelerate renovation activities for military command centers and related activities at the Pentagon Reservation shall not be included in any cost cap applicable to the Pentagon renovation: Provided further, That the transfer authority provided under this section is in addition to any other transfer authority available to the Department of Defense.

(TRANSFER OF FUNDS)

Sec. 306. Notwithstanding any other provision of law or this Act, of the amounts unobligated in all fiscal year 2002 appropriations accounts in Titles III and IV of Division A of this Act, up to one and one-half percentum of these funds shall be available for transfer to the Operation and Maintenance accounts of the Department of Defense for such costs incurred in support of Operations Enduring Freedom and Noble Anvil: Provided, That the Secretary of Defense shall notify the Committees on Appropriations of the House and Senate of transfers made pursuant to this section not later than fifteen days after any such transfer is made: Provided further, That the transfer authority provided under this section is in addition to any other transfer authority available to the Department of Defense: Provided further, That the transfer authority available under this section may be utilized only after all other funds made available to the Department of Defense pursuant to Public Law 107–38 have been obligated: Provided further, That no congressional interest item may be reduced for the purposes of this section: Provided further, That such authority to transfer shall expire on April 30, 2002.

Sec. 307. During fiscal year 2002 the President, acting by and with the consent of the Senate, is authorized to appoint a commissioned officer of the Armed Forces, in active status, to the office of Deputy Administrator of the National Aeronautics and Space Administration notwithstanding section 202(b) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2472(b)). If so appointed, the provisions of section 403(c)(3), (4), and (5) of title 50, United States Code shall be applicable while the commissioned officer serves as Deputy Administrator in the same manner and extent as if the officer was serving in a position specified in section 403(c) of title 50 United States Code, except that the officer's military pay and allowances shall be reimbursed from funds available to the National Aeronautics and Space Administration.

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

Federal Payment to the District of Columbia for Protective Clothing and Breathing Apparatus

For a Federal payment to the District of Columbia for protective clothing and breathing apparatus, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $7,144,000, of which $922,000 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, and $453,000 is for the Department of Public Works.

Federal Payment to the District of Columbia for Specialized Hazardous Materials Equipment

For a Federal payment to the District of Columbia for specialized hazardous materials equipment, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $1,032,000, for the Fire and Emergency Medical Services Department.

Federal Payment to the District of Columbia for Chemical and Biological Weapons Preparedness

For a Federal payment to the District of Columbia for chemical and biological weapons preparedness, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $10,355,000, of which $205,000 is for the Fire and Emergency Medical Services Department, $258,000 is for the Metropolitan Police Department, and $9,892,000 is for the Department of Health.

Federal Payment to the District of Columbia for Pharmaceuticals for Responders

For a Federal payment to the District of Columbia for pharmaceuticals for responders, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $2,100,000, for the Department of Health.

Federal Payment to the District of Columbia for Response and Communications Capability

For a Federal payment to the District of Columbia for response and communications capability, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $14,960,000, of which $7,755,000 is for the Fire and Emergency Medical Services Department, $5,855,000 is for the Metropolitan Police Department, $113,000 is for the Department of Public Works Division of Transportation, $58,000 is for the Office of Property Management, $60,000 is for the Department of Public Works, $750,000 is for the Department of Health, $309,000 is for the Department of Human Services, and $60,000 is for the Department of Parks and Recreation.

Federal Payment to the District of Columbia for Search, Rescue and Other Emergency Equipment and Support

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for search, rescue and other emergency equipment and support, $8,850,000, of which $5,442,000 is for the Metropolitan Police Department, $208,000 is for the Fire and Emergency Medical Services Department, $398,500 is for the Department of Consumer and Regulatory Affairs, $1,178,500 is for the Department of Public Works, $542,000 is for the Department of Human Services, and $1,081,000 is for the Department of Mental Health.

Federal Payment to the District of Columbia for Equipment, Supplies and Vehicles for the Office of the Chief Medical Examiner

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for equipment, supplies and vehicles for the Office of the Chief Medical Examiner, $1,780,000.

Federal Payment to the District of Columbia for Hospital Containment Facilities for the Department of Health

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for hospital containment facilities for the Department of Health, $8,000,000.

Federal Payment to the District of Columbia for the Office of the Chief Technology Officer

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for the Office of the Chief Technology Officer, $45,494,000, for a first response land-line and wireless interoperability project, of which $1,000,000 shall be used to initiate a comprehensive review, by a non-vendor contractor, of the District's current technology-based systems and to develop a plan for integrating the communications systems of the District of Columbia Metropolitan Police and Fire and Emergency Medical Services Departments with the systems of local, regional and federal law enforcement agencies, including but not limited to the United States Capitol Police, United States Park Police, United States Secret Service, Federal Bureau of Investigation, Federal Protective Service, and the Washington Metropolitan Area Transit Authority Police: Provided, That such plan shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2002.

Federal Payment to the District of Columbia for Emergency Traffic Management

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for emergency traffic management, $20,700,000, for the Department of Public Works Division of Transportation, of which $14,000,000 is to upgrade traffic light controllers, $4,700,000 is to establish a video traffic monitoring system, and $2,000,000 is to disseminate traffic information.

Federal Payment to the District of Columbia for Training and Planning

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for training and planning, $9,949,000, of which $4,400,000 is for the Fire and Emergency Medical Services Department, $990,000 is for the Metropolitan Police Department, $1,200,000 is for the Department of Health, $200,000 is for the Office of the Chief Medical Examiner, $500,000 is for the Office of Property Management, $500,000 is for the Department of Mental Health, $469,000 is for the Department of Consumer and Regulatory Affairs, $240,000 is for the Department of Public Works, $600,000 is for the Department of Human Services, $100,000 is for the Department of Parks and Recreation, and $750,000 is for the Division of Transportation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR INCREASED FACILITY SECURITY

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for increased facility security, $25,536,000, of which $3,900,000 is for the Emergency Management Agency, $14,575,000 is for the public schools, and $7,061,000 is for the Office of Property Management.

FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For a Federal payment to the Washington Metropolitan Area Transit Authority to meet region-wide security requirements, a contribution of $39,100,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $5,000,000 shall be used for protective clothing and breathing apparatus, $2,200,000 shall be for completion of the fiber optic network project, $15,000,000 shall be for a chemical emergency sensor program, and $16,900,000 shall be for increased employee and facility security.

FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

For a Federal payment to the Metropolitan Washington Council of Governments to enhance regional emergency preparedness, coordination and response, $5,000,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $1,500,000 shall be used to contribute to the development of a comprehensive regional emergency preparedness, coordination and response plan, $500,000 shall be used to develop a critical infrastructure threat assessment model, $500,000 shall be used to develop and implement a regional communications plan, and $2,500,000 shall be used to develop protocols and procedures for training and outreach exercises.

DISTRICT OF COLUMBIA FUNDS

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia and shall remain available until September 30, 2003.

For Protective Clothing and Breathing Apparatus, to remain available until September 30, 2003, $7,144,000, of which $922,000 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, and $453,000 is for the Department of Public Works.

For Specialized Hazardous Materials Equipment, to remain available until September 30, 2003, $1,032,000, for the Fire and Emergency Medical Services Department.

For Chemical and Biological Weapons Preparedness, to remain available until September 30, 2003, $10,355,000, of which $205,000 is for the Fire and Emergency Medical Services Department, $258,000 is for the Metropolitan Police Department, and $9,892,000 is for the Department of Health.

For Pharmaceuticals for Responders, to remain available until September 30, 2003, $2,100,000, for the Department of Health.

For Response and Communications capability, to remain available until September 30, 2003, $14,960,000, of which $7,755,000 is for the Fire and Emergency Medical Services Department, $5,855,000 is for the Metropolitan Police Department, $113,000 is for the Department of Public Works Division of Transportation, $58,000 is for the Office of Property Management, $60,000 is for the Department of Public Works, $750,000 is for the Department of Health, $309,000 is for the Department of Human Services, and $60,000 is for the Department of Parks and Recreation.

For search, rescue and other emergency equipment and support, to remain available until September 30, 2003, $8,850,000, of which $5,442,000 is for the Metropolitan Police Department, $208,000 is for the Fire and Emergency Medical Services Department, $398,500 is for the Department of Consumer and Regulatory Affairs, $1,178,500 is for the Department of Public Works, $542,000 is for the Department of Human Services, and $1,081,000 is for the Department of Mental Health.

For equipment, supplies and vehicles, to remain available until September 30, 2003, for the Office of the Chief Medical Examiner, $1,780,000.

For hospital containment facilities, to remain available until September 30, 2003, for the Department of Health, $8,000,000.

For the Office of the Chief Technology Officer, to remain available until September 30, 2003, $45,494,000 is for a first response land-line and wireless interoperability project, of which $1,000,000 shall be used to initiate a comprehensive review by a non-vendor contractor of the District's current technology-based systems and to develop a plan for integrating the communications systems of the District of Columbia Metropolitan Police and Fire and Emergency Medical Services Departments with the systems of local, regional and federal law enforcement agencies, including, but not limited to the United States Capitol Police, United States Park Police, United States Secret Service, Federal Bureau of Investigation, Federal Protective Service, and the Washington Metropolitan Area Transit Authority Police: Provided, That such plan shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2002.

For emergency traffic management, to remain available until September 30, 2003, $20,700,000 is for the Department of Public Works Division of Transportation, of which $14,000,000 is to upgrade traffic light controllers, $4,700,000 is to establish a video traffic monitoring system, and $2,000,000 is to disseminate traffic information.

For training and planning, to remain available until September 30, 2003, $9,949,000, of which $4,400,000 is for the Fire and Emergency Medical Services Department, $990,000 is for the Metropolitan Police Department, $1,200,000 is for the Department of Health, $200,000 is for the Office of the Chief Medical Examiner, $500,000 is for the Office of Property Management, $500,000 is for the Department of Mental Health, $469,000 is for the Department of Consumer and Regulatory Affairs, $240,000 is for the Department of Public Works, $600,000 is for the Department of Human Services, $100,000 is for the Department of Parks and Recreation, and $750,000 is for the Division of Transportation.

For increased facility security, to remain available until September 30, 2003, $25,536,000, of which $3,900,000 is for the Emergency Management Agency, $14,575,000 for the public schools, and $7,061,000 for the Office of Property Management.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 401. Notwithstanding any other provision of law, the Chief Financial Officer of the District of Columbia may transfer up to 5 percent of the funds appropriated to the District of Columbia in this chapter between these accounts: Provided, That no such transfer shall take place unless the Chief Financial Officer of the District of Columbia notifies in writing the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of such transfer.

SEC. 402. The Chief Financial Officer of the District of Columbia, the Chief Financial Officer of the Washington Metropolitan Area Transit Authority and the Executive Director of the Metropolitan Washington Council of Governments shall provide quarterly reports to the President and the Committees on Appropriations of the Senate and the House of Representatives on the use of the funds under this chapter beginning no later than March 15, 2002.

SEC. 403. Notwithstanding any other provision of law, all amounts under this chapter shall be apportioned quarterly by the Office of Management and Budget: Provided, That all such funds shall be made available no later than September 30, 2002.

SEC. 404. In the Fiscal Year 2002 District of Columbia Appropriations Act under the heading "Administrative Provisions, Payments for Representation of Indigents" under subsection (c), strike all after "March 1, 2002." through ""3600".".

CHAPTER 5

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operation and Maintenance, General", $139,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Water and Related Resources", $30,259,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for "Weapons Activities", $131,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE NUCLEAR NONPROLIFERATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for "Defense Nuclear Nonproliferation", $226,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Defense Environmental Restoration and Waste Management", $8,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OTHER DEFENSE ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological threats to civilian populations, for "Other Defense Activities", $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear power plants, for "Salaries and Expenses", $36,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That the funds appropriated herein shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 501. Of the funds provided in this or any other Act for "Defense Environmental Restoration and Waste Management" at the Department of Energy, up to $500,000 may be available to the Secretary of Energy for safety improvements to roads along the shipping route to the Waste Isolation Pilot Plant site.

SEC. 502. NUTWOOD LEVEE, ILLINOIS. The Energy and Water Development Appropriations Act, 2002 (Public Law 107–66) is amended under the heading "Title I, Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction, General" by inserting after "$3,500,000" but before the "." ": Provided further, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, may initiate construction on the Nutwood Levee, Illinois project".

SEC. 503. The Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended as follows:

(1) by inserting in Section 4(c) after "2000," and before "costs" the following: "and the additional $32,000,000 further authorized to be appropriated by amendments to the Act in 2001,"; and

(2) by inserting in Section 5 after "levels)," and before "plus" the following: "and, effective October 1, 2001, not to exceed an additional $32,000,000 (October 1, 2001, price levels),".

SEC. 504. JICARILLA, NEW MEXICO, MUNICIPAL WATER SYSTEM. Public Law 107–66 is amended—

(1) under the heading of "Title I, Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction, General"—

(A) by striking "Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico:"; and

(B) insert at the end before the period the following: ": Provided further, That using funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to transfer $2,500,000 to the Secretary of the Interior for the Bureau of Reclamation to proceed with the Jicarilla Municipal Water System in the town of Dulce, New Mexico"; and

(2) under the heading of "Title II, Department of the Interior, Bureau of Reclamation, Water and Related Resources, (Including the Transfer of Funds)"—

(A) insert at the end before the period the following: ": Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Interior is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico".

SEC. 505. (a) OCCOQUAN RIVER, VIRGINIA.—The project for navigation, Occoquan Creek, Virginia, authorized by the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved September 19, 1890 (26 Stat. 440), is modified to direct the Secretary of the Army—

(1) to deepen the project to a depth of 9 feet; and

(2) to widen the project between Channel Marker Number 2 and the bridge at United States Route 1 to a width of 200 feet.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated to carry out the project referred to in subsection (a) by the Energy and Water Development Appropriations Act, 2001 (as enacted into law by Public Law 106–377), shall be made available to carry out the modifications to the project under subsection (a).

(c) PROJECT REDESIGNATION.—

(1) IN GENERAL.—The project referred to in subsection (a) shall be known and designated as the "project for navigation, Occoquan River, Virginia".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the project referred to in subsection (a) shall be deemed to be a reference to the "project for navigation, Occoquan River, Virginia".

CHAPTER 6

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "International Disaster Assistance", $50,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for humanitarian and reconstruction activities in Afghanistan.

CHAPTER 7

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Operation of the National Park System", $10,098,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PARK POLICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for the "United States Park Police", $25,295,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Construction", $21,624,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That notwithstanding any other provision of law, single but separate procurements for the construction of security improvements at the Washington Monument, for security improvements at the Lincoln Memorial, and for security improvements at the Jefferson Memorial, may be issued that include the full scope of each project, except that each solicitation and contract shall contain the clause "availability of funds" found at section 52.232.18 of title 48, Code of Federal Regulations.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Salaries and Expenses", $2,205,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for the working capital fund of the Department of the Interior.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Salaries and Expenses" of the Smithsonian Institution, $21,707,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Salaries and Expenses" of the National Gallery of Art, $2,148,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Operations and Maintenance" of the John F. Kennedy Center for the Performing Arts, $4,310,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Salaries and Expenses" of the National Capital Planning Commission, $758,000, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 701. (a) IN GENERAL.—The Secretary of the Smithsonian Institution shall collect and preserve in the National Museum of American History artifacts relating to the September 11th attacks on the World Trade Center and the Pentagon.

(b) TYPES OF ARTIFACTS.—In carrying out subsection (a), the Secretary of the Smithsonian Institution shall consider collecting and preserving—

(1) pieces of the World Trade Center and the Pentagon;

(2) still and video images made by private individuals and the media;

(3) personal narratives of survivors, rescuers, and government officials; and

(4) other artifacts, recordings, and testimonials that the Secretary of the Smithsonian Institution determines have lasting historical significance.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Smithsonian Institution $5,000,000 to carry out this section.

Sec. 702. Section 29 of Public Law 92–203, as enacted under section 4 of Public Law 94–204 (43 U.S.C. 1626), is amended by adding at the end of subsection (e) the following:

"(4)(A) Congress confirms that Federal procurement programs for tribes and Alaska Native

Corporations are enacted pursuant to its authority under Article I, Section 8 of the United States Constitution.

"(B) Contracting with an entity defined in subsection (e)(2) of this section or section 3(c) of Public Law 93–262 shall be credited towards the satisfaction of a contractor's obligations under section 7 of Public Law 87–305.

"(C) Any entity that satisfies subsection (e)(2) of this section that has been certified under section 8 of Public Law 85–536 is a Disadvantaged Business Enterprise for the purposes of Public Law 105–178.".

CHAPTER 8

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Training and employment services", $32,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such amount shall be provided to the Consortium for Worker Education, established by the New York City Central Labor Council and the New York City Partnership, for an Emergency Employment Clearinghouse.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "State Unemployment Insurance and Employment Service Operations", $4,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

WORKERS COMPENSATION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Workers Compensation Programs", $175,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That, of such amount, $125,000,000 shall be for payment to the New York State Workers Compensation Review Board, for the processing of claims related to the terrorist attacks: Provided further, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the terrorist attacks: Provided further, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the first response emergency services personnel who were injured, were disabled, or died due to the terrorist attacks.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $5,880,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Disease control, research, and training" for baseline safety screening for the emergency services personnel and rescue and recovery personnel, $12,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, to provide grants to public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to reimburse for health care related expenses or lost revenues directly attributable to the public health emergency resulting from the September 11, 2001, terrorist acts, for "Public Health and Social Services Emergency Fund", $140,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That none of the costs have been reimbursed or are eligible for reimbursement from other sources.

For emergency expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for "Public Health and Social Services Emergency Fund", $2,504,314,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38. Of this amount, $865,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; $135,000,000 shall be for grants to improve hospital capacity to respond to bioterrorism; $100,000,000 shall be for upgrading capacity at the Centers for Disease Control and Prevention, including research: Provided, That up to $10,000,000 of this amount shall be for the tracking and control of biological pathogens; $85,000,000 shall be for the National Institute of Allergy and Infectious Diseases for bioterrorism-related research and development and other related needs; $70,000,000 shall be for the National Institute of Allergy and Infectious Diseases for the construction of a biosafety laboratory and related infrastructure costs; $593,000,000 shall be for the National Pharmaceutical Stockpile; $512,000,000 shall be for the purchase of smallpox vaccine; $71,000,000 shall be for improving laboratory security at the National Institutes of Health and the Centers for Disease Control and Prevention; $7,500,000 shall be for environmental hazard control activities conducted by the Centers for Disease Control and Prevention; $10,000,000 shall be for the Substance Abuse and Mental Health Services Administration; and $55,814,000 shall be for bioterrorism preparedness and disaster response activities in the Office of the Secretary. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

For emergency expenses to provide education-related services to local educational agencies in which the learning environment has been disrupted due to a violent or traumatic crisis, for the Project School Emergency Response to Violence program, $10,000,000, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Limitation on Administrative Expenses", $7,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 9

LEGISLATIVE BRANCH

JOINT ITEMS

LEGISLATIVE BRANCH EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the terrorist attacks on the United States, $256,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That $34,500,000 shall be transferred to "Senate", "Sergeant at Arms and Doorkeeper of the Senate", and shall be obligated with the prior approval of the Senate Committee on Appropriations: Provided further, That $41,712,000 shall be transferred to "House of Representatives", "Salaries and Expenses", and shall be obligated with the prior approval of the House Committee on Appropriations: Provided further, That $31,000,000 shall be transferred to "Capitol Police Board", "Capitol Police", "General Expenses": Provided further, That $350,000 shall be transferred to "Capitol Guide Service and Special Services Office": Provided further, That $106,304,000 shall be transferred to "Architect of the Capitol", "Capitol Buildings and Grounds", "Capitol Buildings": Provided further, That $29,615,000 shall be transferred to "Library of Congress", "Salaries and Expenses": Provided further, That $4,000,000 shall be transferred to the "Government Printing Office", "Government Printing Office Revolving Fund": Provided further, That $7,600,000 shall be transferred to "General Accounting Office", "Salaries and Expenses": Provided further, That $1,000,000 shall be transferred as a grant to the United States Capitol Historical Society: Provided further, That any Legislative Branch entity receiving funds pursuant to the Emergency Response Fund established by Public Law 107–38 (without regard to whether the funds are provided under this chapter or pursuant to any other provision of law) may transfer any funds provided to the entity to any other Legislative Branch account in an amount equal to that required to provide support for security enhancements, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

SENATE

ADMINISTRATIVE PROVISIONS

SEC. 901. (a) ACQUISITION OF BUILDINGS AND FACILITIES.—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Sergeant at Arms of the Senate may acquire buildings and facilities, for the use of the Senate, as appropriate, by lease, purchase, or such other arrangement as the Sergeant at Arms of the Senate considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States

Code, in the case of a building or facility under the control of such Agency). Actions taken by the Sergeant at Arms of the Senate must be approved by the Committees on Appropriations and Rules and Administration.

(b) AGREEMENTS.—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Sergeant at Arms of the Senate may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Sergeant at Arms of the Senate considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

(c) AUTHORITY OF CAPITOL POLICE AND ARCHITECT.—

(1) ARCHITECT OF THE CAPITOL.—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Sergeant at Arms of the Senate pursuant to subsection (b).

(2) CAPITOL POLICE.—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking "The Capitol Police" and inserting "(a) The Capitol Police"; and

(B) by adding at the end the following new subsection:

"(b) For purposes of this section, 'the United States Capitol Buildings and Grounds' shall include any building or facility acquired by the Sergeant at Arms of the Senate for the use of the Senate for which the Sergeant at Arms of the Senate has entered into an agreement with the United States Capitol Police for the policing of the building or facility.".

(d) TRANSFER OF CERTAIN FUNDS.—Subject to the approval of the Committee on Appropriations of the Senate, the Architect of the Capitol may transfer to the Sergeant at Arms of the Senate amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the Senate office buildings during a fiscal year in order to cover any portion of the costs incurred by the Sergeant at Arms of the Senate during the year in acquiring a building or facility pursuant to subsection (a).

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 902. (a) Notwithstanding any other provision of law—

(1) subject to subsection (b), the Sergeant at Arms of the Senate and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) the Sergeant at Arms of the Senate and the head of the Agency may take any action necessary to carry out the terms of the memorandum of understanding.

(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) consistent with the Senate Procurement Regulations.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

HOUSE OF REPRESENTATIVES

ADMINISTRATIVE PROVISIONS

SEC. 903. (a) ACQUISITION OF BUILDINGS AND FACILITIES.—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Chief Administrative Officer of the House of Representatives may acquire buildings and facilities, for the use of the House of Representatives by lease, purchase, or such other arrangement as the Chief Administrative Officer considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency), subject to the approval of the House Office Building Commission.

(b) AGREEMENTS.—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Chief Administrative Officer may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Chief Administrative Officer considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

(c) AUTHORITY OF CAPITOL POLICE AND ARCHITECT.—

(1) ARCHITECT OF THE CAPITOL.—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Chief Administrative Officer pursuant to subsection (b).

(2) CAPITOL POLICE.—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking "The Capitol Police" and inserting "(a) The Capitol Police"; and

(B) by adding at the end the following new subsection:

"(b) For purposes of this section, 'the United States Capitol Buildings and Grounds' shall include any building or facility acquired by the Chief Administrative Officer of the House of Representatives for the use of the House of Representatives for which the Chief Administrative Officer has entered into an agreement with the United States Capitol Police for the policing of the building or facility.".

(d) TRANSFER OF CERTAIN FUNDS.—Subject to the approval of the Committee on Appropriations of the House of Representatives, the Architect of the Capitol may transfer to the Chief Administrative Officer amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the House office buildings during a fiscal year in order to cover any portion of the costs incurred by the Chief Administrative Officer during the year in acquiring a building or facility pursuant to subsection (a).

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 904. (a) Notwithstanding any other provision of law—

(1) subject to subsection (b), the Chief Administrative Officer of the House of Representatives and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the House of Representatives during an emergency situation; and

(2) the Chief Administrative Officer and the head of the Agency may take any action necessary to carry out the terms of the memorandum of understanding.

(b) The Chief Administrative Officer of the House of Representatives may not enter into a memorandum of understanding described in subsection (a)(1) without the approval of the Speaker of the House of Representatives.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 905. (a) There is established in the House of Representatives an office to be known as the House of Representatives Office of Emergency Planning, Preparedness, and Operations. The Office shall be responsible for mitigation and preparedness operations, crisis management and response, resource services, and recovery operations.

(b) The Speaker, in consultation with the minority leader—

(1) shall provide policy direction for, and oversight of, the Office;

(2) shall appoint and set the annual rate of pay for employees of the Office, including a Director, who shall be the head of the Office;

(3) shall exercise, with respect to any employee of the Office, the authority referred to in section 8344(k)(2)(B) of title 5, United States Code, and the authority referred to in section 8468(h)(2)(B) of title 5, United States Code;

(4) shall approve procurement of services of experts and consultants by the Office or by committees or other entities of the House of Representatives for assignment to the Office; and

(5) may request the head of any Federal department or agency to detail to the Office, on a reimbursable basis, any of the personnel of the department or agency.

(c) The day-to-day operations of the Office shall be carried out by the Director, under the supervision of a Board, to be known as the House of Representatives Continuity of Operations Board, comprised of the Clerk, the Sergeant-at-Arms, and the Chief Administrative Officer of the House of Representatives. The Clerk shall be the Chairman of the Board.

(d) Until otherwise provided by law, funds shall be available for the Office from amounts appropriated for the operations of the House of Representatives.

(e) This section shall take effect on the date of the enactment of this Act and shall apply to fiscal years beginning with fiscal year 2002.

SEC. 906. (a) As determined by the Sergeant-at-Arms of the House of Representatives, any anthrax-contaminated mail delivered by the United States Postal Service to the House of Representatives shall be destroyed or otherwise disposed of.

(b) No action taken under this section may serve as a basis for civil or criminal liability of any individual or entity.

(c) As used in this section, the term "anthrax-contaminated mail" means any mail matter that, as determined by the Sergeant-at-Arms, by reason of the events of October 2001—

(1) is contaminated by anthrax or any other substance the mailing of which is prohibited by section 1716 of title 18, United States Code, or any other law of the United States; or

(2) may be so contaminated, but the ascertainment of which is not technically feasible or is otherwise impracticable.

(d) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

OTHER LEGISLATIVE BRANCH

ADMINISTRATIVE PROVISIONS

SEC. 907. (a) Section 1(c) of Public Law 96–152 (40 U.S.C. 206–1) is amended by striking "but not to exceed" and all that follows and inserting the following: "but not to exceed $2,500 less than the lesser of the annual salary for the Sergeant at Arms of the House of Representatives or the annual salary for the Sergeant at Arms and Doorkeeper of the Senate.".

(b) The Assistant Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed $1,000 less than the annual salary for the chief of the United States Capitol Police.

(c) This section and the amendment made by this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

SEC. 908. (a) The Capitol Police Board may, in order to recruit or retain qualified personnel, establish and maintain a program under which the Capitol Police may agree to repay (by direct payments on behalf of a civilian employee or member of the Capitol Police) all or a portion of any student loan previously taken out by such employee or member.

(b) The Capitol Police Board may, by regulation, make applicable such provisions of section 5379 of title 5, United States Code, as the Board determines necessary to provide for such program.

(c) The regulations shall provide that the amount paid by the Capitol Police may not exceed—

(1) $6,000 for any civilian employee or member of the Capitol Police in any calendar year; or

(2) a total of $40,000 in the case of any employee or member.

(d) The Capitol Police may not reimburse a civilian employee or member of the Capitol Police for any repayments made by such employee or member prior to the Capitol Police entering into an agreement under this section with such employee or member.

(e) Any amount repaid by, or recovered from, an individual under this section and its implementing regulations shall be credited to the appropriation account available for salaries and expenses of the Capitol Police at the time of repayment or recovery. Such credited amount may be used for any authorized purpose of the account and shall remain available until expended.

(f) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

SEC. 909. (a) RECRUITMENT AND RELOCATION BONUSES.—

(1) AUTHORIZATION OF PAYMENT.—The Capitol Police Board (hereafter in this section referred to as the "Board") may authorize the Chief of the United States Capitol Police (hereafter in this section referred to as the "Chief") to pay a bonus to an individual who is newly appointed to a position as an officer or employee of the Capitol Police, and to pay an additional bonus to an individual who must relocate to accept a position as an officer or employee of the Capitol Police, if the Board determines that the Capitol Police would be likely, in the absence of such a bonus, to encounter difficulty in filling the position.

(2) AMOUNT OF PAYMENT.—The amount of a bonus under this subsection shall be determined by regulations of the Board, but the amount of any bonus paid to an individual under this subsection may not exceed 25 percent of the annual rate of basic pay of the position to which the individual is being appointed.

(3) MINIMUM PERIOD OF SERVICE REQUIRED.—Payment of a bonus under this subsection shall be contingent upon the individual entering into an agreement with the Capitol Police to complete a period of employment with the Capitol Police, with the required period determined pursuant to regulations of the Board. If the individual voluntarily fails to complete such period of service or is separated from the service before completion of such period of service for cause on charges of misconduct or delinquency, the individual shall repay the bonus on a pro rata basis.

(4) BONUS NOT CONSIDERED PART OF BASIC PAY.—A bonus under this subsection shall be paid as a lump sum, and may not be considered to be part of the basic pay of the officer or employee.

(5) PAYMENT PERMITTED PRIOR TO COMMENCEMENT OF DUTY.—Under regulations of the Board, a bonus under this subsection may be paid to a newly-hired officer or employee before the officer or employee enters on duty.

(b) RETENTION ALLOWANCES.—

(1) AUTHORIZATION OF PAYMENT.—The Board may authorize the Chief to pay an allowance to an officer or employee of the United States Capitol Police if—

(A) the unusually high or unique qualifications of the officer or employee or a special need of the Capitol Police for the officer's or employee's services makes it essential to retain the officer or employee; and

(B) the Chief determines that the officer or employee would be likely to leave in the absence of a retention allowance.

(2) AMOUNT OF PAYMENT.—A retention allowance, which shall be stated as a percentage of the rate of basic pay of the officer or employee, may not exceed 25 percent of such rate of basic pay.

(3) PAYMENT NOT CONSIDERED PART OF BASIC PAY.—A retention allowance may not be considered to be part of the basic pay of an officer or employee, and the reduction or elimination of a retention allowance may not be appealed. The preceding sentence shall not be construed to extinguish or lessen any right or remedy under any of the laws made applicable to the Capitol Police pursuant to section 102 of the Congressional Accountability Act of 1995 (2 U.S.C. 1302).

(4) TIME AND MANNER OF PAYMENT.—A retention allowance under this subsection shall be paid at the same time and in the same manner as the officer's or employee's basic pay is paid.

(c) LUMP SUM INCENTIVE AND MERIT BONUS PAYMENTS.—

(1) IN GENERAL.—The Board may pay an incentive or merit bonus to an officer or employee of the United States Capitol Police who meets such criteria for receiving the bonus as the Board may establish.

(2) BONUS NOT CONSIDERED PART OF BASIC PAY.—A bonus under this subsection shall be paid as a lump sum, and may not be considered to be part of the basic pay of the officer or employee.

(d) SERVICE STEP INCREASES FOR MERITORIOUS SERVICE FOR OFFICERS.—Upon the approval of the Chief—

(1) an officer of the United States Capitol Police in a service step who has demonstrated meritorious service (in accordance with criteria established by the Chief or the Chief's designee) may be advanced in compensation to the next higher service step, effective with the first pay period which begins after the date of the Chief's approval; and

(2) an officer of the United States Capitol Police in a service step who has demonstrated extraordinary performance (in accordance with criteria established by the Chief or the Chief's designee) may be advanced in compensation to the second next higher service step, effective with the first pay period which begins after the date of the Chief's approval.

(e) ADDITIONAL COMPENSATION FOR FIELD TRAINING OFFICERS.—

(1) IN GENERAL.—Each officer of the United States Capitol Police who is assigned to duty as a field training officer shall receive, in addition to the officer's scheduled rate of compensation, an additional amount determined by the Board (but not to exceed $2,000 per annum):

(2) MANNER OF PAYMENT.—The additional compensation authorized by this subsection shall be paid to the officer in the same manner as the officer is paid basic compensation, except that when the officer ceases to be assigned to duty as a field training officer, the loss of such additional compensation shall not constitute an adverse action for any purpose.

(f) REGULATIONS.—

(1) IN GENERAL.—The payment of bonuses, allowances, step increases, compensation, and other payments pursuant to this section shall be carried out in accordance with regulations prescribed by the Board.

(2) APPROVAL.—The regulations prescribed pursuant to this subsection shall be subject to the approval of the Committee on Rules and Administration of the Senate, Committee on House Administration of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives.

(h) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 910. In addition to the authority provided under section 121 of the Legislative Branch Appropriations Act, 2002, at any time on or after the date of the enactment of this Act, the Capitol Police Board may accept contributions of comfort and other incidental items and services to support officers and employees of the United States Capitol Police while such officers and employees are on duty in response to emergencies involving the safety of human life or the protection of property.

SEC. 911. ASSISTANCE BY EXECUTIVE DEPARTMENTS AND AGENCIES TO THE CAPITOL POLICE. (a) ASSISTANCE.—

(1) IN GENERAL.—Executive departments and Executive agencies may assist the United States Capitol Police in the performance of its duties by providing services (including personnel), equipment, and facilities on a temporary and reimbursable basis when requested by the Capitol Police Board and on a permanent and reimbursable basis upon advance written request of the Capitol Police Board; except that the Department of Defense and the Coast Guard may provide such assistance on a temporary basis without reimbursement when assisting the United States Capitol Police in its duties directly related to protection under the Act of July 31, 1946 (40 U.S.C. 212a–2). Before making a request under this paragraph, the Capitol Police Board shall consult with appropriate Members of the Senate and House of Representatives in leadership positions, except in an emergency.

(2) PROCUREMENT.—No services (including personnel), equipment, or facilities may be ordered, purchased, leased, or otherwise procured for the purposes of carrying out the duties of the United States Capitol Police by persons other than officers or employees of the Federal Government duly authorized by the Chairman of the Capitol Police Board to make such orders, purchases, leases, or procurements.

(3) EXPENDITURES OR OBLIGATION OF FUNDS.—No funds may be expended or obligated for the purpose of carrying out this section other than funds specifically appropriated to the Capitol Police Board or the United States Capitol Police for those purposes with the exception of—

(A) expenditures made by the Department of Defense or the Coast Guard from funds appropriated to the Department of Defense or the Coast Guard in providing assistance on a temporary basis to the United States Capitol Police in the performance of its duties directly related to protection under the Act of July 31, 1946 (40 U.S.C. 212a–2); and

(B) expenditures made by Executive departments and agencies, in providing assistance at the request of the United States Capitol Police in the performance of its duties, and which will be reimbursed by the United States Capitol Police under this section.

(4) PROVISION OF ASSISTANCE.—Assistance under this section shall be provided—

(A) consistent with the authority of the Capitol Police under sections 9 and 9A of the Act of July 31, 1946 (40 U.S.C. 212a and 212a–2);

(B) upon the advance written request of—

(i) the Capitol Police Board; or

(ii) in an emergency—

(I) the Sergeant at Arms and Doorkeeper of the Senate in any matter relating to the Senate; or

(II) the Sergeant at Arms of the House of Representatives in any matter relating to the House of Representatives; and

(C)(i) on a temporary and reimbursable basis;

(ii) on a permanent reimbursable basis upon advance written request of the Capitol Police Board; or

(iii) on a temporary basis without reimbursement by the Department of Defense and the Coast Guard as described under paragraph (1).

(b) REPORTS.—

(1) SUBMISSION.—With respect to any fiscal year in which an Executive department or Executive agency provides assistance under this section, the head of that department or agency shall submit a report on November 1 of the following fiscal year to the Chairman of the Capitol Police Board.

(2) CONTENT.—The report submitted under paragraph (1) shall contain a detailed account of all expenditures made by the Executive department or Executive agency in providing assistance under this section during the applicable fiscal year.

(3) SUMMARY.—After receipt of all reports under paragraph (2) with respect to any fiscal year, the Chairman of the Capitol Police Board shall submit a summary of such reports to the Committees on Appropriations of the Senate and the House of Representatives.

(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and apply to each fiscal year occurring after such date.

SEC. 912. (a)(1) In the event of an emergency, as determined by the Capitol Police Board, or of a joint session of Congress, the Chief of the Capitol Police may enter into agreements—

(A) with the District of Columbia to deputize members of the District of Columbia National Guard, who are qualified for law enforcement functions, for duty with the Capitol Police for the purpose of policing the Capitol grounds; and

(B) with any appropriate governmental law enforcement authority to deputize law enforcement officers for duty with the Capitol Police for the purpose of policing the Capitol grounds.

(2) Any agreement under paragraph (1) shall be subject to initial approval by the Capitol Police Board and to final approval by the Speaker of the House of Representatives (in consultation with the Minority Leader of the House of Representatives) and the President pro tempore of the Senate (in consultation with the Minority Leader of the Senate) acting jointly.

(b) Subject to approval by the Speaker of the House of Representatives (in consultation with the Minority Leader of the House of Representatives) and the President pro tempore of the Senate (in consultation with the minority leader of the Senate) acting jointly, the Capitol Police Board shall prescribe regulations to carry out this section.

(C) This section shall expire on September 30, 2002.

SEC. 913. (a) Notwithstanding any other provision of law, the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a) may transfer to the Architect of the Capitol amounts in the Capitol Preservation Fund established under section 803 of such Act (40 U.S.C. 188a–2) if the amounts are to be used by the Architect for the planning, engineering, design, or construction of the Capitol Visitor Center.

(b) Any amounts transferred pursuant to subsection (a) shall remain available for the use of the Architect of the Capitol until expended.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 914. (a) In accordance with the authority described in section 308(a) of the Legislative Branch Appropriations Act, 1988 (40 U.S.C. 166b–3a(a)), section 108 of the Legislative Branch Appropriations Act, 1991 (40 U.S.C. 166b–3b), as amended by section 129(c)(1) of the Legislative Branch Appropriations Act, 2002, is amended by adding at the end the following new subsection:

"(c) The Architect of the Capitol may fix the rate of basic pay for not more than 4 positions for Executive Project Directors whose salary is payable from project funds, at a rate not to exceed 95 percent of the highest total rate of pay for the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code, for the locality involved.".

(b) The amendment made by subsection (a) shall apply with respect to pay periods beginning on or after October 1, 2001.

SEC. 915. (a) Public Law 107–68 is amended by adding at the end the following:

"This Act may be cited as the 'Legislative Branch Appropriations Act, 2002'.".

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of Public Law 107–68.

SEC. 916. Section 102 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended—

(1) in subsection (a), by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively;

(2) in subsection (g)(1)—

(A) in subparagraph (A), by striking "subsection (i)(1)(A)" and inserting "subsection (h)(1)(A)"; and

(B) in subparagraph (B), by striking "subsection (i)(1)(B)" and inserting "subsection (h)(1)(B)".

SEC. 917. (a) Section 209 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended in the matter amending Public Law 106–173 by striking the quotation marks and period at the end of the new subsection (g) and inserting the following: "Any reimbursement under this subsection shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

"(h) EMPLOYMENT BENEFITS.—

"(1) IN GENERAL.—The Commission shall fix employment benefits for the Director and for additional personnel appointed under section 6(a), in accordance with paragraphs (2) and (3).

"(2) EMPLOYMENT BENEFITS FOR THE DIRECTOR.—

"(A) IN GENERAL.—The Commission shall determine whether or not to treat the Director as a Federal employee for purposes of employment benefits. If the Commission determines that the Director is to be treated as a Federal employee, then he or she is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title. If the Commission determines that the Director is not to be treated as a Federal employee for purposes of employment benefits, then the Commission or its administrative support service provider shall establish appropriate alternative employment benefits for the Director. The Commission's determination shall be irrevocable with respect to each individual appointed as Director, and the Commission shall notify the Office of Personnel Management and the Department of Labor of its determination. Notwithstanding the Commission's determination, the Director's service is deemed to be Federal service for purposes of section 8501 of title 5, United States Code.

"(B) DETAILEE SERVING AS DIRECTOR.—Subparagraph (A) shall not apply to a detailee who is serving as Director.

"(3) EMPLOYMENT BENEFITS FOR ADDITIONAL PERSONNEL.—A person appointed to the Commission staff under subsection (b)(2) is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title.".

(b) The amendments made by this section shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68).

SEC. 918. (a) Section 133(a) of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended—

(1) by striking "90-day" in paragraph (1) and inserting "180-day", and

(2) by striking "90 days" in paragraph (2)(C) and inserting "180 days".

(b) The amendments made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68).

CHAPTER 10

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Army", $20,700,000, to remain available until expended: Provided, That these funds shall be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, NAVY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Navy", $2,000,000, to remain available until expended: Provided, That these funds shall be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, AIR FORCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Air Force", $46,700,000, to remain available until expended: Provided, That these funds shall be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Military Construction, Defense-wide", $35,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such amount shall be available for transfer to "Military Construction, Army".

GENERAL PROVISIONS, THIS CHAPTER

SEC. 1001. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.—Amounts made available to the Department of Defense from funds appropriated in Public Law 107–38 and this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) NOTICE TO CONGRESS.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection the Secretary shall notify the appropriate committees of Congress of the following:

(1) The determination to use such amounts for the project.

(2) The estimated cost of the project and the accompanying Form 1391.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section the term "appropriate committees of Congress" has the meaning given that term in section 2801 (4) of title 10, United States Code.

SEC. 1002. Section 138 of Public Law 106–246 is amended by striking "$77,500,000" and inserting in lieu "$102,000,000 for project completion".

SEC. 1003. Section 2202(a) of the National Defense Authorization Act for Fiscal Year 2002 is amended in the "Navy: Family Housing" table, by striking "Naval Construction Battalion Center, Gulfport" and inserting "Naval Station, Pascagoula".

CHAPTER 11

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

TRANSPORTATION SECURITY ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for the "Transportation Security Administration", $94,800,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38: Provided, That $93,300,000 shall be for the Under Secretary of Transportation for Security to award competitive grants to critical national seaports to finance the costs of enhancing facility and operational security: Provided further, That such grants shall be awarded based on the need for security assessments and enhancements as determined by the Under Secretary of Transportation for Security, the Administrator of the Maritime Administration, and the Commandant of the U.S. Coast Guard: Provided further, That such grants shall not supplant funding already provided either by the ports or by any Federal entity: Provided further, That no more than $1,000,000 of the grant funds available under this heading shall be used for administration.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, in addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $50,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COAST GUARD

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $209,150,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operations", $200,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Facilities and Equipment", $108,500,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 2004, and to be obligated from amounts made available in Public Law 107–38.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research, Engineering, and Development", $50,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 2003, and to be obligated from amounts made available in Public Law 107–38.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, notwithstanding any other provision of law, for "Grants-in-aid for airports", to enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, $175,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

FEDERAL HIGHWAY ADMINISTRATION

MISCELLANEOUS APPROPRIATIONS

(HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Miscellaneous Appropriations", including the operation and construction of ferries and ferry facilities, $100,000,000, to be derived from the Highway Trust Fund, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for the "Emergency Relief Program", as authorized by section 125 of title 23, United States Code, $75,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Safety and Operations", $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $100,000,000, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Formula Grants", $23,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CAPITAL INVESTMENT GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Capital Investment Grants", $100,000,000, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38: Provided, That in administering funds made available under this paragraph, the Federal Transit Administrator shall direct funds to those transit agencies most severely impacted by the terrorist attacks of September 11, 2001, excluding any transit agency receiving a Federal payment elsewhere in this Act: Provided further, That the provisions of 49 U.S.C. 5309(h) shall not apply to funds made available under this paragraph.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and Special Programs," $2,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other safety and security related audit and monitoring responsibilities, for "Salaries and Expenses", $1,300,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses," $650,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 1101. Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 449; 23 U.S.C. 502 note) is amended —

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (F), and (G), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) FOLLOW-ON DEPLOYMENT.—(i) After an intelligent transportation infrastructure system deployed in an initial deployment area pursuant to a contract entered into under the program under this paragraph has received system acceptance, the Department of Transportation has the authority to extend the original contract that was competitively awarded for the deployment of the system in the follow-on deployment areas under the contract, using the same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment in that initial deployment area under the program.

"(ii) If any one of the follow-on deployment areas does not commit, by July 1, 2002, to participate in the deployment of the system under the contract, then, upon application by any of the other follow-on deployment areas that have committed by that date to participate in the deployment of the system, the Secretary shall supplement the funds made available for any of the follow-on deployment areas submitting the applications by using for that purpose the funds not used for deployment of the system in the nonparticipating area. Costs paid out of funds provided in such a supplementation shall not be counted for the purpose of the limitation on maximum cost set forth in subparagraph (B).";

(4) by inserting after subparagraph (D), as redesignated by paragraph (1), the following new subparagraph (E):

"(E) DEFINITIONS.—In this paragraph:

"(i) The term 'initial deployment area' means a metropolitan area referred to in the second sentence of subparagraph (A).

"(ii) The term 'follow-on deployment areas' means the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Ft. Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia.''; and

(5) in subparagraph (D), as redesignated by paragraph (1), by striking ''subparagraph (D)'' and inserting ''subparagraph (F)''.

SEC. 1102. No appropriated funds or revenues generated by the National Railroad Passenger Corporation may be used to implement section 204(c)(2) of Public Law 105–134 until the Congress has enacted an Amtrak reauthorization Act.

SEC. 1103. (a) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, no funds shall be available for the program authorized under section 1101(a)(11) of Public Law 105–178 and $29,542,304 shall be set aside for the project as authorized under title IV of the National Highway System Designation Act of 1995, as amended: Provided, That, if funds authorized under these provisions have been distributed then the amount so specified shall be recalled proportionally from those funds distributed to the States under section 110(b)(4)(A) and (B) of title 23, United States Code.

(b) Notwithstanding any other provision of law, for fiscal year 2002, funds available for environmental streamlining activities under section 104(a)(1)(A) of title 23, United States Code, may include making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association, nonprofit or for-profit corporation, or institution of higher education.

(c) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, and made available for the National motor carrier safety program, $5,896,000 shall be for State commercial driver's license program improvements.

(d) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, and made available for border infrastructure improvements, up to $2,300,000 shall be made available to carry out section 1119(d) of the Transportation Equity Act for the 21st Century, as amended.

SEC. 1104. Notwithstanding any other provision of law, of the amounts appropriated in fiscal year 2002 for the Research and Special Programs Administration, $3,170,000 of funds provided for research and special programs shall remain available until September 30, 2004, and $22,786,000 of funds provided for the pipeline safety program derived from the pipeline safety fund shall remain available until September 30, 2004.

SEC. 1105. Item 1497 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 312), relating to Alaska, is amended by inserting ''and construct capital improvements to intermodal marine freight and passenger facilities and access thereto'' before ''in Anchorage''.

SEC. 1106. The Department of Transportation and Related Agencies Appropriations Act, 2002 is amended in section 330 by striking ''$144,000,000'' and inserting ''$148,300,000'' and in section 349 by striking ''$5,000,000'' and inserting ''$9,300,000'' and by striking ''$120,323,000'' and inserting ''$116,023,000''.

SEC. 1107. Notwithstanding any other provision of law, none of the funds in the Department of Transportation and Related Agencies Appropriations Act, 2002 shall be available for salaries and expenses of more than 102 political and Presidential appointees in the Department of Transportation: Provided, That none of the funds in this Act, or any other Appropriations Act for fiscal year 2002, shall be available for the position of Under Secretary of Transportation for Policy or the position of Assistant Secretary for Public Affairs.

SEC. 1108. Section 1511(b) of the Transportation Equity Act for the 21st Century (Public Law 105–178), as amended, is amended by striking ''Rhode Island'' and inserting in lieu thereof ''Rhode Island, and Texas'' and by inserting before the period in subsection (b)(1)(A)'', provided that Texas may not compete for funds previously allocated or appropriated to any other state''.

CHAPTER 12

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,032,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $23,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS AND RELATED EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Acquisition, Construction, Improvements, and Related Expenses'', $8,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That, in order to expedite the acquisition of architectural and engineering services for the construction of facilities at the Cheltenham, Maryland, training facility, the Federal Law Enforcement Training Center may procure such services without regard to: (1) the competition requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253); (2) the 6 percent fee limitation on such services set forth in section 304(b) of such Act (41 U.S.C. 254(b)); and (3) the procurement notice requirements of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416).

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $31,431,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $5,200,000 may be used for necessary expenses of site acquisition, construction, operations, maintenance and repair of the special purpose canine training facilities in Front Royal, Virginia.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', to meet requirements, including technology, along the Northern Border, Southwest Border, and at critical seaports, $392,603,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That of such amount, $245,503,000 shall not be available for obligation until 15 days after the United States Customs Service submits to the Committees on Appropriations and the Secretary of the Treasury a financial plan based upon a comprehensive assessment of the most effective uses of the Service's resources, including the funds provided in this Act, for protection along the Northern Border, Southwest Border, and at critical seaports: Provided further, That the Secretary of the Treasury is directed to review the activities proposed to be carried out with the funds subject to the previous proviso and notify the Committees on Appropriations of the findings of his review within 15 days of receipt of such plan.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation, Maintenance and Procurement, Air and Marine Interdiction Programs'', $6,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Processing, Assistance, and Management'', $12,990,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

TAX LAW ENFORCEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Tax Law Enforcement'', $4,544,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

INFORMATION SYSTEMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Information Systems'', $15,991,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38: Provided, That of these amounts $13,548,000 is for a backup computer recovery system to be designed and constructed in close coordination with the business systems modernization effort of the Internal Revenue Service.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $104,769,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For emergency expenses to the Postal Service Fund to enable the Postal Service to protect postal employees and postal customers from exposure to biohazardous material, to sanitize and screen the mail, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, $500,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That of the amounts appropriated, no funds shall be obligated for the purpose of sanitizing and screening the mail until the Postal

Service submits to the Committees on Appropriations, the House Committee on Government Reform, and the Senate Committee on Governmental Affairs an emergency preparedness plan to combat the threat of biological and chemical substances in the mail, including a plan for expenditure of funds in support of the emergency preparedness plan.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and Expenses", $126,512,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Federal Buildings Fund", $126,512,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Operating Expenses", $1,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

REPAIRS AND RESTORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Repairs and Restoration", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISION, THIS CHAPTER

SEC. 1201. Section 652(c)(1) of Public Law 107–67 is amended by striking "Section 414(c)" and inserting "Section 416(c)".

CHAPTER 13

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "General operating expenses", $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Community Development Fund", $2,000,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such funds shall be subject to the first through sixth provisos in section 434 of Public Law 107–73: Provided further, That the State of New York, in conjunction with the City of New York, shall, through the Lower Manhattan Redevelopment Corporation ("the corporation"): (1) distribute the funds provided for the "Community Development Fund"; (2) within 45 days of enactment of this Act, issue the initial criteria and requirements necessary to accept applications from individuals, nonprofits and small businesses for economic losses from the September 11, 2001, terrorist attacks; and (3) begin processing such applications: Provided further, That the corporation shall expeditiously respond to any application from an individual, nonprofit or small business for economic losses under this heading: Provided further, that of the total amount made available for the "Community Development Fund", including amounts previously made available by transfer pursuant to the fifth proviso of Public Law 107–38, no less than $500,000,000 shall be made available for individuals, nonprofits or small businesses described in the prior three provisos, with a limit of $500,000 per small business for economic losses: Provided further, That amounts made available in the previous proviso shall only be available for individuals, nonprofits or small businesses located in New York City in the area located on or south of West 14th Street (west of its intersection with 5th Avenue), or on or south of East 14th Street (east of its intersection with 5th Street): Provided further, That, of the amount provided in this paragraph, $10,000,000 shall be used for a program to aid the travel and tourism industry in New York City.

MANAGEMENT AND ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Office of Inspector General", $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "National Institute of Environmental Health Sciences" for carrying out under current authorities, worker training, research, and education activities, $10,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

Public Law 107–73 is amended under this heading by adding "and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986," after the words, "as amended,".

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Science and technology", $90,308,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Environmental programs and management", $39,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

HAZARDOUS SUBSTANCE SUPERFUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for "Hazardous substance superfund", $41,292,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

STATE AND TRIBAL ASSISTANCE GRANTS

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for "State and tribal assistance grants", $5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

The referenced statement of the managers under this heading in Public Law 107–73 is deemed to be amended by striking "Florida Department of Environmental Protection" in reference to item number 92, and inserting "Southwest Florida Water Management District"; and by striking "Southeast" in reference to item number 9, and inserting "Southwest".

The referenced statement of the managers under this heading in Public Law 106–377 is deemed to be amended by striking "repairs to water and sewer lines" in reference to item number 171 and inserting "water and waterwater infrastructure improvements".

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Disaster relief", $4,356,871,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Salaries and expenses", $25,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38 of which not less than $10,000,000 shall be used to enhance the capabilities of the National Security Division.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Emergency management planning and assistance", $10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, which shall be available for support of the 2002 Winter Olympics.

For an additional amount for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for "Emergency management planning and assistance", $210,000,000, to remain available until September 30, 2003, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), as in effect on December 7, 2001, to be obligated from amounts made available in Public Law 107–38: Provided, That up to 5 percent of this amount shall be transferred to "Salaries and expenses" for program administration.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Human space flight", $76,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Science, aeronautics and technology", $32,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for "Research and related activities",

$300,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 1301.(a) This section may be cited as the "Unity in the Spirit of America Act" or the "USA Act".

(b) The National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended by inserting before title V the following:

"TITLE IV—PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS

"SEC. 401. PROJECTS.

"(a) DEFINITION.—In this section, the term 'Foundation' means the Points of Light Foundation funded under section 301, or another nonprofit private organization, that enters into an agreement with the Corporation to carry out this section.

"(b) IDENTIFICATION OF PROJECTS.—

"(1) ESTIMATED NUMBER.—Not later than March 1, 2002, the Foundation, after obtaining the guidance of the heads of appropriate Federal agencies, such as the Director of the Office of Homeland Security and the Attorney General, shall—

"(A) make an estimate of the number of victims killed as a result of the terrorist attacks on September 11, 2001 (referred to in this section as the 'estimated number'); and

"(B) compile a list that specifies, for each individual that the Foundation determines to be such a victim, the name of the victim and the State in which the victim resided.

"(2) IDENTIFIED PROJECTS.—The Foundation may identify approximately the estimated number of community-based national and community service projects that meet the requirements of subsection (d). The Foundation may name projects in honor of victims described in subsection (b)(1)(A), after obtaining the permission of an appropriate member of the victim's family and the entity carrying out the project.

"(c) ELIGIBLE ENTITIES.—To be eligible to have a project named under this section, the entity carrying out the project shall be a political subdivision of a State, a business, a nonprofit organization (which may be a religious organization), an Indian tribe, or an institution of higher education.

"(d) PROJECTS.—The Foundation shall name, under this section, projects—

"(1) that advance the goals of unity, and improving the quality of life in communities; and

"(2) that will be planned, or for which implementation will begin, within a reasonable period after the date of enactment of the Unity in the Spirit of America Act, as determined by the Foundation.

"(e) WEBSITE AND DATABASE.—The Foundation shall create and maintain websites and databases, to describe projects named under this section and serve as appropriate vehicles for recognizing the projects.".

SEC. 1302. Within funds previously appropriated as authorized under the Native American Housing and Self Determination Act of 1996 (Pub. L. 104–330, §1(a), 110 Stat. 4016) and made available to Cook Inlet Housing Authority, Cook Inlet Housing Authority may use up to $9,500,000 of such funds to construct student housing for Native college students, including an on-site computer lab and related study facilities, and, notwithstanding any provision of such Act to the contrary, Cook Inlet Housing Authority may use a portion of such funds to establish a reserve fund and to provide for maintenance of the project.

SEC. 1303. Of the amounts made available under both the heading "Housing Certificate Fund" and the heading "Salaries and expenses" in title II of Public Law 107–73, not to exceed $11,300,000 shall be for the recordation and liquidation of obligations and deficiencies incurred in prior years in connection with the provision of technical assistance authorized under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 ("section 514"), and notwithstanding any other provision of law, for new obligations for such technical assistance: Provided, That of the $11,300,000 made available, up to $1,300,000 shall be for reimbursement of vouchers submitted by section 514 grantees as of October 15, 2001: Provided further, That of the total amount provided under the heading "Salaries and expenses" in title II of Public Law 107–73, $500,000 shall be made available from salaries and expenses allocated to the Office of General Counsel and $1,000,000 shall be made available from salaries and expenses allocated to the Office of Multifamily Housing Assistance Restructuring in the Department of Housing and Urban Development for new obligations for the provision of technical assistance authorized under section 514: Provided further, That of the $11,300,000 provided under this section, no more than $10,000,000 shall be made available for new obligations for technical assistance under section 514: Provided further, That from amounts made available under this section, the Inspector General of the Department of Housing and Urban Development ("HUD Inspector General") shall audit each provision of technical assistance obligated under the requirements of section 514 over the last 4 years: Provided further, That to the extent the HUD Inspector General determines that the use of any funding for technical assistance does not meet the requirements of section 514, the Secretary of Housing and Urban Development ("Secretary") shall recapture any such funds: Provided further, That no funds appropriated under title II of Public Law 107–73 and subsequent appropriations acts for the Department of Housing and Urban Development shall be made available for four years to any entity (or any subsequent entity comprised of significantly the same officers) that has been identified as having violated the requirements of section 514 by the HUD Inspector General: Provided further, That, notwithstanding any other provision of law, no funding for technical assistance shall be available for carryover from any previous year: Provided further, That the recordation and liquidation of obligations and deficiencies under this heading shall not pardon or release an officer or employee of the United States Government for an act or acts in violation of the Anti-deficiency Act (31 U.S.C. 1341): Provided further, That the Secretary shall implement the provisions under this section in a manner that does not accelerate outlays.

SEC. 1304. The referenced statement of the managers pertaining to economic development initiatives under the heading "Community Development Fund" in Public Law 107–73 is deemed to be amended by striking "Willacacy County Boys and Girls Club in Willacacy County, Texas" in reference to an appropriation for the Willacy County Boys and Girls Club, and inserting "Willacy County Boys and Girls Club in Willacy County, Texas"; by striking "Acres Home Community Development Corporation" in reference to an appropriation in Houston, Texas, and inserting "Old Acres Homes Citizens Council"; and by striking "$250,000 to the Good Shepard School in Braddock, Pennsylvania for facility renovation;" in reference to an appropriation in Braddock, Pennsylvania, and inserting "$250,000 for facility renovation, of which $50,000 is for the Good Shepard School in Braddock, Pennsylvania and $200,000 is for the Phipps Conservatory and Botanical Gardens in Pittsburgh, Pennsylvania;".

CHAPTER 14

GENERAL PROVISIONS, THIS DIVISION

SEC. 1401. Amounts which may be obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107–38.

SEC. 1402. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 1403. Notwithstanding any other provision of law, of the funds made available in this or any other Act, funds may be transferred to the Department of Defense from an agency receiving National Guard services related to homeland security to cover the costs of such services that the agency incurred after the date of enactment of this Act: Provided, That such authority to transfer shall expire on April 30, 2002: Provided further, That each agency receiving National Guard services related to homeland security shall submit to the House and Senate Committees on Appropriations a detailed report of the National Guard's homeland defense activities and expenses incurred after the date of enactment of this Act and planned for the remainder of fiscal year 2002 for that agency and any proposed transfers fifteen days prior to such transfers pursuant to this authority.

This division may be cited as the "Emergency Supplemental Act, 2002".

DIVISION C—SPENDING LIMITS AND BUDGETARY ALLOCATIONS FOR FISCAL YEAR 2002

SEC. 101. (a) DISCRETIONARY SPENDING LIMITS.—Section 251(c)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) for the discretionary category: $681,441,000,000 in new budget authority and $670,206,000,000 in outlays;";

(2) in subparagraph (C), by striking the second "and" after the semicolon; and

(3) in subparagraph (D), by striking "$1,232,000,000" and inserting "$1,473,000,000".

(b) REVISED AGGREGATES AND ALLOCATIONS.—Upon the enactment of this section, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall each—

(1) revise the aggregate levels of new budget authority and outlays for fiscal year 2002 set in sections 101(2) and 101(3) of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress), to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a);

(2) revise allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations of their respective House as initially set forth in the joint explanatory statement of managers accompanying the conference report on that concurrent resolution, to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a); and

(3) publish those revised aggregates and allocations in the Congressional Record.

(c) REPEAL OF SECTION 203 OF BUDGET RESOLUTION FOR FISCAL YEAR 2002.—Section 203 of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress) is repealed.

(d) ADJUSTMENTS.—If, for fiscal year 2002, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and

Budget, the Director shall make an adjustment equal to the amount of the excess, but not to exceed an amount equal to 0.12 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal year 2002.

SEC. 102. PAY-AS-YOU-GO ADJUSTMENT.—In preparing the final sequestration report for fiscal year 2002 required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal years 2001 and 2002 under section 252 of that Act to zero.

SEC. 103. When the President submits a budget of the United States Government under section 1105(a) of title 31, United States Code, for fiscal year 2003, he shall submit a report to the Congress that identifies any emergency-designated funding (pursuant to section 251(b)(2)(A) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985) in legislation enacted after September 11, 2001, and before such submission in response to the events of September 11, 2001, that is of an ongoing and recurring nature.

SEC. 104. (a) Adjustments made to the section 302(a) allocations pursuant to section 101(b) shall be deemed to be allocations set forth in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 2002 for all purposes under titles III and IV of the Congressional Budget Act of 1974.

(b) REPEALER.—Section 221(d)(2) of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress, 1st session) is repealed.

DIVISION D—MISCELLANEOUS PROVISIONS

TITLE I—CONVEYANCE OF HOMESTAKE MINE

SEC. 101. SHORT TITLE.

This title may be cited as the "Homestake Mine Conveyance Act of 2001".

SEC. 102. FINDINGS.

Congress finds the following:

(1) The United States is among the leading nations in the world in conducting basic scientific research.

(2) That leadership position strengthens the economy and national defense of the United States and provides other important benefits.

(3) The Homestake Mine in Lead, South Dakota, owned by the Homestake Mining Company of California, is approximately 8,000 feet deep and is situated in a unique physical setting that is ideal for carrying out certain types of particle physics and other research.

(4) The Mine has been selected by the National Underground Science Laboratory Committee, an independent panel of distinguished scientists, as the preferred site for the construction of the National Underground Science Laboratory.

(5) Such a laboratory would be used to conduct scientific research that would be funded and recognized as significant by the United States.

(6) The establishment of the laboratory is in the national interest and would substantially improve the capability of the United States to conduct important scientific research.

(7) For economic reasons, Homestake intends to cease operations at the Mine in 2001.

(8) On cessation of operations of the Mine, Homestake intends to implement reclamation actions that would preclude the establishment of a laboratory at the Mine.

(9) Homestake has advised the State that, after cessation of operations at the Mine, instead of closing the entire Mine, Homestake is willing to donate the underground portion of the Mine and certain other real and personal property of substantial value at the Mine for use as the National Underground Science Laboratory.

(10) Use of the Mine as the site for the laboratory, instead of other locations under consideration, would result in a savings of millions of dollars for the Federal Government.

(11) If the Mine is selected as the site for the laboratory, it is essential that closure of the Mine not preclude the location of the laboratory at the Mine.

(12) Homestake is unwilling to donate, and the State is unwilling to accept, the property at the Mine for the laboratory if Homestake and the State would continue to have potential liability with respect to the transferred property.

(13) To secure the use of the Mine as the location for the laboratory and to realize the benefits of the proposed laboratory it is necessary for the United States to—

(A) assume a portion of any potential future liability of Homestake concerning the Mine; and

(B) address potential liability associated with the operation of the laboratory.

SEC. 103. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AFFILIATE.—

(A) IN GENERAL.—The term "affiliate" means any corporation or other person that controls, is controlled by, or is under common control with Homestake.

(B) INCLUSIONS.—The term "affiliate" includes a director, officer, or employee of an affiliate.

(3) CONVEYANCE.—The term "conveyance" means the conveyance of the Mine to the State under section 104(a).

(4) FUND.—The term "Fund" means the Environment and Project Trust Fund established under section 108.

(5) HOMESTAKE.—

(A) IN GENERAL.—The term "Homestake" means the Homestake Mining Company of California, a California corporation.

(B) INCLUSION.—The term "Homestake" includes—

(i) a director, officer, or employee of Homestake;

(ii) an affiliate of Homestake; and

(iii) any successor of Homestake or successor to the interest of Homestake in the Mine.

(6) INDEPENDENT ENTITY.—The term "independent entity" means an independent entity selected jointly by Homestake, the South Dakota Department of Environment and Natural Resources, and the Administrator—

(A) to conduct a due diligence inspection under section 104(b)(2)(A); and

(B) to determine the fair value of the Mine under section 105(a).

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) LABORATORY.—

(A) IN GENERAL.—The term "laboratory" means the national underground science laboratory proposed to be established at the Mine after the conveyance.

(B) INCLUSION.—The term "laboratory" includes operating and support facilities of the laboratory.

(9) MINE.—

(A) IN GENERAL.—The term "Mine" means the portion of the Homestake Mine in Lawrence County, South Dakota, proposed to be conveyed to the State for the establishment and operation of the laboratory.

(B) INCLUSIONS.—The term "Mine" includes—

(i) real property, mineral and oil and gas rights, shafts, tunnels, structures, backfill, broken rock, fixtures, facilities, and personal property to be conveyed for establishment and operation of the laboratory, as agreed upon by Homestake and the State; and

(ii) any water that flows into the Mine from any source.

(C) EXCLUSIONS.—The term "Mine" does not include—

(i) the feature known as the "Open Cut";

(ii) any tailings or tailings storage facility (other than backfill in the portion of the Mine described in subparagraph (A)); or

(iii) any waste rock or any site used for the dumping of waste rock (other than broken rock in the portion of the Mine described in subparagraph (A)).

(10) PERSON.—The term "person" means—

(A) an individual;

(B) a trust, firm, joint stock company, corporation (including a government corporation), partnership, association, limited liability company, or any other type of business entity;

(C) a State or political subdivision of a State;

(D) a foreign governmental entity;

(E) an Indian tribe; and

(F) any department, agency, or instrumentality of the United States.

(11) PROJECT SPONSOR.—The term "project sponsor" means an entity that manages or pays the costs of 1 or more projects that are carried out or proposed to be carried out at the laboratory.

(12) SCIENTIFIC ADVISORY BOARD.—The term "Scientific Advisory Board" means the entity designated in the management plan of the laboratory to provide scientific oversight for the operation of the laboratory.

(13) STATE.—

(A) IN GENERAL.—The term "State" means the State of South Dakota.

(B) INCLUSIONS.—The term "State" includes an institution, agency, officer, or employee of the State.

SEC. 104. CONVEYANCE OF REAL PROPERTY.

(a) IN GENERAL.—

(1) DELIVERY OF DOCUMENTS.—Subject to paragraph (2) and subsection (b) and notwithstanding any other provision of law, on the execution and delivery by Homestake of 1 or more quitclaim deeds or bills of sale conveying to the State all right, title, and interest of Homestake in and to the Mine, title to the Mine shall pass from Homestake to the State.

(2) CONDITION OF MINE ON CONVEYANCE.—The Mine shall be conveyed as is, with no representations as to the condition of the property.

(b) REQUIREMENTS FOR CONVEYANCE.—

(1) IN GENERAL.—The Administrator's acceptance of the final report or certification of the independent entity under paragraph (4) is a condition precedent of the conveyance and of the assumption of liability by the United States in accordance with this title.

(2) DUE DILIGENCE INSPECTION.—

(A) IN GENERAL.—As a condition precedent of conveyance and of Federal participation described in this title, Homestake shall permit an independent entity to conduct a due diligence inspection of the Mine to determine whether any condition of the Mine may present an imminent and substantial endangerment to public health or the environment.

(B) CONSULTATION.—As a condition precedent of the conduct of a due diligence inspection, the Administrator, in consultation with Homestake, the South Dakota Department of Environment and Natural Resources, and the independent entity, shall define the methodology and standards to be used, and other factors to be considered, by the independent entity in—

(i) the conduct of the due diligence inspection;

(ii) the scope of the due diligence inspection; and

(iii) the time and duration of the due diligence inspection.

(C) PARTICIPATION BY HOMESTAKE.—Nothing in this paragraph requires Homestake to participate in the conduct of the due diligence inspection.

(3) REPORT TO THE ADMINISTRATOR.—

(A) IN GENERAL.—The independent entity shall submit to the Administrator a report that—

(i) describes the results of the due diligence inspection under paragraph (2); and

(ii) identifies any condition of or in the Mine that may present an imminent and substantial endangerment to public health or the environment.

(B) PROCEDURE.—

(i) DRAFT REPORT.—Before finalizing the report under this paragraph, the independent entity shall—

(I) issue a draft report;

(II) submit to the Administrator, Homestake, and the State a copy of the draft report;

(III) issue a public notice requesting comments on the draft report that requires all such comments to be filed not later than 45 days after issuance of the public notice; and

(IV) during that 45-day public comment period, conduct at least 1 public hearing in Lead, South Dakota, to receive comments on the draft report.

(ii) FINAL REPORT.—In the final report submitted to the Administrator under this paragraph, the independent entity shall respond to, and incorporate necessary changes suggested by, the comments received on the draft report.

(4) REVIEW AND APPROVAL BY ADMINISTRATOR.—

(A) IN GENERAL.—Not later than 60 days after receiving the final report under paragraph (3), the Administrator shall—

(i) review the report; and

(ii) notify the State in writing of acceptance or rejection of the final report.

(B) CONDITIONS FOR REJECTION.—The Administrator may reject the final report if the report discloses 1 or more conditions that—

(i) as determined by the Administrator, may present an imminent and substantial endangerment to the public health or the environment and require a response action; or

(ii) otherwise make the conveyance in section 104, or the assumption of liability, the release of liability, or the indemnification in section 106 contrary to the public interest.

(C) RESPONSE ACTIONS AND CERTIFICATION.—

(i) RESPONSE ACTIONS.—

(I) IN GENERAL.—If the Administrator rejects the final report, Homestake may carry out or bear the cost of, or permit the State or another person to carry out or bear the cost of, such response actions as are necessary to correct any condition identified by the Administrator under subparagraph (B)(i) that may present an imminent and substantial endangerment to public health or the environment.

(II) LONG-TERM RESPONSE ACTIONS.—

(aa) IN GENERAL.—In a case in which the Administrator determines that a condition identified by the Administrator under subparagraph (B)(i) requires continuing response action, or response action that can be completed only as part of the final closure of the laboratory, it shall be a condition of conveyance that Homestake, the State, or another person deposit into the Fund such amount as is estimated by the independent entity, on a net present value basis and after taking into account estimated interest on that basis to be sufficient to pay the costs of the long-term response action or the response action that will be completed as part of the final closure of the laboratory.

(bb) LIMITATION ON USE OF FUNDS.—None of the funds deposited into the Fund under item (aa) shall be expended for any purpose other than to pay the costs of the long-term response action, or the response action that will be completed as part of the final closure of the Mine, identified under that item.

(ii) CONTRIBUTION BY HOMESTAKE.—The total amount that Homestake may expend, pay, or deposit into the Fund under subclauses (I) and (II) of clause (i) shall not exceed—

(I) $75,000,000; less

(II) the fair value of the Mine as determined under section 105(a).

(iii) CERTIFICATION.—

(I) IN GENERAL.—After any response actions described in clause (i)(I) are carried out and any required funds are deposited under clause (i)(II), the independent entity may certify to the Administrator that the conditions for rejection identified by the Administrator under subparagraph (B) have been corrected.

(II) ACCEPTANCE OR REJECTION OF CERTIFICATION.—Not later than 60 days after an independent entity makes a certification under subclause (I), the Administrator shall accept or reject the certification.

(c) REVIEW OF CONVEYANCE.—For the purposes of the conveyance, the requirements of this section shall be considered to be sufficient to meet any requirement of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 105. ASSESSMENT OF PROPERTY.

(a) VALUATION OF PROPERTY.—The independent entity shall assess the fair value of the Mine.

(b) FAIR VALUE.—For the purposes of this section, the fair value of the Mine shall be the fair market value as determined by an appraisal in conformance with the Uniform Appraisal Standards for Federal Land Acquisition. To the extent appraised items only have value to the Federal Government for the purpose of constructing the laboratory, the appraiser shall also add to the assessment of fair value the estimated cost of replacing the shafts, winzes, hoists, tunnels, ventilation system and other equipment and improvements at the Mine that are expected to be used at, or that will be useful to, the laboratory.

(c) REPORT.—Not later than the date on which each report developed in accordance with section 104(b)(3) is submitted to the Administrator, the independent entity described in subsection (a) shall submit to the State a report that identifies the fair value assessed under subsection (a).

SEC. 106. LIABILITY.

(a) ASSUMPTION OF LIABILITY.—

(1) ASSUMPTION.—Subject to paragraph (2), notwithstanding any other provision of law, on completion of the conveyance in accordance with this title, the United States shall assume any and all liability relating to the Mine and laboratory, including liability for—

(A) damages;

(B) reclamation;

(C) the costs of response to any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)), contaminant, or other material on, under, or relating to the Mine and laboratory; and

(D) closure of the Mine and laboratory.

(2) CLAIMS AGAINST UNITED STATES.—In the case of any claim brought against the United States, the United States shall be liable for—

(A) damages under paragraph (1)(A), only to the extent that an award of damages is made in a civil action brought under chapter 171 of title 28, United States Code, notwithstanding that the act or omission giving rise to the claim was not committed by an employee of the United States; and

(B) response costs under paragraph (1)(C), only to the extent that an award of response costs is made in a civil action brought under—

(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(ii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(iii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(iv) any other applicable Federal environmental law, as determined by the Administrator.

(b) LIABILITY PROTECTION.—On completion of the conveyance, neither Homestake nor the State shall be liable to any person or the United States for injuries, costs, injunctive relief, reclamation, damages (including damages to natural resources or the environment), or expenses, or liable under any other claim (including claims for indemnification or contribution, claims by third parties for death, personal injury, illness, or loss of or damage to property, or claims for economic loss), under any law (including a regulation) for any claim arising out of or in connection with contamination, pollution, or other condition, use, or closure of the Mine and laboratory, regardless of when a condition giving rise to the liability originated or was discovered.

(c) INDEMNIFICATION.—Notwithstanding any other provision of law, on completion of the conveyance in accordance with this title, the United States shall indemnify, defend, and hold harmless Homestake and the State from and against—

(1) any and all liabilities and claims described in subsection (a), without regard to any limitation under subsection (a)(2); and

(2) any and all liabilities and claims described in subsection (b).

(d) WAIVER OF SOVEREIGN IMMUNITY.—For purposes of this title, the United States waives any claim to sovereign immunity with respect to any claim of Homestake or the State under this title.

(e) TIMING FOR ASSUMPTION OF LIABILITY.—If the conveyance is effectuated by more than 1 legal transaction, the assumption of liability, liability protection, indemnification, and waiver of sovereign immunity provided for under this section shall apply to each legal transaction, as of the date on which the transaction is completed and with respect to such portion of the Mine as is conveyed under that transaction.

(f) EXCEPTIONS FOR CERTAIN CLAIMS.—Nothing in this section constitutes an assumption of liability by the United States, or relief of liability of Homestake, for—

(1) any unemployment, worker's compensation, or other employment-related claim or cause of action of an employee of Homestake that arose before the date of conveyance;

(2) any claim or cause of action that arose before the date of conveyance, other than claims relating to environmental response costs or natural resource damages; or

(3) any violation of any provision of criminal law.

(g) EXCEPTION FOR OFF-SITE ENVIRONMENTAL CLAIMS.—Nothing in this title constitutes an assumption of liability by the United States, relief of liability for Homestake, or obligation to indemnify Homestake, for any claim, injury, damage, liability, or reclamation or cleanup obligation with respect to any property or asset that is not conveyed under this title, except to the extent that any such claim, injury, damage, liability, or reclamation or cleanup obligation is based on activities or events at the Mine subsequent to the date of conveyance.

SEC. 107. INSURANCE COVERAGE.

(a) PROPERTY AND LIABILITY INSURANCE.—

(1) IN GENERAL.—To the extent property and liability insurance is available and subject to the requirements described in paragraph (2), the State shall purchase property and liability insurance for the Mine and the operation of the

laboratory to provide coverage against the liability described in subsections (a) and (b) of section 106.

(2) REQUIREMENTS.—The requirements referred to in paragraph (1) are the following:

(A) TERMS OF INSURANCE.—In determining the type, extent of coverage, and policy limits of insurance purchased under this subsection, the State shall—

(i) periodically consult with the Administrator and the Scientific Advisory Board; and

(ii) consider certain factors, including—

(I) the nature of the projects and experiments being conducted in the laboratory;

(II) the availability and cost of commercial insurance; and

(III) the amount of funding available to purchase commercial insurance.

(B) ADDITIONAL TERMS.—The insurance purchased by the State under this subsection may provide coverage that is—

(i) secondary to the insurance purchased by project sponsors; and

(ii) in excess of amounts available in the Fund to pay any claim.

(3) FINANCING OF INSURANCE PURCHASE.—

(A) IN GENERAL.—Subject to section 108, the State may finance the purchase of insurance required under this subsection by using—

(i) funds made available from the Fund; and

(ii) such other funds as are received by the State for the purchase of insurance for the Mine and laboratory.

(B) NO REQUIREMENT TO USE STATE FUNDS.—Nothing in this title requires the State to use State funds to purchase insurance required under this subsection.

(4) ADDITIONAL INSURED.—Any insurance purchased by the State under this subsection shall—

(A) name the United States as an additional insured; or

(B) otherwise provide that the United States is a beneficiary of the insurance policy having the primary right to enforce all rights of the United States under the policy.

(5) TERMINATION OF OBLIGATION TO PURCHASE INSURANCE.—The obligation of the State to purchase insurance under this subsection shall terminate on the date on which—

(A) the Mine ceases to be used as a laboratory; or

(B) sufficient funding ceases to be available for the operation and maintenance of the Mine or laboratory.

(b) PROJECT INSURANCE.—

(1) IN GENERAL.—The State, in consultation with the Administrator and the Scientific Advisory Board, may require, as a condition of approval of a project for the laboratory, that a project sponsor provide property and liability insurance or other applicable coverage for potential liability associated with the project described in subsections (a) and (b) of section 106.

(2) ADDITIONAL INSURED.—Any insurance obtained by the project sponsor under this section shall—

(A) name the State and the United States as additional insureds; or

(B) otherwise provide that the State and the United States are beneficiaries of the insurance policy having the primary right to enforce all rights under the policy.

(c) STATE INSURANCE.—

(1) IN GENERAL.—To the extent required by State law, the State shall purchase, with respect to the operation of the Mine and the laboratory—

(A) unemployment compensation insurance; and

(B) worker's compensation insurance.

(2) PROHIBITION ON USE OF FUNDS FROM FUND.—A State shall not use funds from the Fund to carry out paragraph (1).

SEC. 108. ENVIRONMENT AND PROJECT TRUST FUND.

(a) ESTABLISHMENT.—On completion of the conveyance, the State shall establish, in an interest-bearing account at an accredited financial institution located within the State, the Environment and Project Trust Fund.

(b) AMOUNTS.—The Fund shall consist of—

(1) an annual deposit from the operation and maintenance funding provided for the laboratory in an amount to be determined—

(A) by the State, in consultation with the Administrator and the Scientific Advisory Board; and

(B) after taking into consideration—

(i) the nature of the projects and experiments being conducted at the laboratory;

(ii) available amounts in the Fund;

(iii) any pending costs or claims that may be required to be paid out of the Fund; and

(iv) the amount of funding required for future actions associated with the closure of the facility;

(2) an amount determined by the State, in consultation with the Administrator and the Scientific Advisory Board, and to be paid by the appropriate project sponsor, for each project to be conducted, which amount—

(A) shall be used to pay—

(i) costs incurred in removing from the Mine or laboratory equipment or other materials related to the project;

(ii) claims arising out of or in connection with the project; and

(iii) if any portion of the amount remains after paying the expenses described in clauses (i) and (ii), other costs described in subsection (c); and

(B) may, at the discretion of the State, be assessed—

(i) annually; or

(ii) in a lump sum as a prerequisite to the approval of the project;

(3) interest earned on amounts in the Fund, which amount of interest shall be used only for a purpose described in subsection (c); and

(4) all other funds received and designated by the State for deposit in the Fund.

(c) EXPENDITURES FROM FUND.—Amounts in the Fund shall be used only for the purposes of funding—

(1) waste and hazardous substance removal or remediation, or other environmental cleanup at the Mine;

(2) removal of equipment and material no longer used, or necessary for use, in conjunction with a project conducted at the laboratory;

(3) a claim arising out of or in connection with the conducting of such a project;

(4) purchases of insurance by the State as required under section 107;

(5) payments for and other costs relating to liability described in section 106; and

(6) closure of the Mine and laboratory.

(d) FEDERAL PAYMENTS FROM FUND.—The United States—

(1) to the extent the United States assumes liability under section 106—

(A) shall be a beneficiary of the Fund; and

(B) may direct that amounts in the Fund be applied to pay amounts and costs described in this section; and

(2) may take action to enforce the right of the United States to receive 1 or more payments from the Fund.

(e) NO REQUIREMENT OF DEPOSIT OF PUBLIC FUNDS.—Nothing in this section requires the State to deposit State funds as a condition of the assumption by the United States of liability, or the relief of the State or Homestake from liability, under section 106.

SEC. 109. WASTE ROCK MIXING.

After completion of the conveyance, the State shall obtain the approval of the Administrator before disposing of any material quantity of laboratory waste rock if—

(1) the disposal site is on land not conveyed under this title; and

(2) the State determines that the disposal could result in commingling of laboratory waste rock with waste rock disposed of by Homestake before the date of conveyance.

SEC. 110. REQUIREMENTS FOR OPERATION OF LABORATORY.

After the conveyance, nothing in this title exempts the laboratory from compliance with any law (including a Federal environmental law).

SEC. 111. CONTINGENCY.

This title shall be effective contingent on approval by the National Science Board and the making of an award by the National Science Foundation for the establishment of the laboratory at the Mine.

SEC. 112. OBLIGATION IN THE EVENT OF NON-CONVEYANCE.

If the conveyance under this title does not occur, any obligation of Homestake relating to the Mine shall be limited to such reclamation or remediation as is required under any applicable law other than this title.

SEC. 113. PAYMENT AND REIMBURSEMENT OF COSTS.

The United States may seek payment—

(1) from the Fund, under section 108(d), to pay or reimburse the United States for amounts payable or liabilities incurred under this title; and

(2) from available insurance, to pay or reimburse the United States and the Fund for amounts payable or liabilities incurred under this title.

SEC. 114. CONSENT DECREES.

Nothing in this title affects any obligation of a party under—

(1) the 1990 Remedial Action Consent Decree (Civ. No. 90–5101 D. S.D.); or

(2) the 1999 Natural Resource Damage Consent Decree (Civ. Nos. 97–5078 and 97–5100, D. S.D.).

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SEC. 116. CONGRESSIONAL BUDGET ACT.

Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217, the provisions of this title that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were it included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and by the Chairmen of the House and Senate Budget Committees, as appropriate, under the Congressional Budget act.

TITLE II—GENERAL PROVISION, THIS DIVISION

SEC. 201. TRUSTEES OF THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS. (a) MEMBERSHIP.—Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)) is amended—

(1) by striking "There is hereby" and inserting the following:

"(1) IN GENERAL.—There is"; and

(2) by striking the second sentence and inserting the following:

"(2) MEMBERSHIP.—The Board shall be composed of—

"(A) the Secretary of Health and Human Services;

"(B) the Librarian of Congress;

"(C) the Secretary of State;

"(D) the Chairman of the Commission of Fine Arts;

"(E) the Mayor of the District of Columbia;

"(F) the Superintendent of Schools of the District of Columbia;

"(G) the Director of the National Park Service;

"(H) the Secretary of Education;

"(I) the Secretary of the Smithsonian Institution;

"(J)(i) the Speaker and the Minority Leader of the House of Representatives;

"(ii) the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives; and

"(iii) 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives;

"(K)(i) the Majority Leader and the Minority Leader of the Senate;

"(ii) the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate; and

"(iii) 3 additional Members of the Senate appointed by the President of the Senate; and

"(L) 36 general trustees, who shall be citizens of the United States, to be appointed in accordance with subsection (b).".

(b) TERMS OF OFFICE FOR NEW GENERAL TRUSTEES.—Section 2(b) of the John F. Kennedy Center Act (20 U.S.C. 76h(b)) shall apply to each general trustee of the John F. Kennedy Center for the Performing Arts whose position is established by the amendment made by subsection (a)(2) (referred to in this subsection as a "new general trustee"), except that the initial term of office of each new general trustee shall—

(1) commence on the date on which the new general trustee is appointed by the President; and

(2) terminate on September 1, 2007.

This Act may be cited as the "Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002".

And the Senate agree to the same.

For consideration of Division A of the House bill and Division A of the Senate amendment, and modifications committed to conference:

JERRY LEWIS,
BILL YOUNG,
JOE SKEEN,
DAVE HOBSON,
HENRY BONILLA,
GEORGE R. NETHERCUTT, Jr.,
RANDY "DUKE" CUNNINGHAM,
RODNEY P. FRELINGHUYSEN,
TODD TIAHRT,
JOHN P. MURTHA,
NORMAN D. DICKS,
MARTIN OLAV SABO,
PETER J. VISCLOSKY,
JAMES P. MORAN,
DAVID R. OBEY,
(except for aircraft leasing),

For consideration of all other matters of the House bill and other matters of the Senate amendment, and modifications committed to conference:

BILL YOUNG,
JERRY LEWIS,
DAVID OBEY,
Managers on the Part of the House.

DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
ROBERT C. BYRD,
PATRICK J. LEAHY,
TOM HARKIN,
BYRON L. DORGAN,
RICHARD J. DURBIN,
HARRY REID,
DIANNE FEINSTEIN,
HERB KOHL,
TED STEVENS,
THAD COCHRAN,
ARLEN SPECTOR,
PETE DOMENICI,
CHRISTOPHER BOND,
MITCH MCCONNEL,
RICAHRD C. SHELBY,
JUDD GREGG,
KAY BAILEY HUTCHISON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3338), making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the Department of Defense Appropriations Act, 2002, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 107-298 and Senate Report 107-109 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

The conferees agree that for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) and by the Budget Enforcement Act of 1990 (Public Law 101-508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 2002, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes and reports, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action. The following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act. At the time the President submits his budget for fiscal year 2003, the conferees direct the Department of Defense to transmit to the congressional defense committees budget justification documents to be known as the "M-1" and "O-1" which shall identify, at the budget activity, activity group, and subactivity group level, the amount requested by the President to be appropriated to the Department of Defense for operation and maintenance in any budget request, or amended budget request, for fiscal year 2003.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts for the Military Personnel accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Active Personnel:				
Army	23,626,684	23,336,884	23,446,734	23,752,384
Navy	19,606,984	19,574,184	19,465,964	19,551,484
Marine Corps	7,365,040	7,343,640	7,335,370	7,345,340
Air Force	20,151,514	19,784,614	20,032,704	19,724,014
Reserve Personnel:				
Army	2,604,197	2,629,197	2,670,197	2,670,197
Navy	1,643,523	1,644,823	1,650,523	1,654,523
Marine Corps	463,300	466,800	466,300	471,200
Air Force	1,055,160	1,055,160	1,061,160	1,061,160
National Guard Personnel:				
Army	4,014,135	4,004,225	4,052,695	4,041,695
Air Force	1,776,744	1,777,654	1,783,744	1,784,654
Total, Military Personnel	82,307,281	81,617,291	81,965,391	82,056,651

PERSONNEL UNDEREXECUTION SAVINGS

The conferees recommend a total reduction of $313,200,000, instead of $324,200,000 as proposed by the House, to the Active Military Personnel accounts due to lower than budgeted fiscal year 2001 end strengths, and differences in the actual grade mix of officers and enlisted recommended in the budget request. The General Accounting Office estimates that the active components will have fewer personnel on board to begin fiscal year 2002, and as a result, the fiscal year 2002 pay and allowances requirements for personnel are incorrect and the budgets overstated.

PERMANENT CHANGE OF STATION MOVES

The conferees recommend a total reduction of $180,000,000, instead of $317,000,000 as proposed by the Senate to the active Military Personnel accounts for permanent change of station (PCS) moves. The conferees direct the Secretary of Defense to develop a comprehensive plan to reduce the quantity of PCS moves by 25 percent by the end of fiscal year 2004, and to report to the congressional defense committees on that plan no later than May 1, 2002.

FORCE STRUCTURE CHANGES

The conferees recommend a total of $88.500.000 in the Military Personnel and Operation and Maintenance accounts for force structure that was not included in the budget request, as follows:

[In thousands of dollars]

	Milpers	O&M	Proc.	Total
Air Force B-52 aircraft	2,300	26,000	14,300	42,600
Army Reserve Full-Time Support	10,000	....	....	10,000
Army National Guard Full-Time Support	24,700	11,200	....	35,900

Active End Strength

[Fiscal year 2002]

	Budget	Conference	Conference vs. budget
Army	480,000	480,000	....
Navy	376,000	376,000	....
Marine Corps	172,600	172,600	....
Air Force	358,800	358,800	....
Total, Active Personnel ...	1,387,400	1,387,400	....

MILITARY PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
50 MILITARY PERSONNEL, ARMY				
100 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
150 BASIC PAY	3,865,263	3,865,263	3,865,263	3,865,263
200 RETIRED PAY ACCRUAL	1,171,175	1,171,175	1,171,175	1,171,175
350 BASIC ALLOWANCE FOR HOUSING	676,228	676,228	676,228	676,228
400 BASIC ALLOWANCE FOR SUBSISTENCE	147,368	147,368	147,368	147,368
450 INCENTIVE PAYS	79,159	79,159	79,159	79,159
500 SPECIAL PAYS	205,842	205,842	205,842	205,842
550 ALLOWANCES	51,775	51,775	51,775	51,775
600 SEPARATION PAY	117,589	117,589	113,364	117,589
650 SOCIAL SECURITY TAX	293,508	293,508	293,508	293,508
700 TOTAL, BUDGET ACTIVITY 1	6,607,907	6,607,907	6,603,682	6,607,907
750 ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
800 BASIC PAY	8,638,466	8,638,466	8,638,466	8,638,466
850 RETIRED PAY ACCRUAL	2,617,455	2,617,455	2,617,455	2,617,455
1000 BASIC ALLOWANCE FOR HOUSING	1,465,398	1,465,398	1,465,398	1,465,398
1050 INCENTIVE PAYS	68,302	68,302	68,302	68,302
1100 SPECIAL PAYS	425,723	419,723	425,723	419,723
1150 ALLOWANCES	376,594	376,594	376,594	376,594

(In thousands of dollars)

	Budget	House	Senate	Conference
1200 SEPARATION PAY	353,912	353,912	340,187	353,912
1250 SOCIAL SECURITY TAX	653,092	653,092	653,092	653,092
1300 TOTAL, BUDGET ACTIVITY 2	14,598,942	14,592,942	14,585,217	14,592,942
1350 ACTIVITY 3: PAY AND ALLOWANCES OF CADETS				
1400 ACADEMY CADETS	46,889	46,889	46,889	46,889
1500 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL				
1550 BASIC ALLOWANCE FOR SUBSISTENCE	824,176	824,176	824,176	824,176
1600 SUBSISTENCE-IN-KIND	491,998	491,998	491,998	491,998
1650 TOTAL, BUDGET ACTIVITY 4	1,316,174	1,316,174	1,316,174	1,316,174
1700 ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL				
1750 ACCESSION TRAVEL	166,279	166,279	166,279	166,279
1800 TRAINING TRAVEL	43,478	43,478	43,478	43,478
1850 OPERATIONAL TRAVEL	136,517	136,517	136,517	136,517
1900 ROTATIONAL TRAVEL	552,859	552,859	552,859	552,859
1950 SEPARATION TRAVEL	138,145	138,145	138,145	138,145
2000 TRAVEL OF ORGANIZED UNITS	1,706	1,706	1,706	1,706
2050 NON-TEMPORARY STORAGE	28,365	28,365	28,365	28,365
2100 TEMPORARY LODGING EXPENSE	20,573	20,573	20,573	20,573
2110 EXCESS PCS MOVES	---	---	-110,000	-80,000
2200 TOTAL, BUDGET ACTIVITY 5	1,087,922	1,087,922	977,922	1,007,922

(In thousands of dollars)

	Budget	House	Senate	Conference
2250 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
2300 APPREHENSION OF MILITARY DESERTERS....................	608	608	608	608
2350 INTEREST ON UNIFORMED SERVICES SAVINGS................	202	202	202	202
2400 DEATH GRATUITIES......................................	7,632	7,632	7,632	7,632
2450 UNEMPLOYMENT BENEFITS.................................	81,940	81,940	81,940	81,940
2500 SURVIVOR BENEFITS.....................................	6,560	6,560	6,560	6,560
2550 EDUCATION BENEFITS....................................	23,917	23,917	23,917	23,917
2600 ADOPTION EXPENSES.....................................	250	250	250	250
2610 SPECIAL COMPENSATION FOR SEVERELY DISABLED RETIREES...	4,800	4,800	4,800	4,800
2620 TRANSPORTATION SUBSIDY................................	2,040	2,040	2,040	2,040
2700 TOTAL, BUDGET ACTIVITY 6............................	127,949	127,949	127,949	127,949
2710 LESS REIMBURSABLES....................................	-159,099	-159,099	-159,099	-159,099
2715 REALIGNMENT TO RP,A...................................	---	---	-52,000	-52,000
2720 PERSONNEL UNDEREXECUTION..............................	---	-104,300	---	-102,200
2800 VARIANCES IN PERSONNEL STRENGTH TOTALS................	---	-145,600	---	---
2805 INDIVIDUALS IN APPELLATE REVIEW.......................	---	-8,000	---	-8,000
2810 END OF YEAR RETIREMENTS...............................	---	-5,000	---	-5,000
2815 $30,000 LUMP SUM BONUS................................	---	-20,900	---	-20,900
2820 BALKANS OPERATIONS....................................	---	---	---	399,800
2845 TOTAL, MILITARY PERSONNEL, ARMY.....................	23,626,684	23,336,884	23,446,734	23,752,384

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 2: Pay and Allowances of Enlisted		
1100	Special Pays/Loan Repayment Program	-6,000
Budget Activity 5: Permanent Change of Station Travel		
2110	Excess PCS Moves	-80,000
Undistributed:		
2715	Realignment to Reserve Personnel, Army	-52,000
2720	Personnel Underexecution	-102,200
2805	Individuals in Appellate Review	–8,000
2810	End of Year Retirements	–5,000
2815	$30,000 Lump Sum Bonus	–20,900
2820	Balkans Operations	399,800

MILITARY PERSONNEL, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
2850 MILITARY PERSONNEL, NAVY				
2900 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
2950 BASIC PAY	2,775,735	2,775,735	2,775,735	2,775,735
3000 RETIRED PAY ACCRUAL	841,048	841,048	841,048	841,048
3150 BASIC ALLOWANCE FOR HOUSING	666,155	666,155	666,155	666,155
3200 BASIC ALLOWANCE FOR SUBSISTENCE	105,829	105,829	105,829	105,829
3250 INCENTIVE PAYS	177,748	177,748	177,748	177,748
3300 SPECIAL PAYS	233,049	233,049	233,049	233,049
3350 ALLOWANCES	57,085	57,085	57,085	57,085
3400 SEPARATION PAY	67,735	67,735	65,035	67,735
3450 SOCIAL SECURITY TAX	211,110	211,110	211,110	211,110
3500 TOTAL, BUDGET ACTIVITY 1	5,135,494	5,135,494	5,132,794	5,135,494
3550 ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
3600 BASIC PAY	7,054,710	7,054,710	7,054,710	7,054,710
3650 RETIRED PAY ACCRUAL	2,135,153	2,135,153	2,135,153	2,135,153
3800 BASIC ALLOWANCE FOR HOUSING	1,841,733	1,841,733	1,841,733	1,841,733
3850 INCENTIVE PAYS	89,291	89,291	89,291	89,291
3900 SPECIAL PAYS	737,527	737,527	737,527	737,527
3950 ALLOWANCES	385,571	385,571	385,571	385,571
4000 SEPARATION PAY	229,464	229,464	216,144	229,464
4050 SOCIAL SECURITY TAX	534,691	534,691	534,691	534,691
4100 TOTAL, BUDGET ACTIVITY 2	13,008,140	13,008,140	12,994,820	13,008,140

(In thousands of dollars)

	Budget	House	Senate	Conference
4150 ACTIVITY 3: PAY AND ALLOWANCES OF MIDSHIPMEN				
4200 MIDSHIPMEN	44,156	44,156	44,156	44,156
4300 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL				
4350 BASIC ALLOWANCE FOR SUBSISTENCE	560,071	560,071	560,071	560,071
4400 SUBSISTENCE-IN-KIND	334,900	334,900	334,900	334,900
4450 TOTAL, BUDGET ACTIVITY 4	894,971	894,971	894,971	894,971
4500 ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL				
4550 ACCESSION TRAVEL	57,995	57,995	57,995	57,995
4600 TRAINING TRAVEL	54,827	54,827	54,827	54,827
4650 OPERATIONAL TRAVEL	168,177	168,177	168,177	168,177
4700 ROTATIONAL TRAVEL	258,533	258,533	258,533	258,533
4750 SEPARATION TRAVEL	106,049	106,049	106,049	106,049
4800 TRAVEL OF ORGANIZED UNITS	18,720	18,720	18,720	18,720
4850 NON-TEMPORARY STORAGE	11,402	11,402	11,402	11,402
4900 TEMPORARY LODGING EXPENSE	6,964	6,964	6,964	6,964
4950 OTHER	7,140	7,140	7,140	7,140
4955 EXCESS PCS MOVES	---	---	-75,000	-30,000
5000 TOTAL, BUDGET ACTIVITY 5	689,807	689,807	614,807	659,807

(In thousands of dollars)

	Budget	House	Senate	Conference
5050 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
5100 APPREHENSION OF MILITARY DESERTERS....................	812	812	812	812
5150 INTEREST ON UNIFORMED SERVICES SAVINGS...............	206	206	206	206
5200 DEATH GRATUITIES.....................................	1,314	1,314	1,314	1,314
5250 UNEMPLOYMENT BENEFITS................................	44,085	42,885	44,085	41,685
5300 SURVIVOR BENEFITS....................................	2,366	2,366	2,366	2,366
5350 EDUCATION BENEFITS...................................	7,866	7,866	7,866	7,866
5400 ADOPTION EXPENSES....................................	232	232	232	232
5410 SPECIAL COMPENSATION FOR SEVERELY DISABLED RETIREES...	5,946	5,946	5,946	5,946
5420 TRANSPORTATION SUBSIDY...............................	9,573	9,573	9,573	9,573
5500 TOTAL, BUDGET ACTIVITY 6............................	72,400	71,200	72,400	70,000
5510 LESS REIMBURSABLES...................................	-237,984	-237,984	-237,984	-237,984
5515 RECALCULATION OF OBLIGATION REQUIREMENTS.............	---	---	-50,000	-20,000
5615 INDIVIDUALS IN APPELLATE REVIEW......................	---	-8,000	---	-8,000
5620 END OF YEAR RETIREMENTS..............................	---	-5,000	---	-5,000
5625 $30,000 LUMP SUM BONUS...............................	---	-18,600	---	-18,600
5630 BALKANS OPERATIONS...................................	---	---	---	28,500
5645 TOTAL, MILITARY PERSONNEL, NAVY.....................	19,606,984	19,574,184	19,465,964	19,551,484

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 5: Permanent Change of Station Travel		
4955	Excess PCS Moves	-30,000
Budget Activity 6: Other Military Personnel Costs		
5250	Unemployment Benefits	–2,400
Undistributed:		
5515	Recalculation of Obligation Requirements	–20,000
5615	Individuals in Appellate Review	–8,000
5620	End of Year Retirements	–5,000
5625	$30,000 Lump Sum Bonus	–18,600
5630	Balkans Operations	28,500

MILITARY PERSONNEL, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
5650 MILITARY PERSONNEL, MARINE CORPS				
5700 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
5750 BASIC PAY	903,682	903,682	903,682	903,682
5800 RETIRED PAY ACCRUAL	273,877	273,877	273,877	273,877
5950 BASIC ALLOWANCE FOR HOUSING	176,837	176,837	176,837	176,837
6000 BASIC ALLOWANCE FOR SUBSISTENCE	35,550	35,550	35,550	35,550
6050 INCENTIVE PAYS	45,350	45,350	45,350	45,350
6100 SPECIAL PAYS	1,709	1,709	1,709	1,709
6150 ALLOWANCES	22,542	22,542	22,542	22,542
6200 SEPARATION PAY	18,606	18,606	17,936	18,606
6250 SOCIAL SECURITY TAX	68,428	68,428	68,428	68,428
6300 TOTAL, BUDGET ACTIVITY 1	1,546,581	1,546,581	1,545,911	1,546,581
6350 ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
6400 BASIC PAY	3,055,191	3,055,191	3,055,191	3,055,191
6450 RETIRED PAY ACCRUAL	923,625	923,625	923,625	923,625
6600 BASIC ALLOWANCE FOR HOUSING	529,819	529,819	529,819	529,819
6650 INCENTIVE PAYS	8,356	8,356	8,356	8,356
6700 SPECIAL PAYS	113,910	105,310	113,910	113,910
6750 ALLOWANCES	172,907	172,907	172,907	172,907
6800 SEPARATION PAY	84,134	84,134	81,134	84,134
6850 SOCIAL SECURITY TAX	233,186	233,186	233,186	233,186
6900 TOTAL, BUDGET ACTIVITY 2	5,121,128	5,112,528	5,118,128	5,121,128

(In thousands of dollars)

	Budget	House	Senate	Conference
6950 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL				
7000 BASIC ALLOWANCE FOR SUBSISTENCE	251,101	251,101	251,101	251,101
7050 SUBSISTENCE-IN-KIND	184,872	184,872	184,872	184,872
7100 TOTAL, BUDGET ACTIVITY 4	435,973	435,973	435,973	435,973
7150 ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL				
7200 ACCESSION TRAVEL	32,434	32,434	32,434	32,434
7250 TRAINING TRAVEL	7,777	7,777	7,777	7,777
7300 OPERATIONAL TRAVEL	63,286	63,286	63,286	63,286
7350 ROTATIONAL TRAVEL	97,884	97,884	97,884	97,884
7400 SEPARATION TRAVEL	45,310	45,310	45,310	45,310
7450 TRAVEL OF ORGANIZED UNITS	599	599	599	599
7500 NON-TEMPORARY STORAGE	3,029	3,029	3,029	3,029
7550 TEMPORARY LODGING EXPENSE	6,056	6,056	6,056	6,056
7600 OTHER	1,181	1,181	1,181	1,181
7605 EXCESS PCS MOVES	---	---	-26,000	-10,000
7650 TOTAL, BUDGET ACTIVITY 5	257,556	257,556	231,556	247,556

(In thousands of dollars)

	Budget	House	Senate	Conference
7700 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
7750 APPREHENSION OF MILITARY DESERTERS....................	920	920	920	920
7800 INTEREST ON UNIFORMED SERVICES SAVINGS...............	15	15	15	15
7850 DEATH GRATUITIES....................................	984	984	984	984
7900 UNEMPLOYMENT BENEFITS...............................	24,738	22,238	24,738	19,738
7950 SURVIVOR BENEFITS...................................	1,287	1,287	1,287	1,287
8000 EDUCATION BENEFITS..................................	3,046	3,046	3,046	3,046
8050 ADOPTION EXPENSES...................................	48	48	48	48
8060 SPECIAL COMPENSATION FOR SEVERELY DISABLED RETIREES...	1,870	1,870	1,870	1,870
8070 TRANSPORTATION SUBSIDY..............................	2,611	2,611	2,611	2,611
8150 TOTAL, BUDGET ACTIVITY 6............................	35,519	33,019	35,519	30,519
8160 LESS REIMBURSABLES..................................	-31,717	-31,717	-31,717	-31,717
8245 INDIVIDUALS IN APPELLATE REVIEW......................	---	-4,000	---	-4,000
8250 END OF YEAR RETIREMENTS..............................	---	-2,000	---	-2,000
8255 $30,000 LUMP SUM BONUS...............................	---	-4,300	---	-4,300
8260 BALKANS OPERATIONS..................................	---	---	---	5,600
8295 TOTAL, MILITARY PERSONNEL, MARINE CORPS.............	7,365,040	7,343,640	7,335,370	7,345,340

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 5: Permanent Change of Station Travel	
7605 Excess PCS Moves	–10,000
Budget Activity 6: Other Military Personnel Costs	
7900 Unemployment Benefits	-5,000
Undistributed:	
8245 Individuals in Appellate Review	-4,000
8250 End of Year Retirements	–2,000
8255 $30,000 Lump Sum Bonus	-4,300
8260 Balkans Operations	5,600

MILITARY PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
8300 MILITARY PERSONNEL, AIR FORCE				
8350 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
8400 BASIC PAY	3,746,846	3,746,846	3,746,846	3,746,846
8450 RETIRED PAY ACCRUAL	1,135,294	1,135,294	1,135,294	1,135,294
8600 BASIC ALLOWANCE FOR HOUSING	710,354	710,354	710,354	710,354
8650 BASIC ALLOWANCE FOR SUBSISTENCE	138,009	138,009	138,009	138,009
8700 INCENTIVE PAYS	295,823	295,823	295,823	295,823
8750 SPECIAL PAYS	233,941	201,841	233,941	201,841
8800 ALLOWANCES	52,559	52,559	52,559	52,559
8850 SEPARATION PAY	106,401	106,401	102,851	106,401
8900 SOCIAL SECURITY TAX	284,345	284,345	284,345	284,345
8950 TOTAL, BUDGET ACTIVITY 1	6,703,572	6,671,472	6,700,022	6,671,472
9000 ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
9050 BASIC PAY	6,753,308	6,753,308	6,753,308	6,753,308
9100 RETIRED PAY ACCRUAL	2,046,252	2,046,252	2,046,252	2,046,252
9250 BASIC ALLOWANCE FOR HOUSING	1,405,298	1,405,298	1,405,298	1,405,298
9300 INCENTIVE PAYS	33,817	33,817	33,817	33,817
9350 SPECIAL PAYS	460,273	417,773	460,273	460,273
9400 ALLOWANCES	373,266	373,266	373,266	373,266
9450 SEPARATION PAY	189,867	189,867	177,307	189,867
9500 SOCIAL SECURITY TAX	516,628	516,628	516,628	516,628
9550 TOTAL, BUDGET ACTIVITY 2	11,778,709	11,736,209	11,766,149	11,778,709

(In thousands of dollars)

	Budget	House	Senate	Conference
9600 ACTIVITY 3: PAY AND ALLOWANCES OF CADETS				
9650 ACADEMY CADETS	48,773	48,773	48,773	48,773
9750 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL				
9800 BASIC ALLOWANCE FOR SUBSISTENCE	695,708	695,708	695,708	695,708
9850 SUBSISTENCE-IN-KIND	115,082	115,082	115,082	115,082
9900 TOTAL, BUDGET ACTIVITY 4	810,790	810,790	810,790	810,790
9950 ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL				
10000 ACCESSION TRAVEL	65,630	65,630	65,630	65,630
10050 TRAINING TRAVEL	62,786	62,786	62,786	62,786
10100 OPERATIONAL TRAVEL	160,876	160,876	160,876	160,876
10150 ROTATIONAL TRAVEL	475,714	475,714	475,714	475,714
10200 SEPARATION TRAVEL	98,628	98,628	98,628	98,628
10250 TRAVEL OF ORGANIZED UNITS	6,370	6,370	6,370	6,370
10300 NON-TEMPORARY STORAGE	21,575	21,575	21,575	21,575
10350 TEMPORARY LODGING EXPENSE	37,831	37,831	37,831	37,831
10410 EXCESS PCS MOVES	---	---	-106,000	-60,000
10450 TOTAL, BUDGET ACTIVITY 5	929,410	929,410	823,410	869,410

(In thousands of dollars)

	Budget	House	Senate	Conference
10500 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
10550 APPREHENSION OF MILITARY DESERTERS	100	100	100	100
10600 INTEREST ON UNIFORMED SERVICES SAVINGS	595	595	595	595
10650 DEATH GRATUITIES	1,506	1,506	1,506	1,506
10700 UNEMPLOYMENT BENEFITS	33,272	28,572	33,272	23,872
10750 SURVIVOR BENEFITS	2,908	2,908	2,908	2,908
10800 EDUCATION BENEFITS	3,415	3,415	3,415	3,415
10850 ADOPTION EXPENSES	800	800	800	800
10860 SPECIAL COMPENSATION FOR SEVERELY DISABLED RETIREES	15,000	15,000	15,000	15,000
10870 TRANSPORTATION SUBSIDY	13,100	13,100	13,100	13,100
10950 TOTAL, BUDGET ACTIVITY 6	70,696	65,996	70,696	61,296
10960 LESS REIMBURSABLES	-190,436	-190,436	-190,436	-190,436
10965 PERSONNEL UNDEREXECUTION	---	-206,000	---	-206,000
10970 B-52 FORCE STRUCTURE	---	---	3,300	2,300
11020 VARIANCES IN PERSONNEL STRENGTH TOTALS	---	-49,900	---	-121,600
11030 INDIVIDUALS IN APPELLATE REVIEW	---	-8,000	---	-8,000
11040 END OF YEAR RETIREMENTS	---	-5,000	---	-5,000
11045 $30,000 LUMP SUM BONUS	---	-18,700	---	-18,700
11050 BALKANS OPERATIONS	---	---	---	31,000
11140 TOTAL, MILITARY PERSONNEL, AIR FORCE	20,151,514	19,784,614	20,032,704	19,724,014

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 1: Pay and Allowances of Officers	
8750 Special Pays/Critical Skills Accession Bonus	-13,100
8750 Special Pays/Critical Skills Retention Bonus	-19,000
Budget Activity 5: Permanent Change of Station Travel	
10410 Excess PCS Moves	-60,000
Budget Activity 6: Other Military Personnel Costs	
10700 Unemployment Benefits	-9,400
Undistributed:	
10965 Personnel Underexecution	-206,000
10970 B-52 Force Structure	2,300
11020 Variances in Personnel Strength Totals	-121,600
11030 Individuals in Appellate Review	-8,000
11040 End of Year Retirements	-5,000
11045 $30,000 Lump Sum Bonus	–18,700
11050 Balkans Operations	31,000

NATIONAL GUARD AND RESERVE FORCES

The conferees agree to provide $11,683,429,000 in Reserve Personnel appropriations, $12,700,844,000 in Operation and Maintenance appropriations, and $669,130,000 in the National Guard and Reserve Equipment appropriation. These funds support a Selected Reserve end strength of 864,658 as shown below.

Selected Reserve End Strength
(Fiscal Year 2002)

	Budget	Conference	Conference vs. Budget
Selected Reserve:			
Army Reserve.............	205,000	205,000	---
Navy Reserve	87,000	87,000	---
Marine Corps Reserve.....	39,558	39,558	---
Air Force Reserve	74,700	74,700	---
Army National Guard......	350,000	350,000	---
Air National Guard.........	108,400	108,400	---
Total	864,658	864,658	---
AGR/TARS:			
Army Reserve	13,108	13,406	+298
Navy Reserve	14,811	14,811	---
Marine Corps Reserve......	2,261	2,261	---
Air Force Reserve	1,437	1,437	---
Army National Guard......	22,974	23,698	+724
Air National Guard.........	11,591	11,591	---
Total	66,182	67,204	+1,022
Technicians:			
Army Reserve	7,094	7,344	+250
Air Force Reserve	9,818	9,818	---
Army National Guard	24,728	25,215	+487
Air National Guard	22,772	22,772	---
Total	64,412	65,149	+737

RESERVE PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
11150 RESERVE PERSONNEL, ARMY				
11200 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
11250 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	1,030,438	1,030,438	1,030,438	1,030,438
11300 PAY GROUP B TRAINING (BACKFILL FOR ACTIVE DUTY)	33,055	33,055	33,055	33,055
11350 PAY GROUP F TRAINING (RECRUITS)	148,589	148,589	148,589	148,589
11400 PAY GROUP P TRAINING (PIPELINE RECRUITS)	12,113	12,113	12,113	12,113
11405 REALIGNMENT FROM MP,A	---	---	52,000	52,000
11500 TOTAL, BUDGET ACTIVITY 1	1,224,195	1,224,195	1,276,195	1,276,195
11550 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
11600 MOBILIZATION TRAINING	17,360	17,360	17,360	17,360
11650 SCHOOL TRAINING	97,336	97,336	100,336	100,336
11700 SPECIAL TRAINING	92,849	92,849	93,849	93,849
11750 ADMINISTRATION AND SUPPORT	1,012,695	1,012,695	1,022,695	1,022,695
11800 EDUCATION BENEFITS	35,596	35,596	35,596	35,596
11850 ROTC - SENIOR, JUNIOR	79,199	79,199	79,199	79,199
11900 HEALTH PROFESSION SCHOLARSHIP	28,902	28,902	28,902	28,902
11950 OTHER PROGRAMS	16,065	16,065	16,065	16,065
11960 TOTAL, BUDGET ACTIVITY 2	1,380,002	1,380,002	1,394,002	1,394,002
12020 INACTIVE DUTY TRAINING SHORTFALL	---	25,000	---	---
12090 TOTAL RESERVE PERSONNEL, ARMY	2,604,197	2,629,197	2,670,197	2,670,197

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 1: Unit and Individual Training		
11405	Realignment from Military Personnel, Army	52,000
Budget Activity 2: Other Training and Support		
11650	School Training/Duty MOS Qualification Training	3,000
11700	Special Training/Professional Development Training	1,000
11750	Administration and Support/Additional AGR End Strength	10,000

RESERVE PERSONNEL, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
12100 RESERVE PERSONNEL, NAVY				
12150 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
12200 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)........	671,659	671,659	671,659	671,659
12225 PAY GROUP B TRAINING (BACKFILL FOR ACT DUTY).........	3,687	3,687	3,687	3,687
12250 PAY GROUP F TRAINING (RECRUITS)......................	2,329	2,329	2,329	2,329
12350 TOTAL, BUDGET ACTIVITY 1.............................	677,675	677,675	677,675	677,675
12400 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
12450 MOBILIZATION TRAINING................................	3,747	3,747	3,747	3,747
12500 SCHOOL TRAINING......................................	9,872	9,872	13,872	13,872
12550 SPECIAL TRAINING.....................................	44,035	44,035	47,035	47,035
12600 ADMINISTRATION AND SUPPORT...........................	846,211	846,211	846,211	846,211
12650 EDUCATION BENEFITS...................................	1,793	1,793	1,793	1,793
12700 ROTC - SENIOR, JUNIOR................................	33,722	33,722	33,722	33,722
12750 HEALTH PROFESSION SCHOLARSHIP........................	26,468	26,468	26,468	26,468
12820 TOTAL BUDGET ACTIVITY 2..............................	965,848	965,848	972,848	972,848
12860 PERSONNEL UNDEREXECUTION.............................	---	-2,700	---	---
12870 ADT FLEET SUPPORT....................................	---	4,000	---	4,000
12940 TOTAL, RESERVE PERSONNEL, NAVY.......................	1,643,523	1,644,823	1,650,523	1,654,523

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 2: Other Training and Support		
12500	School Training	4,000
12550	Special Training	3,000
Undistributed:		
12870	ADT Fleet Support	4,000

RESERVE PERSONNEL, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
12950 RESERVE PERSONNEL, MARINE CORPS				
13000 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
13050 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)........	169,464	169,464	169,464	169,464
13100 PAY GROUP B TRAINING (BACKFILL FOR ACTIVE DUTY)......	15,336	15,336	15,336	15,336
13150 PAY GROUP F TRAINING (RECRUITS)......................	68,584	68,584	68,584	68,584
13200 PAY GROUP P TRAINING (PIPELINE RECRUITS).............	146	146	146	146
13300 TOTAL, BUDGET ACTIVITY 1............................	253,530	253,530	253,530	253,530
13350 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
13400 MOBILIZATION TRAINING.................................	2,220	2,220	2,220	2,220
13450 SCHOOL TRAINING.......................................	10,322	10,322	11,322	11,322
13500 SPECIAL TRAINING......................................	29,821	29,821	31,821	31,821
13550 ADMINISTRATION AND SUPPORT............................	134,136	134,136	134,136	134,136
13600 EDUCATION BENEFITS....................................	14,793	14,793	14,793	14,793
13650 ROTC - SENIOR, JUNIOR.................................	18,478	18,478	18,478	18,478
13710 TOTAL, BUDGET ACTIVITY 2............................	209,770	209,770	212,770	212,770
13740 PERSONNEL UNDEREXECUTION..............................	---	-1,400	---	---
13750 ACTIVE DUTY FOR SPECIAL WORK..........................	---	4,900	---	4,900
13840 TOTAL, RESERVE PERSONNEL, MARINE CORPS..............	463,300	466,800	466,300	471,200

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 2: Other Training and Support		
13450	School Training	1,000
13500	Special Training	2,000
Undistributed:		
13750	Active Duty for Special Work	4,900

RESERVE PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
13850 RESERVE PERSONNEL, AIR FORCE				
13900 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
13950 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	503,409	515,909	503,409	515,909
14000 PAY GROUP B TRAINING (BACKFILL FOR ACTIVE DUTY)	94,910	94,910	94,910	94,910
14050 PAY GROUP F TRAINING (RECRUITS)	14,405	14,405	14,405	14,405
14100 OTHER	80	80	80	80
14150 TOTAL, BUDGET ACTIVITY 1	612,804	625,304	612,804	625,304
14200 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
14250 MOBILIZATION TRAINING	1,800	1,800	1,800	1,800
14300 SCHOOL TRAINING	68,893	68,893	72,893	72,893
14350 SPECIAL TRAINING	159,365	159,365	161,365	161,365
14400 ADMINISTRATION AND SUPPORT	128,884	120,384	128,884	120,384
14450 EDUCATION BENEFITS	5,706	5,706	5,706	5,706
14500 ROTC - SENIOR, JUNIOR	52,299	52,299	52,299	52,299
14550 HEALTH PROFESSION SCHOLARSHIP	25,409	21,409	25,409	21,409
14600 TOTAL, BUDGET ACTIVITY 2	442,356	429,856	448,356	435,856
14690 TOTAL, RESERVE PERSONNEL, AIR FORCE	1,055,160	1,055,160	1,061,160	1,061,160

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 1: Unit and Individual Training		
13950	Pay Group A Training/Realignment of Funds	12,500
Budget Activity 2: Other Training and Support		
14300	School Training	4,000
14350	Special Training	2,000
14400	Administration and Support/Realignment of Funds	–8,500
14550	Health Profession Scholarship/Realignment of Funds	–4,000

NATIONAL GUARD PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
14700 NATIONAL GUARD PERSONNEL, ARMY				
14750 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
14800 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)........	1,736,084	1,736,084	1,736,084	1,736,084
14850 PAY GROUP F TRAINING (RECRUITS)......................	231,028	231,028	231,028	231,028
14900 PAY GROUP P TRAINING (PIPELINE RECRUITS).............	22,493	22,493	22,493	22,493
14905 REALIGNMENT TO BA 2..................................	---	---	-50,000	-50,000
15000 TOTAL, BUDGET ACTIVITY 1.............................	1,989,605	1,989,605	1,939,605	1,939,605
15050 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
15100 SCHOOL TRAINING......................................	189,410	189,410	202,410	196,410
15150 SPECIAL TRAINING.....................................	67,352	67,352	67,352	67,352
15200 ADMINISTRATION AND SUPPORT...........................	1,709,542	1,709,542	1,734,242	1,734,242
15250 EDUCATION BENEFITS...................................	58,226	58,226	58,226	58,226
15255 REALIGNMENT FROM BA 1................................	---	---	50,000	50,000
15350 TOTAL, BUDGET ACTIVITY 2.............................	2,024,530	2,024,530	2,112,230	2,106,230
15355 PERSONNEL UNDEREXECUTION.............................	---	-9,800	---	-5,000
15400 EMERGENCY SPILL RESPONSE PROGRAM.....................	---	---	860	860
15445 TOTAL, NATIONAL GUARD PERSONNEL, ARMY................	4,014,135	4,004,335	4,052,695	4,041,695

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 1: Unit and Individual Training		
14905	Realignment to Budget Activity Two	–50,000
Budget Activity 2: Other Training and Support		
15100	School Training/Duty MOS Qualification Training	5,000
15100	School Training/Professional Development Training	2,000
15200	Administration and Support/Additional AGR End Strength	24,700
15255	Realignment from Budget Activity One	50,000
Undistributed:		
15355	Personnel Underexecution	–5,000
15400	Emergency Spill Response and Preparedness Program	860

NATIONAL GUARD PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
15450 NATIONAL GUARD PERSONNEL, AIR FORCE				
15500 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
15550 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)........	723,053	723,053	723,053	723,053
15600 PAY GROUP F TRAINING (RECRUITS).......................	39,284	39,284	39,284	39,284
15650 PAY GROUP P TRAINING (PIPELINE RECRUITS).............	1,070	1,070	1,070	1,070
15750 TOTAL, BUDGET ACTIVITY 1............................	763,407	763,407	763,407	763,407
15800 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
15850 SCHOOL TRAINING.......................................	122,069	122,069	129,069	129,069
15900 SPECIAL TRAINING......................................	86,171	86,171	86,171	86,171
15950 ADMINISTRATION AND SUPPORT............................	790,097	790,097	790,097	790,097
16000 EDUCATION BENEFITS....................................	15,000	15,000	15,000	15,000
16100 TOTAL, BUDGET ACTIVITY 2............................	1,013,337	1,013,337	1,020,337	1,020,337
16175 AGR'S FOR BMRST PROGRAM...............................	---	910	---	910
16200 TOTAL, NATIONAL GUARD PERSONNEL, AIR FORCE..........	1,776,744	1,777,654	1,783,744	1,784,654

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 2: Other Training and Support	
15850 School Training	7,000
Undistributed:	
16175 AGR's for BMRST Program	910

TITLE II - OPERATION AND MAINTENANCE

A summary of the conference agreement on the items addressed by either the House or Senate is as follows:

(In thousands of dollars)

		Budget	House	Senate	Conference
50000	RECAPITULATION				
50050	O & M, ARMY	21,191,680	21,021,944	22,941,588	22,335,074
50100	TRANSFER - STOCKPILE	---	---	---	---
50150	O & M, NAVY	26,961,382	26,628,075	27,038,067	26,876,636
50200	TRANSFER - STOCKPILE	---	---	---	---
50250	O & M, MARINE CORPS	2,892,314	2,939,434	2,903,863	2,931,934
50300	O & M, AIR FORCE	26,146,770	25,842,968	26,303,436	26,026,789
50350	TRANSFER - STOCKPILE	---	---	---	---
50400	O & M, DEFENSEWIDE	12,518,631	12,122,590	12,864,644	12,773,270
50500	O & M, ARMY RESERVE	1,787,246	1,788,546	1,771,246	1,771,246
50550	O & M, NAVY RESERVE	1,003,690	1,003,690	1,003,690	1,003,690
50600	O & M, MARINE CORPS RESERVE	144,023	144,023	144,023	144,023
50650	O & M, AIR FORCE RESERVE	2,029,866	2,029,866	2,023,866	2,024,866
50700	O & M, ARMY NATIONAL GUARD	3,677,359	3,723,759	3,743,808	3,768,058
50750	O & M, AIR NATIONAL GUARD	3,867,361	3,972,161	3,998,361	3,988,961

(In thousands of dollars)

		Budget	House	Senate	Conference
50790	OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND.........	2,844,226	2,744,226	---	50,000
50800	UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES...	9,096	9,096	9,096	9,096
50850	ENVIRONMENTAL RESTORATION, ARMY......................	389,800	389,800	389,800	389,800
50900	ENVIRONMENTAL RESTORATION, NAVY......................	257,517	257,517	257,517	257,517
50950	ENVIRONMENTAL RESTORATION, AIR FORCE.................	385,437	385,437	385,437	385,437
51000	ENVIRONMENTAL RESTORATION, DEFENSE-WIDE..............	23,492	23,492	23,492	23,492
51050	ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES	190,255	190,255	230,255	222,255
51200	OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID........	49,700	49,700	44,700	49,700
51300	FORMER SOVIET UNION THREAT REDUCTION..................	403,000	---	357,000	---
51350	PENTAGON RENOVATION TRANSFER FUND.....................	---	---	---	---
51450	QUALITY OF LIFE ENHANCEMENTS, DEFENSE.................	---	---	---	---
51460	SUPPORT FOR INTERNATIONAL SPORTING COMPETITIONS.......	15,800	15,800	15,800	15,800
51600	GRAND TOTAL, O & M....................................	106,788,645	105,282,379	106,449,689	105,047,644
51650	TRANSFERS...	---	---	---	---
51700	TOTAL FUNDS AVAILABLE, O & M..........................	106,788,645	105,282,379	106,449,689	105,047,644

INITIAL ENTRY FACILITIES STUDY

The conferees direct the General Accounting Office to report to the congressional defense committees, no later than June 15, 2002, concerning the physical state of the housing and barracks available to military personnel at initial entry and basic training sites for each of the armed services.

OPERATION AND MAINTENANCE, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
100 OPERATION AND MAINTENANCE, ARMY				
150 BUDGET ACTIVITY 1: OPERATING FORCES				
200 LAND FORCES				
250 DIVISIONS	1,171,981	1,188,981	1,171,981	1,184,481
300 CORPS COMBAT FORCES	341,802	341,802	341,802	341,802
350 CORPS SUPPORT FORCES	315,109	315,109	313,609	313,609
400 ECHELON ABOVE CORPS SUPPORT FORCES	476,280	476,280	476,280	476,280
450 LAND FORCES OPERATIONS SUPPORT	997,837	997,837	997,837	997,837
500 LAND FORCES READINESS				
550 FORCE READINESS OPERATIONS SUPPORT	1,132,933	1,132,933	1,142,933	1,140,433
600 LAND FORCES SYSTEMS READINESS	467,197	467,197	467,197	467,197
650 LAND FORCES DEPOT MAINTENANCE	810,561	828,561	810,561	821,861
700 LAND FORCES READINESS SUPPORT				
750 BASE OPERATIONS SUPPORT	2,799,321	2,813,021	2,790,321	2,805,521
800 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (O	1,178,502	1,178,502	1,158,502	1,163,502
850 MANAGEMENT & OPERATIONAL HEADQUARTERS	234,907	234,907	248,607	246,607
900 UNIFIED COMMANDS	77,907	77,907	82,907	80,407
950 MISCELLANEOUS ACTIVITIES	264,215	264,215	264,215	264,215
1045 TOTAL, BUDGET ACTIVITY 1	10,268,552	10,317,252	10,266,752	10,303,752

(In thousands of dollars)

	Budget	House	Senate	Conference
1050 BUDGET ACTIVITY 2: MOBILIZATION				
1100 MOBILITY OPERATIONS				
1200 STRATEGIC MOBILIZATION................................	385,289	385,289	390,289	387,789
1250 ARMY PREPOSITIONED STOCKS.............................	133,675	133,675	133,675	133,675
1300 INDUSTRIAL PREPAREDNESS...............................	46,442	46,442	71,442	63,942
1325 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (M	16,478	16,478	14,478	14,478
1350 TOTAL, BUDGET ACTIVITY 2............................	581,884	581,884	609,884	599,884
1400 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
1450 ACCESSION TRAINING				
1500 OFFICER ACQUISITION...................................	79,842	79,842	79,842	79,842
1550 RECRUIT TRAINING......................................	17,265	17,265	17,265	17,265
1600 ONE STATION UNIT TRAINING.............................	20,485	20,485	20,485	20,485
1650 SENIOR RESERVE OFFICERS' TRAINING CORPS...............	183,376	183,376	184,626	184,576
1700 BASE OPERATIONS SUPPORT (ACCESSION TRAINING)..........	80,840	80,840	80,840	80,840
1750 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (A	57,432	57,432	57,432	57,432
1800 BASIC SKILL/ ADVANCE TRAINING				
1850 SPECIALIZED SKILL TRAINING............................	261,446	263,726	259,446	261,046
1900 FLIGHT TRAINING.......................................	403,105	403,105	403,105	403,105
1950 PROFESSIONAL DEVELOPMENT EDUCATION....................	114,373	114,373	114,373	114,373
2000 TRAINING SUPPORT......................................	485,815	485,815	488,815	487,915
2050 BASE OPERATIONS SUPPORT (BASIC SKILL/ADVANCED TRAINING	898,129	899,729	898,129	900,129
2100 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (B	401,885	401,885	405,385	404,385

(In thousands of dollars)

	Budget	House	Senate	Conference
2150 RECRUITING/OTHER TRAINING				
2200 RECRUITING AND ADVERTISING..............................	442,612	442,612	442,612	442,612
2250 EXAMINING...	78,260	78,260	78,260	78,260
2300 OFF-DUTY AND VOLUNTARY EDUCATION.......................	142,515	142,515	142,515	142,515
2350 CIVILIAN EDUCATION AND TRAINING........................	82,563	82,563	82,563	82,563
2400 JUNIOR RESERVE OFFICERS' TRAINING CORPS................	88,873	91,373	88,873	90,173
2450 BASE OPERATIONS SUPPORT (RECRUIT/OTHER TRAINING)......	259,491	259,491	259,491	259,491
2500 TOTAL, BUDGET ACTIVITY 3.............................	4,098,307	4,104,687	4,104,057	4,107,007
2550 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
2600 SECURITY PROGRAMS				
2650 SECURITY PROGRAMS.....................................	479,506	479,506	479,506	479,506
2700 LOGISTICS OPERATIONS				
2750 SERVICEWIDE TRANSPORTATION............................	517,218	511,218	517,218	509,218
2800 CENTRAL SUPPLY ACTIVITIES..............................	454,682	462,682	449,682	454,682
2850 LOGISTICS SUPPORT ACTIVITIES...........................	570,911	575,911	570,911	573,911
2900 AMMUNITION MANAGEMENT..................................	357,033	357,033	357,033	357,033

(In thousands of dollars)

	Budget	House	Senate	Conference
2950 SERVICEWIDE SUPPORT				
3000 ADMINISTRATION	536,030	526,030	551,030	540,780
3050 SERVICEWIDE COMMUNICATIONS	532,013	520,013	532,013	532,013
3100 MANPOWER MANAGEMENT	160,159	153,759	160,159	153,759
3150 OTHER PERSONNEL SUPPORT	175,429	175,429	175,429	175,429
3200 OTHER SERVICE SUPPORT	615,653	606,653	620,653	610,953
3250 ARMY CLAIMS	112,947	112,947	112,947	112,947
3300 REAL ESTATE MANAGEMENT	51,431	51,431	51,431	51,431
3350 BASE OPERATIONS SUPPORT (SERVICEWIDE SUPPORT)	1,167,160	1,165,160	1,167,160	1,167,660
3400 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (S	277,609	277,609	280,959	280,209
3550 SUPPORT OF OTHER NATIONS				
3600 INTERNATIONAL MILITARY HEADQUARTERS	180,812	141,812	180,812	150,812
3650 MISC. SUPPORT OF OTHER NATIONS	54,344	54,344	54,344	54,344
3700 TOTAL, BUDGET ACTIVITY 4	6,242,937	6,171,537	6,261,287	6,204,687
3710 CLASSIFIED PROGRAMS UNDISTRIBUTED	---	10,794	40,400	26,794
3740 MEMORIAL EVENTS	---	350	---	350
3835 REPAIRS AT FT. BAKER	---	1,000	---	1,000
3845 DEFENSE JOINT ACCOUNTING SYSTEM	---	-12,500	-12,500	-12,500
3855 WMD-COUNTER-TERRORISM TRAINING/TESTING MEMORIAL TUNNEL	---	---	19,300	16,500
3950 REDUCTION IN STRATEGIC SOURCING (A-76 STUDIES)	---	-8,360	---	-8,360
3970 INFORMATION TECHNOLOGY SYSTEM, ARMY	---	-20,000	---	---
3982 FIRES PROGRAM DATA CAPTURE	---	---	8,000	6,800
3985 CIVILIAN PERSONNEL SAVINGS	---	---	-24,500	---
3987 DISA TIER ONE RATE	---	---	-43,700	-43,700
3988 BALKANS OPERATIONS	---	---	1,778,248	1,308,500

(In thousands of dollars)

	Budget	House	Senate	Conference
3989 OVERSTATED CIVILIAN BLYOUT COSTS	---	---	-40,640	-40,640
3990 HEADQUARTERS STAFF REDUCTION	---	-82,200	---	-82,200
3994 SRM TRANSFER TO NATIONAL GUARD	---	---	-25,000	-25,000
4000 TRAVEL OF PERSONS	---	-19,000	---	---
4010 CIVILIAN PERSONNEL UNDEREXECUTION	---	-16,000	---	-20,000
4020 MOBILITY ENHANCEMENT STUDY	---	500	---	500
4040 WMD RESPONSE ELEMENT TRAINING	---	2,000	---	1,700
4060 CAMOUFLAGE NETS	---	-10,000	---	-10,000
4180 TOTAL, OPERATION AND MAINTENANCE, ARMY	21,191,680	21,021,944	22,941,588	22,335,074
4190 TRANSFER	---	---	---	---
4200 TOTAL FUNDING AVAILABLE	(21,191,680)	(21,021,944)	(22,941,588)	(22,335,074)

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:		
250	M-Gator	2,500
250	CAMS	7,000
250	Blister Guard Socks	1,000
250	10th Mountain Division ASL Containers	1,000
250	Hydration on the Move (Camelbak)	1,000
350	Finance and Personnel	-1,500
550	Skid Steer Loaders	7,500
650	Mobile Kitchen Trailers	4,300
650	Communications and Electronics	6,000
650	Anniston Army Depot Apprenticeship program	1,000
750	NTC Airhead	1,300
750	Training Facilities Support	7,800
750	Salute Our Services Pilot Program	2,600
750	BOS – Efficient Basing South Costs	-3,500
750	BOS – Transition Studies	-2,000
800	USAREUR SRM	-15,000
850	USARPAC Transformation Planning	8,500
850	USARPAC Command, Control, and Communications Upgrades	3,200
900	Hunter UAV	2,500
Budget Activity 2: Mobilization:		
1200	Field Pack-up System	2,500
1300	Underutilized Plant Capacity	17,500
1325	Mobilization Enhancements, pre-QDR	-2,000
Budget Activity 3: Training and Recruiting:		
1650	Air Battle Captain	1,000
1650	ROTC Facility Rehabilitation	200
1850	DLI Dormitory Furnishings and Equipment	1,000
1850	Military Police MCTFT Joint Training	1,000
1850	Joint Assessment Neurological Exam Eqpt	2,600
1850	Training Support – Other Contracts	-5,000
2000	Fort Knox Distance Learning	2,100
2050	Fort Bliss Desalination Plant Study	1,000
2050	Fort Bliss Water System Pre-design Study	1,000
2100	MUCT Site Upgrades	2,500
2400	Junior ROTC	1,300
Budget Activity 4: Administration and Servicewide Activities:		
2750	Servicewide Transportation	-10,000
2750	MTMC DRMEC Demo Project including RAPID	2,000
2800	Pulse Technology - Battery Management	3,500
2800	Pulse Technology - BATTCAVE	1,500
2800	Central Supply Activities	-5,000
2850	Electronic Maintenance System Interactive Electronic Maintenance Manuals	2,000
2850	LOGTECH Center of Excellence in Logistics	1,000
3000	Administration	-10,000

3000	Biometrics Support	14,750
3100	Manpower Management (DCPS)	-6,400
3200	Other Servicewide Support	-9,000
3200	Army Conservation and Ecosystem Management	4,300
3350	Innovative Safety Management	2,500
3350	A-76 Process Aberdeen Proving Ground	-2,000
3400	Fort Richardson, Camp Denali Water Systems	600
3400	Rock Island Bridge Repairs	2,000
3600	International Military Headquarters	-30,000
Undistributed:		
3710	Classified Programs	26,794
3740	Memorial Events	350
3835	Repairs at Fort Baker	1,000
3845	Defense Joint Accounting System	-12,500
3855	Memorial Tunnel Consequence Management	16,500
3950	A-76 Studies	-8,360
3982	FIRES Program Data Capture	6,800
3987	DISA Tier One Rate	-43,700
3988	Balkan Operations	1,308,500
3989	Overstated Civilian Buyout Costs	-40,640
3990	Headquarters Staff Reduction	-82,200
3994	SRM Transfer to Army National Guard	-25,000
4010	Civilian Personnel Underexecution	-20,000
4020	Mobility Enhancement Study	500
4040	WMD – Response Element Adv Lab Training	1,700
4060	Camouflage Nets	-10,000

ARMY REORGANIZATION

The conferees commend the Secretary of the Army for undertaking a comprehensive review of Army requirements generation, acquisition, resource management, and Departmental headquarters functions and systems. The Center for Naval Analyses study required by the conferees in fiscal year 2001 identified serious management issues that merited careful review and analysis. The Army has taken several promising steps in response to this report to reduce duplication and improve efficiency in the acquisition and headquarters management area, and the conferees are hopeful that the final Army plan will realize the full benefits identified in the CNA analysis. The conferees have included a Provision (Sec. 8149) requiring the Secretary of the Army to submit a final report to the congressional defense committees describing the complete reorganization plan that he intends to implement by no later than April 15, 2002. This report shall describe the final realignments contemplated for all functional areas, and identify the operational efficiencies, personnel realignments and cost savings to be derived from this comprehensive reorganization on an annual basis through fiscal year 2008. The conferees believe the Army also will benefit from a close-out review by the CNA review team to comment on and validate the realignments. Section 8149 calls for a final CNA review to undertake this activity. The conferees view these management reforms as an important step to improve the Army's ability to deliver its bold transformation plan in the timeframe articulated by Army leaders.

INNOVATIVE SAFETY MANAGEMENT PILOT

The conferees recognize that there are initiatives underway in the private sector that dramatically reduce the incidence of workplace injuries and their related costs. The conferees therefore direct the Secretary of the Army to adopt for use in the workplace of civilian employees of the Department of the Army such work safety models used by employers in the private sector that the Secretary considers as being representative of the best work safety practices in use by private sector employers. The conferees recommend an additional $2,500,000 in Operation and Maintenance, Army to begin this initiative in fiscal year 2002.

UNUTILIZED PLANT CAPACITY

The conference agreement provides an additional $17,500,000 for industrial preparedness, or unutilized plant capacity, above the funds identified in the budget request. The conferees direct the Army to allocate no less then $25,000,000 above the request for unutilized plant capacity. Of these funds, $7,500,000 shall be available for the Arsenal Support Initiative.

ROTC FACILITY REHABILITATION

The conferees provide an additional $200,000 in Operation and Maintenance, Army only for rehabilitation of the athletic facility used for the joint Husson College and University of Maine ROTC program.

ST. LOUIS ARMY AMMUNITION PLANT

The conferees direct that of the funds provided in Operation and Maintenance, Army, $5,000,000 shall be available only for St. Louis Army Ammunition Plant clean up and disposal costs.

OTHER PROGRAMS

The conferees agree to provide funds for the Expert Radar Signature Solutions in the appropriate Research, Development, Test and Evaluation account.

The conferees agree that funds provided for language training programs should be used to meet critical advanced language training requirements.

OPERATION AND MAINTENANCE, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
4250 OPERATION AND MAINTENANCE, NAVY				
4300 BUDGET ACTIVITY 1: OPERATING FORCES				
4350 AIR OPERATIONS				
4400 MISSION AND OTHER FLIGHT OPERATIONS	3,206,849	3,206,849	3,206,849	3,206,849
4450 FLEET AIR TRAINING	950,969	950,969	950,969	950,969
4500 INTERMEDIATE MAINTENANCE	62,487	64,487	62,487	64,187
4550 AIR OPERATIONS AND SAFETY SUPPORT	103,355	103,355	103,355	103,355
4600 AIRCRAFT DEPOT MAINTENANCE	854,298	864,298	856,298	864,198
4650 AIRCRAFT DEPOT OPERATIONS SUPPORT	54,194	54,194	54,194	54,194
4800 SHIP OPERATIONS				
4850 MISSION AND OTHER SHIP OPERATIONS	2,315,172	2,315,172	2,315,172	2,315,172
4900 SHIP OPERATIONAL SUPPORT AND TRAINING	545,279	545,279	545,279	545,279
4950 INTERMEDIATE MAINTENANCE	387,282	387,282	387,282	387,282
5000 SHIP DEPOT MAINTENANCE	2,917,829	2,917,829	2,917,829	2,917,829
5050 SHIP DEPOT OPERATIONS SUPPORT	1,330,524	1,338,524	1,349,524	1,355,524
5200 COMBAT OPERATIONS/SUPPORT				
5250 COMBAT COMMUNICATIONS	384,534	384,534	384,534	385,534
5300 ELECTRONIC WARFARE	15,466	15,466	15,466	15,466
5350 SPACE SYSTEMS & SURVEILLANCE	182,165	182,165	182,165	182,165
5400 WARFARE TACTICS	163,864	163,864	187,864	184,264
5450 OPERATIONAL METEOROLOGY & OCEANOGRAPHY	258,051	258,051	264,551	262,051
5500 COMBAT SUPPORT FORCES	618,874	618,874	623,874	623,174
5550 EQUIPMENT MAINTENANCE	173,381	179,881	173,381	177,881
5600 DEPOT OPERATIONS SUPPORT	1,737	1,737	1,737	1,737
5750 WEAPONS SUPPORT				
5800 CRUISE MISSILE	124,342	124,342	124,342	124,342

(In thousands of dollars)

	Budget	House	Senate	Conference
5850 FLEET BALLISTIC MISSILE	812,743	812,743	812,743	812,743
5900 IN-SERVICE WEAPONS SYSTEMS SUPPORT	47,762	47,762	47,762	47,762
5950 WEAPONS MAINTENANCE	396,836	401,836	416,836	410,436
6100 WORKING CAPITAL FUND SUPPORT				
6150 NWCF SUPPORT	1,421	1,421	1,421	1,421
6200 BASE SUPPORT				
6210 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	1,019,891	1,019,891	1,025,691	1,023,991
6220 BASE SUPPORT	2,572,092	2,584,092	2,572,092	2,580,492
6230 TOTAL, BUDGET ACTIVITY 1	19,501,397	19,544,897	19,583,697	19,598,297
6250 BUDGET ACTIVITY 2: MOBILIZATION				
6300 READY RESERVE AND PREPOSITIONING FORCES				
6350 SHIP PREPOSITIONING AND SURGE	506,394	506,394	506,394	506,394
6400 ACTIVATIONS/INACTIVATIONS				
6450 AIRCRAFT ACTIVATIONS/INACTIVATIONS	5,506	5,506	5,506	5,506
6500 SHIP ACTIVATIONS/INACTIVATIONS	261,649	261,649	249,649	248,149
6550 MOBILIZATION PREPAREDNESS				
6600 FLEET HOSPITAL PROGRAM	23,803	23,803	23,803	23,803
6650 INDUSTRIAL READINESS	1,177	1,177	1,177	1,177
6700 COAST GUARD SUPPORT	17,490	17,490	17,490	17,490
6750 TOTAL, BUDGET ACTIVITY 2	816,019	816,019	804,019	802,519
6800 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
6850 ACCESSION TRAINING				
6900 OFFICER ACQUISITION	96,581	96,581	96,581	96,581
6950 RECRUIT TRAINING	6,724	6,724	6,724	6,724
7000 RESERVE OFFICERS TRAINING CORPS (ROTC)	79,526	81,726	79,526	81,726

(In thousands of dollars)

	Budget	House	Senate	Conference
7150 BASIC SKILLS AND ADVANCED TRAINING				
7200 SPECIALIZED SKILL TRAINING..............................	306,012	308,012	306,012	307,012
7250 FLIGHT TRAINING...	367,343	367,343	367,343	367,343
7300 PROFESSIONAL DEVELOPMENT EDUCATION....................	111,404	115,404	111,404	113,404
7350 TRAINING SUPPORT..	192,931	203,931	192,931	202,331
7500 RECRUITING, AND OTHER TRAINING AND EDUCATION				
7550 RECRUITING AND ADVERTISING..............................	238,727	238,727	238,727	238,727
7600 OFF-DUTY AND VOLUNTARY EDUCATION......................	97,957	97,957	97,957	97,957
7650 CIVILIAN EDUCATION AND TRAINING.......................	59,745	59,745	59,745	59,745
7700 JUNIOR ROTC...	32,519	34,449	34,519	34,449
7820 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION...	195,939	195,939	195,939	195,939
7830 BASE SUPPORT..	365,425	365,425	365,425	365,425
7850 TOTAL, BUDGET ACTIVITY 3...............................	2,150,833	2,171,963	2,152,833	2,167,363
7900 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
7950 SERVICEWIDE SUPPORT				
8000 ADMINISTRATION..	692,748	664,748	695,748	666,248
8050 EXTERNAL RELATIONS......................................	4,131	4,131	4,131	4,131
8100 CIVILIAN MANPOWER & PERSONNEL MGT......................	111,789	111,789	111,789	111,789
8150 MILITARY MANPOWER & PERSONNEL MGT......................	94,896	94,896	94,896	94,896
8200 OTHER PERSONNEL SUPPORT.................................	195,729	195,729	194,729	194,729
8250 SERVICEWIDE COMMUNICATIONS..............................	603,354	603,354	603,354	603,354
8450 LOGISTICS OPERATIONS AND TECHNICAL SUPPORT				
8500 SERVICEWIDE TRANSPORTATION..............................	185,483	185,483	185,483	185,483
8550 PLANNING, ENGINEERING & DESIGN.........................	343,754	308,254	343,754	335,754
8600 ACQUISITION AND PROGRAM MANAGEMENT.....................	723,156	679,156	723,156	674,656

(In thousands of dollars)

	Budget	House	Senate	Conference
8650 AIR SYSTEMS SUPPORT	400,955	403,955	399,955	404,455
8700 HULL, MECHANICAL & ELECTRICAL SUPPORT	52,908	52,908	52,908	52,908
8750 COMBAT/WEAPONS SYSTEMS	40,850	40,850	40,850	40,850
8800 SPACE & ELECTRONIC WARFARE SYSTEMS	54,639	54,639	54,639	54,639
8950 SECURITY PROGRAMS				
9000 SECURITY PROGRAMS	673,912	673,912	673,912	673,912
9150 SUPPORT OF OTHER NATIONS				
9200 INTERNATIONAL HDQTRS & AGENCIES	9,994	9,994	9,994	9,994
9220 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	102,588	102,588	102,588	102,588
9230 BASE SUPPORT	202,247	202,247	202,247	202,247
9250 TOTAL, BUDGET ACTIVITY 4	4,493,133	4,388,633	4,494,133	4,412,633
9280 CLASSIFIED PROGRAMS UNDISTRIBUTED	---	3,223	10,000	9,223
9415 DEFENSE JOINT ACCOUNTING SYSTEM	---	-7,000	-7,000	-7,000
9490 REDUCTION IN STRATEGIC SOURCING (A-76 STUDIES)	---	-53,560	---	-30,000
9520 ENTERPRISE RESOURCE PLANNING	---	-33,000	---	---
9540 INFORMATION TECHNOLOGY SYSTEM, NAVY	---	-20,000	---	---
9570 NAVY MARINE CORPS INTRANET	---	-120,000	---	---
9575 BALKANS OPERATIONS	---	---	52,785	27,101
9580 HEADQUARTERS STAFF REDUCTION	---	-51,100	---	-51,100
9590 TRAVEL OF PERSONS	---	-12,000	---	---
9680 DISA TIER ONE TRANSFER	---	---	-52,400	-52,400
9750 TOTAL, OPERATION AND MAINTENANCE, NAVY	26,961,382	26,628,075	27,038,067	26,876,636
9800 TRANSFER	---	---	---	---
9850 TOTAL FUNDING AVAILABLE	(26,961,382)	(26,628,075)	(27,038,067)	(26,876,636)

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:		
4500	DSM-156 Missile Test Set Upgrade	1,700
4600	NAVAIR CAT and RADCOM test system	8,500
4600	F-404-402 Spare Modules	1,400
5050	NUWC Torpedo Depot Apprentice Program	1,400
5050	Improved Engineering Design Process	3,000
5050	Shipyard Apprentice Program	7,800
5050	PHNSY SRM	12,800
5250	Joint Airborne Tactical Elect Cbt Training Program	1,000
5400	Warfare Tactics PMRF	20,400
5450	Hydrographic Center of Excellence	2,500
5450	UNOLS	1,500
5500	Center of Excellence for Disaster Mgt & Humanitarian Assistance	4,300
5550	Manual Reverse Osmosis Desalinators	1,000
5550	Naval Coastal Warfare Training Improvements	3,500
5950	Mark 45 Gun System Overhaul	5,600
5950	Phalanx CIWS Units Overhaul	7,000
5950	NULKA Ship Self-Defense Missile	1,000
6210	NAS Meridian Airfield Lighting	4,100
6220	Infrastructure Protection	4,000
6220	Northwest Environmental Resource Center	4,900
6220	NWS Seal Beach Detachment, Concord, Joint Use Feasibility Analysis	1,000
6220	Excess Administrative Overhead	-1,500
Budget Activity 2: Mobilization		
6500	Submarine Conversion	-17,000
6500	Ship Disposal Project	3,500
Budget Activity 3: Training and Recruiting:		
7000	ROTC Programs	2,200
7200	Naval Aviation Apprenticeship Program	1,000
7300	NPS – CDTEMS	2,000
7350	Distance Learning CNET	3,400
7350	Navy Learning Network Program CNET	3,400
7350	Maintenance and Training Process CNET	2,600
7700	Junior ROTC	930
7700	Naval Sea Cadet Corps	1,000
Budget Activity 4: Administration and Servicewide Activities:		
8000	Administration	-30,000
8000	Advanced Technology Information Support	1,000
8000	Biometrics Support	2,500
8200	Center for Career Development Program Growth	-1,000
8550	Naval Facilities Engineering Command	-5,000
8550	Planning, Engineering and Design	-6,000
8550	NSW Carderock All Weather Cargo Transfer Sys	500
8550	Stainless Steel Sanitary Space System	2,500
8600	Acquisition and Program Management	-53,000
8600	SPAWAR ITC Operations	4,500
8650	Configuration Management Information System	3,500

Undistributed:

9280	Classified Programs	9.223
9415	Defense Joint Accounting System	-7000
9490	A-76 Studies	-30.000
9575	Balkans Operations	27.101
9580	Headquarters Staff Reduction	-51,100
9680	DISA Tier One Rate	-52,400

SHIP DEPOT MAINTENANCE

The conferees are aware that the ship depot maintenance account has been underfunded in recent years. This underfunding was caused by several factors, including a deficient calculation that understated the requirement, underfunding of the requirement which was identified, and the added costs associated with high deployment levels. The conferees applaud the Navy's efforts to revise the maintenance calculation to more adequately reflect the real requirement, and to fully fund maintenance in the future. The conferees recognize, however, that the FY02 budget lacks the necessary funds to implement them. The conferees expect that for FY03 and future years the Navy will implement the revised maintenance calculations to properly align depot maintenance requirements and necessary funding. The conferees direct the Secretary of the Navy to provide with the FY03 budget submission a plan to eliminate the maintenance backlog that has accumulated as a result of previous underfunding.

MANUAL REVERSE OSMOSIS DESALINATORS

The Committee has provided an additional $1,000,000 for the refurbishment of Manual Reverse Osmosis Desalinators (MROD). Of the additional funds provided, $500,000 is to be used for Navy surface fleet MROD refurbishment, and $500,000 is to be used for Navy Aviation MROD refurbishment.

POINT MOLATE

In view of the public safety and historic preservation issues involved, the conferees believe the Navy should continue the level of effort it provided in FY 2001 in carrying out its joint caretaker responsibilities for the base at Point Molate while it is being prepared for conveyance. The conferees expect the Naval Facilities Engineering Command and the City of Richmond, CA to operate under similar terms and conditions as agreed to in their Cooperative Agreement through the balance of fiscal year 2002.

OPERATION AND MAINTENANCE, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
9900 OPERATION AND MAINTENANCE, MARINE CORPS				
9950 BUDGET ACTIVITY 1: OPERATING FORCES				
10000 EXPEDITIONARY FORCES				
10050 OPERATIONAL FORCES	459,739	476,239	464,739	473,939
10100 FIELD LOGISTICS	257,952	262,952	257,952	262,252
10150 DEPOT MAINTENANCE	107,849	112,849	107,849	112,149
10200 BASE SUPPORT	842,631	865,281	842,631	859,881
10250 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	363,528	366,128	363,528	365,728
10300 USMC PREPOSITIONING				
10350 MARITIME PREPOSITIONING	83,506	83,506	83,506	83,506
10400 NORWAY PREPOSITIONING	5,169	5,169	5,169	5,169
10450 TOTAL, BUDGET ACTIVITY 1	2,120,374	2,172,124	2,125,374	2,162,624
10500 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
10550 ACCESSION TRAINING				
10600 RECRUIT TRAINING	11,053	11,053	11,053	11,053
10650 OFFICER ACQUISITION	317	317	317	317
10700 BASE SUPPORT	62,055	62,055	62,055	62,055
10750 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	22,285	22,285	22,285	22,285
10800 BASIC SKILLS AND ADVANCED TRAINING				
10850 SPECIALIZED SKILLS TRAINING	32,280	32,280	32,280	32,280
10900 FLIGHT TRAINING	170	170	170	170
10950 PROFESSIONAL DEVELOPMENT EDUCATION	8,553	8,553	8,553	8,553
11000 TRAINING SUPPORT	95,066	95,066	95,066	95,066
11050 BASE SUPPORT	65,140	65,140	65,140	65,140
11100 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	28,078	28,078	28,078	28,078

(In thousands of dollars)

	Budget	House	Senate	Conference
11150 RECRUITING AND OTHER TRAINING EDUCATION				
11200 RECRUITING AND ADVERTISING	109,012	109,012	109,012	109,012
11250 OFF-DUTY AND VOLUNTARY EDUCATION	21,994	21,994	21,994	21,994
11300 JUNIOR ROTC	12,808	13,178	12,808	13,178
11350 BASE SUPPORT	12,209	12,209	12,209	12,209
11400 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	2,644	2,644	2,644	2,644
11450 TOTAL, BUDGET ACTIVITY 3	483,664	484,034	483,664	484,034
11500 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
11550 SERVICEWIDE SUPPORT				
11650 SPECIAL SUPPORT	209,125	209,125	209,125	209,125
11700 SERVICEWIDE TRANSPORTATION	31,118	31,118	31,118	31,118
11750 ADMINISTRATION	29,895	29,895	29,895	29,895
11800 BASE SUPPORT	16,335	16,335	16,335	16,335
11850 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	1,803	1,803	1,803	1,803
11900 TOTAL, BUDGET ACTIVITY 4	288,276	288,276	288,276	288,276
12055 BALKANS OPERATIONS	---	---	6,549	2,000
12060 HEADQUARTERS STAFF REDUCTION	---	-4,000	---	-4,000
12070 REDUCTION IN STRATEGIC SOURCING (A-76 STUDIES)	---	-1,000	---	-1,000
12300 TOTAL, OPERATION AND MAINTENANCE, MARINE CORPS	2,892,314	2,939,434	2,903,863	2,931,934

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
10050 Extreme Cold Weather Clothing System	1,000
10050 Modular General Purpose Tent System	2,500
10050 Blister Guard Socks	1,000
10050 Hydration on the Move (Camelbak)	1,000
10050 MOLLE	4,800
10050 Joint Service NBC Defense Equipment Surveillance	2,900
10050 ULCANS	1,000
10100 Log Improvement Initiative (Ground Supply Chain Management)	2,600
10100 System Integration Environment Spt for VII MEF	1,700
10150 Depot Maintenance – Radar Systems	4,300
10200 Waste Water Treatment Study	250
10200 Twentynine Palms MAGTF MOUT Facility Feasibility Study	1,300
10200 Training and Support Facilities Improvements	15,700
10250 MAGTFTC Twentynine Palms	2,200
Budget Activity 3: Training and Recruiting:	
11300 Junior ROTC	370
Undistributed:	
12055 Balkans Operations	2,000
12060 Headquarters Staff Reduction	-4,000
12070 A-76 Studies	-1,000

OPERATION AND MAINTENANCE, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
12450 OPERATION AND MAINTENANCE, AIR FORCE				
12500 BUDGET ACTIVITY 1: OPERATING FORCES				
12550 AIR OPERATIONS				
12600 PRIMARY COMBAT FORCES	3,247,230	3,247,230	3,284,630	3,273,230
12650 PRIMARY COMBAT WEAPONS	325,948	325,948	325,948	325,948
12700 COMBAT ENHANCEMENT FORCES	234,838	234,838	234,838	234,838
12750 AIR OPERATIONS TRAINING	1,227,042	1,227,042	1,234,542	1,232,342
12775 DEPOT MAINTENANCE	1,361,089	1,361,089	1,361,089	1,361,089
12800 COMBAT COMMUNICATIONS	1,356,865	1,356,865	1,355,865	1,357,865
12850 BASE SUPPORT	2,212,409	2,222,909	2,222,409	2,225,609
12900 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	835,329	835,329	845,829	840,829
12950 COMBAT RELATED OPERATIONS				
13000 GLOBAL C3I AND EARLY WARNING	843,775	843,775	843,775	843,775
13050 NAVIGATION/WEATHER SUPPORT	170,965	170,965	174,965	174,365
13100 OTHER COMBAT OPS SUPPORT PROGRAMS	404,665	404,665	404,665	404,665
13150 JCS EXERCISES	37,839	37,839	37,839	37,839
13200 MANAGEMENT/OPERATIONAL HEADQUARTERS	174,580	164,580	170,580	170,580
13250 TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	228,775	228,775	228,775	228,775

(In thousands of dollars)

	Budget	House	Senate	Conference
13300 SPACE OPERATIONS				
13350 LAUNCH FACILITIES....................................	258,792	258,792	258,792	258,792
13400 LAUNCH VEHICLES......................................	147,510	147,510	147,510	147,510
13450 SPACE CONTROL SYSTEMS................................	251,738	251,738	248,738	248,738
13500 SATELLITE SYSTEMS....................................	53,780	53,780	52,780	52,780
13550 OTHER SPACE OPERATIONS...............................	146,175	146,175	142,175	142,175
13600 BASE SUPPORT...	425,643	425,643	425,643	425,643
13650 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION...	131,643	131,643	131,643	131,643
13700 TOTAL, BUDGET ACTIVITY 1...........................	14,076,630	14,077,130	14,134,030	14,119,030
13750 BUDGET ACTIVITY 2: MOBILIZATION				
13800 MOBILITY OPERATIONS				
13850 AIRLIFT OPERATIONS...................................	2,056,383	2,056,383	2,056,383	2,056,383
13900 AIRLIFT OPERATIONS C3I...............................	37,706	37,706	37,706	37,706
13950 MOBILIZATION PREPAREDNESS............................	169,421	169,421	169,421	169,421
13975 DEPOT MAINTENANCE....................................	296,014	296,014	296,014	296,014
14000 PAYMENTS TO TRANSPORTATION BUSINESS AREA.............	473,243	473,243	473,243	473,243
14050 BASE SUPPORT...	487,654	487,654	487,654	487,654
14100 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION...	97,627	97,627	99,627	99,327
14150 TOTAL, BUDGET ACTIVITY 2...........................	3,618,048	3,618,048	3,620,048	3,619,748

(In thousands of dollars)

	Budget	House	Senate	Conference
14200 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
14250 ACCESSION TRAINING				
14300 OFFICER ACQUISITION....................................	66,566	66,566	66,566	66,566
14350 RECRUIT TRAINING.......................................	5,943	5,943	5,943	5,943
14400 RESERVE OFFICER TRAINING CORPS (ROTC).................	64,289	64,289	64,289	64,289
14450 BASE SUPPORT (ACADEMIES ONLY).........................	70,412	70,412	70,412	70,412
14500 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (A	60,434	60,434	60,434	60,434
14550 BASIC SKILLS AND ADVANCED TRAINING				
14600 SPECIALIZED SKILL TRAINING............................	310,216	311,216	312,716	311,216
14650 FLIGHT TRAINING..	657,993	657,993	658,993	658,993
14700 PROFESSIONAL DEVELOPMENT EDUCATION....................	115,049	115,049	115,049	115,049
14750 TRAINING SUPPORT.......................................	83,778	83,778	83,778	83,778
14775 DEPOT MAINTENANCE......................................	14,748	14,748	14,748	14,748
14800 BASE SUPPORT (OTHER TRAINING).........................	543,005	543,005	543,005	543,005
14850 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (O	148,663	148,663	148,663	148,663
14900 RECRUITING, AND OTHER TRAINING AND EDUCATION				
14950 RECRUITING AND ADVERTISING............................	139,189	139,189	139,189	139,189
15000 EXAMINING..	3,640	3,640	3,640	3,640
15050 OFF DUTY AND VOLUNTARY EDUCATION......................	91,757	91,757	91,757	91,757
15100 CIVILIAN EDUCATION AND TRAINING.......................	82,238	82,238	82,238	82,238
15150 JUNIOR ROTC..	41,829	43,029	41,829	42,829
15200 TOTAL, BUDGET ACTIVITY 3............................	2,499,749	2,501,949	2,503,249	2,502,749

(In thousands of dollars)

	Budget	House	Senate	Conference
15250 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
15300 LOGISTICS OPERATIONS				
15350 LOGISTICS OPERATIONS	1,052,171	1,037,171	1,052,171	1,032,871
15400 TECHNICAL SUPPORT ACTIVITIES	404,678	404,678	404,678	404,678
15450 SERVICEWIDE TRANSPORTATION	249,055	229,055	249,055	229,055
15475 DEPOT MAINTENANCE	305,525	305,525	305,525	305,525
15500 BASE SUPPORT	1,115,273	1,115,273	1,115,273	1,115,273
15550 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	239,442	239,442	250,442	248,942
15600 SERVICEWIDE ACTIVITIES				
15650 ADMINISTRATION	213,767	199,767	213,767	199,767
15700 SERVICEWIDE COMMUNICATIONS	342,864	334,864	342,864	334,864
15750 PERSONNEL PROGRAMS	164,480	164,480	164,480	164,480
15800 RESCUE AND RECOVERY SERVICES	72,375	72,375	72,375	72,375
15900 ARMS CONTROL	34,742	34,742	34,742	34,742
15950 OTHER SERVICEWIDE ACTIVITIES	602,561	585,561	602,561	583,561
16000 OTHER PERSONNEL SUPPORT	36,984	36,984	36,984	36,984
16050 CIVIL AIR PATROL CORPORATION	18,303	18,303	22,803	21,503
16100 BASE SUPPORT	233,256	234,006	233,256	234,006
16150 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	21,792	21,792	21,792	21,792
16200 SECURITY PROGRAMS				
16250 SECURITY PROGRAMS	824,906	824,906	824,906	824,906
16300 SUPPORT TO OTHER NATIONS				
16350 INTERNATIONAL SUPPORT	20,169	15,169	20,169	15,169
16400 TOTAL, BUDGET ACTIVITY 4	5,952,343	5,874,093	5,967,843	5,880,493

(In thousands of dollars)

	Budget	House	Senate	Conference
16450 CLASSIFIED PROGRAMS UNDISTRIBUTED....................	---	-24,532	1,500	-18,332
16660 DEFENSE JOINT ACCOUNTING SYSTEM......................	---	-7,000	-7,000	-7,000
16720 TRAVEL OF PERSONS....................................	---	-43,000	---	---
16730 ELMENDORF AFB TRANSPORTATION INFRASTRUCTURE..........	---	---	12,000	10,200
16750 ACTIVE DUTY MILITARY PERSONNEL UNDEREXECUTION SUPPORT.	---	-75,000	---	-75,000
16760 REDUCTION IN STRATEGIC SOURCING (A-76 STUDIES)........	---	-8,320	---	-8,320
16810 INFORMATION TECHNOLOGY SYSTEM, AIR FORCE..............	---	-20,000	---	---
16820 CONSULTANTS, AIR FORCE................................	---	---	-42,000	-20,000
16825 MTAPP...	---	---	4,000	2,800
16830 HEADQUARTERS STAFF REDUCTION..........................	---	-50,400	---	-50,400
16865 DISA TIER ONE RATE....................................	---	---	-51,900	-51,900
16870 BALKANS OPERATIONS....................................	---	---	161,666	122,721
16910 TOTAL, O&M, AIR FORCE.................................	26,146,770	25,842,968	26,303,436	26,026,789
16920 TRANSFER..	---	---	---	---
16940 TOTAL FUNDING AVAILABLE...............................	(26,146,770)	(25,842,968)	(26,303,436)	(26,026,789)

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
12600 B-52 Attrition Reserve	26,000
12750 F-16 Distributed Mission Training	5,300
12800 Joint Airborne Tactical Elect Cbt Training Program	1,000
12850 Battle Lab Engineering and Tech Support	4,700
12850 Pacific Server Consolidation	8,500
12900 Grand Forks AFB Ramp Refurbishment	5,000
12900 Wind Energy Fund	500
13050 University Partnership for Operational Support	3,400
13200 Scheduling Integration Team – Contractor Support	-4,000
13450 Space Control Systems	-3,000
13500 Satellite Systems	-1,000
13550 Growth in Contractor Costs	-4,000
Budget Activity 2: Mobilization	
14100 PACAF Strategic Airlift Planning	1,700
Budget Activity 3: Training and Recruiting:	
14600 IT Workforce Re-Skilling	1,000
14650 MBU-20 Oxygen Mask	1,000
15150 Junior ROTC	1,000
Budget Activity 4: Administration and Servicewide Activities:	
15350 CKU-5 Rocket Catapult PPI	1,700
15350 Aging Propulsion System Life Extension	1,500
15350 L-SMART Information System Logistics Opns.	2,500
15350 Acquisition Efficiencies	-25,000
15450 Servicewide Transportation	-20,000
15550 Hickham AFB Alternative Fuel Vehicle Program	1,000
15550 SRM, Eilson Utilidors	8,500
15650 Administration	-14,000
15700 Servicewide Communications	-8,000
15950 Other Servicewide Activities	-19,000
16050 Civil Air Patrol	3,200
16100 William Lehman Aviation Center	750
16350 International Support	-5,000
Undistributed:	
16450 Classified Programs	-18332
16660 Defense Joint Accounting System	-7,000
16730 Elmendorf AFB Transportation Infrastructure	10,200
16750 Active Duty Military Personnel Underexecution Support	-75,000
16760 A-76 Studies	-8320
16820 Consultants/Contractor Advisory Service	-20,000
16825 MTAPP	2,800
16830 Headquarters Staff Reduction	**-50,400**
16865 DISA Tier One Rate	-51,900
16870 Balkans Operations	122,721

CONTAMINANT AIR PROCESSING SYSTEMS

The conferees commend the Secretary of the Air Force for standardizing mission critical equipment that allows Air Force personnel to be effectively processed after contact with biological, chemical or nuclear agents. The conferees instruct the Secretary to use $1,000,000 within available funds to enable installations to purchase contaminant air processing systems and related components to ensure all Air Force installations are standardized in this methodology and equipment.

INTERNATIONAL SUPPORT

The conferees are pleased with efforts and progress made in programs funded in the Air Force subactivity group for International Support. The conferees are aware that these funds support U.S. Central Command's military contacts with Central Asian States. The conferees encourage continued progress in the Cooperative Defense Initiative that is underway to assess the ability of regional partners to respond to chemical or biological attacks. Funding reductions in this line to limit overall growth are not punitive in nature, and the Secretary of the Air Force is encouraged to support this worthy program.

OTHER PROGRAMS

The conferees agree to reduce U-2 operation and maintenance (O&M) funding by $3,000,000 due to availability of funds in the appropriate Research, Development, Test and Evaluation account and recommends that these funds be transferred to O&M to offset this reduction.

The conferees agree to provide an additional $1,500,000 for the Threat Representation and Validation project and an additional $2,500,000 for operation of the Eagle Vision System for the Air National Guard.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
16950 OPERATION AND MAINTENANCE, DEFENSE-WIDE				
17000 BUDGET ACTIVITY 1: OPERATING FORCES				
17050 JOINT CHIEFS OF STAFF	373,832	373,832	373,832	373,832
17100 SPECIAL OPERATIONS COMMAND	1,404,797	1,404,797	1,379,797	1,385,997
17150 TOTAL, BUDGET ACTIVITY 1	1,778,629	1,778,629	1,753,629	1,759,829
17200 BUDGET ACTIVITY 2: MOBILIZATION				
17250 DEFENSE LOGISTICS AGENCY	44,691	44,691	44,691	44,691
17350 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
17450 AMERICAN FORCES INFORMATION SERVICE	11,135	11,135	11,135	11,135
17460 DEFENSE ACQUISITION UNIVERSITY	101,196	105,696	101,196	100,696
17465 DEFENSE CONTRACT AUDIT AGENCY	3,833	3,833	3,833	3,833
17470 DEFENSE FINANCE AND ACCOUNTING SERVICE	8,900	8,900	8,900	8,900
17480 DEFENSE HUMAN RESOURCES ACTIVITY	86,190	56,190	86,190	76,190
17490 DEFENSE SECURITY SERVICE	7,590	7,590	7,590	7,590
17510 DEFENSE THREAT REDUCTION AGENCY	1,246	---	1,246	1,246
17600 SPECIAL OPERATIONS COMMAND	53,573	53,573	53,573	53,573
17650 TOTAL, BUDGET ACTIVITY 3	273,663	246,917	273,663	263,163
17700 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
17750 AMERICAN FORCES INFORMATION SERVICE	96,637	96,337	96,637	96,337
17775 CIVIL MILITARY PROGRAMS	94,596	95,346	104,596	103,846
17800 CLASSIFIED PROGRAMS	4,718,802	4,717,814	4,702,002	4,707,101
17900 DEFENSE CONTRACT AUDIT AGENCY	354,348	341,948	352,348	341,948
17910 DEFENSE CONTRACT MANAGEMENT AGENCY	948,932	936,532	946,132	933,732
17950 DEFENSE FINANCE AND ACCOUNTING SERVICE	1,492	1,492	1,492	1,492
18000 DEFENSE HUMAN RESOURCES ACTIVITY	198,157	198,157	193,157	198,157

(In thousands of dollars)

	Budget	House	Senate	Conference
18050 DEFENSE INFORMATION SYSTEMS AGENCY	803,122	793,122	778,422	786,122
18150 DEFENSE LOGISTICS AGENCY	191,990	193,090	191,990	188,090
18200 DEFENSE LEGAL SERVICES AGENCY	12,075	12,075	12,075	12,075
18300 DEPARTMENT OF DEFENSE DEPENDENTS EDUCATION	1,465,814	1,462,214	1,490,814	1,475,214
18310 DEFENSE POW /MISSING PERSONS OFFICE	15,211	16,711	15,211	16,211
18320 DEFENSE SECURITY COOPERATION AGENCY	65,211	60,311	58,211	58,211
18475 DEFENSE SECURITY SERVICE	87,118	85,618	87,118	85,618
18500 DEFENSE THREAT REDUCTION AGENCY	258,597	---	258,597	254,147
18600 OFFICE OF ECONOMIC ADJUSTMENT	16,972	30,972	35,072	38,272
18650 OFFICE OF THE SECRETARY OF DEFENSE	437,141	439,741	445,641	447,941
18700 SPECIAL OPERATIONS COMMAND	46,891	46,891	46,891	46,891
18800 SPECIAL ACTIVITIES	115,000	115,000	115,000	115,000
18820 JOINT CHIEFS OF STAFF	169,340	157,340	169,340	160,740
18860 WASHINGTON HEADQUARTERS SERVICES	324,202	308,702	309,202	308,702
18950 TOTAL, BUDGET ACTIVITY 4	10,421,648	10,109,413	10,409,948	10,375,847
19000 LEGACY	---	1,900	12,000	12,900
19020 IMPACT AID	---	30,000	---	30,000
19070 MANAGEMENT HEADQUARTERS REDUCTION	---	-54,300	---	-54,300
19160 DEFENSE JOINT ACCOUNTING SYSTEM	---	-13,000	-13,000	-13,000
19240 REDUCTION IN STRATEGIC SOURCING (A-76 STUDIES)	---	-5,260	---	-5,260
19260 INFORMATION TECHNOLOGY SYSTEM, DEFENSE-WIDE	---	-20,000	---	---
19295 DISA TIER ONE RATE	---	---	-24,000	-24,000
19297 DISA TIER ONE RATE TRANSFER	---	---	170,000	172,000
19298 BALKANS OPERATIONS	---	---	215,713	192,900
19300 RESERVE COMPONENT JT PROFESSIONAL MIL EDUCATION	---	3,600	---	3,100
19308 INTERNATIONAL TRUST FUND FOR DEMINING AND MINE VICTIM.	---	---	20,000	14,000
19312 FREEMARKETS	---	---	2,000	1,400
19370 TOTAL, OPERATION AND MAINTENANCE, DEFENSE-WIDE	12,518,631	12,122,590	12,864,644	12,773,270

Adjustments to Budget Activities

The adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:		
17100	SOCOM – Base Communications Sustainment	-2,000
17100	SOCOM – Program Growth	-2,800
17100	SOCOM – Collateral Equipment	-1,000
17100	SOCOM – Operation Focus Relief Drawdown	-9,000
17100	SOCOM – MAC'SAAM Program Growth, Focus Relief	-4000
Budget Activity 3: Training and Recruiting:		
17460	DAU – Distance Learning Travel Savings	-4,000
17460	DAU – Distance Learning	2,500
17460	DAU – IT Organizational Composition Research	1,000
17480	DHRA – DLAMP	-10,000
Budget Activity 4: Administration and Servicewide Activities:		
17750	AFIS – Pay Calculation and Utilities	-300
17775	Civil Military Programs – Youth Development Leadership Program	750
17775	Civil Military Programs – Innovative Readiness Training	8,500
17800	Classified Programs	-11,701
17900	DCAA – Program Growth	-7,400
17900	DCAA – Execution	-5,000
17910	DCMA – Pay Calculation, Program Growth	-11,400
17910	DCMA – SPS Office Efficiencies	-1,000
17910	DCMA – Contingency Operations Contract Oversight	-2,800
18050	DISA – Overhead	-17,000
18150	DLA – Unemployment Compensation	-1,900
18150	DLA – Security Locks	5,000
18150	DLA – Obsolete NSNs	-7,000
18300	DODEA – Math Teacher Leadership	1,000
18300	DODEA – Galena IDEA	3,400
18300	DODEA – SRM	5,000
18310	Defense POW/Missing Persons Office – Personnel Recovery Needs Assessment	1,000
18320	DSCA – Other Costs	-7,000
18475	DSS – Improper Budget Adjustments	-1,500
18500	DTRA – Headquarters' Program Growth	-5,450
18500	DTRA - Chem/Bio Warfare Defense Study	1000
18600	OEA – Philadelphia Naval Business Center	2,500
18600	OEA – City of St. Louis SLAAP/ATCOM Redevelopment	1,000
18600	**OEA – Norton AFB (Rehabilitation and Structural Repairs for Leasable Buildings)**	**2,500**
18600	OEA – Cecil Field	2,000
18600	OEA – Battery 204, Odiorne Point	100
18600	OEA – Adak Airfield Operations	1,000

18600	OEA – Naval Security Group Activity Winter Harbor	4.000
18600	OEA –Fitzsimmons Army Hospital	3.800
18600	OEA – Barrow Landfill Relocation	3.400
18600	OEA – Broadneck Peninsula NIKE site	1.000
18650	OSD – Program Growth	-15.000
18650	OSD – Studies and Analysis	-5.000
18650	OSD – CTMA	6.000
18650	OSD – ADUSD (MPP&R) Wearable Computers	1.700
18650	OSD – CISA	3.500
18650	OSD – Energy Sustainability Audits	1.500
18650	OSD – Information Assurance Scholarships	6.100
18650	OSD – Clara Barton Center	1.000
18650	OSD – Pacific Command Regional Institute	6.000
18650	OSD – Study on Intelligence Capabilities and Data Resource Integration	5.000
18820	JCS – Program Growth	-12.000
18820	JCS – Electronic Education for the Reserve Component in both Classroom and Distributed Environments	1.700
18820	JCS – National Defense University XXI	1.700
18860	WHS – Program Growth	-15.500
Undistributed:		
19000	Legacy	11.000
19000	Legacy – CSS Alabama	1.000
19000	Legacy – CSS Hunley	900
19020	Impact Aid	30.000
19070	Headquarters Staff Reduction	-54.300
19160	Defense Joint Accounting System	-13.000
19240	A-76 Studies	-5.260
19295	DISA Tier One Rate	-24.000
19297	DISA Tier One Rate Transfer	172.000
19298	Balkans Operations	192.900
19300	Reserve Component Joint Professional Military Education	3.100
19308	International Trust Fund for Demining and Mine Victim Assistance	14.000
19312	Freemarkets	1.400

BIOFUELS AND BIOBASED PRODUCTS

With the heavy Department of Defense reliance on gasoline and diesel fuels derived from foreign oil production, the conferees agree that it is important for the Department to investigate new ways to increase the usage of alternative domestically produced fuels, including biofuels and biobased products. The conferees direct the Department to submit a report to the congressional defense committees by March 15, 2002 detailing its best estimates of: (1) the total annual volume and cost of fuels of fuels by fuel type (gasoline, diesel, ethanol, biodiesel, methanol, and other) used by the Department, and the country source of these fuels; (2) a description of the procedures in place to procure domestically produced alternative fuels; (3) a description of the procedures in place to encourage the procurement of flexible fuel vehicles, such as those equipped with E–85 (85% ethanol) engines; (4) an explanation of changes to programs, plans, or procedures under consideration by the Department to maximize the use of biofuels and biobased products in DoD operations; (5) a description of practices and procedures to track the actual DoD usage of biofuels; and (6) a description of possible incentives the DoD could employ to increase the acquisition of alternative or variable fuel vehicles and encourage the use of such fuels as specified by the National Environmental Policy Act. The conferees also direct the Department to work with the Office of Energy Policy and New Uses of the U.S. Department of Agriculture to support independent testing of biofuels and biobased products. The Department should also cooperate with industry suppliers to facilitate inclusion of such biofuels and biobased products on the Defense Logistics Agency list of items approved for DoD purchase.

DEFENSE THREAT REDUCTION AGENCY

Funding for the Operation and Maintenance activities of the Defense Threat Reduction Agency were provided for in Title IX of the House bill and report. These funds are provided in Title II of the Conference Report.

DLAMP

The conferees recommend a reduction to the Defense Leadership and Management Program for overhead costs and backfills.

NATIONAL FOREIGN LANGUAGE SKILLS REGISTRY

The Conferees direct the Secretary of Defense to establish an internet-based data registry of United States citizens who state that they are willing to be recruited in times of national emergency to assist the Department with translation and interpretation. The Secretary shall designate the foreign languages and levels of fluency deemed to be critical to the needs of the Department. The Director, Defense Manpower Data Center shall maintain the registry. In implementing this registry, the Director may collaborate with the National Foreign language Center and the Defense Language Institute.

STUDY ON INTELLIGENCE CAPABILITIES AND DATA RESOURCES INTEGRATION

To enhance intelligence gathering capabilities and data resource integration following the events of September 11, 2001, the conferees recommend an increase of $5,000,000 for preparing a management action plan to assess how measurement and signature intelligence can be integrated with other intelligence activities and data. The goal of this plan should be to improve support for warfighter operations and policy decision-making. A primary focus of this study should be to complete the concept development and associated operations and design requirements for a measurement and signature intelligence data archive to provide back-up capability and enabling cross-disciplinary integration of distributed data. The study should consider all shortfalls in MASINT capabilities and their integration. The conferees direct the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence to provide to the congressional defense committees an interim report containing an outline of the content and expected milestones this study no later than 45 days after enactment of this Act and a final report no later than June 1, 2002.

BASE COMMUNICATIONS SUSTAINMENT

The conferees recommend a reduction in base communications sustainment and reiterate the Senate position that more focus must be placed on funding deployable and mobile communications requirements, rather than placing such items on unfunded lists. The conferees provide an additional $3,000,000 for AN/PRC-148 Multi-band Intra/Inter Team Radios in Procurement, Defense Wide which is the number one unfunded requirement for Special Operations units in the field.

ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

The conferees direct that of the funds provided in "Operation and Maintenance, Defense-Wide" for the Impact Aid program, $1,000,000 be available only for the purpose of making payments to local educational agencies to assist them in adjusting to reductions in the number of military dependent students as a result of the closure or realignment of military installations.

OPERATION AND MAINTENANCE, ARMY RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
19500 OPERATION AND MAINTENANCE, ARMY RESERVE				
19510 BUDGET ACTIVITY 1: OPERATING FORCES				
19520 LAND FORCES				
19530 DIVISION FORCES	14,382	14,382	14,382	14,382
19540 CORPS COMBAT FORCES	24,571	24,571	24,571	24,571
19550 CORPS SUPPORT FORCES	232,891	232,891	232,891	232,891
19560 ECHELON ABOVE CORPS FORCES	115,183	115,183	115,183	115,183
19600 MISSION OPERATIONS				
19610 LAND FORCES OPERATIONS SUPPORT	364,700	364,700	349,700	349,700
19630 LAND FORCES READINESS				
19640 FORCES READINESS OPERATIONS SUPPORT	139,280	139,280	139,280	139,280
19650 LAND FORCES SYSTEM READINESS	60,481	60,481	60,481	60,481
19660 DEPOT MAINTENANCE	60,719	60,719	60,719	60,719
19670 LAND FORCES READINESS SUPPORT				
19680 BASE SUPPORT	406,137	406,137	406,137	406,137
19690 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	161,321	161,321	161,321	161,321
19720 ADDITIONAL ACTIVITIES	2,536	2,536	2,536	2,536
19900 TOTAL, BUDGET ACTIVITY 1	1,582,201	1,582,201	1,567,201	1,567,201

(In thousands of dollars)

	Budget	House	Senate	Conference
19950 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
19960 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
19980 ADMINISTRATION..	39,256	39,256	39,256	39,256
19990 SERVICEWIDE COMMUNICATIONS............................	30,865	30,865	29,865	29,865
20000 PERSONNEL/FINANCIAL ADMINISTRATION (MANPOWER MANAGEMEN	44,201	44,201	44,201	44,201
20010 RECRUITING AND ADVERTISING............................	90,723	90,723	90,723	90,723
20075 TOTAL, BUDGET ACTIVITY 4............................	205,045	205,045	204,045	204,045
20160 FOOD SANITATION CENTERS...............................	---	1,300	---	---
20700 TOTAL, OPERATION AND MAINTENANCE, ARMY RESERVE......	1,787,246	1,788,546	1,771,246	1,771,246

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 1: Operating Forces	
19610 Land Forces Operations Support/Other contracts, Unjustified program growth	–15,000
Budget Activity 4: Administration and Servicewide Activities	
19990 Servicewide Communications/Headquarters Growth	–1,000

OPERATION AND MAINTENANCE, NAVY RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
20850 OPERATION AND MAINTENANCE, NAVY RESERVE				
20900 BUDGET ACTIVITY 1: OPERATING FORCES				
20950 RESERVE AIR OPERATIONS				
21000 MISSION AND OTHER FLIGHT OPERATIONS	405,515	405,515	405,515	405,515
21100 INTERMEDIATE MAINTENANCE	17,223	17,223	17,223	17,223
21150 AIR OPERATION AND SAFETY SUPPORT	1,961	1,961	1,961	1,961
21200 AIRCRAFT DEPOT MAINTENANCE	116,328	116,328	116,328	116,328
21250 AIRCRAFT DEPOT OPS SUPPORT	324	324	324	324
21400 RESERVE SHIP OPERATIONS				
21450 MISSION AND OTHER SHIP OPERATIONS	46,572	46,572	46,572	46,572
21500 SHIP OPERATIONAL SUPPORT AND TRAINING	623	623	623	623
21550 INTERMEDIATE MAINTENANCE	7,053	7,053	7,053	7,053
21600 SHIP DEPOT MAINTENANCE	71,858	71,858	71,858	71,858
21650 SHIP DEPOT OPERATIONS SUPPORT	2,652	2,652	2,652	2,652
21700 RESERVE COMBAT OPERATIONS SUPPORT				
21800 COMBAT SUPPORT FORCES	37,579	37,579	37,579	37,579
21950 RESERVE WEAPONS SUPPORT				
22000 WEAPONS MAINTENANCE	5,531	5,531	5,531	5,531
22030 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	51,102	51,102	51,102	51,102
22040 BASE SUPPORT	148,046	148,046	148,046	148,046
22090 TOTAL, BUDGET ACTIVITY 1	912,367	912,367	912,367	912,367

(In thousands of dollars)

	Budget	House	Senate	Conference
22100 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
22150 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
22200 ADMINISTRATION	11,131	11,131	11,131	11,131
22250 CIVILIAN MANPOWER & PERSONNEL	1,934	1,934	1,934	1,934
22300 MILITARY MANPOWER & PERSONNEL	34,625	34,625	34,625	34,625
22350 SERVICEWIDE COMMUNICATIONS	37,355	37,355	37,355	37,355
22400 COMBAT/WEAPONS SYSTEM	5,606	5,606	5,606	5,606
22450 OTHER SERVICEWIDE SUPPORT	672	672	672	672
22600 TOTAL, BUDGET ACTIVITY 4	91,323	91,323	91,323	91,323
23150 TOTAL, OPERATION AND MAINTENANCE, NAVY RESERVE	1,003,690	1,003,690	1,003,690	1,003,690

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

		Budget	House	Senate	Conference
23300	OPERATION AND MAINTENANCE, MARINE CORPS RESERVE				
23350	BUDGET ACTIVITY 1: OPERATING FORCES				
23400	MISSION FORCES				
23450	OPERATING FORCES	50,898	50,898	50,898	50,898
23500	DEPOT MAINTENANCE	7,784	7,784	7,784	7,784
23550	BASE SUPPORT	25,610	25,610	25,610	25,610
23600	TRAINING SUPPORT	18,144	18,144	18,144	18,144
23650	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	10,027	10,027	10,027	10,027
23700	TOTAL, BUDGET ACTIVITY 1	112,463	112,463	112,463	112,463
23750	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
23800	ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
23850	SPECIAL SUPPORT	8,596	8,596	8,596	8,596
23900	SERVICEWIDE TRANSPORTATION	491	491	491	491
23950	ADMINISTRATION	8,632	8,632	8,632	8,632
24000	BASE SUPPORT	5,719	5,719	5,719	5,719
24050	RECRUITING AND ADVERTISING	8,122	8,122	8,122	8,122
24100	TOTAL, BUDGET ACTIVITY 4	31,560	31,560	31,560	31,560
24600	TOTAL, O&M, MARINE CORPS RESERVE	144,023	144,023	144,023	144,023

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
24750 OPERATION AND MAINTENANCE, AIR FORCE RESERVE				
24800 BUDGET ACTIVITY 1: OPERATING FORCES				
24850 AIR OPERATIONS				
24900 PRIMARY COMBAT FORCES	1,266,511	1,266,511	1,260,511	1,260,511
24950 MISSION SUPPORT OPERATIONS	61,637	61,637	61,637	61,637
24970 DEPOT MAINTENANCE	322,507	322,507	322,507	322,507
25000 BASE SUPPORT	245,126	245,126	245,126	245,126
25050 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	38,521	38,521	38,521	38,521
25150 TOTAL, BUDGET ACTIVITY 1	1,934,302	1,934,302	1,928,302	1,928,302
25200 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
25250 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
25300 ADMINISTRATION	52,083	52,083	52,083	52,083
25350 MILITARY MANPOWER AND PERSONNEL MANAGEMENT	11,848	11,848	11,848	11,848
25400 RECRUITING AND ADVERTISING	24,466	24,466	24,466	24,466
25450 OTHER PERSONNEL SUPPORT	6,547	6,547	6,547	6,547
25500 AUDIOVISUAL	620	620	620	620
25520 TOTAL, BUDGET ACTIVITY 4	95,564	95,564	95,564	95,564
25670 C-17 RESERVE BASE PLANNING AND DESIGN	---	---	---	1,000
25950 TOTAL, O&M, AIR FORCE RESERVE	2,029,866	2,029,866	2,023,866	2,024,866

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
24900 Primary Combat Forces/ Unjustified Program Growth	−6,000
Undistributed:	
25670 C–17 Reserve Base Planning and Design	1,000

AIR FORCE RESERVE AIRLIFT PLANNING

The conferees support the creation of an Air Reserve Station or Stations for C–17's and provide $1,000,000 for planning and site assessment.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
26100 OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD				
26120 BUDGET ACTIVITY 1: OPERATING FORCES				
26140 LAND FORCES				
26180 DIVISIONS	472,117	472,117	477,117	474,617
26200 CORPS COMBAT FORCES	565,861	565,861	565,861	565,861
26220 CORPS SUPPORT FORCES	280,054	280,054	280,054	280,054
26240 ECHELON ABOVE CORPS FORCES	476,828	476,828	476,828	476,828
26260 LAND FORCES OPERATIONS SUPPORT	22,333	22,333	12,333	12,333
26280 LAND FORCES READINESS				
26320 FORCE READINESS OPERATIONS SUPPORT	19,354	19,354	19,354	19,354
26340 LAND FORCES SYSTEMS READINESS	95,719	95,719	100,419	98,919
26350 LAND FORCES DEPOT MAINTENANCE	193,414	193,414	193,414	193,414
26360 LAND FORCES READINESS SUPPORT				
26420 BASE OPERATIONS SUPPORT	538,487	538,487	540,746	540,546
26440 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	351,768	351,768	354,268	353,968
26460 MANAGEMENT & OPERATIONAL HEADQUARTERS	399,117	399,117	392,117	392,117
26480 MISCELLANEOUS ACTIVITIES	38,415	38,415	38,415	38,415
26580 TOTAL, BUDGET ACTIVITY 1	3,453,467	3,453,467	3,450,926	3,446,426

(In thousands of dollars)

	Budget	House	Senate	Conference
26600 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
26620 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
26660 STAFF MANAGEMENT	84,106	84,106	84,106	84,106
26680 INFORMATION MANAGEMENT	21,070	21,070	21,070	21,070
26720 PERSONNEL ADMINISTRATION	35,902	35,902	35,902	35,902
26740 RECRUITING AND ADVERTISING	82,814	82,814	82,814	82,814
26760 TOTAL, BUDGET ACTIVITY 4	223,892	223,892	223,892	223,892
26810 MILITARY TECHNICIANS COSTING MODEL	---	6,300	---	6,300
26900 ANGEL GATE ACADEMY	---	3,000	---	1,500
26945 NATIONAL EMERGENCY AND DISASTER INFORMATION CENTER	---	2,000	---	1,700
26970 EMERGENCY SPILL RESPONSE	---	---	790	790
26975 DISTRIBUTED LEARNING PROJECT	---	---	30,000	25,500
26985 SRM TRANSFER TO NATIONAL GUARD	---	---	25,000	25,000
26990 GSA LEASED VEHICLE PROGRAM	---	2,500	---	1,750
27000 MODULAR GENERAL PURPOSE TENTS	---	5,000	---	2,500
27010 JOINT TRAINING AND EXPERIMENTATION PROGRAM	---	4,100	---	3,400
27020 CAMP GRUBER REGIONAL TRAINING CENTER	---	3,500	---	2,400
27030 DOMESTIC EMERGENCY AND TERRORIST RESPONSE CENTER	---	3,000	---	2,500
27040 INFORMATION TECHNOLOGY MANAGEMENT TRAINING	---	1,000	---	1,000
27060 EARLY RESPONDERS DISTANCE LEARNING TRAINING CENTER	---	4,000	---	2,000
27070 RURAL ACCESS TO BROADBAND TECHNOLOGY	---	4,000	---	3,400
27080 WMD/COUNTER-DRUG DEMONSTRATION	---	8,000	---	6,800
27090 FULL TIME SUPPORT	---	---	13,200	11,200
27350 TOTAL, OPERATION AND MAINTENANCE, ARMY NAT. GUARD	3,677,359	3,723,759	3,743,808	3,768,058

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 1: Operating Forces:		
26180	Divisions/ECWCS	2,500
26260	Land Forces Operations Support/Unjustified Program Growth	–10,000
26340	Land Forces Systems Readiness/Camp McCain Simulator Center, Trainer Upgrades	3,200
26420	Base Operations Support/Ft. Harrison Communications Infrastructure	1,000
26420	Base Operations Support/Communications Network Equipment	209
26420	Base Operations Support/Multimedia Classroom	850
26440	Facilities, Sustainment, Restoration & Modernization/Camp McCain Training Site, Roads	2,200
26460	Management & Operational Headquarters/Unjustified Program Growth	–7,000
Undistributed:		
26810	Military Technicians Costing Model	6,300
26900	Angel Gate Academy	1,500
26945	National Emergency and Disaster Information Center	1,700
26970	Emergency Spill Response	790
26975	Distributed Learning Project	25,500
26985	SRM Transfer to National Guard	25,000
26990	GSA Leased Vehicle Program	1,750
27000	Modular General Purpose Tents	2,500
27010	Joint Training and Experimentation Program	3,400
27020	Camp Gruber Regional Training Center	2,400
27030	Domestic Emergency and Terrorist Response Center	2,500
27040	Information Technology Management Training	1,000
27060	Early Responders Distance Learning Training Center	2,000
27070	Rural Access to Broadband Technology	3,400
27080	WMD/Counter-Drug Demonstration	6,800
27090	Full Time Support	11,200

CAMP MCCAIN, MISSISSIPPI

The conferees agree to provide $2,200,000 for improvements to roads at or near the Camp McCain training site. In addition, of the funds provided to the Army National Guard for operation and maintenance, $2,200,000, shall be available for minor construction projects.

CENTER FOR CIVIL-MILITARY RELATIONS

The conferees direct that of the funds provided in Operation and Maintenance, Army National Guard $2,000,000 be used only for National Guard education programs at the Naval Postgraduate School's Center for Civil-Military Relations.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
27500 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD				
27550 BUDGET ACTIVITY 1: OPERATING FORCES				
27600 AIR OPERATIONS				
27650 AIRCRAFT OPERATIONS	2,545,143	2,645,143	2,645,143	2,645,143
27700 MISSION SUPPORT OPERATIONS	348,442	348,442	348,442	348,442
27750 BASE SUPPORT	377,859	377,859	387,859	386,359
27800 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	92,092	92,092	92,092	92,092
27850 DEPOT MAINTENANCE	490,912	490,912	490,912	490,912
27900 TOTAL, BUDGET ACTIVITY 1	3,854,448	3,954,448	3,964,448	3,962,948
27950 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
28000 SERVICEWIDE ACTIVITIES				
28050 ADMINISTRATION	2,935	2,935	2,935	2,935
28100 RECRUITING AND ADVERTISING	9,978	9,978	9,978	9,978
28110 TOTAL, BUDGET ACTIVITY 4	12,913	12,913	12,913	12,913
28240 NATIONAL GUARD STATE PARTNERSHIP PROGRAM	---	1,000	---	1,000
28250 PROJECT ALERT	---	3,800	3,500	2,900
28255 EXTENDED COLD WEATHER CLOTHING SYSTEM	---	---	5,000	2,500
28310 DEFENSE SYSTEM EVALUATION	---	---	2,500	1,700
28315 BANGOR INTERNATIONAL AIRPORT RUNWAY REPAIRS	---	---	10,000	5,000
28550 TOTAL, O&M, AIR NATIONAL GUARD	3,867,361	3,972,161	3,998,361	3,988,961

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
27650 Aircraft Operations/B-1B Operations	100,000
27750 Base Support/Eagle Vision	8,500
Undistributed:	
28240 National Guard State Partnership Program	1,000
28250 Project Alert	2,900
28255 Extended Cold Weather Clothing System	2,500
28310 Defense System Evaluation	1,700
28315 Bangor International Airport Runway Repairs	5,000

Consolidated Interactive Virtual Information Center

The conferees agree to provide $5,000,000 from within available funds in "Operation and Maintenance, Air National Guard" for the Consolidated Interactive Virtual Information Center of the National Guard.

Overseas Contingency Operations Transfer Fund

The conferees agree to provide $50,000,000 for the Overseas Contingency Operations Transfer Fund. This amount provides a central response fund from which the Secretary of Defense can address unknown and unexpected overseas contingency costs. In the budget request, the Department allocated the costs for ongoing operations in Southwest Asia to service operation and maintenance accounts. Consistent with this determination, the conferees are providing $1,679,222,000 for Balkan operations within the operation and maintenance accounts (Operation and Maintenance, Army $1,308,500,000; Operation and Maintenance, Navy $27,101,000; Operation and Maintenance, Marine Corps $2,000,000; Operation and Maintenance, Air Force $122,721,000; Operation and Maintenance, Defense-Wide $192,900,000 and Defense Health Program $26,000,000). OCOTF funds for military personnel expenses for Balkan operations ($464,900,000) have been redistributed within service accounts of the active components as well (Military Personnel, Army $399,800,000; Military Personnel, Navy $28,500; Military Personnel, Marine Corps $5,600,000; and Military Personnel, Air Force $31,000,000).

The total amount recommended is a reduction of $650,104,000 below the budget request.

United States Court of Appeals for the Armed Forces

The conference agreement provides $9,096,000 for the United States Court of Appeals for the Armed Forces.

Environmental Restoration, Army

The conference agreement provides $389,800,000 for Environmental Restoration, Army.

Environmental Restoration, Navy

The conference agreement provides $257,517,000 for Environmental Restoration, Navy.

Environmental Restoration, Air Force

The conference agreement provides $385,437,000 for Environmental Restoration, Air Force.

Environmental Restoration, Defense-Wide

The conference agreement provides $23,492,000 for Environmental Restoration, Defense-Wide.

Environmental Restoration, Formerly Used Defense Sites

The conference agreement provides $222,255,000 for Environmental Restoration, Formerly Used Defense Sites.

Overseas Humanitarian, Disaster, and Civic Aid

The conference agreement provides $49,700,000 for Overseas Humanitarian, Disaster and Civic Aid.

The conferees agree to provide $5,000,000 to be available if matched by private funds, only for the acquisition, transportation and distribution of wheelchairs to victims of overseas conflicts, landmines and other disturbances. The Secretary of Defense should work with appropriate non-government organizations, such as the Wheelchair Foundation, to implement this initiative on a matching basis with private resources. The conferees expect special attention and emphasis to be made to respond to the need and circumstances in Afghanistan as rapidly as possible.

Support for International Sporting Competitions, Defense

The conference agreement provides $15,800,000 for the Support for International Sporting Competitions, Defense account.

TITLE III – PROCUREMENT

The conference agreement is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
SUMMARY				
ARMY:				
AIRCRAFT	1,925,491	1,974,241	1,893,891	1,984,391
MISSILES	1,859,634	1,057,409	1,774,154	1,079,330
WEAPONS, TRACKED COMBAT VEHICLES	2,276,746	2,252,669	2,174,546	2,193,746
AMMUNITION	1,193,365	1,211,615	1,171,465	1,200,465
OTHER	3,961,737	4,103,036	4,160,186	4,183,736
TOTAL, ARMY	11,216,973	10,598,970	11,174,242	10,641,668
NAVY:				
AIRCRAFT	8,252,543	8,084,543	8,030,043	7,938,143
WEAPONS	1,433,475	1,429,492	1,478,075	1,429,592
AMMUNITION	457,099	492,599	442,799	461,399
SHIPS	9,344,121	10,134,883	9,294,211	9,490,039
OTHER	4,097,576	4,290,776	4,146,338	4,270,976
MARINE CORPS	981,724	1,028,662	974,054	995,442
TOTAL, NAVY	24,566,538	25,460,955	24,365,520	24,585,591
AIR FORCE:				
AIRCRAFT	10,744,458	10,549,798	10,617,332	10,567,038
MISSILES	3,233,536	2,918,118	3,657,522	2,989,524
AMMUNITION	865,344	866,844	873,344	866,644
OTHER	8,159,521	7,856,671	8,144,174	8,085,863
TOTAL, AIR FORCE	23,002,859	22,191,431	23,292,372	22,509,069
DEFENSE-WIDE	1,603,927	1,387,283	1,473,795	2,389,490
NATIONAL GUARD AND RESERVE EQUIPMENT	---	501,485	560,505	699,130
DEFENSE PRODUCTION ACT PURCHASES	50,000	50,000	15,000	40,000
TOTAL PROCUREMENT	60,440,297	60,190,124	60,881,434	60,864,948

AIRCRAFT PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, ARMY				
AIRCRAFT				
FIXED WING				
UTILITY F/W (MR) AIRCRAFT	---	---	---	45,000
ROTARY				
UH-60 BLACKHAWK (MYP)	174,515	174,515	174,515	174,515
UH-60 BLACKHAWK (MYP) (AP-CY)	26,906	26,906	26,906	26,906
HELICOPTER NEW TRAINING	---	25,000	34,100	25,000
TOTAL, AIRCRAFT	201,421	226,421	235,521	271,421
MODIFICATION OF AIRCRAFT				
GUARDRAIL MODS (TIARA)	8,827	13,827	8,827	13,827
ARL MODS (TIARA)	12,322	12,322	12,322	12,322
AH-64 MODS	38,473	38,473	38,473	38,473
CH-47 CARGO HELICOPTER MODS (MYP)	277,460	281,460	210,560	253,460
CH-47 CARGO HELICOPTER MODS (MYP) (AP-CY)	17,722	17,722	17,722	17,722
UTILITY/CARGO AIRPLANE MODS	16,095	16,095	16,095	16,095
OH-58 MODS	463	463	463	463
AIRCRAFT LONG RANGE MODS	753	753	753	753
LONGBOW	888,561	898,561	885,361	890,861
LONGBOW (AP-CY)	29,526	29,526	26,226	26,226
UH-60 MODS	52,269	58,269	70,469	68,369
KIOWA WARRIOR	42,600	42,600	42,600	42,600
AIRBORNE AVIONICS	78,421	78,421	78,421	78,421
GATM ROLLUP	54,551	54,551	38,551	38,551
SPARE PARTS (AIR)	5,331	9,331	5,331	7,331

(In thousands of dollars)

	Budget	House	Senate	Conference
TOTAL, MODIFICATION OF AIRCRAFT	1,523,374	1,552,374	1,452,174	1,505,474
SUPPORT EQUIPMENT AND FACILITIES				
GROUND SUPPORT AVIONICS				
AIRCRAFT SURVIVABILITY EQUIPMENT	32,780	32,780	32,780	37,780
ASE INFRARED CM	36,653	36,653	46,653	43,653
OTHER SUPPORT				
AVIONICS SUPPORT EQUIPMENT	7,544	7,544	15,044	12,844
COMMON GROUND EQUIPMENT	19,113	19,113	19,113	19,113
AIRCREW INTEGRATED SYSTEMS	10,253	10,253	10,253	10,253
AIR TRAFFIC CONTROL	68,887	63,637	56,887	58,387
INDUSTRIAL FACILITIES	707	707	707	707
LAUNCHER, 2.75 ROCKET	4,960	4,960	4,960	4,960
AIRBORNE COMMUNICATIONS	19,799	19,799	19,799	19,799
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	200,696	195,446	206,196	207,496
TOTAL, AIRCRAFT PROCUREMENT, ARMY	1,925,491	1,974,241	1,893,891	1,984,391

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

	Budget	House	Senate	Conference
2 UTILITY F/W (MR) AIRCRAFT	**0**	**0**	**0**	**45,000**
C-37A Replacement (Note: transfer from RDT&E, Air Force)				+45,000
5 HELICOPTER NEW TRAINING	**0**	**25,000**	**34,100**	**25,000**
TH-67 Creek Training Helicopter		+25,000	+34,100	+25,000
6 GUARDRAIL MODS (TIARA)	**8,827**	**13,827**	**8,827**	**13,827**
Guardrail-Transfer from Distributed Common Ground System		+5,000		+5,000
10 CH-47 CARGO HELICOPTER MODS (MYP)	**277,460**	**281,460**	**210,560**	**253,460**
CH-47 Chinook Crashworthy Crew Chief Seats		+4,000		+2,000
LRIP Delay			-66,900	-26,000
16 LONGBOW	**888,561**	**898,561**	**885,361**	**890,861**
Apache Recapitalization		+10,000		+7,000
Fire control radar			-8,200	-8,200
Oil debris detection and burn-off system			+5,000	+3,500
17 LONGBOW (AP-CY)	**29,526**	**29,526**	**26,226**	**26,226**
Airframes			-3,300	-3,300
19 UH-60 MODS	**52,269**	**58,269**	**70,469**	**68,369**
UH-60 Crashworthy External Fuel System		+6,000		+4,200
Extended range crashworthy fuel tanks for AR/NG			+3,000	
De-icing system upgrade program			+3,000	+1,500
1/207 Search and Rescue			+12,200	+10,400
26 GATM ROLLUP	**54,551**	**54,551**	**38,551**	**38,551**
Fixed Wing			-6,500	-6,500
Rotary Wing			-9,500	-9,500
28 SPARE PARTS (AIR)	**5,331**	**9,331**	**5,331**	**7,331**
Aircraft Survivability Equipment Trainer (ASET IV)		+4,000		+2,000
29 AIRCRAFT SURVIVABILITY EQUIPMENT	**32,780**	**32,780**	**32,780**	**37,780**
AN/AVR-2A Laser Detecting Sets				+5,000
30 ASE INFRARED CM	**36,653**	**36,653**	**46,653**	**43,653**
ATIRCM LRIP			+10,000	+7,000
31 AVIONICS SUPPORT EQUIPMENT	**7,544**	**7,544**	**15,044**	**12,844**
Aviator's night vision imaging system			+2,500	+1,800
HGU-56/P Aircrew Integrated System (ANG)			+5,000	+3,500
34 AIR TRAFFIC CONTROL	**68,887**	**63,637**	**68,887**	**58,387**
Cold Cathode Portable Landing Lights		+3,000		+1,500
National Airspace System		-8,250		-12,000
Tactical Airspace Integration System			-12,000	

CH-47 MODIFICATIONS

The conference agreement provides $253,460,000 for CH-47 Chinook helicopter modifications, a reduction of $24,000,000 from the budget request. The conferees have reduced funding in light of the restructuring of this program. Within the amount provided, the conferees direct the Army to consider fully funding the lean cabin and IPF initiatives.

CH-47 Chinook Seat Upgrade

The conferees agree to provide $2,000,000 to procure commercially designed rotating and traversing crashworthy seats for use of the crew chief and mission specialist, to provide better crash protection without impeding the mobility of the key aircrew members.

MISSILE PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, ARMY				
OTHER MISSILES				
SURFACE-TO-AIR MISSILE SYSTEM PATRIOT PAC-3	676,574	---	653,574	---
STINGER SYSTEM SUMMARY	45,890	23,390	45,890	34,390
AVENGER SYSTEM SUMMARY	11,624	11,624	11,624	11,624
AIR-TO-SURFACE MISSILE SYSTEM HELLFIRE SYS SUMMARY	241,811	241,811	241,811	241,811
ANTI-TANK/ASSAULT MISSILE SYSTEM JAVELIN (AAWS-M) SYSTEM SUMMARY	414,632	389,755	414,632	414,632
LINE OF SIGHT ANTI-TANK (LOSAT) (AP-CY)	11,427	9,427	11,427	9,427
GUIDED MLRS ROCKET (GMLRS)	8,480	8,480	---	---
MLRS LAUNCHER SYSTEMS	148,294	138,044	138,294	138,044
ARMY TACTICAL MSL SYS (ATACMS) - SYS SUM	34,263	25,263	34,263	25,263
ATACMS BLKII SYSTEM SUMMARY	61,000	61,000	61,000	61,000
TOTAL, OTHER MISSILES	1,653,995	908,794	1,612,515	936,191
MODIFICATION OF MISSILES				
MODIFICATIONS PATRIOT MODS	37,617	25,107	37,617	25,117
STINGER MODS	5,830	5,830	5,830	5,830
AVENGER MODS	17,991	11,877	17,991	11,991
ITAS/TOW MODS	96,204	60,804	61,204	61,204
MLRS MODS	23,599	20,599	13,599	13,599
TOTAL, MODIFICATION OF MISSILES	181,241	124,217	136,241	117,741
SPARES AND REPAIR PARTS	15,299	15,299	15,299	15,299

(In thousands of dollars)

	Budget	House	Senate	Conference
SUPPORT EQUIPMENT AND FACILITIES				
AIR DEFENSE TARGETS	3,325	3,325	3,325	3,325
ITEMS LESS THAN $5 MILLION (MISSILES)	1,039	1,039	1,039	1,039
MISSILE DEMILITARIZATION	1,358	1,358	2,358	2,358
PRODUCTION BASE SUPPORT	3,377	3,377	3,377	3,377
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	9,099	9,099	10,099	10,099
TOTAL, MISSILE PROCUREMENT, ARMY	1,859,634	1,057,409	1,774,154	1,079,330

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

	Budget	House	Senate	Conference
1 PATRIOT PAC-3	**676,574**	**0**	**653,574**	**0**
PATRIOT PAC-3 (Transferred to Procurement, Defense-Wide)			-23,000	-676,574
Transfer to Title IX - Procurement, BMDO		-676,574		
2 STINGER SYSTEM SUMMARY	**45,890**	**23,390**	**45,890**	**34,390**
Program Reduction		-22,500		-11,500
5 JAVELIN (AAWS-M) SYSTEM SUMMARY	**414,632**	**389,755**	**414,632**	**414,632**
Quantity reduction		-24,877		
7 LINE OF SIGHT ANTI-TANK (LOSAT) (AP-CY)	**11,427**	**9,427**	**11,427**	**9,427**
Program Reduction		-2,000		-2,000
9 GUIDED MLRS ROCKET (GMLRS)	**8,480**	**8,480**	**0**	**0**
Program Delays			-8,480	-8,480
10 MLRS LAUNCHER SYSTEMS	**148,294**	**138,044**	**138,294**	**138,044**
Program Reduction		-10,250	-10,000	-10,250
11 ARMY TACTICAL MSL SYS (ATACMS) - SYS SUM	**34,263**	**25,263**	**34,263**	**25,263**
Program Reduction		-9,000		-9,000
13 PATRIOT MODS	**37,617**	**25,107**	**37,617**	**25,117**
Program Reduction		-12,510		-12,500
15 AVENGER MODS	**17,991**	**11,877**	**17,991**	**11,991**
Program Reduction		-6,114		-6,000
16 ITAS/TOW MODS	**96,204**	**60,804**	**61,204**	**61,204**
Program Reduction		-35,400		
Program Growth/Delays			-35,000	-35,000
17 MLRS MODS	**23,599**	**20,599**	**13,599**	**13,599**
Program Reduction		-3,000		
Program Underexecution			-10,000	-10,000
21 MISSILE DEMILITARIZATION	**1,358**	**1,358**	**2,358**	**2,358**
Missile Recycling Center			+1,000	+1,000

MULTIPLE LAUNCH ROCKET SYSTEM

The conferees agree to provide $138,044,000 in fiscal year 2002 funding only for the procurement of launchers for National Guard Units.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT OF W&TCV, ARMY				
TRACKED COMBAT VEHICLES				
ABRAMS TRNG DEV MOD	5,545	5,545	5,545	5,545
BRADLEY BASE SUSTAINMENT	400,779	400,779	373,179	386,979
BRADLEY BASE SUSTAINMENT (AP-CY)	2,681	2,681	2,681	2,681
BRADLEY FVS TRAINING DEVICES	2,609	2,609	2,609	2,609
BRADLEY FVS TRAINING DEVICES (MOD)	8,814	8,814	8,814	8,814
ABRAMS TANK TRAINING DEVICES	11,814	11,814	11,814	11,814
INTERIM ARMORED VEHICLE (IAV) FAMILY	662,595	662,595	662,595	662,595
MODIFICATION OF TRACKED COMBAT VEHICLES				
CARRIER, MOD	48,567	48,567	48,567	48,567
FIST VEHICLE (MOD)	14,590	14,590	6,890	6,890
BFVS SERIES (MOD)	42,262	42,262	56,262	57,262
HOWITZER, MED SP FT 155MM M109A6 (MOD)	5,370	5,370	5,370	5,370
FAASV PIP TO FLEET	18,501	18,501	9,301	9,301
IMPROVED RECOVERY VEHICLE (M88 MOD)	58,114	58,114	58,114	58,114
HEAVY ASSAULT BRIDGE (HAB) SYS (MOD)	48,592	17,000	7,492	7,592
ARMORED VEH LAUNCH BRIDGE (AVLB) (MOD)	4,025	4,025	4,025	4,025
M1 ABRAMS TANK (MOD)	113,485	100,000	81,785	81,785
M1A1D RETROFIT	11,647	11,647	11,647	11,647
SYSTEM ENHANCEMENT PGM: SEP M1A2	102,152	102,152	100,052	100,052
ABRAMS UPGRADE PROGRAM	395,802	395,802	395,802	395,802
ABRAMS UPGRADE PROGRAM (AP-CY)	194,438	194,438	194,438	194,438
SUPPORT EQUIPMENT AND FACILITIES				
ITEMS LESS THAN $5 MILLION (TCV-WTCV)	146	146	146	7,646
PRODUCTION BASE SUPPORT (TCV-WTCV)	9,979	9,979	9,979	9,979

(In thousands of dollars)

	Budget	House	Senate	Conference
TOTAL, TRACKED COMBAT VEHICLES	2,162,507	2,117,430	2,057,107	2,079,507
WEAPONS AND OTHER COMBAT VEHICLES				
ARMOR MACHINE GUN, 7.62MM M240 SERIES	8,033	8,033	8,033	8,033
GRENADE LAUNCHER, AUTO, 40MM, MK19-3	28,826	34,826	27,026	28,826
81MM MORTAR (ROLL)	3,321	3,321	3,321	3,321
M16 RIFLE	1,978	1,978	1,978	1,978
XM107, CAL. 50, SNIPER RIFLE	2,149	2,149	2,149	2,149
5.56 CARBINE M4	2,400	2,400	2,400	2,400
HOWITZER LT WT 155MM (T)	1,107	1,107	1,107	1,107
MOD OF WEAPONS AND OTHER COMBAT VEH				
MARK-19 MODIFICATIONS	745	745	745	745
SQUAD AUTOMATIC WEAPON (MOD)	4,450	4,450	4,450	4,450
MEDIUM MACHINE GUNS (MODS)	746	746	746	746
HOWITZER, TOWED, 155MM, M198 (MODS)	2,823	2,823	2,823	2,823
M119 MODIFICATIONS	4,887	4,887	4,887	4,887
M16 RIFLE MODS	2,100	2,100	2,100	2,100
MODIFICATIONS LESS THAN $5 MILLION (WOCV-WTCV)	1,261	1,261	1,261	1,261
SUPPORT EQUIPMENT AND FACILITIES				
ITEMS LESS THAN $5 MILLION (WOCV-WTCV)	1,275	1,275	1,275	1,275
PRODUCTION BASE SUPPORT (WOCV-WTCV)	6,430	6,430	6,430	6,430
INDUSTRIAL PREPAREDNESS	4,270	19,270	9,270	4,270
SMALL ARMS (SOLDIER ENH PROG)	303	303	303	303
TOTAL, WEAPONS AND OTHER COMBAT VEHICLES	77,104	98,104	80,304	77,104
SPARE AND REPAIR PARTS				
SPARES AND REPAIR PARTS (WTCV)	37,135	37,135	37,135	37,135
TOTAL, PROCUREMENT OF W&TCV, ARMY	2,276,746	2,252,669	2,174,546	2,193,746

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

	Budget	House	Senate	Conference
2 BRADLEY BASE SUSTAINMENT	**400,779**	**400,779**	**373,179**	**386,979**
Economic Production Profile Adjustment			-27,600	-13,800
RRAD Fluidized Rubber program				(2,000)
12 FIST VEHICLE (MOD)	**14,590**	**14,590**	**6,890**	**6,890**
Engineering and Support Cost Growth			-7,700	-7,700
13 BFVS SERIES (MOD)	**42,262**	**42,262**	**56,262**	**57,262**
Pre-mod Depot Maintenance			-10,000	-5,000
Bradley Reactive Armor tiles			+24,000	+20,000
15 FAASV PIP TO FLEET	**18,501**	**18,501**	**9,301**	**9,301**
Excessive Growth			-9,200	-9,200
18 HEAVY ASSAULT BRIDGE (HAB) SYS (MOD)	**48,592**	**17,000**	**7,492**	**7,592**
ACAT III Reclassification		-7,000		
Quantity reduction (Wolverine)		-24,592		
Vehicle Purchases			-41,100	-41,000
20 M1 ABRAMS TANK (MOD)	**113,485**	**100,000**	**81,785**	**81,785**
Quantity reduction		-13,485		
Excessive Growth/Unjustified Unit Cost Growth			-31,700	-31,700
22 SYSTEM ENHANCEMENT PGM: SEP M1A2	**102,152**	**102,152**	**100,052**	**100,052**
Unjustified Unit Cost Increases			-2,100	-2,100
26 ITEMS LESS THAN $5 MILLION (TCV-WTCV)	**146**	**0**	**0**	**7,646**
Improved Combat Vehicle Crewman's Headsets				+7,500
30 GRENADE LAUNCHER, AUTO, 40MM, MK19-3	**28,826**	**34,826**	**27,026**	**28,826**
MK-19 Grenade Launcher Machine Gun		+6,000		
Unjustified Unit Cost Increases			-1,800	
46 INDUSTRIAL PREPAREDNESS	**4,270**	**19,270**	**9,270**	**4,270**
Arsenal Support Initiative		+15,000		
Arsenal Support Program Initiative			+5,000	

PROCUREMENT OF AMMUNITION, ARMY

The conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, ARMY				
AMMUNITION				
SMALL/MEDIUM CAL AMMUNITION				
CTG, 5.56MM, ALL TYPES	67,241	67,241	67,241	67,241
CTG, 5.56MM ARMOR PIERCING M995	3,551	3,551	3,551	3,551
CTG, 7.62MM, ALL TYPES	11,833	11,833	11,833	11,833
CTG, 7.62MM ARMOR PIERCING XM993	2,412	2,412	2,412	2,412
CTG, 9MM, ALL TYPES	2,657	2,657	2,657	2,657
CTG, .50 CAL, ALL TYPES	26,823	26,823	29,823	28,823
CTG, CAL .50 API MK211 MOD 0	3,211	3,211	3,211	3,211
CTG, 20MM, ALL TYPES	85	85	85	85
CTG, 25MM, ALL TYPES	46,231	70,231	46,231	70,231
CTG, 30MM, ALL TYPES	9,811	9,811	9,811	9,811
CTG, 40MM, ALL TYPES	49,395	49,395	29,395	29,395
NONLETHAL WEAPONS CAPABILITY SET	5,891	5,891	5,891	5,891
MORTAR AMMUNITION				
60MM MORTAR, ALL TYPES	45,389	45,389	45,389	45,389
81MM MORTAR, ALL TYPES	---	4,000	18,000	11,000
CTG, MORTAR 120MM HE M934 W/MO FUZE	39,536	39,536	47,536	43,536
CTG, MORTAR 120MM ILLUM XM930 W/MTSQ FZ	3,521	3,521	3,521	3,521
CTG, 120MM WP SMOKE M929A1	11,480	11,480	11,480	11,480
CTG, 120MM IR ILLUM XM983	3,521	3,521	3,521	3,521
TANK AMMUNITION				
CTG, 105MM, HEP-T, W/FUZE F/TANK M393	6,036	6,036	6,036	6,036
CTG, 120MM APFSDS-T M829A2/M829E3	35,596	35,596	35,596	35,596
CTG, TANK 120MM TP-T M831/M831A1	46,200	46,200	46,200	46,200

(In thousands of dollars)

	Budget	House	Senate	Conference
CTG, TANK 120MM TPCSDS-T M865	97,487	97,487	97,487	97,487
ARTILLERY AMMUNITION				
CTG, ARTY 75MM BLANK M337A1	1,824	1,824	1,824	1,824
CTG, ARTY 105MM M927	14	14	14	14
CTG, ARTY 105MM ILLUM M314 SERIES	5,037	5,037	5,037	5,037
REMOTE AREA DENIAL ARTILLERY MUNITION (RADAM)	48,218	27,218	18,218	23,218
PROJ ARTY 155MM HE M107	41,400	46,400	41,400	43,900
MODULAR ARTILLERY CHARGE SYSTEM (MACS)	87,413	87,413	47,413	72,413
ARTILLERY FUZES				
ARTILLERY FUZES, ALL TYPES	56,443	56,443	56,443	56,443
MINES				
MINE, TRAINING, ALL TYPES	9,536	9,536	9,536	9,536
MINE AT M87 (VOLCANO)	---	---	10,000	7,000
WIDE AREA MUNITIONS	2,025	2,025	2,025	2,025
ROCKETS				
BUNKER DEFEATING MUNITION (BDM)	---	5,000	7,000	3,500
ROCKET, HYDRA 70, ALL TYPES	136,654	136,654	136,654	136,654
OTHER AMMUNITION				
DEMOLITION MUNITIONS, ALL TYPES	18,168	20,168	23,168	22,668
GRENADES, ALL TYPES	25,710	25,710	29,710	27,710
SIGNALS, ALL TYPES	10,611	10,611	3,711	3,711
SIMULATORS, ALL TYPES	3,409	3,409	3,409	3,409

(In thousands of dollars)

	Budget	House	Senate	Conference
MISCELLANEOUS				
AMMO COMPONENTS, ALL TYPES..............................	6,874	6,874	6,874	6,874
CAD/PAD ALL TYPES.......................................	5,037	5,037	5,037	5,037
ITEMS LESS THAN $5 MILLION..............................	11,018	11,018	11,018	13,018
AMMUNITION PECULIAR EQUIPMENT...........................	8,816	8,816	8,816	8,816
FIRST DESTINATION TRANSPORTATION (AMMO).................	5,218	5,218	5,218	5,218
CLOSEOUT LIABILITIES....................................	32,213	32,213	32,213	32,213
TOTAL, AMMUNITION.....................................	1,033,545	1,052,545	991,645	1,029,145
AMMUNITION PRODUCTION BASE SUPPORT				
PRODUCTION BASE SUPPORT				
PROVISION OF INDUSTRIAL FACILITIES......................	57,277	57,277	57,277	57,277
LAYAWAY OF INDUSTRIAL FACILITIES........................	13,815	13,815	13,815	13,815
MAINTENANCE OF INACTIVE FACILITIES......................	10,802	13,552	10,802	12,302
CONVENTIONAL AMMO DEMILITARIZATION......................	73,225	73,225	73,225	73,225
ARMS INITIATIVE...	4,701	9,701	24,701	14,701
TOTAL, AMMUNITION PRODUCTION BASE SUPPORT.............	159,820	167,570	179,820	171,320
MLRS/DPICM..	---	-8,500	---	---
TOTAL, PROCUREMENT OF AMMUNITION, ARMY................	1,193,365	1,211,615	1,171,465	1,200,465

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

	Budget	House	Senate	Conference
6 CTG, .50 CAL, ALL TYPES	**26,823**	**26,823**	**29,823**	**28,823**
SLAP Munition			+3,000	+2,000
9 CTG, 25MM, ALL TYPES	**46,231**	**70,231**	**46,231**	**70,231**
M919		+24,000		+24,000
11 CTG, 40MM, ALL TYPES	**49,395**	**49,395**	**29,395**	**29,395**
40mm MTP M918 Linked-Under Execution			-20,000	-20,000
14 81MM MORTAR, ALL TYPES	**0**	**4,000**	**18,000**	**11,000**
M816 81mm Infrared Illumination Cartridge		+4,000	+6,000	+4,000
M853 81mm Illum			+7,000	+3,500
M934 81mm MO			+5,000	+3,500
15 CTG, MORTAR 120MM HE M934 W/MO FUZE	**39,536**	**39,536**	**47,536**	**43,536**
M934 120mm HE			+8,000	+4,000
32 REMOTE AREA DENIAL ARTILLERY MUNITION (RADAM)	**48,218**	**27,218**	**18,218**	**23,218**
Quantity reduction		-21,000		
Cost Growth			-30,000	-25,000
33 PROJ ARTY 155MM HE M107	**41,400**	**46,400**	**41,400**	**43,900**
M795 155mm HE, HF		+5,000		+2,500
34 MODULAR ARTILLERY CHARGE SYSTEM (MACS)	**87,413**	**87,413**	**47,413**	**72,413**
Cost Growth			-40,000	-15,000
37 MINE AT M87 (VOLCANO)	**0**	**0**	**10,000**	**7,000**
Volcano			+10,000	+7,000
39 BUNKER DEFEATING MUNITION (BDM)	**0**	**5,000**	**7,000**	**3,500**
Shoulder-Launched Multipurpose Assault Weapon-Disposable (SMAW-D) Bunker Defeat Munition		+5,000		
SMAW			+7,000	+3,500
41 DEMOLITION MUNITIONS, ALL TYPES	**18,168**	**20,168**	**23,168**	**22,668**
Modernization Demolition Initiators (MDI)		+2,000		+1,000
APOBS			+5,000	+3,500
42 GRENADES, ALL TYPES	**25,710**	**25,710**	**29,710**	**27,710**
M83 Smoke			+4,000	+2,000
43 SIGNALS, ALL TYPES	**10,611**	**10,611**	**3,711**	**3,711**
Practice M8			-6,900	-6,900
47 ITEMS LESS THAN $5 MILLION	**11,018**	**11,018**	**11,018**	**13,018**
Smokeless Nitrocellulose				+2,000

	Budget	House	Senate	Conference
53 MAINTENANCE OF INACTIVE FACILITIES	**10,802**	**13,552**	**10,802**	**12,302**
Production Base Support at Pine Bluff Arsenal		+2,750		+1,500
55 ARMS INITIATIVE	**4,701**	**9,701**	**24,701**	**14,701**
ARMS Initiative		+5,000	+20,000	+10,000
UNDISTRIBUTED				
MLRS/DPICM		-8,500		

OTHER PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER PROCUREMENT, ARMY				
TACTICAL AND SUPPORT VEHICLES				
TACTICAL VEHICLES				
TACTICAL TRAILERS/DOLLY SETS..........................	3,723	4,723	3,723	4,723
SEMITRAILERS, FLATBED:................................	29,317	29,317	29,317	29,317
SEMITRAILERS, TANKERS.................................	6,664	6,664	6,664	6,664
SEMITRAILER VAN CGO SUPPLY 12T 4WHL M129A2C...........	7,300	7,300	---	---
HI MOB MULTI-PURP WHLD VEH (HMMWV)....................	130,821	130,821	157,821	149,821
TRUCK, DUMP, 20T (CCE)................................	8,078	8,078	8,078	8,078
FAMILY OF MEDIUM TACTICAL VEH (FMTV)..................	467,386	467,386	467,386	467,386
FIRETRUCKS & ASSOCIATED FIREFIGHTING EQUIPMEN.........	5,024	5,024	10,524	9,024
FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)..............	157,633	165,633	157,633	162,633
ARMORED SECURITY VEHICLES (ASV).......................	14,483	14,483	19,483	17,983
TRUCK, TRACTOR, LINE HAUL, M915/M916..................	47,507	47,507	47,507	47,507
TOWING DEVICE, 5TH WHEEL..............................	2,013	2,013	2,013	2,013
TRUCK, TRACTOR, YARD TYPE, M878 (C/S).................	4,003	4,003	4,003	4,003
HVY EXPANDED MOBILE TACTICAL TRUCK EXT SERV P.........	31,304	31,304	31,304	31,304
LINE HAUL ESP...	18,515	18,515	18,515	18,515
MODIFICATION OF IN SVC EQUIP..........................	49,184	49,184	56,684	52,684
ITEMS LESS THAN $5 MILLION (TAC VEH)..................	1,903	1,903	1,903	1,903
NON-TACTICAL VEHICLES				
HEAVY ARMORED SEDAN...................................	585	585	585	585
PASSENGER CARRYING VEHICLES...........................	1,115	1,115	1,115	1,115
NONTACTICAL VEHICLES, OTHER...........................	5,458	5,458	5,458	5,458
TOTAL, TACTICAL AND SUPPORT VEHICLES................	992,016	1,001,016	1,029,716	1,020,716

(In thousands of dollars)

	Budget	House	Senate	Conference
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
COMM - JOINT COMMUNICATIONS				
COMBAT IDENTIFICATION PROGRAM	13,147	13,147	13,147	13,147
JCSE EQUIPMENT (USREDCOM)	5,594	5,594	5,594	5,594
COMM - SATELLITE COMMUNICATIONS				
DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPAC	99,420	99,420	107,220	99,420
SHF TERM	16,951	---	---	100
SAT TERM, EMUT (SPACE)	12,640	12,640	12,640	12,640
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE)	20,806	20,806	20,806	20,806
SMART-T (SPACE)	21,704	21,704	21,704	21,704
SCAMP (SPACE)	3,562	3,562	3,562	3,562
GLOBAL BRDCST SVC - GBS	6,969	6,969	6,969	6,969
MOD OF IN-SVC EQUIP (TAC SAT)	2,492	2,492	2,492	2,492
COMM - C3 SYSTEM				
ARMY GLOBAL CMD & CONTROL SYS (AGCCS)	8,622	13,622	8,622	12,922
COMM - COMBAT COMMUNICATIONS				
ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO)	46,332	46,332	72,332	64,332
SINCGARS FAMILY	20,687	20,687	20,687	20,687
TRACTOR CAGE	1,866	1,866	1,866	1,866
JOINT TACTICAL AREA COMMAND SYSTEMS	971	971	971	971
ACUS MOD PROGRAM	113,137	123,137	169,637	153,837
COMMS-ELEC EQUIP FIELDING	3,412	8,412	3,712	7,212
SOLDIER ENHANCEMENT PROGRAM COMM/ELECTRONICS	5,136	5,136	5,136	5,136
COMBAT SURVIVOR EVADER LOCATOR (CSEL)	12,720	12,720	12,720	12,720
MEDICAL COMM FOR CBT CASUALTY CARE (MC4)	7,703	7,703	7,703	7,703

(In thousands of dollars)

	Budget	House	Senate	Conference
COMM - INTELLIGENCE COMM				
CI AUTOMATION ARCHITECTURE	1,635	1,635	1,635	1,635
INFORMATION SECURITY				
TSEC - ARMY KEY MGT SYS (AKMS)	12,203	12,203	12,203	12,203
INFORMATION SYSTEM SECURITY PROGRAM-ISSP	42,244	45,244	51,244	52,744
COMM - LONG HAUL COMMUNICATIONS				
TERRESTRIAL TRANSMISSION	2,038	2,038	2,038	2,038
BASE SUPPORT COMMUNICATIONS	11,739	11,739	13,739	13,139
ARMY DISN ROUTER	4,931	4,931	4,931	4,931
ELECTROMAG COMP PROG (EMCP)	462	462	462	462
WW TECH CON IMP PROG (WWTCIP)	2,998	2,998	2,998	2,998
COMM - BASE COMMUNICATIONS				
INFORMATION SYSTEMS	166,679	166,679	166,679	166,679
DEFENSE MESSAGE SYSTEM (DMS)	18,463	18,463	18,463	18,463
LOCAL AREA NETWORK (LAN)	103,965	103,965	103,965	105,965
PENTAGON INFORMATION MGT AND TELECOM	33,605	33,605	33,605	33,605
ELECT EQUIP - NAT FOR INT PROG (NFIP)				
FOREIGN COUNTERINTELLIGENCE PROG (FCI)	877	877	877	877
GENERAL DEFENSE INTELL PROG (GDIP)	27,994	27,994	31,994	29,994
ELECT EQUIP - TACT INT REL ACT (TIARA)				
ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)	46,931	48,931	46,931	48,331
JTT/CIBS-M (TIARA)	10,345	20,345	10,345	18,845
PROPHET GROUND (TIARA)	15,734	15,734	15,734	15,734
TACTICAL UNMANNED AERIAL VEHICLE (TUAV)	84,300	63,300	48,500	57,300
JOINT STARS (ARMY) (TIARA)	21,304	21,304	21,304	21,304
DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (TIARA)	20,124	20,124	20,124	20,124

(In thousands of dollars)

	Budget	House	Senate	Conference
TACTICAL EXPLOITATION SYSTEM/DCGS-A (TIARA)...........	26,168	33,668	26,168	33,668
COMMON IMAGERY GROUND/SURFACE SYSTEM (CIGSS)..........	2,611	2,611	2,611	2,611
TROJAN (TIARA)..	4,895	4,895	4,895	4,895
MOD OF IN-SVC EQUIP (INTEL SPT) (TIARA)...............	1,744	1,744	1,744	1,744
CI HUMINT AUTOMATED TOOL SET (CHATS) (TIARA)..........	1,492	2,492	1,492	2,492
ITEMS LESS THAN $5 MILLION (TIARA)....................	2,091	2,091	2,091	2,091
ELECT EQUIP - ELECTRONIC WARFARE (EW)				
SHORTSTOP..	5	2,005	5	1,705
COUNTERINTELLIGENCE/SECURITY COUNTERMEASURES..........	2,306	2,306	2,306	2,306
ELECT EQUIP - TACTICAL SURV. (TAC SURV)				
FAAD GBS..	1,887	1,887	1,887	1,887
SENTINEL MODS...	30,885	30,885	31,685	31,685
NIGHT VISION DEVICES..................................	37,019	37,019	39,019	38,419
LONG RANGE ADVANCED SCOUT SURVEILLANCE SYSTEM.........	44,535	44,535	44,535	44,535
LTWT VIDEO RECON SYSTEM (LWVRS).......................	1,339	1,339	1,339	1,339
NIGHT VISION, THERMAL WPN SIGHT.......................	35,134	38,134	35,134	36,334
COMBAT IDENTIFICATION / AIMING LIGHT..................	8,503	8,503	11,503	10,503
ARTILLERY ACCURACY EQUIP..............................	10,413	10,413	10,413	10,413
MOD OF IN-SVC EQUIP (MMS).............................	935	935	935	935
MOD OF IN-SVC EQUIP (MVS).............................	251	251	251	251
MOD OF IN-SVC EQUIP (TAC SURV)........................	21,478	21,478	21,478	21,478
FORCE XXI BATTLE CMD BRIGADE & BELOW (FBCB2)..........	74,663	74,663	74,663	74,663
LIGHTWEIGHT LASER DESIGNATOR/RANGEFINDER (LLD.........	7,059	7,059	7,059	7,059
MORTAR FIRE CONTROL SYSTEM............................	16,785	20,785	9,785	11,785
INTEGRATED MET SYS SENSORS (IMETS) - TIARA............	2,521	2,521	2,521	2,521

(In thousands of dollars)

	Budget	House	Senate	Conference
ELECT EQUIP - TACTICAL C2 SYSTEMS				
TACTICAL OPERATIONS CENTERS	38,952	38,952	38,952	38,952
ADV FIELD ARTILLERY TACT DATA SYS (AFATDS)	49,476	49,476	49,476	49,476
LIGHT WEIGHT TECHICAL FIRE DIRECTION SYS (LWT	1,677	1,677	1,677	1,677
CMBT SVC SUPT CONTROL SYS (CSSCS)	25,201	25,201	25,201	25,201
FAAD C2	8,900	8,900	8,900	8,900
AIR & MSL DEFENSE PLANNING & CONTROL SYS (AMD	10,299	10,299	10,299	10,299
FORWARD ENTRY DEVICE (FED)	15,915	15,915	15,915	15,915
STRIKER-COMMAND AND CONTROL SYSTEM	21,442	21,442	21,442	21,442
LIFE CYCLE SOFTWARE SUPPORT (LCSS)	936	936	936	936
LOGTECH	8,212	8,212	8,212	8,212
TC AIMS II	25,512	25,512	25,512	25,512
GUN LAYING AND POS SYS (GLPS)	12,079	12,079	12,079	12,079
ISYSCON EQUIPMENT	32,448	32,448	32,448	32,448
MANEUVER CONTROL SYSTEM (MCS)	6,839	5,439	5,439	5,439
STAMIS TACTICAL COMPUTERS (STACOMP)	60,621	60,621	47,621	47,621
STANDARD INTEGRATED CMD POST SYSTEM	30,513	30,513	35,513	33,013
ELECT EQUIP - AUTOMATION				
ARMY TRAINING MODERNIZATION	26,312	26,312	26,312	26,312
AUTOMATED DATA PROCESSING EQUIP	146,885	156,335	160,885	159,835
RESERVE COMPONENT AUTOMATION SYS (RCAS)	89,319	89,319	89,319	89,319
ELECT EQUIP - AUDIO VISUAL SYS (A/V)				
SPECIAL INFORMATION OPERATIONS (SIO) (TIARA)	206	206	206	206
AFRTS	2,481	2,481	2,481	2,481
ITEMS LESS THAN $5 MILLION (A/V)	5,778	5,778	5,778	5,778

(In thousands of dollars)

	Budget	House	Senate	Conference
ITEMS LESS THAN $5 MILLION (SURVEYING EQUIPMENT)......	631	631	631	631
ELECT EQUIP - SUPPORT				
PRODUCTION BASE SUPPORT (C-E).........................	419	419	419	419
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT.....	2,008,214	2,030,813	2,064,463	2,068,613
OTHER SUPPORT EQUIPMENT				
CHEMICAL DEFENSIVE EQUIPMENT				
SMOKE & OBSCURANT FAMILY: SOF (NON AAO ITEM)..........	23,547	23,547	23,547	23,547
BRIDGING EQUIPMENT				
TACTICAL BRIDGING, DRY SUPPORT........................	25,752	25,752	25,752	25,752
TACTICAL BRIDGE, FLOAT-RIBBON.........................	48,181	48,181	48,181	48,181
ENGINEER (NON-CONSTRUCTION) EQUIPMENT				
DISPENSER, MINE M139..................................	2,400	2,400	2,400	2,400
GRND STANDOFF MINE DETECTION SYSTEM (GSTAMIDS.........	13,272	13,272	13,272	13,272
WIDE AREA MUNITIONS (REMOTE CONTROL UNIT).............	3,317	3,317	3,317	3,317
EXPLOSIVE ORDNANCE DISPOSAL EQPMT (EOD EQPMT).........	4,058	4,058	4,058	4,058
LESS THAN $5 MILLION (COUNTERMINE EQUIPMENT)..........	156	156	156	156
COMBAT SERVICE SUPPORT EQUIPMENT				
HEATERS AND ECU'S.....................................	5,082	5,082	5,082	5,082
LAUNDRIES, SHOWERS AND LATRINES.......................	23,232	28,232	26,232	26,232
SOLDIER ENHANCEMENT...................................	3,148	3,148	3,148	3,148
LIGHTWEIGHT MAINTENANCE ENCLOSURE (LME)...............	3,636	6,636	8,636	6,636
FIELD FEEDING AND REFRIGERATION.......................	7,043	7,043	7,043	8,143
CAMOUFLAGE: ULCANS....................................	---	---	8,000	4,000
ITEMS LESS THAN $5 MILLION (CSS-EQ)...................	4,001	4,001	4,001	4,001
PETROLEUM EQUIPMENT				

(In thousands of dollars)

	Budget	House	Senate	Conference
QUALITY SURVEILLANCE EQUIPMENT	7,694	7,694	7,694	7,694
DISTRIBUTION SYSTEMS, PETROLEUM & WATER	18,294	18,294	18,294	18,294
ASSAULT HOSELINE SYSTEM	5,361	5,361	5,361	5,361
INLAND PETROLEUM DISTRIBUTION SYSTEM	1,706	1,706	1,706	1,706
WATER EQUIPMENT				
WATER PURIFICATION SYSTEMS	39,289	39,289	39,289	39,289
MEDICAL EQUIPMENT				
COMBAT SUPPORT MEDICAL	16,731	21,731	22,731	24,331
MAINTENANCE EQUIPMENT				
SHOP EQ CONTACT MAINTENANCE TRK MTD (MYP)	9,979	9,979	9,979	9,979
WELDING SHOP, TRAILER MTD	6,053	6,053	6,053	6,053
ITEMS LESS THAN $5 MILLION (MAINT EQ)	2,617	2,617	2,617	2,617
CONSTRUCTION EQUIPMENT				
SCRAPER, EARTHMOVING, 7 1/2 CU YD	7,230	17,230	7,230	14,230
DISTR, WATER, SP MIN 2500G SEC/NON-SEC	1,006	1,006	1,006	1,006
MISSION MODULES - ENGINEERING	6,121	6,121	13,121	10,621
COMPACTOR	4,589	4,589	4,589	4,589
LOADERS	12,669	12,669	12,669	12,669
HYDRAULIC EXCAVATOR	4,589	4,589	4,589	4,589
DEPLOYABLE UNIVERSAL COMBAT EARTH MOVERS	5,301	21,301	12,301	16,501
TRACTOR, FULL TRACKED	2,018	2,018	2,018	2,018
CRANES	22,029	22,029	22,029	22,029
CRUSHING/SCREENING PLANT, 150 TPH	4,474	4,474	4,474	4,474
PLANT, ASPHALT MIXING	2,013	2,013	2,013	2,013
ARMORED COMBAT EARTHMOVER, M9 ACE	1,107	1,107	1,107	1,107

(In thousands of dollars)

	Budget	House	Senate	Conference
TACTICAL RAPID EXCAVATION SYSTEM (TRES)...............	5,031	5,031	5,031	5,031
CONST EQUIP ESP......................................	12,974	12,974	12,974	12,974
ITEMS LESS THAN $5 MILLION (CONST EQUIP).............	12,428	12,428	12,428	12,428
RAIL FLOAT CONTAINERIZATION EQUIPMENT				
FLOATING CRANE, 100-250 TON..........................	---	15,000	---	7,000
LOGISTIC SUPPORT VESSEL (LSV)........................	25,437	25,437	25,437	25,437
ITEMS LESS THAN $5 MILLION (FLOAT/RAIL)..............	3,254	3,254	3,254	3,254
GENERATORS				
GENERATORS AND ASSOCIATED EQUIP......................	59,768	63,268	59,768	62,268
MATERIAL HANDLING EQUIPMENT				
ROUGH TERRAIN CONTAINER HANDLER (RTCH)...............	43,353	43,353	43,353	43,353
ALL TERRAIN LIFTING ARMY SYSTEM......................	21,062	21,062	21,062	21,062
MHE EXTENDED SERVICE PROGRAM (ESP)...................	1,007	1,007	1,007	1,007
ITEMS LESS THAN $5 MILLION (MHE).....................	481	481	481	481
TRAINING EQUIPMENT				
CTC INSTRUMENTATION SUPPORT..........................	10,307	16,307	10,307	14,507
TRAINING DEVICES, NONSYSTEM..........................	74,481	92,681	123,981	126,381
CLOSE COMBAT TACTICAL TRAINER........................	36,783	36,783	36,783	36,783
AVIATION COMBINED ARMS TACTICAL TRAINER (AVCA........	25,227	25,227	27,227	26,227
TEST MEASURE AND DIG EQUIPMENT (TMD)				
CALIBRATION SETS EQUIPMENT...........................	16,001	16,001	16,001	16,001
INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)...........	52,397	65,397	67,397	63,397
TEST EQUIPMENT MODERNIZATION (TEMOD).................	15,655	15,655	15,655	15,655
ARMY DIAGNOSTICS IMPROVEMENT PGM (ADIP)..............	18,344	18,344	18,344	18,344
RECONFIGURABLE SIMULATORS............................	365	365	365	365

(In thousands of dollars)

	Budget	House	Senate	Conference
PHYSICAL SECURITY SYSTEMS (OPA3)	69,227	69,227	69,227	69,227
BASE LEVEL COM'L EQUIPMENT	8,696	8,696	8,696	8,696
MODIFICATION OF IN-SVC EQUIPMENT (OPA-3)	32,468	32,468	32,468	32,468
PRODUCTION BASE SUPPORT (OTH)	2,545	2,545	2,545	2,545
SPECIAL EQUIPMENT FOR USER TESTING	16,400	31,400	20,400	32,300
MA8975	6,057	6,057	6,057	6,057
TOTAL, OTHER SUPPORT EQUIPMENT	917,443	1,027,143	1,023,943	1,052,343
SPARE AND REPAIR PARTS				
INITIAL SPARES - C&E	43,093	43,093	41,093	41,093
INITIAL SPARES - OTHER SUPPORT EQUIP	971	971	971	971
TOTAL, SPARE AND REPAIR PARTS	44,064	44,064	42,064	42,064
TOTAL, OTHER PROCUREMENT, ARMY	3,961,737	4,103,036	4,160,186	4,183,736

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

	Budget	House	Senate	Conference
1 TACTICAL TRAILERS/DOLLY SETS	3,723	4,723	3,723	4,723
Self Load/Offload Trailer (SLOT)		+1,000		+1,000
4 SEMITRAILER VAN CGO SUPPLY 12T 4WHL M129A2C	7,300	7,300	0	0
Requirements Fulfilled			-7,300	-7,300
5 HI MOB MULTI-PURP WHLD VEH (HMMWV)	130,821	130,821	157,821	149,821
Up-armored HMMWV			+27,000	+19,000
8 FIRETRUCKS & ASSOCIATED FIREFIGHTING EQUIP	5,024	5,024	10,524	9,024
Tactical Fire Trucks			+5,500	+4,000
9 FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)	157,633	165,633	157,633	162,633
Movement Tracking System (MTS) for Family of Heavy Tactical Vehicles		+8,000		+5,000
10 ARMORED SECURITY VEHICLES (ASV)	14,483	14,483	19,483	17,983
Program Increase			+5,000	+3,500
16 MODIFICATION OF IN SVC EQUIP	49,184	49,184	56,684	52,684
Aluminum Mesh Tank Liner			+7,500	+3,500
23 DEFENSE SATELLITE COMMUNICATIONS SYSTEM	99,420	99,420	107,220	99,420
Teleports			+7,800	
24 SHF TERM	16,951	0	0	100
STAR-T Program Termination		-16,951	-16,951	-16,851
31 ARMY GLOBAL CMD & CONTROL SYS (AGCCS)	8,622	13,622	8,622	12,922
AN/PSC-5 Spitfire, Radio P3I		+5,000		+4,300
32 ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO)	46,332	46,332	72,332	64,332
EPLRS			+26,000	+18,000
36 ACUS MOD PROGRAM	113,137	123,137	169,637	153,837
AN/UXC-10 TS-21 Blackjack Digital Facsimile		+10,000	+10,000	+7,000
AN/TTC Single Shelter Switches w/ Associated Support			+38,000	+26,500
USARPAC C4 Suites			+8,500	+7,200
37 COMMS-ELEC EQUIP FIELDING	3,412	8,412	3,712	7,212
Improved High Frequency Radio (Army Reserve)		+5,000		+3,500
USARPAC GCCS-A Suites			+300	+300
44 INFORMATION SYSTEM SECURITY PROGRAM-ISSP	42,244	45,244	51,244	52,744
Secure Terminal Equipment		+3,000		+1,500
Biometrics Information Assurance Program			+9,000	+9,000

	Budget	House	Senate	Conference
46 BASE SUPPORT COMMUNICATIONS	11,739	11,739	13,739	13,139
Trunked Radio System			+2,000	+1,400
52 LOCAL AREA NETWORK (LAN)	103,965	103,965	103,965	105,965
CUTTN/Digital Switch System Mod (DSSMP) (Note: only for upgrade of Ft. Huachuca and White Sands Missile Range networks.)				+2,000
55 GENERAL DEFENSE INTELL PROG (GDIP)	27,994			29,994
GDIP Increase				+2,000
56 ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)	46,931	48,931	46,931	48,331
All Source Analysis System (ASAS) (Note: only for procurement of the Intelligence Analysis Advanced Tool Sets (IAATS) Communications Control Sets for ASAS.)		+2,000		+1,400
57 JTT/CIBS-M (TIARA)	10,345	20,345	10,345	18,845
Joint Tactical Terminals (Note: only for procurement of Joint Tactical Terminals.)		+10,000		+8,500
59 TACTICAL UNMANNED AERIAL VEHICLE (TUAV)	84,300	63,300	48,500	57,300
Advanced procurement of TUAV		-21,000		
FRP Delay			-35,800	-27,000
64 TACTICAL EXPLOITATION SYSTEM/DCGS-A (TIARA)	26,168	33,668	26,168	33,668
Tactical Surveillance Systems (Transfer from Distributed Common Ground System.)		+7,500		+7,500
68 CI HUMINT AUTOMATED TOOL SET (CHATS) (TIARA)	1,492	2,492	1,492	2,492
CI HUMINT Automated Tool Set (CHATS) additional CHATS units		+1,000		+1,000
70 SHORTSTOP	5	2,005	5	1,705
Shortstop Integrated Logistics Support		+2,000		+1,700
73 SENTINEL MODS	30,885	30,885	31,685	31,685
USARPAC Trojan Lite			+800	+800
74 NIGHT VISION DEVICES	37,019	37,019	39,019	38,419
Borelight			+2,000	+1,400
77 NIGHT VISION, THERMAL WPN SIGHT	35,134	38,134	35,134	36,334
AN/PVS-6 (MELIOS)		+3,000		+1,200
78 COMBAT IDENTIFICATION / AIMING LIGHT	8,503	8,503	11,503	10,503
AN/PEQ-2A Target Pointer			+3,000	+2,000
87 MORTAR FIRE CONTROL SYSTEM	16,785	20,785	9,785	11,785
Lightweight Laser Designation Rangefinder		+4,000		+2,000
Program Delays			-7,000	-7,000
103 MANEUVER CONTROL SYSTEM (MCS)	6,839	5,439	5,439	5,439
MCS Schedule Delay		-1,400		-1,400
Program Delays			-1,400	
104 STAMIS TACTICAL COMPUTERS (STACOMP)	60,621	60,621	47,621	47,621
Program Delays			-13,000	-13,000

	Budget	House	Senate	Conference
105 STANDARD INTEGRATED CMD POST SYSTEM	**30,513**	**30,513**	**35,513**	**33,013**
Modular Command Post			+5,000	+2,500
107 AUTOMATED DATA PROCESSING EQUIP	**146,885**	**156,335**	**160,885**	**159,835**
Ammunition Automated Identification Technology		+4,000		+3,500
NG Distance Learning Courseware		+3,000	+8,000	+4,000
Automated Manifest System		+1,000		+1,000
LAN Installation for Gauntlet FTX Site and Skidgell Hall (Fort Knox)		+450		+450
Regional Medical Distributive Learning Center		+1,000		+1,000
Maintenance Automatic Identification Technology			+6,000	+3,000
125 LAUNDRIES, SHOWERS AND LATRINES	**23,232**	**28,232**	**26,232**	**26,232**
Laundry Advanced System (LADS)		+5,000	+3,000	+3,000
127 LIGHTWEIGHT MAINTENANCE ENCLOSURE (LME)	**3,636**	**6,636**	**8,636**	**6,636**
Lightweight Maintenance Enclosures		+3,000	+5,000	+3,000
129 FIELD FEEDING AND REFRIGERATION	**7,043**	**7,043**	**7,043**	**8,143**
Food Sanitation Center				+1,100
131 CAMOUFLAGE: ULCANS	**0**	**0**	**8,000**	**4,000**
ULCANS			+8,000	+4,000
142 COMBAT SUPPORT MEDICAL	**16,731**	**21,731**	**22,731**	**24,331**
Life Support for Trauma and Transport (LSTAT)		+3,500		+2,500
Portable Low-Power Blood Cooling and Storage Device		+1,500		+1,100
Rapid Intravenous Infusion Pump			+4,000	+3,000
Hema Cool			+2,000	+1,000
147 SCRAPER, EARTHMOVING, 7 1/2 CU YD	**7,230**	**17,230**	**7,230**	**14,230**
Scraper		+10,000		+7,000
149 MISSION MODULES - ENGINEERING	**6,121**	**6,121**	**13,121**	**10,621**
Additional Mission Modules			+7,000	+4,500
153 DEPLOYABLE UNIVERSAL COMBAT EARTH MOVERS	**5,301**	**21,301**	**12,301**	**16,501**
DEUCE		+16,000	+7,000	+11,200
163 FLOATING CRANE, 100-250 TON	**0**	**15,000**	**0**	**7,000**
Floating Crane 100-250 ton capacity (Note: only to procure and complete construction of a fifth floating crane barge (DB-5))		+15,000		+7,000
169 GENERATORS AND ASSOCIATED EQUIP	**59,768**	**63,268**	**59,768**	**62,268**
2kW Military Tactical Generator		+3,500		+2,500
175 CTC INSTRUMENTATION SUPPORT	**10,307**	**16,307**	**10,307**	**14,507**
Deployable Force-on-Force Instrumented Range System		+6,000		+4,200

	Budget	House	Senate	Conference
176 TRAINING DEVICES, NONSYSTEM	**74,481**	**92,681**	**123,981**	**126,381**
Advanced Aviation Institutional Training Simulator (AAITS)		+5,000		+2,500
COTS Mobile/Reconfigurable Target System		+1,000		+1,000
Deployable Range Training and Safety System (DTRSS) at Ft. Bliss (ARNG)		+2,700		+1,300
Deployable Range Training and Safety System (DTRSS) at Ft. Hood (ARNG)		+2,000		+1,300
Fire Fighting Training System		+2,500		+1,200
Military Operations in Urban Terrain (MOUT) Instrumentation-Ft. Wainwright		+5,000	+6,500	+5,500
Military Operations in Urban Environments Terminal (MOUT)			+3,000	+1,500
Abrams & Bradley Interactive Skills Trainer			+9,000	+6,300
SIMNET			+15,000	+10,500
AFIST			+9,000	+8,300
GUARDFIST (Note: only for the Army National Guard)				+3,000
Army Live Fire Ranges				+3,500
Miles 2000 for Cope Thunder			+7,000	+6,000
178 AVIATION COMBINED ARMS TACTICAL TRAINER (AVCATT)	**25,227**	**25,227**	**27,227**	**26,227**
Aviation Reconfigurable Man Simulator			+2,000	+1,000
181 INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)	**52,397**	**65,397**	**67,397**	**63,397**
Integrated Family of Test Equipment		+13,000	+15,000	+11,000
189 SPECIAL EQUIPMENT FOR USER TESTING	**16,400**	**31,400**	**20,400**	**32,300**
Additional Target Acquisition Radar--Agile Multi Beam (TARAMB) (Only to procure one additional TARAMB air defense training system with required spares.)		+12,000		+11,500
Special Equipment for User Testing (Note: only for testing of high fidelity EW and SIGINT battlefield assets during training exercises)		+3,000		+1,000
Target Receiver Injection Module Threat Simulator			+4,000	+3,400
193 INITIAL SPARES - C&E	**43,093**	**43,093**	**41,093**	**41,093**
SMART-T Program Delays			-2,000	-2,000

TACTICAL UNMANNED AERIAL VEHICLE

The House recommended $63,000,000 for the TUAV, a reduction of $21,000,000 from the budget request. The House included language directing that funds provided for the low-rate initial production (LRIP) III of the TUAV may not be obligated or expended until the TUAV successfully completes the planned AEC assessment the Fall/Winter of 2001 and the Secretary of the Army certifies that the TUAV has been adequately tested and justifies the initiation of the LRIP III prior to the completion of initial operational test and evaluation. The Senate recommended $48,500,000 for the TUAV, a reduction of $35,800,000 from the budget request. The Senate included language stating that the system's viability should be validated prior to procurement of additional units. The conferees recommended $57,300,000 for the TUAV, a reduction of $27,000,000 from the budget request. The conferees agree that the language contained in both the House and Senate reports conveys the same concerns and should be implemented by the Army.

AIRCRAFT PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, NAVY				
COMBAT AIRCRAFT				
F/A-18E/F (FIGHTER) HORNET (MYP)	3,067,522	3,067,522	3,032,522	3,037,522
F/A-18E/F (FIGHTER) HORNET (MYP) (AP-CY)	88,876	88,876	88,876	88,876
V-22 (MEDIUM LIFT)	1,009,881	790,881	783,181	783,181
V-22 (MEDIUM LIFT) (AP-CY)	48,428	48,428	36,428	36,428
AH-1W (HELICOPTER) SEA COBRA	1,383	1,383	1,383	1,383
SH-60R	25,064	10,064	18,564	10,064
E-2C (EARLY WARNING) HAWKEYE (MYP)	242,746	239,746	242,746	239,746
E-2C (EARLY WARNING) HAWKEYE (MYP) (AP-CY)	36,191	36,191	36,191	36,191
TOTAL, COMBAT AIRCRAFT	4,520,091	4,283,091	4,239,891	4,233,391
AIRLIFT AIRCRAFT				
CH-60S (MYP)	181,957	181,957	181,957	181,957
CH-60S (MYP) (AP-CY)	64,212	64,212	64,212	64,212
UC-35	---	7,500	---	7,500
C-9 MODERNIZATION	---	---	---	3,000
TOTAL, AIRLIFT AIRCRAFT	246,169	253,669	246,169	256,669
TRAINER AIRCRAFT				
T-45TS (TRAINER) GOSHAWK	179,331	179,331	179,331	179,331
T-45TS (TRAINER) GOSHAWK (AP-CY)	---	---	13,000	6,500
JPATS	---	---	44,600	30,800
TOTAL, TRAINER AIRCRAFT	179,331	179,331	236,931	216,631

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER AIRCRAFT				
KC-130J	299,047	299,047	289,447	156,847
MODIFICATION OF AIRCRAFT				
EA-6 SERIES	137,645	145,645	157,645	151,645
AV-8 SERIES	49,541	64,541	85,541	74,541
F-14 SERIES	4,504	4,504	7,504	7,004
ADVERSARY	34,769	34,769	34,769	34,769
F-18 SERIES	193,206	185,206	254,106	230,706
H-46 SERIES	38,664	38,664	38,664	38,664
AH-1W SERIES	10,821	17,821	10,821	14,321
H-53 SERIES	16,541	21,541	16,541	19,041
SH-60 SERIES	1,735	4,735	7,735	9,735
H-1 SERIES	1,149	4,149	1,149	2,649
H-3 SERIES	4,191	4,191	4,191	4,191
EP-3 SERIES	123,747	133,747	117,047	124,747
P-3 SERIES	113,191	160,191	176,191	194,391
S-3 SERIES	43,242	43,242	43,242	43,242
E-2 SERIES	14,636	46,636	14,636	42,136
TRAINER A/C SERIES	5,155	5,155	5,155	5,155
C-2A	27,369	25,369	27,369	25,369
C-130 SERIES	5,407	5,407	5,407	5,407
FEWSG	643	643	643	643
CARGO/TRANSPORT A/C SERIES	4,224	4,224	4,224	4,224
E-6 SERIES	74,847	74,847	73,347	74,847
EXECUTIVE HELICOPTERS SERIES	16,183	16,183	16,183	16,183
SPECIAL PROJECT AIRCRAFT	3,088	3,088	3,088	3,088

(In thousands of dollars)

	Budget	House	Senate	Conference
T-45 SERIES	12,778	12,778	5,578	5,578
POWER PLANT CHANGES	13,083	13,083	13,083	13,083
COMMON ECM EQUIPMENT	33,315	34,315	33,315	35,915
COMMON AVIONICS CHANGES	65,147	65,147	65,147	65,147
V-22 (TILT/ROTOR ACFT) OSPREY	35,000	35,000	---	17,500
TOTAL, MODIFICATION OF AIRCRAFT	1,083,821	1,204,821	1,222,321	1,263,921
AIRCRAFT SPARES AND REPAIR PARTS				
SPARES AND REPAIR PARTS	1,420,252	1,353,252	1,305,452	1,320,252
AIRCRAFT SUPPORT EQUIPMENT & FACILITIES				
COMMON GROUND EQUIPMENT	332,926	332,926	319,226	318,726
AIRCRAFT INDUSTRIAL FACILITIES	18,219	22,719	18,219	20,519
WAR CONSUMABLES	12,585	12,585	16,585	15,385
OTHER PRODUCTION CHARGES	27,637	30,637	23,337	23,337
SPECIAL SUPPORT EQUIPMENT	110,897	110,897	110,897	110,897
FIRST DESTINATION TRANSPORTATION	1,568	1,568	1,568	1,568
TOTAL, AIRCRAFT SUPPORT EQUIPMENT & FACILITIES	503,832	511,332	489,832	490,432
TOTAL, AIRCRAFT PROCUREMENT, NAVY	8,252,543	8,084,543	8,030,043	7,938,143

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(in thousands of dollars)

		Budget	House	Senate	Conference
3	**F/A - 18 E/F (FIGHTER) HORNET (MYP)**	3,067,552	3,067,552	3,032,522	3,037,552
	Excessive Growth: Ancillary Support Equipment			-35,000	-30,000
5	**V-22 (MEDIUM LIFT)**	1,009,881	790,881	783,181	783,181
	Reduce 3 aircraft		-219,000	-226,700	-226,700
	V-22 (MEDIUM LIFT) (AP-CY)	48,428	48,428	36,428	36,428
	Excessive Growth: Unrealistic Schedule			-12,000	-12,000
8	**SH-60R**	25,064	10,064	18,564	10,064
	Non Recurring - Schedule Slip		-15,000	-6,500	-15,000
9	**E-2C (EARLY WARNING) HAWKEYE (MYP)**	242,746	239,746	242,746	239,746
	Production Support Cost Growth		-3,000		-3,000
13	**UC-35**	0	7,500		7,500
	Additional Aircraft		+7,500		+7,500
	C-9 MODERNIZATION				3,000
	Hushkits				+3,000
17	**T-45TS (TRAINER) GOSHAWK (AP-CY)**	0	0	13,000	6,500
	Purchase Operational Flight Trainers			+13,000	+6,500
18	**JPATS**	0	0	44,600	30,800
	Additional aircraft			+44,600	+30,800
19	**KC-130J**	299,047	299,047	289,447	156,847
	Excessive Unit Cost Growth			-9,600	-4,800
	Defer 2 Aircraft			-137,400	-137,400
20	**EA-6 SERIES**	137,645	145,645	157,645	151,645
	Additional Band 9/10 Transmitters		+8,000	+20,000	+14,000
21	**AV-8 SERIES**	49,541	64,541	85,541	74,541
	Additional Litening II Pods		+15,000	+36,000	+25,000
22	**F-14 SERIES**	4,504	4,504	7,504	7,004
	TARPS/CD (Note: only for maintenance, spare parts, training and TARPS-CD costs associated with ~~additional~~ additional battle group deployments.)			+3,000	+2,500
24	**F-18 SERIES**	193,206	185,206	254,106	230,706
	Delayed prior year obligations		-10,000		-5,000
	Excessive Growth: SLMP and MIDS			-3,500	-3,500
	PRISM (Note: only for procurement, integration and test of photo reconnaissance strike module for F/A-18C/D and F/A-18E/F)		+2,000		+1,000
	AT FLIR			+30,000	+21,000
	ECP-583			+34,400	+24,000
26	**AH-1W SERIES**	10,821	17,821	10,821	14,321
	Night Targeting System (NTS)		+7,000		+3,500
27	**H-53 SERIES**	16,541	21,541	16,541	19,041
	AN/APR-39A RWR and "A" installation kits		+5,000		+2,500
28	**SH-60 SERIES**	1,735	4,735	7,735	9,735
	AQS-13F Airborne Dipping sonar		+3,000		+2,000
	Airborne Low Frequency Sonars (ALFS)			+6,000	+4,000
	ADHEELS				+2,000
29	**H-1 SERIES**	1,149	4,149	1,149	2,649
	AN/AQQ-22 NTIS Upgrade		+3,000	0	+1,500
31	**EP-3 SERIES**	123,747	133,747	117,047	124,747

		Budget	House	Senate	Conference
	Program Delays/Slow Execution			-14,700	-10,000
	Hyper Wide/Delta Wing SIGINT equipment (Note: only for NRE, procurement, intergration, installation, and testing of Hyper Wide/Delta Wing SIGINT equipment)		+10,000		+5,000
	ARIES II VME SIGINT tuner			+8,000	+6,000
32	**P-3 SERIES**	**113,191**	**160,191**	**176,191**	**194,391**
	Multi-mode receivers (MMRs)		+5,000		+2,500
	SLAM-ER / Harpoon II Integration		+5,000		+3,500
	CNS/ATM		+5,000	+9,000	+6,300
	BMUP SEI Upgrade		+10,000		+7,000
	COTS Aircraft Health Monitoring System		+2,000		+1,400
	Digital Autopilot Upgrade		+4,000		+2,800
	ALR-95 ESM System Upgrade		+7,000		+6,000
	Digital Instantaneous Frequency Measurement DIFM Upgrade		+9,000		+7,700
	Anti-Surface Warfare Improvement Upgrades			+48,000	+36,000
	PACT Trainer			+6,000	+6,000
	Advanced Digital Recorders				+2,000
34	**E-2 SERIES**	**14,636**	**46,636**	**14,636**	**42,136**
	Hawkeye 2000 / CEC Upgrades		+25,000		+21,500
	AN/USC-42 Mini-DAMA UHF SATCOM Terminals		+7,000		+6,000
36	**C-2A**	**27,369**	**25,369**	**27,369**	**25,369**
	Authorization Reduction		-2,000		-2,000
	E-6 SERIES	**74,847**	**74,847**	**73,347**	**74,847**
	Schedule Slip			-1,500	0
	T-45 SERIES	**12,778**	**12,778**	**5,578**	**5,578**
	Unjustified Increase: Direction Control Mods			-7,200	-7,200
45	**COMMON ECM EQUIPMENT**	**33,315**	**34,315**	**33,315**	**35,915**
	Authorization Reduction		-2,000		0
	AN/ARR-47 Optical Sensor Program		+3,000		+2,600
47	**V-22 (TILT/ROTOR AIRCRAFT) OSPREY**	**35,000**	**35,000**		**17,500**
	Unjustified Funding			-35,000	-17,500
48	**SPARES AND REPAIR PARTS**	**1,420,252**	**1,353,252**	**1,305,452**	**1,320,252**
	Program Growth Reduction		-67,000		-100,000
	Excessive Growth: V-22			-99,000	0
	Excessive Growth: KC-130			-9,900	0
	Excessive Growth: T-45			-5,900	0
49	**COMMON GROUND EQUIPMENT**	**332,926**	**332,926**	**319,226**	**318,726**
	Excessive Growth: Automatic Test Equipment			-18,700	-18,700
	Direct Support Squadron Readiness Training			+5,000	+4,500
50	**AIRCRAFT INDUSTRIAL FACILITIES**	**18,219**	**22,719**	**18.219**	**20,519**
	Navy Calibration Standards Support		+4,500		+2,300
	WAR CONSUMABLES	**12,585**	**12,585**	**16,585**	**15,385**
	High Pressure Pure Air Generator			+4,000	+2,800
52	**OTHER PRODUCTION CHARGES**	**27,637**	**30,637**	**23,337**	**23,337**
	TARPS-CD (Note: $2,500,000 funded in F-14 Series)		+3,000		0
	Excessive Growth: F-14 WSSA			-4,300	-4,300

Joint Primary Aircraft Training System (JPATS)

The conference agreement provides an additional $30,800,000 to purchase a minimum of seven aircraft. Should production costs result in a lower than assumed unit cost, the Navy is encouraged to use whatever funds remain to purchase additional JPATS aircraft. Also, the conferees expect the Navy to fund, at economic rates, additional purchases of JPATS trainer aircraft in future budget requests.

WEAPONS PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
WEAPONS PROCUREMENT, NAVY				
BALLISTIC MISSILES				
TRIDENT II	559,042	534,042	509,042	534,042
TRIDENT II (AP-CY)	8,727	8,727	8,727	8,727
SUPPORT EQUIPMENT AND FACILITIES				
MISSILE INDUSTRIAL FACILITIES	1,275	1,275	1,275	1,275
THEATER BALLISTIC MISSILE DEFENSE				
NAVY AREA MISSILE DEFENSE	6,983	---	6,983	---
TOTAL, BALLISTIC MISSILES	576,027	544,044	526,027	544,044
OTHER MISSILES				
STRATEGIC MISSILES				
TOMAHAWK	50,101	65,101	85,101	74,601
ESSM	45,017	42,017	45,017	42,017
TACTICAL MISSILES				
AMRAAM	40,028	37,028	40,028	37,028
SIDEWINDER	27,310	27,310	24,410	24,410
SLAM-ER	26,174	26,174	26,174	26,174
STANDARD MISSILE	195,404	195,404	195,404	151,404
RAM	43,024	43,024	43,024	43,024
AERIAL TARGETS	66,349	66,349	58,849	58,849
DRONES AND DECOYS	---	---	20,000	14,000
OTHER MISSILE SUPPORT	15,840	15,840	15,840	15,840
MODIFICATION OF MISSILES				
SIDEWINDER MODS	802	802	802	802
STANDARD MISSILES MODS	35,353	35,353	35,353	35,353

(In thousands of dollars)

	Budget	House	Senate	Conference
SUPPORT EQUIPMENT AND FACILITIES				
WEAPONS INDUSTRIAL FACILITIES	17,247	17,247	37,247	36,247
FLEET SATELLITE COMM FOLLOW-ON	77,840	77,840	77,840	77,840
ORDNANCE SUPPORT EQUIPMENT				
ORDNANCE SUPPORT EQUIPMENT	4,210	9,210	4,210	6,710
TOTAL, OTHER MISSILES	644,699	658,699	709,299	644,299
TORPEDOES AND RELATED EQUIPMENT				
TORPEDOES AND RELATED EQUIP.				
ASW TARGETS	15,335	15,335	15,335	15,335
MOD OF TORPEDOES AND RELATED EQUIP				
MK-46 TORPEDO MODS	7,444	7,444	7,444	7,444
MK-48 TORPEDO ADCAP MODS	42,386	42,386	42,386	42,386
QUICKSTRIKE MINE	3,899	3,899	3,899	3,899
SUPPORT EQUIPMENT				
TORPEDO SUPPORT EQUIPMENT	30,025	30,025	30,025	30,025
ASW RANGE SUPPORT	14,861	20,861	14,861	18,361
DESTINATION TRANSPORTATION				
FIRST DESTINATION TRANSPORTATION	2,802	2,802	2,802	2,802
TOTAL, TORPEDOES AND RELATED EQUIPMENT	116,752	122,752	116,752	120,252
OTHER WEAPONS				
GUNS AND GUN MOUNTS				
SMALL ARMS AND WEAPONS	910	910	910	910
MODIFICATION OF GUNS AND GUN MOUNTS				
CIWS MODS	40,503	48,503	40,503	44,503
GUN MOUNT MODS	5,748	5,748	35,748	26,748
TOTAL, OTHER WEAPONS	47,161	55,161	77,161	72,161
SPARES AND REPAIR PARTS	48,836	48,836	48,836	48,836
TOTAL, WEAPONS PROCUREMENT, NAVY	1,433,475	1,429,492	1,478,075	1,429,592

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(in thousands of dollars)

		Budget	House	Senate	Conference
1	**TRIDENT II**	**559,042**	**534,042**	**509,042**	**534,042**
	D-5 Service Life Extension Program		-25,000	-50,000	-25,000
4	**NAVY AREA MISSILE DEFENSE**	**6,983**	**0**	**6,983**	**0**
	Transfer to Title IX - Procurement, BMDO		-6,983		
	Program Termination				-6,983
5	**TOMAHAWK**	**50,101**	**65,101**	**85,101**	**74,601**
	Additional Tooling and Test equipment		+15,000	+35,000	+24,500
6	**ESSM**	**45,017**	**42,017**	**45,017**	**42,017**
	Support Cost Growth Reduction		-3,000		-3,000
7	**AMRAAM**	**40,028**	**37,028**	**40,028**	**37,028**
	Support Cost Growth Reduction		-3,000		-3,000
8	**SIDEWINDER**	**27,310**	**27,310**	**24,410**	**24,410**
	Contract Savings			-2,900	-2,900
11	**STANDARD MISSILE**	**195,404**	**195,404**	**195,404**	**151,404**
	Navy Area Theater Transfer				-44,000
15	**AERIAL TARGETS**	**66,349**	**66,349**	**58,849**	**58,849**
	SSST Program Delays			-7,500	-7,500
16	**DRONES AND DECOYS**	**0**	**0**	**20,000**	**14,000**
	ITALD			+20,000	+14,000
21	**WEAPONS INDUSTRIAL FACILITIES**	**17,247**	**17,247**	**37,247**	**36,247**
	Alleghany Ballsitics Laboratory			+20,000	+19,000
24	**ORDNANCE SUPPORT EQUIPMENT**	**4,210**	**9,210**	**4,210**	**6,710**
	Increased Mk-54 torpedo procurement		+5,000		+2,500
30	**ASW RANGE SUPPORT**	**14,861**	**20,861**	**14,861**	**18,361**
	Northwest Undersea Test Range Upgrades		+5,000		+3,500
	Next Generation RIDC		+1,000		
33	**CIWS MODS**	**40,503**	**48,503**	**40,503**	**44,503**
	CIWS Block 1B Upgrade kits and spares		+8,000		+4,000
36	**GUN MOUNT MODS**	**5,748**	**5,748**	**35,748**	**26,748**
	MK 45 Mod 4 Guns			+30,000	+21,000

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

The conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT OF AMMO, NAVY & MARINE CORPS				
PROC AMMO, NAVY				
NAVY AMMUNITION				
GENERAL PURPOSE BOMBS	65,155	65,155	65,155	65,155
JDAM	41,133	41,133	37,133	41,133
AIRBORNE ROCKETS, ALL TYPES	21,138	21,138	21,138	21,138
MACHINE GUN AMMUNITION	16,423	16,423	13,423	13,423
PRACTICE BOMBS	35,019	40,019	35,019	37,519
CARTRIDGES & CART ACTUATED DEVICES	26,697	26,697	19,397	19,397
AIRCRAFT ESCAPE ROCKETS	10,784	10,784	10,784	10,784
AIR EXPENDABLE COUNTERMEASURES	36,403	42,903	39,403	39,703
JATOS	4,771	4,771	4,771	4,771
5 INCH/54 GUN AMMUNITION	12,009	16,009	18,009	16,209
EXTENDED RANGE GUIDED MUNITIONS (ERGM)	5,151	5,151	5,151	5,151
76MM GUN AMMUNITION	990	990	990	990
OTHER SHIP GUN AMMUNITION	7,318	7,318	7,318	7,318
SMALL ARMS & LANDING PARTY AMMO	8,878	8,878	8,878	8,878
PYROTECHNIC AND DEMOLITION	8,439	8,439	8,439	8,439
MINE NEUTRALIZATION DEVICES	4,985	4,985	4,985	4,985
AMMUNITION LESS THAN $5 MILLION	1,343	1,343	1,343	1,343
CAWCF CLOSURE COSTS	6,993	6,993	6,993	6,993
TOTAL, PROC AMMO, NAVY	313,629	329,129	308,329	313,329

(In thousands of dollars)

	Budget	House	Senate	Conference
PROC AMMO, MC				
MARINE CORPS AMMUNITION				
5.56 MM, ALL TYPES	9,402	9,402	9,402	9,402
7.62 MM, ALL TYPES	7,395	7,395	7,395	7,395
LINEAR CHARGES, ALL TYPES	18,957	18,957	18,957	18,957
.50 CALIBER	6,225	6,225	6,225	6,225
40 MM, ALL TYPES	5,857	5,857	5,857	5,857
60MM, ALL TYPES	2,699	2,699	2,699	2,699
81MM, ALL TYPES	6,669	6,669	6,669	6,669
120MM, ALL TYPES	7,639	17,639	7,639	14,639
CTG, 25MM, ALL TYPES	6,031	6,031	6,031	6,031
9 MM ALL TYPES	2,832	2,832	2,832	2,832
GRENADES, ALL TYPES	10,533	12,533	10,533	11,533
STINGER SLEP	7,330	7,330	7,330	7,330
ROCKETS, ALL TYPES	4,794	4,794	4,794	4,794
ARTILLERY, ALL TYPES	24,488	24,488	15,488	15,488
DEMOLITION MUNITIONS, ALL TYPES	2,925	10,925	2,925	8,525
NON LETHALS	4,461	4,461	4,461	4,461
AMMO MODERNIZATION	7,019	7,019	7,019	7,019
ITEMS LESS THAN $5 MILLION	1,014	1,014	1,014	1,014
CAWCF CLOSURE COSTS	7,200	7,200	7,200	7,200
TOTAL, PROC AMMO, MC	143,470	163,470	134,470	148,070
TOTAL, PROCUREMENT OF AMMO, NAVY & MARINE CORPS	457,099	492,599	442,799	461,399

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(in thousands of dollars)

		Budget	House	Senate	Conference
3	**JDAM**	**41,133**	**41,133**	**37,133**	**41,133**
	Support Cost Increase			-4,000	-4,000
	Additional Kits				+4,000
6	**MACHINE GUN AMMUNITION**	**16,423**	**16,423**	**13,423**	**13,423**
	20MM Linkless Cost Growth			-3,000	-3,000
7	**PRACTICE BOMBS**	**35,019**	**40,019**	**35,019**	**37,519**
	Laser Guided Training Rounds		+5,000		+2,500
8	**CARTRIDGES & CART ACTUATED DEVICES**	**26,697**	**26,697**	**19,397**	**19,397**
	Cost Growth			-7,300	-7,300
10	**AIR EXPENDABLE COUNTERMEASURES**	**36,403**	**42,903**	**39,403**	**39,703**
	MJU-52/B IR Expendable Countermeasures		+6,500	+3,000	+3,300
12	**5 INCH/54 GUN AMMUNITION**	**12,009**	**16,009**	**18,009**	**16,209**
	Continuous Processing Scale-up Facility Outfitting		+4,000	+6,000	+4,200
28	**120MM, ALL TYPES**	**7,639**	**17,639**	**7,639**	**14,639**
	M830A1 Ammunition		+10,000		+7,000
31	**GRENADES, ALL TYPES**	**10,533**	**12,533**	**10,533**	**11,533**
	M67A1 Fragmentation Hand Grenade Electro/Mechanical Fuze		+2,000		+1,000
34	**ARTILLERY, ALL TYPES**	**24,488**	**24,488**	**15,488**	**15,488**
	105 HE Projectile			-9,000	-9,000
35	**DEMOLITION MUNITIONS, ALL TYPES**	**2,925**	**10,925**	**2,925**	**8,525**
	SMAW, High Explosive Dual Purpose Ammunition		+8,000		+5,600

SHIPBUILDING AND CONVERSION, NAVY

The conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
SHIPBUILDING & CONVERSION, NAVY				
OTHER WARSHIPS				
CARRIER REPLACEMENT PROGRAM (AP-CY)	138,890	138,890	138,890	138,890
SSGN (AP-CY)	86,440	549,440	279,440	365,440
VIRGINIA CLASS SUBMARINE	1,608,914	1,578,914	1,608,914	1,578,914
VIRGINIA CLASS SUBMARINE (AP-CY)	684,288	684,288	684,288	684,288
CVN REFUELING OVERHAULS	1,118,124	1,175,124	1,118,124	1,148,124
CVN REFUELING OVERHAULS (AP-CY)	73,707	73,707	73,707	73,707
SUBMARINE REFUELING OVERHAULS	382,265	382,265	382,265	382,265
SUBMARINE REFUELING OVERHAULS (AP-CY)	77,750	77,750	77,750	77,750
DDG-51	2,966,036	3,786,036	2,966,036	2,966,036
DDG-51 (AP-CY)	---	---	---	125,000
CRUISER CONVERSION	---	---	458,238	75,000
TOTAL, OTHER WARSHIPS	7,136,414	8,446,414	7,787,652	7,615,414
AMPHIBIOUS SHIPS				
LHD-1 AMPHIBIOUS ASSAULT SHIP	267,238	---	267,238	267,238
LPD-17 (AP-CY)	421,330	286,330	155,000	155,000
TOTAL, AMPHIBIOUS SHIPS	688,568	286,330	422,238	422,238

(In thousands of dollars)

	Budget	House	Senate	Conference
AUXILIARIES, CRAFT, AND PRIOR-YEAR PROGRAM				
T-AKE	370,818	370,818	---	370,818
OUTFITTING	307,230	297,230	307,230	302,230
LCAC SLEP	41,091	46,091	52,091	46,091
COMPLETION OF PY SHIPBUILDING PROGRAMS	800,000	680,000	725,000	729,248
MINE HUNTER SWATH	---	2,000	---	1,000
YARD OILERS	---	6,000	---	3,000
TOTAL, AUXILIARIES, CRAFT, AND PRIOR-YEAR PROGRAM	1,519,139	1,402,139	1,084,321	1,452,387
TOTAL, SHIPBUILDING & CONVERSION, NAVY	9,344,121	10,134,883	9,294,211	9,490,039

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(in thousands of dollars)

		Budget	House	Senate	Conference
3	**SSGN (AP-CY)**	**86,440**	**549,440**	**279,440**	**365,440**
	(Note: of the additional funds made available, $112,000,000 is only for the procurement of an additional reactor core to support a four boat SSGN program.)		+463,000		+279,000
	Program Acceleration			+193,000	0
4	**VIRGINIA CLASS SUBMARINE**	**1,608,914**	**1,578,914**	**1,608,914**	**1,578,914**
	Cost Growth Reduction		-30,000		-30,000
6	**CVN REFUELING OVERHAULS**	**1,118,124**	**1,175,124**	**1,118,124**	**1,148,124**
	CVN-69 RCOH		+57,000		+30,000
10	**DDG-51**	**2,966,036**	**3,786,036**	**2,966,036**	**3,091,036**
	Additional advance procurement for next multiyear acquisition		+820,000		+125,000
	CRUISER CONVERSION	**0**	**0**	**458,238**	**75,000**
	Program Acceleration			+458,238	+75,000
12	**LHD-1 AMPHIBIOUS ASSAULT SHIP**	**267,238**	**0**	**267,238**	**267,238**
	Slow prior year obligation		-267,238		0
15	**LPD-17 (AP-CY)**	**421,330**	**286,330**	**155,000**	**155,000**
	Premature long-lead for LPDs 23/24		-135,000	-266,330	-266,330
16	**T-AKE**	**370,818**	**370,818**	**0**	**370,818**
18	**OUTFITTING**	**307,230**	**297,230**	**307,230**	**302,230**
	Authorization Reduction		-10,000		-5,000
	Composite Fairwaters				(2,500)
19	**LCAC SLEP**	**41,091**	**46,091**	**52,091**	**46,091**
20	**COMPLETION OF PY SHIPBUILDING PROGRAMS**	**800,000**	**680,000**	**725,000**	**729,248**
	LPD-17		-75,000	-75,000	-75,000
	SSN-774		-25,000		
	CVN-76		-20,000		
	Submarine Refuelings				16,248
	General Reduction				-12,000
21	**MINE HUNTER SWATH**	**0**	**2,000**	**0**	**1,000**
22	**YARD OILERS**	**0**	**6,000**	**0**	**3,000**

Tactical Trident – SSGN

The conferees have agreed to provide a total of $440,440,000 in procurement and research funding for the Tactical Trident program, an increase of $324,000,000 to the budget request. The additional funding is provided for the acquisition of a nuclear reactor core, and all necessary, design, planning, and long-lead component costs to initiate a four boat SSGN program. The conferees strongly endorse this program and direct the Department of the Navy to budget accordingly in its out-year budget plan to support a total of four Tactical Trident conversions.

OTHER PROCUREMENT, NAVY

The Conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER PROCUREMENT, NAVY				
SHIPS SUPPORT EQUIPMENT				
SHIP PROPULSION EQUIPMENT				
LM-2500 GAS TURBINE	7,083	7,083	7,083	7,083
ALLISON 501K GAS TURBINE	6,896	6,896	6,896	6,896
PROPELLERS				
SUBMARINE PROPELLERS	4,460	4,460	4,460	4,460
NAVIGATION EQUIPMENT				
OTHER NAVIGATION EQUIPMENT	45,946	60,446	58,946	60,446
UNDERWAY REPLENISHMENT EQUIPMENT				
UNDERWAY REPLENISHMENT EQUIPMENT	1,802	1,802	1,802	1,802
PERISCOPES				
SUB PERISCOPES & IMAGING EQUIP	29,240	29,240	29,240	29,240
OTHER SHIPBOARD EQUIPMENT				
FIREFIGHTING EQUIPMENT	17,539	17,539	17,539	17,539
COMMAND AND CONTROL SWITCHBOARD	9,139	9,139	9,139	9,139
POLLUTION CONTROL EQUIPMENT	66,958	66,958	66,958	66,958
SUBMARINE SUPPORT EQUIPMENT	6,796	6,796	6,796	6,796
SUBMARINE BATTERIES	10,891	10,891	10,891	10,891
STRATEGIC PLATFORM SUPPORT EQUIP	11,276	24,276	11,276	21,376
DSSP EQUIPMENT	7,498	7,498	7,498	7,498
MINESWEEPING EQUIPMENT	20,168	20,168	20,168	20,168
ITEMS LESS THAN $5 MILLION	79,285	74,285	79,285	74,285
SUBMARINE LIFE SUPPORT SYSTEM	4,940	4,940	4,940	4,940
REACTOR PLANT EQUIPMENT				
REACTOR COMPONENTS	208,849	208,849	208,849	208,849

(In thousands of dollars)

	Budget	House	Senate	Conference
OCEAN ENGINEERING				
DIVING AND SALVAGE EQUIPMENT..........................	5,712	5,712	5,712	5,712
SMALL BOATS				
STANDARD BOATS.......................................	32,151	36,151	32,151	34,951
TRAINING EQUIPMENT				
OTHER SHIPS TRAINING EQUIPMENT........................	16,772	16,772	16,772	16,772
PRODUCTION FACILITIES EQUIPMENT				
OPERATING FORCES IPE..................................	27,522	24,822	38,522	33,322
OTHER SHIP SUPPORT				
NUCLEAR ALTERATIONS...................................	121,105	121,105	121,105	121,105
TOTAL, SHIPS SUPPORT EQUIPMENT......................	742,028	765,828	766,028	770,228
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
SHIP RADARS				
RADAR SUPPORT..	---	29,000	9,000	23,800
SHIP SONARS				
AN/SQQ-89 SURF ASW COMBAT SYSTEM......................	16,561	16,561	16,561	16,561
SSN ACOUSTICS...	113,016	122,016	113,016	119,316
UNDERSEA WARFARE SUPPORT EQUIPMENT....................	4,263	9,263	4,263	16,563
SONAR SWITCHES AND TRANSDUCERS........................	10,808	10,808	10,808	10,808
ASW ELECTRONIC EQUIPMENT				
SUBMARINE ACOUSTIC WARFARE SYSTEM.....................	12,624	12,624	13,624	13,624
FIXED SURVEILLANCE SYSTEM.............................	33,692	33,692	33,692	33,692
SURTASS...	17,650	17,650	17,650	17,650
ASW OPERATIONS CENTER.................................	6,059	6,059	6,059	6,059
ELECTRONIC WARFARE EQUIPMENT				

(In thousands of dollars)

	Budget	House	Senate	Conference
AN/SLQ-32	1,971	1,971	1,971	1,971
INFORMATION WARFARE SYSTEMS	2,908	2,908	2,908	2,908
RECONNAISSANCE EQUIPMENT				
SHIPBOARD IW EXPLOIT	57,535	57,535	57,535	57,535
SUBMARINE SURVEILLANCE EQUIPMENT				
SUBMARINE SUPPORT EQUIPMENT PROG	22,928	22,928	22,928	22,928
OTHER SHIP ELECTRONIC EQUIPMENT				
NAVY TACTICAL DATA SYSTEM	---	10,000	---	8,500
COOPERATIVE ENGAGEMENT CAPABILITY	77,133	87,133	77,133	85,633
GCCS-M EQUIPMENT	61,085	61,085	61,085	61,085
NAVAL TACTICAL COMMAND SUPPORT SYSTEM (NTCSS)	42,826	42,826	42,826	42,826
ATDLS	9,965	9,965	9,965	9,965
MINESWEEPING SYSTEM REPLACEMENT	8,903	11,903	8,903	10,403
NAVSTAR GPS RECEIVERS (SPACE)	9,857	9,857	9,857	9,857
ARMED FORCES RADIO AND TV	14,609	14,609	14,609	14,609
STRATEGIC PLATFORM SUPPORT EQUIP	11,361	11,361	11,361	11,361
TRAINING EQUIPMENT				
OTHER SPAWAR TRAINING EQUIPMENT	1,793	1,793	1,793	1,793
OTHER TRAINING EQUIPMENT	37,225	37,225	47,725	44,525
AVIATION ELECTRONIC EQUIPMENT				
MATCALS	1,005	1,005	1,005	1,005
SHIPBOARD AIR TRAFFIC CONTROL	8,036	8,036	8,036	8,036
AUTOMATIC CARRIER LANDING SYSTEM	15,617	15,617	15,617	15,617
NATIONAL AIR SPACE SYSTEM	43,618	27,618	19,918	23,618
AIR STATION SUPPORT EQUIPMENT	7,421	7,421	7,421	7,421

(In thousands of dollars)

	Budget	House	Senate	Conference
MICROWAVE LANDING SYSTEM	5,409	5,409	5,409	5,409
FACSFAC	1,151	1,151	1,151	1,151
ID SYSTEMS	18,310	17,310	18,310	17,310
SURFACE IDENTIFICATION SYSTEMS	---	2,000	---	1,000
TAC A/C MISSION PLANNING SYS(TAMPS)	13,411	13,411	13,411	13,411
OTHER SHORE ELECTRONIC EQUIPMENT				
TADIX-B	---	14,300	---	12,100
NAVAL SPACE SURVEILLANCE SYSTEM	4,898	3,498	4,898	3,898
COMMON IMAGERY GROUND SURFACE SYSTEMS	58,446	58,446	58,446	58,446
RADIAC	7,876	7,876	7,876	7,876
GPETE	4,727	4,727	4,727	4,727
INTEG COMBAT SYSTEM TEST FACILITY	4,502	4,502	4,502	4,502
EMI CONTROL INSTRUMENTATION	5,162	5,162	5,162	5,162
ITEMS LESS THAN $5 MILLION	6,332	9,332	6,332	8,932
SHIPBOARD COMMUNICATIONS				
SHIP COMMUNICATIONS AUTOMATION	121,242	127,242	121,242	125,642
COMMUNICATIONS ITEMS LESS THAN $5 MILLION	24,278	47,278	24,278	43,878
SUBMARINE COMMUNICATIONS				
SHORE LF/VLF COMMUNICATIONS	17,517	17,517	17,517	17,517
SUBMARINE COMMUNICATION EQUIPMENT	89,309	89,309	89,309	89,309
SATELLITE COMMUNICATIONS				
SATELLITE COMMUNICATIONS SYSTEMS	198,143	210,143	198,143	204,143
SHORE COMMUNICATIONS				
JCS COMMUNICATIONS EQUIPMENT	4,623	4,623	4,623	4,623
ELECTRICAL POWER SYSTEMS	1,301	1,301	1,301	1,301

(In thousands of dollars)

	Budget	House	Senate	Conference
NSIPS	14,232	14,232	14,232	14,232
JEDMICS	---	8,000	5,000	11,500
NAVAL SHORE COMMUNICATIONS	66,772	83,772	115,472	77,272
CRYPTOGRAPHIC EQUIPMENT				
INFO SYSTEMS SECURITY PROGRAM (ISSP)	78,170	84,170	78,170	81,170
CRYPTOLOGIC EQUIPMENT				
CRYPTOLOGIC COMMUNICATIONS EQUIP	15,595	15,595	15,595	15,595
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	1,411,875	1,550,775	1,462,375	1,529,775
AVIATION SUPPORT EQUIPMENT				
SONOBUOYS				
SONOBUOYS - ALL TYPES	57,886	57,886	67,886	62,886
AIRCRAFT SUPPORT EQUIPMENT				
WEAPONS RANGE SUPPORT EQUIPMENT	10,129	10,129	17,629	15,429
PACIFIC MISSILE RANGE	---	---	6,000	5,100
EXPEDITIONARY AIRFIELDS	7,551	7,551	7,551	7,551
AIRCRAFT REARMING EQUIPMENT	12,265	12,265	12,265	12,265
AIRCRAFT LAUNCH & RECOVERY EQUIPMENT	27,500	27,500	27,500	27,500
METEOROLOGICAL EQUIPMENT	29,833	29,833	29,833	29,833
OTHER PHOTOGRAPHIC EQUIPMENT	1,710	1,710	1,710	1,710
AVIATION LIFE SUPPORT	21,035	21,035	21,035	21,035
AIRBORNE MINE COUNTERMEASURES	46,860	46,860	46,860	46,860
OTHER AVIATION SUPPORT EQUIPMENT	13,645	13,645	25,645	22,045
TOTAL, AVIATION SUPPORT EQUIPMENT	228,414	228,414	263,914	252,214
ORDNANCE SUPPORT EQUIPMENT				
SHIP GUN SYSTEM EQUIPMENT				

(In thousands of dollars)

	Budget	House	Senate	Conference
GUN FIRE CONTROL EQUIPMENT	17,926	17,926	17,926	24,926
NAVAL FIRES CONTROL SYSTEM	600	600	600	600
SHIP MISSILE SYSTEMS EQUIPMENT				
NATO SEASPARROW	10,670	10,670	10,670	10,670
RAM GMLS	31,838	31,838	31,838	31,838
SHIP SELF DEFENSE SYSTEM	34,378	34,378	34,378	39,378
AEGIS SUPPORT EQUIPMENT	155,113	158,113	88,875	163,613
SURFACE TOMAHAWK SUPPORT EQUIPMENT	61,241	61,241	61,241	61,241
SUBMARINE TOMAHAWK SUPPORT EQUIP	3,062	3,062	3,062	3,062
VERTICAL LAUNCH SYSTEMS	6,857	6,857	6,857	6,857
FBM SUPPORT EQUIPMENT				
STRATEGIC PLATFORM SUPPORT EQUIP	9,823	9,823	9,823	9,823
STRATEGIC MISSILE SYSTEMS EQUIP	205,094	205,094	205,094	204,094
ASW SUPPORT EQUIPMENT				
SSN COMBAT CONTROL SYSTEMS	40,716	40,716	40,716	40,716
SUBMARINE ASW SUPPORT EQUIPMENT	5,935	5,935	5,935	5,935
SURFACE ASW SUPPORT EQUIPMENT	3,213	3,213	9,213	7,413
ASW RANGE SUPPORT EQUIPMENT	6,012	6,012	6,012	6,012
OTHER ORDNANCE SUPPORT EQUIPMENT				
EXPLOSIVE ORDNANCE DISPOSAL EQUIP	9,353	9,353	9,353	9,353
ITEMS LESS THAN $5 MILLION	5,795	5,795	5,795	5,795
OTHER EXPENDABLE ORDNANCE				
ANTI-SHIP MISSILE DECOY SYSTEM	27,513	27,513	27,513	27,513
SURFACE TRAINING DEVICE MODS	7,318	7,318	7,318	7,318
SUBMARINE TRAINING DEVICE MODS	20,753	20,753	20,753	20,753

(In thousands of dollars)

	Budget	House	Senate	Conference
TOTAL, ORDNANCE SUPPORT EQUIPMENT	663,210	666,210	602,972	686,910
CIVIL ENGINEERING SUPPORT EQUIPMENT				
ARMORED SEDANS	440	440	440	440
PASSENGER CARRYING VEHICLES	1,351	1,351	1,351	1,351
GENERAL PURPOSE TRUCKS	1,531	1,531	1,531	1,531
CONSTRUCTION & MAINTENANCE EQUIP	9,587	9,587	9,587	9,587
FIRE FIGHTING EQUIPMENT	5,300	5,300	5,300	5,300
TACTICAL VEHICLES	20,154	20,154	40,154	34,154
AMPHIBIOUS EQUIPMENT	14,633	14,633	14,633	14,633
POLLUTION CONTROL EQUIPMENT	19,969	19,969	19,969	19,969
ITEMS UNDER $5 MILLION	11,323	11,323	11,323	11,323
TOTAL, CIVIL ENGINEERING SUPPORT EQUIPMENT	84,288	84,288	104,288	98,288
SUPPLY SUPPORT EQUIPMENT				
MATERIALS HANDLING EQUIPMENT	8,786	8,786	8,786	8,786
OTHER SUPPLY SUPPORT EQUIPMENT	7,534	9,534	13,534	10,534
FIRST DESTINATION TRANSPORTATION	5,222	5,222	5,222	5,222
SPECIAL PURPOSE SUPPLY SYSTEMS	490,438	490,438	465,438	440,438
TOTAL, SUPPLY SUPPORT EQUIPMENT	511,980	513,980	492,980	464,980
PERSONNEL AND COMMAND SUPPORT EQUIPMENT				
TRAINING DEVICES				
TRAINING SUPPORT EQUIPMENT	1,101	6,101	4,601	4,601
COMMAND SUPPORT EQUIPMENT				
COMMAND SUPPORT EQUIPMENT	28,787	41,787	28,787	37,187
EDUCATION SUPPORT EQUIPMENT	6,646	6,646	1,146	1,146
MEDICAL SUPPORT EQUIPMENT	7,693	7,693	7,693	7,693

(In thousands of dollars)

	Budget	House	Senate	Conference
OPERATING FORCES SUPPORT EQUIPMENT....................	15,812	15,812	15,812	15,812
MOBILE SENSOR PLATFORM................................	4,006	4,006	4,006	4,006
ENVIRONMENTAL SUPPORT EQUIPMENT.......................	25,205	32,705	25,205	31,605
PHYSICAL SECURITY EQUIPMENT...........................	116,932	116,932	116,932	116,932
TOTAL, PERSONNEL AND COMMAND SUPPORT EQUIPMENT......	206,182	231,682	204,182	218,982
SPARE AND REPAIR PARTS				
SPARES AND REPAIR PARTS...............................	234,136	234,136	234,136	234,136
CLASSIFIED PROGRAMS...................................	15,463	15,463	15,463	15,463
TOTAL, OTHER PROCUREMENT, NAVY......................	4,097,576	4,290,776	4,146,338	4,270,976

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(in thousands of dollars)

		Budget	House	Senate	Conference
4	**OTHER NAVIGATION EQUIPMENT**	**45,946**	**60,446**	**58,946**	**60,446**
	MSC Force Protection Thermal Imaging Systems		+7,500	+6,000	+3,500
	Computer Aided Dead Reckoning Tracker (Note: Funds are only to procure and install AN/UYQ-70 computer aided dead reckoning tracers on surface combatants.)		+7,000		+6,000
	WSN-7B			+7,000	+5,000
12	**STRATEGIC PLATFORM SUPPORT EQUIP**	**11,276**	**24,276**	**11,276**	**21,376**
	Submarine Common Electronics Equipment Replacement (Note: Funds are only for the procurement of AN/UYQ-70 family equipment to modernize submarine combat systems.)		+13,000		+10,100
16	**ITEMS LESS THAN $5 MILLION**	**79,285**	**74,285**	**79,285**	**74,285**
	CVN Smartship - Unjustified program growth		-5,000		-5,000
22	**STANDARD BOATS**	**32,151**	**36,151**	**32,151**	**34,951**
	25 Person Life Rafts		+4,000		+2,800
24	**OPERATING FORCES IPE**	**27,522**	**24,822**	**38,522**	**33,322**
	N88 Other Equipment		-2,700		-2,700
	IPDE Enhancement			+6,000	+4,200
	Pearl Harbor Pilot			+5,000	+4,300
28	**RADAR SUPPORT**	**0**	**29,000**	**9,000**	**23,800**
	MK-92 Radar Fire Control Upgrade		+5,000		+2,500
	SPS-73 Surface Search Radar		+14,000		+10,000
	AN/SYS-2 Track Management System for FFG-7s		+10,000		+5,000
	AN/BPS-15H Navigation System			+9,000	+6,300
31	**SSN ACOUSTICS**	**113,016**	**122,016**	**113,016**	**119,316**
	Non-propulsion Electronic System Modernization		+9,000		+6,300
32	**UNDERSEA WARFARE SUPPORT EQUIPMENT**	**4,263**	**9,263**	**4,263**	**16,563**
	Carrier Tactical Surveillance Center (CV-TSC)		+1,000		+2,000
	Surface Ship Torpedo Defense (Note: Funds include $2,000,000 only for procurement of improved littoral winch and tow cable capability.)		+4,000		+3,300
	Submarine Acoustic Intercept System Upgrade				+7,000
36	**SUBMARINE ACOUSTIC WARFARE SYSTEM**	**12,624**	**12,624**	**13,624**	**13,624**
	Expendable Bathythermograph Test Devices			+1,000	+1,000
45	**NAVY TACTICAL DATA SYSTEM**	**0**	**10,000**	**0**	**8,500**
	Shore based AN/UYQ-70 display modernization		+10,000		+8,500
46	**COOPERATIVE ENGAGEMENT CAPABILITY**	**77,133**	**87,133**	**77,133**	**85,633**
	Low Cost Planar Array Antenna Production Transition		+10,000		+8,500
50	**MINESWEEPING SYSTEM REPLACEMENT**	**8,903**	**11,903**	**8,903**	**10,403**
	MCM Sea Bottom Mapping and Change Detection		+3,000		+1,500
56	**OTHER TRAINING EQUIPMENT**	**37,225**	**37,225**	**47,725**	**44,525**
	Tactical Communication On-Board Training			+6,500	+4,500
	Air Traffic Control On-Board Trainer			+4,000	+2,800
60	**NATIONAL AIR SPACE SYSTEM**	**43,618**	**27,618**	**19,918**	**23,618**
	DASR Program Delays		-16,000	-23,700	-20,000
64	**ID SYSTEMS**	**18,310**	**17,310**	**18,310**	**17,310**

		Budget	House	Senate	Conference
	Authorization Reduction		-1,000		-1,000
65	**SURFACE IDENTIFICATION SYSTEMS**	**0**	**2,000**	**0**	**1,000**
	Shipboard Advanced Radar Target ID (SARTIS)		+2,000		+1,000
68	**TADIX-B**	**0**	**14,300**	**0**	**12,100**
	(Note: Only for procurement of additional JTTs)		+14,300		+12,100
69	**NAVAL SPACE SURVEILLANCE SYSTEM**	**4,898**	**3,498**	**4,898**	**3,898**
	Excessive Program Growth		-1,400		-1,000
76	**ITEMS LESS THAN $5 MILLION**	**6,332**	**9,332**	**6,332**	**8,932**
	Integrated Condition Assessment System Wireless Sensors (ICAS) (Note: Only to procure the network capable application processors demonstrated during the total ship monitoring project to integrate with and enhance the capabilities of current and future ICAS installations.)		+3,000		+2,600
78	**SHIP COMMUNICATIONS AUTOMATION**	**121,242**	**127,242**	**121,242**	**125,642**
	NAWCAD MSTIC Equipment Upgrades		+2,000		+1,000
	Programmable Integrated Computer Terminal (Note: Funds are only for engineering modifications for expansion of Programmable Integrated Communications Terminals integration using SPAWAR initiatives and procurement of terminals for the Integrated Voice Network Communication project.)		+4,000		+3,400
80	**COMMUNICATIONS ITEMS LESS THAN $5 MILLION**	**24,278**	**47,278**	**24,278**	**43,878**
	Enhanced COTS ON-201 Secure Voice System Technology (Note: only for procurement and installation of enhanced COTS secure voice system technology production systems in lead ships in the CG modernization program.)		+4,000		+3,400
	IT- 21 Block 1 Upgrade C4ISR Computing Equipment Procurement (Note: Only for procurement of ANN/UYQ-70 advanced tactical servers to support the IT-21 block 1 upgrade program.)		+9,000		+7,700
	Network-Based Shipboard Interior Secure Voice Communications (Note: Only for AN/UYQ-70 secure voice technology equipment for land based evaluation, ILS, training, maintenance development and integration.)		+10,000		+8,500
84	**SATELLITE COMMUNICATIONS SYSTEMS**	**198,143**	**210,143**	**198,143**	**204,143**
	Digital Modular Radio		+12,000		+6,000
89	**JEDMICS**	**0**	**8,000**	**5,000**	**11,500**
	JEDMICS Security Infrastructure (Note: Only for the continued procurement and integration of the same security solution implemented in 2000 and 2001, and its extension into other logistics processes.)		+8,000		+7,000
	PACOM Coalition Wide Area Network			+5,000	+4,500
90	**NAVAL SHORE COMMUNICATIONS**	**66,772**	**83,772**	**115,472**	**77,272**
	Mini-DAMA Terminals (Submarines/Ships)		+10,000		+7,000
	Definity G3 Network Upgrade (Note: Only to complete the telecommunications switch upgrades at the San Diego Naval Complex and the Bremerton, WA Naval Hospital.)		+7,000		+3,500
	Teleports			+48,000	
91	**INFO SYSTEMS SECURITY PROGRAM (ISSP)**	**78,170**	**84,170**	**78,170**	**81,170**
	Intelligent Agent Security Module (Note: Only for SBIR Phase III.)		+3,000		+1,500

		Budget	House	Senate	Conference
	Secure Terminal Equipment		+3,000		+1,500
98	**SONOBUOYS - ALL TYPES**	**57,886**	**57,886**	**67,886**	**62,886**
	Additional Sonobuoys			+10,000	+5,000
100	**WEAPONS RANGE SUPPORT EQUIPMENT**	**10,129**	**10,129**	**17,629**	**15,429**
	Mobile Remote Emitter			+7,500	+5,300
	PACIFIC MISSLE RANGE	**0**	**0**	**6,000**	**5,100**
108	**OTHER AVIATION SUPPORT EQUIPMENT**	**13,645**	**13,645**	**25,645**	**22,045**
	Joint Tactical Data Integration			+12,000	+8,400
109	**GUN FIRE CONTROL EQUIPMENT**	**17,926**	**17,926**	**17,926**	**24,926**
	AN/SPQ-9B shipboard radar upgrade				+7,000
113	**SHIP SELF DEFENSE**	**34,378**	**34,378**	**34,378**	**39,378**
	NULKA Decoy				+5,000
114	**AEGIS SUPPORT EQUIPMENT**	**155,113**	**158,113**	**88,875**	**163,613**
	A4L- 7003 Aegis Computer Center		+3,000		+2,500
	Cruiser Conversion			-66,238	0
	Navy Area Theater Transfer				+2,000
	Theater Surface Combatant Ship Acquisition Systems (Note: For PEO TSC business systems suite upgrades/security measures.)				+4,000
119	**STRATEGIC MISSILE SYSTEMS EQUIP**	**205,094**	**205,094**	**205,094**	**204,094**
	Authorization Reduction		-2,000		-2,000
	Smartship Upgrades		+2,000		+1,000
122	**SURFACE ASW SUPPORT EQUIPMENT**	**3,213**	**3,213**	**9,213**	**7,413**
	MK32 Surface Vessel Torpedo Tubes			+6,000	+4,200
134	**TACTICAL VEHICLES**	20,154	20,154	40,154	34,154
	MTVR			+20,000	+14,000
139	**OTHER SUPPLY SUPPORT EQUIPMENT**	**7,534**	**9,534**	**13,534**	**10,534**
	Serial Number Tracking System (Note; Only to begin integrating this technology into Navy supply and maintenance applications.)		+2,000	+6,000	+3,000
142	**TRAINING SUPPORT EQUIPMENT**	**1,101**	**6,101**	**4,601**	**4,601**
	Trident Sonar Manuals - Data Management and Conversion		+5,000	+3,500	+3,500
145	**COMMAND SUPPORT EQUIPMENT**	**28,787**	**41,787**	**28,787**	**37,187**
	Authorization Reduction		-1,000		-1,000
	Advanced Technical Information System (ATIS)		+1,500		+1,000
	SPAWAR Information Technology Center		+2,000		+1,000
	Man Over Board Indicator (MOBI) (Note: Only to continue the on-going MOBI effort.)		+10,500		+7,400
146	**EDUCATION SUPPORT EQUIPMENT**	**6,646**	**6,646**	**1,146**	**1,146**
	· Training Vessels			-5,500	-5,500
151	**ENVIRONMENTAL SUPPORT EQUIPMENT**	**25,205**	**32,705**	**25,205**	**31,605**
	(Note. Only for the planned collaborative Naval Observatory / University Doppler Spectrometry Telescope Program.)		7,500		6,400

PROCUREMENT, MARINE CORPS

The conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT, MARINE CORPS				
WEAPONS AND COMBAT VEHICLES				
TRACKED COMBAT VEHICLES				
AAV7A1 PIP	77,087	77,087	77,087	77,087
AAAV	1,512	---	1,512	---
LAV PIP	25,783	25,783	25,783	25,783
IMPROVED RECOVERY VEHICLE (IRV)	21,026	21,026	21,026	21,026
MODIFICATION KITS (TRKD VEH)	3,825	3,825	3,825	3,825
ARTILLERY AND OTHER WEAPONS				
MOD KITS (ARTILLERY)	1,478	1,478	1,478	1,478
MARINE ENHANCEMENT PROGRAM	2,243	6,493	2,243	4,343
WEAPONS AND COMBAT VEHICLES LESS THAN $5 MILLION	274	274	274	274
WEAPONS				
MODULAR WEAPON SYSTEM	7,501	4,401	7,501	4,401
OTHER SUPPORT				
OPERATIONS OTHER THAN WAR	1,552	1,552	1,552	1,552
TOTAL, WEAPONS AND COMBAT VEHICLES	142,281	141,919	142,281	139,769
GUIDED MISSILES AND EQUIPMENT				
GUIDED MISSILES				
JAVELIN	1,036	1,036	1,036	1,036
OTHER SUPPORT				
MODIFICATION KITS	6,612	3,612	6,612	3,612
TOTAL, GUIDED MISSILES AND EQUIPMENT	7,648	4,648	7,648	4,648
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
REPAIR AND TEST EQUIPMENT				
AUTO TEST EQUIP SYS	616	616	616	616

(In thousands of dollars)

	Budget	House	Senate	Conference
GENERAL PURPOSE ELECTRONIC TEST EQUIP.................	8,115	8,115	8,115	8,115
INTELL/COMM EQUIPMENT (NON-TEL)				
INTELLIGENCE SUPPORT EQUIPMENT.........................	9,615	9,615	9,615	9,615
MOD KITS (INTEL).......................................	7,217	7,217	7,217	7,217
ITEMS LESS THAN $5 MILLION (INTELL)...................	1,654	1,654	1,654	1,654
REPAIR AND TEST EQUIPMENT (NON-TEL)				
GENERAL PRUPOSE MECHANICAL TMDE.......................	4,578	4,578	4,578	4,578
OTHER COMM/ELEC EQUIPMENT (NON-TEL)				
NIGHT VISION EQUIPMENT................................	22,374	32,374	22,374	29,374
OTHER SUPPORT (NON-TEL)				
ITEMS LESS THAN $5 MILLION (COMM & ELEC)..............	9,028	9,028	9,028	9,028
COMMON COMPUTER RESOURCES.............................	21,302	21,302	21,302	21,302
COMMAND POST SYSTEMS..................................	17,338	17,338	17,338	17,338
RADIO SYSTEMS...	50,911	49,411	50,911	49,411
COMM SWITCHING & CONTROL SYSTEMS......................	---	1,000	---	1,000
COMM & ELEC INFRASTRUCTURE SUPPORT....................	7,546	11,546	7,546	9,546
MOD KITS MAGTF C41....................................	21,136	21,136	21,136	21,136
AIR OPERATIONS C2 SYSTEMS.............................	5,210	3,110	5,210	3,110
INTELLIGENCE C2 SYSTEMS...............................	11,825	11,825	10,555	10,555
FIRE SUPPORT SYSTEM...................................	16,152	16,152	4,252	4,252
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT.....	214,617	226,017	201,447	207,847
SUPPORT VEHICLES				
ADMINISTRATIVE VEHICLES				
COMMERCIAL PASSENGER VEHICLES.........................	773	773	773	773
COMMERCIAL CARGO VEHICLES.............................	6,487	6,487	6,487	6,487

(In thousands of dollars)

	Budget	House	Senate	Conference
TACTICAL VEHICLES				
5/4T TRUCK HMMWV (MYP)	109,201	119,201	109,201	114,201
MEDIUM TACTICAL VEHICLE REPLACEMENT	312,199	309,699	312,199	309,699
OTHER SUPPORT				
ITEMS LESS THAN $5 MILLION	2,564	2,564	2,564	2,564
TOTAL, SUPPORT VEHICLES	431,224	438,724	431,224	433,724
ENGINEER AND OTHER EQUIPMENT				
ENVIRONMENTAL CONTROL EQUIP ASSORT	2,571	2,571	2,571	2,571
BULK LIQUID EQUIPMENT	8,130	8,130	8,130	8,130
TACTICAL FUEL SYSTEMS	2,721	2,721	4,721	3,721
DEMOLITION SUPPORT SYSTEMS	5,674	5,674	5,674	5,674
POWER EQUIPMENT ASSORTED	7,622	7,622	7,622	7,622
MATERIALS HANDLING EQUIPMENT				
COMMAND SUPPORT EQUIPMENT	---	2,000	---	1,700
AMPHIBIOUS RAID EQUIPMENT	2,349	2,349	2,349	2,349
PHYSICAL SECURITY EQUIPMENT	4,846	4,846	4,846	4,846
GARRISON MOBILE ENGR EQUIP	5,938	5,938	5,938	5,938
MATERIAL HANDLING EQUIP	27,453	38,353	23,453	31,053
FIRST DESTINATION TRANSPORTATION	9,340	9,340	9,340	9,340
GENERAL PROPERTY				
FIELD MEDICAL EQUIPMENT	7,530	7,530	15,030	12,830
TRAINING DEVICES	30,566	30,566	30,566	30,566
CONTAINER FAMILY	5,909	5,909	5,909	5,909
FAMILY OF CONSTRUCTION EQUIPMENT	8,281	25,281	8,281	20,181
FAMILY OF INTERNALLY TRANSPORTABLE VEH (ITV)	4,852	4,852	4,852	4,852

(In thousands of dollars)

	Budget	House	Senate	Conference
RAPID DEPLOYABLE KITCHEN	5,947	5,947	5,947	5,947
OTHER SUPPORT				
MODIFICATION KITS	11,892	11,892	11,892	11,892
ITEMS LESS THAN $5 MILLION	7,684	9,184	7,684	7,684
TOTAL, ENGINEER AND OTHER EQUIPMENT	159,305	190,705	164,805	182,805
SPARES AND REPAIR PARTS	26,649	26,649	26,649	26,649
TOTAL, PROCUREMENT, MARINE CORPS	981,724	1,028,662	974,054	995,442

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[in thousands of dollars]

	Budget	House	Senate	Conference
2 AAAV	**1,512**	**0**	**1,512**	**0**
AAAV		-1,512		-1,512
8 MARINE ENHANCEMENT PROGRAM	**2,243**	**6,493**	**2,243**	**4,343**
Bayonnet 2000		+4,250		+2,100
10 MODULAR WEAPON SYSTEM	**7,501**	**4,401**	**7,501**	**4,401**
Modular Weapon System		-3,100		-3,100
16 MODIFICATION KITS	**6,612**	**3,612**	**6,612**	**3,612**
Modification Kits		-3,000		-3,000
23 NIGHT VISION EQUIPMENT	**22,374**	**32,374**	**22,374**	**29,374**
AN/PVS-17 Night Vision Sight		+10,000		+7,000
28 RADIO SYSTEMS	**50,911**	**49,411**	**50,911**	**49,411**
STAR-T Contract Termination		-1,500		-1,500
29 COMM SWITCHING & CONTROL SYSTEMS	**0**	**1,000**	**0**	**1,000**
AN/UXC-10 TS-21 Blackjack Digital Facsimile		+1,000		+1,000
30 COMM & ELEC INFRASTRUCTURE SUPPORT	**7,546**	**11,546**	**7,546**	**9,546**
DPRIS Database (Note: Only for procurement of a second USMC DPRIS Database.)		+4,000		+2,000
32 AIR OPERATIONS C2 SYSTEMS	**5,210**	**3,110**	**5,210**	**3,110**
Legacy Agencies		-2,100		-2,100
33 INTELLIGENCE C2 SYSTEMS	**11,825**	**11,825**	**10,555**	**10,555**
TCAIMS Program Delays			-1,270	-1,270
34 FIRE SUPPORT SYSTEM	**16,152**	**16,152**	**4,252**	**4,252**
Target Location Designation Handoff System			-11,900	-11,900
37 5/4T TRUCK HMMWV (MYP)	**109,201**	**119,201**	**109,201**	**114,201**
HMMWV (Note: only for the procurement of Up-Armored HMMWV variants)		+10,000		+5,000
38 MEDIUM TACTICAL VEHICLE REPLACEMENT	**312,199**	**309,699**	**312,199**	**309,699**
Truck Training Simulators		-2,500		-2,500
42 TACTICAL FUEL SYSTEMS	**2,721**	**2,721**	**4,721**	**3,721**
Aluminum Mesh Tank Liner			+2,000	+1,000

	Budget	House	Senate	Conference
44 POWER EQUIPMENT ASSORTED	**7,622**	**7,622**	**7,622**	**7,622**
Laser Leveling		+1,000		+1,000
Portable Floodlights and Generators		-1,000		-1,000
46 COMMAND SUPPORT EQUIPMENT	**0**	**2,000**	**0**	**1,700**
MIC-240 Ultimate Building Machines for Marine Corps engineering units		+2,000		+1,700
50 MATERIAL HANDLING EQUIP	**27,453**	**38,353**	**23,453**	**31,053**
Extendable Boom Forklift		+3,500		+2,500
TRAM		+7,400		+5,100
Forklift 4K			-4,000	-4,000
52 FIELD MEDICAL EQUIPMENT	**7,530**	**7,530**	**15,030**	**12,830**
CBIRF Personnel Protection Equipment			+7,500	+5,300
55 FAMILY OF CONSTRUCTION EQUIPMENT	**8,281**	**25,281**	**8,281**	**20,181**
D-7 Bulldozers		+17,000		+11,900
59 ITEMS LESS THAN $5 MILLION	**7,684**	**9,184**	**7,684**	**7,684**
Aluminum mesh Liners/Propane Tanks		+1,500		

AIRCRAFT PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, AIR FORCE				
COMBAT AIRCRAFT				
TACTICAL FORCES				
F-22 RAPTOR	2,658,153	2,655,553	2,658,153	2,769,553
F-22 RAPTOR (AP-CY)	379,159	234,759	379,159	267,759
TOTAL, COMBAT AIRCRAFT	3,037,312	2,890,312	3,037,312	3,037,312
AIRLIFT AIRCRAFT				
TACTICAL AIRLIFT				
C-17A (MYP)	2,875,775	2,808,425	2,839,775	2,808,425
C-17A (MYP) (AP-CY)	228,100	431,000	371,100	371,000
C-17 ICS	441,163	482,263	441,163	481,763
OTHER AIRLIFT				
C-130J	221,809	---	110,904	163,100
TOTAL, AIRLIFT AIRCRAFT	3,766,847	3,721,688	3,762,942	3,824,288
TRAINER AIRCRAFT				
OPERATIONAL TRAINERS				
JPATS	228,409	270,409	228,409	228,409
OTHER AIRCRAFT				
HELICOPTERS				
V-22 OSPREY	95,110	180,000	---	---
V-22 OSPREY (AP-CY)	14,991	---	---	---
MISSION SUPPORT AIRCRAFT				
C-32B FEST/DEST AIRCRAFT	72,451	72,451	72,451	72,451
CIVIL AIR PATROL A/C	2,629	9,629	6,629	7,529
TARGET DRONES	35,484	35,484	35,484	35,484
C-40 MEDEVAC	---	85,000	---	---

(In thousands of dollars)

	Budget	House	Senate	Conference
EC-130H	19,000	---	19,000	---
E-8C	283,202	273,202	283,202	275,202
E-8C (AP-CY)	49,000	49,000	49,000	49,000
HAEUAV	85,427	85,427	85,427	85,427
HAEUAV (AP-CY)	33,500	---	33,500	33,500
PREDATOR UAV	19,632	39,632	19,632	36,632
TOTAL, OTHER AIRCRAFT	710,426	829,825	604,325	595,225
MODIFICATION OF INSERVICE AIRCRAFT				
STRATEGIC AIRCRAFT				
B-2A	11,858	25,358	11,858	22,858
B-1B	95,493	37,693	37,693	37,693
B-52	3,548	3,548	23,948	17,848
F-117	---	27,620	27,260	27,260
TACTICAL AIRCRAFT				
A-10	18,547	18,547	23,547	21,047
F-15	212,160	237,160	237,160	246,060
F-16	231,962	236,962	236,962	236,962
T/AT-37	84	84	84	84
AIRLIFT AIRCRAFT				
C-5	103,214	12,714	103,214	32,714
C-9	647	647	647	647
C-17A	139,278	98,878	139,278	112,278
C-21	2,675	2,675	2,675	2,675
C-32A	40,393	40,393	40,393	40,393
C-37A	379	379	379	379

(In thousands of dollars)

	Budget	House	Senate	Conference
C-141	825	825	825	825
TRAINER AIRCRAFT				
T-38	144,726	159,726	144,726	157,526
T-41 AIRCRAFT	90	90	90	90
T-43	3,750	3,750	3,750	3,750
OTHER AIRCRAFT				
KC-10A (ATCA)	31,249	31,249	31,249	31,249
C-12	412	412	412	412
C-18	830	830	830	830
C-20 MODS	635	635	635	635
VC-25A MOD	14,165	14,165	14,165	14,165
C-130	57,936	59,936	63,936	66,736
C-135	231,066	175,066	231,066	175,066
DARP	195,045	199,045	209,585	207,745
E-3	92,520	92,520	92,520	92,520
E-4	45,539	45,539	45,539	45,539
E-8	82,996	64,296	71,496	67,796
H-1	288	288	288	288
H-60	26,519	26,519	26,519	26,519
OTHER AIRCRAFT	50,954	50,954	50,954	50,954
PREDATOR MODS	10,384	16,384	10,384	15,484
OTHER MODIFICATIONS				
CLASSIFIED PROJECTS	23,227	42,227	23,227	42,227
TOTAL, MODIFICATION OF INSERVICE AIRCRAFT	1,873,394	1,727,114	1,907,294	1,799,254
AIRCRAFT SPARES AND REPAIR PARTS				

(In thousands of dollars)

	Budget	House	Senate	Conference
SPARES/REPAIR PARTS	321,539	321,539	295,139	295,139
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				
COMMON SUPPORT EQUIPMENT				
AIRCRAFT SUPPORT EQ & FACILITIES	211,334	211,334	211,334	211,334
POST PRODUCTION SUPPORT				
B-2A	12,647	12,647	12,647	12,647
B-2A	38,612	38,612	38,612	38,612
B-1B	6,400	6,400	6,400	6,400
C-130	1,372	1,372	1,372	1,372
F-15 POST PRODUCTION SUPPORT	7,409	7,409	7,409	7,409
F-16 POST PRODUCTION SUPPORT	14,542	14,542	14,542	14,542
INDUSTRIAL PREPAREDNESS	25,711	25,711	25,711	25,711
WAR CONSUMABLES	44,369	49,369	44,369	48,369
MISC PRODUCTION CHARGES	324,986	329,986	324,986	327,986
COMMON ECM EQUIPMENT	1,200	1,200	1,200	1,200
DARP	90,329	90,329	93,329	91,829
CLASSIFIED PROGRAMS	27,620	---	---	---
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	806,531	788,911	781,911	787,411
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	10,744,458	10,549,798	10,617,332	10,567,038

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

		Budget	House	Senate	Conference
1	**F-22 RAPTOR**	**2,658,153**	**2,655,553**	**2,658,153**	**2,769,553**
	Transfer funding for DMS		+111,400		+111,400
	Unjustified amount for tooling		-100,000		0
	Ancillary equipment procured ahead of need		-14,000		0
2	**F-22 RAPTOR (AP-CY)**	**379,159**	**234,759**	**379,159**	**267,759**
	Transfer funding for DMS		-111,400		-111,400
	Reduced requirement for AP based on DAB reduction of 3 aircraft in FY 2003		-33,000		0
7	**C-17A (MYP)**	**2,875,775**	**2,808,425**	**2,839,775**	**2,808,425**
	Transfer whole engine spares to C-17 ICS		-18,600		-18,600
	TEPATS simulator		+9,750		+9,750
	Rate impact savings		-36,000	-36,000	-36,000
	AF requested realignment from C-17 ICS		-22,500		-22,500
8	**C-17A (MYP) (AP-CY)**	**228,100**	**431,000**	**371,100**	**371,100**
	Rate impact		+36,000		0
	AF identified reduction in AP requirements		-14,000		0
	EOQ for second C-17 MYP		+180,900	+143,000	+143,000
9	**C-17 ICS**	**441,163**	**482,263**	**441,163**	**481,763**
	Transfer whole engine spares to ICS		+18,600		+18,600
	AF requested realignment to C-17 MYP line-item		+22,500		+22,000
11	**C-130J**	**221,809**	**0**	**110,904**	**163,100**
	Transfer to NGRE account		-221,809	-110,905	-58,709
	1 C-130J and support equipment for the active Air Force to establish the C-130J formal training unit at the C-130 Center of Excellence				(75,800)
12	**JPATS**	**228,409**	**270,409**	**228,409**	**228,409**
	Additional aircraft		+42,000		0
13	**V-22 OSPREY**	**95,110**	**95,110**	**0**	**0**
14	**V-22 OSPREY (AP-CY)**	**14,991**	**14,991**	**0**	**0**
16	**CIVIL AIR PATROL A/C**	**2,629**	**9,629**	**6,629**	**7,529**
	Additional aircraft		+7,000	+4,000	+4,900
	C-40 Medevac	**0**	**85,000**	**0**	**0**
20	**EC-130H**	**19,000**	**0**	**19,000**	**0**
	Transfer Project Suter		-19,000		-19,000
21	**E-8C**	**283,202**	**273,202**	**283,202**	**275,202**
	Prior year pricing		-10,000		-8,000
25	**HAEUAV (AP-CY)**	**33,500**	**0**	**33,500**	**33,500**
	Advance procurement of Global Hawk HAE UAV		-33,500		0
26	**PREDATOR UAV**	**19,632**	**39,632**	**19,632**	**36,632**
	Predator B -- only for acquisition of two Predator B turboprop and one Predator B jet aircraft with spare parts		+20,000		+17,000
27	**B-2A**	**11,858**	**25,358**	**11,858**	**22,858**
	SATCOM		+13,500		+11,000
28	**B-1B**	**95,493**	**37,693**	**37,693**	**37,693**
	Transfer to ANG O&M		-57,800	-57,800	-57,800

		Budget	House	Senate	Conference
29	**B-52**	**3,548**	**3,548**	**23,948**	**17,848**
	Attrition Reserve A/C			+20,400	+14,300
	F-117	**0**	**27,620**	**27,260**	**27,260**
	AF requested realignment of funds from classified line		+27,620	+27,260	+27,260
31	**A-10**	**18,547**	**18,547**	**23,547**	**21,047**
	On-Board Oxygen Generation System			+5,000	+2,500
32	**F-15**	**212,160**	**237,160**	**237,160**	**246,060**
	F-15 engine E-kits (Senate funded in NGRE)		+6,000		+10,000
	BOL IR		+5,000		+3,000
	ALQ-135 Band 1.5		+10,000	+25,000	+17,500
	F-15 IFF for ANG NORAD alert mission aircraft		+4,000		+3,400
33	**F-16**	**231,962**	**233,962**	**236,962**	**236,962**
	ACES II upgrade		+2,000		+1,500
	On-Board Oxygen Generation System		+3,000	+5,000	+3,500
35	**C-5**	**103,214**	**32,714**	**103,214**	**32,714**
	Reduce C-5 AMP quantities pending flight test		-70,500		-70,500
37	**C-17A**	**139,278**	**98,878**	**139,278**	**112,278**
	Delay in initiation of LAIRCM development		-33,400		-20,000
	GATM contract savings		-7,000		-7,000
45	**T-38**	**144,726**	**159,726**	**144,726**	**157,526**
	Ejection seats		+15,000		+12,800
53	**C-130**	**57,936**	**59,936**	**63,936**	**66,736**
	Modular Airborne Firefighting System for ANG		+2,000		+1,700
	APN-241 radar for 11th Air Force			+6,000	+5,100
	Radar Modernization for C-130H2 for Nevada ANG			(6,000)	+2,000
54	**C-135**	**231,066**	**175,066**	**231,066**	**175,066**
	KC-135 reengine		-56,000		-56,000
55	**DARP**	**195,045**	**199,045**	**209,585**	**207,745**
	Procurement and installation of Theater Airborne Warning System aircraft modification kits		+4,000		+2,000
	Senior Scout; JTIDS			+3,300	+2,300
	Senior Scout; Data Mission Management Processor			+820	+800
	Senior Scout; Third Shelter Modernization			+2,800	+2,000
	Senior Scout; Ground Station Modernization			+1,620	+1,600
	Senior Scout; COMINT Search and Collection System			+6,000	+4,000
58	**E-8**	**82,996**	**64,296**	**71,496**	**67,796**
	Disapprove Spiral Development Modification based on unclear program content.		-7,200		-7,200
	Reduce funding for Vanguard mod based on lack of justification.		-5,000		0
	SATCOM transfer to R&D		-5,700	-5,700	-5,700
	RVSM transfer to R&D		-5,800	-5,800	-5,800

		Budget	House	Senate	Conference
	Joint Services Workstation (JSWS) and initial support for Air Operations Center		+5,000		+3,500
62	**PREDATOR MODS**	**10,384**	**16,384**	**10,384**	**15,484**
	Structured reliability and maintainability program to complete the conversion of Predator GCS to PC-based architecture		+6,000		+5,100
63	**CLASSIFIED PROJECTS**	**23,227**	**42,227**	**23,227**	**42,227**
	Transfer Project Suter		+19,000		+19,000
65	**SPARES/REPAIR PARTS**	**321,539**	**321,539**	**295,139**	**295,139**
	CV-22 Spares			-26,400	-26,400
76	**WAR CONSUMABLES**	**44,369**	**49,369**	**44,369**	**48,369**
	MALD		+5,000		+4,000
	Note: Committee designates MALD program as special interest, including funds requested in budget.				
77	**MISC PRODUCTION CHARGES**	**324,986**	**329,986**	**324,986**	**327,986**
	Air Combat Training Range Security		+5,000		+3,000
79	**DARP**	**90,329**	**90,329**	**93,329**	**91,829**
	U-2 SYERS			+3,000	+1,500
999	**CLASSIFIED PROGRAMS**	**27,620**	**0**	**0**	**0**
	AF requested realignment of funds		-27,620	-27,620	-27,620

MISSILE PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, AIR FORCE				
BALLISTIC MISSILES				
MISSILE REPLACEMENT EQ-BALLIS	25,124	25,124	25,124	25,124
OTHER MISSILES				
STRATEGIC				
TACTICAL				
JASSM	45,010	45,010	45,010	45,010
JOINT STANDOFF WEAPON	54,641	20,101	54,641	29,641
SIDEWINDER (AIM-9X)	38,923	38,923	38,923	38,923
AMRAAM	104,701	104,701	104,701	104,701
INDUSTRIAL FACILITIES				
INDUSTRIAL FACILITIES	3,040	3,040	3,040	3,040
MISSILE REPLACEMENT EQUIPMENT - OTHER				
TOTAL, OTHER MISSILES	246,315	211,775	246,315	221,315
MODIFICATION OF INSERVICE MISSILES				
CLASS IV				
ADVANCED CRUISE MISSILE	784	784	784	784
MM III MODIFICATIONS	552,678	542,678	552,678	547,678
AGM-65D MAVERICK	966	966	966	966
PEACEKEEPER (M-X)	5,146	10,046	5,146	10,046
MISSILE SPARES + REPAIR PARTS				
SPARES AND REPAIR PARTS	61,844	56,944	61,844	56,944
TOTAL, MODIFICATION OF INSERVICE MISSILES	621,418	611,418	621,418	616,418
OTHER SUPPORT				
SPACE PROGRAMS				
WIDEBAND GAPFILLER SATELLITES	377,509	348,509	377,509	357,509

(In thousands of dollars)

	Budget	House	Senate	Conference
WIDEBAND GAPFILLER SATELLITES (AP-CY).................	13,447	13,447	13,447	13,447
SPACEBORNE EQUIP (COMSEC).............................	9,332	9,332	9,332	9,332
GLOBAL POSITIONING (SPACE)............................	177,719	152,719	177,719	172,719
GLOBAL POSITIONING (SPACE) (AP-CY)....................	23,760	---	23,760	---
NUDET DETECTION SYSTEM................................	---	22,700	19,066	19,066
DEF METEOROLOGICAL SAT PROG...........................	47,580	44,580	47,580	46,080
DEFENSE SUPPORT PROGRAM(SPACE)........................	112,456	107,456	112,456	109,956
DEFENSE SATELLITE COMM SYSTEM.........................	27,004	27,004	27,004	27,004
TITAN SPACE BOOSTERS(SPACE)...........................	385,298	365,298	355,298	355,298
EVOLVED EXPENDABLE LAUNCH VEHICLE.....................	98,007	88,007	98,007	98,007
MEDIUM LAUNCH VEHICLE (SPACE).........................	42,355	37,355	42,355	39,855
SBIR HIGH (SPACE) (AP-CY).............................	93,752	---	---	---
SPECIAL PROGRAMS				
SPECIAL PROGRAMS......................................	803,946	724,880	1,332,618	749,880
SPECIAL UPDATE PROGRAMS...............................	128,514	128,514	128,514	128,514
TOTAL, OTHER SUPPORT..................................	2,340,679	2,069,801	2,764,665	2,126,667
TOTAL, MISSILE PROCUREMENT, AIR FORCE.................	3,233,536	2,918,118	3,657,522	2,989,524

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

		Budget	House	Senate	Conference
4	**JOINT STANDOFF WEAPON**	**54,641**	**20,101**	**54,641**	**29,641**
	GAO recommended reduction		-34,540		-25,000
12	**MM III MODIFICATIONS**	**552,678**	**542,678**	**552,678**	**547,678**
	Pricing for GRP		-10,000		-5,000
15	**PEACEKEEPER (M-X)**	**5,146**	**10,046**	**5,146**	**10,046**
	Peacekeeper support equipment		+4,900		+4,900
17	**SPARES AND REPAIR PARTS**	**61,844**	**56,944**	**61,844**	**56,944**
	Peacekeeper support equipment		-4,900		-4,900
18	**WIDEBAND GAPFILLER SATELLITES**	**377,509**	**348,509**	**377,509**	**357,509**
	Program reduction		-29,000		-20,000
21	**GLOBAL POSITIONING (SPACE)**	**177,719**	**152,719**	**177,719**	**172,719**
	Reduce funding for GPS IIF launch and on-orbit support. GPS IIF will not be launched in FY 2002.		-15,000		0
	Reduce excessive program office support		-10,000		-5,000
22	**GLOBAL POSITIONING (SPACE) (AP-CY)**	**23,760**	**0**	**23,760**	**0**
	Eliminate AP for GPS modifications. Mods should be full funded.		-23,760		-23,760
23	**NUDET DETECTION SYSTEM**	**0**	**22,700**	**19,066**	**19,066**
	Transfer from NRO		+22,700	+19,066	+19,066
24	**DEF METEOROLOGICAL SAT PROG**	**47,580**	**44,580**	**47,580**	**46,080**
	Launch delays		-3,000		-1,500
25	**DEFENSE SUPPORT PROGRAM(SPACE)**	**112,456**	**107,456**	**112,456**	**109,956**
	Launch delays		-5,000		-2,500
27	**TITAN SPACE BOOSTERS(SPACE)**	**385,298**	**365,298**	**355,298**	**355,298**
	Chronic underexecution		-20,000	-30,000	-30,000
28	**EVOLVED EXPENDABLE LAUNCH VEHICLE**	**98,007**	**88,007**	**98,007**	**98,007**
	Pricing		-10,000		0
29	**MEDIUM LAUNCH VEHICLE (SPACE)**	**42,355**	**37,355**	**42,355**	**39,855**
	Unjustified growth in Delta launch services.		-5,000		-2,500
30	**SBIR HIGH (SPACE) (AP-CY)**	**93,752**	**0**	**0**	**0**
	Program delays, technical problems, and shortfalls		-93,752	-93,752	-93,752

SBIRS HIGH RADIATION HARDENED PARTS

The conferees are very troubled by recent developments in the SBIRS High program. DoD and Air Force officials have provided new indications that the previously reported $2,000,000,000 shortfall and 2 year slip may, in fact, understate the severity of the problems. Not only is DoD considering a variety of major program restructures, but it is also considering whole new satellite approaches.

The conferees are also aware of the issue of diminished manufacturing sources for selected radiation hardened parts in the current SBIRS High design. The Air Force has requested that funds be retained in advance procurement for a "lifetime buy" of these parts. The conferees are sympathetic to the issues involved with this request but given the unclear status of the program, it is premature to make a definitive judgment with respect to funding these parts. The conferees encourage DoD, once it has determined how best to proceed with the program, to submit a reprogramming request to fund these parts as needed at that time.

PROCUREMENT OF AMMUNITION, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, AIR FORCE				
PROCUREMENT OF AMMO, AIR FORCE				
ROCKETS	29,580	29,580	33,580	30,880
CARTRIDGES	122,907	122,907	122,907	122,907
BOMBS				
PRACTICE BOMBS	50,230	50,230	50,230	50,230
GENERAL PURPOSE BOMBS	110,522	112,022	110,522	110,522
CAWCF CLOSURE COSTS	7,946	7,946	7,946	7,946
SENSOR FUZED WEAPON	109,521	109,521	109,521	109,521
JOINT DIRECT ATTACK MUNITION	187,257	187,257	187,257	187,257
WIND CORRECTED MUNITIONS DISP	111,853	111,853	115,853	111,853
FLARE, IR MJU-7B				
CAD/PAD	18,170	18,170	18,170	18,170
EXPLOSVE ORDINANCE DISPOSAL	1,421	1,421	1,421	1,421
INITIAL SPARES	2,727	2,727	2,727	2,727
MODIFICATIONS LESS THAN $5 MILLION	211	211	211	211
ITEMS LESS THAN $5 MILLION	1,633	1,633	1,633	1,633
FUZES				
FLARES	108,965	108,965	108,965	108,965
TOTAL, PROCUREMENT OF AMMO, AIR FORCE	862,943	864,443	870,943	864,243
WEAPONS				
SMALL ARMS	2,401	2,401	2,401	2,401
TOTAL, PROCUREMENT OF AMMUNITION, AIR FORCE	865,344	866,844	873,344	866,644

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

	Budget	House	Senate	Conference
1 ROCKETS	29,580	29,580	33,580	30,880
2.75 Inch Rocket Motor Cost Growth			-5,000	-5,000
Hydra Rockets			+9,000	+6,300
4 GENERAL PURPOSE BOMBS	**110,522**	**112,022**	**110,522**	**110,522**
Cast Ductile Iron Bombs (BDU-56)		+1,500		0
8 WIND CORRECTED MUNITIONS DISP	**111,853**	**111,853**	**115,853**	**111,853**
Additional funding			+4,000	0

OTHER PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER PROCUREMENT, AIR FORCE				
VEHICULAR EQUIPMENT				
PASSENGER CARRYING VEHICLES				
SEDAN, 4 DR 4X2	686	686	686	686
STATION WAGON, 4X2	124	124	124	124
BUSES	4,307	4,307	4,307	4,307
AMBULANCES	252	252	252	252
LAW ENFORCEMENT VEHICLE	1,531	1,531	1,531	1,531
ARMORED VEHICLE	684	684	684	684
CARGO + UTILITY VEHICLES				
TRUCK, CARGO-UTILITY, 3/4T, 4	5,733	5,733	5,733	5,733
TRUCK MULTI-STOP 1 TON 4X2	10,367	10,367	10,367	10,367
HIGH MOBILITY VEHICLE (MYP)	6,390	6,390	6,390	6,390
CAP VEHICLES	785	785	785	785
ITEMS LESS THAN $5 MILLION	34,320	34,320	34,320	34,320
SPECIAL PURPOSE VEHICLES				
HMMWV, ARMORED	1,000	1,000	1,000	1,000
TRACTOR, TOW, FLIGHTLINE	6,035	6,035	6,035	6,035
TRUCK HYDRANT FUEL	5,895	5,895	5,895	5,895
ITEMS LESS THAN $5 MILLION	19,818	19,818	19,818	19,818
FIRE FIGHTING EQUIPMENT				
ITEMS LESS THAN $5 MILLION	5,029	5,029	5,029	5,029
MATERIALS HANDLING EQUIPMENT				
TRUCK, F/L 10,000 LB	6,914	6,914	6,914	6,914
60K A/C LOADER	90,763	90,763	90,763	90,763
NEXT GENERATION SMALL LOADER	53,461	53,461	53,461	53,461

(In thousands of dollars)

	Budget	House	Senate	Conference
ITEMS LESS THAN $5 MILLION	4,106	4,106	4,106	4,106
BASE MAINTENANCE SUPPORT				
TRUCK, DUMP	2,839	2,839	2,839	2,839
RUNWAY SNOW REMOV AND CLEANING	12,484	12,484	12,484	12,484
MODIFICATIONS	3,360	3,360	3,360	3,360
ITEMS LESS THAN $5 MILLION	11,943	11,943	11,943	11,943
TOTAL, VEHICULAR EQUIPMENT	288,826	288,826	288,826	288,826
ELECTRONICS AND TELECOMMUNICATIONS EQUIP				
COMM SECURITY EQUIPMENT(COMSEC)				
COMSEC EQUIPMENT	35,188	35,188	35,188	35,188
MODIFICATIONS (COMSEC)	468	468	468	468
INTELLIGENCE PROGRAMS				
INTELLIGENCE TRAINING EQUIPMENT	1,237	1,237	1,237	1,237
INTELLIGENCE COMM EQUIP	1,955	13,755	1,955	3,455
ELECTRONICS PROGRAMS				
AIR TRAFFIC CTRL/LAND SYS	4,698	4,698	4,698	4,698
NATIONAL AIRSPACE SYSTEM	71,930	51,930	40,530	46,930
THEATER AIR CONTROL SYS IMPRO	15,057	22,376	15,057	19,557
WEATHER OBSERV/FORCAST	33,766	33,766	33,766	33,766
STRATEGIC COMMAND AND CONTROL	21,066	21,066	21,066	21,066
CHEYENNE MOUNTAIN COMPLEX	30,642	30,642	30,642	30,642
TAC SIGINT SUPPORT	976	976	976	976
SPECIAL COMM-ELECTRONICS PROJECTS				
GENERAL INFORMATION TECHNOLOGY	56,817	60,817	56,817	59,817
AF GLOBAL COMMAND & CONTROL	15,151	15,151	15,151	15,151

(In thousands of dollars)

	Budget	House	Senate	Conference
MOBILITY COMMAND AND CONTROL	8,879	8,879	8,879	8,879
AIR FORCE PHYSICAL SECURITY	62,313	62,313	62,313	62,313
COMBAT TRAINING RANGES	67,585	74,085	118,485	111,985
MINIMUM ESSENTIAL EMERGENCY	2,078	2,078	2,078	2,078
C3 COUNTERMEASURES	9,623	9,623	9,623	9,623
BASE LEVEL DATA AUTO PROGRAM	12,895	12,895	12,895	12,895
THEATER BATTLE MGT C2 SYS	47,291	47,291	47,291	47,291
AIR FORCE COMMUNICATIONS				
BASE INFORMATION INFRASTRUCTURE	154,097	154,097	154,097	156,097
USCENTCOM	10,867	10,867	10,867	10,867
DEFENSE MESSAGE SYSTEM (DMS)	13,336	13,336	13,336	13,336
DISA PROGRAMS				
SPACE BASED IR SENSOR PROG	54,347	---	---	---
NAVSTAR GPS SPACE	4,003	4,003	4,003	4,003
NUDET DETECTION SYS (NDS)	8,470	8,470	8,470	8,470
AF SATELLITE CONTROL NETWORK	29,678	29,678	29,678	29,678
SPACELIFT RANGE SYSTEM SPACE	132,764	132,764	132,764	132,764
MILSATCOM SPACE	21,367	15,967	62,267	15,967
SPACE MODS SPACE	31,915	31,915	31,915	31,915
ORGANIZATION AND BASE				
TACTICAL C-E EQUIPMENT	95,096	95,096	95,096	95,096
COMBAT SURVIVOR EVADER LOCATE	2,222	---	2,222	---
RADIO EQUIPMENT	13,926	13,926	13,926	13,926
TV EQUIPMENT (AFRTV)	2,640	2,640	2,640	2,640
CCTV/AUDIOVISUAL EQUIPMENT	3,275	3,275	3,275	3,275

(In thousands of dollars)

	Budget	House	Senate	Conference
BASE COMM INFRASTRUCTURE	76,903	76,903	76,903	76,903
SPARES AND REP PARTS	16	16	16	16
CAP COM & ELECT	---	---	10,400	7,000
ITEMS LESS THAN $5 MILLION	6,094	6,094	6,094	6,094
MODIFICATIONS				
COMM ELECT MODS	66,386	53,386	52,286	49,386
TOTAL, ELECTRONICS AND TELECOMMUNICATIONS EQUIP	1,227,017	1,161,667	1,229,370	1,185,448
OTHER BASE MAINTENANCE AND SUPPORT EQUIP				
TEST EQUIPMENT				
BASE/ALC CALIBRATION PACKAGE	11,974	11,974	11,974	11,974
PRIMARY STANDARDS LABORATORY	1,073	1,073	1,073	1,073
ITEMS LESS THAN $5 MILLION	17,493	17,493	17,493	17,493
PERSONAL SAFETY AND RESCUE EQUIP				
NIGHT VISION GOGGLES	3,330	3,330	3,330	3,330
ITEMS LESS THAN $5 MILLION	7,680	14,980	11,680	10,680
DEPOT PLANT + MATERIALS HANDLING EQ				
MECHANIZED MATERIAL HANDLING	14,361	19,361	22,361	19,361
ITEMS LESS THAN $5 MILLION	9,437	9,437	9,437	9,437
ELECTRICAL EQUIPMENT				
FLOODLIGHTS	6,946	6,946	6,946	6,946
ITEMS LESS THAN $5 MILLION	6,061	6,061	6,061	6,061
BASE SUPPORT EQUIPMENT				
BASE PROCURED EQUIPMENT	11,957	11,957	11,957	11,957
MEDICAL/DENTAL EQUIPMENT	15,525	15,525	15,525	15,525
ENVIRONMENTAL PROJECTS	938	938	938	938

(In thousands of dollars)

	Budget	House	Senate	Conference
AIR BASE OPERABILITY	6,000	6,000	6,000	6,000
PHOTOGRAPHIC EQUIPMENT	5,805	5,805	5,805	5,805
PRODUCTIVITY ENHANCING CAPITA	7,981	7,981	7,981	7,981
MOBILITY EQUIPMENT	27,581	27,581	33,581	30,581
AIR CONDITIONERS	7,058	7,058	7,058	7,058
ITEMS LESS THAN $5 MILLION	25,876	25,876	25,876	25,876
SPECIAL SUPPORT PROJECTS				
INTELLIGENCE PRODUCTION ACTIV	64,110	64,110	56,110	57,110
TECH SURV COUNTERMEASURES EQ	4,236	4,236	4,236	4,236
DARP RC135	14,247	14,247	14,247	14,247
DARP, MRIGS	89,478	89,478	89,478	89,478
SELECTED ACTIVITIES	6,070,259	5,832,959	6,042,559	6,036,670
SPECIAL UPDATE PROGRAM	161,157	151,157	161,157	161,157
DEFENSE SPACE RECONNAISSANCE	6,829	6,829	6,829	6,829
INDUSTRIAL PREPAREDNESS	1,134	1,134	1,134	1,134
MODIFICATIONS	209	209	209	209
FIRST DESTINATION TRANSPORTATION	11,822	9,322	11,822	9,322
TOTAL, OTHER BASE MAINTENANCE AND SUPPORT EQUIP	6,610,557	6,373,057	6,592,857	6,578,468
SPARE AND REPAIR PARTS				
SPARES AND REPAIR PARTS	33,121	33,121	33,121	33,121
TOTAL, OTHER PROCUREMENT, AIR FORCE	8,159,521	7,856,671	8,144,174	8,085,863

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

		Budget	House	Senate	Conference
32	**INTELLIGENCE COMM EQUIP**	**1,955**	**13,775**	**1,955**	**3,455**
	Secure Terminal Equipment		+3,000		+1,500
	RC-135 Senior Scout ANG: Update mission management processor		+820		0
	RC-135 Senior Scout ANG: Procurement, installation, and delivery of JTIDS capability		+3,600		0
	RC-135 Senior Scout ANG: Procurement of third shelter configuration		+2,800		0
	RC-135 Senior Scout ANG: Ground station modernization		+1,600		0
34	**NATIONAL AIRSPACE SYSTEM**	**71,930**	**51,930**	**40,530**	**46,930**
	DASR test failures/program delays		-20,000	-31,400	-25,000
35	**THEATER AIR CONTROL SYS IMPRO**	**15,057**	**22,376**	**15,057**	**19,557**
	Delay of Joint Mission Planning system		-7,681		-6,000
	AN/TYQ-23 modular control equipment (MCE) operations modules for ANG		+15,000		+10,500
41	**GENERAL INFORMATION TECHNOLOGY**	**56,817**	**60,817**	**56,817**	**59,817**
	REMIS		+4,000		+3,000
45	**COMBAT TRAINING RANGES**	**67,585**	**74,085**	**118,485**	**111,985**
	AN/MSQ-T-43 Modular Threat Emitter		+1,500		+1,000
	Mini-MUTES		+5,000		+2,500
	Mobile Remote Emitter Simulators			+16,000	+11,200
	P4 BE ACMI Pods for 11th AF			+7,400	+6,300
	Pacific AK Range Complex Mount Fairplay TPS-117 Radar Site			+18,000	+15,300
	UMPTE Upgrade -- 11th AF			+6,000	+5,100
	UHF/VHF Radios for Mount Fairplay, Sustina			+3,500	+3,000
52	**BASE INFORMATION INFRASTRUCTURE**	**154,097**	**154,097**	**154,097**	**156,097**
	Digital switched system with integrated telephone and radio capability for Air Force Reserve command posts and wing operation centers				+2,000
55	**SPACE BASED IR SENSOR PROG**	**54,347**	**0**	**0**	**0**
	Defer backup mission satellite control ground station		-54,347	-54,347	-54,347
61	**MILSATCOM SPACE**	**21,367**	**15,967**	**62,267**	**15,967**
	Transfer CCS-C "Development Lab" Equipment to R&D		-5,400		-5,400
	Teleports			+40,900	0
64	**COMBAT SURVIVOR EVADER LOCATE**	**2,222**	**0**	**2,222**	**0**
	Availability of prior year funds pending resolution of problems		-2,222		-2,222
70	**CAP COM & ELECT**	**0**	**0**	**10,400**	**7,000**
	Additional Communications Units			+1,400	+1,000
	Searchers Edge			+9,000	+6,000

		Budget	House	Senate	Conference
72	**COMM ELECT MODS**	**66,386**	**53,386**	**52,286**	**49,386**
	Unjustified level of procurement of NCMC-TW/AA hardware		-13,000		-6,500
	Weather Observation & Forecast System Cost Growth			-11,600	-8,000
	Deferred procurement			-2,500	-2,500
77	**ITEMS LESS THAN $5 MILLION**	**7,680**	**14,980**	**11,680**	**10,680**
	SCOT Life Support and Communications Tester		+6,000		+3,000
	LESPA		+1,300		0
	Clear Laser Eye Protection			+4,000	0
78	**MECHANIZED MATERIAL HANDLING**	**14,361**	**19,361**	**22,361**	**19,361**
	Supply Asset Tracking System		+5,000	+8,000	+5,000
88	**MOBILITY EQUIPMENT**	**27,581**	**27,581**	**33,581**	**30,581**
	Heli-Basket Technology			+6,000	+3,000
100	**FIRST DESTINATION TRANSPORTATION**	**11,822**	**9,322**	**11,822**	**9,322**
	History of underexecution		-2,500		-2,500

PROCUREMENT, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT, DEFENSE-WIDE				
MAJOR EQUIPMENT				
MAJOR EQUIPMENT, OSD/WHS				
MAJOR EQUIPMENT, OSD	87,189	112,189	87,189	112,189
MAJOR EQUIPMENT, WHS	18,836	14,836	18,836	14,836
MAJOR EQUIPMENT, NSA				
MAJOR EQUIPMENT, DISA				
INFORMATION SYSTEMS SECURITY	43,211	43,211	43,211	43,211
CONTINUITY OF OPERATIONS	3,288	3,288	3,288	3,288
DEFENSE MESSAGE SYSTEM	19,062	19,062	19,062	19,062
GLOBAL COMMAND AND CONTROL SYS	3,550	3,550	3,550	3,550
GLOBAL COMBAT SUPPORT SYSTEM	1,843	1,843	1,843	1,843
TELEPORTS	97,351	97,351	---	97,351
ITEMS LESS THAN $5 MILLION	29,580	29,580	29,580	29,580
MAJOR EQUIPMENT, DLA				
MAJOR EQUIPMENT	12,805	12,805	12,805	12,805
MAJOR EQUIPMENT, DCAA				
MAJOR EQUIPMENT ITEMS LESS THAN $5 MILLION	1,500	1,500	1,500	1,500
MAJOR EQUIPMENT, TJS				
MAJOR EQUIPMENT, TJS	35,380	35,380	35,380	35,380
BALLISTIC MISSILE DEFENSE ORGANIZATION				
PATRIOT PAC-3	---	---	---	736,574
MAJOR EQUIPMENT, DHRA				
PERSONNEL ADMINISTRATION	7,352	7,352	7,352	7,352
DEFENSE THREAT REDUCTION AGENCY				
VEHICLES	145	---	145	145

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER MAJOR EQUIPMENT	24,480	---	24,480	23,180
DEFENSE SECURITY COOPERATION AGENCY				
OTHER MAJOR EQUIPMENT	200	200	200	200
MAJOR EQUIPMENT, AFIS				
MAJOR EQUIPMENT, AFIS	5,369	5,369	5,369	5,369
MAJOR EQUIPMENT, DODDE				
AUTOMATION/EDUCATIONAL SUPPORT AND LOGISTICS	1,576	1,576	1,576	1,576
MAJOR EQUIPMENT, DCMA				
MAJOR EQUIPMENT	31,413	27,013	31,413	27,013
TOTAL, MAJOR EQUIPMENT	424,130	416,105	326,779	1,176,004
SPECIAL OPERATIONS COMMAND				
AVIATION PROGRAMS				
SOF ROTARY WING UPGRADES	79,084	84,084	70,084	81,584
MC-130H COMBAT TALON II	10,427	10,427	7,427	7,427
CV-22 SOF MODIFICATION	28,202	28,202	---	18,202
AC-130U GUNSHIP ACQUISITION	8,705	8,705	8,705	8,705
C-130 MODIFICATIONS	8,176	8,176	8,176	8,176
AIRCRAFT SUPPORT	1,763	1,763	1,763	1,763
SHIPBUILDING				
ADVANCED SEAL DELIVERY SYS	33,439	14,238	37,428	27,428
ADVANCED SEAL DELIVERY SYS (AP-CY)	13,697	---	13,697	13,697
MK VIII MOD 1 - SEAL DELIVERY VEH	504	504	504	504
AMMUNITION PROGRAMS				
SOF ORDNANCE REPLENISHMENT	31,415	31,415	31,415	31,415
CONVENTIONAL AMMO WORKING CAPITAL FUND	1,509	1,509	1,509	1,509

(In thousands of dollars)

	Budget	House	Senate	Conference
SOF ORDNANCE ACQUISITION	5,635	9,635	5,635	9,035
OTHER PROCUREMENT PROGRAMS				
COMM EQUIPMENT & ELECTRONICS	41,404	47,404	46,504	44,404
SOF INTELLIGENCE SYSTEMS	8,133	10,633	8,133	9,433
SOF SMALL ARMS & WEAPONS	6,936	12,936	6,936	9,436
MARITIME EQUIPMENT MODS	1,660	1,660	1,660	1,660
SOF COMBATANT CRAFT SYSTEMS	6,042	6,042	6,042	6,042
SPARES AND REPAIR PARTS	5,036	5,036	5,036	5,036
SOF MARITIME EQUIPMENT	2,975	2,975	1,807	2,975
MISCELLANEOUS EQUIPMENT	8,111	8,111	8,111	8,111
SOF PLANNING AND REHEARSAL SYSTEM	1,448	1,448	1,448	1,448
SOF OPERATIONAL ENHANCEMENTS	102,571	102,571	102,571	102,571
PSYOP EQUIPMENT	2,780	2,780	2,780	2,780
TOTAL, SPECIAL OPERATIONS COMMAND	409,652	400,254	377,371	403,341

(In thousands of dollars)

	Budget	House	Senate	Conference
CHEMICAL/BIOLOGICAL DEFENSE				
CBDP				
INDIVIDUAL PROTECTION................................	114,327	---	114,327	115,327
DECONTAMINATION......................................	15,196	---	15,196	15,196
JOINT BIOLOGICAL DEFENSE PROGRAM.....................	155,916	---	153,916	153,916
COLLECTIVE PROTECTION................................	38,940	---	48,940	47,940
CONTAMINATION AVOIDANCE..............................	24,330	---	24,330	24,330
TOTAL, CHEMICAL/BIOLOGICAL DEFENSE.................	348,709	---	356,709	356,709
CLASSIFIED PROGRAMS..................................	421,436	570,924	412,936	453,436
TOTAL, PROCUREMENT, DEFENSE-WIDE...................	1,603,927	1,387,283	1,473,795	2,389,490

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(In thousands of dollars)

P-1		Budget Request	House	Senate	Conference
2	**MAJOR EQUIPMENT, OSD**	**87,189**	**112,189**	**87,189**	**112,189**
	High Performance Computing Modernization Program (Note: Only for the AHPCRC, for the priority procurement of HPC systems with low CPU-memory latency and high bandwidth.)		+25,000	0	+25,000
3	**MAJOR EQUIPMENT, WHS**	**18,836**	**14,836**	**18,836**	**14,836**
	Information Technology Underexecution		-4,000	0	-4,000
16	**TELEPORTS**	**97,351**	**97,351**	**0**	**97,351**
	Transfer to Services		0	-97,351	0
25	**PATRIOT PAC-3**	**0**	**0**	**0**	**736,574**
	Transfer from MP, A		0	0	+676,574
	PAC-3 Acceleration		0	0	+60,000
31	**VEHICLES**	**145**	**0**	**145**	**145**
	Transfer to Title IX		-145	0	0
32	**OTHER MAJOR EQUIPMENT**	**24,480**	**0**	**24,480**	**23,180**
	Transfer to Title IX		-24,480	0	0
	BLU-116B Schedule Slip		-3,000*	0	0
	Hard Target Smart Fuze Schedule Slip		-1,300*	0	-1,300
36	**MAJOR EQUIPMENT**	**31,413**	**27,013**	**31,413**	**27,013**
	SPS Schedule Slip		-4,400	0	-4,400
37	**SOF ROTARY WING UPGRADES**	**79,084**	**84,084**	**70,084**	**81,584**
	160th SOAR aircraft Modifications		+5,000	0	+2,500
	MH-47D Conversion Kits		0	-9,000	0
39	**MC-130H COMBAT TALON II**	**10,427**	**10,427**	**7,427**	**7,427**
	Production Reduction		0	-3,000	-3,000
40	**CV-22 SOF Modification**	**28,202**	**28,202**	**0**	**18,202**
	Production Delay		0	-28,202	-10,000
44	**ADVANCED SEAL DELIVERY SYS**	**33,439**	**14,238**	**37,428**	**27,428**
	Advanced Seal Delivery System		-19,201	0	0
	Lithium Ion Battery Technology		0	+10,000	0
	GFE		0	-4,500	-4,500
	Transporter		0	-1,511	-1,511
45	**ADVANCED SEAL DELIVERY (AP-CY)**	**13,697**	**0**	**13,697**	**13,697**
	Advanced Seal Delivery System		-13,697	0	0
50	**SOF ORDNANCE ACQUISITION**	**5,635**	**9,635**	**5,635**	**9,035**
	Gunshot/Sniper Detection System		+4,000	0	+3,400

P-1		Budget Request	House	Senate	Conference
51	**COMM EQUIPMENT & ELECTRONICS**	**41,404**	**47,404**	**46,504**	**44,404**
	AN/PRC-148 Multi-band Intra/Inter Team Radio		+6,000	+5,100	+3,000
52	**SOF INTELLIGENCE SYSTEMS**	**8,133**	**10,633**	**8,133**	**9,433**
	Portable Intelligence Collection and Relay Capability		+2,500	0	+1,300
53	**SOF SMALL ARMS & WEAPONS**	**6,936**	**12,936**	**6,936**	**9,436**
	Advanced Lightweight Grenade Launcher (Striker)		+6,000	0	+2,500
57	**SOF MARITIME EQUIPMENT**	**2,975**	**2,975**	**1,807**	**2,975**
	Hydrographic Littoral Mapping Device		0	-1,168	0
63	**INDIVIDUAL PROTECTION**	**114,327**	**0**	**114,327**	**115,327**
	Transfer to Title IX		-114,327	0	0
	Domestic Production of C2A1 Canisters		+2,000*	0	+1,000
64	**DECONTAMINATION**	**15,196**	**0**	**15,196**	**15,196**
	Transfer to Title IX		-15,196	0	0
65	**JOINT BIOLOGICAL DEFENSE PROGRAM**	**155,916**	**0**	**153,916**	**153,916**
	Transfer to Title IX		-155,916	0	0
	Production Delays		0	-2,000	-2,000
66	**COLLECTIVE PROTECTION**	**38,940**	**0**	**48,940**	**47,940**
	Transfer to Title IX		-38,940	0	0
	Chemical Biological Protective Shelters (CBPS)		+13,000*	+10,000	+9,000
67	**CONTAMINATION AVOIDANCE**	**24,330**	**0**	**24,330**	**24,330**
	Transfer to Title IX		-24,330	0	0
999	**CLASSIFIED PROGRAMS**	**421,436**	**570,924**	**412,936**	**453,436**
	Increase in Classified Programs		+149,488	-8,500	+32,000

* Note: Items marked with an asterisk were funded by the House in Title IX.

TELEPORTS

The conferees provide $97,351,000 for teleports, however, only 429,200,000 of the funds provided are available for obligation until (the service chiefs unanimously agree on a procurement plan. DISA shall not obligate any amount of funds over $29,200,000 until the agreed upon plan is provided to the Congress.

PATRIOT ADVANCED CAPABILITY—3

The Conferees agree to provide $736,574,000 for the PATRIOT Advanced Capability—3 (PAC–3), an increase of $60,000,000 to the program. The increase includes $15,000,000 for the efficient purchase of hard to acquire parts, eliminating the need for a near term redesign of the missile. It also includes $45,000,000 available either to purchase additional missiles in fiscal year 2002 or for additional equipment for the production facility. The Conferees encourage the Department to increase production of this missile in an efficient but prudent manner and direct the Department to ensure that enough funds are in the Future Years Defense Plan to begin purchasing at least 20 missiles a month as soon as possible.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
NATIONAL GUARD & RESERVE EQUIPMENT				
RESERVE EQUIPMENT				
ARMY RESERVE MISCELLANEOUS EQUIPMENT	---	---	15,000	10,000
UH-60 BLACKHAWK	---	131,176	---	87,000
LASER MARKSMANSHIP TRAINING SYSTEM (BEAMHIT)	---	7,000	---	6,000
NAVY RESERVE MISCELLANEOUS EQUIPMENT	---	---	15,000	10,000
MARINE CORPS RESERVE MISCELLANEOUS EQUIPMENT	---	---	10,000	5,000
AIR FORCE RESERVE MISCELLANEOUS EQUIPMENT	---	---	10,000	5,000
C130J	---	---	---	71,300
TOTAL, RESERVE EQUIPMENT	---	138,176	50,000	194,300
NATIONAL GUARD EQUIPMENT				
ARMY NATIONAL GUARD MISCELLANEOUS EQUIPMENT	---	---	15,000	10,000
BRADLEY ODS	---	60,000	---	51,000
HEAVY EQUIPMENT TRANSPORT SYSTEM (HETS)	---	5,000	---	2,500
RESERVE COMPONENT AUTOMATION SYSTEM	---	18,000	---	15,500
LASER MARKSMANSHIP TRAINING SYSTEM (BEAMHIT)	---	10,000	---	8,500
SINCGARS	---	15,000	20,000	14,000
ENGAGEMENT SKILLS TRAINER	---	6,000	---	4,200
MULTI-ROLE BRIDGING COMPANIES	---	22,400	---	15,700
HMMWV	---	---	25,000	17,500
FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)	---	---	25,000	17,500

(In thousands of dollars)

	Budget	House	Senate	Conference
MULTI-ROLE BRIDGE COMPANIES	---	---	17,700	---
UH-60 BLACKHAWK	---	---	102,500	58,000
DISTANCE LEARNING	---	---	10,000	6,000
AIR NATIONAL GUARD				
MISCELLANEOUS EQUIPMENT	---	---	15,000	10,000
C-130	---	---	182,205	---
C-130J	---	226,909	---	219,730
P-19 TRUCK CRASH	---	---	5,000	3,500
F-15 E-KIT UPGRADES	---	---	20,000	20,000
F-16 BLOCK 42 ENGINE UPGRADES	---	---	52,000	31,200
C-17 MAINTENANCE TRAINER	---	---	21,100	---
TOTAL, NATIONAL GUARD EQUIPMENT	---	363,309	510,505	504,830
TOTAL, NATIONAL GUARD & RESERVE EQUIPMENT	---	501,485	560,505	699,130

MISCELLANEOUS EQUIPMENT

The conferees agree that each of the Chiefs of the Reserve and National Guard components should exercise control of modernization funds provided in this account including aircraft and aircraft modernization. The conferees further agree that separate submissions of a detailed assessment of its modernization priorities by the component commanders is required to be submitted to the defense committees. The conferees expect the component commanders to give priority consideration tot he following items: AN/AAQ-24 directional Infrared Countermeasure (DIRCM), C–130 Radar Modernization, Guard Net XXI, Integrated Training Management Program, Family of Medium Tactical Vehicles, Commercial Construction Equipment, Project ALERT, the Striker Advanced Grenade Launcher, advanced display processor, and F–15 IFF for ANG NORAD alert mission aircraft.

National Guard and Reserve Aircraft

The conferees agree to provide $436,030,000 specifically for the acquisition and modernization of the following aircraft to support Reserve and National Guard missions:

UH-60 Blackhawk for the Army Reserve (6)	$87,000,000
UH-60 Blackhawk for the Army Guard (4)	58,000,0900
C–130J for the Air Force Reserve (1)	71,300,000
C–130J for the Air Force National Guard, western states firefighting (2)	148,430,000
C–130J for the Air Force National Guard (1)	71,300,000

Defense Production Act

The conferees agree to provide a total of $40,000,000 for the Defense Production Act, a decrease of $10,000,000 from the budget request amount. Of this amount $2,000,000 is only for a Processible Rigid-Rod Polymeric Material Supplier Initiative.

TITLE IV – RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RECAPITULATION				
RDTE, ARMY	6,693,920	7,115,438	6,742,123	7,106,074
RDTE, NAVY	11,123,389	10,896,307	10,742,710	11,498,506
RDTE, AIR FORCE	14,343,982	14,884,058	13,859,401	14,669,931
RDTE, DEFENSE-WIDE	15,050,787	6,949,098	14,445,589	15,415,275
OPERATIONAL TEST AND EVALUATION	217,355	245,355	216,855	231,855
GRAND TOTAL, RDTE	47,429,433	40,090,256	46,006,678	48,921,641

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, ARMY				
BASIC RESEARCH				
IN-HOUSE LABORATORY INDEPENDENT RESEARCH	14,815	14,815	14,815	14,815
DEFENSE RESEARCH SCIENCES	138,281	146,150	140,531	145,450
UNIVERSITY AND INDUSTRY RESEARCH CENTERS	69,147	77,347	69,147	73,647
TOTAL, BASIC RESEARCH	222,243	238,312	224,493	233,912
APPLIED RESEARCH				
MATERIALS TECHNOLOGY	13,794	13,794	25,294	20,794
SENSORS AND ELECTRONIC SURVIVABILITY	25,797	28,797	33,297	32,197
TRACTOR HIP	7,741	7,741	7,741	7,741
AVIATION TECHNOLOGY	49,265	40,029	44,265	44,265
EW TECHNOLOGY	17,449	17,449	17,449	17,449
MISSILE TECHNOLOGY	40,112	57,612	48,612	61,612
ADVANCED WEAPONS TECHNOLOGY	19,043	27,982	24,043	27,043
MODELING AND SIMULATION TECHNOLOGY	20,579	28,579	25,579	31,579
COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	82,441	86,441	116,441	113,941
BALLISTICS TECHNOLOGY	61,502	61,502	61,502	61,502
CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLOGY	3,561	11,561	4,561	6,561
JOINT SERVICE SMALL ARMS PROGRAM	5,611	5,611	5,611	5,611
WEAPONS AND MUNITIONS TECHNOLOGY	35,549	65,549	45,549	65,649
ELECTRONICS AND ELECTRONIC DEVICES	27,819	47,319	38,819	50,319
NIGHT VISION TECHNOLOGY	20,598	23,598	20,598	23,198
COUNTERMINE SYSTEMS	16,689	22,689	21,689	23,089
HUMAN FACTORS ENGINEERING TECHNOLOGY	16,466	21,966	16,466	19,966
ENVIRONMENTAL QUALITY TECHNOLOGY	16,150	21,150	20,000	23,700

(In thousands of dollars)

	Budget	House	Senate	Conference
COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY..........	24,342	24,342	24,342	24,342
COMPUTER AND SOFTWARE TECHNOLOGY......................	6,154	6,154	4,154	4,154
MILITARY ENGINEERING TECHNOLOGY......................	42,850	60,850	51,350	59,850
MANPOWER/PERSONNEL/TRAINING TECHNOLOGY...............	16,315	16,315	15,315	15,315
WARFIGHTER TECHNOLOGY................................	27,061	34,561	27,061	33,761
MEDICAL TECHNOLOGY...................................	82,494	104,994	117,644	129,694
DUAL USE SCIENCE AND TECHNOLOGY......................	10,045	15,045	10,045	13,545
TOTAL, APPLIED RESEARCH............................	689,427	851,630	827,427	916,877
ADVANCED TECHNOLOGY DEVELOPMENT				
WARFIGHTER ADVANCED TECHNOLOGY.......................	60,332	58,017	65,332	62,632
MEDICAL ADVANCED TECHNOLOGY..........................	17,541	212,541	46,291	175,091
AVIATION ADVANCED TECHNOLOGY.........................	44,843	36,545	39,843	38,843
WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY............	29,684	39,684	29,684	35,684
COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY.....	193,858	222,358	222,408	227,858
COMMAND, CONTROL, COMMUNICATIONS ADVANCED TECHNOLOGY..	31,865	35,865	35,865	33,465
MANPOWER, PERSONNEL AND TRAINING ADVANCED TECHNOLOGY..	3,120	3,120	3,120	3,120
TRACTOR HIKE...	10,415	10,415	10,415	10,415
TRACTOR ROSE...	9,293	9,293	9,293	9,293
MILITARY HIV RESEARCH................................	5,937	5,937	5,937	5,937
GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISION STRIKE TECH.	32,267	32,267	32,267	32,267
EW TECHNOLOGY..	13,868	24,368	13,868	24,568
MISSILE AND ROCKET ADVANCED TECHNOLOGY...............	59,518	77,018	69,518	76,018
TRACTOR CAGE...	3,312	3,312	3,312	3,312
LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY......	23,062	23,062	27,062	25,862
JOINT SERVICE SMALL ARMS PROGRAM.....................	5,828	5,828	4,428	4,428

(In thousands of dollars)

	Budget	House	Senate	Conference
LINE-OF-SIGHT TECHNOLOGY DEMONSTRATION................	57,384	70,456	57,384	70,456
NIGHT VISION ADVANCED TECHNOLOGY......................	37,081	56,581	42,081	49,781
ENVIRONMENTAL QUALITY TECHNOLOGY DEMONSTRATIONS.......	4,826	9,826	8,826	7,326
MILITARY ENGINEERING ADVANCED TECHNOLOGY.............	4,747	4,747	4,747	4,747
ADVANCED TACTICAL COMPUTER SCIENCE AND SENSOR TECHN...	18,513	18,513	16,513	16,513
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT.............	667,294	959,753	748,194	917,616
DEMONSTRATION & VALIDATION				
ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)....	19,491	37,491	51,691	71,191
LANDMINE WARFARE AND BARRIER - ADV DEV...............	21,651	21,651	20,051	20,051
TANK AND MEDIUM CALIBER AMMUNITION....................	32,986	51,000	59,986	52,500
ADVANCED TANK ARMAMENT SYSTEM (ATAS)..................	101,461	101,461	101,461	101,461
SOLDIER SUPPORT AND SURVIVABILITY.....................	17,482	14,000	17,482	17,482
TACTICAL ELECTRONIC SURVEILLANCE SYSTEM - ADV DEV.....	16,749	16,749	16,749	16,749
NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT............	12,756	10,000	8,756	8,756
ENVRONMENTAL QUALITY TECHNOLOGY DEM/VAL...............	7,536	37,036	17,896	35,136
WARFIGHTER INFORMATION NETWORK-TACTICAL - DEM/VAL.....	15,075	15,075	12,575	12,575
NATO RESEARCH AND DEVELOPMENT.........................	8,633	8,633	6,433	6,433
AVIATION - ADV DEV....................................	9,105	13,105	15,105	13,305
WEAPONS AND MUNITIONS - ADV DEV......................	31,670	35,670	31,670	34,470
LOGISTICS AND ENGINEER EQUIPMENT - ADV DEV...........	7,456	8,456	6,456	6,456
COMBAT SERVICE SUPPORT CONTROL SYS EVAL AND ANALYSIS.	8,696	8,696	8,696	8,696
MEDICAL SYSTEMS - ADV DEV............................	15,506	16,506	20,506	20,006
INTEGRATED BROADCAST SERVICE (JMIP/DISTP)............	1,985	1,985	1,985	1,985
TRACTOR CAGE (DEM/VAL)...............................	3,718	3,718	3,718	3,718
ARTILLERY SYSTEMS - DEM/VAL..........................	447,949	447,949	447,949	447,949

(In thousands of dollars)

	Budget	House	Senate	Conference
SCAMP BLOCK II DEM/VAL	9,895	9,895	6,895	6,895
MEADS CONCEPTS - DEM/VAL	73,645	---	---	---
TOTAL, DEMONSTRATION & VALIDATION	863,445	859,076	856,060	885,814
ENGINEERING & MANUFACTURING DEVEL				
AIRCRAFT AVIONICS	57,474	58,974	50,174	51,274
ARMED, DEPLOYABLE OH-58D	2,345	2,345	2,345	2,345
COMANCHE	787,866	816,366	787,866	787,866
EW DEVELOPMENT	57,010	61,010	52,010	54,010
JOINT TACTICAL RADIO	80,449	80,449	75,449	75,449
ALL SOURCE ANALYSIS SYSTEM	42,166	45,666	42,166	44,566
TRACTOR CAGE	3,888	3,888	3,888	3,888
COMMON MISSILE	16,731	10,927	8,400	16,731
MEDIUM TACTICAL VEHICLES	1,962	1,962	1,962	1,962
SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ENG DEV	7,920	7,920	7,920	7,920
JAVELIN	492	5,492	5,692	2,992
LANDMINE WARFARE	18,938	18,938	18,938	18,938
FAMILY OF HEAVY TACTICAL VEHICLES	---	---	3,000	---
AIR TRAFFIC CONTROL	2,197	2,197	2,197	2,197
TACTICAL UNMANNED GROUND VEHICLE (TUGV)	---	3,000	---	1,500
LIGHT TACTICAL WHEELED VEHICLES	2,523	2,523	2,523	2,523
ENGINEER MOBILITY EQUIPMENT DEVELOPMENT	9,279	9,279	9,279	9,279
NIGHT VISION SYSTEMS - ENG DEV	24,201	28,201	24,201	27,601
COMBAT FEEDING, CLOTHING, AND EQUIPMENT	91,002	91,002	91,002	91,002
NON-SYSTEM TRAINING DEVICES - ENG DEV	26,319	26,319	29,319	28,919
TERRAIN INFORMATION - ENG DEV	8,840	8,840	8,840	8,840

(In thousands of dollars)

	Budget	House	Senate	Conference
INTEGRATED METEOROLOGICAL SUPPORT SYSTEM.............	1,911	1,911	1,911	1,911
JSIMS CORE PROGRAM..................................	30,985	30,985	30,985	30,985
AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE-ENG DEV.	18,233	21,233	16,033	17,233
CONSTRUCTIVE SIMULATION SYSTEMS DEVELOPMENT..........	66,164	66,164	66,164	66,164
AUTOMATIC TEST EQUIPMENT DEVELOPMENT.................	11,582	13,582	11,582	13,282
DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) - ENG DEV..	26,058	26,058	21,158	21,158
TACTICAL SURVEILLANCE SYSTEMS - ENG DEV..............	68,205	68,205	57,005	60,205
BRILLIANT ANTI-ARMOR SUBMUNITION (BAT)...............	123,899	123,899	123,899	123,899
JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM.........	8,093	8,093	8,093	8,093
COMBINED ARMS TACTICAL TRAINER (CATT) CORE............	13,645	13,645	13,645	13,645
JOINT NETWORK MANAGEMENT SYSTEM......................	26,130	26,130	26,130	26,130
AVIATION - ENG DEV...................................	2,263	4,763	2,263	4,063
WEAPONS AND MUNITIONS - ENG DEV......................	7,046	21,046	7,046	17,246
LOGISTICS AND ENGINEER EQUIPMENT - ENG DEV...........	30,673	35,973	25,073	29,573
COMMAND, CONTROL, COMMUNICATIONS SYSTEMS - ENG DEV....	122,644	132,644	122,644	119,644
MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEFENSE EQUIPMENT.	8,228	10,228	8,228	9,228
LANDMINE WARFARE/BARRIER - ENG DEV...................	89,153	69,153	85,053	69,153
ARTILLERY MUNITIONS - EMD............................	67,258	63,322	62,258	61,822
COMBAT IDENTIFICATION................................	3,014	3,014	3,014	3,014
ARMY TACTICAL COMMAND & CONTROL HARDWARE & SOFTWARE...	50,887	58,887	50,887	57,687
LOSAT..	21,596	21,596	21,596	21,596
RADAR DEVELOPMENT....................................	5,162	5,162	5,162	5,162
FIREFINDER...	26,956	26,956	26,956	26,956
ARTILLERY SYSTEMS - EMD..............................	62,481	62,481	27,481	62,481
PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION.....	107,100	---	---	---

(In thousands of dollars)

	Budget	House	Senate	Conference
INFORMATION TECHNOLOGY DEVELOPMENT....................	98,178	98,178	111,178	109,378
TOTAL, ENGINEERING & MANUFACTURING DEVEL............	2,339,146	2,298,606	2,162,615	2,219,510
RDT&E MANAGEMENT SUPPORT				
THREAT SIMULATOR DEVELOPMENT...........................	16,011	18,011	18,011	19,011
TARGET SYSTEMS DEVELOPMENT.............................	25,212	25,212	25,212	25,212
MAJOR T&E INVESTMENT...................................	49,897	49,897	49,897	49,897
RAND ARROYO CENTER.....................................	19,972	17,972	19,972	19,972
ARMY KWAJALEIN ATOLL...................................	150,071	150,071	150,071	150,071
CONCEPTS EXPERIMENTATION PROGRAM.......................	33,067	35,067	38,067	31,767
ARMY TEST RANGES AND FACILITIES........................	114,411	114,411	114,411	114,411
ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS.......	34,259	35,009	34,259	35,009
SURVIVABILITY/LETHALITY ANALYSIS......................	27,794	37,794	27,794	34,794
DOD HIGH ENERGY LASER TEST FACILITY...................	14,570	19,570	21,570	23,370
AIRCRAFT CERTIFICATION................................	3,582	3,582	3,582	3,582
METEOROLOGICAL SUPPORT TO RDT&E ACTIVITIES............	6,890	6,890	6,890	6,890
MATERIEL SYSTEMS ANALYSIS.............................	8,884	8,884	8,884	8,884
EXPLOITATION OF FOREIGN ITEMS.........................	3,525	3,525	3,525	3,525
SUPPORT OF OPERATIONAL TESTING........................	89,047	94,047	89,047	91,547
ARMY EVALUATION CENTER................................	31,365	31,365	47,365	44,965
PROGRAMWIDE ACTIVITIES................................	69,096	60,096	62,734	60,096
TECHNICAL INFORMATION ACTIVITIES......................	33,749	43,749	29,549	39,249
MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY...	16,072	34,072	18,222	30,672
ENVIRONMENTAL QUALITY TECHNOLOGY MGMT SUPPORT.........	1,733	1,733	1,733	1,733
MANAGEMENT HEADQUARTERS (RESEARCH AND DEVELOPMENT)....	7,268	7,268	7,268	7,268

(In thousands of dollars)

	Budget	House	Senate	Conference
TOTAL, RDT&E MANAGEMENT SUPPORT....................	756,475	798,225	778,063	801,925
OPERATIONAL SYSTEMS DEVELOPEMENT				
MLRS PRODUCT IMPROVEMENT PROGRAM......................	111,389	111,389	100,389	100,389
AEROSTAT JOINT PROJECT OFFICE.........................	30,408	30,408	30,408	32,408
DOMESTIC PREPAREDNESS AGAINST WEAPONS OF MASS DESTRUCT	---	3,000	---	2,600
ADV FIELD ARTILLERY TACTICAL DATA SYSTEM..............	36,969	36,969	36,969	36,969
COMBAT VEHICLE IMPROVEMENT PROGRAMS...................	195,602	168,141	153,630	167,941
MANEUVER CONTROL SYSTEM...............................	40,231	40,231	40,231	40,231
AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGRAMS...	143,631	132,431	159,131	146,431
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM.........	13,017	17,017	13,017	15,017
DIGITIZATION..	29,302	36,302	29,302	32,302
FORCE XXI BATTLE COMMAND, BRIGADE AND BELOW (FBCB2)...	56,872	56,872	56,872	56,872
RAPID ACQ PROGRAM FOR TRANSFORMATION..................	23,593	---	23,593	15,593
MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM.......	8,539	8,539	16,139	13,839
OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS............	84,935	78,935	84,935	68,935
TRACTOR CARD..	6,551	11,551	6,551	11,551
JOINT TACTICAL COMMUNICATIONS PROGRAM (TRI-TAC).......	21,615	21,615	21,615	21,615
JOINT TACTICAL GROUND SYSTEM..........................	5,221	5,221	5,221	5,221
SPECIAL ARMY PROGRAM..................................	5,072	5,072	8,072	7,072
SECURITY AND INTELLIGENCE ACTIVITIES..................	452	2,452	452	2,452
INFORMATION SYSTEMS SECURITY PROGRAM..................	8,261	8,261	14,261	13,361
GLOBAL COMBAT SUPPORT SYSTEM..........................	94,177	94,177	85,177	85,177
SATCOM GROUND ENVIRONMENT (SPACE).....................	47,647	39,347	46,300	44,647
WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM..............	13,501	13,501	13,501	13,501
TRAFFIC CONTROL, APPROACH AND LANDING SYSTEM..........	785	785	785	785

(In thousands of dollars)

	Budget	House	Senate	Conference
TACTICAL UNMANNED AERIAL VEHICLES	38,210	38,210	38,210	38,210
AIRBORNE RECONNAISSANCE SYSTEMS	6,862	12,862	6,862	11,062
DISTRIBUTED COMMON GROUND SYSTEMS (JMIP)	85,242	72,742	85,242	72,742
END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES	45,697	66,697	66,297	78,497
NATO JOINT STARS	2,109	2,109	2,109	---
TOTAL, OPERATIONAL SYSTEMS DEVELOPEMENT	1,155,890	1,114,836	1,145,271	1,135,420
DOE JOINT RESEARCH ADJUSTMENT	---	-5,000	---	---
GENERAL REDUCTION	---	---	---	-5,000
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, ARMY	6,693,920	7,115,438	6,742,123	7,106,074

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

	Budget	House	Senate	Conference
2 DEFENSE RESEARCH SCIENCES	**138,281**	**146,150**	**140,531**	**145,450**
Advanced Target Recognition using Nanotechnologies		+2,000		+1,000
PASIS: Perpetually Assailable and Secure Information Systems, Research, Training and Education		+7,500		+3,800
Scientific Problems with Military Applications		-1,631		-1,631
Display Performance and Environmental Evaluation Lab project (ARL)				+2,000
Cold Weather Sensor Performance			+1,250	+1,000
Optical Technologies			+1,000	+1,000
3 UNIVERSITY AND INDUSTRY RESEARCH CENTERS	**69,147**	**77,347**	**69,147**	**73,647**
Center for Optics Manufacturing-Advanced Optics Program		+3,000		+1,500
Global Information Portal		+1,200		+1,000
Thermal Fluid Design Tool		+2,000		+1,000
Virtual Parts Engineering Research Center (Note: only for expansion of Design Immersion System Environment)		+2,000		+1,000
5 MATERIALS TECHNOLOGY	**13,794**	**13,794**	**25,294**	**20,794**
Advanced Materials Processing			+4,000	+3,000
FCS Composites Research			+5,000	+2,500
AAN Multifunction Materials			+2,500	+1,500
Army Materials Center of Excellence (Note: only to continue this Center's ongoing research into lightweight, multi-functional composite materials.)				(826)
6 SENSORS AND ELECTRONIC SURVIVABILITY	**25,797**	**28,797**	**33,297**	**32,197**
Passive Millimeter Wave Camera (Note: only for the purpose of providing additional flight worthy PMMW imagers to conduct flight tests in adverse weather, nap-of-the-earth navigation scenarios, including flight demonstrations of covert personnel location under the DoD's Personnel Recovery/Extraction Aided by Smart Sensor (PRESS) ACTD program)		+3,000		+2,100
S3I Technology Project (H16)			+2,500	+1,800
Advanced Sensors and Obscurants			+5,000	+2,500
8 AVIATION TECHNOLOGY	**49,265**	**40,029**	**44,265**	**44,265**
National Rotorcraft Tech Center		-9,236		
Funding for NASA Shortfall			-5,000	-5,000
10 MISSILE TECHNOLOGY	**40,112**	**57,612**	**48,612**	**61,612**
Acceleration of Development and Testing for tactical missile components		+3,500		+3,000
MEMS/GPS/IMU Integration (Note: only to accelerate and focus efforts to significantly lower the cost and improve the performance of guidance sets for precision/guided munitions. Activities should focus on accelerated development of high-g one-degree per hour IMU's, and hardware/software development of 'ultra-deep GPS/INS coupling' to improve anti-jam performance at low cost.)		+10,000		+7,000
Loitering Attack Munition for Aviation (LAM-A)		+4,000		+2,000
Low Cost Guidance & Navigation Unit (LCGNU)				+5,000
CKEM IMU			+1,500	+1,000
Jet Interaction CFD Testbed			+5,000	+3,500
Enhanced Scramjet Mixing			+2,000	
11 ADVANCED WEAPONS TECHNOLOGY	**19,043**	**27,982**	**24,043**	**27,043**
Cooperative Micro-Satellite Experiment (CMSE)		+8,000		
Microelectro Mechanical Systems		+9.500		+8,100
Miniature Detection Devices and Analysis Methods		+1,850		+1,000
Rapid Target Acquisition & Tracking System (RTATS)		+2,000		+1,400
Reduce programmed growth		-12,411		-6,000
HELSTF Solid State Heat Capacity			+5,000	+3,500
12 MODELING AND SIMULATION TECHNOLOGY	**20,579**	**28,579**	**25,579**	**31,579**
On-Line Contract Document Management		+1,000		+1,000
Modeling, Simulation and Training Infrastructure & Community Development		+7,000		+4,500
Three-Dimensional Ultrasound Imaging				+3,000
Photonics			+5,000	+2,500

	Budget	House	Senate	Conference
13 COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	**82,441**	**86,441**	**116,441**	**113,941**
Combat Vehicle Transportation Technologies Program: Calstart/WestStart Electric Hybrid Technology		+2,000		+1,000
Integration of Army Voice Interactive Device with an onboard central processing unit (Note: only to continue integration of AVID into the Smart Truck's voice activated central processing computer.)		+2,000		+1,700
Hydrogen PEM Fuel Cell Heavy Duty Vehicle Demonstration				+5,000
COMBATT			+20,000	+14,000
Hybrid HWMMV Field Evaluation			+5,000	+3,000
National Automotive Center Research			+3,000	+2,000
Advanced Virtual Environments			+2,000	+1,400
Smart Truck			+4,000	+3,400
15 CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLOGY	**3,561**	**11,561**	**4,561**	**6,561**
Thermobaric Warhead Development		+2,000		+1,000
U.S. Army Center of Excellence in Biotechnology		+6,000		+2,000
Biotechnology Research			+1,000	
17 WEAPONS AND MUNITIONS TECHNOLOGY	**35,549**	**69,549**	**45,549**	**65,649**
Corrosion Measurement and Control		+5,000		+4,300
Future Combat System Propellant and Survivability		+4,000		+2,800
Green Armaments Technology (GAT)		+7,500		+5,200
Liquidmetal Alloy-Tungsten (LA-T) Armor Piercing Ammunition		+4,000		+3,400
Multiple Explosively-Formed Penetrators		+2,000		+1,000
Single Crystal Tungsten Alloy Penetrator		+4,000		+2,000
Smart Coatings		+1,500		+1,000
Armament Systems Network IA Center (Title IX)		+4,000		+3,400
Army COE Acoustics			+5,000	+3,500
Cooperative Energetics Initiatives		+2,000	+5,000	+3,500
18 ELECTRONICS AND ELECTRONIC DEVICES	**27,819**	**47,319**	**38,819**	**50,319**
Cylindrical Zinc Air Battery for Land Warrior System		+1,500	+2,100	+1,800
Electronic Display Research (Flat Panel Display transfer from RDT&E, Defense-Wide)		+5,000		+9,000
Fuel Cell Power Systems		+5,000		+2,500
Improved High Rate Alkaline Cells		+1,000	+1,300	+1,000
Logistics Fuel Reformer		+2,500		+1,000
Low Cost Reusable Alkaline (Manganese-Zinc) Cells		+500	+600	+600
Polymer Extrusion/Multilaminate (Battery research)		+3,000		+2,600
Rechargeable Cylindrical Cell System		+1,000	+2,000	+1,500
TOW ITAS Cylindric Battery Replacement			+3,000	+1,500
Heat Actuated Coolers			+2,000	+1,000
19 NIGHT VISION TECHNOLOGY	**20,598**	**23,598**	**20,598**	**23,198**
Dual band detector imaging technology		+3,000		+2,600
20 COUNTERMINE SYSTEMS	**16,689**	**22,689**	**21,689**	**23,089**
Acoustic Mine Detection		+4,000		+2,000
Integrated Countermine Testbed and Training Project		+2,000		+1,400
Standoff Mine Detection			+3,000	+2,000
Landmine Detection Tech./Seismic Energy			+2,000	+1,000
21 HUMAN FACTORS ENGINEERING TECHNOLOGY	**16,466**	**21,966**	**16,466**	**19,966**
MedTeams (Medical Error Reduction Research)		+3,500		+2,500
Soldier Centered Design Tools for the Army		+2,000		+1,000

	Budget	House	Senate	Conference
22 ENVIRONMENTAL QUALITY TECHNOLOGY	**16,150**	**21,150**	**20,000**	**23,700**
Transportable Detonation Chamber Demonstration/Validation		+5,000		+6,000
Duplicative Technology Research		-5,000		-5,000
Rangesafe Demonstration Program		+5,000		+4,300
Excessive Growth: Environmental Restoration Tech			-1,150	-1,150
Waste Minimization and Pollution Research			+3,000	+2,000
Molecular and Computational Risk Assessment (MACERAC)			+2,000	+1,400
24 COMPUTER AND SOFTWARE TECHNOLOGY	**6,154**	**6,154**	**4,154**	**4,154**
Duplication of Other DoD Programs			-2,000	-2,000
25 MILITARY ENGINEERING TECHNOLOGY	**42,850**	**60,850**	**51,350**	**59,850**
Climate Change Fuel Cell Program (Buydown)		+7,000		+3,500
DoD Fuel Cell Test and Evaluation Center		+6,000		+5,100
Ft. George G. Meade Fuel Cell Demonstration		+5,000		+2,500
Center for Geosciences			+3,000	+1,500
Cold Regions Military Engineering			+1,500	+1,000
University Partnership for Operational Support (UPOS)			+4,000	+3,400
26 MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	**16,315**	**16,315**	**15,315**	**15,315**
Excessive Growth: Studies			-1,000	-1,000
27 WARFIGHTER TECHNOLOGY	**27,061**	**34,561**	**27,061**	**33,761**
Airbeam Manufacturing Process (lightweight transportable military shelter tech)		+1,000		+1,000
Center for Reliable Wireless Communications Technology for Digital Battlefield (NDU)		+1,000		+1,000
Combat Feeding (Note: Only to continue research on food and fielding technologies to improve food quality to the warfighter.)		+2,500		+1,700
Standoff Precision Aerial Delivery System (S/PADS)		+3,000		+2,000
Army Nutrition Program				+1,000
28 MEDICAL TECHNOLOGY	**82,494**	**104,994**	**117,644**	**129,694**
Diabetes Project (Pittsburgh)		+6,000		+5,100
Emergency Hypothermia for Advanced Combat Casualty and delayed resuscitation		+3,000		+2,600
Medical Area Network for Virtual Technologies		+8,000		+8,000
Osteoporosis Research		+4,000		+2,800
Speech Capable Personal Digital Assistant		+1,500		+1,000
Center for International Rehabilitation			+2,000	+1,400
Dermal Phase Meter			+600	+600
Minimally Invasive Surgery Simulator			+2,000	+1,400
Minimally Invasive Therapy (CIMIT)			+10,000	+5,000
Arthropod-borne Infectious Disease Control			+3,000	+2,500
VCT Lung Scan			+4,500	+3,200
Tissue Engineering Research			+5,500	+4,700
Monoclonal Anti-body Based Tech. (Heteropolymer System)			+3,550	+3,000
Operating Room of the Future				+2,500
Dye Targeted Laser Fusion			+4,000	+3,400
30 DUAL USE SCIENCE AND TECHNOLOGY	**10,045**	**15,045**	**10,045**	**13,545**
Manufacturing RDE Center for Nanotechnologies		+5,000		+3,500
31 WARFIGHTER ADVANCED TECHNOLOGY	**60,332**	**58,017**	**65,332**	**62,632**
Advanced Personal Navigation Technology MEMS INS/GPS precision location information		+4,000		
Metrology		+1,500		+1,000
Pneumatic Muscle Soft Landing Technology		+1,000		+1,000
Force Projection Logistics		-2,500		-2,500
Portable Cooling System Development (Note: only for heat actuated cooling for FCS apparel)		+1,000		+1,000
Warfighter Advanced Technology		-7,315		
Buying Ahead of Need			-5,000	-5,000
Personal Navigation of the Future Warfighter			+5,000	+2,500
Biosystems Technology			+5,000	+4,300

	Budget	House	Senate	Conference
32 MEDICAL ADVANCED TECHNOLOGY	**17,541**	**218,541**	**46,291**	**175,091**
Advanced Diagnostics and Therapeutic Digital Technologies		+2,500		+1,300
Artificial Hip (Volumetrically Controlled Manufacturing)		+5,000		+3,500
Biology, Education, Screening, Chemoprevention and Treatment (BESCT) Lung Cancer Research Program		+6,000		+3,500
BESCT Lung Cancer Research Program (MDACC)			+2,000	
Biosensor Research		+3,500		+2,500
Blood Safety (Note: only for the continuation of the current program to provide improved blood products and safety systems compatible with military field use.)		+8,000		+6,800
Brain Biology and Machine Initiative		+4,000	+3,000	+1,800
Cancer Center of Excellence (Notre Dame)		+3,000		+2,100
Center for Integration of Medicine and Innovative Technology--Computer-assisted minimally invasive surgery		+10,000		+8,500
Center for Untethered Healthcare at Worcester Polytechnic Institute		+2,000		+1,000
Comprehensive Neuroscience Center (transferred to Defense Health Program R&D)		+8,000		
Continuous Expert Care Network Telemedicine Program		+3,000		+1,500
Controlling Mosquito and Tick Transmitted Disease		+3,500		
Disaster Relief and Emergency Medical Services (DREAMS)		+8,000		+8,000
Fragile X (Note: only to support an intervention study aimed at finding effective methods of treatment – both pharmacological and nonpharmacological – for the symptoms and behavioral problems associated with Fragile X Syndrome.)		+1,000		+1,000
Hemoglobin Based Oxygen Carrier		+2,000		+1,000
Hepatitis C		+4,000		+3,400
Joint U.S.-Norwegian Telemedicine		+2,000		+1,400
Joslin Diabetes Research-eye care		+6,000		+4,200
Laser Vision Correction (Walter Reed)		+6,000		+3,000
Life Support for Trauma and Transport (LSTAT)		+3,500		+2,500
Secure Telemedicine Technology Program (Note: only for a suite of secure, scalable, customizable, and internet-based telemedicine solutions able to be used with a variety of operating platforms)		+4,000		+2,000
Memorial Hermann Telemedicine Network		+1,000		+1,000
Molecular Genetics and Musculoskeletal Research Program (Note: only to continue the current Army program.)		+9,000		+9,000
Monoclonal Antibodies, Massachusetts Biological Lab		+2,000		+1,000
Emergency Telemedicine Response and Advanced Technology Program		+3,000		+1,500
National Medical Testbed (Note: the Committee provides $3,700,000 only for on-going programs, and $4,000,000 only for recipient Emergency/Trauma Care advanced technology programs		+9,000		+7,700
Neurofibromatosis Research Program (NF)		+25,000		+21,000
Neurology Gallo Center-alcoholism research		+8,000		+5,600
Neurotoxin Exposure Treatment Research Program (NETRP) Parkinsons & neurological disorders		+20,000		+17,000
Polynitroxylated Hemoglobin		+1,000		+1,000
Retinal Scanning Display Technology		+3,000		+1,500
Saccadic Fatigue Measurement		+1,000		+1,000
SEAtreat cervical cancer visualization and treatment		+3,500		+1,700
Smart Aortic Arch Catheter		+1,000		+1,000
Synchrotron Based Scanning Research (Note: only to continue the current Army Synchrotron-based scanning program, to begin protocol testing for delivery to patients and to expand this service into the arena of proton telemedicine.)		+10,000		+8,500
U.S. Army Center of Excellence in Biotechnology		+7,500		
Veterans Collaborative Care Model Program		+2,000		+1,700
Joint Diabetes Program			+10,000	+5,000
Center for Prostate Disease Research at WRAMC			+7,500	+6,400
Spine Research at WRAMC			+2,500	+2,100
Medical Simulation Training Initiative			+750	+750
National Tissue Engineering Center				+2,000
Trauma Research Center			+3,000	+2,100

	Budget	House	Senate	Conference
33 AVIATION ADVANCED TECHNOLOGY	**44,843**	**36,545**	**39,843**	**38,843**
Aviation Advanced Technology (Note: only for Airborne Manned/Unmanned System Technology (AMUST) Wideband RF Network)		+3,000		+1,500
Aviation Advanced Technology (Note: $2,500,000 only for design, development, test and demonstration of a L50/60 turbojet shaft engine turbo for use in UAVs)		+5,000		+3,500
Aviation Advanced Technology-Reduce programmed growth		-16,298		-8,000
Program Delays/Execution			-5,000	-3,000
34 WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY	**29,684**	**39,684**	**29,684**	**35,684**
Low Cost Course Correction Technology		+5,000		+3,500
SMAW-D Shoulder-Launched Multipurpose Assault Weapon & Munitions Engineering Development		+5,000		+2,500
35 COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY	**193,858**	**222,358**	**222,408**	**227,858**
Aluminum Reinforced Metal Matrix Composites for Track Shoes		+5,000		+2,500
Combat Vehicle Research-Weight Reduction		+7,000		+6,000
Electrochromatic Glass for Combat Vehicles (Note: only to the National Automotive Center for research and development of inorganic electrochromatic materials and processing for combat vehicle smart, switchable windows.)		+2,000		+1,700
Fuel Catalyst Research Evaluation		+500		+500
Mobile Parts Hospital		+7,000	+8,000	+5,600
Movement Tracking System (MTS) for Family of Heavy Tactical Vehicles		+2,000		+2,500
NAC Standardized Exchange of Product Data (N-STEP) Combat Vehicle Automotive Advanced Technology		+5,000	+2,750	+2,500
Up-Armored HMWWV			+3,000	+2,100
TACOM Hybrid Vehicle Demonstration; Lithium Ion Tech			+2,000	+1,000
IMPACT			+5,000	+3,500
Composite Body Parts			+2,000	+1,400
Corrosion Prevention and Control Program			+2,000	+1,400
Vehicle Body Armor Support System			+3,800	+3,300
36 COMMAND, CONTROL, COMMUNICATIONS ADVANCED TECHNOLOGY	**31,865**	**35,865**	**35,865**	**33,465**
Battlefield Ordnance Awareness		+4,000	+4,000	+2,800
Excessive Growth			-4,000	-4,000
Network Environment for C3 Mobile Services			+4,000	+2,800
44 EW TECHNOLOGY	**13,868**	**24,368**	**13,868**	**24,568**
Multi-functional Intelligence and Remote Sensor System		+5,500		+4,700
Shortstop (SEPS)		+5,000		+6,000
45 MISSILE AND ROCKET ADVANCED TECHNOLOGY	**59,518**	**77,018**	**69,518**	**76,018**
Missile Recycling Program (Note: Only to transition the AMCOM-developed Missile Recycling Capabilities (MRC) technologies to the Anniston Munitions Center to establish an organic MRC.)		+5,000		+2,500
Standoff NATO International Precision Enhanced Rocket (SNIPER) Laser Guidance for 2.75 in. Rocket		+3,000		+1,500
Volumetrically Controlled Manufacturing (VCM) Composites Technology		+3,500		+2,500
Wide Bandwidth Technology		+6,000		+3,000
Missile Simulation Technology			+10,000	+7,000
47 LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY	**23,062**	**23,062**	**27,062**	**25,862**
Advanced Demining Technology			+4,000	+2,800
48 JOINT SERVICE SMALL ARMS PROGRAM	**5,828**	**5,828**	**4,428**	**4,428**
Program Delays/Execution			-1,400	-1,400
49 LINE-OF-SIGHT TECHNOLOGY DEMONSTRATION	**57,384**	**70,456**	**57,384**	**70,456**
Transfer from Missile Procurement, Army		+13,072		+13,072

	Budget	House	Senate	Conference
50 NIGHT VISION ADVANCED TECHNOLOGY	**37,081**	**56,581**	**42,081**	**49,781**
BUSTER Backpack UAV (Note: only for continued development of the backpack unmanned autonomous sensor for surveillance and target acquisition to enhance reconnaissance (BUSTER) UAV)		+7,000		+5,000
Helmet Mounted Infa-Red Sensor System		+2,500		+1,200
Night Vision Advanced Technology-Digital Fusion		+7,000		+3,000
Soldier Vision 2000 (through wall surveillance radar)		+3,000		
Through Wall Radar			+5,000	+3,500
51 ENVIRONMENTAL QUALITY TECHNOLOGY DEMONSTRATIONS	**4,826**	**9,826**	**8,826**	**7,326**
Proton Exchange Membrane (PEM) fuel cell demonstration (Note: only for the demonstration of domestically produced PEM fuel cells on military facilities)		+5,000		
PEM Fuel Cell Technology Demonstration			+5,000	+3,500
Program Delays/Execution			-1,000	-1,000
53 ADVANCED TACTICAL COMPUTER SCIENCE AND SENSOR TECHN	**18,513**	**18,513**	**16,513**	**16,513**
Excessive Growth: GCSS Demonstration			-2,000	-2,000
54 ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)	**19,491**	**36,491**	**51,691**	**71,191**
Advanced Warfare Environment (AWarE) (Note: only for acquisition of commercial technology solutions for the Advanced Warfare Environment (AwarE) Deployed Access to imagery archives)				+1,000
Micropower Devices for Missile Defense Applications		+1,000		
Reduce programmed growth		-1,000		-1,000
Super Cluster Distributed Memory Technology		+4,000		+2,000
THEL		+10,000		+13,000
Thermionic Technology		+3,000		+1,500
Enhanced Scramjet Mixing				+1,400
Range Safety-Kodiak			+7,200	+6,100
Low Cost Interceptor			+10,000	+7,000
Eagle Eyes			+3,000	+2,100
FOSSIM			+4,000	+2,500
Cooperative Micro-satellite Experiment			+5,000	+4,000
Space Technology Development			+3,000	+2,100
Safety Support/Deconfliction (Kodiak)				+10,000
Infrastructure Sustainment (Fort Greely)				(3,400)
55 LANDMINE WARFARE AND BARRIER - ADV DEV	**21,651**	**21,651**	**20,051**	**20,051**
Program Delays/Execution			-2,000	-2,000
Plants Detecting Landmines			+400	+400
56 TANK AND MEDIUM CALIBER AMMUNITION	**32,986**	**51,000**	**59,986**	**52,500**
Conventional tank ammunition		-2,986		-2,986
Global Positioning System Interference Suppression (GPS ISU)		+1,000		+1,000
TERM TM3		+5,000	+10,000	+7,000
XM 1007 Tank Extended Range Munition (TERM)		+15,000		
XM1007			+17,000	+14,500
59 SOLDIER SUPPORT AND SURVIVABILITY	**17,482**	**14,000**	**17,482**	**17,482**
Reduce programmed growth		-3,482		
61 NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT	**12,756**	**10,000**	**8,756**	**8,756**
Reduce programmed growth		-2,756		
Program Delays/Execution: DTSP			-4,000	-4,000

	Budget	House	Senate	Conference
62 ENVIRONMENTAL QUALITY TECHNOLOGY DEM/VAL	**7,536**	**37,036**	**17,896**	**35,136**
Plasma Energy Pyrolysis (Note: only for the installation and demonstration of an on-site operational Plasma Energy Pyrolysis System at Anniston Army Depot at Anniston, Alabama, for the demonstrated destruction of toxic and hazardous waste streams generated on-site.)		+6,000		+6,000
Plasma Energy Pyrolysis System (PEPS)			+3,000	
Commercializing Dual Use Technologies		+8,000		+5,600
Environmental Cleanup Demonstration (Note: only to demonstrate and validate new environmental cleanup technology at Porta Bella)		+5,000		+2,500
Fort Ord Cleanup Demonstration Project		+4,000		+2,000
Technology Development for unexploded ordnance in support of military readiness (Note: only for the National Center for Environmental Excellence to demonstrate and validate technology to efficiently identify, characterize, and neutralize unexploded ordnance to support military readiness, promote humanitarian assistance activities, and advance peacekeeping combat missions.)		+4,000		+3,400
Vanadium Technology Program		+2,500		+1,300
Casting Emission Reduction Program (CERP)			+8,360	+5,800
Managing Army Tech. Environmental Enhancements			+1,000	+1,000
Program Delays/Execution			-2,000	
63 WARFIGHTER INFORMATION NETWORK-TACTICAL - DEM/VAL	**15,075**	**15,075**	**12,575**	**12,575**
Schedule Delays			-2,500	-2,500
64 NATO RESEARCH AND DEVELOPMENT	**8,633**	**8,633**	**6,433**	**6,433**
Unjustified Program Growth			-2,200	-2,200
65 AVIATION - ADV DEV	**9,105**	**13,105**	**15,105**	**13,305**
Virtual Cockpit Optimization		+4,000	+6,000	+4,200
66 WEAPONS AND MUNITIONS - ADV DEV	**31,670**	**35,670**	**31,670**	**34,470**
Precision Guided Mortar Munition		+4,000		+2,800
67 LOGISTICS AND ENGINEER EQUIPMENT - ADV DEV	**7,456**	**8,456**	**6,456**	**6,456**
ManTech-Cylindrical Zinc Batteries for Land Warrior System		+1,000		
Program Delays/Execution			-1,000	-1,000
69 MEDICAL SYSTEMS - ADV DEV	**15,506**	**16,506**	**20,506**	**20,006**
IMED Tools Rural Mobile Communications Platform		+1,000		+1,000
Future Medical Shelter			+5,000	+3,500
73 SCAMP BLOCK II DEM/VAL	**9,895**	**9,895**	**6,895**	**6,895**
Buying Ahead of Need: AEHF Schedule Slip			-3,000	-3,000
74 MEADS CONCEPTS - DEM/VAL	**73,645**	**0**	**0**	**0**
Transfer to R&D, Defense-Wide - MEADS		-73,645	-73,645	-73,645
75 AIRCRAFT AVIONICS	**57,474**	**58,974**	**50,174**	**51,274**
Airborne Separation Video System (ASVS)		+1,500		+1,100
Schedule Slips/Execution			-7,300	-7,300
77 COMANCHE	**787,866**	**816,366**	**787,866**	**787,866**
Transfer from Missile Procurement, Army		+28,500		
78 EW DEVELOPMENT	**57,010**	**61,010**	**52,010**	**54,010**
ATIRCM/CMWS-Installed Systems Test Facility at CECOM		+4,000		+2,000
Program Delays/Execution			-5,000	-5,000
79 JOINT TACTICAL RADIO	**80,449**	**80,449**	**75,449**	**75,449**
Program Delays/Execution			-5,000	-5,000

	Budget	House	Senate	Conference
80 ALL SOURCE ANALYSIS SYSTEM	**42,166**	**45,666**	**42,166**	**44,566**
All Source Analysis System (Note: only for the development of the Intelligence Analysis Advanced Tool Sets (IAATS) Communications Control Sets for ASAS)		+2,000		+1,400
ASAS Light		+1,500		+1,000
82 COMMON MISSILE	**16,731**	**10,927**	**8,400**	**16,731**
Reduce programmed growth		-5,804		
Schedule Slips/Execution			-8,331	
86 JAVELIN	**492**	**5,492**	**5,692**	**2,992**
Javelin Pre-Planned Product Improvements		+5,000		+2,500
Upgrades			+5,200	
88 FAMILY OF HEAVY TACTICAL VEHICLES	**0**	**0**	**3,000**	**0**
Movement Tracking System (Note: see line 35)			+3,000	
90 TACTICAL UNMANNED GROUND VEHICLE (TUGV)	**0**	**3,000**	**0**	**1,500**
Viking Mine Clearing System		+3,000		+1,500
94 NIGHT VISION SYSTEMS - ENG DEV	**24,201**	**28,201**	**24,201**	**27,601**
Avenger Upgrade of First Generation FLIR (Only for the Navy Center of Excellence in ElectroOptics Manufacturing to finalize technology transfer and fabricate a pilot quantity to validate manufacturing technology.)		+4,000		+3,400
96 NON-SYSTEM TRAINING DEVICES - ENG DEV	**26,319**	**26,319**	**29,319**	**28,919**
Camp Dawson Simulation			+3,000	+2,600
101 AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE-ENG DEV	**18,233**	**21,233**	**16,033**	**17,233**
Air Defense Alerting Device (ADAD) for Avenger		+3,000		+1,200
Excessive Growth			-2,200	-2,200
103 AUTOMATIC TEST EQUIPMENT DEVELOPMENT	**11,582**	**13,582**	**11,582**	**13,282**
Integrated Family of Test Equipment		+2,000		+1,700
104 DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) - ENG DEV	**26,058**	**26,058**	**21,158**	**21,158**
Program Testing Delay			-4,900	-4,900
105 TACTICAL SURVEILLANCE SYSTEMS - ENG DEV	**68,205**	**68,205**	**57,005**	**60,205**
TES Program Delays/Execution			-11,200	-8,000
111 AVIATION - ENG DEV	**2,263**	**4,763**	**2,263**	**4,063**
CH-47 Cockpit Airbag System		+2,500		+1,800
112 WEAPONS AND MUNITIONS - ENG DEV	**7,046**	**21,046**	**7,046**	**17,246**
Common Remotely Operated Weapon Station (CROWS)		+4,000		+3,400
M795E1 155mm Extended Range, High Explosive Base Burner Projectile		+3,000		+1,500
Shoulder-Launched Multipurpose Assault Weapon-Disposable Confined Space		+5,000		+4,300
Small Arms Fire Control System II (MK-19 Grenade Launcher, M-2 .50 Cal., .50 Cal. Sniper Rifle)		+2,000		+1,000
113 LOGISTICS AND ENGINEER EQUIPMENT - ENG DEV	**30,673**	**35,973**	**25,073**	**29,573**
Intelligent Power Management for Shelters and Vehicles		+5,300		+4,500
Program Delays/Execution			-5,600	-5,600
114 COMMAND, CONTROL, COMMUNICATIONS SYSTEMS - ENG DEV	**122,644**	**132,644**	**122,644**	**119,644**
Applied Communications and Information Networking (Note: The Committee commends CECOM for their aggressive implementation of ACIN and recommends the Army work with the ASD(C3I) to ensure the applicability of the ACIN to the overall DoD communications architecture.)		+10,000		+7,000
Applied Communications and Information Network (ACIN)			+10,000	
Excessive Growth: Risk Reduction			-10,000	-10,000
115 MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEFENSE EQUIPMENT	**8,228**	**10,228**	**8,228**	**9,228**
Cartledge Infuser PE 0604807A-832		+2,000		+1,000

	Budget	House	Senate	Conference
116 LANDMINE WARFARE/BARRIER - ENG DEV	**89,153**	**69,153**	**85,053**	**69,153**
Reduce programmed growth		-20,000		-20,000
Program Delays/Execution: CMCS			-4,100	
117 ARTILLERY MUNITIONS - EMD	**67,258**	**63,322**	**62,258**	**61,822**
Trajectory Correctable Munitions (TCM) Sense and Destroy Armament		+5,000	+5,000	+3,500
Reduce programmed growth		-8,936		-8,936
Schedule Delays			-10,000	
119 ARMY TACTICAL COMMAND & CONTROL HARDWARE & SOFTWARE	**50,887**	**58,887**	**50,887**	**57,687**
Next Generation Command and Control System (Note: only for Advanced Warfare Environment 3-dimension display technology to support Army's C2 modernization.)		+8,000		+6,800
123 ARTILLERY SYSTEMS - EMD	**62,481**	**62,481**	**27,481**	**62,481**
Buying Long Lead Items Ahead of Need: Crusader			-35,000	
124 PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION	**107,100**	**0**	**0**	**0**
Transfer to R&D, Defense-Wide		-107,100	-107,100	-107,100
125 INFORMATION TECHNOLOGY DEVELOPMENT	**98,178**	**98,178**	**111,178**	**109,378**
JCALS			+12,000	+10,200
Electronic Commodity Pilot Program			+1,000	+1,000
126 THREAT SIMULATOR DEVELOPMENT	**16,011**	**18,011**	**18,011**	**19,011**
Threat Simulator Development-Anti Tank Guided Missile Program		+2,000		+1,000
Adv Cognitive Reasoning Tech			+1,000	+1,000
RF/SAM Threat Simulator			+1,000	+1,000
129 RAND ARROYO CENTER	**19,972**	**17,972**	**19,972**	**19,972**
Reduce FFRDC/CAAS		-2,000		
131 CONCEPTS EXPERIMENTATION PROGRAM	**33,067**	**35,067**	**38,067**	**31,767**
Battle Lab Cooperative and Collaborative Research		+4,000		
Concepts Experimentation Program (Note: only for acquisition of commercial licenses and integration support for commercial geo-spatial distributed data visualization and management network at Ft. Huachuca Army Battle Lab.)		+6,000		+4,200
MANPRINT Analysis		+2,000		+1,000
Reduce programmed growth		-10,000		-10,000
Battle Lab at Ft. Knox			+5,000	+3,500
134 ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS	**34,259**	**35,009**	**34,259**	**35,009**
ACES		+750		+750
135 SURVIVABILITY/LETHALITY ANALYSIS	**27,794**	**37,794**	**27,794**	**34,794**
Information Operations/Vulnerability and Survivability Analysis (IOVSA)		+10,000		+7,000
136 DOD HIGH ENERGY LASER TEST FACILITY	**14,570**	**19,570**	**21,570**	**23,370**
Manufacturing of solid state laser diode arrays for the Solid State Heat Capacity Laser		+5,000		+4,300
HELSFT Infrastructure and Mobile Diagnostics			+3,500	+2,000
HELSTF Lethality, Propagation & Susceptibility			+2,500	+1,500
HELSTF Military Utility analysis			+1,000	+1,000
141 SUPPORT OF OPERATIONAL TESTING	**89,047**	**94,047**	**89,047**	**91,547**
MATTRACKS		+5,000		+2,500
142 ARMY EVALUATION CENTER	**31,365**	**31,365**	**47,365**	**44,965**
Starstreak			+16,000	+13,600
143 PROGRAMWIDE ACTIVITIES	**69,096**	**60,096**	**62,734**	**60,096**
Reduce programmed growth		-9,000		-9,000
Reimbursement for PY Reprogramming			-6,362	

	Budget	House	Senate	Conference
144 TECHNICAL INFORMATION ACTIVITIES	**33,749**	**43,749**	**29,549**	**39,249**
Army High Performance Computing Research Center		+15,000		+10,500
Reduce programmed growth		-5,000		-5,000
Excessive Growth			-4,200	
145 MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY	**16,072**	**34,072**	**18,222**	**30,672**
Public Private Partnering Initiative		+15,000		+10,500
Cryofracture Anti-personnel Mine Disposal System (Note: only to continue current anti-personnel mine disposal program.)		+3,000		+2,600
Plasma Ordnance Demilitarization System (PODS)			+2,150	+1,500
150 MLRS PRODUCT IMPROVEMENT PROGRAM	**111,389**	**111,389**	**100,389**	**100,389**
Excessive Growth			-11,000	-11,000
151 AEROSTAT JOINT PROJECT OFFICE	**30,408**	**30,408**	**30,408**	**32,408**
Lightweight X-band Radar				+2,000
152 DOMESTIC PREPAREDNESS AGAINST WEAPONS OF MASS DESTRUCT	**0**	**3,000**	**0**	**2,600**
WMD First Responder Training at the National Terrorism Preparedness Institute		+3,000		+2,600
154 COMBAT VEHICLE IMPROVEMENT PROGRAMS	**195,602**	**168,141**	**153,630**	**167,941**
Combat Vehicle Improvement Programs		+5,000		+2,000
Reduce programmed growth/ACCE Execution Delays		-32,461	-45,972	-32,461
Abrams Legacy Fleet Sidecat/Embedded Diagnostics			+2,000	+1,400
Composite Track Improvement			+2,000	+1,400
156 AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGRAMS	**143,631**	**132,431**	**159,131**	**146,431**
Guardrail/Aerial Common Sensor termination of JSAF/LBSS		-11,200		-11,200
Program Delays/Execution			-4,500	
Integrated Mechanical Diagnostics System			+20,000	+14,000
157 AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	**13,017**	**17,017**	**13,017**	**15,017**
Universal Full Authority Digital Engine Control (FADEC)		+2,000		+1,000
VDVP and LOLA Equipped Fuel Delivery Unit		+2,000		+1,000
158 DIGITIZATION	**29,302**	**36,302**	**29,302**	**32,302**
Digitization (Note: only to conduct battalion level testing of the digital intelligence situation mapboard.)		+2,000		+1,000
University XXI Effort--Digitization at Ft. Hood		+5,000		+2,000
160 RAPID ACQ PROGRAM FOR TRANSFORMATION	**23,593**	**0**	**23,593**	**15,593**
Reduction		-23,593		-8,000
161 MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM	**8,539**	**8,539**	**16,139**	**13,839**
Patriot Ground SLEP			+7,600	+5,300
162 OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS	**84,935**	**78,935**	**84,935**	**68,935**
Reduce programmed growth		-6,000		-16,000
163 TRACTOR CARD	**6,551**	**11,551**	**6,551**	**11,551**
Transfer from Missile Procurement, Army (IBCT Studies)		+5,000		+5,000
166 SPECIAL ARMY PROGRAM	**5,072**	**5,072**	**8,072**	**7,072**
ERADS			+3,000	+2,000
167 SECURITY AND INTELLIGENCE ACTIVITIES	**452**	**2,452**	**452**	**2,452**
Security & Intelligence Activities (Note: only for continued development of information technology support at INSOCM's Information Dominance Center.)		+2,000		+2,000
168 INFORMATION SYSTEMS SECURITY PROGRAM	**8,261**	**8,261**	**14,261**	**13,361**
Biometrics			+6,000	+5,100
169 GLOBAL COMBAT SUPPORT SYSTEM	**94,177**	**94,177**	**85,177**	**85,177**
Program Delays/Execution			-9,000	-9,000

	Budget	House	Senate	Conference
170 SATCOM GROUND ENVIRONMENT (SPACE)	**47,647**	**39,347**	**46,300**	**44,647**
STAR-T termination		-8,300		-3,000
Schedule Slips/Execution			-1,347	
174 AIRBORNE RECONNAISSANCE SYSTEMS	**6,862**	**12,862**	**6,862**	**11,062**
Hyperspectral long-wave imager		+6,000		+4,200
175 DISTRIBUTED COMMON GROUND SYSTEMS (JMIP)	**85,242**	**72,742**	**85,242**	**72,742**
Transfer to Tactical Surveillance System and Guardrail Modifications		-12,500		-12,500
176 END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES	**45,697**	**66,697**	**66,297**	**78,497**
MANTECH for Munitions		+16,000		+11,200
Totally Integrated Munitions Enterprise (TIME)		+6,000	+10,000	+7,000
Laser Peening Technology for Aircraft and Ground Equipment		+2,000		+1,000
Rechargeable Bipolar Wafer Cell NiMH Battery for SINCGARS		+1,000		+1,000
Femtosecond Laser		+6,000		+4,200
Reduced program growth		-10,000		
Force Provider Microwave Wastewater Treatment			+2,000	+1,400
Mantech Program for Cylindrical Zinc Batteries			+2,600	+1,800
Continuous Manuf. Process for Metal Matrix Composites			+3,000	+2,600
Modular Extendable Rigid Wall Shelter			+3,000	+2,600
NATO JOINT STARS	2,109	+2,109	+2,109	

ARMY VENTURE CAPITAL SCIENCE AND TECHNOLOGY DEMONSTRATION

The conferees agree with the concept, as proposed in the House passed Department of Defense Appropriations bill for fiscal year 2002, of establishing a Venture Capital fund demonstration to enhance Army access to advances in science and technology. Accordingly, the conferees have included a general provision, Sec., 8150 that provides $25,000,000 for the formation of such a corporation pursuant to authority of 10 U.S.C. 2371.

HYBRID ELECTRIC DRIVE RESEARCH

The conferees agree to fully fund the Army's request for Combat Hybrid Power Systems (PE 603005/441), an amount of $18,000,000. These funds should be used to accelerate the development of critical hybrid electric technology components and integration into FCS ground vehicles. These funds also should be applied to development of hybrid electric architectures for combat vehicles. The conferees direct the Secretary of the Army to provide to the congressional defense committees a report detailing the Army's plan for implementing this direction with the submission of the fiscal year 2003 Department of Defense budget request.

Though the conferees are encouraged by recent developments in the area of hybrid electric drive, there is concern that the Army has not performed adequate testing and evaluation of hybrid electric technology in extreme temperature environments. In particular, the conferees are concerned that the sources necessary to ensure stable, consistent and adequate power to the overall system have not been developed and tested in extreme cold-weather environments. Therefore, the conferees recommend that the Army conduct testing of hybrid electric technology, including the power sources associated with the technology, in extreme cold weather environments to ensure adequate power and performance to this critical technology.

STARSTREAK-STINGER OPERATIONAL TEST

The conferees agree to provide an additional $13,600,000 for the Starstreak-Stinger operational test program. Of this amount, $12,000,000 should be used to conduct the live-fire, side-by-side operational test of the Starstreak and Stinger missile for the Apache helicopter. The remainder should be made available to conduct test firing from the Apache against ground targets.

ARMY HIGH PERFORMANCE COMPUTING RESEARCH CENTER (AHPCRC)

The conferees have added $10,500,000 for the activities of the Army High Performance Computing Research Center. Of these funds, $2,000,000 is only for basic research at the Center's academic partner institutions; and $8,500,000 is only for (1) the use, operation and maintenance of the Center's high performance computing systems and networks; (2) staff scientist services to support Army research activities; (3) technology exchange programs with Army laboratories, outreach and education programs; and (4) management activities of the research program and center, including publications, seminars and workshops.

DOMED HOUSING UNITS

From within funds made available in Research, Development, Test and Evaluation, Army, the conferees direct that the Commanding General of the Army Space and Missile Defense Command acquire and maintain domed housing units for military personnel on Kwajalein Atoll and other island locations in support of the mission of the command.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The Conference agreement on items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, NAVY				
BASIC RESEARCH				
IN-HOUSE LABORATORY INDEPENDENT RESEARCH.............	16,291	16,291	16,291	16,291
DEFENSE RESEARCH SCIENCES............................	389,829	382,829	399,329	391,829
TOTAL, BASIC RESEARCH..............................	406,120	399,120	415,620	408,120
APPLIED RESEARCH				
POWER PROJECTION APPLIED RESEARCH....................	66,322	80,322	81,322	84,172
FORCE PROTECTION APPLIED RESEARCH....................	117,072	125,937	124,072	132,037
MARINE CORPS LANDING FORCE TECHNOLOGY................	31,248	31,248	31,248	31,248
HUMAN SYSTEM TECHNOLOGY..............................	---	---	3,000	---
MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY........	---	---	16,500	19,300
HUMAN SYSTEMS TECHNOLOGY.............................	---	---	---	2,600
MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY........	---	---	---	19,300
COMMON PICTURE APPLIED RESEARCH......................	83,557	88,645	108,557	125,545
WARFIGHTER SUSTAINMENT APPLIED RESEARCH..............	71,294	96,894	101,294	108,804
RF SYSTEMS APPLIED RESEARCH..........................	62,141	62,141	71,141	68,941
OCEAN WARFIGHTING ENVIRONMENT APPLIED RESEARCH........	50,738	66,288	50,738	62,588
UNDERSEA WARFARE WEAPONRY TECHNOLOGY.................	---	---	2,000	1,700
UNDERSEA WARFARE APPLIED RESEARCH....................	76,510	76,510	76,510	76,510
MINE AND EXPEDITIONARY WARFARE APPLIED RESEARCH.......	57,668	57,668	57,668	57,668
DUAL USE SCIENCE AND TECHNOLOGY PROGRAM..............	10,000	10,000	13,000	12,600
TOTAL, APPLIED RESEARCH............................	626,550	695,653	737,050	803,013
ADVANCED TECHNOLOGY DEVELOPMENT				
POWER PROJECTION ADVANCED TECHNOLOGY.................	76,410	133,510	82,910	118,810

(In thousands of dollars)

	Budget	House	Senate	Conference
FORCE PROTECTION ADVANCED TECHNOLOGY..................	85,297	140,297	109,797	133,397
COMMON PICTURE ADVANCED TECHNOLOGY....................	48,583	50,583	48,583	50,283
WARFIGHTER SUSTAINMENT ADVANCED TECHNOLOGY............	57,685	75,185	57,685	73,485
RF SYSTEMS ADVANCED TECHNOLOGY........................	76,876	76,876	81,876	81,176
SURFACE SHIP & SUBMARINE HM&E ADVANCED TECHNOLOGY.....	---	---	7,000	3,000
MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION (ATD)..	51,310	61,810	55,810	62,510
MEDICAL DEVELOPMENT...................................	---	71,500	---	59,000
MANPOWER, PERSONNEL AND TRAINING ADV TECH DEV.........	---	---	4,000	2,000
ENVIRONMENTAL QUALITY AND LOGISTICS ADVANCED TECHN....	---	---	---	1,400
JOINT EXPERIMENTATION.................................	118,802	30,802	118,802	103,802
WARFIGHTER PROTECTION ADVANCED TECHNOLOGY.............	17,678	28,178	17,678	28,678
UNDERSEA WARFARE ADVANCED TECHNOLOGY..................	56,303	58,803	59,303	59,703
NAVY WARFIGHTING EXPERIMENTS AND DEMONSTRATIONS.......	43,277	43,277	43,277	43,277
MINE AND EXPEDITIONARY WARFARE ADVANCED TECHNOLOGY....	48,279	51,279	49,979	49,779
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT..............	680,500	822,100	736,700	870,300
DEMONSTRATION & VALIDATION				
AIR/OCEAN TACTICAL APPLICATIONS.......................	32,332	32,332	32,332	32,332
AVIATION SURVIVABILITY................................	25,572	37,572	25,572	33,372
DEPLOYABLE JOINT COMMAND AND CONTROL..................	50,000	---	---	---
ASW SYSTEMS DEVELOPMENT...............................	12,922	16,922	12,922	14,922
TACTICAL AIRBORNE RECONNAISSANCE......................	1,934	1,934	1,934	1,934
ADVANCED COMBAT SYSTEMS TECHNOLOGY....................	3,458	3,458	3,458	3,458
SURFACE AND SHALLOW WATER MINE COUNTERMEASURES........	135,284	142,484	135,284	141,384
SURFACE SHIP TORPEDO DEFENSE..........................	4,818	19,318	7,818	18,718
CARRIER SYSTEMS DEVELOPMENT...........................	165,150	165,150	165,150	165,150

(In thousands of dollars)

	Budget	House	Senate	Conference
SHIPBOARD SYSTEM COMPONENT DEVELOPMENT................	288,382	104,000	296,382	297,782
PILOT FISH..	99,600	99,600	99,600	99,600
RETRACT LARCH...	50,441	50,441	50,441	50,441
RADIOLOGICAL CONTROL..................................	1,056	1,056	1,056	1,056
SURFACE ASW...	3,724	3,724	3,724	3,724
SSGN COVERSION..	30,000	30,000	---	75,000
ADVANCED SUBMARINE SYSTEM DEVELOPMENT.................	110,766	131,766	112,766	125,366
SUBMARINE TACTICAL WARFARE SYSTEMS....................	5,405	5,405	13,405	9,405
SHIP CONCEPT ADVANCED DESIGN..........................	1,949	22,949	1,949	20,849
SHIP PRELIMINARY DESIGN & FEASIBILITY STUDIES.........	14,922	9,922	14,922	14,922
ADVANCED NUCLEAR POWER SYSTEMS........................	175,176	173,076	175,176	173,076
ADVANCED SURFACE MACHINERY SYSTEMS....................	3,921	3,921	3,921	3,921
CHALK EAGLE...	35,313	35,313	35,313	35,313
COMBAT SYSTEM INTEGRATION.............................	42,915	66,915	42,915	61,915
CONVENTIONAL MUNITIONS................................	22,299	24,299	27,299	24,799
MARINE CORPS ASSAULT VEHICLES.........................	263,066	263,066	263,066	263,066
MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM.............	25,957	36,957	31,957	38,657
JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT..........	12,918	12,918	12,918	12,918
COOPERATIVE ENGAGEMENT................................	74,231	112,331	74,231	106,631
OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT..............	16,077	16,077	16,077	16,077
ENVIRONMENTAL PROTECTION..............................	46,117	50,117	46,117	48,117
NAVY ENERGY PROGRAM...................................	5,025	8,025	9,025	7,025
FACILITIES IMPROVEMENT................................	1,728	1,728	1,728	1,728
CHALK CORAL...	48,187	48,187	48,187	48,187
NAVY LOGISTIC PRODUCTIVITY............................	11,735	38,735	11,735	31,935

(In thousands of dollars)

	Budget	House	Senate	Conference
RETRACT MAPLE..	148,856	156,856	148,856	156,856
LINK PLUMERIA..	62,601	62,601	62,601	62,601
RETRACT ELM..	22,200	22,200	22,200	22,200
SHIP SELF DEFENSE - DEM/VAL............................	8,353	10,353	8,353	9,353
LINK EVERGREEN...	26,151	26,151	26,151	26,151
SPECIAL PROCESSES......................................	58,858	66,858	58,858	65,658
NATO RESEARCH AND DEVELOPMENT..........................	11,551	11,551	11,551	11,551
LAND ATTACK TECHNOLOGY.................................	130,993	173,193	122,510	150,393
JOINT STRIKE FIGHTER (JSF) - DEM/VAL...................	---	---	30,000	---
NONLETHAL WEAPONS - DEM/VAL............................	34,008	34,008	36,008	35,408
ALL SERVICE COMBAT IDENTIFICATION EVALUATION TEAM.....	13,530	13,530	13,530	13,530
SINGLE INTEGRATED AIR PICTURE (SIAP) SYSTEM ENGINEER..	43,140	43,140	43,140	43,140
SPACE AND ELECTRONIC WARFARE (SEW) ARCHITECTURE/ENGINE	32,259	39,259	34,259	39,659
TOTAL, DEMONSTRATION & VALIDATION......................	2,414,880	2,429,398	2,396,397	2,619,280
ENGINEERING & MANUFACTURING DEVEL				
OTHER HELO DEVELOPMENT.................................	64,392	79,892	74,392	83,692
AV-8B AIRCRAFT - ENG DEV...............................	32,897	32,897	32,897	32,897
STANDARDS DEVELOPMENT..................................	120,552	127,052	120,552	123,802
MULTI-MISSION HELICOPTER UPGRADE DEVELOPMENT..........	149,418	149,418	149,418	149,418
S-3 WEAPON SYSTEM IMPROVEMENT..........................	428	428	428	428
AIR/OCEAN EQUIPMENT ENGINEERING........................	6,346	6,346	6,346	6,346
P-3 MODERNIZATION PROGRAM..............................	3,220	3,220	3,220	3,220
TACTICAL COMMAND SYSTEM................................	64,832	64,832	64,832	64,832
COMMON STRATEGIC ROTARY LAUNCHER (N)...................	96,000	96,000	96,000	96,000
NAVY AREA MISSILE DEFENSE..............................	388,496	---	---	---

(In thousands of dollars)

	Budget	House	Senate	Conference
H-1 UPGRADES	170,068	170,068	170,068	170,068
ACOUSTIC SEARCH SENSORS	16,825	16,825	16,825	16,825
V-22A	546,735	446,735	546,735	446,735
AIR CREW SYSTEMS DEVELOPMENT	7,717	19,217	27,717	15,517
EW DEVELOPMENT	112,473	121,473	112,473	118,773
SC-21 TOTAL SHIP SYSTEM ENGINEERING	355,093	56,500	281,093	237,343
SURFACE COMBATANT COMBAT SYSTEM ENGINEERING	262,037	286,937	176,037	329,537
LPD-17 CLASS SYSTEMS INTEGRATION	1,001	1,001	1,001	1,001
TRI-SERVICE STANDOFF ATTACK MISSILE	1,946	1,946	1,946	1,946
STANDARD MISSILE IMPROVEMENTS	1,309	1,309	16,309	14,109
AIRBORNE MCM	52,041	61,041	57,041	61,641
SSN-688 AND TRIDENT MODERNIZATION	43,706	68,706	43,706	65,206
AIR CONTROL	12,821	12,821	12,821	12,821
ENHANCED MODULAR SIGNAL PROCESSOR	1,013	1,013	1,013	1,013
SHIPBOARD AVIATION SYSTEMS	16,375	19,875	16,375	18,125
COMBAT INFORMATION CENTER CONVERSION	5,392	5,392	5,392	5,392
NEW DESIGN SSN	201,596	208,596	201,596	206,496
SSN-21 DEVELOPMENTS	5,770	5,770	5,770	5,770
SUBMARINE TACTICAL WARFARE SYSTEM	29,246	29,246	49,246	39,246
SHIP CONTRACT DESIGN/ LIVE FIRE T&E	130,388	131,388	114,388	131,388
NAVY TACTICAL COMPUTER RESOURCES	3,836	52,836	3,836	41,036
UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAPONS	12,890	12,890	17,890	17,190
LIGHTWEIGHT TORPEDO DEVELOPMENT	10,310	10,310	10,310	10,310
JOINT DIRECT ATTACK MUNITION	56,285	56,285	56,285	56,285
JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	8,123	8,123	8,123	8,123

(In thousands of dollars)

	Budget	House	Senate	Conference
PERSONNEL, TRAINING, SIMULATION, AND HUMAN FACTORS....	1,300	1,300	1,300	1,300
NAVY ENERGY PROGRAM..................................	3,157	3,157	3,157	3,157
BATTLE GROUP PASSIVE HORIZON EXTENSION SYSTEM.........	8,130	8,130	8,130	8,130
JOINT STANDOFF WEAPON SYSTEMS.........................	26,852	26,852	26,852	26,852
SHIP SELF DEFENSE - EMD...............................	52,163	57,163	64,163	64,063
ADVANCED DISTRIBUTED LEARNING.........................	33,530	33,530	33,530	33,530
MEDICAL CHEMICAL DEFENSE LIFE MATERIAL (H)............	41,670	41,670	41,670	41,670
MEDICAL DEVELOPMENT...................................	5,455	7,455	19,955	23,255
NAVIGATION/ID SYSTEM..................................	23,884	23,884	23,884	23,884
DISTRIBUTED SURVEILLANCE SYSTEM.......................	34,711	42,711	42,211	42,711
JOINT STRIKE FIGHTER (JSF) - EMD......................	767,259	767,259	618,659	769,759
SMART CARD..	896	896	896	896
INFORMATION TECHNOLOGY DEVELOPMENT....................	11,031	11,031	11,031	11,031
INFORMATION TECHNOLOGY DEVELOPMENT....................	49,333	63,533	58,333	60,233
DEFENSE INTEGRATED MILITARY HUMAN RESOURCES SYSTEM....	47,184	47,184	47,184	47,184
JOINT COUNTER-INTELLIGENCE ASSESSMENT GROUP (JCAG)....	6,000	6,000	6,000	6,000
NAVY STANDARD INTEGRATED PERSONNEL SYSTEM (NSIPS).....	13,082	13,082	13,082	13,082
TOTAL, ENGINEERING & MANUFACTURING DEVEL............	4,117,214	3,521,225	3,522,118	3,769,268
RDT&E MANAGEMENT SUPPORT				
THREAT SIMULATOR DEVELOPMENT..........................	30,110	30,110	30,110	30,110
TARGET SYSTEMS DEVELOPMENT............................	49,511	49,511	49,511	49,511
MAJOR T&E INVESTMENT..................................	41,804	43,804	42,804	44,504
STUDIES AND ANALYSIS SUPPORT - NAVY...................	6,679	4,679	6,679	4,679
CENTER FOR NAVAL ANALYSES.............................	44,891	44,891	44,891	44,891
FLEET TACTICAL DEVELOPMENT............................	2,912	2,912	2,912	2,912

(In thousands of dollars)

	Budget	House	Senate	Conference
TECHNICAL INFORMATION SERVICES........................	951	11,951	951	10,251
MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT........	21,628	18,628	21,628	18,628
STRATEGIC TECHNICAL SUPPORT...........................	2,391	2,391	2,391	2,391
RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT...............	54,825	54,825	54,825	54,825
RDT&E INSTRUMENTATION MODERNIZATION...................	11,601	11,601	11,601	11,601
RDT&E SHIP AND AIRCRAFT SUPPORT.......................	71,735	71,735	71,735	71,735
TEST AND EVALUATION SUPPORT...........................	277,414	274,500	277,414	278,314
OPERATIONAL TEST AND EVALUATION CAPABILITY............	11,649	11,649	11,649	11,649
NAVY SPACE AND ELECTRONIC WARFARE (SEW) SUPPORT.......	3,433	3,433	3,433	3,433
SEW SURVEILLANCE/RECONAISSANCE SUPPORT................	12,693	17,893	12,693	16,493

(In thousands of dollars)

	Budget	House	Senate	Conference
MARINE CORPS PROGRAM WIDE SUPPORT	9,614	24,614	11,614	20,314
TACTICAL CRYPTOLOGIC ACTIVITIES	85,000	---	85,000	---
FOREIGN COUNTER-INTELLIGENCE (FCI) - RDT&E	---	---	1,000	1,000
TOTAL, RDT&E MANAGEMENT SUPPORT	738,841	679,127	742,841	677,241
OPERATIONAL SYSTEMS DEVELOPEMENT				
STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	43,322	46,822	43,322	45,822
SSBN SECURITY TECHNOLOGY PROGRAM	34,091	34,091	34,091	34,091
SUBMARINE ACOUSTIC WARFARE DEVELOPMENT	996	996	996	996
NAVY STRATEGIC COMMUNICATIONS	4,205	4,205	4,205	4,205
F/A-18 SQUADRONS	253,257	233,257	260,257	259,257
E-2 SQUADRONS	20,583	20,583	20,583	20,583
FLEET TELECOMMUNICATIONS (TACTICAL)	21,136	25,136	21,136	24,536
TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER (TMPC)	76,036	76,036	76,036	76,036
INTEGRATED SURVEILLANCE SYSTEM	20,041	36,041	32,041	38,641
AMPHIBIOUS TACTICAL SUPPORT UNITS	24,387	29,387	24,387	26,887
CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT	22,407	25,607	23,607	25,407
ELECTRONIC WARFARE (EW) READINESS SUPPORT	7,659	12,659	10,159	10,159
HARM IMPROVEMENT	13,630	34,630	13,630	28,330
TACTICAL DATA LINKS	39,362	39,362	39,362	39,362
SURFACE ASW COMBAT SYSTEM INTEGRATION	28,119	24,219	28,119	28,119
MK-48 ADCAP	17,130	17,130	17,130	17,130
AVIATION IMPROVEMENTS	41,430	46,430	43,430	45,330
NAVY SCIENCE ASSISTANCE PROGRAM	4,945	4,945	20,945	18,645
F-14 UPGRADE	---	---	3,000	1,500
OPERATIONAL NUCLEAR POWER SYSTEMS	55,202	55,202	55,202	55,202

(In thousands of dollars)

	Budget	House	Senate	Conference
MARINE CORPS COMMUNICATIONS SYSTEMS..................	104,835	126,835	104,835	120,835
MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS....	43,935	43,935	33,935	38,935
MARINE CORPS COMBAT SERVICES SUPPORT..................	8,483	8,483	8,483	8,483
TACTICAL AIM MISSILES.................................	16,402	16,402	16,402	16,402
ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM).....	10,795	10,795	10,795	10,795
SATELLITE COMMUNICATIONS (SPACE)......................	54,230	54,230	54,230	54,230
INFORMATION SYSTEMS SECURITY PROGRAM..................	20,942	25,942	20,942	23,442
NAVY METEOROLOGICAL AND OCEAN SENSORS-SPACE (METOC)...	23,492	21,592	23,492	22,492
JOINT C4ISR BATTLE CENTER (JBC).......................	13,618	13,618	13,618	13,618
JOINT MILITARY INTELLIGENCE PROGRAMS..................	7,179	7,179	7,179	7,179
TACTICAL UNMANNED AERIAL VEHICLES.....................	66,349	76,349	66,349	73,349
AIRBORNE RECONNAISSANCE SYSTEMS.......................	5,736	22,236	12,736	17,536
MANNED RECONNAISSANCE SYSTEMS.........................	29,232	43,232	29,232	33,232
DISTRIBUTED COMMON GROUND SYSTEMS.....................	4,467	9,467	4,467	7,267
NAVAL SPACE SURVEILLANCE..............................	4,237	4,237	4,237	4,937
MODELING AND SIMULATION SUPPORT.......................	7,828	9,828	14,828	12,728
DEPOT MAINTENANCE (NON-IF)............................	13,569	13,569	13,569	13,569
INDUSTRIAL PREPAREDNESS...............................	70,605	75,605	70,605	73,105
MARITIME TECHNOLOGY (MARITECH)........................	20,065	34,065	25,065	33,565
CLASSIFIED PROGRAMS...................................	885,347	970,347	885,347	970,347
TOTAL, OPERATIONAL SYSTEMS DEVELOPEMENT............	2,139,284	2,354,684	2,191,984	2,356,284
DOE JOINT RESEARCH ADJUSTMENT.........................	---	-5,000	---	---
GENERAL REDUCTION.....................................	---	---	---	-5,000
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, NAVY.....	11,123,389	10,896,307	10,742,710	11,498,506

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(in thousands of dollars)

	Budget	House	Senate	Conference
2 DEFENSE RESEARCH SCIENCES	**389,829**	**382,829**	**399,329**	**391,829**
Program Growth Reduction		-7,000		-3,500
(Note: Of the funds made available. $250,000 only to study the feasability of employing decommissioned USN nuclear submarines to furnish electric power to military installations.)		(250)		(250)
Quantum Optics Research			+500	+500
Southeast Atlantic Coastal Ocean Observing System (SEA-COOS)			+8,000	+4,000
Marine Mammal Low Frequency Sound Research			+1,000	+1,000
4 POWER PROJECTION APPLIED RESEARCH	**66,322**	**80,322**	**81,322**	**84,172**
Real World Based Immersive Imaging		+2,500		+1,250
Hybrid Fiber Optic/Wireless System for Secure Communications		+2,000		+1,400
Hyperspectral SAR (Note: Only for hyperspectral SARs retro-reflectometers for alternative UAV communications that includes an interrogator system with special tracking optics and algorithms.)		+1,500	+5,000	+4,200
SAR for All Weather Targeting (Note: only for SAR all weather precision targeting system to develop and demonstrate UAV mounted high resolution SAR for all-weather precision targeting.)		+3,000		+3,000
Integrated Biological Warfare Technology Platform		+5,000	+2,000	+2,500
Combustion Light Gas Gun			+5,000	+3,500
Fast Pattern Processor, SLAM-ER			+3,000	+2,000
7 FORCE PROTECTION APPLIED RESEARCH	**117,072**	**125,937**	**124,072**	**132,037**
Modular Advanced Hull Form		+3,000		+1,500
Center for Advanced Power Systems Technology		+2,000	(7,200)	+3,600
3-Dimensional Printing Metal Working Technology		+3,000		+2,500
Battery Charging Technology		+865		+865
Fusion of Hyperspectral and Panchromatic Data			+5,000	+4,500
Endeavor			+1,000	+1,000
American Underpressure System			+1,000	+1,000
10 HUMAN SYSTEM TECHNOLOGY	**0**	**0**	**3,000**	**2,600**
Maritime Fire Training / Barbers Point			+3,000	+2,600
11 MATERIALS, ELECTRONICS, AND COMPUTER TECHNOLOGY	**0**	**0**	**16,500**	**19,300**
ADPICAS			+1,500	+1,300
Carbon Foam for Navy Applications			+3,000	+2,600
Anti-Corrosion Coatings			+5,000	+3,500
Silicon Carbide Semiconductor Material			+2,000	+1,400
High Brightness Electron Source Program			+2,500	+1,500
Devlopment of Magnetic Random Access Memory			+1,500	+1,000
Thick Film Ferrite Magnetic Materials for Microwave Applications			+1,000	+1,000
Materials micronization technology				+3,500
MicroArray Technology				+3,500
12 COMMON PICTURE APPLIED RESEARCH	**83,557**	**88,645**	**108,557**	**125,545**
Authorization Reduction		-1,912		-1,912
Battlespace Information Display Technology (Note: Only for optical scanning displays for man wearable portable wireless tactical systems.)		+3,000		+2,100
Common Sensor Module (Note: Only for Common Sensor Module using multiple modalities and sensor fusion to track vehicles for identification and force protection.)		+4,000		+2,000
Tactical Component Network/PMRF			+20,000	+35,500
Theater Undersea Warfare Initiative			+5,000	+4,300
13 WARFIGHTER SUSTAINMENT APPLIED RESEARCH	**71,294**	**96,894**	**101,294**	**108,804**
Formable Aligned Carbon Thermosets (FACTS)		+2,000	+1,000	+1,500
Virtual Company Distributed Manufacturing		+1,500		+1,100
Combinatorial Materials Synthesis		+3,000		+2,100
Wood Composite Technology		+3,000		+2,100
Rhode Island Disaster Initiative		+3,000		+1,500
Marine Mammal Research		+2,100		+1,110
Advanced Fuel Additive Pilot (Note: only for a pilot demonstration blending bio-derived alcohols and diesel fuel.)		+2,000		+1,700

	Budget	House	Senate	Conference
Automated Diode Array Manufacturing (Note:only to develop an automated capability to test large area diode arrays)		+3,000		+2,600
Battlespace Information Display Technology		+4,000		+3,400
Printed Wiring Boards		+2,000		+1,700
Bioenvironmental Hazards Research Program			+2,000	+1,000
Modeling Simulation and Training Immersion Facility			+2,000	+1,000
Three Dimensional MetalWorking Project			+5,000	0
Advanced Materials and Intelligent Processing			+3,000	+1,500
Titanium Matrix Composites Program			+3,000	+2,600
Visualization of Technical Information			+2,000	+1,700
Wire Chaffing Detection Technology			+2,000	+1,400
Agile Vaccinology			+10,000	+8,500
Advanced Safety Tether Operation				+1,000
15 RF SYSTEMS APPLIED RESEARCH	**62,141**	**82,141**	**71,141**	**68,941**
Nanoscale Science and Technology Program			+3,000	+1,500
Nanoscale Devices			+1,000	+1,000
Maritime Synethic Range			+5,000	+4,300
18 OCEAN WARFIGHTING ENVIRONMENT APPLIED RESEARCH	**50,738**	**66,288**	**50,738**	**62,588**
Bioluminescence Truth Data Measurment and Signature Detection		+1,800		+1,000
South Florida Ocean Measurement Center		+1,750		+1,750
Multiple Intelligent Distributed Underwater Vehicle and Sensing Technology		+4,000		+3,000
Littoral Acoustic Demonstration Center		+2,000		+1,000
Oceanographic Sensors for Mine Countermeasures		+6,000		+5,100
19 UNDERSEA WARFARE WEAPONERY TECHNOLOGY	**0**	**0**	**2,000**	**1,700**
SAUVIM			+2,000	+1,700
22 DUAL USE SCIENCE AND TECHNOLOGY PROGRAM	**10,000**	**10,000**	**13,000**	**12,600**
Energy and Environmental Technology			+3,000	+2,600
23 POWER PROJECTION ADVANCED TECHNOLOGY	**76,410**	**133,510**	**82,910**	**118,810**
Aircraft Lightening Protection Applique System		+3,000		+1,500
Affordable Weapon Program		+10,000		+7,000
Variable Delivery Pump/Variable Engine Nozzle		+3,000		+1,500
DP-2 Thrust Vectoring System		+8,000		+5,600
HEL - Low Aspect Target Tracking System		+12,000		+8,400
Thermobaric Warhead Development		+3,000		+2,100
Magdalena Ridge Observatory		+12,000		+8,400
Integrated Hypersonic Aeromechanics Tool (IHAT)		+3,100		+2,700
Vectored Thrust Ducted Propellor		+3,000	+4,000	+3,400
Precision Strike Navigator			+2,500	+1,800
24 FORCE PROTECTION ADVANCED TECHNOLOGY	**85,297**	**140,297**	**109,797**	**133,397**
Littoral Support Craft		+19,000		+16,200
Curved Plate Technology		+5,000		+2,500
Advanced Waterjet - 21		+3,000	+4,000	+3,500
Superconducting DC Homopolar Motor		+4,000		+2,000
Project M (Note. Of which not less than $1,400,000 shall be for impact mitigation for MK V patrol craft)		+4,000		+2,800
Smartlink System		+3,000		+1,500
Real Time Fire and Smoke Prediction Tool		+2,000		+1,000
Wireless Sensors for Total Ship Monitoring		+4,000		+2,800
Knowledge Projection for Fleet Maintenance		+3,000		+2,500
Direct Ship Service Fuel Cell		+3,000		0
Wave Powered Electric Power Generating Equipment			+4,000	+2,000
SES 2000 Modification (HYSWAC)			+8,500	+7,300
Modular Advanced Composite Hull			+3,000	0
HTS - AC Synchrous Propulsion Motor		+5,000	0	+4,000
26 COMMON PICTURE ADVANCED TECHNOLOGY	**48,583**	**50,583**	**48,583**	**50,283**
National Cargo Tracking Program (Note. Funds are to be managed by a non-profit corporation)		+2,000		+1,700
27 WARFIGHTER SUSTAINMENT ADVANCED TECHNOLOGY	**57,685**	**75,185**	**57,685**	**73,485**
Authorization Reduction		-5,000		-2,500
Low Volume Production Program		+3,500		+3,500
National Center for Remanufacturing and Resource Recovery		+2,000		+1,000

	Budget	House	Senate	Conference
COTS Carbon Fiber Qualification Program		+2,000		+1,000
Distance Learning IT Center (Note: Only to continue and expand the existing program)		+15,000		+12,800
30 RF SYSTEMS ADVANCED TECHNOLOGY	**76,876**	**76,876**	**81,876**	**81,176**
M3CAS			+5,000	+4,300
31 SURFACE SHIP & SUBMARINE HM&E ADVANCED TECHNOLOGY	**0**	**0**	**7,000**	**3,000**
Ship Service Fuel Cell Technology Verification and Training Program			+4,000	+2,000
DDG-51 Composite Twisted Rudder			+3,000	+1,000
32 MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION (ATD)	**51,310**	**61,810**	**55,810**	**62,510**
Mobile Counter-fire System		+5,000		+2,500
C3RP (Note: Only to continue the existing program.)		+1,500		+1,300
Marine Corps Future Logistics (Note: Only for expansion of the Future Naval Capability Expeditionary Logistics program)		+2,000		+1,700
Fast Refueling System (Note: Only for operational test and evaluation, modifications, and procurement of the fast refueling system. The Committee directs that the Marine Corps shall make this system available to other services desiring to evaluate its potential.)		+2,000		+1,700
Project Albert			+4,500	+4,000
33 MEDICAL DEVELOPMENT	**0**	**71,500**	**0**	**59,000**
Vectored Vacine Research		+2,000		+1,000
Medical Readiness Telemedicine Initaitive (Note: only for continued development of integrated medical transfer systems for operations in a joint environment.)		+9,000		+7,700
Optical Sensing System: RobotEyes for the Advancement of Military Medicine		+3,000		+2,500
Rural Health		+8,000		+6,800
Nursing Telehealth Applications		+3,000		+2,600
National Bone Marrow Program		+34,000		+28,900
Teleradiology Program (Note: The Committee encourages the Department to fund the Teleradiology program in its 2003 and subsequent budget requests.)		+1,500		+1,000
Mobile Integrated Diagnostic and Data Analysis System (MIDDAS) (Note: only to complete MIDDAS transistion to a fully integrated and functional field prototype for testing.)		+2,000		+1,000
Minimally Invasive Surgical Technology Institute - CSMC		+2,000		+1,000
Biomedical Research Imaging Core-CoH National Medical Center (Note: only for the Biomedical Research Imaging Core related to bone marrow transplantation, breast, and prostrate cancer)		+5,000		+4,000
Portable Production of Sterile Water for Intravenous Solutions (Note: only to conduct research and continued development of a light-weight hand-held, portable, disposable and rugged device for production of IV solutions.)		+2,000		+1,000
Community Hospital Telehealth Consortium				+1,500
34 MANPOWER, PERSONNEL, AND TRAINING ADV TECH DEV	**0**	**0**	**4,000**	**2,000**
Center for Integrated Manufacturing			+4,000	+2,000
35 ENVIRONMENTAL QUALITY AND LOGISTICS ADVANCED TECHNOLOGY	**0**	**2,000**		**1,400**
Sustainable Readiness Center		+2,000		+1,400
36 JOINT EXPERIMENTATION	**118,802**	**30,802**	**118,802**	**103,802**
Program Growth Reduction		-88,000		-15,000
37 WARFIGHTER PROTECTION ADVANCED TECHNOLOGY	**17,678**	**28,178**	**17,678**	**28,678**
Damage Control Operational Concepts- Distributed Damage Control Performance Evaluation		+2,000		+1,700
Distributed Simulation, Warfighting Concepts to Future Weapon System Design (WARCON)		+6,000		+5,100
Disaster Management and Humanitarian Assistance Research (Note: Only for research, training, education, and communication projects impacting emergency response and preparedness in Latin American and the Carribean.)		+2,500	0	+2,200
Organ Transfer Technology				+2,000
38 UNDERSEA WARFARE ADVANCED TECHNOLOGY	**56,303**	**58,803**	**59,303**	**59,703**
Multipulse Airgun System		+2,500		+1,300
Magnetorestrictive Transduction			+3,000	+2,100
40 MINE AND EXPEDITIONARY WARFARE ADVANCED TECHNOLOGY	**48,279**	**51,279**	**49,979**	**49,779**
Ocean Modeling Research for Mine and Submarine / Expeditionary Warfare		+3,000	+1,700	+1,500
44 AVIATION SURVIVABILITY	**25,572**	**37,572**	**25,572**	**33,372**
Modular Helmet and Display Development		+4,000		+2,000
JPALS		+3,000		+1,500
Two Color Focal Plane Array for Tactical Aircraft Missile Warning (Note: Only for advanced development through the Navy Center of Excellence in Electro-Optics				

	Budget	House	Senate	Conference
Manufacturing of 2-color focal plane arrays.)		+5,000		+4,300
46 ASW SYSTEMS DEVELOPMENT	12,922	16,922	12,922	14,922
BEARTRAP (Note: only to perform the non-linear dynamic/stochastic resonance device field tests and supporting research essential for implementation assessment.)		+4,000		+2,000
49 SURFACE AND SHALLOW WATER MINE COUNTERMEASURES	135,284	142,484	135,284	141,384
Remote Mine Hunting System - Program Management Support Cost Growth		-1,500		0
UUV Center of Excellence at NUWC		+8,700		+6,100
50 SURFACE SHIP TORPEDO DEFENSE	4,818	19,318	7,818	18,718
Tripwire Torpedo Defense (Note: $7,600,000 is only to complete development begun under SBIR N97-090 for onboard sensors and signal processing; $400,000 is only for the Distributed Engineering Center; $2,700,000 is only for the anti-torpdeo torpedo; and $1,700,000 is only for associated components.)		+14,500		+12,400
Micro-electromechanical Systems			+3,000	+1,500
52 SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	288,382	104,000	296,382	297,782
DD-21 Program Restructure		-188,382		0
Automated Maintenance Environment		+4,000		+3,400
MTTC - National Surface Treatment Center			+8,000	+6,000
58 SSGN CONVERSION	30,000	30,000	0	75,000
Program Acceleration		0	0	+45,000
59 ADVANCED SUBMARINE SYSTEM DEVELOPMENT	110,766	131,766	112,776	125,366
Conformal Acoustic Velocity Sonar (CAVES)		+3,000		+2,100
Advanced Composite Sail Phase II		+8,000		+4,000
MK 48 ADCAP Torpedo Improvements (Note: $10,000,000 is only for MPP/ARCI SBIR phase III to develop a torpedo APB.)		+10,000		+8,500
Composite Submarine Sail			+2,000	0
60 SUBMARINE TACTICAL WARFARE SYSTEMS	5,405	5,405	13,405	9,405
Multi-Line Towed Array			+8,000	+4,000
61 SHIP CONCEPT ADVANCED DESIGN	1,949	22,949	1,949	20,849
Small Combatant Craft (Note: Only for acquisition, test and evaluation of a high speed variable freeboard planing craft, and related special warfare high speed support craft and equipment.)		+12,000		+8,400
Sealion Technology Demonstration - Situation Awareness Module		+2,000		+1,000
Metallic Materials Advanced Development and Certification Program		+4,000		+3,400
Document Automation of ICAS Maintenance and other Navy Procedures in XML format		+3,000		+2,600
Planning and Design LHD-Type Ship				+3,500
62 SHIP PRELIMINARY DESIGN & FEASIBILITY STUDIES	14,922	9,922	14,922	14,922
Authorization Reduction		-5,000		0
63 ADVANCED NUCLEAR POWER SYSTEMS	175,176	173,076	175,176	173,076
Authorization Reduction		-2,100		-2,100
66 COMBAT SYSTEM INTEGRATION	42,915	66,915	42,915	61,915
Wideband Optically Multiplexed Beamforming Architecture (WOMBAT)		+4,000		+2,000
Navy Common Command and Decision System (Note: Only for SBIR Phase III efforts to develop common command and decision functions for theater air and missile defense.)		+20,000		+17,000
67 CONVENTIONAL MUNITIONS	22,299	24,299	27,299	24,799
Navy Insensitive Munitions/Green Energetics		+2,000	+5,000	+2,500
69 MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM	25,957	36,957	31,957	38,657
Non-lethal and Urban Operations Weaponization Technology		+1,000		+1,000
Nanotechnology-based response to chemical / biological threats		+3,000		+1,500
Imaging System Upgrade Development (Note: Only for the AN/TAS-4 night sight upgrade program through the Navy Center of Excellence in Electro-Optics Manufacturing to finalize technology transfer and fabricate a pilot quantity to validate manufacturing technology.)		+7,000		+6,000
Urban Operations Lab			+4,000	+2,800
Nanoparticles for Neutralization of Facility Threats			+2,000	+1,400
71 COOPERATIVE ENGAGEMENT	74,231	112,331	74,231	106,631
(Note: $12,750,000 is only for Enhanced Communications and Network Capacity Expansion; $11,900,000 is only for Next Generation / Reduced Size CEC equipment, $5,950,00 is only for Baseline 2.1B Support; and $1,800,000 is only for Multi-level security for CEC.)		+38,100		+32,400
73 ENVIRONMENTAL PROTECTION	46,117	50,117	46,117	48,117

	Budget	House	Senate	Conference
Naval Environmental Compliance Operations Monitoring (Note: Only for the National Defense Center for Environmental Excellence for the development and application of advanced technology leading to a Naval Environmental Compliance Operations Monitoring System.)		+4,000		+2,000
74 NAVY ENERGY PROGRAM	**5,025**	**8,025**	**9,025**	**7,025**
PEM Fuel Cell Technology Demonstrations		+3,000	+4,000	+2,000
77 NAVY LOGISTIC PRODUCTIVITY	**11,735**	**38,735**	**11,735**	**31,935**
Compatible Processor Upgrade (CPUP)		+5,000		+2,500
JEDMICS Enhancements		+7,000		+4,900
JEDMICS Security (Note: Only for the continued procurement and integration of the same security solution implemented in 2000 and 2001, and its extension into other logistics processes.)		+2,000		+1,700
Collaborative Logistics Productivity Virtual Systems Implementation Program		+8,000		+6,800
Rapid Retargeting		+5,000		+4,300
81 SHIP SELF DEFENSE - DEM/VAL	**8,353**	**10,353**	**8,353**	**9,353**
Transportable Anti-intrusion Pontoon Barrier System		+2,000		+1,000
85 LAND ATTACK TECHNOLOGY	**130,993**	**173,193**	**122,510**	**150,393**
Naval Fires Network (Note: $18,00,000 only for Naval Fires Network including prototyping, development of requirements and concept of operations, and integration into strike warfare training; $8,500,000 only for devlopment and fielding of tactical dissemination module, and $3,000,000 only for development of shipboard training and software applications.)				
Advanced Medium Caliber Gun Demonstrator (Note: Only to demonstrate an advanced			+29,500	+29,500
gun design encompassing modularity, scalability, compactness, and long-range.)		+3,000		+2,600
Land Attack Standard Missile			-35,483	-25,000
Autonomous Naval Support Round			+12,000	+10,200
Integrated Deepwater System			+3,000	+2,100
86 JOINT STRIKE FIGHTER (JSF) - DEM/VAL	**0**	**0**	**30,000**	**0**
Delay in Down-Select			+30,000	0
87 NONLETHAL WEAPONS - DEM/VAL	**34,008**	**34,008**	**36,008**	**35,408**
New Generation Non-Lethal Weapons			+2,000	+1,400
92 SPACE AND ELECTRONIC WARFARE (SEW) ARCHITECTURE/ENGINE	**32,259**	**39,259**	**34,259**	**39,659**
IT-21 Block 1 C4ISR Computing Equipment Upgrade (Note: Only to develop a common AN / UYQ - 70 based solution for the IT-21 block upgrade.)		+7,000		+6,000
Navy Collaborative Integrated Information Technology			+2,000	+1,400
95 OTHER HELO DEVELOPMENT	**64,392**	**79,892**	**74,392**	**83,692**
SH-60 Laser Aim Scoring System (LASS)		+2,000		+1,000
High Tech Training in Support of DOD Legacy Parts Solutions		+1,500		+1,000
H-60 FLIR Mount (Note: Only for third party design of the FLIR mount.)		+3,000		+2,600
H-60 Helicopter Dynamic Component Life Cycle Engineering Evaluation (Note: Only for an independent third party engineering analysis to assess dynamic component life cycle criteria and development of component upgrades for life extension.)		+3,000		+2,600
MH-60S Airborne Mine Countermeasure Carriage, Stream,Tow, Recovery System (CSTARS)		+6,000		+5,100
Integrated Mechanical Diagnostics - Health and Usage Monitoring System			+10,000	+7,000
97 STANDARDS DEVELOPMENT	**120,552**	**127,052**	**120,552**	**123,802**
Joint Service Metrology		+6,500		+3,250
103 E-2C RADAR MODERNIZATION PROGRAM	**96,000**	**96,000**	**96,000**	**96,000**
UESA Radar				(17,000)
107 V-22A	**546,735**	**446,735**	**546,735**	**446,735**
Program Restructure		-100,000		-100,000
108 AIR CREW SYSTEMS DEVELOPMENT	**7,717**	**19,217**	**27,717**	**15,517**
Joint Helmet Mounted Cueing System (JHMCS)		+5,000		+2,500
SIIS Ejection System		+1,500		+1,000
Intensifier Tube Advanced Development		+5,000		+4,300
Program Increase			+20,000	0
109 EW DEVELOPMENT	**112,473**	**121,473**	**112,473**	**118,773**
LOCO-GPSI		+4,000		+3,800
IDECM		+5,000		+2,500
EA-6B Follow-on			(10,000)	(5,000)
110 SC-21 TOTAL SHIP SYSTEM ENGINEERING	**355,093**	**56,500**	**281,093**	**237,343**
DD-21 Program Restructure		-305,093	-80,000	-125,000
Power Node Control Program		+2,500	+3,000	+2,750

	Budget	House	Senate	Conference
Regional Electric Power Technology, Integration and Leveraging Enterprises (REPTILE)		+4,000		+3,000
Aluminum Mesh Tank Liner			+3,000	+1,500
111 SURFACE COMBATANT COMBAT SYSTEM ENGINEERING	**262,037**	**286,937**	**176,037**	**329,537**
Aegis Operational Readiness Training System Network (ORTS)		+6,000	+4,000	+4,000
Aegis Peripheral Consolidation		+8,900		+6,500
Aegis Tactical Display Upgrade		+10,000		+7,000
Cruiser Conversion			-90,000	0
Navy Area Theater Transfer		0	0	+49,000
Traveling Wave Tube Circuit				+1,000
114 STANDARD MISSLE IMPROVEMENTS	**1,309**	**1,309**	**16,309**	**14,109**
General Program Increase			+15,000	+12,800
115 AIRBORNE MCM	**52,041**	**61,041**	**57,041**	**61,641**
Remote Technical Assistance Program (RTASS)		+4,000		+2,800
CH-60S Untethered Airborne Mine Neutralization System		+5,000		+4,300
AQS - 20 Airborne Mine Hunting Sonar			+5,000	+2,500
116 SSN-688 AND TRIDENT MODERNIZATION	**43,706**	**68,706**	**43,706**	**65,206**
MPP/APB/A-RCI Model for Tactical Control Information Management and Net-centric Warfare (SSN-688 and Trident Modernization) (Note: Only to continue SBIR Phase III efforts to extend APB / MPP technology insertion to enable submarines to achieve Navy network-centric warfare objectives and to accelerate development and extension of common processing capabilities.)		+25,000		+21,500
117 AIR CONTROL	**12,821**	**12,821**	**12,821**	**12,821**
Transportable Transponder Landing System			(5000)	(2,000)
119 SHIPBOARD AVIATION SYSTEMS	**16,375**	**19,875**	**16,375**	**18,125**
Aviation Shipboard Technology Initiative		+3,500		+1,750
123 NEW DESIGN SSN	**201,596**	**208,596**	**201,596**	**206,496**
Virginia Class SSN Combat System Technology Insertion / Refresh SBIR Phase III		+7,000		+4,900
125 SUBMARINE TACTICAL WARFARE SYSTEM	**29,246**	**29,246**	**49,246**	**39,246**
Submarine Combat System Modernization Program			+20,000	+10,000
126 SHIP CONTRACT DESIGN/ LIVE FIRE T&E	**130,388**	**131,388**	**114,388**	**131,388**
Titanium Watertight Door and Hatch Cover		+1,000		+1,000
Transfer to SCN Cruiser Conversion			-16,000	0
127 NAVY TACTICAL COMPUTER RESOURCES	**3,836**	**52,836**	**3,836**	**41,036**
AN/UYQ - 70 submarine common electronics equipment replacement		+8,000		+6,800
AN/UYQ - 70 tactical computer resources (Note: Only to maintain, develop and implement technology refresh capabilities to incorporate into the future AN/UYQ - 70 workstation /server production across surface, submarine, and air platforms.)		+30,000		+21,000
Multi-level Security for Network-centric AN/UYQ - 70 (Note: Only to productize and integrate the COTS network security product that has previously received the NSA's B2 rating into the ultra thin client architecture onboard the USS Coronado.)		+4,000		+3,400
Complimentary high energy laser/missile for ship self-defense		+7,000		+6,000
129 UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAPONS	**12,890**	**12,890**	**17,890**	**17,190**
Light Defender Precision Strike Missile			+5,000	+4,300
131 JOINT DIRECT ATTACK MUNITION	**56,285**	**56,285**	**56,285**	**56,285**
JDAM PIP (Note: Of this amount, $4,000,000 in only for DAMASK)		(12,200)		(12,200)
137 SHIP SELF DEFENSE - EMD	**52,163**	**57,163**	**64,163**	**64,063**
AIEWS SBIR Phase III		+3,000		+2,100
SEA RAM System Ordalt Upgrade		+2,000		+1,400
NUKLA Ship Self Defense Missile			+4,000	+2,800
Phalanx CIWS SEA RAM OrdAlt			+8,000	+5,600
140 MEDICAL DEVELOPMENT	**5,455**	**7,455**	**19,955**	**23,255**
Navy Voice Interactive Device follow-on		+2,000		+6,000
High Resolution Digital Mammography			+3,000	+1,500
Military Dental Research			+4,000	+2,800
Sonarman Earcom Technology			+500	+500
Coastal Cancer Control			+5,000	+3,500
Naval Blood Research Laboratory			+2,000	+1,000
Naval Medical Research Center Radiation Exposure Treatment				+2,500
142 DISTRIBUTED SURVEILLANCE SYSTEM	**34,711**	**42,711**	**42,211**	**42,711**
Advanced Deployable System (Note: $4,000,000 only for acceleration of cable burial capability, larger diamter cable, and surface ship deployment.)		+8,000		+4,000

	Budget	House	Senate	Conference
Advanced Deployable System (Note: $4.000,000 onlly for the application of fiber optic technology)			+7,500	+4,000
143 JOINT STRIKE FIGHTER (JSF) - EMD	**767,259**	**767,259**	**618,659**	**769,759**
Delay in Down-Select			-153,600	0
Alternate Engine Program			+5,000	+2,500
147 INFORMATION TECHNOLOGY DEVELOPMENT	**49,333**	**63,533**	**58,333**	**50,233**
SPAWAR ITC Enterprise Management		+6,000	+9,000	+4,500
Defense Software Productivity Initiative		+3,200		+2,800
Secure Interactive Distributed Learning (SIDL)		+2,000		+1,000
Total Fleet Support System (Note: Only to reduce fleet support costs by consolidating integrated call centers in the Distance Support Anchordesk and Web Portal.)		+3,000		+2,600
151 THREAT SIMULATOR DEVELOPMENT	**30,110**	**30,110**	**30,110**	**30,110**
Battle Effects Simulator			(1,500)	(1,500)
153 MAJOR T&E INVESTMENT	**41,804**	**43,804**	**42,804**	**44,504**
Navy Test and Evaluation Range and Airborne Telemetry System Modernization - Sub Column Array and Receiver Upgrade		+2,000		+1,700
Flight Operation Safety at Paxtuxent River			+1,000	+1,000
154 STUDIES AND ANALYSIS SUPPORT - NAVY	**6,679**	**4,679**	**6,679**	**4,679**
Authorization Reduction		-2,000		-2,000
158 TECHNICAL INFORMATION SERVICES	**951**	**11,951**	**951**	**10,251**
Supply Chain Practices		+2,500		+2,000
Commercialization of Advanced Technology (CAT) (Note: Only to continue and expand the existing program)		+6,000		+5,100
Lean Pathways Project Expansion and Distance Learning (Note: funds are for a distance learning component.)		+2,500		+2,200
159 MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT	**21,628**	**18,628**	**21,628**	**18,628**
Program Growth Reduction		-3,000		-3,000
164 TEST AND EVALUATION SUPPORT	**277,414**	**274,500**	**277,414**	**278,314**
Authorization Reduction		-7,414		-3,000
Safety and Survivability Study of Protective Pumice Technology (Note: Only for Pumice Protective Technology testing and development.)		+2,500		+2,200
Collaborative Virtual Interactive Design Environment		+2,000		+1,700
167 SEW SURVEILLANCE/RECONAISSANCE SUPPORT	**12,693**	**17,893**	**12,693**	**16,493**
(Note: Only for projects in support of Time Critical Strike.)		+1,200		+1,000
(Note: Only for a limited demonstration of Radiant Argon on F/A -18.)		+4,000		+2,800
168 MARINE CORPS PROGRAM WIDE SUPPORT	**9,614**	**24,614**	**11,614**	**20,314**
CBIRF		+6,000		+3,000
Chemical-Biological Multi-Sensor Analyzer / Detector		+2,000		+1,700
Consequence Management Interoperability Services		+7,000		+5,000
Nanoparticle Responses to Chem Bio Threats			+2,000	+1,000
169 TACTICAL CRYPTOLOGIC ACTIVITIES	**85,000**	**0**	**85,000**	**0**
Defense Cryptological Program Transfer		-85,000		-85,000
176 STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	**43,322**	**46,822**	**43,322**	**45,822**
Radiation Hardened Electronics Application Program (RHEAP)		+3,500		+2,500
180 F/A-18 SQUADRONS	**253,257**	**233,257**	**260,257**	**259,257**
Authorization Reduction		-20,000		0
SHARP Pods for shortfall due to accelerated deployment schedule			+7,000	+6,000
182 FLEET TELECOMMUNICATIONS (TACTICAL)	**21,136**	**25,136**	**21,136**	**24,536**
Programmable Integrated Computer Terminal (Note: Funds are only to combine the Integrated Voice Network and the Programmable Integrated Communications Terminal with the Digital Modular Radio.)		+4,000		+3,400
184 INTEGRATED SURVEILLANCE SYSTEM	**20,041**	**36,041**	**32,041**	**38,641**
Web centric ASW Net (WeCan) (Note: Only for continued devolpment of Web centric ASW (WeCan) for collaborative planning, execution and follow-on analysis for the common undersea picture, integration of additional tactical decision aids, and expansion to multi-warfare areas and domains.)		+8,000	+4,000	+6,000
IUSS (Note: Only for the IUSS Mission Planning System.)		+8,000		+6,800
Fixed Distributed System			+4,000	+3,000
SURTASS/LFA			+4,000	+2,800
185 AMPHIBIOUS TACTICAL SUPPORT UNITS	**24,387**	**29,387**	**24,387**	**26,887**
Supporting Arms Technology Insertion		+5,000		+2,500

	Budget	House	Senate	Conference
186 CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT	**22,407**	**25,607**	**23,607**	**25,407**
SEAT - Battle Force Tactical Training		+2,000		+1,000
Tactical Communications On-board Trainer for Battle Force Tactical Training		+1,200		+1,000
LINK On-Board Trainer			+1,200	+1,000
187 ELECTRONIC WARFARE (EW) READINESS SUPPORT	**7,659**	**12,659**	**10,159**	**10,159**
Common High Bandwidth Datalink - CHBDL		+5,000		+2,500
CDL-N Modernization			+2,500	0
188 HARM IMPROVEMENT	**13,630**	**34,630**	**13,630**	**28,330**
AARGM		+21,000		+14,700
190 SURFACE ASW COMBAT SYSTEM INTEGRATION	**28,119**	**24,219**	**28,119**	**28,119**
Authorization Reduction		-3,900		0
192 AVIATION IMPROVEMENTS	**41,430**	**46,430**	**43,430**	**45,330**
Aircraft AGE Exploration Model Development		+5,000		+2,500
Nano-Composite Hard-Coat for Aircraft Coatings			+2,000	+1,400
193 NAVY SCIENCE ASSISTANCE PROGRAM	**4,945**	**4,945**	**20,945**	**18,645**
LASH Airship			+6,000	+5,100
LASH ASW			+5,000	+4,300
Littoral / Mine Countermeasures Program			+5,000	+4,300
194 F-14 UPGRADE	**0**	**0**	**3,000**	**1,500**
TACL SAR Pod			+3,000	+1,500
196 MARINE CORPS COMMUNICATIONS SYSTEMS	**104,835**	**126,835**	**104,835**	**120,835**
Surface Warfare Center - Ballon Upgrade for Sonobouys		+1,500		+1,100
AN/TPS-59(v)3 SLEP Slotted Waveguide Antenna		+10,000		+6,000
Combined Arms Command and Control Training Upgrade System (CACTUS)		+6,000		+5,100
Mobile Electronic Warfare Support System (MEWSS) specific emitter identification upgrade		+4,500		+3,800
197 MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEM S	**43,935**	**43,935**	**33,935**	**38,935**
Lightweight 155 MM Howizter			-10,000	-5,000
204 INFORMATION SYSTEMS SECURITY PROGRAM	**20,942**	**25,942**	**20,942**	**23,442**
Intelligent Agent Security Module (Note: Only for SBIR Phase III.)		+5,000		+2,500
208 NAVY METEOROLOGICAL AND OCEAN SENSORS-SPACE (METOC)	**23,492**	**21,592**	**23,492**	**22,492**
Authorization Reduction		-1,900		-1,000
209 TACTICAL UNMANNED AERIAL VEHICLES	**66,349**	**76,349**	**66,349**	**73,349**
(a)VTOL UAV (Note: $5,000,000 only for Maritime Patrol and Reconnaissance (MPR) study, experimentation, and ecamination of the concept of operations for employment of Global Hawk UAV in conjunction with other assets for MPR mission)				+5,000
(b)Joint Operational Test Bed for UAVs (Note: $2,000,000 only for system upgrades and support of Government Flight Activity.)				+2,000
210 AIRBORNE RECONNAISSANCE SYSTEMS	**5,736**	**22,236**	**12,736**	**17,536**
(a) EO Framing (NOTE: $5,000,000 only for continued development of precision strike, integrated electronic shutter, and zoom lens upgrades)				+5,000
(b)EO Framing (NOTE: $1,700,000 only for NRL core R&D on sensors to restore EO/IR sensor research efforts to fiscal year 2001 levels as originally requested by NRL. The Secretary of the Navy is directed to continue to full support core research funding requirements.)				+1,700
(c) EP-3 (NOTE: $2,500,000 only for EP-3 mission system weight reduction initiative)				+2,500
(d) Upgrades (NOTE: $2,600,000 only for hyperspectral modular upgrades to ARS)			+3,000	+2,600
211 MANNED RECONNAISSANCE SYSTEMS	**29,232**	**43,232**	**29,232**	**33,232**
(a) (Note Shared Reconnaissance Pod (SHARP) $6,000,000 provided in PE0204136N F/A Squadrons)		+7,000		0
(b) (Note: $4,000,000 only to accelerate the introduction of the Advanced Multiband Receiver System (AMOSS) on special project aircraft.)		+7,000		+4,000
212 DISTRIBUTED COMMON GROUND SYSTEMS	**4,467**	**9,467**	**4,467**	**7,267**
(a) (Note: $2,800,000 only for accleration of the PC Digitial Imagery Workstation Suite (DIWS) initial operating capability.)		+4,000		+2,800
(b) (Note: Precision targeting)		+1,000		0
213 NAVAL SPACE SURVEILLANCE SPACE ACTIVITIES	**4,237**	**4,237**	**4,237**	**4,937**
Excessive Program Growth	0	-2,500		-1,000
SPAWAR Covert Communication and Information Transfer Project (CCIT)		+2,500		+1,700
214 MODELING AND SIMULATION SUPPORT	**7,828**	**9,828**	**14,828**	**12,728**
Enhanced Modeling and Simulation Initiatives		+2,000	+7,000	+4,900
216 INDUSTRIAL PREPAREDNESS	**70,605**	**75,605**	**70,605**	**73,105**
General Increase		+5,000		+2,500

	Budget	House	Senate	Conference
217 MARITIME TECHNOLOGY (MARITECH)	**20,065**	**34,065**	**25,065**	**33,565**
High Speed Cargo Craft		+4,000		+4,000
Maritime Technology , Ship Design and Systems Development Initiative (Note: Only for the New Orleans Maritime Technology Center of Excellence.)		+10,000	+5,000	+7,000
National Shipbuilding Research Program (NSRP)			+5,000	+2,500

CCS-MK2

The conferees agree that it is vital that the future development and evolution of combat control capabilities for the nation's submarine force takes place in a fully competitive acquisition environment and that the technical architecture of submarine combat control systems utilizes open systems compute processing standards. The conferees therefore, direct the Department of the Navy to submit an acquisition plan for the CCS-MK2 program to Congress no later than April 15th, 2002 which addresses these concerns to include potential options to compete the role of prime system integrator. The conferees do not agree to House language restricting the use of funds for the CCS-MK2 program.

Joint Experimentation

The conferees agree to provide $103,802,000 for Joint Experimentation, a decrease of $15,000,000 to the budget request. The conferees also direct the Secretary of Defense to provide a report to the Appropriations Committees no later than May 15, 2002 which examines whether the Office of the Director, Force Transformation should assume responsibility for the oversight and funding of the direction, preparation, execution and assessment of the U.S. Joint Forces Command Joint Experimentation program.

Tactical Input Segment (TIS) and Navy Input Station (NAVIS)

In an effort to assist the Navy in ensuring an on-time delivery of a next generation real-time reconnaissance imagery receiving and display system, the conferees recommend that within amounts appropriated to the Office of Naval Research, up to $2,000,000 may be made available to build additional Navy Input Stations (NAVIS) ground stations that meet emergent operational requirements and provide risk mitigation for the Tactical Input Segment (TIS).

In addition, the conferees direct the Navy to continue to integrate the technologies developed in NAVIS into the TIS architecture to ensure the best capabilities of both systems are delivered to the Fleet in time for the first F/A-18 SHARP deployment. The conferees believe that combining such technologies will best serve the tactical precision strike requirements for the Navy now and in the future.

Spray Cooling Technology

The Conferees are concerned to learn that despite appropriations in two prior years, arrangements for the manufacture of spray cooling technology have yet to be finalized. The conferees direct the Marine Corps to act in an expedited manner to resolve this issue.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, AF				
BASIC RESEARCH				
DEFENSE RESEARCH SCIENCES	220,869	227,119	220,869	228,419
TOTAL, BASIC RESEARCH	220,869	227,119	220,869	228,419
APPLIED RESEARCH				
MATERIALS	77,164	88,664	98,164	98,564
AEROSPACE VEHICLE TECHNOLOGIES	97,465	100,715	97,465	99,415
HUMAN EFFECTIVENESS APPLIED RESEARCH	69,080	70,930	69,080	70,480
AEROSPACE PROPULSION	149,211	189,111	154,211	179,811
AEROSPACE SENSORS	84,149	79,049	84,149	81,149
SPACE TECHNOLOGY	61,086	69,586	78,586	81,686
CONVENTIONAL MUNITIONS	49,270	49,270	49,270	49,270
DIRECTED ENERGY TECHNOLOGY	36,678	31,978	36,678	34,678
COMMAND CONTROL AND COMMUNICATIONS	61,659	70,959	61,659	66,659
DUAL USE SCIENCE AND TECHNOLOGY PROGRAM	10,417	10,417	10,417	10,417
TOTAL, APPLIED RESEARCH	696,179	760,679	739,679	772,129
ADVANCED TECHNOLOGY DEVELOPMENT				
ADVANCED MATERIALS FOR WEAPON SYSTEMS	32,748	45,248	41,748	46,248
ADVANCED AEROSPACE SENSORS	55,809	65,109	55,809	61,509
FLIGHT VEHICLE TECHNOLOGY	---	4,000	4,000	4,600
AEROSPACE TECHNOLOGY DEV/DEMO	26,269	27,869	26,269	23,169
AEROSPACE PROPULSION AND POWER TECHNOLOGY	114,335	124,335	117,335	122,735
CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY	32,356	36,856	32,356	34,356
ELECTRONIC COMBAT TECHNOLOGY	28,221	37,221	28,221	32,721

(In thousands of dollars)

	Budget	House	Senate	Conference
BALLISTIC MISSILE TECHNOLOGY..........................	---	2,500	---	1,200
ADVANCED SPACECRAFT TECHNOLOGY........................	54,528	59,528	63,528	61,528
MAUI SPACE SURVEILLANCE SYSTEM (MSSS).................	6,484	6,484	30,984	27,284
CONVENTIONAL WEAPONS TECHNOLOGY.......................	37,617	44,317	37,617	40,117
ADVANCED WEAPONS TECHNOLOGY...........................	43,758	52,758	65,458	67,558
C3I ADVANCED DEVELOPMENT..............................	32,644	35,844	32,644	33,544
UCAV..	---	21,100	---	21,100
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT.............	464,769	563,169	535,969	577,669
DEMONSTRATION & VALIDATION				
INTELLIGENCE ADVANCED DEVELOPMENT.....................	4,482	4,482	4,482	4,482
NAVSTAR GLOBAL POSITIONING SYSTEM III.................	78,358	66,358	78,358	78,358
ADVANCED EHF MILSATCOM (SPACE)........................	549,659	459,659	549,659	479,659
POLAR MILSATCOM (SPACE)...............................	18,724	13,724	18,724	18,724
NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL.....	157,394	103,394	157,394	157,394
SPACE CONTROL TECHNOLOGY..............................	33,022	33,022	33,022	33,022
COMBAT IDENTIFICATION TECHNOLOGY......................	11,523	11,523	11,523	11,523
NATO RESEARCH AND DEVELOPMENT.........................	5,616	5,616	5,616	5,616
JOINT STRIKE FIGHTER..................................	---	---	30,000	---
INTEGRATED BROADCAST SERVICE (DEM/VAL)................	20,529	17,529	20,529	17,529
INTERCONTINENTAL BALLISTIC MISSILE - DEM/VAL..........	44,484	51,484	44,484	47,984
WIDEBAND GAPFILLER SYSTEM RDT&AMP;E (SPACE)...........	96,670	99,370	96,670	100,670
AIR FORCE/NATIONAL PROGRAM COOPERATION (AFNPC)........	4,433	---	4,433	2,433
POLLUTION PREVENTION (DEM/VAL)........................	2,688	---	2,688	---
JOINT PRECISION APPROACH AND LANDING SYSTEMS - DEM/VAL	9,554	9,554	9,554	9,554

(In thousands of dollars)

	Budget	House	Senate	Conference
TOTAL, DEMONSTRATION & VALIDATION	1,037,136	875,715	1,067,136	966,948
ENGINEERING & MANUFACTURING DEVEL				
GLOBAL BROADCAST SERVICE (GBS)	34,544	34,544	34,544	34,544
JOINT HELMET MOUNTED CUEING SYSTEM (JHMCS)	5,960	5,960	5,960	5,960
INTEGRATED AVIONICS PLANNING AND DEVELOPMENT	---	---	3,000	---
NUCLEAR WEAPONS SUPPORT	13,120	13,120	13,120	13,120
B-1B	194,507	152,307	152,307	152,307
SPECIALIZED UNDERGRADUATE PILOT TRAINING	4,885	4,885	4,885	4,885
F-22 EMD	865,464	881,556	865,464	881,556
NEXT GENERATION TANKER	---	150,000	---	---
B-2 ADVANCED TECHNOLOGY BOMBER	155,004	222,004	218,004	219,004
SPACE-BASED RADAR EMD	50,000	50,000	25,000	25,000
MULTI-MISSION C-2 AIRCRAFT	---	25,000	---	---
EW DEVELOPMENT	41,267	44,567	54,967	42,967
EXTENDED RANGE CRUISE MISSILE (ERCM)	40,235	---	---	---
SMALL DIAMETER BOMB (SDB) (DEM/VAL)	40,000	40,000	25,000	35,000
SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD	405,229	435,229	455,229	445,229
MILSTAR LDR/MDR SATELLITE COMMUNICATIONS (SPACE)	232,084	229,584	232,084	232,184
ARMAMENT/ORDNANCE DEVELOPMENT	3,838	3,838	3,838	3,838
SUBMUNITIONS	4,809	4,809	4,809	4,809
AGILE COMBAT SUPPORT	6,674	6,674	6,674	16,174
JOINT DIRECT ATTACK MUNITION	27,956	27,956	27,956	27,956
UAV RADAR SENSOR TESTBED (C-37A)	---	50,000	---	---
LIFE SUPPORT SYSTEMS	4,586	11,286	8,586	9,286
COMBAT TRAINING RANGES	25,943	25,943	25,943	25,943

(In thousands of dollars)

	Budget	House	Senate	Conference
INTEGRATED COMMAND &; CONTROL APPLICATIONS (IC2A).....	224	8,224	3,224	6,824
INTELLIGENCE EQUIPMENT................................	1,323	1,323	1,823	1,823
TACTICAL DATA LINK INFRASTRUCTURE.....................	17,648	17,648	17,648	17,648
COMMON LOW OBSERVABLES VERIFICATION SYSTEM (CLOVERS)..	6,713	6,713	6,713	6,713
TACTICAL DATA LINK INTEROPERABILITY...................	5,677	5,677	5,677	5,677
JOINT STRIKE FIGHTER EMD..............................	769,511	769,511	615,911	769,511
NEXT GENERATION JSTARS TESTBED........................	---	190,000	---	---
INTERCONTINENTAL BALLISTIC MISSILE - EMD..............	81,086	81,086	81,086	81,086
EVOLVED EXPENDABLE LAUNCH VEHICLE PROGRAM (SPACE).....	320,321	310,321	320,321	315,321
RDT&E FOR AGING AIRCRAFT..............................	20,115	48,115	24,015	41,615
PRECISION ATTACK SYSTEMS PROCUREMENT..................	5,984	5,984	5,984	5,984
COMBAT SURVIVOR EVADER LOCATOR........................	11,486	11,486	11,486	11,486
CV-22...	10,008	10,008	---	190,008
TOTAL, ENGINEERING & MANUFACTURING DEVEL............	3,406,201	3,885,358	3,261,258	3,633,458
RDT&E MANAGEMENT SUPPORT				
THREAT SIMULATOR DEVELOPMENT..........................	38,153	38,153	38,153	38,153
MAJOR T&E INVESTMENT..................................	49,857	64,857	59,857	62,857
RAND PROJECT AIR FORCE................................	25,098	25,098	25,098	25,098
RANCH HAND II EPIDEMIOLOGY STUDY......................	10,950	10,950	10,950	10,950
INITIAL OPERATIONAL TEST & EVALUATION.................	28,998	35,998	28,998	33,498
TEST AND EVALUATION SUPPORT...........................	396,583	393,283	396,583	392,583
ROCKET SYSTEMS LAUNCH PROGRAM (SPACE).................	8,538	32,538	8,538	27,838
SPACE TEST PROGRAM (STP)..............................	50,523	50,523	50,523	50,523
GENERAL SKILL TRAINING................................	309	---	309	---
JUDGMENT FUND REIMBURSEMENT...........................	10,000	10,000	10,000	10,000

(In thousands of dollars)

	Budget	House	Senate	Conference
INTERNATIONAL ACTIVITIES	3,846	3,846	3,846	3,846
TOTAL, RDT&E MANAGEMENT SUPPORT	622,855	665,246	632,855	655,346
OPERATIONAL SYSTEMS DEVELOPEMENT				
B-52 SQUADRONS	66,874	66,874	66,874	66,874
ADVANCED CRUISE MISSILE	2,487	2,487	2,487	2,487
AIR-LAUNCHED CRUISE MISSILE (ALCM)	6,841	6,841	6,841	6,841
REGION/SECTOR OPER CONTROL CENTER MODENIZATION PROGRAM				
REGION/SECTOR OPERATION CONTROL CENTER MODERNIZATION..	---	---	7,000	6,000
WARFIGHTER RAPID ACQUISITION PROCESS (WRAP) RAPID TRAN	30,247	30,247	30,247	30,247
JOINT EXPEDITIONARY FORCE EXPERIMENT	64,005	22,605	64,005	44,005
A-10 SQUADRONS	3,049	8,049	3,049	5,549
F-16 SQUADRONS	110,797	115,797	110,797	115,097
F-15E SQUADRONS	101,439	101,439	113,439	108,439
MANNED DESTRUCTIVE SUPPRESSION	22,239	22,239	22,239	22,239
F-22 SQUADRONS	16,092	---	16,092	---
F-117A SQUADRONS	2,305	2,305	2,305	2,305
TACTICAL AIM MISSILES	5,771	5,771	5,771	5,771
ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	57,702	57,702	57,702	57,702
AF TENCAP	10,811	13,811	12,811	12,811
SPECIAL EVALUATION PROGRAM	100,027	100,027	100,027	100,027
COMPASS CALL	3,908	3,908	3,908	3,908
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	175,101	175,101	175,101	175,101
CSAF INNOVATION PROGRAM	1,961	1,961	4,961	1,961
JOINT AIR-TO-SURFACE STANDOFF MISSILE (JASSM)	79,197	79,197	79,197	79,197
AEROSPACE OPERATIONS CENTER (AOC)	19,514	19,514	19,514	19,514

(In thousands of dollars)

	Budget	House	Senate	Conference
CONTROL AND REPORTING CENTER (CRC)	7,047	7,047	7,047	7,047
AIRBORNE WARNING AND CONTROL SYSTEM (AWACS)	39,787	39,787	39,787	39,787
ADVANCED COMMUNICATIONS SYSTEMS	9,324	9,324	9,324	9,324
EVALUATION AND ANALYSIS PROGRAM	204,467	183,467	204,467	204,467
ADVANCED PROGRAM TECHNOLOGY	107,716	100,716	107,716	107,716
THEATER BATTLE MANAGEMENT (TBM) C4I	37,331	37,331	38,331	38,331
JOINT SURVEILLANCE AND TARGET ATTACK RADAR SYSTEM	147,859	243,359	159,359	155,359
SEEK EAGLE	17,833	17,833	17,833	17,833
ADVANCED PROGRAM EVALUATION	82,397	82,397	82,397	82,397
USAF MODELING AND SIMULATION	25,345	31,345	25,345	30,845
WARGAMING AND SIMULATION CENTERS	5,033	9,033	10,433	8,033
FULL COMBAT MISSION TRAINING	3,763	3,763	3,763	3,763
MISSION PLANNING SYSTEMS	16,904	19,904	16,904	18,404
INFORMATION WARFARE SUPPORT	1,803	1,803	1,803	1,803
TECHNICAL EVALUATION SYSTEM	154,621	154,621	154,621	154,621
SPECIAL EVALUATION SYSTEM	42,334	42,334	42,334	42,334
COBRA BALL	---	---	6,000	5,100
E-4B NATIONAL AIRBORNE OPERATIONS CENTER (NAOC)	23,359	23,359	23,359	23,359
DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPACE)	3,895	3,895	3,895	3,895
AIR FORCE COMMUNICATIONS (AIRCOM)	31,828	31,828	31,828	31,828
MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK (ME	5,982	5,982	5,982	5,982
INFORMATION SYSTEMS SECURITY PROGRAM	7,936	22,436	12,936	20,536
GLOBAL COMBAT SUPPORT SYSTEM	48,911	54,911	48,911	53,011
GLOBAL COMMAND AND CONTROL SYSTEM	3,521	3,521	3,521	3,521
COMMUNICATIONS SECURITY (COMSEC)	4,131	4,131	4,131	4,131

(In thousands of dollars)

	Budget	House	Senate	Conference
MILSATCOM TERMINALS....................................	41,763	41,763	41,763	41,763
SELECTED ACTIVITIES....................................	79,208	58,208	53,208	59,208
GLOBAL AIR TRAFFIC MANAGEMENT (GATM)..................	9,331	9,331	9,331	9,331
SATELLITE CONTROL NETWORK (SPACE).....................	56,349	56,349	56,349	56,349
WEATHER SERVICE.......................................	11,452	11,452	11,452	11,452
AIR TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM.....	26,982	26,982	26,982	26,982
SECURITY AND INVESTIGATIVE ACTIVITIES.................	472	472	472	472
TITAN SPACE LAUNCH VEHICLES (SPACE)...................	21,293	21,293	21,293	21,293
DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES (SPACE).....	46,578	46,578	46,578	46,578
DEFENSE METEOROLOGICAL SATELLITE PROGRAM (SPACE)......	12,259	12,259	12,259	12,259
NAVSTAR GLOBAL POSITIONING SYSTEM (USER EQUIPMENT)....	53,093	53,093	53,093	53,093
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTROL..	186,459	186,459	186,459	180,459
SPACELIFT RANGE SYSTEM (SPACE).......................	65,097	75,197	65,097	70,897
DRAGON U-2 (JMIP).....................................	32,804	25,804	36,804	30,804
ENDURANCE UNMANNED AERIAL VEHICLES....................	190,237	172,737	206,237	197,737
AIRBORNE RECONNAISSANCE SYSTEMS.......................	77,766	81,785	92,766	57,785
MANNED RECONNAISSANCE SYSTEMS.........................	---	4,500	---	2,000
DISTRIBUTED COMMON GROUND SYSTEMS.....................	11,429	21,429	11,429	16,429
NCMC - TW/AA SYSTEM...................................	15,797	15,797	15,797	15,797
SPACETRACK (SPACE)....................................	32,591	23,691	32,591	23,691
DEFENSE SUPPORT PROGRAM (SPACE).......................	6,363	6,363	6,363	6,363
NUDET DETECTION SYSTEM (SPACE)........................	18,823	18,823	21,823	21,823
SHARED EARLY WARNING (SEW)............................	3,697	3,697	3,697	3,697
C-130 AIRLIFT SQUADRON................................	80,533	60,533	80,533	60,533
C-5 AIRLIFT SQUADRONS.................................	166,508	152,508	166,508	156,508

(In thousands of dollars)

	Budget	House	Senate	Conference
C-17 AIRCRAFT..	110,619	110,619	110,619	110,619
LARGE AIRCRAFT IR COUNTERMEASURES (LAIRCM)...........	62,530	62,530	62,530	62,530
KC-135S..	5,416	5,416	5,416	5,416
KC-10S...	22,774	22,774	22,774	22,774
SPECIAL OPERATIONS FORCES............................	---	3,000	---	---
DEPOT MAINTENANCE (NON-IF)...........................	1,542	4,042	1,542	2,742
INDUSTRIAL PREPAREDNESS..............................	53,782	61,782	53,782	58,982
PRODUCTIVITY, RELIABILITY, AVAILABILITY, MAINTAIN PRO.	20,689	32,189	20,689	26,889
JOINT LOGISTICS PROGRAM - AMMUNITION STANDARD SYSTEM..	106	---	106	---
SUPPORT SYSTEMS DEVELOPMENT..........................	24,221	30,221	25,221	29,221
COMPUTER RESOURCES SUPPORT IMPROVEMENT PROGRAM (CRSIP)	2,376	2,376	2,376	2,376
CIVILIAN COMPENSATION PROGRAM........................	7,019	7,019	7,019	7,019
CLASSIFIED PROGRAMS..................................	4,424,521	4,412,699	3,864,283	4,389,589
TOTAL, OPERATIONAL SYSTEMS DEVELOPEMENT.............	7,895,973	7,911,772	7,401,635	7,840,962
DOE JOINT RESEARCH ADJUSTMENT........................	---	-5,000	---	---
GENERAL REDUCTION....................................	---	---	---	-5,000
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, AF.......	14,343,982	14,884,058	13,859,401	14,669,931

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

	Budget	House	Senate	Conference
1 DEFENSE RESEARCH SCIENCES	**220,869**	**227,119**	**220,869**	**228,419**
Center for Astronomical Adaptive Optics		+4,000		+2,000
Environmentally Sound Aircraft Coatings		+1,000		0
Center for Solar Geophysical Interactions at Mt. Wilson Observatory		+750		+750
Coal based jet fuels		+3,000		+2,500
Focused Ion Beam System		+1,500		+1,300
Reduce mathematical and computer sciences to prior year levels		-3,000		0
Reduce electronics to prior year levels		-2,000		0
California Science Center		+1,000		+1,000
2 MATERIALS	**77,164**	**88,664**	**98,164**	**98,564**
Metal Affordability Initiative		+4,500	+5,000	+3,000
Advanced silicon carbide crystal device technology		+7,000		+6,000
Durable Hybrid Coatings for Aircraft Systems			+3,000	+2,000
Titanium Matrix Composites			+5,000	+4,300
Environmentally Sound Aircraft Coatings			+1,500	+1,000
Carbon Foam Development for Aircraft and Spacecraft			+4,000	+3,400
UV Free Electron Laser			+2,500	+1,700
3 AEROSPACE VEHICLE TECHNOLOGIES	**97,465**	**100,715**	**97,465**	**99,415**
AFRL Tyndall		+2,500		+1,200
Advanced Comprehensive Engineering Simulator (ACES)		+750		+750
4 HUMAN EFFECTIVENESS APPLIED RESEARCH	**69,080**	**70,930**	**69,080**	**70,480**
UCAV funding consolidation		-1,400		-1,400
Fatigue Countermeasure Research (Note: Only to conduct laboratory studies at Brooks AFB to complete research on the efficacy and safety of fatigue countermeasure medications during military operations.)		+1,250		+1,100
Rapid Detection of Biological Weapons of Mass Destruction (Note: Only to design and develop probe kits to identify Biological Weapons of Mass Destruction.)		+2,000		+1,700
5 AEROSPACE PROPULSION	**149,211**	**189,111**	**154,211**	**179,811**
Magnetic Bearing Cooling Turbine Technology (MBCT)		+1,500	+5,000	+3,000
Pulse Detonation Engine		+6,000		+3,000
Engineering Tool Improvement Program		+2,600		+1,500
PBO Membrane Fuel Cell		+2,000		+1,000
Lithium ion battery for aircraft, spacecraft, and handheld applications		+2,000		+1,000
Lithium ion battery technology for solid state lasers		+1,000		+1,000
IHPRPT		+9,500		+7,100
AFRL Test Stands (1D and 2A modernization at Edwards AFB)		+12,600		+10,700

	Budget	House	Senate	Conference
Jet Engine Test Cell Upgrade		+2,700		+2,300
Note: Only to retrofit and upgrade existing space and aircraft engine test facilities to support reusable launch vehicle and new propellant development programs.				
6 AEROSPACE SENSORS	**84,149**	**79,049**	**84,149**	**81,149**
Reduction		-14,100		-7,000
Adverse Weather Ballistic Imaging		+4,000		+1,800
Advanced FT-IR Gas Analysis		+2,000		+1,000
Integration of Flexible Substances		+3,000		+1,200
8 SPACE TECHNOLOGY	**61,086**	**69,586**	**78,586**	**81,686**
Mixed Signal VLSI for Space Vehicle Comm Subsystems		+2,500		+1,300
Composite Cryogenic Fuel Tank		+4,000		+3,000
Terabit		+2,000		+1,700
HAARP Electromagnetic Wave Gradiometer			+2,000	+1,700
HAARP Incoherent Radar			+3,000	+2,600
HAARP Space Technology			+10,000	+8,500
Satellite Simulation Tool Kit			+2,500	+1,800
10 DIRECTED ENERGY TECHNOLOGY	**36,678**	**31,978**	**36,678**	**34,678**
Reduction		-5,700		-3,000
Tactical/Operations Systems Simulator		+1,000		+1,000
11 COMMAND CONTROL AND COMMUNICATIONS	**61,659**	**70,959**	**61,659**	**66,659**
Reduction		-5,200		-3,000
Simulation Based Acquisition Initiative		+6,500		+3,900
Information Hiding, Steganography & Digital Watermarking for Information Protection and Authentications Systems		+3,000		+1,800
Assured Communications		+5,000		+2,300
14 ADVANCED MATERIALS FOR WEAPON SYSTEMS	**32,748**	**45,248**	**37,748**	**46,248**
Technology Development Investment for Aging Aircraft		+3,000		+2,100
Vapor Growth Carbon Fiber (VGCF)		+1,000		+1,000
Handheld Holographic Radar Gun		+1,500		+1,000
Ceramic Matrix Composite for Engines (Note: Only for the continuation of S200 CMC technology development program)		+2,000	+4,000	+2,800
Metal Affordability Initiative		+2,500		+1,100
Plasma Enhanced Chemical Vapor Deposition Techniques		+2,500		+2,100
Advanced Aluminum Aerostructures			+5,000	+3,400
16 ADVANCED AEROSPACE SENSORS	**55,809**	**65,109**	**55,809**	**61,509**
UCAV funding consolidation		-2,700		-2,700
Advanced Physical Vapor Transport		+1,500		+1,000
Radar Target Modeling Thrust		+10,500		+7,400
17 FLIGHT VEHICLE TECHNOLOGY	**0**	**4,000**	**4,000**	**4,600**
AFRL Tyndall		+4,000		+1,800
E-SMART Chemical and Biological Sensors			+4,000	+2,800

	Budget	House	Senate	Conference
18 AEROSPACE TECHNOLOGY DEV/DEMO	**26,269**	**27,869**	**26,269**	**23,169**
UCAV funding consolidation		-11,900		-11,900
Access to space systems project		+2,000		+1,400
Aeronautical Systems Center		+7,000		+4,900
Affordable Combat Avionics Initiative		+2,500		+1,500
3D Bias Woven Preforms		+2,000		+1,000
19 AEROSPACE PROPULSION AND POWER TECHNOLOGY	**114,335**	**124,335**	**117,335**	**122,735**
Joint Expendable Turbine Engine Concept (JETEC)		+4,000		+2,000
IHPRPT		+6,000		+4,400
Vector Thrusted Ducted Propeller			+3,000	+2,000
CREW SYSTEMS AND PERSONNEL PROTECTION 21 TECHNOLOGY	**32,356**	**36,856**	**32,356**	**34,356**
Combat Automation Requirements Testbed		+1,500		+1,000
Head Mounted Display Technology		+3,000		+1,000
24 ELECTRONIC COMBAT TECHNOLOGY	**28,221**	**37,221**	**28,221**	**32,721**
IDAL C3NI		+1,000		+1,000
CLIRCM		+8,000		+3,500
26 BALLISTIC MISSILE TECHNOLOGY	**0**	**2,500**	**0**	**1,200**
GPS Range Safety		+2,500		+1,200
27 ADVANCED SPACECRAFT TECHNOLOGY	**54,528**	**59,528**	**63,528**	**61,528**
Scorpius Space Lift Program		+3,000	+9,000	+6,000
Next Generation Hybrid Orbital Maneuver Vehicle		+2,000		+1,000
29 MAUI SPACE SURVEILLANCE SYSTEM (MSSS)	**6484**	**6484**	**30984**	**27284**
Program Increase			+20,500	+17,400
Pan-STARRS			+4,000	+3,400
30 CONVENTIONAL WEAPONS TECHNOLOGY	**37,617**	**44,317**	**37,617**	**40,117**
UCAV funding consolidation		-1,300		-1,300
LOCAAS		+8,000		+3,800
31 ADVANCED WEAPONS TECHNOLOGY	**43,758**	**52,758**	**65,458**	**67,558**
Reduction		-5,000		-3,000
GLINT		+10,000		+7,000
Sodium wavelength laser		+2,000		+1,700
Manufacturing Analysis for the Advanced Tactical Laser		+2,000		+1,700
Aerospace Relay Mirror System			+9,200	+6,400
Field Laser Demonstration (FLD) Upgrades (ALVA)			+10,000	+8,500
Laser Spark Countermeasure			+2,500	+1,500
34 C3I ADVANCED DEVELOPMENT	**32,644**	**35,844**	**32,644**	**33,544**
Adaptive Information Protection Technologies		+2,000		+1,700
Note: For system protection philosophies through the exploration of the application of adaptive technology using and modifying commercial off-the-shelf technology.				
UCAV funding consolidation		-3,800		-3,800
Information Hiding, Steganography & Digital Watermarking for Information Protection and Authentications Systems		+5,000		+3,000
UCAV		**21,100**	**0**	**21,100**
UCAV funding consolidation		+21,100		+21,100

	Budget	House	Senate	Conference
38 NAVSTAR GLOBAL POSITIONING SYSTEM III	**78,358**	**66,358**	**78,358**	**78,358**
Poor execution. Large unobligated prior year balances carried into current fiscal year.		-12,000		0
39 ADVANCED EHF MILSATCOM (SPACE)	**549,659**	**459,659**	**549,659**	**479,659**
Delay in start of EMD		-90,000		-70,000
40 POLAR MILSATCOM (SPACE)	**18,724**	**13,724**	**18,724**	**18,724**
Reduction		-5,000		0
41 NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL	**157,394**	**103,394**	**157,394**	**157,394**
Slip of EMD contract award to end of fiscal year 2002		-54,000		0
46 JOINT STRIKE FIGHTER	**0**	**0**	**30,000**	**0**
Delay in Down-select			+30,000	0
47 INTEGRATED BROADCAST SERVICE (DEM/VAL)	**20,529**	**17,529**	**20,529**	**17,529**
General reduction		-3,000		-3,000
48 INTERCONTINENTAL BALLISTIC MISSILE - DEM/VAL	**44,484**	**51,484**	**44,484**	**47,984**
Northern Edge		+7,000		+3,500
49 WIDEBAND GAPFILLER SYSTEM RDT&E (SPACE)	**96,670**	**99,370**	**96,670**	**100,670**
Transfer from OPAF for "Development Lab" Equipment. Reduction for incremental funding and lack of budget justification for 8 strings.		+2,700		+4,000
50 AIR FORCE/NATIONAL PROGRAM COOPERATION (AFNPC)	**4,433**	**0**	**4,433**	**2,433**
Reduction		-4,433		-2,000
51 POLLUTION PREVENTION (DEM/VAL)	**2,688**	**0**	**2,688**	**0**
Reduction		-2,688		-2,688
INTEGRATED AVIONICS PLANNING & DEVELOPMENT	**0**	**0**	**3,000**	**0**
Affordable Combat Avionics Initiative (Transferred to line 18)			+3,000	0
58 B-1B	**194,507**	**152,307**	**152,307**	**152,307**
Transfer to ANG O&M		-42,200	-42,200	-42,200
61 F-22 EMD	**865,464**	**881,556**	**865,464**	**881,556**
Transfer from F-22 squadrons		+16,092		+16,092
NEXT GENERATION TANKER		**150,000**	**0**	**0**
767 Tanker Testbed Aircraft		+120,000		0
Tanker mod development		+30,000		0
62 B-2 ADVANCED TECHNOLOGY BOMBER	**155,004**	**222,004**	**218,004**	**219,004**
Link 16/Center Display/Inflight Replanner		+47,000	+63,000	+47,000
EGBU-28		+20,000		+17,000
63 SPACE-BASED RADAR EMD	**50,000**	**50,000**	**25,000**	**25,000**
Program reduction			-25,000	-25,000
MULTI-MISSION C2 AIRCRAFT	**0**	**25,000**	**0**	**0**
Concept development		+25,000		0
64 EW DEVELOPMENT	**41,267**	**44,567**	**54,567**	**42,967**
Poor execution		-10,000		-5,000
Precision Location and Identification (PLAID)		+13,300	+13,300	+6,700
65 EXTENDED RANGE CRUISE MISSILE (ERCM)	**40,235**	**0**	**0**	**0**
Air Force delays in defining program		-40,235	-40,235	-40,235
66 SMALL DIAMETER BOMB (SDB) (DEM/VAL)	**40,000**	**40,000**	**25,000**	**35,000**
Program reduction			-15,000	-5,000
67 SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD	**405,229**	**435,229**	**455,229**	**445,229**
Cost growth in EMD		+30,000	+50,000	+40,000

	Budget	House	Senate	Conference
MILSTAR LDR/MDR SATELLITE COMMUNICATIONS 69 (SPACE)	**232,084**	**229,584**	**232,084**	**232,184**
Unjustified growth in satellite engineering		-9,000		-4,500
Automated Comms Management System Satellite Planning		+6,500		+4,600
73 AGILE COMBAT SUPPORT	**6,674**	**6,674**	**6,674**	**16,174**
Integrated Medical Information Technology System (IMITS)				+8,500
Rural low bandwidth medical collaboration system				+1,000
UAV RADAR SYSTEM TESTBED (C-37A)		**50,000**	**50,000**	**0**
76 LIFE SUPPORT SYSTEMS	**4,586**	**11,286**	**8,586**	**9,286**
ACES II P3I		+3,000		+1,500
Crash Resistant Wall Style Troop Seat		+3,000		0
LESPA		+700		+700
Panoramic Night Vision Goggle (PNVG) Development			+4,000	+2,500
INTEGRATED COMMAND & CONTROL APPLICATIONS 80 (IC2A)	**224**	**8,224**	**3,224**	**6,824**
NPLACE		+4,000		+2,000
AF Center for Acquisition Reengineering and Enabling Technology		+2,000		+1,000
AF Product Line Engineering Activity		+2,000		+1,000
ASSET/eWing Program			+3,000	+2,600
85 JOINT STRIKE FIGHTER EMD	**769,511**	**769,511**	**615,911**	**769,511**
Delay in Down-select			-153,600	0
NEXT GENERATION JSTARS TESTBED	**0**	**190,000**	**0**	**0**
767 Testbed Aircraft		+190,000		0
EVOLVED EXPENDABLE LAUNCH VEHICLE PROGRAM 88 (SPACE)	**320,321**	**310,321**	**320,321**	**315,321**
Excessive SPO and FFRDC growth		-10,000		-5,000
89 RDT&E FOR AGING AIRCRAFT	**20,115**	**48,115**	**24,015**	**41,615**
Aging Wiring and Corrosion Treatment for Aging Aircraft		+10,000		+7,000
Aging Landing Gear Life Extension		+15,000		+10,500
Aging Propulsion Systems Life Extension		+3,000		+2,000
Aging Aircraft Knowledge Portal			+3,900	+2,000
92 CV-22	**10,008**	**10,008**	**0**	**190,008**
Program reduction			-10,008	0
2 CV-22 EMD Test articles				+180,000
94 MAJOR T&E INVESTMENT	**49,857**	**64,857**	**59,857**	**62,857**
Holloman High Speed Test Track Upgrade		+4,000		+2,500
Airborne Separation Video System (ASVS)		+1,500		+1,000
Laser Induced Surface Improvement (LISI)		+2,000		+1,000
Mariah II Hypersonic Wind Tunnel		+7,500	+10,000	+8,500
98 INITIAL OPERATIONAL TEST & EVALUATION	**28,998**	**35,998**	**28,998**	**33,498**
AFOTECH		+7,000		+4,500

	Budget	House	Senate	Conference
99 TEST AND EVALUATION SUPPORT	**396,583**	**393,283**	**396,583**	**392,583**
Large unobligated carryforward into current fiscal year		-7,000		-5,000
Generic Radar Target Generator (GRTG)		+1,700		0
Enhanced Flight Termination System		+2,000		+1,000
101 ROCKET SYSTEMS LAUNCH PROGRAM (SPACE)	**8,538**	**32,538**	**8,538**	**27,838**
Missile Technology Demonstration (MTD)-3B		+6,000		+4,000
Ballistic Missile Range Safety Technology Program		+18,000		+15,300
103 GENERAL SKILL TRAINING	**309**	**0**	**309**	**0**
Program reduction		-309		-309
111 REGION/SECTOR OPERATION CONTROL CENTER MODERNIZATION	**0**	**0**	**7,000**	**6,000**
RAOC Modernization Aero & Range Surveillance			+7,000	+6,000
113 WARFIGHTER RAPID ACQUISITION PROCESS (WRAP) RAPID TRAN	**30,247**	**30,247**	**30,247**	**30,247**
Note: Tech-SAT 21 shall be a candidate for WRAP.				
115 JOINT EXPEDITIONARY FORCE EXPERIMENT	**64,005**	**22,605**	**64,005**	**44,005**
Reduced scope to accommodate planning and operational needs of Enduring Freedom and Noble Eagle		-41,400		-20,000
116 A-10 SQUADRONS	**3,049**	**8,049**	**3,049**	**5,549**
A-10 Precision Engagement		+5,000		+2,500
117 F-16 SQUADRONS	**110,797**	**115,797**	**110,797**	**115,097**
Distributed Training Centers		+5,000		+4,300
AKITS			(3,000)	(3,000)
118 F-15E SQUADRONS	**101,439**	**101,439**	**113,439**	**108,439**
F-15 Block Upgrade Program			+12,000	+7,000
120 F-22 SQUADRONS	**16,092**	**0**	**16,092**	**0**
Transfer to F-22 EMD		-16,092		-16,092
124 AF TENCAP	**10,811**	**13,811**	**12,811**	**12,811**
GPS jammer detection and location system for transition to an operational capability under Phase III effort		+3,000	+2,000	+2,000
128 CSAF INNOVATION PROGRAM	**1,961**	**1,961**	**4,961**	**1,961**
Eagle Vision (funded at $2.5M in O&M,AF)			+3,000	0
137 THEATER BATTLE MANAGEMENT (TBM) C4I	**37,331**	**37,331**	**38,331**	**38,331**
Theater Battle Management Core Systems/Air Support Operations Center at INEEL			+1,000	+1,000
138 JOINT SURVEILLANCE AND TARGET ATTACK RADAR SYSTEM	**147,859**	**243,359**	**159,359**	**155,359**
Poor prior year execution		-5,000		-4,000
SATCOM transfer from APAF		+5,700	+5,700	+5,700
RVSM transfer from APAF		+5,800	+5,800	+5,800
Accelerate MP-RTIP		+89,000		0
141 USAF MODELING AND SIMULATION	**25,345**	**31,345**	**25,345**	**30,845**
STORM		+1,000		+1,000
Intelligent Flight Control System Simulation Research (including acquisition of advanced flight control research equipment and related laboratory/support equipment).		+5,000		+2,500
Oklahoma City ALC Modeling and Simulation				+2,000

	Budget	House	Senate	Conference
142 WARGAMING AND SIMULATION CENTERS	5,033	**9,033**	**10,433**	**8,033**
Theater Aerospace Command and Control Simulation Facility (TACCSF)		+4,000	+5,400	+3,000
144 MISSION PLANNING SYSTEMS	**16,904**	**19,904**	**16,904**	**18,404**
Powerscene		+3,000		+1,500
COBRA BALL	**0**	**0**	**6,000**	**5,100**
Advanced Airborne Sensor			+6,000	+5,100
160 INFORMATION SYSTEMS SECURITY PROGRAM	**7,936**	**22,436**	**12,936**	**20,536**
Information Assurance for Enabling Technologies		+1,500		+1,000
Worldwide Information Security Environment (WISE) (Note: Only to continue ongoing efforts using intelligent sensors/JAVA intelligent agents.)		+13,000		+9,100
Cyber Security Program			+5,000	+2,500
161 GLOBAL COMBAT SUPPORT SYSTEM	**48,911**	**54,911**	**48,911**	**53,011**
GCSS (Enterprise Data Warehouse) (Note: Only for GCSS-AF to continue development of the EDW in support of the AF maintenance data collection program.)		+6,000		+4,100
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND 177 CONTROL	**186,459**	**186,459**	**186,459**	**180,459**
Reduction reapplied from GPS III				-6,000
179 SPACELIFT RANGE SYSTEM (SPACE)	**65,097**	**75,197**	**65,097**	**70,897**
Space Integration Master Planning		+2,100		+1,800
Note: Only to analyze future space requirements in support of homeland defense				
RSA		+8,000		+4,000
180 DRAGON U-2 (JMIP)	**32,804**	**25,804**	**36,804**	**30,804**
Dual data link		-7,000		-4,000
SYERS			+4,000	+2,000
181 ENDURANCE UNMANNED AERIAL VEHICLES	**190,237**	**172,737**	**206,237**	**197,737**
Demonstration at Berlin Air Show		-5,000		-4,500
Program office growth		-12,500		-4,000
Global Hawk sensor development and testing			+16,000	+16,000
182 AIRBORNE RECONNAISSANCE SYSTEMS	**77,766**	**81,785**	**92,766**	**57,785**
Termination of LBSS; Transition of HBSS		-36,381		-36,381
JSAF Program Office		-4,600		-4,600
Modern ELINT system (HBSS) for Global Hawk HAE UAV		+30,000		0
Theater Airborne Reconnaissance System (TARS)		+15,000		+10,500
Wideband Global Grid Common Data Link			+10,000	+7,000
High Data Rate Laser Communications			+5,000	+3,500
183 MANNED RECONNAISSANCE SYSTEMS	**0**	**4,500**	**0**	**2,000**
Combat Sent Passive Airborne Ranging		+4,500		+2,000
184 DISTRIBUTED COMMON GROUND SYSTEMS	**11,429**	**21,429**	**11,429**	**16,429**
DCGS/NCCT (Note: of which $4,000,000 is for ongoing modeling and exercise support activities to assist in modifying reconnaissance ground stations and targeting processes to engage time critical targets.)		+10,000		+5,000

	Budget	House	Senate	Conference
186 SPACETRACK (SPACE)	**32,591**	**23,691**	**32,591**	**23,691**
Space Based Surveillance Concept Technology Development: await results of AOA before development		-2,900		-2,900
Space Situational Awareness: excessive office standup		-6,000		-6,000
188 NUDET DETECTION SYSTEM (SPACE)	**18,823**	**18,823**	**21,823**	**21,823**
Transfer			+3,000	+3,000
192 C-130 AIRLIFT SQUADRON	**80,533**	**60,533**	**80,533**	**60,533**
Late EMD contract award		-20,000		-20,000
193 C-5	**166,508**	**152,508**	**166,508**	**156,508**
1 year delay in RERP EMD, availability of prior year funds		-14,000		-10,000
199 SPECIAL OPERATIONS FORCES	**0**	**3,000**	**0**	**0**
Program increase (transferred)		+3,000		0
200 DEPOT MAINTENANCE (NON-IF)	**1,542**	**4,042**	**1,542**	**2,742**
Metrology		+2,500		+1,200
201 INDUSTRIAL PREPAREDNESS	**53,782**	**61,782**	**53,782**	**58,982**
Advanced Low Observable Coatings		+6,000		+4,200
Laser peening for F-119 engine		+2,000		+1,000
PRODUCTIVITY, RELIABILITY, AVAILABILITY, MAINTAIN 202 PRO	**20,689**	**32,189**	**20,689**	**26,889**
Automated Nondestructive Inspection for Turbine Engine Sustainment		+6,500		+4,000
Inspection Technology for Turbine Engines		+5,000		+2,200
JOINT LOGISTICS PROGRAM - AMMUNITION 203 STANDARD SYSTEM	**106**	**0**	**106**	**0**
Program reduction		-106		-106
204 SUPPORT SYSTEMS DEVELOPMENT	**24,221**	**30,221**	**25,221**	**29,221**
Center for aircraft and systems support		+6,000		+3,000
Commodity Management Systems Consolidation			+1,000	+1,000
Battlespace Logistics Readiness and Sustainment				+1,000

INFORMATION ASSURANCE

Of the funds provided to the Air Force, the Senate provided $5,000,000 for a university/government/business partnership on information assurance. The House provided no funds for this effort. Of the funds provided to the Air Force, the conferees agree to provide $2,500,000 for this effort.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, DEFWIDE				
BASIC RESEARCH				
IN-HOUSE LABORATORY INDEPENDENT RESEARCH	2,097	2,097	2,097	2,097
DEFENSE RESEARCH SCIENCES	121,003	139,003	132,003	145,303
UNIVERSITY RESEARCH INITIATIVES	240,374	248,374	250,874	250,874
FORCE HEALTH PROTECTION	26,952	26,952	39,452	36,652
HIGH ENERGY LASER RESEARCH INITIATIVES	11,877	11,877	11,877	11,877
GOVERNMENT/INDUSTRY COSPONSORSHIP OF UNIV RESEARCH	3,421	11,421	2,421	9,221
DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE	9,901	9,901	19,901	16,901
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	39,066	---	42,066	46,066
TOTAL, BASIC RESEARCH	454,691	449,625	500,691	518,991
APPLIED RESEARCH				
MEDICAL FREE ELECTRON LASER	14,660	24,660	14,660	19,660
HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU)	14,484	14,484	22,484	19,484
HISPANIC SERVING INSTITUTIONS	---	5,000	---	4,300
LINCOLN LABORATORY RESEARCH PROGRAM	21,969	21,969	21,969	21,969
COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY	382,294	329,294	354,394	358,494
EMBEDDED SOFTWARE AND PERVASIVE COMPUTING	75,561	65,561	62,561	65,561
BIOLOGICAL WARFARE DEFENSE	140,080	---	140,080	146,680
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	125,481	---	144,481	147,281
TACTICAL TECHNOLOGY	173,885	164,885	179,385	169,585
MATERIALS AND ELECTRONICS TECHNOLOGY	358,254	342,754	331,754	344,554
NUCLEAR SUSTAINMENT & COUNTERPROLIFERATION TECHNOLOGI	295,132	---	294,032	300,132
MEDICAL TECHNOLOGY	8,971	8,971	8,971	8,971
HIGH ENERGY LASER RESEARCH	36,005	36,005	36,005	36,005

(In thousands of dollars)

	Budget	House	Senate	Conference
TOTAL, APPLIED RESEARCH	1,646,776	1,013,583	1,610,776	1,642,676
ADVANCED TECHNOLOGY DEVELOPMENT				
MEDICAL ADVANCED TECHNOLOGY	2,086	2,086	2,086	2,086
EXPLOSIVES DEMILITARIZATION TECHNOLOGY	8,815	11,815	19,615	17,015
SO/LIC ADVANCED DEVELOPMENT	8,799	10,799	8,799	10,199
COMBATING TERRORISM TECHNOLOGY SUPPORT	42,243	60,243	46,743	56,443
COUNTERPROLIFERATION ADVANCED DEVELOPMENT TECHNOLOGIES	89,772	---	89,772	89,772
BALLISTIC MISSILE DEFENSE TECHNOLOGY	132,890	---	144,890	141,090
BMD SYSTEMS ENG & INTEGRATION	---	---	203,663	---
BMD PROGRAM OPERATIONS	---	---	191,243	---
JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOPMENT	19,178	19,178	19,178	19,178
AUTOMATIC TARGET RECOGNITION	7,716	7,716	7,716	7,716
ADVANCED AEROSPACE SYSTEMS	153,700	128,700	153,700	153,700
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - ADV DEV	69,249	---	72,249	75,749
SPECIAL TECHNICAL SUPPORT	11,019	13,019	11,019	12,219
ARMS CONTROL TECHNOLOGY	52,474	---	52,474	62,974
GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS	30,373	78,473	55,373	82,573
STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	69,376	73,376	53,346	62,876
JOINT WARFIGHTING PROGRAM	7,613	7,613	7,613	7,613
ADVANCED ELECTRONICS TECHNOLOGIES	177,264	194,264	194,764	199,564
ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS	148,917	124,917	153,917	159,417
HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM	188,376	188,376	187,200	185,600
COMMAND, CONTROL AND COMMUNICATIONS SYSTEMS	117,451	117,451	117,451	117,451
SENSOR AND GUIDANCE TECHNOLOGY	203,095	202,095	190,095	194,595
MARINE TECHNOLOGY	41,497	36,497	41,497	41,497

(In thousands of dollars)

	Budget	House	Senate	Conference
LAND WARFARE TECHNOLOGY	153,067	153,067	153,067	153,067
CLASSIFIED DARPA PROGRAMS	142,395	137,395	142,395	142,395
SOFTWARE ENGINEERING INSTITUTE	21,091	23,091	21,091	22,091
QUICK REACTION PROJECTS	25,000	35,000	---	---
JOINT WARGAMING SIMULATION MANAGEMENT OFFICE	45,065	48,065	45,065	46,565
HIGH ENERGY LASER ADVANCED TECHNOLOGY PROGRAM	16,005	16,005	16,005	16,005
COUNTERPROLIFERATION SUPPORT	1,781	1,781	1,781	1,781
AGILE PORT DEMONSTRATION	---	---	10,000	8,500
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT	1,986,307	1,691,022	2,413,807	2,089,731
DEMONSTRATION & VALIDATION				
PHYSICAL SECURITY EQUIPMENT	33,543	46,543	33,543	40,043
JOINT ROBOTICS PROGRAM	11,302	14,302	11,302	12,802
ADVANCED SENSOR APPLICATIONS PROGRAM	15,780	26,780	17,780	21,580
CALS INITIATIVE	1,614	1,614	7,614	6,714
ENVIRONMENTAL SECURITY TECHNICAL CERTIFICATION PROGRAM	25,314	25,314	31,054	21,054
BALLISTIC MISSILE DEFENSE SYSTEM SEGMENT	779,584	---	---	819,084
BMD SYSTEM BMC2	---	---	18,792	---
BMD SYSTEM COMMUNICATIONS	---	---	10,000	---
BMD SYSTEM TARGETS & CM	---	---	96,539	---
BMD SYSTEM T&E	---	---	220,916	---
BALLISTIC MISSILE DEFENSE TERMINAL DEFENSE SEGMENT	968,180	---	---	203,344
THEATER HIGH ALTITUDE AREA DEFENSE	---	---	672,543	---
ARROW AND COOPERATIVE PROGRAMS	---	---	141,699	---
PAC-3	---	---	107,100	---
MEADS	---	---	71,645	---

(In thousands of dollars)

	Budget	House	Senate	Conference
NAVY AREA BMD	---	---	388,496	---
BALLISTIC MISSILE DEFENSE MIDCOURSE DEFENSE SEGMENT	3,940,534	---	---	3,820,534
GROUND-BASED TEST BED	---	---	786,485	---
GROUND-BASED MIDCOURSE	---	---	2,241,240	---
SEA-BASED MIDCOURSE	---	---	289,000	---
BALLISTIC MISSILE DEFENSE BOOST DEFENSE SEGMENT	685,363	---	---	608,863
SEA-BASED BOOST	---	---	10,000	---
AIR-BASED BOOST\AIRBORNE LASER	---	---	355,000	---
SPACE-BASED BOOST	---	---	32,000	---
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - DEM/VAL	82,636	---	82,636	90,336
BALLISTIC MISSILE DEFENSE SENSORS	495,600	---	---	340,600
SPACE SENSORS/SRIR-L	---	---	264,799	---
INTERNATIONAL COOPERATION	---	---	50,342	---
SENSORS T&E	---	---	10,000	---
HUMANITARIAN DEMINING	13,512	13,512	13,512	13,512
COALITION WARFARE	12,943	6,943	6,123	6,123
JOINT SERVICE EDUCATION AND TRAINING SYSTEMS DEVELOPME	---	13,000	---	10,000
TOTAL, DEMONSTRATION & VALIDATION	7,065,905	148,008	5,970,160	6,014,589
ENGINEERING & MANUFACTURING DEVEL				
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - EMD	159,943	---	164,943	162,443
JOINT ROBOTICS PROGRAM - EMD	13,197	17,197	13,197	15,197
ADVANCED IT SERVICES JOINT PROGRAM OFFICE (AITS-JPO)	14,254	14,254	14,254	14,254
JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)	16,572	16,572	16,572	16,572
THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM - TMD - EMD.	---	---	---	872,481
PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION - EM	---	---	---	129,100

(In thousands of dollars)

	Budget	House	Senate	Conference
NAVY AREA THEATER MISSILE DEFENSE - EMD..............	---	---	---	100,000
INFORMATION TECHNOLOGY DEVELOPMENT....................	2,469	2,469	2,469	2,469
INFORMATION TECHNOLOGY DEVELOPMENT-STANDARD PROCUREMEN	9,747	9,747	7,747	7,747
FINANCIAL MANAGEMENT MODERNIZATION PROGRAM...........	100,000	40,000	100,000	100,000
DEFENSE MESSAGE SYSTEM................................	11,423	11,423	11,423	11,423
INFORMATION SYSTEMS SECURITY PROGRAM..................	11,767	11,767	11,767	11,767
GLOBAL COMBAT SUPPORT SYSTEM..........................	16,483	16,483	16,483	16,483
ELECTRONIC COMMERCE...................................	25,519	25,519	25,519	25,519
TOTAL, ENGINEERING & MANUFACTURING DEVEL...........	381,374	165,431	384,374	1,485,455
RDT&E MANAGEMENT SUPPORT				
UNEXPLODED ORDNANCE DETECTION AND CLEARANCE...........	1,165	1,165	1,165	1,165
THERMAL VICAR...	5,952	5,952	5,952	5,952
TECHNICAL STUDIES, SUPPORT AND ANALYSIS...............	33,805	20,805	33,805	27,805
CRITICAL TECHNOLOGY SUPPORT...........................	3,313	3,313	3,313	3,313
BLACK LIGHT...	5,000	5,000	5,000	5,000
GENERAL SUPPORT TO C3I................................	21,061	22,561	28,561	28,561
FOREIGN MATERIAL ACQUISITION AND EXPLOITATION.........	31,951	31,951	31,951	31,951
INTERAGENCY EXPORT LICENSE AUTOMATION.................	10,559	10,559	10,559	10,559
DEFENSE TRAVEL SYSTEM.................................	29,955	9,955	29,955	19,955
JOINT THEATER AIR AND MISSILE DEFENSE ORGANIZATION....	26,865	26,865	16,865	26,865
CLASSIFIED PROGRAM USD(P).............................	---	20,000	---	45,000
FOREIGN COMPARATIVE TESTING...........................	30,907	30,907	27,907	35,207
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM...............	31,276	---	31,276	31,276
CLASSIFIED PROGRAMS - C3I.............................	56,653	28,653	61,653	44,953
SMALL BUSINESS INNOVATION RESEARCH/CHALLENGE ADMIN....	2,068	2,068	2,068	2,068

(In thousands of dollars)

	Budget	House	Senate	Conference
DEFENSE TECHNOLOGY ANALYSIS...........................	5,109	5,109	5,109	5,109
DEFENSE TECHNICAL INFORMATION SERVICES (DTIC).........	44,228	44,228	44,228	44,228
R&D IN SUPPORT OF DOD ENLISTMENT, TESTING AND EVAL....	8,834	8,834	8,834	8,834
DEVELOPMENT TEST AND EVALUATION.......................	46,382	46,382	46,382	46,382
MANAGEMENT HEADQUARTERS (RESEARCH AND DEVELOPMENT)....	36,937	36,937	36,937	36,937
PENTAGON RESERVATION..................................	6,571	---	6,571	6,571
MANAGEMENT HEADQUARTERS-BMDO..........................	27,758	---	27,758	27,758
TOTAL, RDT&E MANAGEMENT SUPPORT.....................	466,349	361,244	465,849	495,449
OPERATIONAL SYSTEMS DEVELOPEMENT				
COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE..	10,805	27,805	10,805	22,805
PARTNERSHIP FOR PEACE (PFP) INFORMATION MANAGEMENT SYS	1,922	1,922	1,922	1,922
C4I INTEROPERABILITY..................................	41,389	41,389	41,389	41,389
JOINT ANALYTICAL MODEL IMPROVEMENT PROGRAM............	12,163	12,163	12,163	12,163
INFORMATION TECHNOLOGY SYSTEMS........................	550	550	550	550
NATIONAL MILITARY COMMAND SYSTEM-WIDE SUPPORT.........	1,014	1,014	1,014	1,014
DEFENSE INFO INFRASTRUCTURE ENGINEERING AND INTEGRATIO	6,544	6,544	6,544	6,544
LONG HAUL COMMUNICATIONS (DCS)........................	10,744	10,744	10,744	10,744
SUPPORT OF THE NATIONAL COMMUNICATIONS SYSTEM.........	4,968	4,968	4,968	4,968
MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK....	6,988	6,988	6,988	6,988
INFORMATION SYSTEMS SECURITY PROGRAM..................	414,844	422,594	420,744	425,994
C4I FOR THE WARRIOR...................................	9,622	9,622	9,622	9,622
JOINT SPECTRUM CENTER.................................	8,849	8,849	8,849	8,849
TELEPORT PROGRAM......................................	14,371	14,371	14,371	14,371
SPECIAL RECONNAISSANCE CAPABILITIES (SRC) PROGRAM.....	4,422	4,422	4,422	4,422
DEFENSE IMAGERY AND MAPPING PROGRAM...................	115,209	144,409	122,909	139,009

(In thousands of dollars)

	Budget	House	Senate	Conference
FOREIGN COUNTERINTELLIGENCE ACTIVITIES................	664	664	664	664
DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM (JMIP)......	5,977	5,977	20,977	17,977
C3I INTELLIGENCE PROGRAMS.............................	10,552	10,552	12,552	16,752
TECHNOLOGY DEVELOPMENT................................	40,000	---	40,000	5,000
DRAGON U-2 (JMIP).....................................	4,019	4,019	4,019	4,019
AIRBORNE RECONNAISSANCE SYSTEMS.......................	16,515	16,515	16,515	16,515
MANNED RECONNAISSANCE SYSTEMS.........................	4,556	13,056	22,556	17,156
DISTRIBUTED COMMON GROUND SYSTEMS.....................	1,006	1,006	1,006	1,006
TACTICAL CRYPTOLOGIC ACTIVITIES.......................	105,455	105,455	105,455	105,455
INDUSTRIAL PREPAREDNESS...............................	17,544	37,044	22,044	43,744
MANAGEMENT HEADQUARTERS (OJCS)........................	11,312	11,312	11,312	11,312
SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT.............	---	---	7,606	20,506
SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT....	---	---	11,582	10,982
SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT.......	---	---	240,887	258,489
SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT...	---	6,000	10,789	14,989
SOF MEDICAL TECHNOLOGY DEVELOPMENT....................	---	---	1,917	4,017
SOF OPERATIONAL ENHANCEMENTS..........................	85,109	86,609	85,109	86,209
SOF ACQUISITION.......................................	252,334	299,684	---	---
CLASSIFIED PROGRAMS...................................	1,829,938	1,808,938	1,806,938	1,853,738
TOTAL, OPERATIONAL SYSTEMS DEVELOPEMENT...............	3,049,385	3,125,185	3,099,932	3,199,884
DOE JOINT RESEARCH ADJUSTMENT.........................	---	-5,000	---	---
BMD - WAIVER OF PUBLIC LAW 102-564....................	---	---	---	-39,000
CHALLENGE PROGRAM.....................................	---	---	---	12,500
GENERAL REDUCTION.....................................	---	---	---	-5,000
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, DEFWIDE..	15,050,787	6,949,098	14,445,589	15,415,275

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(In thousands of dollars)

R-1		Budget Request	House	Senate	Conference
2	**DEFENSE RESEARCH SCIENCES**	**121,003**	**139,003**	**132,003**	**145,303**
	Ultra-Performance Nanotechnology Center		+3,000	0	+2,100
	Spin Electronics (Note: Transfer from University Research Initiatives)		+15,000	0	+15,000
	Nanotechnology Initiative		0	+2,000	+1,000
	Advanced Photonic Composites		0	+6,000	+4,200
	Spectrum Labs		0	+3,000	+2,000
3	**UNIVERSITY RESEARCH INITIATIVES**	**240,374**	**248,374**	**250,874**	**250,874**
	Spin Electronics (Note: Transfer to Defense Research Sciences)		-15,000	0	-15,000
	National Security Training for non-traditional and minority students (Note: Only to continue the program funded in 2001.)		+1,500	0	+1,000
	Tropical Remote Sensing Applications and Resources		+3,000	0	+1,250
	Center of Excellence in Bioinformatics		+3,000	0	+2,000
	Advanced Power and Energy Program		+2,000	0	+1,500
	Desert Environmental Research (Only to continue the existing University based GIS program to use sensor technology, line distance sampling and spatial analysis techniques to monitor the desert tortoise population in support of expansion of the Fort Irwin National Training Center.)		+3,000	0	+2,600
	Defense Commercialization Research Initiative		+4,000	0	+4,000
	Focused Manufacturing Technologies (Note: Only for advanced research to develop distributed precision manufacturing technology.)		+2,000	0	+1,000
	Advanced Films and Coatings		+1,500	0	+1,000
	MEMS Sensors for Rolling Element Bearings (Note: only for the development of a one chip solution for the determination of temperature, vibration, strain and angular rotation in a rolling element bearing.)		+3,000	0	+2,500
	Corrosion Protection of Aluminum Alloys		0	+1,500	+1,000
	Active Hyperspectral Imaging Sensor Research		0	+4,000	+3,400
	Bioengineering/ Nanotechnology Research		0	+5,000	+4,250
4	**FORCE HEALTH PROTECTION**	**26,952**	**26,952**	**39,452**	**36,652**
	Interdisciplinary Research on Gulf War Related Illnesses		0	+6,500	+5,500
	Chronic Multi-symptom Illnesses		0	+6,000	+4,200

R-1		Budget Request	House	Senate	Conference
6	**GOVERNMENT/INDUSTRY COSPONSORSHIP OF UNIV RESEARCH**	**3,421**	**11,421**	**2,421**	**9,221**
	Program Delays/Execution		0	-1,000	-1,000
	Semi-Conductor Research (Focus Center Research Program)		+8,000	0	+6,800
7	**DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE**	**9,901**	**9,901**	**19,901**	**16,901**
	Research Funding Increase		0	+10,000	+7,000
8	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM**	**39,066**	**0**	**42,066**	**46,066**
	Transfer to Title IX		-39,066	0	0
	900 MHz Magnetic Resonance Spectrometer (Note: Only for the NY Structural Biology Center)		5,000*	0	2,500
	Bug to Drug Identification and CM		0	+3,000	+2,000
	Lightweight Chem-Bio Sensors		0	0	+2,500
11	**MEDICAL FREE ELECTRON LASER**	**14,660**	**24,660**	**14,660**	**19,660**
	Medical Free Electron Laser		+10,000	0	+5,000
12	**HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU)**	**14,484**	**14,484**	**22,484**	**19,484**
	American Indian Higher Education Consortium		0	+3,500	+3,500
	Business/Tech Manuals Research and Development		0	+4,500	+1,500
	HISPANIC SERVING INSTITUTIONS	**0**	**5,000**	**0**	**4,300**
	Hispanic Serving Institutions - RDT&E Project Grants		+5,000	0	+4,300
14	**COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY**	**382,294**	**329,294**	**354,394**	**358,494**
	Reuse Technology Adoption Program (Note: to include the application of dynamic system testing and for modeling systems architectures.)		+4,000	0	+2,000
	Systems Engineering for Miniature Devices		+3,000	0	+2,600
	DARPA Reduction		-60,000	0	0
	Secure and Dependable Software		0	+1,500	+1,000
	Intelligence Software for Multilingual Programs		0	-4,400	-4,400
	Excessive Growth: New Starts		0	-25,000	-25,000
15	**EMBEDDED SOFTWARE AND PERVASIVE COMPUTING**	**75,561**	**65,561**	**62,561**	**65,561**
	DARPA Reduction		-10,000	0	-10,000
	Duplication		0	-13,000	0

R-1		Budget Request	House	Senate	Conference
16	**BIOLOGICAL WARFARE DEFENSE**	**140,080**	**0**	**140,080**	**146,680**
	Transfer to Title IX		-140,080	0	0
	Hydrate Fractionation Desalination Technology		+3,000*	0	+2,600
	Center for Water Security		+2,000*	0	+1,000
	Asymmetrical Protocols for Biological Defense		+8,000*	0	+3,000
17	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM**	**125,481**	**0**	**144,481**	**147,281**
	Transfer to Title IX		-125,481	0	0
	Regenerative Air Filtration		0	+2,000	+1,000
	Electrostatic Decontamination		0	+8,000	0
	Air Purification Systems		0	+4,000	+2,800
	Bio-informatics Research		0	+5,000	+3,500
	Integrated Detection of Energetic and Hazardous Materials		+2,000*	0	+1,000
	Common Asset for Biological Security		+2,500*	0	+1,000
	National Center for Countermeasures to Chemical and Biological Threats		+5,000*	0	+3,500
	Continuation of Joint Biological and Chemical Terrorism Response Project		+9,000*	0	+9,000
18	**TACTICAL TECHNOLOGY**	**173,885**	**164,885**	**179,385**	**169,585**
	CEROS		0	+5,500	+4,700
	DARPA Reduction		-9,000	0	-9,000
20	**MATERIALS AND ELECTRONICS TECHNOLOGY**	**358,254**	**342,754**	**331,754**	**344,554**
	DARPA Reduction		-24,000	0	0
	Center for Integrated Technologies		+5,000	0	+5,000
	Center for Optoelectronics and Optical Communications		+3,500	0	+2,000
	Program Delays/Execution		0	-45,000	-30,000
	Optoelectronics / Integrated Technologies		0	+5,000	0
	Fabrication of 3D Structures		0	+2,000	+1,400
	Destruction of CW-Nanotechnology		0	+1,500	+1,000
	Strategic Materials		0	+4,000	+3,400
	Advanced Materials/Frequency Tunable Devices		0	+3,000	+1,500
	Boron Energy Cell Technology		0	+3,000	+2,000
21	**NUCLEAR SUSTAINMENT & COUNTERPROLIFERATION TECHNOLOGY**	**295,132**	**0**	**294,032**	**300,132**
	Program Delays/Execution		0	-1,100	-1,100
	Transfer to Title IX		-295,132	0	0
	Discrete Particle Method		+2,500*	0	+1,800
	Thermobaric Warhead Development		+4,000*	0	+2,800
	Radiation Hardened Microelectronics		+3,000*	0	+1,500

R-1		Budget Request	House	Senate	Conference
26	**EXPLOSIVES DEMILITARIZATION TECHNOLOGY**	**8,815**	**11,815**	**19,615**	**17,015**
	Demilitarization and Destruction of Conventional Ammunition and Chemical Warfare Agents (Note: Only to investigate the use of photocatalysis to assist in the destruction of explosives.)		+3,000	0	+1,500
	Thin Layered Chromotopography		0	+2,400	+2,000
	Rotary Furnace Technology		0	+1,800	+1,300
	Hot Gas Decontamination		0	+2,000	+1,400
	Explosive Demilitarization Technology		0	+3,000	+1,000
	HMX Recovery from Demilitarized Energetics		0	+2,000	+1,400
	Program Reduction		0	-400	-400
27	**SO/LIC ADVANCED DEVELOPMENT**	**8,799**	**10,799**	**8,799**	**10,199**
	Special Reconnaissance Capabilities		+2,000	0	+1,400
28	**COMBATING TERRORISM TECHNOLOGY SUPPORT**	**42,243**	**60,243**	**46,743**	**56,443**
	Chemical/Biological Electrostatic Decontamination System (Note: only to complete prototype testing and evaluation through the TSWG.)		+7,000	0	+5,600
	Historical Underground Exploitation (HUGE) (Note: Funds are to be managed by a non-profit corporation.)		+2,000	0	+1,700
	Facial Recognition Access Control and Surveillance (Note: only for the development of a surveillance prototype, utilizing facial recognition.)		+2,000	0	+1,000
	Blast Mitigation Testing		+3,000	+4,500	+3,100
	Aerogel and Fiber Optic-Based Chem/Bio Detectors (Note: only to accelerate development of this technology)		+4,000	0	+2,800
29	**COUNTERPROLIFERATION ADVANCED DEVELOPMENT TECHNOLOGIES**	**89,772**	**0**	**89,772**	**89,772**
	Transfer to Title IX		-89,772	0	0

R-1		Budget Request	House	Senate	Conference
32	**BALLISTIC MISSILE DEFENSE TECHNOLOGY**	**132,890**	**0**	**144,890**	**141,090**
	Transfer to Title IX, RDTE, BMDO		-132,890	0	0
	Transfer to ARROW (Error in budget submission)		0	-20,000	-20,000
	Wafer-Scale Planarization Technology		+3,000*	[3,000]	+2,000
	Silicon Brain Architecture		+2,500*	0	+1,200
	Wide Bandgap Semiconductor Research		+1,500*	+8,000	+5,600
	Airborne Infrared Surveillance System		0	+8,000	+5,600
	Silicon Thick Films		0	+6,000	+5,100
	AEOS MWIR Adaptive Optics		0	+2,000	+1,700
	High Data Rate Wireless Communications		0	+5,000	+4,300
	Advanced RF Technology Development		0	+2,000	+1,700
	POAP Technology		0	+1,000	+1,000
32a	**BMD SYSTEM ENG AND INTEGRATION**	**0**	**0**	**203,663**	**0**
	New Program Element/ Transfer In		0	+203,663	0
32b	**BMD PROGRAM OPERATIONS**	**0**	**0**	**191,243**	**0**
	New Program Element/ Transfer In		0	+136,243	0
	ESPRIT (See line 74)		0	+3,500	0
	Advanced Multi-Sensor Fusion Testbed (See line 74)		0	+2,000	0
	PMRF Upgrades (See line 74)		0	+28,000	0
	Airborne Intercept Monitoring (See line 74)		0	+1,000	0
	SHOTS (See line 74)		0	+5,000	0
	Range Data Fusion Upgrades (See line 74)		0	+3,500	0
	Kodiak Road Planning/Design (See line 74)		0	+2,000	0
	Safety/Support Deconfliction (Kodiak) (Transferred to RDTE, A)		0	+10,000	0
35	**ADVANCED AEROSPACE SYSTEMS**	**153,700**	**128,700**	**153,700**	**153,700**
	DARPA Reduction		-25,000	0	0
36	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - ADV DEV**	**69,249**	**0**	**72,249**	**75,749**
	Transfer to Title IX		-69,249	0	0
	Advanced Development for Chem/Bio Prepardness at the University of Medicine and Dentistry of New Jersey		+5,000*	0	+3,500
	Miniaturized Chemical/Biological Detectors (Note: for an industry based product application program for fieldable sensors using MEMS technology.)		+2,000*	0	+1,700
	Biodefense Statewide Medical Response		0	+3,000	+1,300
	Bio-adhesion		0	[+4,000]	[+2,000]
37	**SPECIAL TECHNICAL SUPPORT**	**11,019**	**13,019**	**11,019**	**12,219**
	Complex Systems Design		+2,000	0	+1,200

R-1		Budget Request	House	Senate	Conference
38	**ARMS CONTROL TECHNOLOGY**	**52,474**	**0**	**52,474**	**62,974**
	Transfer to Title IX		-52,474	0	0
	Arms Control Technology		+4,875*	0	+4,200
	Center for Monitoring Research (Note: In addition to those funds already included in the President's Budget request.)		+4,000*	0	+2,800
	Nuclear Test Monitoring		0	0	+3,500
39	**GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS**	**30,373**	**78,473**	**55,373**	**82,573**
	Silicon - 28 Program		+3,000	0	+2,000
	Computer Assisted Technology Transfer (CATT)		+4,000	+4,000	+2,800
	Sub-Micron CMOS and CMOS/SOS Lithography (Note: Only for the Defense Microelectronics Activity.)		+4,850	0	+2,400
	Strategic Radiation Hardened Microelectronics (Note: Only for the Defense Microelectronics Activity.)		+4,750	0	+2,300
	Center for Nanosciences Innovation		+10,000	0	+8,500
	Digital Electronic Warfare (Note: only to maintain the Product Improvement Program.)		+5,000	0	+2,500
	Diminishing Manufacturing Source Data Warehouse Solution (Note: Only for the development and population of a centralized DMS and obsolete parts data warehousing system.)		+1,500	0	+1,000
	Optimizing Electronics for Advanced Controlled Environment Systems (Note: Only to support resolving thermal issues concerning electronics densification and advanced electronics packaging.)		+6,000	0	+5,000
	Spray Cooling Migration Program		+9,000	0	+7,700
	Ultra Low Power Battlefield Sensor		0	+20,000	+17,000
	Corrosion Protection, Control and Info Distribution		0	+1,000	+1,000
40	**STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM**	**69,376**	**73,376**	**53,346**	**62,876**
	Program Delays / Execution		0	-16,030	-10,000
	Toxic Chemical Cleanup Criteria		+1,000	0	+1,000
	National Environmental Education and Training Center		+3,000	0	+2,500

R-1		Budget Request	House	Senate	Conference
44	**ADVANCED ELECTRONICS TECHNOLOGIES**	**177,264**	**194,264**	**194,764**	**199,564**
	DARPA Reduction		-8,000	0	0
	Advanced Lithography Demonstration (Note: Only to use laser plasma point-source x-ray lithography to build high performance compound semiconductor processors and components.)		+5,000	0	+4,300
	Advanced Lithography (X-Ray Mask Research)		0	+5,000	+3,500
	Laser Plasma Point Source X-Ray Lithography		+5,000	0	+4,300
	Novel crystal components for imaging and communications		+7,000	0	+6,000
	MEMS at the Army Research Laboratory, Zahl Physical Sciences Laboratory		+8,000	0	+5,200
	Program Delays/ Execution		0	-2,000	-2,000
	Defense Techlink		0	+1,500	+1,000
	Flat Panel Displays/Intelligence Pixels		0	+13,000	0
45	**ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS**	**148,917**	**124,917**	**153,917**	**159,417**
	Flexible JP-8 Pilot Plant		0	+5,000	+3,500
	ACTD - Reduction in Growth		-24,000	0	0
	ACTD/Advanced Tactical Laser		0	0	+7,000
46	**HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM**	**188,376**	**188,376**	**187,200**	**185,600**
	Program Delays/Execution		0	-12,176	-12,176
	Operation of Selected Supercomputing Centers		0	+11,000	+9,400
48	**SENSOR AND GUIDANCE TECHNOLOGY**	**203,095**	**202,095**	**190,095**	**194,595**
	DARPA Reduction		-4,000	0	0
	Large Millimeter Wavelength Telescope		+3,000	+2,000	+1,500
	Excessive Growth: Tactical Targeting, ELA		0	-15,000	-10,000
49	**MARINE TECHNOLOGY**	**41,497**	**36,497**	**41,497**	**41,497**
	DARPA Reduction		-5,000	0	0
50	**LAND WARFARE TECHNOLOGY**	**153,067**	**153,067**	**153,067**	**153,067**
	Unmanned Ground Combat Vehicle		0	[+3,000]	0
51	**CLASSIFIED DARPA PROGRAMS**	**142,395**	**137,395**	**142,395**	**142,395**
	DARPA Reduction		-5,000	0	0
52	**SOFTWARE ENGINEERING INSTITUTE**	**21,091**	**23,091**	**21,091**	**22,091**
	Technical Insertion Demonstration and Evaluation Program (TIDE) (Note: only to be managed by the Defense Research and Engineering Office of Science and Technology.)		+2,000	0	+1,000
54	**QUICK REACTION PROJECTS**	**25,000**	**35,000**	**0**	**0**
	Quick Reaction Projects		-15,000	-25,000	-25,000
	Challenge Program		+25,000	0	0

R-1		Budget Request	House	Senate	Conference
55	**JOINT WARGAMING SIMULATION MANAGEMENT OFFICE**	**45,065**	**48,065**	**45,065**	**46,565**
	WMD Attack-Effects-Response Assessment Capability at JFCOM		+3,000	0	+1,500
	AGILE PORT		**0**	**10,000**	**8,500**
	CCDOTT		[7,500]	+10,000	+8,500
59	**PHYSICAL SECURITY EQUIPMENT**	**33,543**	**46,543**	**33,543**	**40,043**
	Waterside/Landside Force Protection Planner (Note: Only to develop a software package to provide a quantitative assessment of risk.)		+2,000	0	+1,000
	Backscatter Mobile Truck System (Note: Only to test and evaluating existing COTS systems capable of using both backscatter and standard transmission X-ray technology.)		+11,000	0	+5,500
60	**JOINT ROBOTICS PROGRAM**	**11,302**	**14,302**	**11,302**	**12,802**
	Tactical Unmanned Ground Vehicle Part I		+3,000	0	+1,500
61	**ADVANCED SENSOR APPLICATIONS PROGRAM**	**15,780**	**26,780**	**17,780**	**21,580**
	Program Delays/ Execution		0	-3,000	-3,000
	Ocean Remote Sensing Program (Note: only to complete the Ocean Remote Sensing Program experiments to include radar, lidar, passive optical imaging, and space-based technologies to characterize and measure the ocean environmental conditions in Mamala Bay.)		+4,000	+5,000	+4,300
	Innovative Solid State Laser Technology Development (Note: Only to continue the research initiative conducted by OSD(C3I) to advance the use of continuously pumped solid state lasers which operate in the mid-infrared region.)		+5,000	0	+3,500
	Component Development for Active Sensors (Note: Only to continue development of diode pumped laser materials technology.)		+2,000	0	+1,000
62	**CALS INITIATIVE**	**1,614**	**1,614**	**7,614**	**6,714**
	CALS Demonstration/Validation		0	+6,000	+5,100
63	**ENVIRONMENTAL SECURITY TECHNICAL CERTIFICATION PROGRAM**	**25,314**	**25,314**	**31,054**	**21,054**
	Program Delays/ Execution		0	-5,180	-5,180
	Decontamination Technology Demonstration		0	+920	+920
	ACTD/Advanced Tactical Laser - (Moved to ACTD)		0	+10,000	0

R-1		Budget Request	House	Senate	Conference
74	**BALLISTIC MISSILE DEFENSE SYSTEM SEGMENT**	**779,584**	**0**	**0**	**819,084**
	Transfer to Title IX - RDTE, BMDO		-779,584	0	0
	PE Realignment / Transfer Out		0	-779,584	0
	BMDO Systems Integration		-15,000*	0	0
	Center for Missile Defense, Optical Data/Sensor Fusion (Note: Only for university research on missile detection and defense using imaging processing capabilities and optical discrimination algorithms and architectures.)		1,000*	0	+1,000
	ESPRIT		0	0	+3,000
	Advanced Multi-Sensor Fusion Testbed		0	0	+1,700
	PMRF Upgrades		0	0	+23,800
	Airborne Intercept Monitoring		0	0	+1,000
	SHOTS		0	0	+4,300
	Range Data Fusion Upgrades		0	0	+3,000
	Kodiak Road Planning/Design		0	0	+1,700
	Space Based CEC		0	[+15,000]	[+10,000]
74a	**BMD SYSTEMS BMC2**	**0**	**0**	**18,792**	**0**
	New Program Element / Transfer In		0	+18,792	0
74b	**BMD SYSTEMS COMMUNICATION**	**0**	**0**	**10,000**	**0**
	New Program Element / Transfer In		0	+10,000	0
74c	**BMD SYSTEM TARGETS AND COUNTERMEASURES**	**0**	**0**	**96,539**	**0**
	New Program Element / Transfer In		0	+96,539	0
74d	**BMD SYSTEM TEST AND EVALUATION**	**0**	**0**	**220,916**	**0**
	New Program Element / Transfer In		0	+220,916	0
75	**BALLISTIC MISSILE DEFENSE TERMINAL DEFENSE SEGMENT**	**968,180**	**0**	**0**	**203,344**
	Transfer to Title IX - RDTE, BMDO		-968,180	0	0
	PE Realignment / Transfer Out		0	-968,180	0
	Transfer of MEADS from RDTE, Army		0	0	+73,645
	MEADS Reduction		-21,000*	0	-2,000
	Transfer to ARROW (Error in budget submission)		20,000*	0	+20,000
	Transfer of THAAD to its own PE		0	0	-922,481
	Increase to ARROW		0	0	+66,000
	ARROW Test Bed		0	[+4,000]	[+3,000]
75a	**THEATER HIGH ALTITUDE AREA DEFENSE (THAAD)**	**0**	**0**	**672,543**	**0**
	New Program Element / Transfer In			+672,543	
75b	**ARROW AND COOPERATIVE PROGRAMS**	**0**	**0**	**141,699**	**0**
	New Program Element / Transfer In			+141,699	
75c	**PAC-3**	**0**	**0**	**107,100**	**0**
	New Program Element / Transfer In			+107,100	

R-1		Budget Request	House	Senate	Conference
75d	**MEADS**	**0**	**0**	**71,645**	**0**
	New Program Element / Transfer In			+71,645	
75e	**NAVY AREA BMD**	**0**	**0**	**388,496**	**0**
	New Program Element / Transfer In			+388,496	
76	**BALLISTIC MISSILE DEFENSE MIDCOURSE DEFENSE SEGMENT**	**3,940,534**	**0**	**0**	**3,820,534**
	Transfer to Title IX - RDTE, BMDO		-3,940,534	0	0
	PE Realignment / Transfer Out		0	-3,940,534	0
	Sea Based Mid-course Study		-30,000*	0	-20,000
	NTW - Additional Test Missiles		-66,000*	0	0
	Sea Based Midcourse		0	0	-100,000
	Advanced Research Center		0	[15,000]	[10,500]
	Kauai Test Facility		0	[4,000]	[3,400]
76a	**GROUND-BASED TEST BED**	**0**	**0**	**786,485**	**0**
	New Program Element / Transfer In		0	+786,485	0
76b	**GROUND-BASED MIDCOURSE**	**0**	**0**	**2,241,240**	**0**
	New Program Element / Transfer In		0	+2,241,240	0
76c	**SEA-BASED MIDCOURSE**	**0**	**0**	**289,000**	**0**
	New Program Element / Transfer In		0	+289,000	0
77	**BALLISTIC MISSILE DEFENSE BOOST DEFENSE SEGMENT**	**685,363**	**0**	**0**	**608,863**
	Transfer to Title IX - RDTE, BMDO		-685,363	0	0
	PE Realignment / Transfer Out		0	-685,363	0
	Sea Based Boost Study		-25,000*	0	-20,000
	Space Based Kinetic Energy Study		-10,000*	0	-10,000
	Space Based Laser		-120,000*	0	-120,000
	Airborne Laser		0	0	+73,500
77a	**SEA-BASED BOOST**	**0**	**0**	**10,000**	**0**
	New Program Element / Transfer In		0	+10,000	0
77b	**AIR-BASED BOOST/AIRBORNE LASER**	**0**	**0**	**355,000**	**0**
	New Program Element / Transfer In		0	+355,000	0
77c	**SPACE-BASED BOOST**	**0**	**0**	**32,000**	**0**
	New Program Element / Transfer In		0	+32,000	0
78	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - DEM/VAL**	**82,636**	**0**	**82,636**	**90,336**
	Transfer to Title IX		-82,636	0	0
	M93A1 FOX Simulation Training Suites		+2,000*	0	+1,400
	Mobile Chemical Agent Detector		+9,000*	0	+6,300
79	**BALLISTIC MISSILE DEFENSE SENSORS**	**495,600**	**0**	**0**	**340,600**
	Transfer to Title IX - RDTE, BMDO		-495,600	0	0
	PE Realignment / Transfer Out		0	-495,600	0
	RAMOS		-40,000*	0	-20,000
	SBIRS-Low / Space Sensors		-385,000*	0	-385,000
	Satellite Sensors Technology Program		250,000*	0	+250,000
	Ground Based Sensors		75,000*	0	0

R-1		Budget Request	House	Senate	Conference
79a	**SPACE SENSORS/SBIRS-L**	**0**	**0**	**264,799**	**0**
	New Program Element / Transfer In		0	+264,799	0
79b	**INTERNATIONAL COOPERATION**	**0**	**0**	**50,342**	**0**
	New Program Element / Transfer In		0	+50,342	0
79c	**SENSORS TEST AND EVALUATION**	**0**	**0**	**10,000**	**0**
	New Program Element / Transfer In		0	+10,000	0
82	**COALITION WARFARE**	**12,943**	**6,943**	**6,123**	**6,123**
	Reduction		-6,000	-6,820	-6,820
83	**JOINT SERVICE EDUCATION AND TRAINING SYSTEMS DEVELOPMENT**	**0**	**13,000**	**0**	**10,000**
	Advanced Distributed Learning Initiative		+10,000	0	+8,500
	ADL Prototype for OSD ADL Co-laboratory		+3,000	0	+1,500
85	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - EMD**	**159,943**	**0**	**164,943**	**162,443**
	Transfer to Title IX		-159,943	0	0
	Laser Interrogation of Surface Agents (LISA)		0	+5,000	+2,500
86	**JOINT ROBOTICS PROGRAM - EMD**	**13,197**	**17,197**	**13,197**	**15,197**
	Tactical Unmanned Ground Vehicle Part II		+4,000	0	+2,000
90	**THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM - TMD - EMD**	**0**	**0**	**0**	**872,481**
	Transfer from Ballistic Missile Defense Terminal Defense Segment		0	0	+922,481
	THAAD - Acceleration		-210,000*	0	-50,000
	THAAD Four Additional Test Missiles		+32,000*	0	0
91	**PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION - EM**	**0**	**0**	**0**	**129,100**
	Transfer from RDTE, Army		0	0	+107,100
	PAC-3 Research and Development		44,000*	0	+22,000
92	**NAVY AREA THEATER MISSILE DEFENSE - EMD**	**0**	**0**	**0**	**100,000**
	Navy Area Termination Liability		0	0	+100,000
97	**INFORMATION TECHNOLOGY DEVELOPMENT-STANDARD PROCUREMENT SYSTEM**	**9,747**	**9,747**	**7,747**	**7,747**
	Program Delays/Execution		0	-2,000	-2,000
98	**FINANCIAL MANAGEMENT MODERNIZATION PROGRAM**	**100,000**	**40,000**	**100,000**	**100,000**
	Transfer to DWCF		-60,000	0	0
105	**TECHNICAL STUDIES, SUPPORT AND ANALYSIS**	**33,805**	**20,805**	**33,805**	**27,805**
	Information Technology Superiority Study (Note: Only to facilitate a joint industry-military dialog to be conducted under the auspices of the National Defense University and to develop pilot programs for effective industry military interaction.)		+1,000	0	+1,000
	Reduction		-14,000	0	-7,000

R-1		Budget Request	House	Senate	Conference
108	**GENERAL SUPPORT TO C3I**	21,061	22,561	28,561	28,561
	Pacific Disaster Center		0	+6,000	+6,000
	UAV Integration into Civil Air-Space (Note: Only to continue and accelerate the existing OSD program.)		+1,500	+1,500	+1,500
111	**DEFENSE TRAVEL SYSTEM**	29,955	9,955	29,955	19,955
	Reduction		-20,000	0	-10,000
112	**JOINT THEATER AIR AND MISSILE DEFENSE ORGANIZATION**	26,865	26,865	16,865	26,865
	JDEP Transfer to BMD		0	-10,000	0
113	**CLASSIFIED PROGRAM USD(P)**	0	20,000	0	45,000
	Classified		+20,000	0	+45,000
114	**FOREIGN COMPARATIVE TESTING**	30,907	30,907	27,907	35,207
	HELLAS		0	[+8.500]	+7,300
	Program Delays/Execution		0	-3,000	-3,000
116	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM**	31,276	0	31,276	31,276
	Transfer to Title IX		-31,276	0	0
119	**CLASSIFIED PROGRAMS - C3I**	56,653	28,653	61,653	44,953
	Intelligence Management (Note: Reduction shall not be applied to Information Assurance projects considered Congressional interest items.)		-35,000	0	-20,000
	Open Source Exploitation - MHPCC		0	+5,000	+4,300
	Global Infrastructure Data Capture		+7,000	0	+4,000
127	**PENTAGON RESERVATION**	6,571	0	6,571	6,571
	Transfer to Title IX - RDTE, BMDO		-6,571	0	0
128	**MANAGEMENT HEADQUARTERS-BMDO**	27,758	0	27,758	27,758
	Transfer to Title IX - RDTE, BMDO		-27,758	0	0
129	**COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE**	10,805	27,805	10,805	22,805
	Aircraft Affordability Initiative		+17,000	0	+12,000
142	**INFORMATION SYSTEMS SECURITY PROGRAM**	414,844	422,594	420,744	425,994
	Protection of Vital Data		+7,000	0	+6,000
	Computer Science and Internet Security Degree Program		+750	0	+750
	National Information Assurance Training		0	+2,400	+1,700
	Superconducting Processors Development		0	+1,000	+1,000
	IOTC		0	+2,500	+1,700

R-1		Budget Request	House	Senate	Conference
149	**DEFENSE IMAGERY AND MAPPING PROGRAM**	**115,209**	**144,409**	**122,909**	**139,009**
	PIPES (Note: This has been funded at $7,700,000 in the National Imagery and Mapping Program.)		0	+7,700	0
	To meet imagery library requirements for NAVOCEANO (SURF EAGLE)		+5,000	0	+2,000
	Commercial Joint Mapping Toolkit		+15,000	0	+12,800
	Geographic SAR Airborne Mapping System (GEOSAR) - only to complete GEOSAR program, to conduct demonstration tests of the GEOSAR airborne mapping system and to validate its products for priority military use and civilian applications.)		+9,200	0	+9,000
151	**DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM (JMIP)**	**5,977**	**5,977**	**20,977**	**17,977**
	JCAG and ITSO		0	+15,000	+12,000
152	**C3I INTELLIGENCE PROGRAMS**	**10,552**	**10,552**	**12,552**	**16,752**
	Miniaturized Wireless Initiative		0	0	+5,000
	Joint C4ISR Architecture		0	+2,000	+1,200
153	**TECHNOLOGY DEVELOPMENT**	**40,000**	**0**	**40,000**	**5,000**
	JET		-5,000	0	0
	Special Access Program		-35,000	0	-35,000
156	**MANNED RECONNAISSANCE SYSTEMS**	**4,556**	**13,056**	**22,556**	**17,156**
	Combat Sent Upgrades (Note: Funded upgrades should include such projects as Ultra Wideband Collector and automated COMINT Search and Collection)		0	+18,000	+12,600
	Combat Sent (Note: only for Ultra Wideband Collector)		+4,000	0	0
	Distributed Common Ground System only for Octagon 10		+500	0	0
	Combat Sent (Note: only for Automated COMINT Search and Collection.)		+4,000	0	0
163	**INDUSTRIAL PREPAREDNESS**	**17,544**	**37,044**	**22,044**	**43,744**
	Unjustified Growth		0	-7,500	0
	Laser Additive Manufacturing		0	+6,000	+5,700
	ERIM Defense Sustainment		0	+6,000	+4,200
	DLA Competitive Sustainment Initiative		+4,500	0	+3,500
	Defense Supply Chain Management Program		+15,000	0	+12,800
167	**SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT**	**0**	**0**	**7,606**	**20,506**
	Transfer from PE 1160444BB		0	+7,606	+7,606
	Wireless Video Links for SOMROV		0	0	+1,600
	Spike Urban Warfare System		0	0	+4,000
	Lightweight Counter Mortar Radar Program		0	0	+3,000
	Dual Band Detector Imaging Technology		0	0	+4,300

R-1		Budget Request	House	Senate	Conference
168	**SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT**	**0**	**0**	**11,582**	**10,982**
	Transfer from PE 1160444BB		0	+7,582	+7,582
	SOF Aircraft Defense Systems		0	+4,000	+2,000
	Electronic Digital Compass System		0	0	+1,400
169	**SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT**	**0**	**0**	**240,887**	**258,489**
	Transfer from PE 1160444BB		0	+232,140	+232,140
	PSYOPS Advanced Development		0	-550	-550
	Weapon Systems Advanced Development		0	-402	0
	SOF Miscellaneous Equipment Advanced Development		0	-301	-301
	Leading EDGE		0	+5,000	+4,300
	Miniature Day/Night Sight Development		0	+3,000	+1,500
	160th SOAR Modification		0	+1,000	+1,000
	Titanium Tilting Helmet Mounts		0	+1,000	+1,000
	Advanced Seal Delivery System		0	0	+7,000
	Surface Planning Wet Submersible (SPWS) (Note: for the completion of the FY 01 inititated demonstration of the SPWS and to procure additional SPWS for Special Operations Forces and other military users in the Department of Defense.)		0	0	+3,700
	Mark V Computer Upgrade		0	0	+1,000
	SOCOM Rotary Wing UAV (Note:only for Maverick and Hummingbird systems, ground stations and spares to SOCOM for testing and evaluation of rotary UAV systems.)		0	0	+6,700
	Rebreather (Note: To develop state of the art military closed-circuit rebreather applications.)		0	0	+1,000
170	**SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT**	**0**	**6,000**	**10,789**	**14,989**
	Transfer from PE 1160444BB		0	+3,089	+3,089
	SOF C4I Threat Warning and Situational Awareness		0	+2,800	+1,400
	Joint Threat Warning System (JTWS)		0	+4,900	+2,400
	Counterproliferation Analysis and Planning System		0	0	+5,100
	Solid State Synthetic Aperture Radar		+6,000	0	+3,000
171	**SOF MEDICAL TECHNOLOGY DEVELOPMENT**	**0**	**0**	**1,917**	**4,017**
	Transfer from PE 1160444BB		0	+1,917	+1,917
	Special Operations Air Force (Note: Transferred from PE 040411F)		0	0	+2,100
172	**SOF OPERATIONAL ENHANCEMENTS**	**85,109**	**86,609**	**85,109**	**86,209**
	Integrated Command and Control System (IC2S)		+1,500	0	+1,100

R-1		Budget Request	House	Senate	Conference
173	**SOF ACQUISITION**	**252,334**	**299,684**	**0**	**0**
	Transfer		0	-252,334	-252,334
	Advanced Seal Delivery System		+5,000	0	0
	Surface Planning Wet Submersible (SPWS) (Note: for the completion of the FY 01 inititated demonstration of the SPWS and to procure additional SPWS for Special Operations Forces and other military users in the Department of Defense.)		+5,250	0	0
	Electronic Digital Compass System		+2,000	0	0
	Wireless Video Links for SOMROV		+3,200	0	0
	Spike Urban Warfare System		+8,000	0	0
	Lightweight Counter Mortar Radar Program		+3,000	0	0
	Dual Band Detector Imaging Technology		+5,000	0	0
	Counterproliferation Analysis and Planning System		+6,000	0	0
	Mark V Computer Upgrade		+1,000	0	0
	SOCOM Rotary Wing UAV (Note:only for Maverick and Hummingbird systems, ground stations and spares to SOCOM for testing and evaluation of rotary UAV systems.)		+7,900	0	0
	Rebreather (Note: To develop state of the art military closed-circuit rebreather applications.)		+1,000	0	0
999	**CLASSIFIED PROGRAMS**	**1,829,938**	**1,808,938**	**1,806,938**	**1,853,738**
			-21,000	-23,000	+23,800

* Note: Items marked with an asterisk were funded by the House in Title IX.

Ballistic Missile Defense

The conferees agree to provide a total of $7,766,999,000 for ballistic missile defense research and development and related procurement activities. Coupled with increases for new and expanded counter-terrorism programs, the conference agreement provides a combined total of $8,244,999,000 for ballistic missile defense and increased counter-terrorism activities.

The Department of Defense is about to initiate a radical restructuring of the ballistic missile defense program management organization. The conferees support the efforts of the Department to devise a management structure that facilitates integration of the various ballistic missile defense research and development efforts. The Department, however, is cautioned against implementing a management structure and related decision-making process that limit adequate oversight of the program by the Pentagon's operational testing, financial, and programmatic review groups. Also, the conferees will continue to monitor this program's management activities to ensure Congressional oversight.

Within each program element, the conferees have identified several special interest projects for purposes of reprogramming and budget justification material. (The conferees agree with the House language regarding reprogramming rules and budget justification material for ballistic missile defense programs.) The special interest projects are as follows:

Terminal Phase Systems: MEADS and ARROW;

Midcourse Phase Systems: Ground-based Midcourse, Pacific Test Bed, and Sea-based Midcourse (Navy Theater Wide);

Boost Phase Systems: Sea-based Boost, Air-base Boost (Airborne Laser) and Space-based Boost (Space based Laser);

Sensors: Satellite Sensor Technology and RAMOS.

Theater High Altitude Area Defense

The conferees agree to provide $872,481,000 for the Theater High Altitude Area Defense (THAAD) program, a reduction of $50,000,000 to the request. This amount includes $160,000,000 for the Block 2004 THAAD research and development program. The Block 2004 funds should be used to reduce risk in the THAAD research and development program and acquire a sufficient number of test assets to ensure a robust testing profile. Further, the conferees direct that none of the funds provided be used to accelerate THAAD pre-production or deployment unless the Secretary of Defense certifies to the Congressional defense committees that threats to our national security or military forces warrant otherwise.

Satellite Sensor Technology

The conferees agree with House funding recommendations regarding SBIRS Low and the Satellite Sensor Technology program. This agreement is based, in part, on discussions with the Undersecretary of Defense (AT&L) who indicated that the problems in the precursor SBIRS High program are so significant as to make the current schedule for SBIRS Low unexecutable. The conference agreement allows BMDO to step off the acquisition track to place greater emphasis on risk reduction and maturation of new technologies. These efforts, to be performed within the Satellite Sensor Technology program, should proceed at a measured pace. The conferees note that this agreement in no way precludes continued technology efforts on the current SBIRS Low program. The conferees agree that the Secretary may obligate the funding provided for the Satellite Sensor Technology program as he determines necessary for the SBIRS Low program. The conferees direct DoD to develop specific plans for the Satellite Sensor Technology program for fiscal year 2002 and out and provide this plan to the congressional defense committees no later than May 15, 2002. The conferees further direct that the congressional defense committees be notified of any funding realignments regarding this program.

RADIATION HARDENED ELECTRONICS

The conferees support the House language regarding radiation hardened electronics, except that they direct that not less than $14,500,000 in program element 602715BR and $38,000,000 provided in "Domestic Radiation Hardened Electronics" in the Defense Production Act be used for the purpose described in the House report.

MINIATURIZED WIRELESS SYSTEM

The conferees agree to provide $5,000,000 for miniaturized wireless systems and agree that these funds be used only to initiate a university-industry program to utilize advances in three-dimensional chip scale packaging and high temperature superconducting transceiver performance, to reduce the size, weight, power consumption and cost of advanced wireless communication systems for covert military and intelligence operations.

CHALLENGE PROGRAM FOR INNOVATIVE TECHNOLOGY IN DEFENSE ACQUISITION

The conferees support the actions taken by the Department in response to section 818 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) and the initial improvements made in facilitating the rapid transition into Defense acquisition programs of technologies developed in successful Small Business Innovative Research (SBIR) phase two projects. The conferees provide $12,500,000 only for the further development and rapid insertion of innovative SBIR technologies as competitive alternatives to Defense acquisition program technologies. The Secretary of Defense shall select from third phase SBIR proposals, which will result in improvements in performance, affordability, manufacturability, or operational capability at the component, subsystem, or system level. The Secretary shall report to the Defense Committees the technologies selected and the improvements expected by June 1, 2001. In addition, the conferees direct the Office of the Secretary of Defense to work with the congressional defense committees to establish a more rigorous management and oversight structure of the burgeoning number of rapid acquisition programs within the Department. The conferees expect this management and oversight structure to be reflected in the fiscal year 2003 Defense budget request.

OPERATIONAL TEST AND EVALUATION, DEFENSE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
OPERATIONAL TEST & EVAL, DEFENSE				
ADVANCED TECHNOLOGY DEVELOPMENT				
TEST, EVALUATION SCIENCE AND TECHNOLOGY...............	16,000	16,000	3,000	8,000
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT..............	16,000	16,000	3,000	8,000
RDT&E MANAGEMENT SUPPORT				
CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT (CT	113,642	132,642	127,142	132,642
OPERATIONAL TEST AND EVALUATION.......................	17,379	17,379	17,379	17,379
LIVE FIRE TESTING.....................................	9,887	15,887	9,887	12,887
DEVELOPMENT TEST AND EVALUATION.......................	59,447	62,447	59,447	60,947
IMPLEMENTING DSB RECOMMENDATIONS......................	1,000	1,000	---	---
TOTAL, RDT&E MANAGEMENT SUPPORT.....................	201,355	229,355	213,855	223,855
TOTAL, OPERATIONAL TEST & EVAL, DEFENSE.............	217,355	245,355	216,855	231,855

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(In thousands of dollars)

R-1		Budget Request	House	Senate	Conference
1	**TEST, EVALUATION SCIENCE AND TECHNOLOGY**	**16,000**	**16,000**	**3,000**	**8,000**
	Reduction		0	-13,000	-8,000
2	**CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT**	**113,642**	**132,642**	**127,142**	**132,642**
	Digital Video System Development		+6,000	0	+4,000
	Roadway Simulator		+10,000	+13,500	+9,500
	Digital Video Laboratory		+3,000	0	+1,500
	Big Crow		0	0	+4,000
4	**LIVE FIRE TESTING**	**9,887**	**15,887**	**9,887**	**12,887**
	Live Fire Testing and Training Initiative		+6,000	0	+3,000
5	**DEVELOPMENT TEST AND EVALUATION**	**59,447**	**62,447**	**59,447**	**60,947**
	Target and Threat Systems Interoperability Testing		+3,000	0	+1,500
6	**IMPLEMENTING DSB RECOMMENDATIONS**	**1,000**	**1,000**	**0**	**0**
	Deleted Request		0	-1,000	-1,000
	Radio Frequency Vulnerability Analysis		[+4,000]	0	[+2,000]

IMPLEMENTING DSB RECOMMENDATIONS

The President's budget requests $1,000,000 to implement Defense Science Board recommendations. While the Congress does not oppose such an effort, resources should be found from within existing funds.

TITLE V—REVOLVING AND MANAGEMENT FUNDS

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Defense Working Capital Funds	1,951,986	1,826,986	1,826,986	1,312,986
Nation Defense Sealift Fund	506,408	412,708	407,408	432,408
Total, Related Agencies	2,458,394	1,937,694	2,234,394	1,745,394

DEFENSE WORKING CAPITAL FUNDS

The conferees agree to provide $1,312,986,000 for the Defense Working Capital Fund.

NATIONAL DEFENSE SEALIFT FUND

The Conferees agree to provide to $432,408,000 for the National Defense Sealift Fund, a decrease of $74,000,000 from the budget request amount. This includes a reduction of $99,000,000 originally requested for MARAD and an increase of $25,000,000 to finance the cost of constructing additional sealift capacity.

STRATEGIC SEALIFT CAPACITY

The conference agreement reserves $25,000,000 of amounts appropriated to the National Defense Sealift Fund to accelerate the introduction of next-generation high-speed sealift ships to support the Navy's global military sealift requirements. The conferees expect the Navy to work with other federal agencies using interagency agreements, economy act procedures, or other mechanisms to provide loan guarantees to shipbuilders to meet this objective. These funds may not be used for research and development, or for defense-features on commercial sealift ships.

MOBILE DEPLOYABLE ASSETS

In the wake of the tragic events of September 11, 2001, the conferees are concerned that future deployments of United States forces may expose personnel to the risk of terrorist attach similar to the bombing of Khobar Towers in Saudi Arabia and the Marine barracks in Beirut. Instead of building vulnerable fixed barracks for United States forces deployed in highly dangerous locations, the conferees believe the Navy should give the highest consideration to acquiring mobile, deployable assets, which could provide additional "in situ" hospital, housing, MWR, or command and control capability. The conferees recommend that the Navy expeditiously pursue the possibility of capitalizing MARAD loan guarantees for up to two multipurpose passenger ships presently under construction in a United States shipyard.

TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Defense Working Program	17,898,969	18,277,403	18,376,404	18,391,194
Chemical Agents and Munitions Destruction, Army	1,153,557	1,093,057	1,104,557	1,105,557
Drug Interdiction and Counter Drug Activities, Defense	820,381	827,381	865,981	842,581
Office of the Inspector General	152,021	152,021	152,021	152,021
Total, Other Department of Defense Programs	20,024,928	20,349,862	20,498,963	20,491,353

DEFENSE HEALTH PROGRAM

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

	Budget	House	Senate	Conference
Operation and Maintenance	17,565,750	17,574,750	17,656,185	17,659,475
In-House Care	**4,502,140**	**4,592,140**	**4,592,575**	**4,678,265**
Optimization (transfer in)		+90,000		+90,000
International Medical Program Global Satellite System (IMPGSS)				+2,000
Post-Polio Syndrome				+2,500
Comprehensive Breast Care Center at Walter Reed Army Medical Center				+4,000
Balkans operations (transfer from OCTOF)			+29,035	+26,000
Hawaii Federal Health Care Network			+18,000	+15,300
Clinical Coupler Demonstration Project			+10,000	+7,000
Automated Clinical Practice Guidelines			+7,500	+6,400
Tri-Service Nursing Research Program			+6,000	+6,000
Pacific Island Health Care Referral Program			+5,000	+4,300
Digital Access and Analysis of Historic Records at AFIP			+4,000	+3,400
Defense and Veterans Head Injury Program			+3,000	+2,100
Alaska Federal Health Care Network			+2,500	+2,125
Graduate School of Nursing			+2,300	+2,000
Operation Ranch Hand/Agent Orange Study			+1,100	+1,000
Brown Tree Snakes			+1,000	+1,000
Health Study at the Iowa Army Ammunition Plant			+1,000	+1,000
Hepatitis B Vaccination for All New Recruits			(12,000)	(8,400)
Keesler Medical Center Real Property Maintenance			(10,000)	(7,000)
Bethesda Naval Hospital Real Property Maintenance			(9,000)	(6,300)
Uniformed Services University of Health sciences			(6,300)	(5,100)
Health Care Simulation Models			(6,000)	(4,200)
Vaccine Facility Project—USTA/Brooks			(1,500)	(1,100)
Private Sector Care	**10,130,687**	**10,040,687**	**10,130,687**	**10,040,687**
Optimization (transfer out)		-90,000		-90,000
Consolidated Health Support	**764,516**	**766,516**	**764,516**	**766,016**
Examining Activities Centralized Credentials Quality Assurance		+2,000		+1,500
Information Management	**602,824**	**602,824**	**602,824**	**604,924**
Computer Based Patient Records				+2,100
Management Activities	**232,965**	**239,965**	**232,965**	**236,965**
DoD-VA Health Care Consolidation Study		+5,000		+2,500
Health Care Centers of Excellence		+2,000		+1,500
Education and Training	**309,193**	**309,193**	**309,193**	**309,193**
Base Operations/Communications/Environmental	**1,023,425**	**1,023,425**	**1,023,425**	**1,023,425**

	Budget	House	Senate	Conference
Procurement	267,915	267,915	267,915	267,915
Research and Development	65,304	434,738	452,304	463,804
ACP-215, Blood Cell Washer		4,000		2,000
Advanced Cancer Detection-National Functional Genomics Project (Note: only to determine the genetic changes that cause cancer and to perfect the means of rapidly moving these discoveries into the active duty military personnel, dependents and veterans populations.)		5,000		3,500
Army Peer-Reviewed Breast Cancer Research Program		175,000	175,000	150,000
CBCP		14,000		11,900
Chronic Mylogenous Leukemia Research		5,000		5,000
Comprehensive Neuroscience Center (Note: only for a public/private comprehensive program in neurosciences for DoD medical beneficiaries in the areas of brain injury, headache, seizures/epilepsy, and other degenerative disorders. It shall be a coordinated effort among Walter Reed Army Medical Center, the Uniformed Services University of the Health Sciences, an appropriate non-profit medical Foundation, and a primary health care center, with funding management accomplished by the Uniformed Services University of the Health Sciences.)				8,000
Computer Based Patient Records (transfer to DHP O&M)		3,000		-
Coronary and Prostate Disease Reversal (Note: only to continue an on-going effort among Walter Reed Army Medical Center, and appropriate non-profit medical foundation, and a rural primary health care center, with funding management accomplished by the Uniformed Services University of the Health Services		7,000		6,000
Defense and Veterans Head Injury Program (DVHIP)		4,000		-
HIV/AIDS Prevention Program		20,000		14,000
Hyperbaric Oxygen Therapy for Cerebral Palsy at WPAFB Hospital		1,500		1,100
International Medical Program Global Satellite System (IMPGSS) (Transfer to DHP O&M)		4,000		-
National Center for Collaboration in Medical Modeling and Simulation (Note: Only to establish a National Center for Collaboration in Medical Modeling and Simulation in collaboration with the Virginia Modeling, Analysis and Simulation Center.)		200		200
National Naval Medical Center Hematology Lab mods		1,734		1,500
Ovarian Cancer Research Program		12,000	12,000	10,200
Periscopic Surgery for the Spine (Note: only to continue research into the development of minimally invasive surgical procedures for the brain, spinal cord, and spine under cooperative agreement 17-99-1-9022)		3,000		2,500
Army Peer-Reviewed Prostate Cancer Research Program		100,000	100,000	85,000
Post-Polio Syndrome (Transfer to DHP O&M)		3,000		-

	Budget	House	Senate	Conference
TRIES-AFIERA Environmental/border Health Demonstration project PE DHP 87724F		3,000		1,500
Tuberous Sclerosis Complex (TSC) Research (Note: only for Tuberous Sclerosis Complex research to better understand the role and function of proteins produced by the TSC1 and TSC2 tumor suppressor genes.)		1,000		1,000
U.S. Military Cancer Institute at USUHS		3,000		2,600
National Prion Research Project			50,000	42,500
Peer Reviewed Medical Research Program			50,000	50,000
PERATION AND MAINTENANCE	17,565,750	17,574,750	17,656,185	17,659,475
ROCUREMENT	267,915	267,915	267,915	267,915
ESEARCH AND DEVELOPMENT	65,304	434,738	452,304	463,804
TOTAL	17,898,969	18,277,403	18,376,404	18,391,194

REPROGRAMMING

The conferees share the concerns expressed in the report accompanying the House version of the Department of Defense Appropriations bill for fiscal year 2002 regarding the diversion of funds from the DoD military medical facilities (MTFs) to pay for contractor-provided medical care. To limit such transfers within the Defense Health Program operation and maintenance account, the conferees agree that the Department of Defense shall follow prior approval reprogramming procedures for transfers with a cumulative value in excess of $25,000,000, into the Private Sector Care activity group.

In addition, the conferees agree that the Department of Defense shall provide budget execution data for all of the operation and maintenance budget activities as well as the procurement and research, development, test and evaluation accounts of the Defense Health Program. Such budget execution data shall be provided quarterly to the congressional defense committees through the DD-COMP(M) 1002.

PEER REVIEWED MEDICAL RESEARCH PROGRAM

The Senate recommended $50,000,000 for a Peer Reviewed Medical Research program. The conferees agree to provide $50,000,000 for this program, and recommend that the Department of Defense consider the following projects as candidates for study: Complex rAD-Vector vaccine for MGBV; chemo-preventative approaches to smoking related illness; childhood asthma; chiropractic care; closed loop frozen blood processing systems; Counter Narcotics Tactical Operations Medical Support Program (CONTOMS); Dengue Fever vaccine; high risk infectious disease; medications for fungal and bacterial infections such as Fungi Free; metabolically engineered tissue for trauma care; military nutrition research; Padget's disease; pre-clinical & clinical activities of the Novonex/Ex-Rad drugs; radiation protection; real-time heart rate variability; self test methods of screening for cervical cancer; smoking cessation; social work research; Traumatic Brain injury; Volume Angio Cat (VAC) research, and VRE research.

TRICARE: NEXT GENERATION CONTRACTS

The conferees are aware that the Department of Defense is presently considering the issuance of new requirements for future TRICARE managed care contracts. A major revision under consideration is the prospect of "unbundling" healthcare and administrative services and using different contractors with different geographic coverage responsibilities. While the conferees support DoD efforts to improve and streamline the provision of healthcare services, the conferees note that the Department's deliberations have caused great concern among health care providers and, if not managed carefully and thoughtfully, could reignite the instability and confusion that has existed in the past years as this program was being implemented. Accordingly, the conferees direct that before any proposals for significant structural changes to the TRICARE managed care contract are made public, that the Assistant Secretary of Defense (Health Affairs) solicit the views of the congressional defense committees. The conferees also direct the Department to allow sufficient time for full congressional review before any final decisions are made in this respect.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

CHEM AGENTS & MUNITIONS DESTRUCTION, ARMY:				
CHEM DEMILITARIZATION—O&M	789,020	728,520	739,020	739,020
CHEM DEMILITARIZATION—PROC	164,158	164,158	164,158	164,158
CHEM DEMILITARIZATION—RDTE	200,379	200,379	201,379	202,379
TOTAL, CHEM AGENTS & MUNITIONS DESTRUCTION, ARMY	1,153,557	1,093,057	1,104,557	1,105,557

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(In thousands of dollars)

P-1		Budget Request	House	Senate	Conference
3	**CHEM DEMILITARIZATION - O&M**	**789,020**	**728,520**	**739,020**	**739,020**
	Reduction		-60,500	-50,000	-50,000
2	**CHEM DEMILITARIZATION - PROC**	**164,158**	**164,158**	**164,158**	**164,158**
1	**CHEM DEMILITARIZATION - RDTE**	**200,379**	**200,379**	**201379**	**202,379**
	Defense access road at Tooele Depot (Preliminary engineering)		0	+1,000	+1,000
	Emergency access and evacuation infrastructure (Note: Only for a study and preliminary engineering of an evacuation road at Pine Bluff Arsenal.)		0	0	+1,000

PROGRAM MANAGER FOR CHEMICAL DEMILITARIZATION

The conferees support the guidance provided in the Senate report under this heading with two changes. The conferees agree that for the quarterly report the Department may use an existing report provided it includes the data requested and is available within 14 days of the end of each quarter. In addition, there is no requirement for a restructuring report. All other direction, including the January 15th report and the language regarding incentive programs remains as written.

ANNISTON CHEMICAL DESTRUCTION FACILITY

The conferees share the Senate's concern regarding emergency preparedness measures at the Anniston Chemical Destruction Facility. In lieu of the language in the Senate report, the conferees support the current agreement established by the Department, FEMA, and state and local officials, concerning the commencement of destruction operations and critical safety matters, as stated in the letter from the Under Secretary of Defense (AT&L) dated November 1, 2001.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

The conference agreement on items addressed by either the House or the Senate is as follows:

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

	Budget	House	Senate	Conference
	820,381	827,381	865,981	842,581
RECOMMENDED INCREASES:				
Young Marines		2,000		1,400
National Counter-Narcotics Training Ctr.(Hammer)		2,000	7,500	5,200
Caper Focus		5,000		2,500
Southwest Anti-Drug Border States Initiative		5,000		4,200
National Interagency Civil-Military Institute		4,000		2,000
Multijurisdictional Interagency CD Task Force Training		4,000		3,400
Southwest Border Fence		6,700		5,000
Indiana National Guard Counter-Drug Activities		2,000		1,400
Kentucky National Guard Counter-Drug Activities		3,400	3,000	2,400
Tennessee National Guard Counter-Drug Activities		1,000		1,000
Nevada National Guard Counter-Drug Activities		2,000		1,000
NY National Guard Counter-Drug Port Inititiative		1,000		1,000
Army Air National Guard OH-58 EO/IR Sensors			5,000	3,500
Mississippi National Guard Counter-Drug Program			2,600	1,800
WV National Guard Counter-Drug Program			3,500	3,000
Hawaii National Guard Counter-Drug Program			3,000	2,600
P-3C Counter-Drug Thermal Imaging Systems			4,000	2,000
Northeast Regional Counter-Drug Training Academy			5,000	3,500
Regional Counter-Drug Training Academy			2,000	1,400
Pulsed Fast Neutron Analysis Demonstration			10,000	5,000
RECOMMENDED FROM WITHIN AVAILABLE FUNDS:				
National Guard counter-Drug Support			(+40,000)	0
RECOMMENDED REDUCTIONS:				
Peru Support		-7,200		-7,200
Counter-Drug Tanker Operations		-1,000		-1,000
Colombia Airborne Surveillance		-3,500		-3,500
Research, Development, Test, and Evaluation		-4,000		-4,000
LEA OCONUS Support		-3,000		-3,000
Tethered Aerostat Radar Program		-12,400		-12,400

NATIONAL GUARD ACTIVITIES

The conferees agree that adequate funding has not been provided to meet National Guard counter-drug requirements and have recommended an increase of $33,000,000 in this account for a number of specific National Guard activities. In view of this increase the conferees do not agree with the Senate proposed direction for a general earmark of funds for the National Guard.

OFFICE OF THE INSPECTOR GENERAL

The conferees agree to provide $152,021,000 for the Office of the Inspector General. Of this amount $150,221,000 shall be for operation and maintenance and $1,800,000 shall be for procurement.

TITLE VII—RELATED AGENCIES

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Central Intelligence Agency Retirement & Disability System	212,000	212,000	212,000	212,000
Intelligence Community Management Account	152,776	144,929	144,776	160,429
Payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund	25,000	25,000	75,000	67,500
National Security Education Trust Fund	8,000	8,000	8,000	8,000
Total, Related Agencies	397,776	389,929	439,776	447,929

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

Details of the adjustments to this account are addressed in the classified annex accompanying this report.

PAYMENT TO KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

The conference agreement provides $67,500,000 for payment to the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund.

TITLE VIII—GENERAL PROVISIONS

The conference agreement incorporated general provisions of the House and Senate versions of the bill which were not amended. Those general provisions that were amended in conference follow:

The conferees included a general provision (Section 8005) which amends language which provides the Department of Defense with transfer authority.

The conferees included a general provision (Section 8008) which amends language providing multiyear procurement authority.

The conferees included a general provision (Section 8027) which amends Senate language earmarking funds in "Aircraft Procurement, Air Force" for maintaining 18 B–52 attrition reserve aircraft.

The conferees included a general provision (Section 8031) which amends language which earmarks funds for Civil Air Patrol operation and maintenance, and counterdrug programs.

The conferees included a general provision (Section 8032) which amends language limiting the number of staff years that may be funded for Federally Funded Research and Development Centers and reduces funding for that purpose.

The conferees included a general provision (Section 8045) which amends language which extends the availability of funds for convert actions and agent operations.

The conferees included a general provision (Section 8054) which amends language recommending rescissions. The rescissions agreed to are:

[Rescissions]

Fiscal Year 2000:	
Former Soviet Union Threat Reduction: Fossil Fuel Energy Plants	$32,000,000
Other Procurement, Navy:	
Joint Tactical Terminals	14,300,000
Submarine Support Equipment	1,000,000
Aircraft Procurement, Air Force: JTCTS	8,500,000
Other Procurement, Air Force: Joint Tactical Terminals	20,000,000
Fiscal Year 2001:	
Aircraft Procurement, Army: CH–47 Mods	16,000,000
Procurement of Ammunition, Army: RADAM	27,400,000
Other Procurement, Army:	
STAR–T Termination	9,900,000
Teleoperating Kits	5,945,000
Joint Tactical Terminals	10,000,000
PEPS	2,900,000
Aircraft Procurement, Navy: JTCTS	8,600,000
Weapons Procurements, Navy: JSOW	$20,000,000
Other Procurement, Navy:	
Joint Tactical Terminals	6,000,000
JTCTS	1,600,000
Procurement, Marine Corps: STAR–T Termination	1,000,000
Aircraft Procurement, Air Force:	
JTCTS	1,300,000
F–15	18,000,000
C–135	36,000,000
RECON/DARP Support Equip.; JSAF Sensors	7,983,000
Missile Procurement, Air Force:	
JSOW	25,200,000
MMIIMODS	33,250,000
Procurement of Ammunition, Air Force: JDAM	5,800,000
Other Procurement, Air Force:	
MILSATCOM (GBS TIP)	6,500,000
JTCTS	3,700,000
Procurement, Defense-Wide:	
DIRCM	485,000
MH–53 SIM MATT Upgrade	3,982,000
Active RW Survivability	3,000,000
Passive RW Survivability	5,404,000
Riverine Craft	5,800,000
INOD	591,000
SOF Maritime Equipment	1,400,000
ASDS Advanced Procurement	18,972,000
Shemya Radar (Long lead items)	73,800,000
Research, Development, Test and Evaluation, Army:	
STAR–T Termination	3,300,000
MPIM	3,000,000
Research, Development, Test and Evaluation, Navy:	
JTCTS	8,800,000
Joint Ejection Seat	10,000,000
Research, Development, Test and Evaluation, Air Force:	
JSAF Termination	13,450,000
ERCM	39,633,000
Joint Ejection Seat	10,000,000
JTCTS	6,200,000
Research, Development, Test and Evaluation, Defense-Wide:	
Passive RW Survivability	280,000
NSW RIB	500,000

The conferees included a general provision (Section 8062) which amends Senate language earmaking $10,200,000 in "Operation and Maintenance, Air Force" to Realign railroad track on Elmendorf Air Force Base and Fort Richardson.

The conferees included a general provision (Section 8087) which amends Senate language appropriating $3,500,000 for the American Red Cross.

The conferees included a general provision (Section 8092) which amends Senate language which makes available funds in "Research, Development, Test and Evaluation, Navy" for a Maritime Fire Training Center at Barbers Point.

The conferees included a general provision (Section 8095) which amends language reducing military personnel and operation and maintenance accounts by $240,000,000 to reflect savings from favorable foreign currency fluctuations.

The conferees included a general provision (Section 8102) which amends Senate language reducing by $262,000,000 the total amount appropriated in title II of this Act to reduce cost growth in travel.

The conferees included a general provision (Section 8111) which amends language appropriating $8,500,000 for the United Service Organizations.

The conferees included a general provision (Section 8112) which amends language making funds available for establishing an ARROW production capability in the United States and for adjusting the cost-sharing agreement with the Israeli government.

The conferees included a general provision (Section 8116) which amends Senate language appropriating $4,500,000 for the Fort Des Moines Memorial Park and Education Center.

The conferees included a general provision (Section 8117) which amends language appropriating $4,250,000 for the National D-Day Museum.

The conferees included a general provision (Section 8119) which amends House language appropriating $1,700,000 for Fisher Houses.

The conferees included a general provision (Section 8120) which amends Senate language which provides authority for the establishment of a memorial to Dwight D. Eisenhower and appropriates $2,600,000 for the Dwight D. Eisenhower Memorial Commission.

The conferees included a general provision (Section 8121) which amends House language which provides $1,700,000 for transfer to the Department of Energy for a proposed study to examine the feasibility of a zero emissions, steam injection process.

The conferees included a general provision (Section 8122) which amends Senate language appropriating $8,000,000 for the settlement of claims associated with the Air Force contract, Clear Radar Upgrade, at Clear Air Force Station, Alaska.

The conferees included a general provision (Section 8125) which amends Senate language establishing a new Regional Counter terrorism Fellowship program to be administered by the Secretary of Defense. The conferees expect the Department of Defense to coordinate this program with the State Department and specifically recommend that it keep the relevant United States Ambassadors informed.

The conferees included a general provision (Section 8126) which amends language to adjust applicable years for negotiated settlement for a request for equitable adjustment for the C-17 program.

The conferees included a general provision (Section 8129) which amends language to fund prior year shipbuilding cost increases.

The conferees included a general provision (Section 8130) which amends language which provides for the transfer of funds from shipbuilding and conversion programs.

The conferees included a new general provision (Section 8135) which amends House language reducing funds available in operation and maintenance accounts by $105,000,000 to reflect fact of life changes in utilities costs.

The conferees included a new general provision (Section 8136) which amends House language earmarking $2,100,000 from "Operation and Maintenance, Air Force" for repair, restoration, and preservation of the Lafayette Escadrille Memorial.

The conferees included a new general provision (Section 8137) which amends House language designating the World War I Memorial in the Mojave National Preserve as a national memorial.

The conferees included a new general provision (Section 8138) which amends House language which appropriates $4,200,000 for "Operation and Maintenance, Navy" for the preservation of the U.S.S. Alabama as a museum and memorial.

The conferees included a new general provision (Section 8139) which amends House language which appropriates $4,250,000 for "Operation and Maintenance, Navy" for the preservation of the U.S.S. Intrepid as a museum and memorial.

The conferees included a new general provision (Section 8140) which amends House language appropriating $4,200,000 for "Operation and Maintenance, Air Force" for the relocation of the Fairchild Air Force Base school within the boundary of Fairchild Air Force Base.

The conferees included a new general provision (Section 8141) which amends House language appropriating $3,500,000 for "Operation and Maintenance, Navy" for the Central Kitsap School district in Washington State for a special needs learning center.

The conferees included a new general provision (Section 8142) which amends House language appropriating $8,500,000 for the City of San Bernardino, California.

The conferees do not include a new House general provision (Section 8137) which prohibits the establishment of an independent operational test bed system and/or the transfer or certain UAVs from the Navy to the Joint Forces Command. The House agrees to recede from this recommendation with the understanding that the Navy will not transfer the Predator UAV assets. Instead, the Secretary of the Navy shall ensure that the Commander of Joint Forces Command receives priority in use of the Predator UAV assets and associated equipment when needed to support the joint operational test bed development and testing.

The conferees included a new general provision (Section 8145) which amends House language which extends the waiver of Operation and Maintenance investment limitations to activities funded in fiscal year 2000.

The conferees included a new general provision (Section 8146) which amends House language reducing funds available in operation and maintenance accounts by $100,000,000 to reflect savings attributed to improved scrutiny and supervision in using government purchase cards.

The conferees included a new general provision (Section 8147) which amends House language appropriating $2,500,000 for a DoD/VA Consolidation Study.

The conferees included a new general provision (Section 8149) which amends House language reducing funds available in "Operation and Maintenance, Army" by $5,000,000 to reflect efficiencies in Army acquisition management.

The conferees included a new general provision (Section 8150) which amends House language which earmarks $25,000,000 to establish an Army Venture Capital Investment Corporation.

The conferees included a new general provision (Section 8154) which amends House language earmarking funds for payments of expenses incurred by the Commission on the Future of the United States Aerospace Industry.

The conferees included a general provision (Section 8158) which amends Senate language appropriating $15,000,000 for the Citadel, Charleston, South Carolina.

The conferees included a new general provision (Section 8159) which amends Senate language to expand the Multiyear Aircraft Lease Pilot Program.

The conferees included a new general provision (Section 8160) which amends Senate language which earmarks funds for road repairs and safety improvements at Camp McCain, Mississippi.

The conferees included a new general provision (Section 8161) which amends Senate language which earmarks funds for the renovation of the Broadway Armory.

The conferees included a new general provision (Section 8163) which amends Senate language which provides funds for the Armed Forces Retirement Home.

The conferees included a general provision (Section 8165) which amends Senate language directing that sufficient funds may remain available to sustain the Defense Leadership and Management Program through fiscal year 2002 and pay the fixed costs for the facility in Southbridge, Massachusetts.

The conferees included a new general provision (Section 8169) which amends Senate language which provides $3,500,000 for "Operation and Maintenance, Defense-Wide" for impact aid for children with severe disabilities.

The conferees included a new general provision (Section 8171) which amends Senate language requiring a report on the progress toward implementation of comprehensive nuclear threat reduction programs to safeguard Pakistani and Indian nuclear stockpiles and technology.

TITLE IX

COUNTER-TERRORISM AND DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

The conference agreement provides $881,000,000 for Title IX – Counter-Terrorism and Defense Against Weapons of Mass Destruction. The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
TITLE IX - COUNTER-TERRORISM & DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION				
COUNTER-TERRORISM & OPERATIONAL RESPONSE TRANSFER FUND				
COUNTER-TERRORISM & OPERATIONAL RESPONSE TRANSFER FUND	---	1,670,000	---	478,000
TRANSFER TO DEPARTMENT OF JUSTICE................	---	(10,000)	---	---
FORMER SOVIET UNION THREAT REDUCTION				
FORMER SOVIET UNION THREAT REDUCTION..................	---	403,000	---	403,000

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT, BALLISTIC MISSILE DEFENSE ORGANIZATION				
PATRIOT PAC-3	---	787,574	---	---
NAVY AREA TBMD PROGRAM	---	6,983	---	---
SUBTOTAL, PROCUREMENT BMDO	---	794,557	---	---
RDT&E, BALLISTIC MISSILE DEFENSE ORGANIZATION				
BALLISTIC MISSILE DEFENSE TECHNOLOGY	---	119,890	---	---
BALLISTIC MISSILE DEFENSE SYSTEM SEGMENT	---	765,584	---	---
BALLISTIC MISSILE DEFENSE TERMINAL DEFENSE SEGMENT	---	118,344	---	---
BALLISTIC MISSILE DEFENSE MIDCOURSE DEFENSE SEGMENT	---	3,844,534	---	---
BALLISTIC MISSILE DEFENSE BOOST DEFENSE SEGMENT	---	530,363	---	---
BALLISTIC MISSILE DEFENSE SENSORS	---	395,600	---	---
THEATER HIGH ALTITUDE AREA DEFENSE	---	744,481	---	---
PATRIOT PAC-3	---	151,100	---	---
NAVY AREA MISSILE DEFENSE	---	388,496	---	---
PENTAGON RESERVATION	---	6,571	---	---
MANAGEMENT HEADQUARTERS-BMDO	---	27,758	---	---
PL WAIVER	---	-39,000	---	---
SUBTOTAL, RDT&E, BMDO	---	7,053,721	---	---
FY 2001 RESCISSION	---	-73,800	---	---
TOTAL, BALLISTIC MISSILE DEFENSE ORGANIZATION	---	7,774,478	---	---

(In thousands of dollars)

	Budget	House	Senate	Conference
DEFENSE AGAINST CHEMICAL & BIOLOGICAL WEAPONS, DEFENSE-WIDE				
PROCUREMENT - CHEMICAL/BIOLOGICAL DEFENSE				
INDIVIDUAL PROTECTION................................	---	116,327	---	---
DECONTAMINATION......................................	---	15,196	---	---
JOINT BIOLOGICAL DEFENSE PROGRAM.....................	---	155,916	---	---
COLLECTIVE PROTECTION................................	---	51,940	---	---
CONTAMINATION AVOIDANCE..............................	---	24,330	---	---
SUBTOTAL, PROC CHEMICAL/BIOLOGICAL DEFENSE..........	---	363,709	---	---
RDTE				
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM..............	---	44,066	---	---
BIOLOGICAL WARFARE DEFENSE...........................	---	153,080	---	---
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM..............	---	143,981	---	---
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM -ADV DEV......	---	76,249	---	---
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - DEM/VAL.....	---	93,636	---	---
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - EMD.........	---	159,943	---	---
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM..............	---	31,276	---	---
SUBTOTAL, RDT&E, CHEMICAL & BIOLOGICAL DEFENSE PROGR	---	702,231	---	---
TOTAL, DEFENSE AGAINST CHEMICAL & BIOLOGICAL WEAPONS	---	1,065,940	---	---

(In thousands of dollars)

	Budget	House	Senate	Conference
DEFENSE THREAT REDUCTION AGENCY				
O&M				
DEFENSE THREAT REDUCTION AGENCY........................	---	1,246	---	---
DEFENSE THREAT REDUCTION AGENCY........................	---	304,147	---	---
SUBTOTAL, O&M, DTRA................................	---	305,393	---	---
PROC - DEFENSE THREAT REDUCTION AGENCY				
VEHICLES..	---	145	---	---
OTHER MAJOR EQUIPMENT..................................	---	20,180	---	---
SUBTOTAL, PROC, DTRA...............................	---	20,325	---	---
RDTE				
NUCLEAR SUSTAINMENT & COUNTERPROLIFERATION TECHNOLOGY.	---	329,632	---	---
COUNTERPROLIFERATION ADVANCED DEVELOPMENT TECHNOLOGIES	---	89,772	---	---
ARMS CONTROL TECHNOLOGY................................	---	61,349	---	---
SUBTOTAL, RDTE, DTRA...............................	---	480,753	---	---
TOTAL, DEFENSE THREAT REDUCTION AGENCY.............	---	806,471	---	---
TOTAL, TITLE IX, COUNTER-TERRORISM & DEF AGAINST WMD	---	11,719,889	---	881,000

COUNTER-TERRORISM AND OPERATIONAL RESPONSE TRANSFER FUND

The conferees agree to provide $478,000,000 for the Counter-Terrorism and Operational Response Transfer Fund as outlined in the table below.

Project	Recommended ($ thousands)
Unconventional Nuclear Threat	75,000
Operations and Maintenance, Defense-Wide	50,000
Research, Development, Test and Evaluation, Defense-Wide	25,000
Military NBC Equipment	80,000
Procurement, Defense-Wide	
Biological Warfare Detection Systems	34,000
Procurement, Defense-Wide	
Antibiotics and Vaccines (Stockpile/R&D)	76,000
Research, Development, Test and Evaluation, Defense-Wide	44,000
Operation and Maintenance, Defense-Wide	32,000
AFIP Lab Maintenance and Repairs	25,000
Defense Health Program (Operation and Maintenance)	
Domestic Response Exercises	10,000
Operation and Maintenance, Defense-Wide	
WMD-Civil Support Teams	35,000
Operation and Maintenance, Army	10,000
Other Procurement, Army	25,000
Local Emergency Communications Gear	
Other Procurement, Army	17,000
DARPA - Biological Warfare Post-Exposure Therapeutics	30,000
Research, Development, Test and Evaluation, Defense-Wide	
Chemical-Biological Medical Training	15,000
Defense Health Program	

Attack, Sensing, Warning and Response - Information Assurance	70,000
Operation and Maintenance, Defense-Wide	5,000
Procurement, Defense-Wide	26,000
Research, Development, Test and Evaluation, Defense-Wide	39,000
Facial Recognition System	
Procurement, Defense-Wide	11,000
Total	478,000

UNCONVENTIONAL NUCLEAR THREAT

These funds are to implement the recommendations of the Defense Science Board Task Force on Unconventional Nuclear Warfare Defense as directed in the House bill and report.

ARMED FORCES INSTITUTE OF PATHOLOGY (AFIP)

These funds are for maintenance and repairs of buildings, including building mechanical systems, and repairs and upgrades to laboratories and associated equipment at AFIP. The lab upgrades are to include installation of Biolevel 3 labs to increase the institute's ability to test biological agents such as anthrax and botulism.

WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS

The conference agreement provides $35,000,000 to fully equip and train 22 additional highly specialized Army National Guard WMD–CST Teams. To date, a total of 32 teams have been authorized by the Department of Defense, although 22 of those teams have unfunded equipment and training requirements necessary to bring them up to fully certified status. These funds are provided to fill those critical equipment and training gaps as follows:

22 Mobile Analytical Laboratory Systems (special purpose vehicles)	$18,500,000
Dismounted analytical suites	6,500,000
Training and evaluation	10,000,000

LOCAL EMERGENCY COMMUNICATIONS GEAR

The conferees agree to provide these funds to ensure reliable and interoperable communications between elements of the Army and local emergency responders.

CHEMICAL-BIOLOGICAL MEDICAL TRAINING

The conferees agree to provide this funding to train Department of Defense personnel in the recognition and treatment of the health effects caused by exposure to chemical or biological agents.

FORMER SOVIET UNION THREAT REDUCTION

The conference agreement provides $403,000,000 for the Former Soviet Union Threat Reduction program.

DIVISION B—TRANSFERS FROM EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107–38

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

The conference agreement includes $80,919,000 for the Office of the Secretary as proposed by the Senate instead of $4,582,000 as proposed by the House. The conferees direct that these funds be used for upgrading USDA facility and operational security and for other unforeseen needs of the Department related to counterterrorism and homeland security.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

The conference agreement does not include $2,875,000 for Agriculture Buildings and Facilities and Rental Payments as proposed by the House. The Senate had no similar provision. Activities funded under this account by the House are included in the amount available for the Office of the Secretary.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

The conference agreement includes $40,000,000 for salaries and expenses of the Agricultural Research Service instead of $5,635,000 as proposed by the House and $70,000,000 as proposed by the Senate. The conferees direct that of this amount, no less than $21,700,000 shall be made available for facility and operational security needs.

BUILDINGS AND FACILITIES

The conference agreement includes $73,000,000 for Agricultural Research Service Buildings and Facilities as proposed by the Senate. The House had no similar provision. Of the total amount provided, $50,000,000 is for construction of an animal bio-containment facility at the National Animal Disease Laboratory at Ames, Iowa, and $23,000,000 is for planning and design at the Plum Island Animal Disease Center for Plum Island, New York. The conferees are award of an ongoing review of security issues at Plum Island and other locations and direct that funds provided for planning and design at Plum Island not be obligated until the Secretary reports to the Appropriations Committees of the House and the Senate on the conclusions of that review.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

The conference agreement does not provide $50,000,000 for Research and Education activities of the Cooperation State Research, Education, and Extension Service as proposed by the Senate. The House had not similar provision.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

The conference agreement includes $105,000,000 for the Animal and Plant Health Inspection Service instead of $8,175,000 as proposed by the House and $95,000,000 as proposed by the Senate. This amount includes up to $50,000,000 for the Agricultural Quarantine Inspection user fee program, $20,000,000 for pest detection activities, and $10,000,000 for animal health monitoring and surveillance. The balance of these funds is to be directed toward agency security needs, of which no less than $21,800,000 shall be made available for facility and operational security needs, implementation of the agency's biosecurity program, and other operational needs of the agency.

BUILDINGS AND FACILITIES

The conference agreement includes $14,081,000 for APHIS buildings and facilities as proposed by the House and the Senate. This amount includes funding for the relocation of laboratories to the main National Veterinary Services Laboratories campus where a higher level of safety and security can be provided. In addition, the funding will complete the physical security countermeasure installation, and will enhance security guard service.

FOOD SAFETY AND INSPECTION SERVICE

The conference agreement includes $15,000,000 for the Food Safety and Inspection Service as proposed by the Senate instead of $9,800,000 as proposed by the House. This amount includes no less than $3,400,000 for facility and operational security needs.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

The conference agreements includes $39,000,000 for the Special Supplemental Nutrition Program for Women, Infants, and Children program as proposed by the Senate. The House had no similar provision. The conference agreement also includes language, as proposed by the Senate, to modify the method of reallocating WIC funds during fiscal year 2002.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $151,100,000 for the Food and Drug Administration instead of $104,350,000 as proposed by the House and $127,000,000 as proposed by the Senate. Of this amount, $13,250,000 is for facility security, $40,750,000 is for enhanced availability of drugs and vaccines and the balance is for increased food safety activities.

The total $40,750,000 provided for non-food activities, including vaccines, human drugs and devices, shall be allocated as follows: (1) $14,250,000 and 32 FTE for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (2) $19,800,000 and 107 FTE for the Center for Biologics Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) $1,500,000 and 13 FTE for the Center for Devices and Radiological Health and related field activities in the Office of Regulatory Affairs; (4) $4,800,000 and 8 FTE for the National Center for Toxicological Research; and (5) $400,000 and 4 FTE for the Office of Chief Counsel within Other Activities. The total $97,100,000 provided for food safety activities shall be allocated as follows: (1) $92,550,000 and 630 FTE for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $3,500,000 and 35 FTE for the Center for Veterinary Medicine and related field activities in the Office of Regulatory Affairs; (3) $1,000,000 for the National Center for Toxicological Research; and (4) $50,000 within Other Activities. The total $13,250,000 for physical security shall be allocated as follows: (1) $300,000 and 3 FTE shall be for the Office of Facilities within Other Activities; and (2) $12,950,000 for Rent and Rent-Related Activities.

INDEPENDENT AGENCY

COMMODITY FUTURES TRADING COMMISSION

The conference agreement includes $16,900,000 for the Commodity Futures Trading Commission instead of $6,495,000 as proposed by the House and $10,000,000 as proposed by the Senate. These funds are to be used toward agency recovery from the events of September 11, 2001, and for other mitigation and preparedness needs for the agency.

GENERAL PROVISIONS, THIS CHAPTER

The conference agreement includes language (Sec. 101) as proposed by the Senate that amends a number under the Food and Drug Administration account in P.L. 107–76.

The conference agreement includes language (Sec. 102) as proposed by the Senate that amends a provision in P.L. 107–76 related to payments to apple producers.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

USA PATRIOT ACT ACTIVITIES

The conference agreement includes a total of $5,000,000, instead of $25,000,000 as proposed in the Senate bill. Of this amount, up to $2,000,000 is available to conduct a feasibility study as proposed by the Senate. The House did not address this matter.

ADMINISTRATIVE REVIEW AND APPEALS

The conference agreement includes $3,500,000 for Administrative Review and Appeals, as proposed in both the House and Senate bills.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

The conference agreement includes $12,500,000 for General Legal Activities, as proposed in the House bill, and instead of $21,250,000 as proposed in the Senate bill. Of the amount provided, $4,800,000 is for the Criminal Division and $7,700,000 is for administrative expenses associated with the Office of the Special Master. the conferees note that $7,090,000 was provided in P.L. 107–77 for the Computer Crime and Intellectual Property Section under General Legal Activities for cyber security activities.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

The conference agreement includes $56,370,000 for the United States Attorneys, instead of $68,450,000 as proposed in the House bill and $74,600,000 as proposed in the Senate bill. The recommendation includes $45,000,000 to establish joint terrorism task forces; $2,000,000 for victims' assistance; and for New York city, $1,850,000 for crisis response equipment, $5,042,000 for immediate prosecutorial needs, and $2,478,000 for renovations to the Church Street office.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

The conference agreement includes $10,200,000 for the United States Marshals Service, instead of $11,100,000 as proposed in the House bill and $26,100,000 as proposed in the Senate bill. Of this amount, $4,000,000 is provided for additional protection of the Federal Judiciary in New York City involved in the World Trade Center bombing the Embassy bombing trials; $1,200,000 is for Foley Square and Brooklyn Federal courthouse security expenses; and $5,000,000 is for courthouse security equipment. Within the total funding available, the U.S. Marshals Service is expected to provide up to $200,000 for additional security needs at the Federal Courthouse in Alexandria, Virginia.

CONSTRUCTION

The conference agreement includes $9,125,000 for U.S. Marshals Service Construction, instead of $35,000,000 as proposed in the Senate bill. The House did not address this matter. The Marshals Service is directed to apply this funding to the highest priority locations.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

The conference agreement includes $745,000,000 for the salaries and expenses of the Federal Bureau of Investigation (FBI), instead of $538,500,000 as proposed in the House bill and $654,500,000 as proposed in the Senate bill. Of this amount, $237,000,000 is for continued implementation of Trilogy. The Committees will entertain a reprogramming for other information technology needs should the FBI not need the full amount provided for Trilogy. Also within the total funding amount provided, $184,147,000 is for immediate unfunded response needs; $1,641,000 is for data network interception. In addition, $56,764,000 is for the information assurance and data digitizing, and the conferees direct that the FBI submit a spending plan, subject to section 605 reprogramming requirements of P.L. 107–77, prior to obligating any funding for these activities. Also within the total funding amount, $7,404,000 is for foreign language translation needs; $43,762,000 is for headquarters and field office counterterrorism investigation support; $8,744,000 is for the wireless intercept program; $11,278,000 is for DNA systems and analysis; $20,622,000 is for Computer Analysis Response Teams; $9,218,000 is for Intelligence Production; $12,241,000 is for audio interception technology; $5,606,000 is for the forensic and audio/video/image analysis program; $7,700,000 is for a transfer to the Drug Enforcement Administration for the Special Operations Division; $12,818,000 is for classified projects; $6,461,000 is for Title III wiretaps; $1,392,000 is for Evidence Response Teams collection and training needs; and $50,000,000 is for counterterrorism equipment and supplies.

The conferees are aware that terrorist organizations exploit the Internet to plan, coordinate, and initiate terrorist acts, finance terrorist activities, and recruit terrorists. To enable the FBI to continue its efforts to work with businesses and Federal State governments to fight cybercrime, $61,000,000 is provided for the National Infrastructure Protection center, including not less than $12,000,000 for the Special Technologies and Applications Unit, and $7,202,000 is provided for regional computer forensic labs. This funding is in addition to funding provided elsewhere in this bill to fight cybercrime.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

ENFORCEMENT AND BORDER AFFAIRS

The conference agreement includes $449,800,000 for the salaries and expenses of the Immigration and Naturalization Service (INS), as proposed in the Senate bill, instead of $409,600,000 as proposed in the House bill. Of this amount, $10,000,000 is for additional border patrol agents along the Southwest Border; $55,800,000 is for additional inspectors and support staff on the Northern Border; and $23,900,000 shall be for transfer of an additional border patrol agents and support staff on the Northern Border. Also included in the amount provided is $13,300,000 for the entry/exit system; $10,555,000 for border crossing card and green card readers; $18,000,000 for the lease acquisition program; $25,600,000 for 16 single engine helicopters; $54,000,000 for ISIS; $5,000,000 for infrared scopes; $2,500,000 for border checkpoint improvements and canine teams; $8,157,000 for ENFORCE/IDENT data communications, biometrics redundancy equipment, and the booking module; $39,100,000 for information technology connectivity, enterprise information and information assurance; $5,000,000 for the ENFORCE detention and removals module; $36,800,000 for SEVIS; $23,454,000 for the forensic document lab equipment and staffing; $5,300,000 for fugitive operations detention and removal; $5,885,000 for ADNET/ENFORCE integration of databases; $5,904,000 for ENFORCE investigations and intelligence modules; $10,200,000 for joint terrorism task forces; $5,000,000 for border patrol planning and design; $8,800,000 for physical security and guards; $5,400,000 for attorneys; and $72,145,000 for unfunded immediate response needs.

CONSTRUCTION

The conference agreement includes $99,600,000 for INS construction as proposed in the Senate bill. The House bill did not address this matter. The conferees direct the INS to submit a proposed distribution to the Committees prior to obligating any of these funds.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

The conference agreement includes $400,000,000 for Office of Justice Programs, Justice Assistance programs, as proposed in both the House and the Senate bills. This funding for the Office of Domestic Preparedness (ODP) within the Office of Justice Programs will enhance the preparedness and response capabilities of State and local entities with responsibility for responding to terrorist attacks. Within the funding provided for Formula Grants, up to $5,000,000 shall be made available for the continued support of the Domestic Preparedness Equipment Technical Assistance Program, a partnership between the ODP and the Pine Bluff Arsenal. The conferees are aware that the September 11, 2001, terrorist attacks also impacted Connecticut. Accordingly, the conferees encourage ODP to work with Connecticut to expedite the release of any grant funds that may be warranted. The distribution of funding is as follows:

Justice assistance

[Dollars in Thousands]

Office of Justice Programs, Justice Assistance:	
Aircraft for NYC for counterterrorism and other required activities	9,800
Capital Wireless Integrated Network in the Washington Metropolitan area	20,000
Training Programs:	
Center for Domestic Preparedness, Ft. McClellan, Alabama	17,000
Nat'l Energetic Materials Research and Testing Center, New Mexico	11,500
Nat'l Emergency Response and Rescue Training Ctr. Texas A&M	11,500
Nat'l Exercise, Test, and Training Center, Nevada Test Site	11,500
Nat'l Center for Bio-Med Research, Training, Louisiana State University	11,500
Training Grants and Support	16,000
Exercises:	
Exercise Grants/Support to States/Exercise Mgmt	33,900
TOPOFF II	4,000
Program Evaluation/After Action Analysis	5,000
Technical Assistance	8,000
Management and Administration	8,000
Formula Grants	212,300
Prepositioned Equipment	20,000
Total, Justice Assistance	400,000

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

The conference agreement includes $251,100,000 for Byrne Discretionary grants under the State and Local Law Enforcement Assistance programs within the Office of Justice Programs. Funding provided shall be available only for allocation to State and local public safety entities for expenses for emergency preparedness equipment, training, and other public safety purposes in their jurisdictions. The distribution of funding is as follows:

State and local law enforcement assistance

[Dollars in Thousands]

Virginia:	
Fairfax County	$12,000

State and local law enforcement assistance—Continued

City of Alexandria	8,000
City of Fairfax	1,500
City of Falls Church	500
Loudoun County	4,300
City of Manassas	1,500
Manassas Park	500
Virginia State Police for counterterrorism measures	13,900
Arlington County	16,000
Prince William County	4,300
Subtotal for Virginia	62,500
New Jersey:	
New Jersey State Police Radio System	30,000
Jersey City Police for modernization for a communications system	10,700
Newark, New Jersey Police Department for security equipment	5,000
City of Newark, New Jersey	5,000
Subtotal for New Jersey	50,700
Maryland:	
Interoperability of communications, IT systems	7,020
Upgrades to the technology infrastructure and coordination between the Federal, State and local law enforcement and public health agencies to prevent and respond to a biochemical attack on the Washington, DC region	10,573
Add and equip with robots four additional bomb squad units and provide for the rapid response of those units	3,468
Crime laboratory equipment and training	9
Police field operations equipment	508
Baltimore Washington Airport bomb and canine teams	986
Prince George's County, MD for disaster preparedness	7,885
Montgomery County, MD for major incident preparedness	8;551
Subtotal for Maryland	39,000
New York:	
New York City for Counterrorism Preparedness Training and Equipment	28,680
New York City Law Enforcement Telecommunications and Computers	9,560
New York City Security Enhancements	9,560
New York Statewide Wireless Network	24,000
Subtotal for New York	71,800
Pennsylvania: Major incident preparedness	5,000
CyberSecurity Initiative	5,000
Utah Olympics Public Safety Command	17,100
Total, State and Local Law Enforcement Assistance	251,100

CRIME VICTIMS FUND

The conference agreement includes $68,100,000 for the Office for Victims of Crime, as proposed in both the House and Senate bills. These funds will provide grants to counseling programs for the victims of the September 11, 2001, terrorist attacks, as well as their families and crisis responders. Grants will go to government and private organizations providing services to victims residing in New York, New Jersey, Virginia, and other States as needed.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

The conference agreement includes $1,000,000 for additional security enhancements for 45 overseas posts not collocated in embassies or chanceries, instead of $750,000 as proposed in the House bill and $1,500,000 as proposed in the Senate bill. No funding is included for a security survey of domestic offices.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

The conference agreement includes $1,756,000 for overseas export enforcement attaches and a project matrix, as proposed in both the House and Senate bills.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

The conference agreement includes $8,250,000 for emergency grants to assist public broadcasters in restoring broadcasting facilities and capabilities that were destroyed in the collapse of the World Trade Center towers, as proposed in both the House and Senate bills. In addition, language is included providing a waiver of matching requirements, as proposed in the House bill. The Senate bill did not include similar language.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

The conference agreement includes $1,500,000 for security upgrades for the U.S. Patent and Trademark Office, instead of $3,360,000 as proposed in the Senate bill. The House bill did not include funding under this heading.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

The conference agreement includes $5,000,000 for a new program to develop and implement cyber-intrusion and detection technologies as part of a cyber security initiative, instead of $10,400,000 as proposed in the Senate bill. The House bill did not include funding under this heading. No funds are provided under this heading for additional perimeter security.

CONSTRUCTION OF RESEARCH FACILITIES

The conference agreement includes $1,225,000 for increased security upgrades to NIST facilities, as proposed in the Senate bill. The House bill did not include funding under this heading.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

The conference agreement includes $750,000 for licensing and enforcement of commercial satellite remote sensing, as proposed in both the House and Senate bills. In addition, $2,000,000 is included for increased security measures at U.S. satellite control facilities, as proposed in the Senate bill.

The conferees agree that in the Statement of Managers accompanying the Conference Report on H.R. 2500, under the heading "National Oceanic and Atmospheric Administration, Operations, Research, and Facilities, Program Support", "McArthur," shall be stricken and "Townsend Cromwell" inserted, and in the chart under "NWS, NWSTG", "CIP" shall be stricken and "Mt. Weather" inserted.

DEPARTMENT MANAGEMENT

SALARIES AND EXPENSES

The conference agreement includes $4,776,000, instead of $881,000 as provided in the Senate bill, and $8,636,000 as provided in the House bill. This amount includes $3,291,000 for increased contract guard services at the Herbert C. Hoover Building and Other Department of Commerce facilities, $485,000 for security equipment, and $1,000,000 for Voice-over Internet Protocols.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

The conference agreement includes $30,000,000 for the Supreme Court "Care of the Building and Grounds" account for security enhancements as provided in the Senate bill, instead of $10,000,000 as provided in the House bill.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

The conference agreement includes, $5,000,000 for Courts of Appeals District Courts, and Other Judicial Services for emergency communications equipment as provided in the Senate bill.

COURT SECURITY

The conference agreement includes $57,521,000 for security requirements of the Federal Judiciary as provided in the Senate bill, instead of $21,500,000 as provided in the House bill.

ADMINSTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

The conference agreement includes $2,879,000 for the Administrative Office of the United States Courts to enhance security at the Thurgood Marshall Federal Judiciary Building as provided in the Senate bill. The House bill did not include funding under this heading.

DEPARTMENT OF STATE AND RELATED AGENCY

RELATED AGENCY

ROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

The conference agreement includes $9,200,000 for International Broadcasting Operations for operational costs of surrogate radio broadcasting by Radio Free Europe/Radio Liberty to the people of Afghanistan in languages spoken in Afghanistan as proposed in the House bill. The Senate bill did not include funding under this heading.

BROADCASTING CAPITAL IMPROVEMENTS

The conference agreement includes $10,000,000 for Broadcasting Capital Improvements for capital requirements associated with surrogate radio broadcasting by Radio Free Europe/Radio Liberty to the people of Afghanistan in languages spoken in Afghanistan as proposed in the House bill. The Senate bill did not include funding under this heading.

RELATED AGENCIES

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

The conference agreement includes $1,301,000 for response and recovery needs for the Commission's New York City office as proposed in both the House and Senate bills.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

The conference agreement includes $20,705,000 for disaster recovery needs for the Commission's New York regional office, as proposed in both the House and Senate bills.

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

The conference agreement includes $75,000,000 for business loan subsidies related to the terrorist acts in New York, Virginia, and Pennsylvania, on September 11, 2001, as proposed in the Senate bill, with a technical modification. The House bill did not include funding under this heading. The conferees take particular note of the devasting effects that the tragic events of September 11, 2001, have had upon the software/information technology industry in and around New York City and other affected areas. The conferees encourage the SBA to work with these companies, as appropriate, in the administration of programs funded in this Act.

DISASTER LOANS PROGRAM ACCOUNT

The conference agreement includes $75,000,000 for disaster loan subsidies as proposed in the Senate bill, with a technical modification, instead of $140,000,000 as proposed in the House bill.

GENERAL PROVISIONS—THIS CHAPTER

The conference agreement includes the following general provisions:

Sec. 201.—The conference agreement includes Section 201, waiving certain authorization requirements, as proposed in the House bill

Sec. 202.—The conference agreement includes Section 202, regarding Small Business Administration disaster loans in response to the September 11, 2001, terrorist attacks, proposed as Section 201 in the Senate bill.

Sec. 203.—The conference agreement includes Section 203, regarding Small Business Administration disaster and business loans in response to the September 11, 2001, terrorist attacks, proposed as Section 202 in the Senate bill.

Sec. 204—The conference agreement includes Section 204, regarding a report on the United States-People's Republic of China Science and Technology Agreement of 1979, proposed as Section 203 in the Senate bill.

Sec. 205.—The conference agreement includes Section 205, regarding an Alaska fishing capacity reduction program, proposed as Section 204 in the Senate bill.

Sec. 206.—The conference agreement includes Section 206, proposed as Section 102 of Division D of the Senate bill, making a technical correction to Public Law 107–77.

Sec. 207—The conference agreement includes Section 207, proposed as Section 103 of Division D of the Senate bill, making a technical correction to Public Law 107–77.

Sec. 208—The conference agreement includes Section 208, proposed as Section 105 of Division D of the Senate bill, making a technical correction to Section 626 of Public Law 107–77. The language included in Section 626(c) of Public Law 107–77 quashed the Department of State's motion to vacate the judgment obtained by plaintiffs in Case Number 1:00CV03110(EGS) and reaffirmed the validity of this claim and its retroactive application. Nevertheless, the Department of State continued to argue that the judgment obtained in Case Number 1:00CV03110(EGS) should be vacated after Public Law 107–77 was enacted. The provision included in Section 626(c) of Public Law 107–77 acknowledges that, notwithstanding any other authority, the American citizens who were taken hostage by the Islamic Republic of Iran in 1979 have a claim against Iran under the Antiterrorism Act of 1996 and the provision specifically allows the judgment to stand for purposes of award damages consistent with Section 2002 of the Victims of Terrorism Act of 2000 (Public Law 106–386, 114 Stat. 1541).

The conference agreement does not include language proposed in the Senate bill regarding the HUBZone program of the Small Business Administration (SBA). Instead, the conferees direct the SBA to allocate an amount not to exceed $2,000,000 within the level provided for non-credit programs under the "Salaries and Expenses" account in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law 107–77) for the HUBZone program, subject to the reprogramming requirements in section 605 of Public Law 107–77. In addition, the Administrator of the SBA shall make quarterly reports to the Committees on Appropriations of the House and Senate regarding all actions taken by the SBA to address the deficiencies in the HUBZone program identified by the General Accounting Office in report number GAO–02–57 of October 26, 2001.

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY OPERATION AND MAINTENANCE

DEFENSE EMERGENCY RESPONSE FUND

Chapter 3 of the conference agreement provides a total of $3,395,600,000 in new budget authority for the Department of Defense, instead of $7,242,911,000 as proposed by the House and $1,525,000,000 as proposed by the Senate.

Specific allocations of funds agreed to by the conferees, pursuant to new appropriations provided in this chapter as well as transfers of other funds, include the following:

Category/Program	*Amount*
Situational Awareness	$850,000,000
Increased World-wide Posture	1,495,000,000
OPTEMPO	(1,495,000,000)
Offensive Counterterrorism	372,000,000
Munitions	(230,000,000)
JDAM	(130,000,000)
Laser Guided Bomb Kits	(100,000,000)
Special Operations Command	(142,000,000)
Pentagon Renovation	
Appropriations in this Act	475,000,000
Additional appropriations by transfer (Section 305):	300,000,000
Initial Crisis Response	39,100,000
Port Security	(31,000,000)
CBIRF deployment and other: DoD support to the Capitol	(8,100,000)
Relocation Costs and other purposes	164,500,000
Pentagon Relocation Costs	(33,000,000)
Advance Identification Friend or Foe for ANG	(35,000,000)
Transportation Multi-Platform Gateway for AWACS	(20,000,000)
National Infrastructure Simulation Analysis Center	(20,000,000)
DDR&E Quick reaction munitions research	(15,000,000)
Lynx Synthetic Aperture Radar	(15,000,000)
Olympics Support	(15,000,000)
COTS Blast Visualization Research	(5,000,000)
COTS Blast Mitigation Research	(5,000,000)
USAMRIID Feasibility/Infrastructure Study	(1,000,000)
National Remembrance Memorial	(500,000)
Additional Allocations of Funds Derived By Transfer	130,000,000
FSUTR Biological Weapons Stockpile Reduction	30,000,000
DoD Military and Logistical Support (Section 304)	(100,000,000)

The conferees designate these specific funding allocations as items of congressional interest, for purposes of complying with established procedures regarding transfers and proposed reprogramming of funds.

CLASSIFIED PROGRAMS

The conferees' recommendations regarding classified programs are addressed in a classified annex accompanying this report.

PENTAGON RECONSTRUCTION

Section 305 of the conference agreement appropriates $475,000,000 to continue reconstruction of the Pentagon Reservation to repair damage inflicted as a result of the attack on September 11, 2001. The conferees commend the hard work and dedication of the workers and managers responsible for this reconstruction effort, and endorse efforts to complete this endeavor in record time.

The conference agreement also includes a provision (section 305(b)), transferring an additional $300,000,000 from unobligated and uncommitted funds appropriated to the President in Public Law 107–38 to finance the simultaneous construction and hardening of military command centers at the Pentagon. Prior to September 11 the Pentagon renovation plan included above ground and unhardened military command centers. The conferees concur that it is now only prudent for security purposes that these critical command centers be relocated below ground and hardened against catastrophic attack at the earliest opportunity. This change in plan must be made now before overall Pentagon reconstruction design, construction, and budgetary decisions are set in place. It is expected that this change will accelerate completion of the entire renovation project from 2014 to 2010, at an estimated additional cost of $800,000,000. The conferees believe this acceleration is important for the national security and for the safety of the 25,000 men and women who work in the Pentagon complex.

FORMER SOVIET UNION THREAT REDUCTION

The conference agreement includes language transferring $30,000,000 of unobligated balances from the "Former Soviet Union Threat Reduction" appropriation to the Department of State, in support of the Biological Weapons Redirect and Science and Technology Centers programs. The conferees endorse the use of these funds as proposed in the House report, including the redirection of former Soviet biological production facilities to vaccine production, and efforts to engage former Soviet biological weapons scientists in collaborative research with U.S. corporations to develop new vaccine and drug therapies for highly infectious diseases.

Quick Reaction Activities

The conferees recommend $15,000,000 only for quick reaction capabilities to develop and deploy promising new weapons and other counter-terrorism and counter-WMD capabilities that are recommended by the Department of Defense Combating Terrorism Technology Task Force.

Blast Modeling—Visualization and Mitigation

The conferees recommend $5,000,000 only for the conversion of current CIA/OTI technology for use by the USAF Force Protection Battlelab, to accelerate efforts to quickly produce accurate blast models for specific or unique structures and to assist in choosing specific deployment and billeting locations. An additional $5,000,000 is provided only for Blast Mitigation Research, involving field testing of explosives tests against structures.

U.S. Army Medical Research Institute for Infectious Diseases

Due to the terrorist acts of September 11, 2001 and the anthrax incidents that followed, the DoD is developing an expanded role for the United States Army Medical Research Institute for Infectious Diseases (USAMRIID), the lead DoD laboratory for medical aspects of biological warfare defense. The conferees provide $1,000,000 to the Army, only for the purpose of conducting a feasibility study to finalize the mission of USAMRIID and determine the infrastructure requirements and associated costs needed to accommodate USAMRIID's expanded role. The conferees direct the Secretary of Army to submit a report on the results of this study and plans for including a facility expansion in the Future Years Defense Plan (FYDP) to the congressional defense committees no later than March 15, 2002.

Future Requests for Supplemental Appropriations

The conferees agree with direction in the House report which directs that future supplemental appropriations requests for defense and intelligence activities in response to the attacks of September 11, 2001, as well as any other supplemental requests for the Department of Defense and the Intelligence Community, be submitted using the traditional appropriations account format and detailed supporting and justification materials.

Defense Emergency Response Fund Report

In light of the adjustments recommended by the conferees to the supplemental request, and other guidance regarding the use of previously allocated defense and intelligence funds from Public Law 107–38, the conferees direct that not later than 45 days following enactment of this Act the Secretary of Defense and the Director of Central Intelligence, in consultation with OMB, provide the House and Senate Committees on Appropriations with a revised, comprehensive and detailed report, using the guidelines in the House report, regarding the overall allocation of all appropriations for defense and intelligence activities (including obligations up to that point, and forecasted expenditures) made available from Public Law 107–38. Similar reports shall be submitted quarterly during fiscal year 2002 following submission of the first report.

General Provisions—This Chapter

The conference agreement includes a general provision (Section 301) which retains a provision proposed in the supplemental request, and amended in the House bill, which establishes the terms and conditions under which funds appropriated under the heading "Defense Emergency Response Fund" may be used, provides transfer authority for these funds, and includes a number of reporting requirements.

The conference agreement includes a general provision (Section 302) which amends a similar provision proposed in the supplemental request, and in the House and Senate bills, which allows funds in the appropriations account "Support for International Sporting Competitions, Defense" to be used to reimburse members of the National Guard while performing State active duty or full-time National Guard duty, and temporarily waives the requirement to obtain certification from the Attorney General for the Department's assistance to the 2002 Winter Olympic Games in order to meet safety and security needs.

The conference agreement includes a general provision (Section 303) which provides that funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

The conference agreement includes a general provision (Section 304) identified by Administration officials, which provides that not to exceed $100,000,000 of funds in the Defense Emergency Response Fund may be made available for payments to Pakistan and Jordan for support in connection with Operation Enduring Freedom. The conferees direct that funds subject to this provision do not include funds in this Act, and are limited only to those funds previously made available in Public Law 107–38 and formally allocated to the Department of Defense consistent with that Act's notifications by the President to the Congress.

The conference agreement includes a general provision (Section 305) regarding the reconstruction of the Pentagon, as discussed earlier in this statement.

The conference agreement includes a general provision (Section 306) providing additional transfer authority to the Operation and Maintenance accounts of the Department of Defense, if required to meet costs incurred in support of Operations Enduring Freedom and Noble Anvil.

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

Federal Payment to the District of Columbia for Protective Clothing and Breathing Apparatus

The conference agreement appropriates $7,144,000 to remain available until September 30, 2003 as proposed by the Senate instead of $12,144,209 to remain available until expended as proposed by the House.

Federal Payment to the District of Columbia for Specialized Hazardous Materials Equipment

The conference agreement appropriates $1,032,000 to remain available under September 30, 2003 as proposed by the Senate instead of $1,032,342 to remain available until expended as proposed by the House.

Federal Payment to the District of Columbia for Chemical and Biological Weapons Preparedness

The conference agreement appropriates $10,355,000 to remain available until September 30, 2003 as proposed by the Senate instead of $10,354,415 to remain available until expended as proposed by the House.

Federal Payment to the District of Columbia for Pharmaceuticals for Responders

The conference agreement appropriates $2,100,000 to remain available until September 30, 2003 as proposed by the Senate instead of $2,100,000 to remain available until expended as proposed by the House.

Federal Payment to the District of Columbia for Response and Communications Capability

The conference agreement appropriates $14,960,000 to remain available until September 30, 2003 as proposed by the Senate. The House bill contained no similar appropriation.

Federal Payment to the District of Columbia for Search, Rescue and Other Emergency Equipment and Support

The conference agreement appropriates $8,850,000 to remain available until September 30, 2003 as proposed by the Senate. The House bill contained no similar appropriation.

Federal Payment to the District of Columbia for Equipment, Supplies and Vehicles for the Office of the Chief Medical Examiner

The conference agreement appropriates $1,780,000 to remain available until September 30, 2003 as proposed by the Senate. The House bill contained no similar appropriation.

Federal Payment to the District of Columbia for Hospital Containment Facilities for the Department of Health

The conference agreement appropriates $8,000,000 to remain available until September 30, 2003 as proposed by the Senate. The House bill contained no similar appropriation.

Federal Payment to the District of Columbia for the Office of the Chief Technology Officer

The conference agreement appropriates $45,494,000 to remain available until September 30, 2003 instead of $43,994,000 to remain available until September 30, 2003 as proposed by the Senate. The conference agreement also includes language as proposed by the Senate requiring that a plan for integrating the communications systems of local, regional and Federal law enforcement agencies be submitted to the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2002. The House bill contained no similar appropriation or language.

Federal Payment to the District of Columbia for Emergency Traffic Management

The conference agreement appropriates $20,700,000 to remain available until September 30, 2003 as proposed by the Senate. The House bill contained no similar appropriation.

Federal Payment to the District of Columbia for Training and Planning

The conference agreement appropriates $9,949,000 to remain available until September 30, 2003 instead of $11,449,000 to remain available until September 30, 2003 as proposed by the Senate. The House bill contained no similar appropriation. The reduction of $1,500,000 from the Emergency Management Agency reflects the fact that funding for the Agency for training and planning was provided in the District of Columbia Appropriations Act, 2002 (H.R. 2944).

Federal Payment to the District of Columbia for Increased Facility Security

The conference agreement appropriates $25,536,000 to remain available until September 30, 2003 as proposed by the Senate. The House bill contained no similar appropriation.

Federal Payment to the Washington Metropolitan Area Transit Authority

The conference agreement appropriates $39,100,000 to remain available until September 30, 2003 and includes $2,200,000 for completion of the fiber optic network project and $15,000,000 for a chemical emergency sensor program instead of $39,100,000 to remain available until September 30, 2003 which included $17,200,000 for completion of the fiber optic network project and an automatic vehicle locator system as proposed by the Senate. The conference agreement shifts $15,000,000 included in the $17,200,000 for the automatic vehicle locator system to a chemical and biological detection initiative to protect transit facilities. The automatic vehicle locator system will be funded from other Federal funds received by the Authority for security improvements.

Federal Payments to the Metropolitan Washington Council of Governments

The conference agreement appropriates $5,000,000 to remain available until September 30, 2003 as proposed by the Senate to enhance regional emergency preparedness, coordination and response and to develop a comprehensive regional emergency preparedness, coordination and response plan. The House bill contained no similar appropriation. The conferees request an interim report on the status of the comprehensive regional plan by September 30, 2002, and a final report by September 30, 2003.

Family Court Act of 2001 (H.R. 2657)

The conferees agree that the Joint Committee on Judicial Administration of the District of Columbia Courts may use operating funds as necessary to implement the District of Columbia Family Court Act of 2001 (H.R. 2657). The conferees on the District of Columbia Appropriations Act, 2002 (H.R. 2944) intended that the District of Columbia Courts would use funds provided under the heading "Federal Payment for Family Court Act" for any expenses related to implementing family court reform. The conferees did not intend or expect the District of Columbia Courts to be penalized for expenditures or reimbursements of operating expenses when legitimate family court reform expenses were incurred.

The conferees request the Joint committee to maintain a separate accounting of those expenses that are attributable to family court reform and those general operating expenses that are unrelated to family court reform.

District of Columbia Funds

DIVISION OF EXPENSES

Language is included under "District of Columbia Funds" to allow the District government to obligate and spend the Federal payments appropriated earlier in this chapter to the District government's general fund.

General Provisions—This Chapter

The conference agreement includes language in section 401 that authorizes the Chief Financial Officer of the District of Columbia to transfer up to 5 percent of the funds appropriated to the District in this chapter after advance written notification to the Committees on Appropriations.

The conference agreement includes language in section 402 that requires the chief financial officers of the District of Columbia government and the Metropolitan Washington Area Transit Authority and the Executive Director of the Metropolitan Washington Council of Governments to provide quarterly reports beginning no later than March 15, 2002.

The conference agreement includes language in a new section 403 that requires all funds in this chapter to be apportioned quarterly by the Office of Management and Budget. The conference agreement also inserts a proviso that requires all funds in this chapter to be made available no later than September 30, 2002.

The conference agreement includes language in a new section 404 that makes a technical correction to the District of Columbia Appropriations Act, 2002 (H.R. 2944).

CHAPTER 5

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

OPERATION AND MAINTENANCE, GENERAL

The conference agreement includes $139,000,000 to support increased security at Corps of Engineers owned and operated infrastructure facilities as proposed by the House and the Senate.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

WATER AND RELATED RESOURCES

The conference agreement includes $30,259,000 to support increased security at Bureau of Reclamation owned and operated infrastructure facilities as proposed by the House and the Senate.

DEPARTMENT OF ENERGY

Energy Programs

ENERGY SUPPLY

The conferees agree that the amount appropriated by Title III of the Energy and Water Development Appropriations Act, 2002 (Public Law 107-66) under the Energy Supply account for "Renewable Energy Resources", subaccount "Electric energy systems and storage", is increased by $10,000,000, with a corresponding general reduction of $10,000,000 applied to the total "Renewable Energy Resources" account. Such general reduction is to be applied on a pro rata basis to all programs, projects, and activities under the "Renewable Energy Resources" account and in accordance with guidance previously provided in the Energy and Water Development Appropriations Act, 2002.

Atomic Energy Defense Activities

National Nuclear Security Administration

WEAPONS ACTIVITIES

The conference agreement provides $131,000,000 for Weapons activities as proposed by the Senate instead of $88,000,000 as proposed by the House. Of these funds, $76,000,000 is to address safeguards and security configuration vulnerabilities throughout the nuclear weapons complex; $30,000,000 is to accelerate deployment of near-term cyber security measures at all nuclear weapons complex sites; and $25,000,000 is to provide additional resources for secure transportation asset safeguards system operations including $1,000,000 for program direction activities.

The conferees strongly urge the National Nuclear Security Administration to use a portion of the resources provided to develop its extensive capabilities in security and counter-terrorism technologies and make them available to other government agencies as appropriate.

DEFENSE NUCLEAR NONPROLIFERATION

The conference agreement includes $226,000,000 for Defense Nuclear Nonproliferation as proposed by the Senate instead of $18,000,000 as proposed by the House. Funding of $78,000,000 is provided for nonproliferation and verification research and development, including $18,000,000 for development activities to automate more of the processes and increase the number of agents that can be detected with the Biological Aerosol Sentry and Information System (BASIS), a prototype biological detection system to provide civilian public health systems with early warning of airborne biological agents. From within available funds for research and development, research is to be conducted with respect to radiological dispersion devices known as "dirty bombs".

Funding of $120,000,000 is provided for the International Materials Protection, Control and Accounting program to secure nuclear materials at sites in Russia and the Newly Independent States.

An additional $15,000,000 has been provided to the Russian Transition Initiatives program for the Nuclear Cities Initiative and the Initiatives for Proliferation Prevention program.

Additional funding of $10,000,000 is provided for the International Nuclear Safety Program to improve the safety of Soviet-designed nuclear reactors, and an additional $3,000,000 is provided for the program direction account.

Within available fiscal year 2002 funds, the Department is directed, in conjunction with other Federal agencies and departments, to accelerate the development and deployment of the PROTECT program, a chemical agent defensive system to cover multiple stations and tunnels in a high-threat section of the Washington Metropolitan Area Transit Authority subway system and to expand the program to include one Boston transit station.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

The conference agreement provides $8,200,000 for Defense Environmental Restoration and Waste Management as proposed by the House and the Senate. Of this funding, $3,300,000 is for the Hanford site in Washington and $4,900,000 is for the Savannah River Site in South Carolina to provide additional safeguards and security measures.

OTHER DEFENSE ACTIVITIES

The conference agreement provides $3,500,000 for Other Defense Activities as proposed by the House and the Senate. Of these funds, $2,500,000 is to expand the protective forces, replace outdated alarm and radio systems, and install public address systems at the Department of Energy's Washington, D.C., facilities. Funding of $1,000,000 will be used to purchase and accelerate deployment of distributed air sampling units for the detection of biological agents using the prototype Biological Aerosol Sentry and Information System.

Independent Agency

Nuclear Regulatory Commission

SALARIES AND EXPENSES

The conference agreement includes $36,000,000 for salaries and expenses at the Nuclear Regulatory Commission as proposed by the Senate. These additional resources are to be used: re-analyze the vulnerabilities and physical protection requirements for NRC-licensed facilities and for radioactive materials in transit; re-analyze the design basis threats which are used to design safeguards systems to protect against acts of radiological sabotage and to prevent the theft of nuclear materials; strengthen the processes used to authorize access to NRC-licensed facilities; upgrade NRC's emergency preparedness and incident response programs; and strengthen NRC's infrastructure and communications capabilities. The conferees direct the Commission to utilize the resources of the National Infrastructure Simulation and Analysis Center in these efforts. The conferees intend that these funds shall be excluded from license fee revenues.

General Provisions—This Chapter

Sec. 501. The conference agreement includes a provision proposed by the Senate which provides that up to $500,000 may be available to the Secretary of Energy for safety improvements to roads along the shipping route to the Waste Isolation Pilot Plant site. These funds are to be made available from funds provided to the Carlsbad Office.

Sec. 502. The conference agreement includes a technical correction proposed by the Senate to provide $400,000 to initiate construction on Nutwood Levee, Illinois, project. This project was improperly described in the Energy and Water Development Appropriations Act, 2002.

Sec. 503. The conference agreement includes a provision proposed by the Senate amending the Reclamation Safety of Dams Act of 1978.

Sec. 504. The conference agreement includes a technical correction proposed by the Senate relating to the Jicarilla, New Mexico, municipal water system. This project was included under the wrong account in the Energy and Water Development Appropriations Act, 2002.

Sec. 505. The conference agreement includes a provision proposed by the House relating to the Occoquan Creek, Virginia, project.

CHAPTER 6

FUNDS APPROPRIATED TO THE PRESIDENT

Agency for International Development

INTERNATIONAL DISASTER ASSISTANCE

The conference agreement provides an additional $50,000,000 for "International Disaster Assistance", to be obligated from amounts made available in Public Law 107-38, for reconstruction and humanitarian activities in Afghanistan. The managers direct the United States Agency for International Development to consult with the committees prior to the obligation of funds for humanitarian and reconstruction activities in Afghanistan.

CHAPTER 7

DEPARTMENT OF THE INTERIOR

National Park Service

OPERATION OF THE NATIONAL PARK SYSTEM

The conference agreement provides $10,098,000 for Operation of the National Park System as proposed by both the House and the Senate.

UNITED STATES PARK POLICE

The conference agreement provides $25,295,000 for the United States Park Police as proposed by both the House and the Senate.

CONSTRUCTION

The conference agreement provides $21,624,000 for Construction as proposed by both the House and the Senate. The agreement also includes language permitting the National Park Service to issue single procurements for the full scope of each construction project for security improvements at the Washington Monument, the Lincoln Memorial, and the Jefferson Memorial.

Departmental Offices

Departmental Management

SALARIES AND EXPENSES

The conference agreement provides $2,205,000 for Salaries and Expenses as proposed by both the House and the Senate.

Related Agencies

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

The conference agreement provides $21,707,000 for Salaries and Expenses as proposed by both the House and the Senate.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

The conference agreement provides $2,148,000 for Salaries and Expenses as proposed by both the House and the Senate.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

The conference agreement provides $4,310,000 for Operations and Maintenance as proposed by both the House and the Senate.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

The conference agreement provides $758,000 for Salaries and Expenses as proposed by both the House and the Senate. The agreement makes these funds available for fiscal year 2002 only as proposed by the House. The Senate had proposed to make the funds available until expended.

General Provisions, This Chapter

Section 701 retains the text of section 601 authorizing the Smithsonian Institution to collect and preserve in the National Museum of American History artifacts relating to the September 11, 2001 attacks on the World Trade Center and the Pentagon as proposed by the Senate. The House had no similar provision.

Section 702 retains the text of section 602 clarifying the treatment of Federal procurement programs for tribes and Alaska Native Corporations with respect to minority and disadvantaged business contracting as proposed by the Senate. The House had no similar provision.

The conference agreement does not include section 603, as proposed by the Senate, expanding the number of Trustees of the John F. Kennedy Center for the Performing Arts. The text of a similar provision, originally proposed by the Senate in Division E, Title II, section 201, is included in Division D of the conference agreement. The House had no similar provision.

CHAPTER 8

DEPARTMENT OF LABOR

Employment and Training Administration

TRAINING AND EMPLOYMENT SERVICES

The conference agreement provides $32,500,000 as proposed by both the House and the Senate for the Consortium for Worker Education, established by the New York City Central Labor Council and the New York City Partnership, for an emergency employment clearinghouse.

State Unemployment Insurance and Employment Service Operations

The conference agreement provides $4,100,000 as proposed by both the House and the Senate for State unemployment insurance and employment service operations.

Workers Compensation Programs

The conference agreement provides $175,000,000 as proposed by both the House and the Senate for workers compensation programs. Included in this amount is $125,000,000 for payment to the New York State Workers Compensation Review Board, $25,000,000 for payment to the New York State Uninsured Employers Fund for reimbursement of claims related to the terrorist attacks and $25,000,000 for payment to the New York State Uninsured Employers Fund for reimbursement of claims related to first response emergency services personnel who were injured, were disabled, or died due to the terrorist attacks.

Pension and Welfare Benefits Administration

SALARIES AND EXPENSES

The conference agreement provides $1,600,000 as proposed by both the House and the Senate for pension and welfare benefits administration, salaries and expenses.

Occupational Safety and Health Administration

SALARIES AND EXPENSES

The conference agreement provides $1,000,000 as proposed by both the House and the Senate for occupational safety and health administration, salaries and expenses.

Departmental Management

SALARIES AND EXPENSES

The conference agreement provides $5,880,000 as proposed by both the House and the Senate for departmental management, salaries and expenses.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

DISEASE CONTROL, RESEARCH, AND TRAINING

The conference agreement provides $12,000,000 as proposed by both the House and the Senate for baseline safety screening for emergency services personnel and rescue and recovery personnel.

Office of the Secretary

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

The conference agreement provides $140,000,000 for Grants for Immediate Response as proposed by the Senate. The House bill contained no similar provision. These funds shall be distributed as grants to help pay for healthcare-related costs incurred by organizations as a result of the September 11, 2001 terrorist attacks. These funds are to be allocated based upon the most current data available, with priority and without caps, to applicants that, by virtue of their proximity to an attack zone, the number of patients served, or the provision of specialized services such as trauma care, participated most directly in disaster response efforts. These funds are not available for costs that have otherwise been reimbursed or are eligible for reimbursement from other sources.

The conference agreement also provides $2,504,314,000 for emergency expenses to respond to the September 11, 2001 terrorist attacks and for other expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations. This is $1,013,714,000 above the request.

The agreement includes $865,000,000 for upgrading State and local capacity instead of $423,000,000 as proposed by the House and $1,000,000,000 as proposed by the Senate. The conferees concur with language in the House report recommending that a portion of this funding be provided under the authority of sections 319B, 319C, and 319F of the Public Health Service Act, as amended.

The conferees believe that a portion of this funding should be available immediately to meet the needs of State and local health departments as a result of the September 11, 2001 attacks and other subsequent events related to terrorism. The conferees also believe that a portion of this funding should be granted under the authority of the Public Health Threats and Emergencies Act, which calls for assessments of public health needs, provides grants to State and local public health agencies to address core public health capacity needs, and provides assistance to State and local health agencies to enable them to respond effectively to bioterrorist attacks. The Secretary is requested to provide the House and Senate Committees on Appropriations with a plan to distribute this funding within 15 days of enactment of this Act. The conferees concur with language contained in the House report directing the Secretary to provide a report on the State of the Nation's public health and medical preparedness for bioterrorism.

The conferees further believe that the peer review of competitive grants required under 319C, while desirable under normal circumstances, should be waived, at the discretion of the Secretary, to expedite funding to address gaps in public health preparedness.

In administering assistance for enhancing laboratory capacity, the conferees request CDC to ensure that funds are made available, to the greatest extent possible, to all laboratories participating in the Laboratory Response Network and in need of capacity upgrades, as well as to labs in need of upgrades in order to be brought into the network.

The agreement includes $135,000,000 for grants to hospitals and other entities to assist hospitals and emergency departments in preparing for, and responding to, incidents requiring mass immunization and treatment. This funding would allow State and regional planning with local hospitals, including community health centers. It would also allow some communities to move beyond the planning phase and begin implementation of their plans. The conferees urge the Secretary to ensure that plans and activities supported with these funds are integrated and coordinated with State and local plans.

The agreement includes $100,000,000 for upgrading capacity at CDC. The agreement provides that up to $10,000,000 of these funds shall be for the tracking and control of biological pathogens. Funds are also included to update and enhance existing laboratory protocols for use by State and local health laboratories, to increase CDC's capacity to handle additional laboratory samples from States, to enhance epidemic intelligence service/disaster response teams, to develop rapid toxic screening and other activities. The agreement also includes $7,500,000 for environmental hazard control activities conducted by CDC.

The conferees understand that CDC is presently utilizing microbial characterization technology that provides an automated genetic fingerprint of any bacterium, has the capacity to process a large volume of samples in a short time frame, and can electronically communicate identified bacterial ribotypes from multiple laboratory locations for centralized identification. This diagnostic technology could assist in redressing laboratory processing backlogs and improving disease surveillance, including rapid detection of a multiple-location bioagent release. The conferee surge CDC to accelerate evaluation of this technology.

The agreement includes $85,000,000 for bioterriorism-related research, including next-generation vaccine research at the National Institute of Allergy and Infectious Diseases (NIAID). The conferees encourage NIAID to conduct research on safer alternatives to the existing smallpox vaccine, such as a vaccine using an inactivated smallpox virus.

The agreement also provides $70,000,000 for the construction of a level-4 biosafety laboratory and related infrastructure costs at NIAID. In addition, $71,000,000 is included for improving laboratory security at CDC and the National Institutes of Health. This is in addition to the $250,000,000 provided in the CDC's appropriation for buildings and facilities in the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act for fiscal year 2002. The conferees understand that the Department has under review recommendations to expand the number of facilities in the country to work with infectious agents and pathogens that pose significant risk to the population. The conferees concur that additional facilities are needed. The conferees are aware of a proposal to improve and modernize existing facilities and to complete construction of a new level-3 biosafety laboratory at Colorado State University in Fort Collins, Colorado. The conferees strongly urge the Secretary to support this proposal.

The agreement includes $593,000,000 for the National Pharmaceutical Stockpile and $512,000,000 for the purchase of the smallpox vaccine. The conferees note that if we suffer a major biological terror attack, such as introduction of smallpox into multiple regions of the country, we will need to vaccinate large numbers of Americans very quickly. the conferees are aware that technology exists and has been employed by the military to more rapidly inoculate large groups. The conferees urge CDC to consider employing this technology so that it is available in large cities and other areas where the need is greatest.

The agreement includes $55,814,000 for the Office of the Secretary. These funds are for improving disaster medical assistance teams, national disaster medical system readiness, and other activities related to the coordination of the Department's activities concerning bioterrorism preparedness and response.

The agreement includes $10,000,000 for the Substance Abuse and Mental Health Services Administration for grants pursuant to section 582 of the Public Health Service Act to develop programs focusing on the behavioral and biological aspects of psychological trauma response and for developing knowledge with regard to evidence-based practices for treating psychiatric disorders of children and youth resulting from witnessing or experiencing a traumatic event.

The agreement includes language to allow the Secretary to transfer these amounts between categories subject to normal reprogramming procedures as proposed by the Senate. The House bill contained no similar provision.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

The conference agreement provides $10,000,000 as proposed by both the House and the Senate for the Project School Emergency Response to Violence program.

RELATED AGENCIES

National Labor Relations Board

SALARIES AND EXPENSES

The conference agreement provides $180,000 as proposed by both the House and the Senate for the National Labor Relations Board, Salaries and Expenses.

Social Security Administration

LIMITATION ON ADMINISTRATIVE EXPENSES

The conference agreement provides $7,500,000 as proposed by both the House and the Senate for the Social Security Administration, Limitation on Administrative Expenses.

CHAPTER 9

Legislative Branch

JOINT ITEMS

(INCLUDING TRANSFER OF FUNDS)

The conferees approve $256,081,000 for the Legislative Branch to ensure the continuance of government; to enhance the safety and security of legislative branch offices, systems and employees; and to meet the needs arising from the recent anthrax-related events. Of this amount, $34,500,000 is to be transferred to the Senate, $41,712,000 to the House, $350,000 to the Capitol Guide Service and Special Services Office, $31,000,000 to the Capitol Police Board, $106,304,000 to the Architect of the Capitol, $29,615,000 to the Library of Congress, $4,000,000 to the Government Printing Office, $7,600,000 to the General Accounting Office, and $1,000,000 as a grant to the United States Capitol Historical Society. The conferees direct that none of the funds provided to the Legislative Branch agencies (excluding the House of Representatives and the Senate) are to be obligated without prior approval of an obligation plan submitted to the Committees on Appropriations of the House and Senate.

The conferees direct the General Accounting Office to review and report on the actual and planned obligation of funds transferred to the entities of the Legislative Branch (excluding the House of Representatives and the Senate) pursuant to the Emergency Response Fund established by Public law 107-38 and to submit quarterly status reports on all expenditures to the Committees on Appropriations of the House of Representatives and the Senate.

Significant costs have been incurred by the Legislative Branch to respond to the anthrax-related events at the Capitol Complex; approximately $23,000,000 has been included in this chapter for the United States Capitol Police, the Architect of the Capitol, the House of Representatives, the Senate, the Library of Congress, and the General Accounting Office. The conferees note that funds to reimburse the Environmental Protection Agency and the Department of Defense are included in other chapters of Division B. The conferees recognize that these costs are continually being assembled and will ensure adequate funding is provided to properly respond to this unfortunate incident.

The conferees recognize that several activities of the United States Capitol Historical Society have been crippled due to loss of tourism to the Capitol since September 11, 2001. The conferees are concerned over the financial situation facing the Society and have included a $1,000,000 grant in order for the organization to maintain its operations during the coming year. The conferees direct that the United States Capitol Historical Society submit a detailed spending plan and a plan for future self sufficiency to the Committees on Appropriations of the House of Representatives and the Senate prior to February 15, 2002.

The view of the critical need to increase the U.S. Capitol Police Force the conferees authorize an additional 195 FTEs, for a total of 1454 officers for fiscal year 2002. In addition, 74 civilian FTEs are authorized, for a total of 296 civilian FTEs for fiscal year 2002. These additional civilian positions are to establish an Office of Emergency Management and a Chem-Bio Strike Team.

Administrative Provisions—This Chapter

The conferees have included administrative positions that: authorizes the Senate Sergeant at Arms to acquire buildings and facilities to respond to an emergency situation and enter into a memorandum of understanding with an Executive Agency during emergencies; authorizes the House Chief Administrative Officer to acquire buildings and facilities to respond to an emergency situation and enter into a memorandum of understanding with an Executive Agency during emergencies; relates to the operations of the House of Representatives; authorizes any anthrax-contaminated mail delivered by the U.S. Postal Service to the House of Representatives to be destroyed or otherwise disposed of; to increases the salaries of the Chief and Assistant Chief of the Capitol Police; provides for recruitment and retention incentives for the United States Capitol Police; authorizes the Capitol Police to accept contributions of incidental items and services in response to emergencies; provides assistance to the Capitol Police by Executive Branch Departments and Agencies; authorizes the Chief of Police, to deputize members of the D.C. National Guard and duly sworn law enforcement personnel; authorizes the U.S. Capitol Preservation Commission to transfer funds from the Capitol Preservation Fund to the Architect of the Capitol for the Capitol Visitors Center; authorizes salary adjustments for four positions within the Architect of the Capitol; and various technical adjustments related to Public Law 107–68.

CHAPTER 10

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

Military Construction, Army

The conference agreement provides $20,700,000 for Military Construction, Army, instead of $55,700,000 as proposed by the House. This funding will provide $4,600,000 for a classified overseas project as requested by the President. The additional funding will provide $7,000,000 for a classified project in Utah, and $9,100,000 for three anti-terrorism/force projection projects at Fort Detrick in Maryland. The Senate did not include a similar provision.

California: Fort Ord.—The conferees are aware that the Army will convey two parcels of land the former Fort Ord, California, to the Fort Ord Reuse Authority (FORA) in the future. The City of Seaside, which is a member of FORA, will receive these parcels and could use the land to provide recreational opportunities to disadvantaged youth. Unfortunately, a feasibility study that will determine the environmental remediation needed on the site is not scheduled for completion until 2005. The conferees would support FORA requesting an early transfer of this property, which would hasten the clean up of the property and therefore the conveyance of the property for these purposes.

United States Army South Headquarters.—The conferees understand that the Army has completed a study regarding a potential move of the United States Army South Headquarters from Fort Buchanan, Puerto Rico to Army bases in the continental United States. The conferees direct that any proposed relocation must be consistent with the mission and geographic orientation of the U.S. Army South and in accordance with and Army decision brief reviewing the various site alternatives and recommending the preferred site. The conferees further direct that the Army provide the House and Senate Appropriations Committees the results of that study and any further updates.

The conferees further direct the Army to report to the committee no later than February 28, 2002, the following concerning this relocation: the number of military and civilian personnel to be moved; the estimated cost; selection criteria and analysis of alternatives; and, any changes to the current plan.

Military Construction, Navy

The conference agreement provides $2,000,000 for a perimeter road at Thurmont Naval Support Facility in Maryland as proposed by the House. The Senate did not include a similar provision.

Military Construction, Air Force

The conference agreement provides $46,700,000 for Military Construction, Air Force, instead of $47,700,000 as proposed by the House. This amount will provide $20,000,000 for planning and design of a classified project. The additional $26,700,000 is for construction of two classified overseas projects. The Senate did not include a similar provision.

Military Construction, Defense-wide

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides $35,000,000 for Military Construction, Defense-wide, to provide additional security enhancements at four sites where stockpiles of weapons of mass destruction are located. The House proposed funding this project in the "Military Construction, Army" account. The Senate did not include a similar provision.

General Provisions—This Chapter

The conference agreement includes three general provisions.

Section 1001 provides the Department of Defense (DOD) with authority to use funds from the Defense Emergency Response Fund (DERF) for military construction projects. The Department is required to provide Congress with information describing the project and its costs 15 days before obligating the amounts.

Despite Congressional intent that the $40,000,000,000 provided in P.L. 107–38 be used for purposes necessitated by the events of September 11, 2001, the Office of Management and Budget (OMB) and DOD unintentionally created a legal barrier for the funds to be used for military construction projects by depositing funds into the DERF account. As a result, projects vital to the war effort and to homeland security have been stalled while the Department worked through the complexities of section 2808 of title 10. Exercising the authority provided in this general provision overcomes these obstacles.

However, the conferees remain concerned that the recent process has not been the most effective method for providing funds for military construction projects when responding to an emergency. Consequently, the conferees direct the Department and OMB to analyze military construction requirements in future defense emergencies so they are properly included as part of any overall DOD/OMB submission to Congress rather than separate form any other defense emergency requirements.

Under the existing authority of section 2808 of title 10, a process exists for transferring prior year appropriations to supplement the DERF account for military construction required due to the terrorist acts of September 11, 2001. The conferees direct DOD to use unobligated balances from fiscal years prior to fiscal year 2002 for these purposes. Then, if insufficient unobligated funds are available, fiscal year 2002 appropriations may be transferred. Additionally, DOD is directed to notify Congress 15 days prior to any such transfer, to submit an accompanying Form 1391, and to consult, as is the current practice, about the source of funds from which the transfer is derived.

To date, DOD has used section 2808 authority on several occasions, transferring $68,900,000 from authorized and appropriated military construction projects to unauthorized projects needed to effectively fight the war on terrorism and to provide security in the United States. The conferees agree that these projects are extremely important to adequately respond to the terrorist acts of September 11, 2001, and note that prior to invoking section 2808, the President must declare war or a state of emergency. However, the conferees direct DOD to reimburse accounts that were used as a source of funds for any project executed under section 2808 authority.

Yet, using unobligated balances from previously appropriated projects effectively increases the $40,000,000,000 in supplemental appropriations provided for this purpose without a new appropriation. This action is being taken despite the fact that OMB continues to publicly assert that the $40,000,000,000 provided under the Supplemental is more than sufficient to effectively prosecute the war effort. Clearly, using section 2808 authority belies this contention.

Section 1002 amends section 138 of Public Law 106–246 by inserting a new amount for completion of the Cadet Physical Development Center at the Military Academy, West Point, New York. The Army intends to pay for additional costs with savings from prior appropriations. The conferees remain concerned about cost overruns associated with this project and direct the Army to complete the project as expeditiously as possible within the current authorization.

Section 1003 amends section 2202(a) of the National Defense Authorization Act for Fiscal Year 2002 by making a technical correction.

CHAPTER 11

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

TRANSPORTATION SECURITY ADMINISTRATION

The conference agreement includes $94,800,000 for the new Transportation Security Administration instead of $15,000,000 as proposed by the House. The Senate provided no similar appropriation. Within this total, $1,500,000 shall be for intelligence and security activities and $93,300,000 shall be for port security grants.

Port security.—There are 361 public ports in the United States and they conduct over 95 percent of United States overseas trade. The

Interagency Commission on Crime and Security in U.S. seaports reported in the fall of 2000 that the state of security in U.S. seaports generally ranges from poor to fair and that control of access to the seaport or sensitive areas within the seaport is often lacking. The Commission found that criminal organizations are exploiting weak security in ports to commit a wide range of cargo crimes and that the vulnerability of American ports to potential terrorist attacks is high. The Commission recommended minimum security guidelines for U.S. seaports and implementation of a five-year crime and security technology plan.

The conference agreement includes $93,300,000 for grants to U.S. seaports for security assessments and enhancements. The funds provided in the conference agreement can be used for security assessments and for implementation of measures once assessments have been performed. The conferees do not intend this grant funding to be used to displace current security funding and activities either provided by the ports or by federal agencies. The funding provided in the conference agreement is to be used for additional security activities not now being performed at the ports. In developing and administering this grant program, the Under Secretary of Transportation for Security is expected to work in cooperation with local port authorities and other affected federal agencies, including the Coast Guard and Maritime Administration.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes $50,000,000 for the payments to air carriers (essential air service program) instead of $57,000,000 as proposed by the Senate. The House provided no similar appropriation. These additional funds will bring the total program level to $113,000,000 in fiscal year 2002. This amount should be sufficient to maintain commercial air service to all eligible communities. For new points with significant enplanement levels that may become eligible under the essential air service program in fiscal year 2002 that currently have three flights per day, the conferees direct that this level of service continue.

Coast Guard

OPERATING EXPENSES

The conference agreement includes $209,150,000 instead of $144,913,000 as proposed by the House and $285,350,000 as proposed by the Senate. Funds are available until September 30, 2003 as proposed by the Senate instead of available until expended as proposed by the House. The conference agreement distributes funds as follows:

Item	*Amount*
Reserve activation …………	$110,000,000
Restoration of fiscal year 2002 reductions ……………	33,507,000
Anti-terrorism activities, including Marine safety and security teams ………	41,293,000
Chemical/biological strike teams …………………………	2,500,000
National Defense Authorization Act entitlements	21,850,000
Total ………………………	209,150,000

Marine safety and security teams.—The conferees agree that funding for marine safety and security teams is for establishment of 348 full-time permanent positions for four new teams, including two teams with area-wide operating responsibility (one each for the Atlantic and Pacific operating areas) and two teams to exclusively serve those port areas presenting the greatest port security challenges, especially those ports with a substantial concentration of critical Department of Defense facilities and a shortage of alternative floating assets. The Senate bill included funds for two area-wide teams and four teams for specific ports. The conferees have no objection to the Commandant co-locating the area-wide teams with the port specific teams if he believes that economies of scale and programmatic benefits will result.

FEDERAL AVIATION ADMINISTRATION

Operations

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes $200,000,000 instead of $291,500,000 as proposed by the House and $251,000,000 as proposed by the Senate. Funds are available until September 30, 2003 as proposed by the Senate instead of available until expended as proposed by the House. Funds are derived from the airport and airway trust fund as proposed by the Senate instead of from the general fund as proposed by the House. The conference agreement distributes funds as follows:

Item	*Amount*
Cockpit door modifications	$100,000,000
Sky marshals …………………	65,000,000
Security experts ………………	20,000,000
Training facilities …………	15,000,000
Total ………………………	200,000,000

Cockpit door modifications.—The conference agreement provides $100,000,000 for new or modified cockpit doors on commercial aircraft to improve security of the flight deck. The conferees understand that, under current plans, this is the maximum amount likely to be obligated during fiscal year 2002.

Sky marshals.—The conferees agree to provide $65,000,000 in this bill for additional sky marshals, and direct that, of the funds provided to the Transportation Security Administration in the Department of Transportation and Related Agencies Appropriations Act, 2002 from security user fees, $55,000,000 shall be reserved and used in fiscal year 2002 for the hire of additional sky marshals. The House bill included $233,000,000 in this bill for the sky marshal program; the Senate bill provided no funds.

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes $108,500,000 instead of $175,000,000 as proposed by the House and no funds as proposed by the Senate. Funds are to be derived from the airport and airway trust fund as proposed by the House, and available until September 30, 2004 instead of available until expended as proposed by the House. As requested by the administration, these funds are to be used for the procurement and installation of explosive detection systems.

Research, Engineering, and Development

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes $50,000,000, to be derived from the airport and airway trust fund, as proposed by the Senate. Funds are to remain available until September 30, 2003 instead of September 30, 2002, as proposed by the Senate. The House bill contained no similar appropriation. Of the funds provided, not less than $25,000,000 is for proof of concept demonstrations as described in the Senate report accompanying the bill, incorporating a global satellite-based communications, navigation and surveillance architecture; a highly integrated, secure common information network; and a broadband two-way secure communications capability. The conferees direct that these demonstrations shall leverage significant industry cost-sharing efforts. The remaining funds are for short-duration demonstrations and pilot projects for airports and airlines involving potential new security technologies and concepts, including $2,000,000 for a demonstration of 100 percent positive passenger bag match technology at Reagan Washington National Airport in Virginia, as proposed by the House.

Grants-in-Aid for Airports

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes $175,000,000 instead of $200,000,000 as proposed by the Senate, to be derived from the airport and airway trust fund and to remain available until expended, for reimbursement to airports of direct costs associated with additional or revised security requirements since the September 11th terrorist attacks. The House bill contained no similar appropriation. The conferees note that the funding provided is available for security improvements and other assistance at Ronald Reagan Washington National Airport in Virginia and the Johnstown Airport Authority in Pennsylvania in response to the terrorist attacks of September 11, 2001.

FEDERAL HIGHWAY ADMINISTRATION

Miscellaneous Appropriations

(HIGHWAY TRUST FUND)

The conference agreement provides $100,000,000 for miscellaneous highway-related appropriations instead of $110,000,000 as proposed by the Senate. Funds shall be derived from the highway trust fund, and shall be for the critical expansion of interstate ferry service necessitated by the attacks of September 11th. Prior to those attacks, 67,000 daily commuters utilized the PATH transit service between New Jersey and the World Trade Center. The conference agreement directs that these funds be made available to expand critical ferry services to serve PATH commuters traveling from New Jersey to Manhattan. A total of $10,000,000 for traffic controls and detours in New York City and for the repair and reconstruction of non-Federal-aid highways destroyed or damaged by the collapse of the World Trade Center buildings is provided under the Federal Emergency Management Agency as proposed by the House, instead of under this head as proposed by the Senate.

Federal-Aid Highways

Emergency Relief Program

(HIGHWAY TRUST FUND)

The conference agreement provides $75,000,000, to be derived from the highway trust fund and to remain available until expended, for emergency relief as proposed by both the House and Senate.

Federal Railroad Administration

SAFETY AND OPERATIONS

The conference agreement provides $6,000,000 for safety and operations of the Federal Railroad Administration, as proposed by both the House and the Senate. Funding shall be used for additional expenses related to overtime and the hiring of police and security officers; increased inspections of rail infrastructure; additional security personnel; additional inspector travel; and other security measures.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

The conference agreement provides $100,000,000 for capital improvements of the

National Railroad Passenger Corporation (Amtrak) as proposed by the Senate. The House provided no similar appropriation. These funds shall be used solely to enhance the safety and security of the aged Amtrak-owned rail tunnels under the East and Hudson Rivers. Funding shall remain available until expended.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

The conference agreement includes $23,500,000 for formula grants as proposed by both the House and the Senate. These supplemental funds will finance the replacement of buses and transit kiosks destroyed by the collapse of the World Trade Center; provide technical assistance for transit agencies to refine and develop security and emergency response plans; accelerate and expand the PROTECT program aimed at detecting chemical and biological agents in transit stations; conduct emergency response drills with transit agencies and local first response agencies; and provide security training for transit operators. Funding shall remain available until expended.

Dulles corridor transit project.—To facilitate the extension of rail service to Washington Dulles International Airport, the Administrator of the Federal Transit Administration shall work with the Commonwealth of Virginia, Northern Virginia municipalities, the Metropolitan Washington Airports Authority, and the Washington Metropolitan Area Transit Authority to develop and implement a financing plan for the Dulles Corridor rapid transit project.

CAPITAL INVESTMENT GRANTS

The conference agreement provides $100,000,000 for capital investment grants as proposed by the Senate. The House bill contained no similar appropriation. These funds shall be used to accelerate transit improvements already underway by the Port Authority of New York and New Jersey and New Jersey Transit, to improve access to the PATH and New Jersey Transit systems, and to initiate transit improvements that are necessary to better accommodate new commuting patterns in the region as a result of the terrorist attack on September 11th. None of these funds should be made available to the Washington Metropolitan Area Transit Authority (WMATA), as their security needs are addressed elsewhere in the bill.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

The conference agreement appropriates a total of $2,500,000 for research and special programs as proposed by the House instead of $6,000,000 as proposed by the Senate. Funding is provided specifically to address security-related problems the agency encountered during the September 11th crisis. This includes $1,000,000 for equipment and contractor support related to information dissemination in the crisis management center; $800,000 to purchase and install dedicated communication cables for the continuity of operations site; and $700,000 for equipment and contractor support to allow the crisis management center to send and receive classified information.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

The conference agreement includes $1,300,000 for salaries and expenses of the Office of Inspector General instead of $2,000,000 as proposed by the Senate. The House bill contained no similar appropriation. Following the attacks of September 11th, the OIG has been given several new responsibilities associated with the Transportation Security Act as well as border security initiatives, which may be addressed with these funds. The Secretary of Transportation and the Director of the Office of Management and Budget should carefully monitor the needs of this office an all the new requirements placed upon it to assure the adequacy of funding for this office. Funding shall be available until September 30, 2003.

RELATED AGENCY

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

The conference agreement includes $650,000 instead of $465,000 as proposed by the House and $836,000 as proposed by the Senate. Funding is available until September 30, 2003.

GENERAL PROVISIONS—THIS CHAPTER

The conference agreement includes the Senate provision that amends section 5117(b)(3) of the Transportation Equity Act for the 21st Century relating to the contract for follow-on deployment of an intelligent transportation system project. The House proposed no similar provision. The conferees note that, while this provision allows the Secretary to allocated these funds through a sole source procurement, the provision does not mandate such an action. The decision to distribute this funding on a non-competitive basis is left entirely to the Secretary.

The conference agreement includes the Senate provision that prohibits the use of appropriated funds, or revenues generated by the National Railroad Passenger Corporation (Amtrak), to implement section 204(c)(2) of Public Law 105–134, relating to development of an action plan, until enactment of an Amtrak reauthorization act. The House proposed no similar provision.

The conference agreement modifies the Senate provision making technical corrections to the Department of Transportation and Related Agencies Appropriations Act, 2002. The provision specifies that of the funds authorized under section 110 of title 23, United States Code, and provided for in the Department of Transportation and Related Agencies Appropriations Act, 2002, that no funds shall be available for the program authorized under section 1101(a)(11) of Public Law 105–178; $29,542,304 shall be set aside for the Woodrow Wilson bridge project; $5,896,000 of the $23,896,000 provided for the national motor carrier safety program is for state commercial driver's license program improvements; and up to $2,300,000 of the $56,300,000 available for border infrastructure improvements may be transferred by the Secretary of Transportation to the General Services Administration for construction of transportation infrastructure for law enforcement purposes in the border states. The conference agreement includes a provision that allows funds for environmental streamlining to be used for non-administrative costs, including grants, cooperative agreements, and other transactions. The House proposed no similar provisions. The conferees are very concerned at the lack of progress the Department had made in issuing the rural consultation provision of the statewide planning regulations. After three years and a clear Congressional mandate under the Transportation Equity Act for the 21st Century, rural local elected officials continue to be left out of statewide planning discussions. The conferees fully expect this rule to be promulgated no later than February 1, 2002.

The conference agreement includes the Senate provision making technical corrections to the Department of Transportation and Related Agencies Appropriations Act, 2002. This provision specifies that funds appropriated to the Research and Special Programs Administration, including funds derived from the pipeline safety fund, in the Department of Transportation and Related Agencies Appropriations Act, 2002 shall remain available until September 30, 2004. The House bill proposed no similar provision.

The conference agreement includes the Senate provision that makes a technical correction to the department of Transportation and Related Agencies Appropriations Act, 2002. This provision amends item 1497 of the table contained in section 1602 of Public Law 105–178 pertaining to capital improvements to intermodal marine freight and passenger facilities in Anchorage, Alaska. The House proposed no similar provision.

The conference agreement makes technical corrections to the Department of Transportation and Related Agencies Appropriations Act, 2002. This provision increases the surface transportation projects appropriation under section 330 by $4,300,000, and reduces section 349 by an equivalent amount. Of the funds provided, $300,000 is for the US–61 Woodville widening project in Mississippi and $4,000,000 is for the City of Renton/Port Quendall interstate maintenance project in Washington. The Senate proposed making these technical corrections by funding these projects within the Federal Highway Administration's obligation limitation. The House proposed no similar provision.

The conference agreement amends bill language contained in the Department of Transportation and Related Agencies Appropriations Act, 2002 for the salaries and expenses of political and Presidential appointees and prohibits funding for certain positions.

The conference agreement includes a provision that relates to the participation of the state of Texas in the state infrastructure bank pilot program.

The conference agreement deletes the provision in title II of division E of the Senate bill which would have required certain procedures regarding labor integration issues relating to the combination of commercial air carriers.

CHAPTER 12

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

The conferees agree to provide $2,032,000 as proposed by both the House and the Senate.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

The conferees agree to provide $1,700,000 as proposed by both the House and the Senate.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

The conferees agree to provide $23,000,000 instead of $23,231,000 as proposed by the House and $22,846,000 as proposed by the Senate. Of this amount, $9,154,000 is provided for training costs associated with new hiring by law enforcement agencies.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS AND RELATED EXPENSES

The conferees agree to provide $8,500,000 as proposed by the House instead of no funding as proposed by the Senate.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

The conferees agree to provide no funding as proposed by the House instead of $600,000 as proposed by the Senate.

Bureau of Alcohol, Tobacco and Firearms

SALARIES AND EXPENSES

The conferees agree to provide $31,431,000 as proposed by both the House and the Senate.

United States Customs Service

SALARIES AND EXPENSES

The conferees agree to provide $392,603,000 instead of $301,759,000 as proposed by the House and $292,603,000 as proposed by the Senate. This fully funds the President's request, and includes additional funding as follows: $245,503,000 for staffing and inspection and investigate technology for borders and critical seaports of entry, to include not less than $10,000,000 for the Southwest Border; $18,300,000 for a commercial backup data facility; and $21,300,000 to support overseas initiatives to counter money laundering such as that used to finance terrorist or criminal activity.

This funding addresses shortages in critical law enforcement staffing and technology investments. To ensure the optimum impact on current vulnerabilities, the conferees direct that the $245,503,000 for border and seaport security shall not be available until 15 days after the Customs Service submits to the Committees on Appropriations and the Secretary of the Treasury a financial plan based upon a comprehensive assessment of the most effective uses of the Service's resources, including the funds provided in this Act, for protection along the Northern Border, Southwest Border, and at critical seaports. The Secretary is directed to review the plan and, within 15 days of its receipt, notify the Committees of his findings.

The conferees direct that this detailed plan address the use of Customs Service resources for the Northern Border, Southwest Border, critical seaports, and other ports of entry that present a potential security risk. The financial plan shall include a revised breakout of fiscal year 2002 funding by object class, and by programmatic category, to reflect the application of funding provided through this Act, and should be consistent with the materials submitted with the President's fiscal year 2003 budget request. Any changes in funding levels that exceed the thresholds for reprogramming set forth in the fiscal year 2002 Appropriations Act for the Department of the Treasury will require advance approval by the Committees, as set forth in the reprogramming guidelines.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

The conferees agree to provide $6,700,000 as proposed by both the House and the Senate.

Internal Revenue Service

PROCESSING, ASSISTANCE, AND MANAGEMENT

The conferees agree to provide $12,990,000 instead of no funding as proposed by the House and $16,658,000 as proposed by the Senate. These funds are to address the highest priority security and response needs of the program.

TAX LAW ENFORCEMENT

The conferees agree to provide $4,544,000 as proposed by both the House and the Senate.

INFORMATION SYSTEMS

The conferees agree to provide $15,991,000 as proposed by the Senate instead of no funding as proposed by the House. The conferees acknowledge the need to adequately provide backup for the recovery of IRS computer systems and include a provision to ensure that the design and construction of the backup system to closely coordinated with the major IRS business systems modernization effort that is underway. The conferees expect the backup system to be completely compatible with all new computer systems.

United States Secret Service

SALARIES AND EXPENSES

The conferees agree to provide $104,769,000 as proposed by both the House and the Senate.

Postal Service

PAYMENT TO THE POSTAL SERVICE FUND

The conferees agree to provide $500,000,000 for emergency expenses of the Postal Service instead of $600,000,000 as proposed by the Senate and no funding as proposed by the House. The conferees agree that these funds shall be obligated for the purpose of protecting postal employees and postal customers from exposure to biohazards material, to sanitize and screen mail, and to replace or repair Postal Service facilities and destroyed or damaged in New Your City as a result of the September 11, 2001, terrorist attacks, The conferees note that the Postal Service has not received a direct appropriation for operations for nearly two decades. Nonetheless, the conferees acknowledge the extraordinary circumstances surrounding biohazardous material in the mail and have provided this emergency supplemental appropriation to address these specific security concerns. In providing these emergency funds, the conferees do not intend to set a precedent for operational subsidies of the Postal Service. The conferees continue to support current law requirements that the Postal Service operate on a self-sustaining basis.

The conferees are aware that the recent incidents of anthrax in the mail pose both technology-based and process-based challenges for the Postal Service, the conferees commend the Postal Service for its on-going efforts and are pleased with the progress made to date. The conferees further believe that additional actions taken by the Postal Service should be based on a comprehensive emergency preparedness plan and, of the funds provided, have withheld from obligation funds for sanitizing and screening the mail until the Postal Service submits such a plan to the Committees on Appropriations, the House Committee on Government Reform and the Senate Committee on Governmental Affairs.

As part of its emergency preparedness plan, the conferees expect the Postal Service to include an assessment of threats to the health and safety of employees and customers of the Postal Service and the integrity of the mail; testing and evaluating the options for detecting and/or addressing those threats, including both technology-based and process-based options; a comparison of the costs and benefits of options under consideration; an evaluation of the strengths and weaknesses of the technologies under consideration for mail sanitization, including an analysis of risks to human health and safety and to mail products associated with each of those technologies; and a timetable for implementing the options selected.

Executive Office of the President

Office of Administration

SALARIES AND EXPENSES

The conferees agree to provide $50,040,000 for emergency expenses of the Office of Administration, as proposed by the Senate instead of no funding as proposed by the House. The conferees are concerned by the lack of detail and background submitted by the Office of Administration in support of emergency appropriations for the Executive Office of President and, more specifically, by limitations in cost estimates for various projects. Although the conferees are aware that many of the cost estimates were prepared in rapid response to the events of September 11, 2001, the conferees are concerned that estimates for some projects may have changed by as much as 250 percent. For instance, while original estimates for building modifications and communication installation activities for the Office of Homeland Security were $2,000,000, the conferees understand that the cost of this project may now be closer to $7,000,000. The conferees have fully funded the President's request for emergency expenses of the Office of Administration, for the specific projects, and in the specific amounts requested, as follows:

EOP estimated obligations

[Dollars in thousands]

Move Related (less IT):	
Sensitive Compartmentalized Information Facility	3,500
Telecommunciations Costs	3,000
Move and Facilities Cost	2,500
Systems Furniture	2,500
Office Rent	1,903
Additional 20 FTE	1,325
Space Renovation	1,000
Second Print Shop	1,000
Overtime	500
Additional Copiers and Fax Machines (including maintenance)	110
Additional Safes and Shredders	75
Subtotal--Move Related	17,413
Information Technology:	
Enhance Information Technology Reliability	15,000
Additional IT Intrusion Security	3,000
EOP-Wide Teleconferencing Capability	3,000
Information Security	700
Anti-Hacking Software	400
Dedicated Technician Support	350
Network Components	61
Subtotal--Information Technology	22,511
Emergency Response:	
Air Quality, Building Modifications and Communications Installs, Backup Power, and Voice Announcers	8,019
Subtotal—Emergency Response	8,019
Uncategorized Misc.:	
Enhance Telecommunications	1,000
Additional White House Operators (10)	600
Reorganization of RDS Warehouse	250
Temporary Data Entry Personnel in WHO Correspondence	164
Paper	44
Catridges and Copier Supplies	20
General Office Supplies	20
Subtotal—Uncategorized Misc	2,098

In the event that there are deviations from these line items, the conferees direct the Office of Administration to follow the appropriate reprogramming and transfer guidelines, as included in the joint explanatory statement accompanying the fiscal year 2002 conference report for the Treasury and General Government Appropriations Act, 2002. In particular, the conferees note the requirement that a reprogramming request must be submitted for any action where funds earmarked for a specific activity are proposed to be used for a different activity. Finally, the conferees expect the Office of Administration to fully coordinate the implementation of these, and any future, security changes with the General Services Administration, the Secret Service, the White House Military Office, and other Executive Office of the President offices and agencies.

Independent Agencies

General Services Administration

Real Property Activities

FEDERAL BUILDINGS FUND

The conferees agree to provide $126,512,000, instead of $126,500,000 as proposed by the Senate and $87,360,000 as proposed by the House. Within this amount, full funding is provided for the requested replacement space costs and security costs in New York and Washington, D.C. The conferees understand that sufficient funding has been provided elsewhere for relocation costs in Washington, D.C., and do not include any funding for that purpose in this account. The conferees strongly encourage the General Services Administration to allocate that portion of the funds provided to meet nationwide security needs in a way that addresses the greatest threats, risks, and vulnerabilities on a national basis regardless of regional boundaries.

National Archives and Records Administration

OPERATING EXPENSES

The conferees agree to provide $1,600,000 instead of no funding as proposed by the House and $4,818,000 as proposed by the Senate. Within this amount the conferees have provided full funding for the requested increases in security operating expenses at Archives I and Archives II and direct that the balance of the funds be used to address the greatest security concerns of the Presidential libraries.

REPAIRS AND RESTORATION

The conferees agree to provide $1,000,000 instead of no funding as proposed by the House and $2,180,000 as proposed by the Senate. Within this amount the conferees have provided full funding for the requested increases in security repairs and restoration expenses at Archives I and Archives II and direct that the balance of the funds be used to address the greatest security concerns of the Presidential libraries.

General Provision, This Chapter

The conferees agree not to include Section 1101 as proposed by the Senate regarding telecommunications access.

Sec. 1201. The conferees agree to include a technical amendment to the "9/11 Heroes Stamp Act of 2001", as proposed by the Senate in Division D.

CHAPTER 13

DEPARTMENT OF VETERANS AFFAIRS

Departmental Administration

GENERAL OPERATING EXPENSES

The conferees recommend $2,000,000 in general operating expenses as proposed by the House for a comprehensive security evaluation of the VA which should include and consider security actions and recommendations implemented by other Federal, State and local government agencies. The Senate included funds for similar purposes under construction, major projects.

None of these funds may be used to create an new Office of Operations and Preparedness as the Department has not provided specific information on the creation of such office.

CONSTRUCTION, MAJOR PROJECTS

The conferees have not provided funds in this account for security evaluations as proposed by the Senate but instead included funding under general operating expenses as proposed by the House.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development

COMMUNITY DEVELOPMENT FUND

The conference agreement includes $2,000,000 from funds appropriated in Public Law 107-38 for economic recovery assistance for affected areas in New York City as proposed by the Senate, instead of $1,875,000,000 as proposed by the House.

The conference agreement includes language designating $10,000,000 for a program to aid the travel and tourism industry in New York City as proposed by the House.

Modified language is included, similar to language proposed by the Senate, requiring the Lower Manhattan Redevelopment Corporation to develop criteria and process applications for the distribution of funds mad available under Community Development Fund from funds provided in Public Law 107-38. Modified language is also included, similar to language proposed by the Senate, requiring the corporation to process expeditiously applications for assistance. The conferees expect the corporation to make every effort to respond to applications from individuals, nonprofit and small businesses for economic losses within 45 days of submission of an application.

Modified language is also included, similar to language proposed by the Senate, designating not less than $500,000,000 of the $2,700,000,000 made available for the Community Development Fund from amounts provided in Public Law 107-38 for assistance to individuals, nonprofits and small businesses located on or south of 14th Street, with a limitation of $500,000 per small businesses.

The conferees adopt the language included in the Senate report related to semi-annual audits by the Inspector General of the Department of Housing and Urban Development. In lieu of the requirement in the Senate report related to reports related to disposition of claims, the conferees instead direct the Department of Housing and Urban Development to provide quarterly reports to the Committees on Appropriations on the obligation and expenditure of these funds.

The conferees recognize the unique benefits the New York board of trade (NYBOT) beings to the economy of the City of New York, as well as to the country. In this regard, the conferees strongly encourage the Corporation to consider the needs of the NYBOT as it allocates assistance provided from the Community Development Fund.

Management and Administration

OFFICE OF INSPECTOR GENERAL

The conference agreement includes $1,000,000 from funds appropriated in Public Law 107-38 to replace office and investigative equipment damaged in the terrorist attacks, as proposed by both the House and Senate.

INDEPENDENT AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

Provides $10,500,000 for the National Institute of Environmental Health Sciences (NIEHS) as proposed by the House and the Senate. Bill language has been adopted by the conferees which clarifies that funds may be used for all NIEHS research and worker training programs as authorized by law. Bill language has also been included amending Public Law 107-73 to clarify the intent of Congress with respect to funds provided for NIEHS for fiscal year 2002.

Environmental Protection Agency

SCIENCE TECHNOLOGY

Provides $90,308,000 for science and technology instead of $10,000,000 as proposed by the House and $41,514,000 as proposed by the Senate. Funds are intended to be used to assess and improve building security at EPA laboratory sites as well as perform drinking water vulnerability assessments, and anthrax decontamination activities.

ENVIRONEMENTAL PROGRAMS AND MANAGEMENT

Provides $39,000,000 for environmental program and management instead of $140,360,000 as proposed by the House and $38,194,000 as proposed by the Senate. The conferees have provided funds necessary to assess and improve building security at EPA sites, pay for the temporary relocation and other costs for EPA's Region 2 office, provide technical materials and contingency planning manuals for wastewater treatment plants, pay for anthrax decontamination activities, and assume additional personnel costs associated with EPA's increased responsibilities in criminal investations and enforcement actions related to bioterrorism and other counterterrorism activities. The conferees recognize and acknowledge that the hiring of additional employees will increase the Agency-wide FTE level. The conferees also recognize that additional Agency-wide requirements to respond to the terrorist attacks of September 11, 2001 as well as subsequent counterterrorism activities will result in increased travel costs of the Agency. In this regard, the conferees agree that the travel ceiling assumed as part of the fiscal year 2002 appropriation is no longer valid, and requests the Agency to provide a quarterly letter detailing the variance in travel relative to the 2002 budget submission.

HAZARDOUS SUBSTANCE SUPERFUND

Provides $41,292,000 for hazardous substance superfund as proposed by the Senate instead of $5,800,000 as proposed by the House. The conferees agree that funds will provide fro a new West Coast "Immediate Response Team", pay for the temporary relocation and other costs for EPA's Region 2 office, pay for anthrax decontamination activities, and provides for personnel, training, equipment, and planning related to increased responsibilities in responding to terrorism and counterterrorism activities. The conferees note that in addition to funds provided for future such activities by EPA, funds provided herein are also intended to reimburse expenses of the Agency incurred while assisting anthrax investigations and cleanup actions at the United States Capitol and Congressional office building complex, the Brentwood and other United States Post Office locations, and other such work performed prior to enactment of this Act.

STATE AND TRIBAL ASSISTANCE GRANTS

Provides $5,000,000 for state and tribal assistance grants as proposed by the House and the Senate. Funds are provided for State grants for counterterrorism coordinators to work with EPA and drinking water utilities in assessing drinking water safety.

Bill language has been included making technical corrections for two targeted water and wastewater grants provided in previous appropriations Acts.

The conferees note that the cost-share requirement for a National Community Decentralized Demonstration project in Missouri, provided under this heading in Public Law 107–73 (item number 173), should be the same as that required for the previous six such demonstration projects approved in fiscal years 1999 and 2000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

The conferees agree to provide $4,356,871,000 for disaster relief to fund additional efforts in response to the September 11, 2001 terrorist attacks. The amount provided includes $10,000,000 for expenses related to traffic control and detours in New York City and for the repair and reconstruction of non-Federal-aid-eligible highways destroyed or damaged by the collapse of the World Trade Center buildings.

The conferees are concerned that there may be some gaps in assistance to those affected by the terrorist attacks on September 11, 2001. The conferees have been informed by FEMA that all firefighters, law enforcement personnel, emergency medical personnel, and victims of this incident will be compensated through FEMA or other federal programs. FEMA has indicated in writing that they are unaware of any gaps in assistance with respect to the terrorism attacks. FEMA is expected to provide funding for all eligible recipients in an expeditious manner.

SALARIES AND EXPENSES

Provides $25,000,000 for salaries and expenses instead of $30,000,000 as proposed by the House and $20,000,000 as proposed by the Senate. The amount provided includes $10,000,000 for the national security division. The conferees are concerned about the continuing lack of information regarding a new Office of National Preparedness within FEMA and agree, that while a portion of the funding provided by this appropriation may be used to establish the Office, FEMA must inform the Congress of the structure, responsibilities, and roles of this new Office, with particular emphasis on its relationships to the Office of Homeland Security and the Department of Justice. Therefore, the conferees direct FEMA to report to the Committees on Appropriations by February 15, 2002 on the structure of the Office of National Preparedness, including a staffing plan, and its duties and functions in relation to other agencies involved in Homeland security.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

Provides $220,000,000 for emergency planning and assistance, instead of $290,000,000 as proposed by the Senate and $35,000,000 as proposed by the House. Of the amount provided, $21,000,000 shall be used to carry out the fire grants program as authorized by the Federal Fire Prevention and Control Act of 1974, as amended by Public Law 106–398. The conferees have included bill language which provides that up to 5 percent of the funds may be transferred to salaries and expenses for administrative costs associated with this program. In addition $10,000,000 is to be used for enhancement of FEMA's ability to support the 2002 Winter Olympics.

Within 90 days of enactment of this Act, the Director of the Federal Emergency Management Agency (FEMA) shall submit to the Director of the Office of Homeland Security and to the Congress a report which shall include:

(1) a complete accounting of all emergency and terrorism preparedness training courses offered by FEMA and all departments and agencies of the federal government;

(2) a discussion of the effectiveness of those courses, the possible consolidation of all federal emergency and terrorism preparedness training courses, the adequacy of federal training courses in the area of chemical and biological weapons, and training models used in the private sector that the Director considers as being representative of the best safety and security practices, particularly relating to the aftermath of a chemical or biological attack.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

The conferees have agreed to provide $76,000,000 for human space flight instead of $81,000,000 as proposed by the House and $64,500,000 as proposed by the Senate. The amount provided includes $8,000,000 for information security, $60,000,000 for security and counterintelligence, and $5,000,000 for communications capabilities. An additional $3,000,000 is provided for enhanced radar capability (TPS–75 mobile radar system) to provide low-altitude coverage for security needs at the Kennedy Space Center.

SCIENCE, AERONAUTICS AND TECHNOLOGY

The conferees agree to provide $32,500,000 for science, aeronautics and technology, instead of $36,500,000 as proposed by the House and $28,600,000 as proposed by the Senate. The amount provided includes $12,000,000 for information security, $15,000,000 for security and counterintelligence and $5,500,000 for communications capability.

OFFICE OF SECURITY

In August 2001, NASA established the Office of Security Management and Safeguards under the direction of an Associate Administrator reporting directly to the NASA Administrator. The Associate Administrator for Security Management and Safeguards is the senior security and counterintelligence advisor to the NASA Administrator, with ultimate authority for NASA-wide security and counterintelligence operations, processes, functions, and activities, as well as administrative authority over NASA security funds. The conferees support the establishment of the Office of Security Management and Safeguards, and the full authority of this Office over Agency-wide security and counterintelligence activities and funding. Furthermore, the conferees agree with direction included in the Senate Report that NASA shall identify funding from within available Agency resources to provide for approximately 35 additional FTE to staff the Office of Security Management and Safeguards at NASA Headquarters and at NASA's field Centers. The conferees also agree that responsibilities of the NASA Office of Security Management and Safeguards shall in no way prevent the Office of Inspector General from conducting its lawful investigative activities, including investigations into cyber crime. Further, the conferees expect that the Office of Security Management and Safeguards and the Office of the Inspector General will continue to share counter-intelligence and intelligence threat information concerning NASA information technology networks as it pertains to cyber-based threats to NASA.

OFFICE OF INSPECTOR GENERAL

The conferees have not included any additional funding for the Office of Inspector General. The House had proposed an increase of $3,000,000 and the Senate had proposed no additional funding.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

Provides $300,000 for research and related activities as proposed by the House and the Senate. Funds are provided for additional security measures at NSF research facilities.

GENERAL PROVISIONS, THIS CHAPTER

Retains language proposed by the Senate authorizing the Points of Light Foundation to name community service projects after individual victims of the September 11, 2001 attacks and create a website and database to catalogue such projects. No federal funds are to be used for these activities. The House did not include a similar provision.

Retains language proposed by the Senate authorizing the Cook Inlet Housing Authority to use the previously appropriated funds for a tribal student housing project. The House did not include a similar provision.

The conference agreement includes modified language, similar to language proposed by the Senate, making available up to $11,300,000 for obligations under section 514 of the Multifamily Assisted Housing Reform and Affordability Act (MAHRAA). Of this amount, up to $1,300,000 in fiscal year 2002 funds is authorized to be used to reimburse vouchers submitted by section 514 grantees through October 15, 2001 for prior year commitments which were probable violations of the Anti-Deficiency Act (ADA). The conferees note that the Department of Housing and Urban Development has yet to provide sufficient information to the Committees on Appropriations related to violations of the ADA related to section 514 grants. The conferees expect the Department to investigate fully this matter and provide the necessary notifications to the President and the Congress in accordance with the requirements set forth in the Anti-Deficiency Act and Office of Management and Budget Circular A–34. Pending conclusion of the investigation and notification requirements, the Department is authorized to use a portion of the $10,000,000 provided in fiscal year 2002 for new grant awards to reimburse grantees for activities completed pursuant to prior year grant agreements. Should the Department use funds for this purpose, the amount made available for new grant awards shall be reduced accordingly. The conferees direct the Secretary of the Department of Housing and Urban Development to provide bimonthly reports to the Committees on Appropriations on the status of technical assistance funds spent under section 514 of MAHRAA, including the status of the investigation of probable ADA violations, a spending plan for the $11,300,000 made available under this section, and the status and findings of audits conducted by the Inspector General, with the first report due no later than January 15, 2002.

Modified language is also included earmarking $1,500,000 from funds provided to the Office of General Counsel and the Office of Multifamily Housing Assistance Restructuring to be used for section 514 technical assistance grants, similar to language proposed by the Senate.

New language is included clarifying that the authorization to use funds to rectify a violation of the Anti-Deficiency Act in no way releases an officer or employees from the requirements set forth pursuant to the Act.

Inserts language making several technical corrections to economic development initiatives under the heading "Community Development Fund" in Public Law 107-73.

CHAPTER 14

General Provisions

The conference agreement includes section 1401, as proposed by the Senate, which states that amounts obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107-38. The House had no similar provision.

The conference agreement includes section 1402, as proposed by the House and the Senate, concerning availability of funds appropriated within this division.

The conference agreement includes section 1403 concerning transfer authority for national guard expenses for services related to homeland security. Each request for transfer shall include a declaration that, as of the date of the request, none of the funds proposed for transfer have been obligated, and none will be obligated, until the Committees on Appropriations have approved the request.

DIVISION C—SPENDING LIMITS AND BUDGETARY ALLOCATIONS FOR FISCAL YEAR 2002

The conference agreement includes, as division C, budgetary provisions that are necessary to conform existing budget law with final appropriations agreements. Sections 101 adjusts the fiscal year 2002 discretionary caps in the Balanced Budget and Emergency Deficit Control Act of 1985 to levels consistent with final appropriations action. This section also provides for conforming adjustments to the fiscal year 2002 budget resolution, and includes a small budget authority allowance for technical scoring differences that may exist between the Office of Management and Budget and the Congressional Budget Office. Section 102 resets the Pay-As-You-Go scorecard to zero.

DIVISION D—MISCELLANEOUS PROVISIONS

The conference agreement modifies a provision, proposed by the Senate in Division E, related to certain real property in South Dakota. The House bill contained no similar provision.

The conference agreement includes the text of a provision, proposed by the Senate in Division E, Title II, section 201, which expands the number of Trustees of the John F. Kennedy Center for the Performing Arts. The House had no similar provision.

DIVISION A

The total new budget (obligational) authority for the fiscal year 2002 recommended by the Committee of Conference, with comparisons to the fiscal year 2001 amount, the 2002 budget estimates, and the House and Senate bills for 2002 follow:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 2001	298,515,154
Budget estimates of new (obligational) authority, fiscal year 2002	319,547,116
House bill, fiscal year 2002	317,624,089
Senate bill, fiscal year 2002	317,623,483
Conference agreement, fiscal year 2002	317,623,747
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2001	+19,108,593
Budget estimates of new (obligational) authority, fiscal year 2002	−1,923,369
House bill, fiscal year 2002	−342
Senate bill, fiscal year 2002	+264

DIVISION B

The total new budget (obligational) authority for the fiscal year 2002 recommended by the committee of conference, with comparisons to the fiscal year 2002 budget estimates, and the House and Senate bills for 2002 follow:

[In thousands of dollars]

Budget estimates of new (obligational) authority, fiscal year 2002	20,000,000
House bill, fiscal year 2002	20,000,000
Senate bill, fiscal year 2002	20,000,000
Conference agreement, fiscal year 2002	20,000,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 2002	
House bill, fiscal year 2002	
Senate bill, fiscal year 2002	

For consideration of Division A of the House bill and Division A of the Senate amendment, and modifications committed to conference:

Jerry Lewis,
Bill Young,
Joe Skeen,
Dave Hobson,
Henry Bonilla,
George R. Nethercutt, Jr.,
Randy "Duke" Cunningham,
Rodney P. Frelinghuysen,
Todd Tiahrt,
John P. Murtha,
Norman D. Dicks,
Martin Olav Sabo,
Peter J. Visclosky,
James P. Moran,
David R. Obey
(except for aircraft leasing),

For consideration of all other matters of the House bill and other matters of the Senate amendment, and modifications committed to conference:

Bill Young,
Jerry Lewis,
David Obey,
Managers on the Part of the House.

Daniel K. Inouye,
Ernest F. Hollings,
Robert C. Byrd,
Patrick J. Leahy,
Tom Harkin,
Byron L. Dorgan,
Richard J. Durbin,
Harry Reid,
Dianne Feinstein,
Herb Kohl,
Ted Stevens,
Thad Cochran,
Arlen Specter,
Pete Domenici,
Christopher Bond,
Mitch McConnell,
Richard C. Shelby,
Judd Gregg,
Kay Bailey Hutchison,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 3525, ECONOMIC SECURITY AND WORKER ASSISTANCE ACT OF 2001

Mr. REYNOLDS. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 320 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 320

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3529) to provide tax incentives for economic recovery and assistance to displaced workers. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) two hours of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit. The yeas and nays shall be considered as ordered on the question of passage. Clause 5(b) of rule XXI shall not apply to the bill or amendments thereto.

The SPEAKER pro tempore (Mr. LaTourette). The gentleman from New York (Mr. Reynolds) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. Frost), the ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 320 is a closed rule providing for consideration of H.R. 3529, the Economic Security and Worker Assistance Act of 2001, with 2 hours of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill, and it provides for one motion to recommit, with or without instructions.

Mr. Speaker, while the images of September 11's terrorist attacks will last forever in the minds of the American people, the fact is that the full impact of that day goes beyond that which we could conceive in the piles of rubble and twisted metal. While economic indicators show this Nation's economic downturn began in September of 2000, a full year before the attacks of September 11, that vicious assault on our Nation and its people only exacerbated an already fragile situation.

Months before the latest crisis, this Congress showed the leadership, the bipartisanship, and sense of purpose needed to bring our economy back through tax reduction for working Americans. We knew then that tax cuts put more money in the pockets of working families, increased consumer savings and spending, and spurred our economy back to recovery.

We came together, too, immediately after September 11, in another strong showing of leadership, bipartisanship, and sense of purpose when we gave this President the tools he needed to fight terrorism and punish those responsible for the attacks on our country, and began our financial commitment to rebuild those areas devastated by terrorism.

Today, we need to come together yet again, this time for America's workers; and the leadership, bipartisanship and sense of purpose we have shown the people of this great country must be evident again.

Cutbacks, layoffs, plummeting consumer confidence. These are some of the key factors contributing to our current economic situation. Just as we fortified our Nation's military in response to the attacks on our shores, we have the opportunity to fortify this Nation's economy against the attack on it by keeping jobs, by creating jobs, and by giving needed help to displaced workers.

Mr. Speaker, as my colleagues might be aware, we have an hour on this rule and a 2-hour debate on the economic stimulus bill yet before us tonight.

Make no mistake. This economic stimulus is critical to the workers and working families of America.

President Bush warned us this past weekend that without an economic stimulus package, we stand to lose as many as 300,000 American jobs; and no one knows of the current job struggle like my constituents and fellow New Yorkers across my great State. In New York City alone, some 79,000 workers lost their jobs in the month of October. The ripple effect, where an estimated 15 percent of all State revenues are generated in Lower Manhattan, is, indeed, being felt across our State and our Nation. In fact, between September and October, 62,000 workers across New York became unemployed.

According to the New York State Labor Department, the Buffalo-Niagara region where I hail from lost 2,900 jobs over the last year. This is the longest decline in the local job market in 8 years.

The fact is that jobs just do not create themselves, and we in this Congress have both the ability and the responsibility to help create those jobs. This bill recognizes that we cannot create employees if we do not work with employers to create jobs.

As Franklin Delano Roosevelt once said, "I believe, I have always believed, and I will always believe in private enterprise as the backbone of economic well-being in America."

□ 2315

Through new incentives to compete, grow, and expand, the bipartisan, bicameral Economic Security and Worker Protection Act of 2001 will help business rebuild and create jobs for the American people. Workers want and they deserve a paycheck, not an unemployment check.

Of course, this stimulus package recognizes that job creation is a long-term project, and that assisting those out of work requires immediate short-term solutions. For those who have lost their jobs, an additional 13 weeks of unemployment benefits will be provided, retroactive to March, 2001.

Part-time workers will be aided by $9 billion in surplus Federal unemployment funds transferred to States in order to help with health care or employment services.

Equally important to our work force is the availability and affordability of adequate health care. With the refundable health care tax credit provided in this legislation, no worker eligible for unemployment insurance will be left without the means to obtain quality health care protection.

So when my colleagues on the other side of the aisle and in the other Chamber wanted only COBRA-eligible workers to get a tax credit, leaving 45 percent of laid-off workers in small- and medium-sized businesses and those who never had job-based health care, let us not forget, not for a minute, who some of those workers are.

What about those who owned or worked in the delis or dry cleaners, those who delivered goods and cleaned offices in lower Manhattan? Should they have been excluded from being able to have affordable health care, as many would under the plan advanced by the Democratic leadership in the other body?

The bipartisan compromise plan, on the other hand, provides a refundable 60 percent tax credit for health insurance premiums paid by displaced workers. Those workers who had prior health insurance coverage will have the right to guaranteed coverage. Additionally, the bill provides for an extension of the Archer Medical Savings Accounts, allowing families and individuals to be in charge of their own health care dollars.

Mr. Speaker, as we prepare to wind down the first session of this 107th Congress, we can look back on a record of great accomplishment for the American people. We cut taxes for working families, we enacted sweeping education reforms that provide the blueprint and resources to ensure that no child is left behind, and we came together to lead a global war on terrorism, a war that we and freedom-loving people everywhere are winning.

Our action tonight sends a strong message that this House is working to retain jobs, to create jobs, and to protect displaced workers in their time of need.

Mr. Speaker, let us finish this year as it began, in a strong bipartisan effort that will protect American workers and create American jobs. I strongly urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to make several basic points to my colleagues in the discussion on this rule.

First is the question of bipartisanship. The Democrats in good faith entered into negotiations with Republicans to try and work out a stimulus package. Republicans broke off those negotiations and commenced an attack on the majority leader in the Senate. That was their response to bipartisanship.

Instead of permitting Democrats to bring a substitute up tonight, which perhaps might attract some bipartisan votes and be a real bipartisan solution, they crafted a closed rule. That was their response to bipartisanship.

Mr. Speaker, one of the previous speakers earlier this evening mentioned the visit by the President of the United States to the Democratic Caucus today. The President came to the Caucus and thanked us for our support in the war on terrorism. The President did not mention the economic stimulus package, and we were advised in advance of his visit that he would not take any questions about the economic stimulus package.

Now, we all have a great deal of respect for the office of the Presidency, but this was not an act of bipartisanship this morning.

Mr. Speaker, this bill will cost a whopping $250 billion over the next 5 years. This bill has no offsets for these costs, so the entire amount will be added to the deficits the director of OMB has predicted for fiscal years 2002, 2003, and 2004. That means, plain and simple, we are in the Social Security trust fund, we will not be paying down the debt, and our fiscal picture grows bleak once again.

The substitute that we sought to offer and that we were denied by this rule would have paid for the cost of the Democratic package and would not have contributed to further deficits in this country.

Mr. Speaker, one of the key differences between the Democratic alternative, which we will not be permitted to vote on, and the package before us deals with health care.

Let me be very clear, Mr. Speaker: The core of the Republican health care provision in this bill is a hollow promise and a cruel hoax. On page 100 of the bill, page 100 of the bill, there is a short section, section 757(a), that instructs the administration to establish some sort of program sometime in the future, which is supposed to provide the unemployed with vouchers for health care.

Republicans set no deadline for developing this new program, and they provide no specifications for how it might work. It is little more than a vague promise. Democrats would take an existing program, the COBRA program, and use that to immediately provide health care for unemployed workers.

I know Members sometimes do not have the opportunity to read legislation that is produced hastily and presented to the floor hastily, as the Republicans are presenting this bill, so I would like to read the section that I just mentioned, this Republican alternative to the existing program of COBRA:

"Advanced payments of displaced worker health insurance credit. General rule. The Secretary shall establish a program for making payments on behalf of eligible individuals to providers of health insurance for such individuals. 'Eligible individual.' For purpose of this section, the term 'eligible individual' means any individual for whom a qualified health insurance credit eligibility certificate is in effect. Qualified health insurance credit eligibility certificate. For purposes of this section, a qualified health insurance credit eligibility certificate is a statement certified by a State agency or by any other entity designated by the Secretary which certifies that the individual was unemployed within the meaning of section 6429 as of the first day of the month, and provides such other information as the Secretary may require for purposes of this section."

When asked when this section would be implemented by the Secretary of the Treasury, the chairman of the Committee, the gentleman from California (Mr. THOMAS) told the Committee on Rules "sometime this spring," he hopes.

Mr. Speaker, until this promise is somehow fulfilled, laid-off workers are practically on their own if they want health insurance. That is because, Mr. Speaker, Republicans offer nothing more than a refundable tax credit for every American who is unemployed today, and for every American who loses his job when this Rube Goldberg scheme that I just read has been designed, developed, and put in place.

In other words, if you lose your job, the Republican bill requires you to scrape together several thousand dollars to pay for health insurance bills right now, at the same time you are scrambling to pay for rent and buy groceries, and according to the gentleman from California (Mr. THOMAS), to file for a government voucher to offset part of the cost, which may be granted sometime in the future when the program is designed.

Mr. Speaker, we offer a very simple program: We take the existing COBRA program that was passed many years ago by this Congress, and it provides health insurance for unemployed workers, and extend that to workers who have been laid off recently, and provide 75 percent of that to be paid for by the government now, not at some future date when this program may be set up by the Secretary.

Mr. Speaker, Americans who lose their jobs do not need refundable tax credits, vouchers in the future; they need direct assistance right now to pay their health insurance premiums, and they need guaranteed access to affordable health insurance policies.

Mr. Speaker, this bill ignores the fact Democrats in the House and Senate, including the Senate majority leader, have made good-faith efforts and major concessions in an attempt to reach accommodation on an economic stimulus package that is good for the country and good for American workers.

Mr. Speaker, this bill, this rule, denies the minority the opportunity to offer its own substitute, and I can tell the Members why the majority denies the minority that opportunity: They are afraid we might pass it, and they are afraid then the Senate might actually take something up which is truly bipartisan and could be passed before we go home.

What they have done is to design a scheme to present a bill that they know the Senate will not consider. This is a cynical approach on the part of the majority. First they break off bipartisan talks, and then they try and blame us for the fact that they present a partisan bill without an alternative that they know will not be considered by the other body.

The American public deserves better, Mr. Speaker. Defeat this rule, go back to the Committee on Rules, which we could very easily do, we are going to be here all night anyway, and report out a rule that gives the Democrats the option of offering an alternative on the floor which could attract, I believe, Republican votes which could be passed tonight and which the Senate could take up tomorrow, rather than passing a bill that is going nowhere.

The majority knows this, and the majority is treating the American public with the back of their hand.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the first thing when we listen to my colleague is, let us make no mistake about it, the Committee on Rules has allowed as the tradition of the Republican majority long before I got here, beginning in its majority in 1995, they made a vow then, a commitment then, that it carries out each and every time: A motion to recommit by the minority, something that in the 40 years that the Republicans were in the minority, they did not have that opportunity to see.

When we talk about the debate, which I hope, in the 2-hour debate that the Committee on Rules afforded the Committee on Ways and Means chairman and the ranking minority member to air out these important details, that we will not lose sight, as the ranking member has talked about some of the deficiencies he saw, that first and foremost, the Democratic plan involves a tax increase. That is how they want to pay for it, a tax increase.

□ 2330

Second, when my colleague talks about the plan that is before us, when my State has 15 percent of its revenues that were generated in the area, in the 15 blocks around the World Trade Center, how can anyone say repairing our economy in the wake of September 11 is not part of the war on terrorism?

Finally, when the ranking member talked about some of the health care, the view of the Democratic plan is if you are COBRA eligible, we are going to take care of you. Except they have lost sight of the 45 percent of the other American workers across this country, across my State, across the City of New York that do not have COBRA eligibility and do not have COBRA option.

The Thomas bill addresses the opportunities of those 45 percent of the displaced workers that need the type of help that this legislation has.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, the economy is sick. Unemployment is going up. The economy does need a shot in the arm. This bill contains provisions to help the unemployed with health care coverage, provisions to encourage business investment and deductions for capital losses. I rise in support of the rule and in support of the underlying bill.

This bill will cut the current 27 percent rate to 25 percent. It will provide tax incentives to businesses for investments and give low income workers a one-time $300 per person tax rebate. It provides $33 billion in assistance to unemployed workers next year up from $13 billion in the original House bill. It does not include the full repeal of the corporate AMT.

The toughest issue to reach compromise on, as you can already see from the debate, is how to provide health insurance coverage to people who lost their jobs. This bill gives laid-off workers a tax credit they can use to buy health care coverage from insurers. This is a more comprehensive approach than simply providing subsidies through existing health plans. I think this bill will help a larger universe of unemployed workers, particularly workers for small businesses.

This stimulus bill will also help with rebuilding New York. It will help the September 11 victims' families. Furthermore, it provides up to 13 weeks of extended benefits for those who became unemployed after March 2001.

I call on my colleagues to support this bill and I hope that the Senate takes this up before they go home for Christmas.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me time.

Coming from the State with the highest unemployment rate in the United States, I speak with a sense of urgency and all too much familiarity with the need to stimulate the economy and employment. But the corporations that have laid off thousands of Oregonians and millions of others across the United States, they do not lack cash in their coffers. Some have record amounts of cash on hand, according to the Wall Street Journal. There is no demand for their product.

Now, the Republicans would shovel more cash into their treasuries that are already overflowing. Every problem should be solved by a tax cut on their side of the aisle. Surplus? Tax cuts. Terrorist attacks? Tax cuts. Deficits? Tax cuts. Recession with a lack of demand? Tax cuts.

It will not solve this problem. The Democratic proposal, which will not be allowed a fair vote tonight as a true alternative, would put people back to work, would stimulate demand and would, in the interim, help people with unemployment and health care benefits.

The Republicans say it is about jobs. But if you read the bill, you have got to wonder whose jobs where. Because billions of dollars, billions, would flow overseas for overseas tax shelters for interest income overseas. Whose jobs will that support here? No worker that I know in the United States will benefit from those loopholes. But they will pay for it out of their Social Security because that is what finances these tax cuts.

$250 billion, that is what this bill costs. And it is not going to be paid for by Santa Claus. It will be paid for by that huge sucking sound, one massive withdrawal of the working people's retirement, Social Security trust fund shifted all at once to the wealthiest and largest corporations in this country.

Silk stockings stuffed with cash for the patrons of the party on that side of the aisle. And for the working people of America, not even a lump of coal in their worn stocking because they will cut the LIHEAP program too. There will not even be energy assistance.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just need to put on the record, I have heard some of my Democratic colleagues run around with a figure of $250 billion. I just want to make clear that as we see this cost now, it is far less than under $150 billion.

Also, as I listened to my colleagues who preceded me, the export jobs depend on this type of legislation. Many U.S. manufacturers have financing arms to fund overseas sales of its products as do other companies. Caterpillar, for example, has 16,500 export-related jobs to suppliers that employ another 33,000.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Speaker, if I were a Republican, I would not want to get up and talk on this rule either. It seems only the Committee on Rules representatives, the gentleman from New York (Mr. REYNOLDS) has the guts to do that.

But do we know what is void in this debate today? And I cannot recall in a previous hour and I cannot recall the gentleman from New York (Mr. REYNOLDS) saying it in this rule debate, that the House has already passed a stimulus bill. We passed one 2 weeks ago. But it seems no one wants to talk about that because that is the bill that gave $1.4 billion to IBM, $1 billion to Ford, $850 million to GM. That is what was in that give-away.

So why do not we have a compromise here today? Because the Senate looked at that and said not over their lives. That was dead on arrival. All right.

So there has been talks going on over the last couple weeks. And I know why I am a Democrat and now I know what the Republicans are all about. Do you know why we do not have a compromise with us today? Even though the other body was going to swallow some of the tax cuts, the main reason is the Republicans did not want to do anything of any meaningful value to the unemployed in this country, and to those losing health care.

My colleagues smile. The bill says $9 billion for health care for unemployment. That goes to the States. There is no guarantee they are going to extend unemployment 13 weeks. They can use those dollars in this bill to cover their current costs, and as far as the health care provision, we use two existing programs to provide meaningful health care coverage to those losing that coverage, but the Republicans are on a different program, and this is what really killed any compromise.

Their long-term goal is to destroy the employer-based health care system in the country. When we get to the bill, I will bring out some charts that will prove that to be their agenda. That is why the Senate said no compromise.

What their bill does is start us on the path of insurance credits. We are going to give them an insurance credit, and we go through the private market and find a policy, a poor family with no insurance and small income cannot afford a credit, be it 60 percent or whatever, so they are still going to go without.

That is what this debate is all about. It is not stimulus. We passed a $1.35 trillion bill in June. There is more tax cuts in the pipeline than brains in this House. This is all about doing damage to the health care system of the country.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Just as we fortified our Nation's military in response to the attack of the response of our shores, we have the opportunity tonight to fortify this Nation's economy against the attack on it, keeping jobs by creating jobs and giving needed help to displaced workers.

Make no mistake about it, this economic stimulus is critical to workers and worker families in America. President Bush warned us this past weekend that without an economic stimulus package, we stand to lose as many as 300,000 American jobs. The Republicans mean to me and the agenda we put forth on this Thomas bill as it is debated over the next couple of hours is creating jobs and protecting workers.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I rise in strong opposition to the rule. I rise in even stronger opposition to the basic bill.

I want to commend my colleagues on the other side of the aisle who voted against the previous Martial law, making it true bipartisan opposition. There is an old Blue Dog adage that says, "Select carefully your words today for tomorrow you may eat them."

Mr. Speaker, when the House debated the Economic Growth and Tax Relief Reconciliation Act, the bill enacting the $1.35 trillion tax cut, I came to this well to warn that this budget bets the ranch that the surpluses that everybody talks about are going to be there. If they are not, we are going to have a difficult time governing in this body in a bipartisan way.

In response to those who dismissed my warnings, I said, I hope I am wrong, as I hope I am wrong tonight, and if I am wrong, I hope I will be able to eat the crow you dish out to me a year from now if I am wrong, but if I am right, get your knives and forks out.

Well, Mr. Speaker, I am going to be eating turkey on Christmas day, and for the sake of my colleagues who argued that we could afford to enact the tax cut and still do everything else they promised, I hope they find some crow that tastes like turkey.

We were told the President's tax cut would provide stimulus to prevent this country from going into recession. Today, we are being told the $1.35 trillion was not enough; we need another $150 billion in tax cuts plus another $120 billion in spending.

To those who stand up tonight and say if we do not pass this bill we will fail to do anything to stimulate the economy, I have to ask was not that what the tax cut was supposed to do we passed this spring?

When Congress first began discussing options for providing economic stimulus, the bipartisan leader of the Committee on the Budget in this body, the gentleman from Iowa (Mr. NUSSLE) and the gentleman from South Carolina (Mr. SPRATT) agreed on a couple of basic principles for a responsible, effective stimulus package; that the package be temporary in nature, focused on economic stimulus and paid for over the long term so we did not worsen the long-term fiscal situation.

The legislation before us tonight completely ignores these common sense principles and they know it. The Blue Dogs made a simple proposition to the leaders of this House, take what our leaders of the Committee on the Budget recommended that we do, make it temporary, pay for it. The leadership said thanks but no thanks, we do not want any part of that.

Okay. We understand. I understand, I am in the minority, you win. You have won on issue after issue after issue. You are going to win again tonight, but I remind my colleagues again, next February and March when you must come to this floor and ask that the debt ceiling be increased to $6.7 trillion, I hope the enthusiasm will be there to borrow that money, borrow it on the future of our grandchildren because that is what you are doing.

Why they refuse to pay for this particular package tonight defies my understanding. It would be so simple, so simple, Mr. Speaker, I see Mr. Speaker in the House audience tonight, so simple if we just agreed to pay for it, paygo. What happened to the fiscally responsible proposition of paygo?

Mr. Speaker, when the House debated the "Economic Growth and Tax Relief Reconciliation Act", the bill implementing the $1.35 trillion tax cut, I came to the House floor to warn "this budget bets the ranch that surpluses that everybody talks about are going to be there. If they are not, we are going to have a difficult time governing in this body in a bipartisan way."

In response to those who dismissed my warnings, I said "I hope I am wrong. I hope I will be able to eat the crow you will dish out to me in a year from now, if I am wrong. But if I am right, get your knives and forks out."

Well, Mr. Speaker, I will be eating turkey on Christmas day. For the sake of my colleagues who argued that we could afford to enact the tax cut and still do everything else you promised, I hope you can find some crow that tastes like turkey.

And we were told that the President's tax cut would provide stimulus to prevent this country from going into a recession. Today we are being told that the $1.35 trillion tax cut the President signed into law wasn't enough to stimulate the economy.

Now the same folks who told us that everything would be wonderful if we enacted the President's tax cut proposal are telling us that we can solve all of our problems if we just enact another $150 billion in tax cuts.

To those who stand up and say that if we don't pass this bill, we will have failed to do anything to stimulate the economy, I have to ask: Wasn't that what the tax cut we passed this spring was supposed to do.

When Congress first began discussing options for providing economic stimulus, the bipartisan leaders of the Budget Committees agreed on a couple of basic principles for a responsible, effective stimulus package—that the package be temporary in nature, focused on economic stimulus, and paid for over the long term so that we did not worsen the long-term fiscal situation.The legislation before us today completely ignores these common sense principles.

The Blue Dogs made the simple suggestion that the costs of providing economic stimulus in the short term be offset by postponing some of the tax cuts for upper income individuals that are scheduled to take effect several years into the future. That would allow us to provide stimulus in the short term without digging us deeper into debt and undermining the fiscal discipline that is essential to the long-term health of our economy. But the majority told us that they would not even consider this common-sense proposal.

The proposal before us is purported to be a centrist deal because it combines the tax cuts advocated by Republicans with much of the spending proposed by Democrats. While that may be described by some as bipartisanship and centrist policies, it does not represent responsible legislating.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

What I do know is that if this legislation is passed tonight, it is not going to be that TOM REYNOLDS wins. The American people and those displaced workers are going to win because we are going to get them some help immediately if we can get the other body to take some action before we break now.

I want to tell my colleagues this, whether you are a Blue Dog or you are a liberal or a Republican or a Democrat, you vote on the motion to recommit, which is a Democratic plan, you voted for tax increases, make no mistake about it.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking member on the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me the time.

Mr. Speaker, the country is in revision, businesses are failing, people are hurting, losing their jobs by the thousands, and what do we have as a solution? Here in the middle of the night, hours before we adjourn, we are presented with a bill that half of us have never seen, and what we have seen of it we do not like.

This is called an economic stimulus bill, but it could easily be called round two of tax reduction because it is full of tax cuts that will have a doubtful impact on the economy as a whole, but will have a clear impact on the budget. It will bring the surplus down by $272 billion. That is the latest estimate just given to us by the Joint Committee on Taxation.

It did not have to be this way, Mr. Speaker. Two months ago, the principals on the Committee on the Budget, the Committee on Financial Services, the Committee on Ways and Means met to settle on policies to stimulate this economy. We settled instead for a statement of principles. We agreed that stimulus was needed but we thought that it should be temporary, short-lived to last through the recession but no longer. Why? We wanted to keep a cyclical downswing from becoming a structural deficit. We wanted the budget to recover as the economy recovered.

The stimulus bill that was first reported by the Committee on Ways and Means forsook all of these principles. It proposed more permanent tax cuts, lasting a long time after the recession ends.

□ 2345

Here are the stimulus principles that we proposed. Bipartisan, bicameral principles. We said, look, if there is any lesson to be learned from the last 10 years, it is that long-term fiscal discipline is essential to sustain economic growth. We saw it for 8 straight years. The bottom line of the budget got better, and we had 120 consecutive months of economic growth. We said we wanted to continue that policy.

Secondly, we said, have a stimulus policy, surely, but make them last no longer than 1 year.

Thirdly, we said make them broad based, not industry specific. Reading this bill we see plenty of industry specific stuff in it.

Fourthly, we said 1 percent of GDP should do the job, about $100 billion, and take into consideration, we said, that we have spent $40 billion since August.

Finally, we said to uphold the policy of repaying the greatest amount of national debt feasible between 2002 and 2011, out-year offsets should make up over time for the cost of near-term economic stimulus. Obviously, we do not want to offset the cost of this bill in this bill today, but we can build into this bill a provision that will regenerate the revenues we will lose from it in the future, and we can absolve the bottom line.

Now, why does all this matter? Why does all this matter? Because a lot of us who have been here for a long time have this sinking feeling we are about to slip back into the old practice of borrow and spend. Why does it matter? Because of the lesson we have learned for the past 10 years.

This year we started with the best fiscal condition the country has ever enjoyed, a surplus projected to be $5.6 trillion just last January. Today, that surplus stands at $2.6 trillion and is falling fast. The economy is taking its toll, but 55 percent of the decline in the surplus was due to the tax cuts we passed last June.

Now, this $2.6 trillion, $2.3 trillion range in which the surplus now lies is all together Social Security and Medicare surplus. There is no general fund surplus at all. And this is before farm bill, before defense supplemental, before homeland security, and before assessing the $272 billion cost of this bill. Why are we worried about this bill? Because it is going to wipe out the surplus. It will dash our hopes which we held together of taking the Social Security surplus, saving the surplus, and buying off the national debt so that we prepare ourselves for the retirement of the baby boomers.

This bill, Mr. Speaker, has doubtful effects on the economy, but it has a clear impact on the budget, and it is a deleterious impact. It is something we do not need to do. There is another way of doing it. There is a principled way of doing it. We should take that path and not take the path this bill proposes.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I inquire of the time remaining on both sides.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Texas (Mr. FROST) has 9½ minutes remaining, and the gentleman from New York (Mr. REYNOLDS) has 16 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I view this stimulus package through the eyes of a welfare mother. I can do that, because 30 years ago I was a welfare mom. And even though I was working, I needed aid for dependent children to get the health care and the child care and the food stamps I needed for my three young children.

When Congress passed the welfare reform bill, I warned that getting women off the welfare rolls and into work would not be good enough if and when we had a downturn in our economy. Well, the downturn is here; and these women are hit with a triple whammy: no job, no health care, no unemployment insurance.

Our top priority in stimulating this economy must be putting money in the hands of people who need it and will use it. Those are our American families. The only acceptable economic stimulus package is one that takes care of the Nation's families, not our billionaires. We must stimulate the economy by providing for our children, giving money to families, and providing workers unemployment insurance and health coverage.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, once again our Republican colleagues have decided to choose politics over policy. And tonight, as we head into the next morning, we are going to pass a bill that will never pass the other body. And, quite frankly, if it were to pass, I do not think it would have much effect on the general economy.

In fact, we were asked to pass a $1.3 trillion tax bill earlier this year that was supposed to stimulate the economy at that point in time, when it was apparent that we were heading into a recession, and all we saw that happened was that the recession got deeper and the deficit appeared and the surplus went away.

Our colleague from New York says this bill is only going to cost $150 billion, not $270 billion. But, of course, he is forgetting about the fact we are going to have to borrow another $115 billion of debt when we should have been paying down the national debt.

Now, if we really wanted to have a stimulus bill that would have some economic effect, and I am glad to see our Republican friends have all become Keynesians, I thought they were monitorists, but now they are Keynesians this week, what we would do is extend the unemployment benefits for 26 weeks, because we know we are going to have a longer recession than what was projected; and we would do the COBRA extension, like has been discussed. And if the Republicans are really serious about trying to transform health care and they care about the 45 percent who are not in COBRA, well maybe we could do that also. But they do not care about the 55 percent who are in COBRA.

And they want to come up with a plan that the Treasury Department, which is now apparently taking over health care in this country, has not even developed yet. Maybe sometime this spring we will have a program. Maybe if someone has been unemployed for 26 weeks, and as my colleague from Texas says, they are able to scrape together enough to pay the full premium, at the end of the year, in April of 2003, they will get a tax credit back. It is not going to work.

So if we want to do something to help the people that are unemployed, and I want to, and I think all of us do, let us pass a basic bill that extends unemployment, that extends COBRA, and helps the people who have been hurt by this recession.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, this bill could have been a lifeline for working families suffering as a result of the economic decline. This bill could have increased weekly payments to unemployed individuals and extended benefits to 52 weeks. This bill could have subsidized COBRA health insurance for those left uninsured as a result of layoff. This bill could have boosted its spending on critical security and infrastructure programs in order to jumpstart the economy. This bill could have been a stimulus package. Instead, it is an expensive giveaway to those who need it least: a payback to Fortune 500 companies, who will guarantee further jobs will be cut.

Our plan supplemented weekly benefits by no less than $65. Our plan guaranteed a full year of benefits to any individual eligible for unemployment benefits under State law. Our plan expanded eligibility to include part-time and other low-wage workers. This is critical, as currently less than 40 percent of unemployed Americans receive benefits.

Dickens' "Christmas Carol" had Scrooge lighten up, give Cratchet a raise, and bring his son Tiny Tim some cheer. This bill before us would have Scrooge firing Cratchet, canceling his pension, and beating Tiny Tim with his own crutch.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, I rise today to express my opposition to this bill.

This bill fails to meet all the criteria we ought to be looking for to provide an appropriate economic stimulus. It should have a rapid and temporary impact, it should increase employment and investment, it should provide adequate assistance for those who are vulnerable to an economic downturn, and it should be paid for in the long term to prevent future deficits.

When I was elected to Congress, I made a promise to my constituents to be an independent voice and to make fiscally responsible decisions. Just as Utah families have to make responsible decisions to maintain their households and keep their finances in order, so must the Federal Government.

Early this year, I did support the tax cut. This bill had a number of important provisions for Utah families, and it was enacted at a time when we did have unprecedented government surpluses. But today we are facing deficits, increased debt, and we are fighting a war. Winning the war on terrorism and taking care of our homeland defense will require significant resources. Ensuring we have adequate resources to fund these priorities is a smart investment, as it will have the long-term benefit of ensuring safety and protection of American lives, homes and businesses.

We should reject this bill and work to come up with a targeted, temporary stimulus proposal that is paid for in the long term so we do not increase our national debt.

Mr. REYNOLDS. Mr. Speaker, I continue to reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, when Congress gave billions of dollars to corporate titans after the events of September 11 and the slowdown in the economy, we promised that we would take care of the workers. Unfortunately, Congress has not kept its promise.

During the last 2 months, over 1 million Americans have been added to the unemployment rolls. But this bill provides only modest benefits, maybe, to them. Many of the people I represent are employed in jobs directly related to the tourism industry. These are the jobs that have been hit the hardest, and these are the workers that need the most help. I read yesterday in my local newspaper that analysts are predicting that Disneyland, the largest employer in my district, may not rebound for many years to come.

This bill is not what small businesses want or unemployed workers need. They need temporary business and individual cuts targeted at really stimulating this economy. This is about small businesses closing their doors and people being laid off. This is about people saying I cannot afford rent and health care and food.

We provided relief for the airlines; we provided relief for the insurance agencies. Let us do this. Let us do it the right way.

Mr. REYNOLDS. Mr. Speaker, I continue to reserve the balance of my time.

Mr. FROST. Mr. Speaker, I would ask how much time we have remaining.

The SPEAKER pro tempore. The gentleman from Texas has 3½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, time after time, the Members of this House have pledged by votes cast on this floor to protect Social Security. We know that until just a few months ago we were projecting surpluses as far the eye could see. And we pledged, when we passed the June tax cut, to protect Social Security. Then came the recession, then came the war, and the projected surpluses have turned into projected deficits for years into the future.

Times have changed, but our principles should not change. Is it right to pledge the lockbox for Social Security one day and to abandon it the next? What does the abandonment of that pledge say to our senior citizens and to our children who will be left with a bankrupt Social Security trust fund?

Both sides of this aisle agree we need to have a stimulus package to help the jobless workers with unemployment and health insurance. Both sides agree that we must stimulate business investments.

□ 2400

But it is only the Democratic proposal that protects Social Security, only the Democratic proposal refuses to increase the national debt. In contrast, the Republican proposal increases the national debt by $250 billion. The Democratic proposal is paid for, not by increasing taxes on any individual or business, but by adjusting the effective tax rates for future yet to be realized and implemented tax cuts.

Under the Democratic proposal, the total tax cuts passed by this Congress last June will remain exactly the same. If the gentleman from New York calls the Democratic bill a tax cut, the gentleman has a different calculator than I do. Fiscal responsibility demands that not only must we protect and preserve the current economic situation and protect against the slowdown, but we must protect the economy of the future. Recommit this bill, and let us pay for it.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, the Republican Party in this Congress extended the life of Social Security; and the same leadership will ensure that we preserve and strengthen it. I share with my colleague who is under some fallacy that there is not a tax increase on the Democratic plan. On page 2 at the bottom, a revenue offset freezing the top rate 38.6.

Mr. Speaker, we passed law of the land that changed that tax rate. If we are going to restore higher taxes, it is a vote to increase taxes. Make no mistake about it.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 45 seconds to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, in the spirit of the season, I must admit that under the Republican controlled House, it is indeed a wonderful life. Because when the Republicans control the House, whenever the voting bell rings, a corporate tax lobbyist gets his wings. Merry Christmas, Enron. Merry Christmas, General Electric. To my friends across the aisle and their corporate tax lobbyist friends, God bless everyone, because when the American people find out that Social Security was raided to take care of Republican friends, the American people will not.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are going to bring out that same old thing and beat that dog on Social Security. As I said earlier, the Republicans extended it, and they are going to take care of it. I also remind my colleagues on the lock box and both the speakers who spoke before me, there were three conditions set on the lock box that we said would cause us to have to look at the lock box. One was war; two was the economy; and three was natural disaster. We have seen natural disaster, we have seen our economy, and we have seen war as conditions, as we have faced those tough decisions together on a bipartisan basis starting the day of September 11 when this Congress came together in a bipartisan fashion.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I would ask if the gentleman from New York has any other speakers.

Mr. REYNOLDS. Mr. Speaker, after the gentleman from Texas closes, I will close.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it is very clear what the situation is. The Republicans made a conscious decision to break off bipartisan discussions and to bring back to the floor a bill tonight that they know cannot pass and will not even be taken up in the Senate. This was an extraordinary mistake on the part of the Republican majority. They were playing chicken with the United States Senate. This is a childish game. The American Republican will be the losers.

Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are new incentives to compete and grow and expand the bipartisan, bicameral Economic Security and Worker Protection Act. The Act will help businesses rebuild and create jobs for the American people.

So far all I have heard from the other side is a lot of rhetoric about what they would like to do, but we cannot get them to sit down and negotiate out a compromise. So what do we have? We have the chairman of the Committee on Ways and Means move from where his past position was over to adding more unemployment insurance money, adding more incentives to try to lure a bipartisan compromise that could be completed. The reality is he has moved as far as he can until the other body determines that they will negotiate.

Mr. Speaker, the bottom line is that the workers deserve a paycheck, not an unemployment check. Of course this stimulus package recognizes that job creation is a long-term project, and assisting those out of work requires immediate short-term solutions. For those who have lost their jobs, an additional 13 weeks of unemployment benefits will be provided retroactive to

March 2001. Part-time workers will be aided with $9 billion in surplus Federal unemployment funds transferred to States in order to help with health care or employment services.

Equally important to our workforce is the availability and affordability of adequate health care. With the refundable health care tax credits provided by this legislation, no worker eligible for unemployment insurance will be left without the means to obtain quality health care protection.

Some of my colleagues on the other side of the aisle and in the other Chamber wanted only COBRA-eligible workers to get a tax credit, leaving out 45 percent of laid off workers in small and medium-sized businesses, and those who never had job-based health care at all.

And let us not forget, not for one minute, who some of these workers are. What about those who owned or worked in the delis and the dry cleaners or delivered goods and cleaned offices in lower Manhattan, should they have been excluded from being able to afford health care, as many would under the plan advanced by the Democratic leadership in the other body?

The bipartisan compromise plan, on the other hand, provides a refundable 60 percent tax credit for health insurance premium paid by displaced workers. Those workers who had prior health care insurance coverage will have the right to guaranteed coverage. Additionally, the bill provides for an extension of the Archer Medical Savings Accounts allowing families and individuals to be in charge of their own health care dollars.

Mr. Speaker, our action tonight sends a strong message that this House is working to retain jobs, create jobs, and to protect displaced workers in their time of need. Colleagues, let us finish this year as it began, in a strong bipartisan effort that will protect American workers and create American jobs. I strongly urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind Members it is not appropriate under the rules to characterize either the action or inaction of the other body.

Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 219, nays 198, not voting 18, as follows:

[Roll No. 507]

YEAS—219

Aderholt
Akin
Armey
Bachus
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—198

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gonzalez
Green (TX)
Gutierrez
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-
McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—18

Baker
Clement
Cubin
Gephardt
Gordon
Hall (OH)
Hastings (FL)
Hefley
Jones (NC)
Kennedy (RI)
Luther
Meek (FL)
Owens
Oxley
Stark
Stearns
Wexler
Young (AK)

□ 0034

Mrs. CAPPS, Mr. RUSH and Ms. JACKSON-LEE of Texas changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CANCELLATION OF PRAYER BREAKFAST ON THURSDAY, DECEMBER 20, 2001

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, if I may, as President of the Prayer Group, we will not have the prayer breakfast tomorrow at 8 o'clock because of the lateness of the hour. For Members who have inquired, we will not have prayer breakfast tomorrow morning. There will be not a House prayer breakfast.

ECONOMIC SECURITY AND WORKER ASSISTANCE ACT OF 2001

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 320, I call up the bill (H.R. 3529) to provide tax incentives for economic recovery and assistance to displaced workers, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 3529 is as follows:

H.R. 3529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Economic Security and Worker Assistance Act of 2001".

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—INDIVIDUAL PROVISIONS

Sec. 101. Supplemental stimulus payments.
Sec. 102. Acceleration of 25 percent individual income tax rate.

TITLE II—BUSINESS PROVISIONS

Sec. 201. Special depreciation allowance for certain property acquired after September 10, 2001, and before September 11, 2004.
Sec. 202. Temporary increase in expensing under section 179.
Sec. 203. Alternative minimum tax reform.
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TITLE I—INDIVIDUAL PROVISIONS

SEC. 101. SUPPLEMENTAL STIMULUS PAYMENTS.

(a) IN GENERAL.—Section 6428 (relating to acceleration of 10 percent income tax rate bracket benefit for 2001) is amended by adding at the end the following new subsection:

"(f) SUPPLEMENTAL STIMULUS PAYMENTS.—

"(1) IN GENERAL.—Each individual who was an eligible individual for such individual's first taxable year beginning in 2000 and who, before October 16, 2001, filed a return of tax imposed by subtitle A for such taxable year shall be treated as having made a payment against the tax imposed by chapter 1 for such first taxable year in an amount equal to the supplemental refund amount for such taxable year.

"(2) SUPPLEMENTAL REFUND AMOUNT.—For purposes of this subsection, the supplemental refund amount is an amount equal to the excess (if any) of—

"(A)(i) $600 in the case of taxpayers to whom section 1(a) applies,

"(ii) $500 in the case of taxpayers to whom section 1(b) applies, and

"(iii) $300 in the case of taxpayers to whom subsections (c) or (d) of section 1 applies, over

"(B) the taxpayer's advance refund amount under subsection (e).

"(3) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this subsection, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible.

"(4) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this subsection."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6428(d)(1) is amended by striking "subsection (e)" and inserting "subsections (e) and (f)".

(2) Subparagraph (B) of section 6428(d)(1) is amended by striking "subsection (e)" and inserting "subsection (e) or (f)".

(3) Paragraph (3) of section 6428(e) is amended by inserting before the period "(or, if earlier, the date of the enactment of the Economic Security and Worker Assistance Act of 2001)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 102. ACCELERATION OF 25 PERCENT INDIVIDUAL INCOME TAX RATE.

(a) IN GENERAL.—The table contained in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001) is amended—

(1) by striking "27.0%" and inserting "25.0%", and

(2) by striking "26.0%" and inserting "25.0%".

(b) REDUCTION NOT TO INCREASE MINIMUM TAX.—

(1) Subparagraph (A) of section 55(d)(1) is amended by striking "($49,000 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)" and inserting "($49,000 in the case of taxable years beginning in 2001, $52,200 in the case of taxable years beginning in 2002 or 2003, and $50,700 in the case of taxable years beginning in 2004)".

(2) Subparagraph (B) of section 55(d)(1) is amended by striking "($35,750 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)" and inserting "($35,750 in the case of taxable years beginning in 2001, $37,350 in the case of taxable years beginning in 2002 or 2003, and $36,600 in the case of taxable years beginning in 2004)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) SECTION 15 NOT TO APPLY.—No amendment made by this section shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

TITLE II—BUSINESS PROVISIONS

SEC. 201. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

"(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified property' means property—

"(i)(I) to which this section applies which has a recovery period of 20 years or less or which is water utility property, or

"(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

"(ii) the original use of which commences with the taxpayer after September 10, 2001,

"(iii) which is—

"(I) acquired by the taxpayer after September 10, 2001, and before September 11, 2004, but only if no written binding contract for the acquisition was in effect before September 11, 2001, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after September 10, 2001, and before September 11, 2004, and

"(iv) which is placed in service by the taxpayer before January 1, 2005, or, in the case of property described in subparagraph (B), before January 1, 2006.

"(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

"(i) IN GENERAL.—The term 'qualified property' includes property—

"(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(II) which has a recovery period of at least 10 years or is transportation property, and

"(III) which is subject to section 263A by reason of clause (ii) or (iii) of subsection (f)(1)(B) thereof.

"(ii) ONLY PRE-SEPTEMBER 11, 2004, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before September 11, 2004.

"(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term 'transportation property' means tangible personal property used in the trade or business of transporting persons or property.

"(C) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(iii) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—The term 'qualified property' shall not include any qualified leasehold improvement property (as defined in section 168(e)(6)).

"(D) SPECIAL RULES.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before September 11, 2004.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service after September 10, 2001, by a person, and

"(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $4,600.

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.—The deduction under section 168(k) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by striking "clause (ii)" both places it appears and inserting "clauses (ii) and (iii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after such date.

SEC. 202. TEMPORARY INCREASE IN EXPENSING UNDER SECTION 179.

(a) IN GENERAL.—The table contained in section 179(b)(1) (relating to dollar limitation) is amended to read as follows:

"If the taxable year begins in:	**The applicable amount is:**
2001	$24,000
2002 or 2003	$35,000
2004 or thereafter	$25,000."

(b) TEMPORARY INCREASE IN AMOUNT OF PROPERTY TRIGGERING PHASEOUT OF MAXIMUM BENEFIT.—Paragraph (2) of section 179(b) is amended by inserting before the period "($325,000 in the case of taxable years beginning during 2002 or 2003)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 203. ALTERNATIVE MINIMUM TAX REFORM.

(a) REPEAL OF PREFERENCE FOR DEPRECIATION.—

(1) Paragraph (1) of section 56(a) is amended by adding at the end the following new subparagraph:

"(E) TERMINATION.—This paragraph shall not apply to property placed in service in taxable years beginning after December 31, 2001."

(2) Paragraph (5) of section 56(a) is amended by adding at the end: "This paragraph shall not apply to property placed in service in taxable years beginning after December 31, 2001."

(b) REPEAL OF 90 PERCENT LIMITATION ON FOREIGN TAX CREDITS.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Subclause (II) of section 53(d)(1)(B)(i) is amended by striking "and if section 59(a)(2) did not apply".

(c) REPEAL OF 90 PERCENT LIMITATION ON NET OPERATING LOSS DEDUCTION.—Subparagraph (A) of section 56(d)(1), as amended by section 204, is amended to read as follows:

"(A) the amount of such deduction shall not exceed alternative minimum taxable income determined without regard to such deduction, and".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 204. CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 5 YEARS.

(a) In General.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

"(H) In the case of a taxpayer which has a net operating loss for any taxable year ending during 2001 or 2002, subparagraph (A)(i) shall be applied by substituting '5' for '2' and subparagraph (F) shall not apply."

(b) Election To Disregard 5-Year Carryback.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subjection (i) the following new subsection:

"(j) Election To Disregard 5-Year Carryback for Certain Net Operating Losses.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year."

(c) Temporary Suspension of 90 Percent Limit on Certain NOL Carrybacks.—

(1) In general.—Subparagraph (A) of section 56(d)(1) (relating to general rule defining alternative tax net operating loss deduction) is amended to read as follows:

"(A) the amount of such deduction shall not exceed the sum of—

"(i) the lesser of—

"(I) the amount of such deduction attributable to net operating losses (other than the deduction attributable to carrybacks described in clause (ii)(I)), or

"(II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus

"(ii) the lesser of—

"(I) the amount of such deduction attributable to carrybacks of net operating losses for taxable years ending during 2001 or 2002, or

"(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and".

(2) Effective date.—The amendment made by this subsection shall apply to taxable years beginning before January 1, 2002.

(d) Effective Date.—Except as provided in subsection (c), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 2000.

SEC. 205. RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN LEASEHOLD IMPROVEMENTS.

(a) 15-Year Recovery Period.—Subparagraph (E) of section 168(e)(3) (relating to 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any qualified leasehold improvement property."

(b) Qualified Leasehold Improvement Property.—Subsection (e) of section 168 is amended by adding at the end the following new paragraph:

"(6) Qualified leasehold improvement property.—

"(A) In general.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

"(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

"(I) by the lessee (or any sublessee) of such portion, or

"(II) by the lessor of such portion,

"(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

"(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

"(B) Certain improvements not included.—Such term shall not include any improvement for which the expenditure is attributable to—

"(i) the enlargement of the building,

"(ii) any elevator or escalator,

"(iii) any structural component benefiting a common area, and

"(iv) the internal structural framework of the building.

"(C) Definitions and special rules.—For purposes of this paragraph—

"(i) Commitment to lease treated as lease.—A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

"(ii) Related persons.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

"(I) members of an affiliated group (as defined in section 1504), and

"(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.

"(D) Improvements made by lessor.—

"(i) In general.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.

"(ii) Exception for changes in form of business.—Property shall not cease to be qualified leasehold improvement property under clause (i) by reason of—

"(I) death,

"(II) a transaction to which section 381(a) applies, or

"(III) a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as qualified leasehold improvement property and the taxpayer retains a substantial interest in such trade or business.

"(iii) Treatment of failures to maintain substantial interest in trade or business.—In the case of property to which clause (ii)(III) would apply but for the failure of the taxpayer to retain a substantial interest in a trade or business, the remaining adjusted basis of such property shall be depreciated under this section over 39 years."

(c) Requirement To Use Straight Line Method.—Paragraph (3) of section 168(b) is amended by adding at the end the following new subparagraph:

"(G) Qualified leasehold improvement property described in subsection (e)(6)."

(d) Alternative System.—The table contained in section 168(g)(3)(B) is amended by adding at the end the following new item:

"(E)(iv) .... 15".

(e) Effective Date.—The amendments made by this section shall apply to qualified leasehold improvement property placed in service after September 10, 2001.

TITLE III—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions

SEC. 301. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) In General.—Paragraph (2) of section 26(a) is amended—

(1) by striking "RULE FOR 2000 AND 2001.—" and inserting "RULE FOR 2000, 2001, 2002, AND 2003.—", and

(2) by striking "during 2000 or 2001," and inserting "during 2000, 2001, 2002, or 2003,".

(b) Conforming Amendments.—

(1) Section 904(h) is amended by striking "during 2000 or 2001" and inserting "during 2000, 2001, 2002, or 2003".

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2002 and 2003.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 302. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) In General.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking "December 31, 2001," and inserting "December 31, 2003,", and

(B) in subparagraphs (A), (B), and (C), by striking "2002", "2003", and "2004", respectively, and inserting "2004", "2005", and "2006", respectively, and

(2) in subsection (e), by striking "December 31, 2004" and inserting "December 31, 2006".

(b) Conforming Amendments.—

(1) Subparagraph (C) of section 280F(a)(1) is amended by adding at the end the following new clause

"(iii) Application of subparagraph:—This subparagraph shall apply to property placed in service after August 5, 1997, and before January 1, 2007."

(2) Subsection (b) of section 971 of the Taxpayer Relief Act of 1997 is amended by striking "and before January 1, 2005".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 303. CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

(a) In General.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking "2002" and inserting "2004".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 304. WORK OPPORTUNITY CREDIT.

(a) In General.—Subparagraph (B) of section 51(c)(4) is amended by striking "2001" and inserting "2003".

(b) Effective Date.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 305. WELFARE-TO-WORK CREDIT.

(a) In General.—Subsection (f) of section 51A is amended by striking "2001" and inserting "2003".

(b) Effective Date.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 306. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) In General.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking "December 31, 2001," and inserting "December 31, 2003,", and

(B) in clauses (i), (ii), and (iii), by striking "2002", "2003", and "2004", respectively, and inserting "2004", "2005", and "2006", respectively, and

(2) in subsection (f), by striking "December 31, 2004" and inserting "December 31, 2006".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 307. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) In General.—Subparagraph (H) of section 613A(c)(6) is amended by striking "2002" and inserting "2004".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 308. QUALIFIED ZONE ACADEMY BONDS.

(a) In General.—Paragraph (1) of section 1397E(e) is amended by striking "2000, and 2001" and inserting "2000, 2001, 2002, and 2003".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 309. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) In General.—Paragraph (1) of section 7652(f) is amended by striking "January 1, 2002" and inserting "January 1, 2004".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 310. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) In General.—Subsection (f) of section 9812, as amended by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002, is amended to read as follows:

"(f) Application of Section.—This section shall not apply to benefits for services furnished—

"(1) on or after September 30, 2001, and before January 1, 2002, and

"(2) after December 31, 2003."

(b) Effective Date.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2000.

SEC. 311. TEMPORARY SPECIAL RULES FOR TAXATION OF LIFE INSURANCE COMPANIES.

(a) Reduction in Mutual Life Insurance Company Deductions Not To Apply in Certain Years.—Section 809 (relating to reduction in certain deductions of material life insurance companies) is amended by adding at the end the following:

"(j) Differential Earnings Rate Treated as Zero for Certain Years.—Notwithstanding subsection (c) or (f), the differential earnings rate shall be treated as zero for purposes of computing both the differential earnings amount and the recomputed differential earnings amount for a mutual life insurance company's taxable years beginning in 2001, 2002, or 2003."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 312. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking "2002" each place it appears and inserting "2003".

(b) Conforming Amendments.—

(1) Paragraph (2) of section 220(j) is amended by striking "1998, 1999, or 2001" each place it appears and inserting "1998, 1999, 2001, or 2002".

(2) Subparagraph (A) of section 220(j)(4) is amended by striking "and 2001" and inserting "2001, and 2002".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 313. INCENTIVES FOR INDIAN EMPLOYMENT AND PROPERTY ON INDIAN RESERVATIONS.

(a) Employment.—Subsection (f) of section 45A is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(b) Property.—Paragraph (8) of section 168(j) is amended by striking "December 31, 2003" and inserting "December 31, 2004".

SEC. 314. SUBPART F EXEMPTION FOR ACTIVE FINANCING.

(a) In General.—

(1) Section 953(e)(10) is amended—

(A) by striking "January 1, 2002" and inserting "January 1, 2007", and

(B) by striking "December 31, 2001" and inserting "December 31, 2006".

(2) Section 954(h)(9) is amended by striking "January 1, 2002" and inserting "January 1, 2007".

(b) Life Insurance and Annuity Contracts.—

(1) In general.—Subparagraph (B) of section 954(i)(4) is amended to read as follows:

"(B) Life insurance and annuity contracts.—

"(i) In general.—Except as provided in clause (ii), the amount of the reserve of a qualifying insurance company or qualifying insurance company branch for any life insurance or annuity contract shall be equal to the greater of—

"(I) the net surrender value of such contract (as defined in section 807(e)(1)(A)), or

"(II) the reserve determined under paragraph (5).

"(ii) Ruling request, etc.—The amount of the reserve under clause (i) shall be the foreign statement reserve for the contract (less any catastrophe, deficiency, equalization, or similar reserves), if, pursuant to a ruling request submitted by the taxpayer or as provided in published guidance, the Secretary determines that the factors taken into account in determining the foreign statement reserve provide an appropriate means of measuring income."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 315. REPEAL OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

(a) In General.—Subsection (e) of section 4101 is hereby repealed.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 2002.

Subtitle B—Temporary Assistance for Needy Families

SEC. 321. REAUTHORIZATION OF TANF SUPPLEMENTAL GRANTS FOR POPULATION INCREASES FOR FISCAL YEAR 2002.

Section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3)) is amended by adding at the end the following:

"(H) Reauthorization of grants for fiscal year 2002.—Notwithstanding any other provision of this paragraph—

"(i) any State that was a qualifying State under this paragraph for fiscal year 2001 or any prior fiscal year shall be entitled to receive from the Secretary for fiscal year 2002 a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year in which the State was a qualifying State;

"(ii) subparagraph (G) shall be applied as if '2002' were substituted for '2001'; and

"(iii) out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2002 such sums as are necessary for grants under this subparagraph.".

SEC. 322. 1-YEAR EXTENSION OF CONTINGENCY FUND UNDER THE TANF PROGRAM.

Section 403(b) of the Social Security Act (42 U.S.C. 603(b)) is amended—

(1) in paragraph (2), by striking "and 2001" and inserting "2001, and 2002"; and

(2) in paragraph (3)(C)(ii), by striking "2001" and inserting "2002".

TITLE IV—TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001

SEC. 401. TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001.

(a) In General.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter Y—New York Liberty Zone Benefits

"Sec. 1400L. Tax benefits for New York Liberty Zone.

"SEC. 1400L. TAX BENEFITS FOR NEW YORK LIBERTY ZONE.

"(a) Special Allowance for Certain Property Acquired After September 10, 2001.—

"(1) Additional allowance.—In the case of any qualified New York Liberty Zone property—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of such property, and

"(B) the adjusted basis of the qualified New York Liberty Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) Qualified New York Liberty Zone property.—For purposes of this subsection—

"(A) In general.—The term 'qualified New York Liberty Zone property' means property—

"(i)(I) to which section 168 applies (other than railroad grading and tunnel bores), or

"(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

"(ii) substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

"(iii) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001,

"(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after September 10, 2001, but only if no written binding contract for the acquisition was in effect before September 11, 2001, and

"(v) which is placed in service by the taxpayer on or before the termination date.

The term 'termination date' means December 31, 2006 (December 31, 2009, in the case of nonresidential real property and residential rental property).

"(B) Exceptions.—

"(i) Alternative depreciation property.—The term 'qualified New York Liberty Zone property' shall not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(I) without regard to paragraph (7) of section 168(g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) 30 percent additional allowance property.—Such term shall not include property to which section 168(k) applies.

"(iii) Qualified leasehold improvement property.—Such term shall not include any qualified leasehold improvement property (as defined in section 168(e)(6)).

"(iv) Election out.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) Special rules.—

"(i) Self-constructed property.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before the termination date.

"(ii) Sale-leasebacks.—For purposes of subparagraph (A)(iii), if property—

"(I) is originally placed in service after September 10, 2001, by a person, and

"(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) Allowance against alternative minimum tax.—The deduction allowed by this subsection shall be allowed in determining alternative minimum taxable income under section 55.

"(b) 5-Year Recovery Period for Depreciation of Certain Leasehold Improvements.—

"(1) In general.—For purposes of section 168, the term '5-year property' includes any qualified New York Liberty Zone leasehold improvement property.

"(2) Qualified New York Liberty Zone leasehold improvement property.—For purposes of this section, the term 'qualified New York Liberty Zone leasehold improvement property' means qualified leasehold improvement property (as defined in section 168(e)(6)) if—

"(A) such building is located in the New York Liberty Zone,

"(B) such improvement is placed in service after September 10, 2001, and before January 1, 2007, and

"(C) no written binding contract for such improvement was in effect before September 11, 2001.

"(3) Requirement to use straight line method.—The applicable depreciation method under section 168 shall be the straight line method in the case of qualified New York Liberty Zone leasehold improvement property.

"(4) 9-year recovery period under alternative system.—For purposes of section 168(g), the class life of qualified New York Liberty Zone leasehold improvement property shall be 9 years.

"(c) Increase in Expensing Under Section 179.—

"(1) In general.—For purposes of section 179—

"(A) the limitation under section 179(b)(1) shall be increased by the lesser of—

"(i) $35,000, or

"(ii) the cost of section 179 property which is qualified New York Liberty Zone property placed in service during the taxable year, and

"(B) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified New York Liberty Zone property shall be 50 percent of the cost thereof.

"(2) Recapture.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified New York Liberty Zone property which ceases to be used in the New York Liberty Zone.

"(d) Tax-Exempt Bond Financing.—

"(1) In general.—For purposes of this title, any qualified New York Liberty Bond shall be treated as an exempt facility bond.

"(2) Qualified New York Liberty bond.—For purposes of this subsection, the term 'qualified New York Liberty Bond' means any bond issued as part of an issue if—

"(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs,

"(B) such bond is issued by the State of New York or any political subdivision thereof,

"(C) the Governor of New York designates such bond for purposes of this section, and

"(D) such bond is issued during calendar year 2002, 2003, or 2004.

"(3) Limitation on amount of bonds designated.—

"(A) Aggregate amount designated.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed $15,000,000,000.

"(B) Specific limits.—For purposes of subparagraph (A), the aggregate face amount of bonds issued which are to be used for—

"(i) costs for property located outside the New York Liberty Zone, shall not exceed $7,000,000,000,

"(ii) costs for residential rental property, shall not exceed $3,000,000,000, and

"(iii) costs for property used for retail sales of tangible property, shall not exceed $1,500,000,000.

"(C) Movable fixtures and equipment.—No bonds shall be issued which are to be used for movable fixtures and equipment.

"(4) Qualified project costs.—For purposes of this subsection—

"(A) In general.—The term 'qualified project costs' means the cost of acquisition, construction, reconstruction, and renovation of—

"(i) nonresidential real property and residential rental property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone, and

"(ii) public utility property located in the New York Liberty Zone.

"(B) Costs for certain property outside zone included.—Such term includes the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if such property is part of a project which consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings.

"(5) Special rules.—In applying this title to any qualified New York Liberty Bond, the following modifications shall apply:

"(A) Section 146 (relating to volume cap) shall not apply.

"(B) Section 147(c) (relating to limitation on use for land acquisition) shall be determined by reference to the aggregate authorized face amount of all qualified New York Liberty Bonds rather than the net proceeds of each issue.

"(C) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting '50 percent' for '15 percent' each place it appears.

"(D) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to available construction proceeds of bonds issued under this section.

"(E) Financing provided by such a bond shall not be taken into account under section 168(g)(5)(A) with respect to property substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone.

"(F) Repayments of principal on financing provided by the issue—

"(i) may not be used to provide financing, and

"(ii) must be used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

"(G) Section 57(a)(5) shall not apply.

"(6) Separate issue treatment of portions of an issue.—This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond, if the issuer elects to so treat such portion.

"(e) Extension of Replacement Period for Nonrecognition of Gain.—Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

"(f) New York Liberty Zone.—For purposes of this section, the term 'New York Liberty Zone' means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York."

(b) Clerical Amendment.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter Y. New York Liberty Zone Benefits."

TITLE V—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS, PRESIDENTIALLY DECLARED DISASTERS, AND CERTAIN OTHER DISASTERS

Subtitle A—Relief Provisions for Victims of Terrorist Attacks

SEC. 501. INCOME TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) IN GENERAL.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

"(d) INDIVIDUALS DYING AS A RESULT OF CERTAIN ATTACKS.—

"(1) IN GENERAL.—In the case of a specified terrorist victim, any tax imposed by this chapter shall not apply—

"(A) with respect to the taxable year in which falls the date of death, and

"(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds, injury, or illness referred to in paragraph (3) were incurred.

"(2) $10,000 MINIMUM BENEFIT.—If, but for this paragraph, the amount of tax not imposed by paragraph (1) with respect to a specified terrorist victim is less than $10,000, then such victim shall be treated as having made a payment against the tax imposed by this chapter for such victim's last taxable year in an amount equal to the excess of $10,000 over the amount of tax not so imposed.

"(3) TAXATION OF CERTAIN BENEFITS.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to the amount of any tax imposed by this chapter which would be computed by only taking into account the items of income, gain, or other amounts attributable to—

"(A) deferred compensation which would have been payable after death if the individual had died other than as a specified terrorist victim, or

"(B) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after September 11, 2001.

"(4) SPECIFIED TERRORIST VICTIM.—For purposes of this subsection, the term 'specified terrorist victim' means any decedent—

"(A) who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or

"(B) who dies as a result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

Such term shall not include any individual identified by the Attorney General to have been a participant or conspirator in any such attack or a representative of such an individual.".

(b) CONFORMING AMENDMENTS.—

(1) Section 5(b)(1) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(2) Section 6013(f)(2)(B) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(c) CLERICAL AMENDMENTS.—

(1) The heading of section 692 is amended to read as follows:

"SEC. 692. INCOME TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH.".

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

"Sec. 692. Income taxes of members of Armed Forces and victims of certain terrorist attacks on death.".

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 502. EXCLUSION OF CERTAIN DEATH BENEFITS.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(i) CERTAIN EMPLOYEE DEATH BENEFITS PAYABLE BY REASON OF DEATH OF CERTAIN TERRORIST VICTIMS.—

"(1) IN GENERAL.—Gross income does not include amounts (whether in a single sum or otherwise) paid by an employer by reason of the death of an employee who is a specified terrorist victim (as defined in section 692(d)(4)).

"(2) LIMITATION.—

"(A) IN GENERAL.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to amounts which would have been payable after death if the individual had died other than as a specified terrorist victim (as so defined).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to incidental death benefits paid from a plan described in section 401(a) and exempt from tax under section 501(a).

"(3) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of paragraph (1), the term 'employee' includes a self-employed individual (as defined in section 401(c)(1)).".

(b) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 503. ESTATE TAX REDUCTION.

(a) IN GENERAL.—Section 2201 is amended to read as follows:

"SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.

"(a) IN GENERAL.—Unless the executor elects not to have this section apply, in applying sections 2001 and 2101 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

"(b) QUALIFIED DECEDENT.—For purposes of this section, the term 'qualified decedent' means—

"(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

"(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

"(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, and

"(2) any specified terrorist victim (as defined in section 692(d)(4)).

"(c) RATE SCHEDULE.—

"If the amount with respect to which the tentative tax to be computed is:	**The tentative tax is:**
Not over $150,000	1 percent of the amount by which such amount exceeds $100,000.
Over $150,000 but not over $200,000.	$500 plus 2 percent of the excess over $150,000.
Over $200,000 but not over $300,000.	$1.500 plus 3 percent of the excess over $200,000.
Over $300,000 but not over $500,000.	$4.500 plus 4 percent of the excess over $300,000.
Over $500,000 but not over $700,000.	$12,500 plus 5 percent of the excess over $500,000.
Over $700,000 but not over $900,000.	$22,500 plus 6 percent of the excess over $700,000.
Over $900,000 but not over $1,100,000.	$34,500 plus 7 percent of the excess over $900,000.
Over $1,100,000 but not over $1,600,000.	$48,500 plus 8 percent of the excess over $1,100,000.
Over $1,600,000 but not over $2,100,000.	$88,500 plus 9 percent of the excess over $1,600,000.
Over $2,100,000 but not over $2,600,000.	$133,500 plus 10 percent of the excess over $2,100,000.
Over $2,600,000 but not over $3,100,000.	$183,500 plus 11 percent of the excess over $2,600,000.
Over $3,100,000 but not over $3,600,000.	$238,500 plus 12 percent of the excess over $3,100,000.
Over $3,600,000 but not over $4,100,000.	$298,500 plus 13 percent of the excess over $3,600,000.
Over $4,100,000 but not over $5,100,000.	$363,500 plus 14 percent of the excess over $4,100,000.
Over $5,100,000 but not over $6,100,000.	$503,500 plus 15 percent of the excess over $5,100,000.
Over $6,100,000 but not over $7,100,000.	$653,500 plus 16 percent of the excess over $6,100,000.
Over $7,100,000 but not over $8,100,000.	$813,500 plus 17 percent of the excess over $7,100,000.
Over $8,100,000 but not over $9,100,000.	$983,500 plus 18 percent of the excess over $8,100,000.
Over $9,100,000 but not over $10,100,000.	$1,163,500 plus 19 percent of the excess over $9,100,000.
Over $10,100,000	$1,353,500 plus 20 percent of the excess over $10,100,000.

"(d) DETERMINATION OF UNIFIED CREDIT.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2053(d)(3)(B) is amended by striking "section 2011(e)" and inserting "section 2011(d)".

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

"Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.".

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents—

(A) dying on or after September 11, 2001, and

(B) in the case of individuals dying as a result of the April 19, 1995, terrorist attack, dying on or after April 19, 1995.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 504. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made in good faith using a reasonable and objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

SEC. 505. EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or as the result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, and

(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

(b) EFFECTIVE DATE.—This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002.

Subtitle B—Other Relief Provisions

SEC. 511. EXCLUSION FOR DISASTER RELIEF PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

“SEC. 139. DISASTER RELIEF PAYMENTS.

“(a) GENERAL RULE.—Gross income shall not include any amount received by an individual as a qualified disaster relief payment.

“(b) QUALIFIED DISASTER RELIEF PAYMENT DEFINED.—For purposes of this section, the term ‘qualified disaster relief payment’ means any amount paid to or for the benefit of an individual—

“(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

“(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

“(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

“(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

“(c) QUALIFIED DISASTER DEFINED.—For purposes of this section, the term ‘qualified disaster’ means—

“(1) a disaster which results from a terroristic or military action (as defined in section 692(c)(2)),

“(2) a Presidentially declared disaster (as defined in section 1033(h)(3)),

“(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

“(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

“(d) COORDINATION WITH EMPLOYMENT TAXES.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

“(e) NO RELIEF FOR CERTAIN INDIVIDUALS.—Subsections (a) and (f) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

“(f) EXCLUSION OF CERTAIN ADDITIONAL PAYMENTS.—Gross income shall not include any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act.”

(b) CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

“Sec. 139. Disaster relief payments.

“Sec. 140. Cross references to other Acts.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 512. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) EXPANSION OF AUTHORITY RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS.—Section 7508A is amended to read as follows:

“SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

“(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

“(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

“(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

“(3) the amount of any credit or refund.

“(b) SPECIAL RULES REGARDING PENSIONS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

“(c) SPECIAL RULES FOR OVERPAYMENTS.—The rules of section 7508(b) shall apply for purposes of this section.”.

(b) CLARIFICATION OF SCOPE OF ACTS SECRETARY MAY POSTPONE.—Section 7508(a)(1)(K) (relating to time to be disregarded) is amended by striking “in regulations prescribed under this section”.

(c) CONFORMING AMENDMENTS TO ERISA.—

(1) Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

“SEC, 518. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

“In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.”.

(2) Section 4002 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following new subsection:

“(i) SPECIAL RULES REGARDING DISASTERS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a

Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.".

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 6404 is amended—

(A) by striking subsection (h),

(B) by redesignating subsection (i) as subsection (h), and

(C) by adding at the end the following new subsection:

"(i) CROSS REFERENCE.—

"For authority to suspend running of interest, etc. by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(2) Section 6081(c) is amended to read as follows:

"(c) CROSS REFERENCES.—

"For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

"(3) POSTPONEMENT OF CERTAIN ACTS.—

"For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(d) CLERICAL AMENDMENTS.—

(1) The item relating to section 7508A in the table of sections for chapter 77 is amended to read as follows:

"Sec. 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.".

(2) The table of contents for the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 517 the following new item:

"Sec. 518. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

SEC. 513. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.

(a) DISABILITY INCOME.—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking "a violent attack" and all that follows through the period and inserting "a terroristic or military action (as defined in section 692(c)(2)).".

(b) EXEMPTION FROM INCOME TAX FOR CERTAIN MILITARY OR CIVILIAN EMPLOYEES.—Section 692(c) is amended—

(1) by striking "outside the United States" in paragraph (1), and

(2) by striking "SUSTAINED OVERSEAS" in the heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 514. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX DEPOSITS.

(a) IN GENERAL.—Paragraph (3) of section 301(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42) is amended to read as follows:

"(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term 'airline-related deposit' means any deposit of taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air).".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

SEC. 515. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS.

(a) IN GENERAL.—Subtitle E is amended by adding at the end the following new chapter:

"CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

"Sec. 5891. Structured settlement factoring transactions.

"SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

"(b) EXCEPTION FOR CERTAIN APPROVED TRANSACTIONS.—

"(1) IN GENERAL.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

"(2) QUALIFIED ORDER.—For purposes of this section, the term 'qualified order' means a final order, judgment, or decree which—

"(A) finds that the transfer described in paragraph (1)—

"(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

"(ii) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

"(B) is issued—

"(i) under the authority of an applicable State statute by an applicable State court, or

"(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

"(3) APPLICABLE STATE STATUTE.—For purposes of this section, the term 'applicable State statute' means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

"(A) the State in which the payee of the structured settlement is domiciled, or

"(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

"(4) APPLICABLE STATE COURT.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable State court' means, with respect to any applicable State statute, a court of the State which enacted such statute.

"(B) SPECIAL RULE.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

"(5) QUALIFIED ORDER DISPOSITIVE.—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

"(c) DEFINITIONS.—For purposes of this section—

"(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

"(A) which is established by—

"(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

"(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

"(B) under which the periodic payments are—

"(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

"(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

"(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

"(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—

"(A) IN GENERAL.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

"(B) EXCEPTION.—Such term shall not include—

"(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

"(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

"(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

"(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

"(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

"(5) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term 'responsible administrative authority' means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

"(6) STATE.—The term 'State' includes the Commonwealth of Puerto Rico and any possession of the United States.

"(d) COORDINATION WITH OTHER PROVISIONS.—

"(1) IN GENERAL.—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

"(2) NO WITHHOLDING OF TAX.—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.".

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end the following new item:

"Chapter 55. Structured settlement factoring transactions.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

(2) CLARIFICATION OF EXISTING LAW.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into before, on, or after such 30th day.

(3) TRANSITION RULE.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(i) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority), and

(ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee, and

(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

SEC. 516. PERSONAL EXEMPTION DEDUCTION FOR CERTAIN DISABILITY TRUSTS.

(a) IN GENERAL.—Subsection (b) of section 642 (relating to deduction for personal exemption) is amended to read as follows:

"(b) DEDUCTION FOR PERSONAL EXEMPTION.—

"(1) ESTATES.—An estate shall be allowed a deduction of $600.

"(2) TRUSTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of $100.

"(B) TRUSTS DISTRIBUTING INCOME CURRENTLY.—A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of $300.

"(C) DISABILITY TRUSTS.—

"(i) IN GENERAL.—A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d), determined—

"(I) by treating such trust as an individual described in section 151(d)(3)(C)(iii), and

"(II) by applying section 67(e) (without the reference to section 642(b)) for purposes of determining the adjusted gross income of the trust.

"(ii) QUALIFIED DISABILITY TRUST.—For purposes of clause (i), the term 'qualified disability trust' means any trust if—

"(I) such trust is a disability trust described in subsection (c)(2)(B)(iv) of section 1917 of the Social Security Act (42 U.S.C. 1396p), and

"(II) all of the beneficiaries of the trust as of the close of the taxable year are determined by the Commissioner of Social Security to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382c(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled."

"(3) DEDUCTIONS IN LIEU OF PERSONAL EXEMPTION.—The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 517. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.

(a) DISCLOSURE WITHOUT A REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

"(C) TERRORIST ACTIVITIES, ETC.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

"(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

"(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(iv) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2003.".

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

"(A) DISCLOSURE TO LAW ENFORCEMENT AGENCIES.—

"(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

"(ii) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

"(iii) REQUIREMENTS.—A request meets the requirements of this clause if—

"(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of any terrorist incident, threat, or activity, and

"(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iv) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

"(B) DISCLOSURE TO INTELLIGENCE AGENCIES.—

"(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

"(ii) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request—

"(I) is made by an individual described in clause (iii), and

"(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iii) REQUESTING INDIVIDUALS.—An individual described in this subparagraph is an individual—

"(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

"(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity.

"(iv) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(C) DISCLOSURE UNDER EX PARTE ORDERS.—

"(i) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened to inspection or disclosure pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to such terrorist incident, threat, or activity.

"(ii) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

"(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

"(D) SPECIAL RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

"(ii) LIMITATION ON USE OF INFORMATION.—Information disclosed under clause (i)—

"(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

"(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

"(E) TERMINATION.—No disclosure may be made under this paragraph after December 31, 2003.".

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(a)(2) is amended by inserting "any local law enforcement agency receiving information under subsection (i)(7)(A)," after "State,".

(2) Section 6103(b) is amended by adding at the end the following new paragraph:

"(11) TERRORIST INCIDENT, THREAT, OR ACTIVITY.—The term 'terrorist incident, threat, or activity' means an incident, threat, or activity involving an act of domestic terrorism (as defined in section 2331(5) of title 18, United States Code) or international terrorism (as defined in section 2331(1) of such title).".

(3) The heading of section 6103(i)(3) is amended by inserting "OR TERRORIST" after "CRIMINAL".

(4) Paragraph (4) of section 6103(i) is amended—

(A) in subparagraph (A) by inserting "or (7)(C)" after "paragraph (1)", and

(B) in subparagraph (B) by striking "or (3)(A)" and inserting "(3)(A) or (C), or (7)".

(5) Paragraph (6) of section 6103(i) is amended—

(A) by striking "(3)(A)" and inserting "(3)(A) or (C)", and

(B) by striking "or (7)" and inserting "(7), or (8)".

(6) Section 6103(p)(3) is amended—

(A) in subparagraph (A) by striking "(7)(A)(ii)" and inserting "(8)(A)(ii)", and

(B) in subparagraph (C) by striking "(i)(3)(B)(i)" and inserting "(i)(3)(B)(i) or (7)(A)(ii)".

(7) Section 6103(p)(4) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking "or (5)," the first place it appears and inserting "(5), or (7),", and

(ii) by striking "(i)(3)(B)(i)," and inserting "(i)(3)(B)(i) or (7)(A)(ii),", and

(B) in subparagraph (F)(ii) by striking "or (5)," the first place it appears and inserting "(5) or (7),".

(8) Section 6103(p)(6)(B)(i) is amended by striking "(i)(7)(A)(ii)" and inserting "(i)(8)(A)(ii)".

(9) Section 6105(b) is amended—

(A) by striking "or" at the end of paragraph (2),

(B) by striking "paragraphs (1) or (2)" in paragraph (3) and inserting "paragraph (1), (2), or (3)",

(C) by redesignating paragraph (3) as paragraph (4), and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) to the disclosure of tax convention information on the same terms as return information may be disclosed under paragraph (3)(C) or (7) of section 6103(i), except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government, or".

(10) Section 7213(a)(2) is amended by striking "(i)(3)(B)(i)," and inserting "(i)(3)(B)(i) or (7)(A)(ii),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made on or after the date of the enactment of this Act.

TITLE VI—MISCELLANEOUS AND TECHNICAL PROVISIONS

Subtitle A—General Miscellaneous Provisions

SEC. 601. ALLOWANCE OF ELECTRONIC 1099'S.

Any person required to furnish a statement under any section of subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 for any taxable year ending after the date of the enactment of this Act, may electronically furnish such statement (without regard to any first class mailing requirement) to any recipient who has consented to the electronic provision of the statement in a manner similar to the one permitted under regulations issued under section 6051 of such Code or in such other manner as provided by the Secretary.

SEC. 602. EXCLUDED CANCELLATION OF INDEBTEDNESS INCOME OF S CORPORATION NOT TO RESULT IN ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS.

(a) IN GENERAL.—Subparagraph (A) of section 108(d)(7) (relating to certain provisions to be applied at corporate level) is amended by inserting before the period ", including by not taking into account under section 1366(a) any amount excluded under subsection (a) of this section".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to discharges of indebtedness after October 11, 2001, in taxable years ending after such date.

(2) EXCEPTION.—The amendment made by this section shall not apply to any discharge of indebtedness before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.

SEC. 603. LIMITATION ON USE OF NONACCRUAL EXPERIENCE METHOD OF ACCOUNTING.

(a) IN GENERAL.—Paragraph (5) of section 448(d) is amended to read as follows:

"(5) SPECIAL RULE FOR CERTAIN SERVICES.—

"(A) IN GENERAL.—In the case of any person using an accrual method of accounting with respect to amounts to be received for the performance of services by such person, such person shall not be required to accrue any portion of such amounts which (on the basis of such person's experience) will not be collected if—

"(i) such services are in fields referred to in paragraph (2)(A), or

"(ii) such person meets the gross receipts test of subsection (c) for all prior taxable years.

"(B) EXCEPTION.—This paragraph shall not apply to any amount if interest is required to be paid on such amount or there is any penalty for failure to timely pay such amount.

"(C) REGULATIONS.—The Secretary shall prescribe regulations to permit taxpayers to determine amounts referred to in subparagraph (A) using computations or formulas which, based on experience, accurately reflect the amount of income that will not be collected by such person. A taxpayer may adopt, or request consent of the Secretary to change to, a computation or formula that clearly reflects the taxpayer's experience. A request under the preceding sentence shall be approved if such computation or formula clearly reflects the taxpayer's experience.".

(b) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) Change in method of accounting.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period of 4 years (or if less, the number of taxable years that the taxpayer used the method permitted under section 448(d)(5) of such Code as in effect before the date of the enactment of this Act) beginning with such first taxable year.

SEC. 604. EXCLUSION FOR FOSTER CARE PAYMENTS TO APPLY TO PAYMENTS BY QUALIFIED PLACEMENT AGENCIES.

(a) In General.—The matter preceding subparagraph (B) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:

"(1) In general.—The term 'qualified foster care payment' means any payment made pursuant to a foster care program of a State or political subdivision thereof—

"(A) which is paid by—

"(i) a State or political subdivision thereof, or

"(ii) a qualified foster care placement agency, and".

(b) Qualified Foster Individuals To Include Individuals Placed by Qualified Placement Agencies.—Subparagraph (B) of section 131(b)(2) (defining qualified foster individual) is amended to read as follows:

"(B) a qualified foster care placement agency."

(c) Qualified Foster Care Placement Agency Defined.—Subsection (b) of section 131 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Qualified foster care placement agency.—The term 'qualified foster care placement agency' means any placement agency which is licensed or certified by—

"(A) a State or political subdivision thereof, or

"(B) an entity designated by a State or political subdivision thereof,

for the foster care program of such State or political subdivision to make foster care payments to providers of foster care."

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 605. INTEREST RATE RANGE FOR ADDITIONAL FUNDING REQUIREMENTS.

(a) Amendments to the Internal Revenue Code of 1986.—

(1) Special rule.—Clause (i) of section 412(l)(7)(C) (relating to interest rate) is amended by adding at the end the following new subclause:

"(III) Special rule for 2002 and 2003.—For a plan year beginning in 2002 or 2003, notwithstanding subclause (I), in the case that the rate of interest used under subsection (b)(5) exceeds the highest rate permitted under subclause (I), the rate of interest used to determine current liability under this subsection may exceed the rate of interest otherwise permitted under subclause (I); except that such rate of interest shall not exceed 120 percent of the weighted average referred to in subsection (b)(5)(B)(ii)."

(2) Quarterly contributions.—Subsection (m) of section 412 is amended by adding at the end the following new paragraph:

"(7) Special rules for 2002 and 2004.—In any case in which the interest rate used to determine current liability is determined under subsection (l)(7)(C)(i)(III)—

"(A) 2002.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II).

"(B) 2004.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2004, the current liability for the preceding plan year shall be redetermined using 105 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II)."

(b) Amendments to the Employee Retirement Income Security Act of 1974.—

(1) Special rule.—Clause (i) of section 302(d)(7)(C) of such Act (29 U.S.C. 1082(d)(7)(C)) is amended by adding at the end the following new subclause:

"(III) Special rule for 2002 and 2003.—For a plan year beginning in 2002 or 2003, notwithstanding subclause (I), in the case that the rate of interest used under subsection (b)(5) exceeds the highest rate permitted under subclause (I), the rate of interest used to determine current liability under this subsection may exceed the rate of interest otherwise permitted under subclause (I); except that such rate of interest shall not exceed 120 percent of the weighted average referred to in subsection (b)(5)(B)(ii)."

(2) Quarterly contributions.—Subsection (e) of section 302 of such Act (29 U.S.C. 1082) is amended by adding at the end the following new paragraph:

"(7) Special rules for 2002 and 2004.—In any case in which the interest rate used to determine current liability is determined under subsection (d)(7)(C)(i)(III)—

"(A) 2002.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (d)(7)(C)(i)(II).

"(B) 2004.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2004, the current liability for the preceding plan year shall be redetermined using 105 percent as the specified percentage determined under subsection (d)(7)(C)(i)(II)."

(c) PBGC.—Clause (iii) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by adding at the end the following new subclause:

"(IV) In the case of plan years beginning after December 31, 2001, and before January 1, 2004, subclause (II) shall be applied by substituting '100 percent' for '85 percent'. Subclause (III) shall be applied for such years without regard to the preceding sentence. Any reference to this clause by any other sections or subsections shall be treated as a reference to this clause without regard to this subclause."

SEC. 606. ADJUSTED GROSS INCOME DETERMINED BY TAKING INTO ACCOUNT CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) In General.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following:

"(D) Certain expenses of elementary and secondary school teachers.—In the case of taxable years beginning during 2002 or 2003, the deductions allowed by section 162 which consist of expenses, not in excess of $250, paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom.".

(b) Eligible Educator.—Section 62 is amended by adding at the end the following:

"(d) Definition; Special Rules.—

"(1) Eligible educator.—

"(A) In general.—For purposes of subsection (a)(2)(D), the term 'eligible educator' means, with respect to any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

"(B) School.—The term 'school' means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.

"(2) Coordination with exclusions.—A deduction shall be allowed under subsection (a)(2)(D) for expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle B—Technical Corrections

SEC. 611. AMENDMENTS RELATED TO ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.

(a) Amendments Related to Section 101 of the Act.—

(1) In general.—Subsection (b) of section 6428 is amended to read as follows:

"(b) Credit Treated as Nonrefundable Personal Credit.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of chapter 1.".

(2) Conforming amendments.—

(A) Subsection (d) of section 6428 is amended to read as follows:

"(d) Coordination with Advance Refunds of Credit.—

"(1) In general.—The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (e). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

"(2) Joint returns.—In the case of a refund or credit made or allowed under subsection (e) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.".

(B) Paragraph (2) of section 6428(e) is amended to read as follows:

"(2) Advance refund amount.—For purposes of paragraph (1), the advance refund amount is the amount that would have been allowed as a credit under this section for such first taxable year if—

"(A) this section (other than subsections (b) and (d) and this subsection) had applied to such taxable year, and

"(B) the credit for such taxable year were not allowed to exceed the excess (if any) of—

"(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(ii) the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under subpart C thereof, relating to refundable credits)."

(b) AMENDMENT RELATED TO SECTION 201 OF THE ACT.—Subparagraph (B) of section 24(d)(1) is amended by striking "amount of credit allowed by this section" and inserting "aggregate amount of credits allowed by this subpart".

(c) AMENDMENTS RELATED TO SECTION 202 OF THE ACT.—

(1) CORRECTIONS TO CREDIT FOR ADOPTION EXPENSES.—

(A) Paragraph (1) of section 23(a) is amended to read as follows:

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred by the taxpayer."

(B) Subsection (a) of section 23 is amended by adding at the end the following new paragraph:

"(3) $10,000 CREDIT FOR ADOPTION OF CHILD WITH SPECIAL NEEDS REGARDLESS OF EXPENSES.—In the case of an adoption of a child with special needs which becomes final during a taxable year, the taxpayer shall be treated as having paid during such year qualified adoption expenses with respect to such adoption in an amount equal to the excess (if any) of $10,000 over the aggregate qualified adoption expenses actually paid or incurred by the taxpayer with respect to such adoption during such taxable year and all prior taxable years."

(C) Paragraph (2) of section 23(a) is amended by striking the last sentence.

(D) Paragraph (1) of section 23(b) is amended by striking "subsection (a)(1)(A)" and inserting "subsection (a)".

(E) Subsection (i) of section 23 is amended by striking "the dollar limitation in subsection (b)(1)" and inserting "the dollar amounts in subsections (a)(3) and (b)(1)".

(F) Expenses paid or incurred during any taxable year beginning before January 1, 2002, may be taken into account in determining the credit under section 23 of the Internal Revenue Code of 1986 only to the extent the aggregate of such expenses does not exceed the applicable limitation under section 23(b)(1) of such Code as in effect on the day before the date of the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001.

(2) CORRECTIONS TO EXCLUSION FOR EMPLOYER-PROVIDED ADOPTION ASSISTANCE.—

(A) Subsection (a) of section 137 is amended to read as follows:

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(2) $10,000 EXCLUSION FOR ADOPTION OF CHILD WITH SPECIAL NEEDS REGARDLESS OF EXPENSES.—In the case of an adoption of a child with special needs which becomes final during a taxable year, the qualified adoption expenses with respect to such adoption for such year shall be increased by an amount equal to the excess (if any) of $10,000 over the actual aggregate qualified adoption expenses with respect to such adoption during such taxable year and all prior taxable years."

(B) Paragraph (2) of section 137(b) is amended by striking "subsection (a)(1)" and inserting "subsection (a)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002; except that the amendments made by paragraphs (1)(C), (1)(D), and (2)(B) shall apply to taxable years beginning after December 31, 2001.

(d) AMENDMENTS RELATED TO SECTION 205 OF THE ACT.—

(1) Section 45F(d)(4)(B) is amended by striking "subpart A, B, or D of this part" and inserting "this chapter or for purposes of section 55".

(2) Section 38(b)(15) is amended by striking "45F" and inserting "45F(a)".

(e) AMENDMENTS RELATED TO SECTION 301 OF THE ACT.—

(1) Section 63(c)(2) is amended—

(A) in subparagraph (A), by striking "subparagraph (C)" and inserting "subparagraph (D)",

(B) by striking "or" at the end of subparagraph (B),

(C) by redesignating subparagraph (C) as subparagraph (D), and

(D) by inserting after subparagraph (B) the following new subparagraph:

"(C) one-half of the amount allowable under subparagraph (A) in the case of a married individual filing a separate return, or".

(2) Section 63(c)(7) is amended by adding at the end the following:

"If any amount determined under the preceding table is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".

(f) AMENDMENT RELATED TO SECTION 401 OF THE ACT.—Section 530(d)(4)(B)(iv) is amended by striking "because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2)" and inserting "by application of paragraph (2)(C)(i)(II)".

(g) AMENDMENT RELATED TO SECTION 511 OF THE ACT.—Section 2511(c) is amended by striking "taxable gift under section 2503," and inserting "transfer of property by gift,".

(h) AMENDMENT RELATED TO SECTION 532 OF THE ACT.—Section 2016 is amended by striking "any State, any possession of the United States, or the District of Columbia,".

(i) AMENDMENTS RELATING TO SECTION 602 OF THE ACT.—

(1) Subparagraph (A) of section 408(q)(3) is amended to read as follows:

"(A) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' has the meaning given such term by section 72(p)(4)(A)(i); except that such term shall also include an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).".

(2) Section 4(c) of Employee Retirement Income Security Act of 1974 is amended—

(A) by inserting "and part 5 (relating to administration and enforcement)" before the period at the end, and

(B) by adding at the end the following new sentence: "Such provisions shall apply to such accounts and annuities in a manner similar to their application to a simplified employee pension under section 408(k) of the Internal Revenue Code of 1986.".

(j) AMENDMENTS RELATING TO SECTION 611 OF THE ACT.—

(1) Section 408(k) is amended—

(A) in paragraph (2)(C) by striking "$300" and inserting "$450", and

(B) in paragraph (8) by striking "$300" both places it appears and inserting "$450".

(2) Section 409(o)(1)(C)(ii) is amended—

(A) by striking "$500,000" both places it appears and inserting "$800,000", and

(B) by striking "$100,000" and inserting "$160,000".

(3) Section 611(i) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE.—In the case of plan that, on June 7, 2001, incorporated by reference the limitation of section 415(b)(1)(A) of the Internal Revenue Code of 1986, section 411(d)(6) of such Code and section 204(g)(1) of the Employee Retirement Income Security Act of 1974 do not apply to a plan amendment that—

"(A) is adopted on or before June 30, 2002,

"(B) reduces benefits to the level that would have applied without regard to the amendments made by subsection (a) of this section, and

"(C) is effective no earlier than the years described in paragraph (2).".

(k) AMENDMENTS RELATING TO SECTION 613 OF THE ACT.—

(1) Section 416(c)(1)(C)(iii) is amended by striking "EXCEPTION FOR FROZEN PLAN" and inserting "EXCEPTION FOR PLAN UNDER WHICH NO KEY EMPLOYEE (OR FORMER KEY EMPLOYEE) BENEFITS FOR PLAN YEAR".

(2) Section 416(g)(3)(B) is amended by striking "separation from service" and inserting "severance from employment".

(l) AMENDMENTS RELATING TO SECTIONS 614 and 616 OF THE ACT.—

(1) Section 404(a)(12) is amended by striking "(9)," and inserting "(9) and subsection (h)(1)(C),".

(2) Section 404(n) is amended by striking "subsection (a)," and inserting "subsection (a) or paragraph (1)(C) of subsection (h)".

(3) Section 402(h)(2)(A) is amended by striking "15 percent" and inserting "25 percent".

(4) Section 404(a)(7)(C) is amended to read as follows:

"(C) PARAGRAPH NOT TO APPLY IN CERTAIN CASES.—

"(i) BENEFICIARY TEST.—This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraphs (1), (2), and (3), if no employee is a beneficiary under more than 1 trust or under a trust and an annuity plan.

"(ii) ELECTIVE DEFERRALS.—If, in connection with 1 or more defined contribution plans and 1 or more defined benefit plans, no amounts (other than elective deferrals (as defined in section 402(g)(3))) are contributed to any of the defined contribution plans for the taxable year, then subparagraph (A) shall not apply with respect to any of such defined contribution plans and defined benefit plans.".

(m) AMENDMENT RELATING TO SECTION 618 OF THE ACT.—Section 25B(d)(2)(A) is amended to read as follows:

"(A) IN GENERAL.—The qualified retirement savings contributions determined under paragraph (1) shall be reduced (but not below zero) by the aggregate distributions received by the individual during the testing period from any entity of a type to which contributions under paragraph (1) may be made. The preceding sentence shall not apply to the portion of any distribution which is not includible in gross income by reason of a trustee-to-trustee transfer or a rollover distribution.".

(n) AMENDMENTS RELATING TO SECTION 619 OF THE ACT.—

(1) Section 45E(e)(1) is amended by striking "(n)" and inserting "(m)".

(2) Section 619(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking "established" and inserting "first effective".

(o) AMENDMENTS RELATING TO SECTION 631 OF THE ACT.—

(1) Section 402(g)(1) is amended by adding at the end the following:

"(C) CATCH-UP CONTRIBUTIONS.—In addition to subparagraph (A), in the case of an eligible participant (as defined in section 414(v)), gross income shall not include elective deferrals in excess of the applicable dollar amount under subparagraph (B) to the extent that the amount of such elective deferrals does not exceed the applicable dollar amount under section 414(v)(2)(B)(i) for the taxable year (without regard to the treatment of the elective deferrals by an applicable employer plan under section 414(v)).".

(2) Section 401(a)(30) is amended by striking "402(g)(1)" and inserting "402(g)(1)(A)".

(3) Section 414(v)(2) is amended by adding at the end the following:

"(D) AGGREGATION OF PLANS.—For purposes of this paragraph, plans described in clauses (i), (ii), and (iv) of paragraph (6)(A) that are maintained by the same employer (as determined under subsection (b), (c), (m) or (o)) shall be treated as a single plan, and plans described in clause (iii) of paragraph (6)(A) that are maintained by the same employer shall be treated as a single plan.".

(4) Section 414(v)(3)(A)(i) is amended by striking "section 402(g), 402(h), 403(b), 404(a), 404(h), 408(k), 408(p), 415, or 457" and inserting "section 401(a)(30), 402(h), 403(b), 408, 415(c), and 457(b)(2) (determined without regard to section 457(b)(3))".

(5) Section 414(v)(3)(B) is amended by striking "section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 403(b)(12), 408(k), 408(p), 408B, 410(b), or 416" and inserting "section 401(a)(4), 401(k)(3), 401(k)(11), 403(b)(12), 408(k), 410(b), or 416".

(6) Section 414(v)(4)(B) is amended by inserting before the period at the end the following: ", except that a plan described in clause (i) of section 410(b)(6)(C) shall not be treated as a plan of the employer until the expiration of the transition period with respect to such plan (as determined under clause (ii) of such section)".

(7) Section 414(v)(5) is amended—

(A) by striking ", with respect to any plan year," in the matter preceding subparagraph (A),

(B) by amending subparagraph (A) to read as follows:

"(A) who would attain age 50 by the end of the taxable year,", and

(C) in subparagraph (B) by striking "plan year" and inserting "plan (or other applicable) year".

(8) Section 414(v)(6)(C) is amended to read as follows:

"(C) EXCEPTION FOR SECTION 457 PLANS.—This subsection shall not apply to a participant for any year for which a higher limitation applies to the participant under section 457(b)(3).".

(9) Section 457(e) is amended by adding at the end the following new paragraph:

"(18) COORDINATION WITH CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OLDER.— In the case of an individual who is an eligible participant (as defined by section 414(v)) and who is a participant in an eligible deferred compensation plan of an employer described in paragraph (1)(A), subsections (b)(3) and (c) shall be applied by substituting for the amount otherwise determined under the applicable subsection the greater of—

"(A) the sum of—

"(i) the plan ceiling established for purposes of subsection (b)(2) (without regard to subsection (b)(3)), plus

"(ii) the applicable dollar amount for the taxable year determined under section 414(v)(2)(B)(i), or

"(B) the amount determined under the applicable subsection (without regard to this paragraph).".

(p) AMENDMENTS RELATING TO SECTION 632 OF THE ACT.—

(1) Section 403(b)(1) is amended in the matter following subparagraph (E) by striking "then amounts contributed" and all that follows and inserting the following:

"then contributions and other additions by such employer for such annuity contract shall be excluded from the gross income of the employee for the taxable year to the extent that the aggregate of such contributions and additions (when expressed as an annual addition (within the meaning of section 415(c)(2))) does not exceed the applicable limit under section 415. The amount actually distributed to any distributee under such contract shall be taxable to the distributee (in the year in which so distributed) under section 72 (relating to annuities). For purposes of applying the rules of this subsection to contributions and other additions by an employer for a taxable year, amounts transferred to a contract described in this paragraph by reason of a rollover contribution described in paragraph (8) of this subsection or section 408(d)(3)(A)(ii) shall not be considered contributed by such employer.".

(2) Section 403(b) is amended by striking paragraph (6).

(3) Section 403(b)(3) is amended—

(A) in the first sentence by inserting the following before the period at the end: ", and which precedes the taxable year by no more than five years", and

(B) in the second sentence by striking "or any amount received by a former employee after the fifth taxable year following the taxable year in which such employee was terminated".

(4) Section 415(c)(7) is amended to read as follows:

"(7) SPECIAL RULES RELATING TO CHURCH PLANS.—

"(A) ALTERNATIVE CONTRIBUTION LIMITATION.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church or a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

"(ii) $40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

"(B) NUMBER OF YEARS OF SERVICE FOR DULY ORDAINED, COMMISSIONED, OR LICENSED MINISTERS OR LAY EMPLOYEES.—For purposes of this paragraph—

"(i) all years of service by—

"(I) a duly ordained, commissioned, or licensed minister of a church, or

"(II) a lay person,

as an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), shall be considered as years of service for 1 employer, and

"(ii) all amounts contributed for annuity contracts by each such church (or convention or association of churches) or such organization during such years for such minister or lay person shall be considered to have been contributed by 1 employer.

"(C) FOREIGN MISSIONARIES.—In the case of any individual described in subparagraph (D) performing services outside the United States, contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such employee, when expressed as an annual addition to such employee's account, shall not be treated as exceeding the limitation of paragraph (1) if such annual addition is not in excess of the greater of $3,000 or the employee's includible compensation determined under section 403(b)(3).

"(D) ANNUAL ADDITION.—For purposes of this paragraph, the term 'annual addition' has the meaning given such term by paragraph (2).

"(E) CHURCH, CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this paragraph, the terms 'church' and 'convention or association of churches' have the same meaning as when used in section 414(e).".

(5) Section 457(e)(5) is amended to read as follows:

"(5) INCLUDIBLE COMPENSATION.—The term 'includible compensation' has the meaning given to the term 'participant's compensation' by section 415(c)(3).".

(6) Section 402(g)(7)(B) is amended by striking "2001." and inserting "2001).".

(q) AMENDMENTS RELATING TO SECTION 643 OF THE ACT.—

(1) Section 401(a)(31)(C)(i) is amended by inserting "is a qualified trust which is part of a plan which is a defined contribution plan and" before "agrees".

(2) Section 402(c)(2) is amended by adding at the end the following flush sentence:

"In the case of a transfer described in subparagraph (A) or (B), the amount transferred shall be treated as consisting first of the portion of such distribution that is includible in gross income (determined without regard to paragraph (1)).".

(r) AMENDMENTS RELATING TO SECTION 648 OF THE ACT.—

(1) Section 417(e) is amended—

(A) in paragraph (1) by striking "exceed the dollar limit under section 411(a)(11)(A)" and inserting "exceed the amount that can be distributed without the participant's consent under section 411(a)(11)", and

(B) in paragraph (2)(A) by striking "exceeds the dollar limit under section 411(a)(11)(A)" and inserting "exceeds the amount that can be distributed without the participant's consent under section 411(a)(11)".

(2) Section 205(g) of the Employee Retirement Income Security Act of 1974 is amended—

(A) in paragraph (1) by striking "exceed the dollar limit under section 203(e)(1)" and inserting "exceed the amount that can be distributed without the participant's consent under section 203(e)", and

(B) in paragraph (2)(A) by striking "exceeds the dollar limit under section 203(e)(1)" and inserting "exceeds the amount that can be distributed without the participant's consent under section 203(e)".

(s) AMENDMENT RELATING TO SECTION 652 OF THE ACT.—Section 404(a)(1)(D)(iv) is amended by striking "PLANS MAINTAINED BY PROFESSIONAL SERVICE EMPLOYERS" and inserting "SPECIAL RULE FOR TERMINATING PLANS".

(t) AMENDMENTS RELATING TO SECTION 657 OF THE ACT.—Section 404(c)(3) of the Employee Retirement Income Security Act of 1974 is amended—

(1) by striking "the earlier of" in subparagraph (A) the second place it appears, and

(2) by striking "if the transfer" and inserting "a transfer that".

(u) AMENDMENTS RELATING TO SECTION 659 OF THE ACT.—

(1) Section 4980F is amended—

(A) in subsection (e)(1) by striking "written notice" and inserting "the notice described in paragraph (2)",

(B) by amending subsection (f)(2)(A) to read as follows:

"(A) any defined benefit plan described in section 401(a) which includes a trust exempt from tax under section 501(a), or", and

(C) in subsection (f)(3) by striking "significantly" both places it appears.

(2) Section 204(h)(9) of the Employee Retirement Income Security Act of 1974 is amended by striking "significantly" both places it appears.

(3) Section 659(c)(3)(B) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking "(or" and inserting "(and".

(v) AMENDMENTS RELATING TO SECTION 661 OF THE ACT.—

(1) Section 412(c)(9)(B) is amended—

(A) in clause (ii) by striking "125 percent" and inserting "100 percent", and

(B) by adding at the end the following new clause:

"(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (7)(B)).".

(2) Section 302(c)(9)(B) of the Employee Retirement Income Security Act of 1974 is amended—

(A) in clause (ii) by striking "125 percent" and inserting "100 percent", and

(B) by adding at the end the following new clause:

"(iv) A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (7)(B)).".

(w) AMENDMENTS RELATING TO SECTION 662 OF THE ACT.—

(1) Section 404(k) is amended—

(A) in paragraph (1) by striking "during the taxable year",

(B) in paragraph (2)(B) by striking "(A)(iii)" and inserting "(A)(iv)",

(C) in paragraph (4)(B) by striking "(iii)" and inserting "(iv)", and

(D) by redesignating subparagraph (B) of paragraph (4) (as amended by subparagraph (C)) as subparagraph (C) of paragraph (4) and by inserting after subparagraph (A) the following new subparagraph:

"(B) REINVESTMENT DIVIDENDS.—For purposes of subparagraph (A), an applicable dividend reinvested pursuant to clause (iii)(II) of paragraph (2)(A) shall be treated as paid in the taxable year of the corporation in which such dividend is reinvested in qualifying employer securities or in which the election under clause (iii) of paragraph (2)(A) is made, whichever is later.".

(2) Section 404(k) is amended by adding at the end the following new paragraph:

"(7) FULL VESTING.—In accordance with section 411, an applicable dividend described in clause (iii)(II) of paragraph (2)(A) shall be subject to the requirements of section 411(a)(1).".

(x) EFFECTIVE DATE.—Except as provided in subsection (c), the amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

SEC. 612. AMENDMENTS RELATED TO COMMUNITY RENEWAL TAX RELIEF ACT OF 2000.

(a) AMENDMENT RELATED TO SECTION 101 OF THE ACT.—Section 469(i)(3)(E) is amended by striking clauses (ii), (iii), and (iv) and inserting the following:

"(ii) second to the portion of such loss to which subparagraph (C) applies,

"(iii) third to the portion of the passive activity credit to which subparagraph (B) or (D) does not apply,

"(iv) fourth to the portion of such credit to which subparagraph (B) applies, and".

(b) AMENDMENT RELATED TO SECTION 306 OF THE ACT.—Section 151(c)(6)(C) is amended—

(1) by striking "FOR EARNED INCOME CREDIT.—For purposes of section 32, an" and inserting "FOR PRINCIPAL PLACE OF ABODE REQUIREMENTS.—An", and

(2) by striking "requirement of section 32(c)(3)(A)(ii)" and inserting "principal place of abode requirements of section 2(a)(1)(B), section 2(b)(1)(A), and section 32(c)(3)(A)(ii)".

(c) AMENDMENT RELATED TO SECTION 309 OF THE ACT.—Subparagraph (A) of section 358(h)(1) is amended to read as follows:

"(A) which is assumed by another person as part of the exchange, and".

(d) AMENDMENTS RELATED TO SECTION 401 OF THE ACT.—

(1)(A) Section 1234A is amended by inserting "or" after the comma at the end of paragraph (1), by striking "or" at the end of paragraph (2), and by striking paragraph (3).

(B)(i) Section 1234B is amended in subsection (a)(1) and in subsection (b) by striking "sale or exchange" the first place it appears in each subsection and inserting "sale, exchange, or termination".

(ii) Section 1234B is amended by adding at the end the following new subsection:

"(f) CROSS REFERENCE.—

"For special rules relating to dealer securities futures contracts, see section 1256."

(2) Section 1091(e) is amended—

(A) in the heading, by striking "SECURITIES.—" and inserting "SECURITIES AND SECURITIES FUTURES CONTRACTS TO SELL.—",

(B) by inserting after "closing of a short sale of" the following: "(or a securities futures contract to sell)",

(C) in paragraph (2), by inserting after "short sale of" the following: "(or securities futures contracts to sell)", and

(D) by adding at the end the following: "For purposes of this subsection, the term 'securities futures contract' has the meaning provided by section 1234B(c).".

(3) Section 1233(e)(2) is amended by striking "and" at the end of subparagraph (C), by striking the period and inserting "; and" at the end of subparagraph (D), and by adding at the end the following:

"(E) entering into a securities futures contract (as so defined) to sell shall be treated as entering into a short sale, and the sale, exchange, or termination of a securities futures contract to sell shall be treated as the closing of a short sale.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Community Renewal Tax Relief Act of 2000 to which they relate.

SEC. 613. AMENDMENTS RELATED TO THE TAX RELIEF EXTENSION ACT OF 1999.

(a) AMENDMENTS RELATED TO SECTION 545 OF THE ACT.—Section 857(b)(7) is amended—

(1) in clause (i) of subparagraph (B), by striking "the amount of which" and inserting "to the extent the amount of the rents", and

(2) in subparagraph (C), by striking "if the amount" and inserting "to the extent the amount".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 545 of the Tax Relief Extension Act of 1999.

SEC. 614. AMENDMENTS RELATED TO THE TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENTS RELATED TO SECTION 311 OF THE ACT.—Section 311(e) of the Taxpayer Relief Act of 1997 (Public Law 105-34; 111 Stat. 836) is amended—

(1) in paragraph (2)(A), by striking "recognized" and inserting "included in gross income", and

(2) by adding at the end the following new paragraph:

"(5) DISPOSITION OF INTEREST IN PASSIVE ACTIVITY.—Section 469(g)(1)(A) of the Internal Revenue Code of 1986 shall not apply by reason of an election made under paragraph (1).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 311 of the Taxpayer Relief Act of 1997.

SEC. 615. AMENDMENT RELATED TO THE BALANCED BUDGET ACT OF 1997.

(a) AMENDMENT RELATED TO SECTION 4006 OF THE ACT.—Section 26(b)(2) is amended by striking "and" at the end of subparagraph (P), by striking the period and inserting ", and" at the end of subparagraph (Q), and by adding at the end the following new subparagraph:

"(R) section 138(c)(2) (relating to penalty for distributions from Medicare+Choice MSA not used for qualified medical expenses if minimum balance not maintained).".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 4006 of the Balanced Budget Act of 1997.

SEC. 616. OTHER TECHNICAL CORRECTIONS.

(a) COORDINATION OF ADVANCED PAYMENTS OF EARNED INCOME CREDIT.—

(1) Section 32(g)(2) is amended by striking "subpart" and inserting "part".

(2) The amendment made by this subsection shall take effect as if included in section 474 of the Tax Reform Act of 1984.

(b) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION TO FEDERAL CHILD SUPPORT AGENCIES.—

(1) Section 6103(l)(8) is amended—

(A) in the heading, by striking "STATE AND LOCAL" and inserting "FEDERAL, STATE, AND LOCAL", and

(B) in subparagraph (A), by inserting "Federal or" before "State or local".

(2) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(c) TREATMENT OF SETTLEMENTS UNDER PARTNERSHIP AUDIT RULES.—

(1) The following provisions are each amended by inserting "or the Attorney General (or his delegate)" after "Secretary" each place it appears:

(A) Paragraphs (1) and (2) of section 6224(c).

(B) Section 6229(f)(2).

(C) Section 6231(b)(1)(C).

(D) Section 6234(g)(4)(A).

(2) The amendments made by this subsection shall apply with respect to settlement agreements entered into after the date of the enactment of this Act.

(d) Amendment Related to Procedure and Administration.—

(1) Section 6331(k)(3) (relating to no levy while certain offers pending or installment agreement pending or in effect) is amended to read as follows:

"(3) Certain rules to apply.—Rules similar to the rules of—

"(A) paragraphs (3) and (4) of subsection (i), and

"(B) except in the case of paragraph (2)(C), paragraph (5) of subsection (i),

shall apply for purposes of this subsection.".

(2) The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(e) Modified Endowment Contracts.—Paragraph (2) of section 318(a) of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A–645) is repealed, and clause (ii) of section 7702A(c)(3)(A) shall read and be applied as if the amendment made by such paragraph had not been enacted.

SEC. 617. CLERICAL AMENDMENTS.

(1) The subsection (g) of section 25B that relates to termination is redesignated as subsection (h).

(2) Section 51A(c)(1) is amended by striking "51(d)(10)" and inserting "51(d)(11)".

(3) Section 172(b)(1)(F)(i) is amended—

(A) by striking "3 years" and inserting "3 taxable years", and

(B) by striking "2 years" and inserting "2 taxable years".

(4) Section 351(h)(1) is amended by inserting a comma after "liability".

(5) Section 741 is amended by striking "which have appreciated substantially in value".

(6) Section 857(b)(7)(B)(i) is amended by striking "subsection 856(d)" and inserting "section 856(d)".

(7) Section 1394(c)(2) is amended by striking "subparagraph (A)" and inserting "paragraph (1)".

(8)(A) Section 6227(d) is amended by striking "subsection (b)" and inserting "subsection (c)".

(B) Section 6228 is amended—

(i) in subsection (a)(1), by striking "subsection (b) of section 6227" and inserting "subsection (c) of section 6227",

(ii) in subsection (a)(3)(A), by striking "subsection (b) of", and

(iii) in subsections (b)(1) and (b)(2)(A), by striking "subsection (c) of section 6227" and inserting "subsection (d) of section 6227".

(C) Section 6231(b)(2)(B)(i) is amended by striking "section 6227(c)" and inserting "section 6227(d)".

(9) Section 1221(b)(1)(B)(i) is amended by striking "1256(b))" and inserting "1256(b)))".

(10) Section 618(b)(2) of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16; 115 Stat. 108) is amended—

(A) in subparagraph (A) by striking "203(d)" and inserting "202(f)", and

(B) in subparagraphs (C), (D), and (E) by striking "203" and inserting "202(f)".

(11)(A) Section 525 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1928) is amended by striking "7200" and inserting "7201".

(B) Section 532(c)(2) of such Act (113 Stat. 1930) is amended—

(i) in subparagraph (D), by striking "341(d)(3)" and inserting "341(d)", and

(ii) in subparagraph (Q), by striking "954(c)(1)(B)(iii) and inserting "954(c)(1)(B)".

SEC. 618. ADDITIONAL CORRECTIONS.

(a) Amendments Related to Section 202 of the Economic Growth and Tax Relief Reconciliation Act of 2001.—

(1) Subsection (h) of section 23 is amended—

(A) by striking "subsection (a)(1)(B)" and inserting "subsection (a)(3)", and

(B) by adding at the end the following new flush sentence:

"If any amount as increased under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10."

(2) Subsection (f) of section 137 is amended by adding at the end the following new flush sentence:

"If any amount as increased under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10."

(b) Amendments Related to Section 204 of the Economic Growth and Tax Relief Reconciliation Act of 2001.—Section 21(d)(2) is amended—

(1) in subparagraph (A) by striking "$200" and inserting "$250", and

(2) in subparagraph (B) by striking "$400" and inserting "$500".

(c) Effective Date.—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

TITLE VII—UNEMPLOYMENT ASSISTANCE

SEC. 701. SHORT TITLE.

This title may be cited as the "Temporary Extended Unemployment Compensation Act of 2001".

SEC. 702. FEDERAL-STATE AGREEMENTS.

(a) In General.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the "Secretary"). Any State which is a party to an agreement under this title may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) Provisions of Agreement.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of temporary extended unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before March 15, 2001);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(4) filed an initial claim for regular compensation on or after March 15, 2001.

(c) Exhaustion of Benefits.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) Weekly Benefit Amount, Etc.—For purposes of any agreement under this title—

(1) the amount of temporary extended unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary extended unemployment compensation and the payment thereof, except—

(A) that an individual shall not be eligible for temporary extended unemployment compensation under this title unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment or the equivalent in insured wages, as determined under the provisions of the State law implementing section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(B) where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary extended unemployment compensation payable to any individual for whom a temporary extended unemployment compensation account is established under section 703 shall not exceed the amount established in such account for such individual.

(e) Election by States.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of temporary extended unemployment compensation in lieu of extended compensation to individuals who otherwise meet the requirements of this section. Such an election shall not require a State to trigger off an extended benefit period.

SEC. 703. TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) In General.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary extended unemployment compensation, a temporary extended unemployment compensation account with respect to such individual's benefit year.

(b) Amount in Account.—

(1) In general.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) Reduction for extended benefits.—The amount in an account under paragraph (1) shall be reduced (but not below zero) by the aggregate amount of extended compensation (if any) received by such individual relating to the same benefit year under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(3) Weekly benefit amount.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

SEC. 704. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) General Rule.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the temporary extended unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) Treatment of Reimbursable Compensation.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) Determination of Amount.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 705. FINANCING PROVISIONS.

(a) In General.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a)) shall be used for the making of payments to States having agreements entered into under this title.

(b) Certification.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) Assistance to States.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) Appropriations for Certain Payments.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 706. FRAUD AND OVERPAYMENTS.

(a) In General.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of temporary extended unemployment compensation under this title to which he was not entitled, such individual—

(1) shall be ineligible for further temporary extended unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) Repayment.—In the case of individuals who have received amounts of temporary extended unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such temporary extended unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such temporary extended unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) Recovery by State Agency.—

(1) In general.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any temporary extended unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the temporary extended unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) Opportunity for hearing.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) Review.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 707. DEFINITIONS.

In this title, the terms "compensation", "regular compensation", "extended compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 708. APPLICABILITY.

An agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before January 1, 2003.

SEC. 709. SPECIAL REED ACT TRANSFER IN FISCAL YEAR 2002.

(a) Repeal of Certain Provisions Added by the Balanced Budget Act of 1997.—

(1) In general.—The following provisions of section 903 of the Social Security Act (42 U.S.C. 1103) are repealed:

(A) Paragraph (3) of subsection (a).

(B) The last sentence of subsection (c)(2).

(2) Savings provision.—Any amounts transferred before the date of enactment of this Act under the provision repealed by paragraph (1)(A) shall remain subject to section 903 of the Social Security Act, as last in effect before such date of enactment.

(b) Special Transfer in Fiscal Year 2002.—Section 903 of the Social Security Act is amended by adding at the end the following:

"Special Transfer in Fiscal Year 2002

"(d)(1) The Secretary of the Treasury shall transfer (as of the date determined under paragraph (5)) from the Federal unemployment account to the account of each State in the Unemployment Trust Fund the amount determined with respect to such State under paragraph (2).

"(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to—

"(A) the amount which would have been required to have been transferred under this section to such account at the beginning of fiscal year 2002 if—

"(i) section 709(a)(1) of the Temporary Extended Unemployment Compensation Act of 2001 had been enacted before the close of fiscal year 2001, and

"(ii) section 5402 of Public Law 105-33 (relating to increase in Federal unemployment account ceiling) had not been enacted,

minus

"(B) the amount which was in fact transferred under this section to such account at the beginning of fiscal year 2002.

"(3)(A) Except as provided in paragraph (4), amounts transferred to a State account pursuant to this subsection may be used only in the payment of cash benefits—

"(i) to individuals with respect to their unemployment, and

"(ii) which are allowable under subparagraph (B) or (C).

"(B)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable as—

"(I) regular compensation, or

"(II) additional compensation, upon the exhaustion of any temporary extended unemployment compensation (if such State has entered into an agreement under the Temporary Extended Unemployment Compensation Act of 2001), for individuals eligible for regular compensation under the unemployment compensation law of such State.

"(ii) Any additional compensation under clause (i) may not be taken into account for purposes of any determination relating to the amount of any extended compensation for which an individual might be eligible.

"(C)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable to 1 or more categories of individuals not otherwise eligible for regular compensation under the unemployment compensation law of such State, including those described in clause (iii).

"(ii) The benefits paid under this subparagraph to any individual may not, for any period of unemployment, exceed the maximum amount of regular compensation authorized under the unemployment compensation law of such State for that same period, plus any additional compensation (described in subparagraph (B)(i)) which could have been paid with respect to that amount.

"(iii) The categories of individuals described in this clause include the following:

"(I) Individuals who are seeking, or available for, only part-time (and not full-time) work.

"(II) Individuals who would be eligible for regular compensation under the unemployment compensation law of such State under an alternative base period.

"(D) Amounts transferred to a State account under this subsection may be used in the payment of cash benefits to individuals only for weeks of unemployment beginning after the date of enactment of this subsection.

"(4) Amounts transferred to a State account under this subsection may be used for the administration of its unemployment compensation law and public employment offices (including in connection with benefits described in paragraph (3) and any recipients thereof), subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to 'subsections (a) and (b)' in subparagraph (D) thereof to include this subsection).

"(5) Transfers under this subsection shall be made by December 31, 2001, unless this paragraph is not enacted until after that date, in which case such transfers shall be made within 10 days after the date of enactment of this paragraph."

(c) Limitations on Transfers.—Section 903(b) of the Social Security Act shall apply to transfers under section 903(d) of such Act (as amended by this section). For purposes of the preceding sentence, such section 903(b) shall be deemed to be amended as follows:

(1) By substituting "the transfer date described in subsection (d)(5)" for "October 1 of any fiscal year".

(2) By substituting "remain in the Federal unemployment account" for "be transferred to the Federal unemployment account as of the beginning of such October 1".

(3) By substituting "fiscal year 2002 (after the transfer date described in subsection (d)(5))" for "the fiscal year beginning on such October 1".

(4) By substituting "under subsection (d)" for "as of October 1 of such fiscal year".

(5) By substituting "(as of the close of fiscal year 2002)" for "(as of the close of such fiscal year)".

(d) Technical Amendments.—(1) Sections 3304(a)(4)(B) and 3306(f)(2) of the Internal Revenue Code of 1986 are amended by inserting "or 903(d)(4)" before "of the Social Security Act".

(2) Section 303(a)(5) of the Social Security Act is amended in the second proviso by inserting "or 903(d)(4)" after "903(c)(2)".

(e) Regulations.—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section and the amendments made by this section.

TITLE VIII—DISPLACED WORKER HEALTH INSURANCE CREDIT

SEC. 801. DISPLACED WORKER HEALTH INSURANCE CREDIT.

(a) In General.—Subchapter B of chapter 65 is amended by inserting after section 6428 the following new section:

"SEC. 6429. DISPLACED WORKER HEALTH INSURANCE CREDIT.

"(a) In General.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 60 percent of the amount paid during the taxable year for coverage for the taxpayer, the taxpayer's spouse, and dependents of the taxpayer under qualified health insurance during eligible coverage months.

"(b) Only 12 Eligible Coverage Months.—The number of eligible coverage months taken into account under subsection (a) for all taxable years shall not exceed 12.

"(c) Eligible Coverage Month.—For purposes of this section—

"(1) In general.—The term 'eligible coverage month' means any month during 2002 or 2003 if, as of the first day of such month—

"(A) the taxpayer is unemployed,

"(B) the taxpayer is covered by qualified health insurance,

"(C) the premium for coverage under such insurance for such month is paid by the taxpayer, and

"(D) the taxpayer does not have other specified coverage.

"(2) Special rules.—

"(A) Treatment of first month of employment.—The taxpayer shall be treated as meeting the requirement of paragraph (1)(A) for the first month beginning on or after the date that the taxpayer ceases to be unemployed by reason of beginning work for an employer.

"(B) Initial claim must be after March 15, 2001.—The taxpayer shall not be treated as meeting the requirement of paragraph (1)(A) with respect to any unemployment if the initial claim for regular compensation for such unemployment is filed on or before March 15, 2001.

"(C) Joint returns.—In the case of a joint return, the requirements of paragraph (1) shall be treated as met if at least 1 spouse satisfies such requirements.

"(3) Other specified coverage.—For purposes of this subsection, an individual has other specified coverage for any month if, as of the first day of such month—

"(A) Subsidized coverage.—

"(i) In general.—Such individual is covered under any qualified health insurance under which at least 50 percent of the cost of coverage (determined under section 4980B) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

"(ii) Treatment of cafeteria plans and flexible spending accounts.—For purposes of clause (i), the cost of benefits—

"(I) which are chosen under a cafeteria plan (as defined in section 125(d)), or provided under a flexible spending or similar arrangement, of such an employer, and

"(II) which are not includible in gross income under section 106,

shall be treated as borne by such employer.

"(B) Coverage under medicare, medicaid, or SCHIP.—Such individual—

"(i) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

"(ii) is enrolled in the program under title XIX or XXI of such Act.

"(C) Certain other coverage.—Such individual—

"(i) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, or

"(ii) is entitled to receive benefits under chapter 55 of title 10, United States Code.

"(4) Determination of unemployment.—For purposes of paragraph (1), an individual shall be treated as unemployed during any period—

"(A) for which such individual is receiving unemployment compensation (as defined in section 85(b)), or

"(B) for which such individual is certified by a State agency (or by any other entity designated by the Secretary) as otherwise being entitled to receive unemployment compensation (as so defined) but for—

"(i) the termination of the period during which such compensation was payable, or

"(ii) an exhaustion of such individual's rights to such compensation.

"(d) Qualified Health Insurance.—For purposes of this section, the term 'qualified health insurance' means insurance which constitutes medical care; except that such term shall not include any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

"(e) Coordination With Advance Payments of Credit.—

"(1) Recapture of excess advance payments.—If any payment is made by the Secretary under section 7527 during any calendar year to a provider of qualified health insurance for an individual, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

"(2) Reconciliation of payments advanced and credit allowed.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under part IV of subchapter A of chapter 1.

"(f) Special Rules.—

"(1) Coordination with other deductions.—Amounts taken into account under subsection (a) shall not be taken into account in determining any deduction allowed under section 162(l) or 213.

"(2) MSA distributions.—Amounts distributed from an Archer MSA (as defined in section 220(d)) shall not be taken into account under subsection (a).

"(3) Denial of credit to dependents.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(4) Credit treated as refundable credit.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1.

"(5) Regulations.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section and section 7527.".

(b) Increased Access to Health Insurance for Individuals Eligible for Tax Credit.—Notwithstanding any other provision of law, in applying section 2741 of the Public Health Service Act (42 U.S.C. 300gg-41)) and any alternative State mechanism under section 2744 of such Act (42

U.S.C.300gg-44)), in determining who is an eligible individual (as defined in section 2741(b) of such Act) in the case of an individual who may be covered by insurance for which credit is allowable under section 6429 of the Internal Revenue Code of 1986 for an eligible coverage month, if the individual seeks to obtain health insurance coverage under such section during an eligible coverage month under such section—

(1) paragraph (1) of such section 2741(b) shall be applied as if any reference to 18 months is deemed a reference to 12 months, and

(2) paragraphs (4) and (5) of such section 2741(b) shall not apply.

(c) Information Reporting.—

(1) In general.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

"SEC. 6050T. RETURNS RELATING TO DISPLACED WORKER HEALTH INSURANCE CREDIT.

"(a) Requirement of Reporting.—Every person—

"(1) who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under qualified health insurance (as defined in section 6429(d)), and

"(2) who claims a reimbursement for an advance credit amount,

shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed.

"(b) Form and Manner of Returns.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe, and

"(2) contains—

"(A) the name, address, and TIN of each individual referred to in subsection (a),

"(B) the aggregate of the advance credit amounts provided to such individual and for which reimbursement is claimed,

"(C) the number of months for which such advance credit amounts are so provided, and

"(D) such other information as the Secretary may prescribe.

"(c) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

"(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

"(d) Advance Credit Amount.—For purposes of this section, the term 'advance credit amount' means an amount for which the person can claim a reimbursement pursuant to a program established by the Secretary under section 7527."

(2) Assessable penalties.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

"(xi) section 6050T (relating to returns relating to displaced worker health insurance credit),".

(B) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (Z), by striking the period at the end of subparagraph (AA) and inserting ", or", and by adding after subparagraph (AA) the following new subparagraph:

"(BB) section 6050T (relating to returns relating to displaced worker health insurance credit)."returns relating to payments for qualified health insurance)."

(3) Clerical amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050S the following new item:

"Sec. 6050T. Returns relating to displaced worker health insurance credit."

(d) Conforming Amendments.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 6429 of such Code".

(2) The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

"Sec. 6429. Displaced worker health insurance credit."

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 802. ADVANCE PAYMENT OF DISPLACED WORKER HEALTH INSURANCE CREDIT.

(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. ADVANCE PAYMENT OF DISPLACED WORKER HEALTH INSURANCE CREDIT.

"(a) General Rule.—The Secretary shall establish a program for making payments on behalf of eligible individuals to providers of health insurance for such individuals.

"(b) Eligible Individual.—For purposes of this section, the term 'eligible individual' means any individual for whom a qualified health insurance credit eligibility certificate is in effect.

"(c) Qualified Health Insurance Credit Eligibility Certificate.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement certified by a State agency (or by any other entity designated by the Secretary) which—

"(1) certifies that the individual was unemployed (within the meaning of section 6429) as of the first day of any month, and

"(2) provides such other information as the Secretary may require for purposes of this section."

(c) Clerical Amendment.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7527. Advance payment of displaced worker health insurance credit."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE IX—EMPLOYMENT AND TRAINING ASSISTANCE AND TEMPORARY HEALTH CARE COVERAGE ASSISTANCE

SEC. 901. EMPLOYMENT AND TRAINING ASSISTANCE AND TEMPORARY HEALTH CARE COVERAGE ASSISTANCE.

(a) In General.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) to the Governor of any State or outlying area who applies for assistance under subsection (f) to provide employment and training assistance and temporary health care coverage assistance to workers affected by major economic dislocations, such as plant closures, mass layoffs, or multiple layoffs, including those dislocations caused by the terrorist attacks of September 11, 2001.".

(b) Requirements.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following:

"(f) Additional Relief for Major Economic Dislocations.—

"(1) Grant recipient eligibility.—

"(A) In general.—To be eligible to receive a grant under subsection (a)(4), a Governor shall submit an application, for assistance described in subparagraph (B), to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) Types of assistance.—

"(i) In general.—Assistance described in this subparagraph is—

"(I) employment and training assistance, including employment and training activities described in section 134; and

"(II) temporary health care coverage assistance described in paragraph (4).

"(ii) Minimum allocation to temporary health care coverage assistance.—Not less than 30 percent of the cost of assistance requested in any application submitted under this subsection shall consist of the cost for temporary health care coverage assistance described in paragraph (4).

"(iii) Encouragement of certain types of health care coverage.—In publishing requirements for applications under this subsection, the Secretary shall encourage the use of private health coverage alternatives.

"(C) Minimum award requirement for eligible states and outlying areas.—

"(i) Requirements.—In any case in which the requirements of this section are met in connection with one or more applications of the Governor of any State or outlying area for assistance described in subparagraph (B), the Governor—

"(I) shall be awarded at least 1 grant under subsection (a)(4) pursuant to such applications, and

"(II) except as provided in clause (ii), shall be awarded not less than $5,000,000 in total grants awarded under (a)(4).

"(ii) Exception to minimum grant requirements.—The Secretary may award to a Governor a total amount less than the minimum total amount specified in clause (i)(II), as appropriate, if the Governor—

"(I) requests less than such minimum total amount, or

"(II) fails to demonstrate to the Secretary that there are a sufficient number of eligible recipients to justify the awarding of grants in such minimum total amount.

"(2) State administration.—The Governor may designate one or more local workforce investment boards or other entities with the capability to respond to the circumstances relating to the particular closure, layoff, or other dislocation to administer the grant under subsection (a)(4).

"(3) PARTICIPANT ELIGIBILITY.—An individual shall be eligible to receive assistance described in paragraph (1)(B) under a grant awarded under subsection (a)(4) if such individual is a dislocated worker and the Governor has certified that a major economic dislocation, such as a plant closure, mass layoff, or multiple layoff, including a dislocation caused by the terrorist attacks of September 11, 2001, contributed importantly to the dislocation.

"(4) TEMPORARY HEALTH CARE COVERAGE ASSISTANCE.—

"(A) IN GENERAL.—Temporary health care coverage assistance described in this paragraph consists of health care coverage premium assistance provided to qualified individuals under this paragraph with respect to premiums for coverage for themselves, for their spouses, for their dependents, or for any combination thereof, other than premiums for excluded health insurance coverage.

"(B) QUALIFIED INDIVIDUALS.—For purposes of this paragraph—

"(i) IN GENERAL.—Subject to clause (ii), a qualified individual is an individual who—

"(I) is a dislocated worker referred to in paragraph (3) with respect to whom the Governor has made the certification regarding the dislocation as required under such paragraph, and

"(II) is receiving or has received employment and training assistance as described in paragraph (1)(B)(i)(I).

"(ii) LIMITATION.—An individual shall not be treated as a qualified individual if—

"(I) such individual is eligible for coverage under the program under title XIX of the Social Security Act applicable in the State or outlying area, or

"(II) such individual is eligible for coverage under the program under title XXI of such Act applicable in the State or outlying area,

unless such eligibility is effective solely in connection with eligibility for health care coverage premium assistance under a program established by the Governor in connection with temporary health care coverage assistance received under this subsection.

"(iii) CONSTRUCTION.—

"(I) PERMITTING COVERAGE THROUGH ENROLLMENT IN MEDICAID OR SCHIP.—Nothing in this subsection shall be construed as preventing a State from using funds made available by reason of subsection (a)(4) to provide health care coverage through enrollment in the program under title XIX (relating to medicaid) or in the program under title XXI (relating to SCHIP) of the Social Security Act, but only in the case of individuals who are not otherwise eligible for coverage under either such program.

"(II) NOT AFFECTING ELIGIBILITY FOR ASSISTANCE.—An individual shall not be treated for purposes of this subsection as being eligible for coverage under either such program (and thereby not eligible for assistance under this subsection) merely on the basis that the State provides assistance under this subsection through coverage under either such program.

"(C) LIMITATION ON ENTITLEMENT.—Nothing in this subsection shall be construed as establishing any entitlement of qualified individuals to premium assistance under this subsection.

"(D) CONCURRENCE AND CONSULTATION.—In connection with any temporary health care coverage assistance provided pursuant to this paragraph—

"(i) if the Secretary determines that health care coverage premium assistance provided through title XIX or XXI of the Social Security Act is a substantial component of the assistance provided, the Secretary shall act in concurrence with the Secretary of Health and Human Services, and

"(ii) in any other case, the Secretary shall consult with the Secretary of Health and Human Services to the extent that such assistance affects programs administered by or under the Secretary of Health and Human Services.

"(E) USE OF FUNDS.—Temporary health care coverage assistance provided pursuant to this subsection shall supplement and may not supplant any other State or local funds used to provide health care coverage and may not be included in determining the amount of non-Federal contributions required under any program.

"(F) DEFINITIONS.—For purposes of this paragraph—

"(i) EXCLUDED HEALTH CARE COVERAGE.—The term 'excluded health care coverage' means coverage under—

"(I) title XVIII of the Social Security Act,

"(II) chapter 55 of title 10, United States Code,

"(III) chapter 17 of title 38, United States Code,

"(IV) chapter 89 of title 5, United States Code (other than coverage which is comparable to continuation coverage under section 4980B of the Internal Revenue Code of 1986), or

"(V) the Indian Health Care Improvement Act.

Such term also includes coverage under a qualified long-term care insurance contract and excepted benefits described in section 733(c) of the Employee Retirement Income Security Act of 1974.

"(ii) PREMIUM.—The term 'premium' means, in connection with health care coverage, the premium which would (but for this section) be charged for the cost of coverage.

"(5) APPROPRIATIONS.—

"(A) IN GENERAL.—There is hereby appropriated, from any amounts in the Treasury not otherwise appropriated, $4,000,000,000 for the period consisting of fiscal years 2002, 2003, and 2004 for the award of grants under subsection (a)(4) in accordance with this section.

"(B) AVAILABILITY.—Amounts appropriated pursuant to subparagraph (A) for each fiscal year—

"(i) are in addition to amounts made available under section 132(a)(2)(A) or any other provision of law to carry out this section; and

"(ii) notwithstanding section 189(g)(1), shall remain available for obligation by the Secretary from the date of the enactment of this subsection through each succeeding fiscal year, except that, notwithstanding section 189(g)(2), no funds are hereby available for expenditure after June 30, 2004.".

TITLE X—TEMPORARY STATE HEALTH CARE ASSISTANCE

SEC. 1001. TEMPORARY STATE HEALTH CARE ASSISTANCE.

(a) IN GENERAL.—Title XXI of the Social Security Act is amended by adding at the end the following new section:

"SEC. 2111. TEMPORARY STATE HEALTH CARE ASSISTANCE.

"(a) IN GENERAL.—For the purpose of providing allotments to States under this section, there are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $4,599,667,448. Such funds shall be available for expenditure by the State through the end of 2002. This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.

"(b) ALLOTMENT.—Funds appropriated under subsection (a) shall be allotted by the Secretary among the States in accordance with the following table:

"State	Allotment (in dollars)
Alabama	50,746,770
Alaska	31,934,026
Arizona	68,594,677
Arkansas	38,203,601
California	482,591,746
Colorado	37,469,775
Connecticut	60,039,005
Delaware	10,355,807
District of Columbia	18,321,834
Florida	164,619,369
Georgia	118,754,564
Hawaii	12,827,163
Idaho	13,031,700
Illinois	175,505,956
Indiana	66,067,368
Iowa	31,521,201
Kansas	27,288,967
Kentucky	82,759,133
Louisiana	83,907,301
Maine	22,650,838
Maryland	60,347,066
Massachusetts	121,971,140
Michigan	156,479,213
Minnesota	113,966,453
Mississippi	55,335,225
Missouri	74,675,436
Montana	10,224,652
Nebraska	31,582,786
Nevada	14,695,973
New Hampshire	15,482,962
New Jersey	115,880,093
New Mexico	39,204,714
New York	573,999,663
North Carolina	189,333,723
North Dakota	8,915,675
Ohio	166,006,936
Oklahoma	48,914,626
Oregon	71,160,353
Pennsylvania	227,183,255
Rhode Island	45,001,680
South Carolina	94,789,740
South Dakota	19,951,788
Tennessee	102,845,128
Texas	289,526,532
Utah	30,860,915
Vermont	10,291,090
Virginia	67,232,217
Washington	110,377,264
West Virginia	31,120,804
Wisconsin	93,089,086
Wyoming	12,030,459

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Funds appropriated under this section may be used by a State only to provide health care items and services (other than types of items and services for which Federal financial participation is prohibited under this title or title XIX).

"(2) LIMITATION.—Funds so appropriated may not be used to match other Federal expenditures or in any other manner that results in the expenditure of Federal funds in excess of the amounts provided under this section.

"(d) PAYMENT TO STATES.—Funds made available under this section shall be paid to the States in a form and manner and time specified by the Secretary, based upon the submission of such information as the Secretary may require. There is no requirement for the expenditure of any State funds in order to qualify for receipt of funds under this section. The previous sections of this title shall not apply with respect to funds provided under this section.

"(e) DEFINITION.—For purposes of this section, the term 'State' means the 50 States and the District of Columbia.".

(b) REPEAL.—Effective as of January 1, 2003, section 2111 of the Social Security Act, as inserted by subsection (a), is repealed.

TITLE XI—SOCIAL SECURITY HELD HARMLESS; BUDGETARY TREATMENT OF ACT

SEC. 1101. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

SEC. 1102. EMERGENCY DESIGNATION.

Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this Act below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this Act in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

The SPEAKER pro tempore. Pursuant to House Resolution 320, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 1 hour.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the last time we addressed a piece of legislation that was designed to help us stimulate the economy, as requested by the President, as Alan Greenspan had indicated, this economy needed some help, and that perhaps by making some decisions in the tax and business area we could assist the recovery. Equally important, those people who lost their jobs, and, as we have come to realize now more and more associated with the loss of job is the loss of health insurance, that that had to be part of the package as well.

We started, as we normally do in the legislative process, by passing a bill out of the House of Representatives. What then normally happens is the Senate of the United States passes a piece of legislation, and, if it is different in the House and the Senate, we go to a conference. The conference then works out the difference between the two bills.

The House did its job. On October 24 we started the process by passing our Stimulus and Recovery Act. The Senate did not do its job. The Senate did not pass a bill. But all of us, trying to stimulate this economy and help those who, through no fault of their own, are not now employed or do not have either the wherewithal or the opportunity to provide their families with health insurance, we decided to try to move under a leadership umbrella.

Notwithstanding the Senate's inability to move legislation to get us into a regular conference, we reached out and tried to create a leadership conference that would try to operate under the same rules so that we could address the very real need to help stimulate the economy and answer those distressed workers.

We have worked long and hard, and I do have to say on the floor that the chairman of the Senate Finance Committee on the other side worked diligently. I believe he was required to follow rules of engagement which made it very difficult to come together. His staff worked long hours. We tried to be as creative as we could under the restrictions placed on us, and we did not ultimately succeed in producing a document that looked like a conference between the House-passed bill and the pieces of legislation that were brought from the Senate. For example, the Senate finance-passed bill, which passed by an 11 to 10 vote, was one of the vehicles that we looked at.

Notwithstanding that, those discussions, nevertheless, bore fruit, and the legislation that you have before you tonight, and we will talk about it in particular areas, has major modifications as though a conference took place. So the House started by passing legislation, and tonight we reach the culmination of what amounts to the result of a conference, notwithstanding the fact that the Senate has not passed any legislation in this area.

As we discuss the pieces of the bill, I do hope Members will focus on how much the legislation changed between October 24 and today. That is what normally happens when the House and the Senate get together.

The package represented here tonight in the legislation before you is a significantly different package than what we presented on October 24, and our job will be to enlighten both the Members and the American public about how the President's intervention in the area of health insurance has produced a significantly better package and how the House leadership's willingness to make modifications on the stimulus side has, in fact, produced a document that would look very much like a conference report would normally look.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would again advise all Members that the rules covering decorum in debate in the House indicate that a factual description relating to Senate action or inaction concerning a measure then under debate in the House are in order but characterizations of those actions or inactions are not allowed.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

12:40. 12:40, and 8 million people without work. Some of these people have been described as being "unproductive." But all of these people have been promised that this Congress of this great Nation, that we would not only feel their pain, but we would do something about it.

We waited patiently, because people have confidence in the President and the Congress. When the flag went up, we saluted it; when we were hit, we responded; and during the war, we are the patriots. But we kind of felt that in order to stimulate the economy, that it was not just tax relief.

Everyone agreed if it was temporary, if it was direct, if it could stimulate, encourage investment, we should do it. Nobody said, nobody said, that these 8 million people had to be held hostage until we did it their way. That type of thinking never came up.

But, yes, we went into some kind of a conference, and we spent a lot of time on taxes. And the chairman of the Committee on Ways and Means would have to agree that there were a lot of concessions made, concessions that we found unpleasant. But because we were determined that we not leave this House of Representatives without doing something for these 8 million people. We said that we agree with you on taxes, if you agree with us on unemployment insurance and on health.

Well, it just seems like when you get to unemployment insurance, they believe a block grant will take care of that. Trust the governors; they will take care of it. Maybe some people are not eligible, maybe there is not enough money, but trust the governors, they would do it.

Well, we said we will trust the House and we will trust the Senate and we will just leave that alone, but let us get to the question of health.

This is the funniest thing in the world, that we are talking about extending health benefits for 1 year. We are talking about an existing program that is used today by employers. We are talking about using a system called COBRA and providing the funds so that the people who lost their jobs will be able to still continue to get health insurance.

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But there are some people in this House that believe they do not like the current system; that they do not believe there should be employer-sponsored insurance programs; that what they really believe should happen is that people who are out of work and need insurance, they need credits, they need vouchers, they have to go shop and see where they can get the best benefit for their dollar. They do not need these Cadillac programs that Republicans and Democrats have as Members of Congress; they need something cut back. And, of course, if they have ailments and the HMO says it is a higher price, they will give 60 percent of it, but they better go find the rest of it.

I tried to figure, in this country, at this time of year, the dignity of a person without a job, the pressures on a marriage, the inability to look at your children and know that you do not have a job, that you cannot pay their tuition, you cannot pay the mortgage. That is enough for any American to lose their dignity. But when you know you are not even currently covered for health insurance, that you do not know what is going to happen to the rest of your family, and they tell you to go out with the credit and shop; so I asked everyone, how do you do it? And do my colleagues know something? I heard an explanation in the Committee on Rules that I could not believe. You needed a lawyer to figure out what to do with the credit. So I said immediately, let me find out where this is in the bill, because I may not have understood in the Committee on Rules, but before I came to this floor, you bet your life I was going to find it. Who has page 100 of the Republican bill? I thank the gentleman from Washington (Mr. McDERMOTT).

This is all you need. Forget the complexities of it; forget how it works. If you do not know what to do with an advance refundable tax credit, not to worry. If you do not know what to do with a tax credit and you are not working and you have no unemployment, no earnings coming in, not to worry. Because under the Thomas bill, let me emphasize, under the Thomas bill, because the Committee on Ways and Means, like with most tax bills, had nothing to do with this; but that is okay, the gentleman from California (Mr. THOMAS) is a smart person. Because, under the Thomas bill, the whole program shall be established for making payments on behalf of the eligible individual by the Secretary of the Treasury. Not the Secretary of Health and Human Services, the Secretary of the Treasury.

So we got 2 hours of debate. Every so often, my colleagues will hear me refer to page 100, because we have a lot of bright people in this House, and they know just what to tell the Secretary to do. So do not go to sleep; be alert. People are going to ask, what is in the health bill? And remember, one does not have to study it. Hold on to page 100.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

As we said on October 24, that was the bill that started the process. If anyone wants to look at any of the other pages in the bill, they will find out that on the health provision, there was $3 billion provided, and on unemployment, there was 9.2. That bill had $12.2 billion directed toward the unemployed and health insurance for them.

In the bill we have in front of us tonight, thanks to the President Bush health insurance credit, there is $18.2 billion for health, and there is $19 billion for unemployment, for a total of $37.2 billion. One may wave one page, but the unemployed and those who are looking for health insurance think a $25 billion difference is real money. If the House and the Senate do not act on this before we leave for our break, all the one-page waving in the world will not help them out. This bill will provide $37.2 billion.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. HOUGHTON), a member of the committee.

Mr. HOUGHTON. Mr. Speaker, there are many features of this bill. I would like to talk about one, which happens to do with New York City; and New York City, of course, was the focal point of the bombing. Many people were killed. Buildings were destroyed. This is a particular feature of this bill which I believe in very strongly, and I would like to feel my other New York associates would feel this way too.

I am not going to go through the details of this bill, because they are quite technical in terms of expensing and tax-exempt private bonds and things like that. But the end result, and I will make this very brief, is that it is going to help the smaller businesses and the people who have lived and shopped and started and thrived in lower New York to come back, and that is the critical thing. Mr. Speaker, 20 million square feet of office space was lost, and we have to somehow bring that back. I know that other States say, well, why is this special for New York? New York was the focal point of the bombing, and there was no point in avoiding that. We must help this city.

I think this is a good bill, it is a good feature, and I hope other people will support it.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I think I have not made myself clear, Mr. Speaker. I asked people to look for page 100 to establish what the program was, not how much money was there. Who cares how much money is there if we do not know how to get it? So please, take a look at page 100. That is called the health program. We can put lipstick on the page, but we cannot call it a lady. This is no health program.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MATSUI), a senior member of the committee; and he knows a health program when he sees one.

Mr. MATSUI. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL), the ranking Democrat on the Committee on Ways and Means, for yielding me this time.

This bill will not become law; and I think the majority will probably be very happy about that, because there is no way that this legislation, the Thomas bill, will have anything to do with stimulating the U.S. economy. The reason for it is because it is based upon a wrong premise. Essentially what we have right now is a lack of consumer confidence, we have an underutilization of plant capacity, and our exports are down because our foreign competitors are not buying. So the bill itself will have nothing to do with making the economy better.

What is interesting is that the gentleman from California (Mr. THOMAS), in his legislation, makes some modifications in the corporate minimum tax; but basically, he puts a huge hole in it. It has something on the operating losses in subpart F, which has nothing to do with stimulating the economy. Essentially in this bill, 85 percent of the $260 billion over the next 5 years will be spent in the form of tax cuts to corporations or wealthy individuals. Only about 15 percent of it goes to the unemployed and those people that need health insurance. This is just a backdoor way of getting the tax cuts that the business community did not get in the June tax bill.

I have to say, what is very offensive about this is the fact that it comes from the Social Security payroll taxes. That is the problem. It comes from Social Security. So using Social Security payroll taxes, it comes from the lady who is a janitor or the lady who is the elevator operator, their tough-earned money, to pay for major tax cuts for big corporations. I think that is outrageous. They are lucky that this bill will not become law, because this bill will have nothing to do with stimulating the economy. What this bill will basically do is pay off those people that have made big contributions.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

I am looking at page 44 of a bill called the Rangel bill and it is under the health insurance provision, and as some of my colleagues might expect, do not be too surprised. This is what it says: "Not later than 60 days after the date of enactment of this act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which premium assistance is created."

My colleagues are right. We have the Secretary of the Treasury, we have the Secretary in consultation with the Secretary of Labor. It really is a significant difference.

Mr. Speaker, it is my pleasure to yield 2½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the chairman of the Subcommittee on Health.

Mrs. JOHNSON of Connecticut. Mr. Speaker, we cannot put lipstick on a paper and call it a lady, but we can put $25 billion additional dollars on the table and help people who are unemployed. A total of $37.2 billion does make a difference in unemployment benefits, in health care subsidies, absolutely. And in addition to this money, there is $4.6 billion for States to manage Medicaid costs or to put it into CHIP and open up CHIP for people who need affordable coverage.

So not only is there $4.6 billion in addition to the $32 billion, but there is $4 billion additional money for States to either use for training expansion or other health care needs. They could use it for community health centers so more people could be covered through that avenue. There are all kinds of ways we can make certain that everyone is covered. And remember, under the Democrat alternative offered by the other body, the only people who got health insurance, the only people, now listen to this, if you represent a rural area. The only people under the other bill who got any health care subsidies were people who worked for employers who were covered by COBRA. That means if you had less than 20 employees, your guys did not get any help with health insurance, not any, zero.

How could my colleagues hold out that their bill offered unemployment compensation and health insurance to those laid off as a result of this recession when, in fact, anyone who worked for an employer with less than 20 employees got zero, zero, zero, zero. That is wrong. It is not truthful.

We do provide subsidies for everyone. If I work for a small employer, he has health insurance, I get laid off, I get 60 percent of the premium costs. If I work for a small employer, as many people do in my district, I pay 50 percent of my premiums while I am working. I get laid off, the government pays 60 percent of the premiums. If I work for a small employer who does not provide health insurance, I buy my own health insurance, I get laid off, I get 60 percent.

Everyone, everyone gets unemployment compensation, 13 additional weeks, and flexible money to increase benefits if that is what the State needs, and everyone under this bill gets health insurance subsidies, 60 percent of premiums.

Do not let politics prevent people from getting the help they need during this recession, complicated by the terrorist attack of September 11. Put rhetoric aside. Give people real help.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from California, the chairman of the Committee on Ways and Means, referred to the Rangel bill. The gentlewoman from Connecticut referred to the Rangel bill. The only people that do not refer to the Rangel bill is the majority in the Committee on Rules that denied us the opportunity to discuss the Rangel bill. So all we have is the so-called Thomas bill.

But if we really get past the first page of the bill that we wanted to have as a substitute, that we wanted to debate, that we wanted to see which one was the best so we have options, yes, we start off, I say to the gentleman from California (Mr. THOMAS), on page 44 with the Secretary of the Treasury. But then we go to 45, 46, 47, 48, 49, 50, 51, 52, and all up to 54. This is what we call a program.

□ 0100

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, I beg to differ with the chairman. This matter started on the wrong foot. If they expect a bipartisan product, start on a bipartisan basis in the House of Representatives.

They did not do that. Instead, they put together a bill on a strictly partisan basis. They put together a bill that was heavily taxed, had a slender amount of attention to unemployment comp and health insurance, and then they say it is the Senate's fault. I beg to differ. The President endorsed the strategy that they adopted; and now they are bearing the fruits, the bitter fruits of a flawed strategy.

If Members want a bipartisan bill, start on a bipartisan basis in the House of Representatives. They have not done that. So now they come back with a bill that they say is better than the terrible bill, they do not say terrible, but better than the bill that they passed here loaded with tax breaks for the few and gave crumbs to the many who were unemployed, and they parade this as something that is very strong.

Health insurance under their bill, for most, they have to be drawing unemployment comp to get any help with health insurance. Two-thirds of the people in this country who are laid off do not get unemployment compensation.

They talk about $37 billion. Many of those billions of dollars in unemployment comp are Reed Act monies. They have been told, do not count $9 billion, because at the most a few billion will be used in the first year. Most of that money cannot be used to change unemployment comp because the legislatures are out of session, so under their bill, so many millions of the unemployed in this country will get zero help from their bill.

If Members want a bipartisan bill, start in the House of Representatives. Do not blame TOM DASCHLE or the Democrats. The fault lies with the Republican majority in the U.S. House of Representatives.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON), someone who sits in the unique position of being not only on the Committee on Ways and Means, but a subcommittee chair on the Committee on Education and the Workforce, and I think he has a clear perspective on the problem in front of us.

Mr. SAM JOHNSON of Texas. Mr. Speaker, what was just said is totally out of line. We are providing health care to people. Americans want action and they want it now, and for the second time in 2 months Republicans in the House have passed a bill to stimulate the economy and get Americans back to work.

This bill does strike a bipartisan compromise, and it provides health insurance and benefits to those who lost their jobs. Unemployed workers and their families need extra assistance in order to afford health care coverage after they lose their jobs.

In addition, dislocated workers need access to job training programs, child care, transportation, and other assistance in order to get back to work quickly. That is what we are talking about is creating jobs.

National emergency grants which are in this bill are the right approach. It allows each Governor to implement a seamless package of assistance for the needs of dislocated workers in their State. Importantly, it recognizes that a displaced worker's true goal ultimately is the right to return to work. It gives people more of their own money back, and it provides incentives to businesses to invest in new equipment and create new jobs.

Mr. Speaker, the Members know there is $14 billion, $14 billion going to low-income workers. There are stimulus payments. Also, the bill includes national emergency grants, which I just talked about, which I introduced, that target workers who are laid off by paying part of their health insurance.

Can Members believe this: this government is going to pay 60 percent of the health insurance costs of laid-off workers. It makes no difference whether or not they had health care insurance when they were employed, we are paying it to the unemployed.

The bottom line is this: the American people want, need, and deserve help, and it is time for one Senator to stop running for President.

POINT OF ORDER

Mr. FRANK. Point of order, Mr. Speaker. Point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Massachusetts will state his point of order.

Mr. FRANK. Mr. Speaker, I am a non-fan of the rule which says we shall not denigrate the Senate, but as long as it is on the books, it has to be enforced.

The gentleman's comments were blatantly out of order in characterizing the motives of a Member of the Senate. Either we are going to have this rule and enforce it, or we are not going to have it. I would be glad not to be bound by it. But simply announcing after Members have violated it that we wish they had remembered it is not appropriately enforcing the rules.

If we are going to have the rule that says clearly that we cannot talk about the Senate in that fashion, then we should enforce it or else let us get rid of it.

The SPEAKER pro tempore. The gentleman from Massachusetts is correct. As the Chair said several times during the course of both of the rules and now during a debate on this bill, it is not appropriate under clause 1 of rule XVII of the Rules of the House to characterize the action or the inaction of the other body; and further, it is not appropriate to make such reference to any individual Member of the other body during the course of the debate.

PARLIAMENTARY INQUIRIES

Mr. FRANK. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. FRANK. Would it not be appropriate for the Speaker, when such violations happen, to prevent the violation, rather than simply comment on it after the fact?

The SPEAKER pro tempore. The gentleman is correct. The Chair may take the initiative in the appropriate case.

Mr. THOMAS. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. THOMAS. To understand the import of that dialogue, if someone on the floor now was to indicate that the Senate has not passed a bill, that would be in violation of the rule; is that correct?

The SPEAKER pro tempore. The gentleman is not correct. As the Chair read the rule before, a factual statement of action or inaction relative to the Senate is appropriate when it comes during debate on a matter under consideration in the House.

Mr. THOMAS. So saying that the Senate did not pass a stimulus bill would not be in violation of the rule? I thank the Chair.

The SPEAKER pro tempore. The comment to which the Chair took exception earlier was an observation that the Senate had not done its job. That is not appropriate. Indicating that the Senate has not passed a bill is appropriate. Making reference to any individual Senator is not appropriate.

The Chair would indicate that he will attempt to be more vigilant as these matters occur and will interrupt Members, should there be a continuing violation.

Mr. RANGEL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. RANGEL. Could a Member state that a bill before the House did not go before the Committee on Ways and Means and never had hearings? Is that proper to debate on the floor?

The SPEAKER pro tempore. That is a proper matter for debate.

Mr. RANGEL. I thank the Speaker.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN), a member of the committee who has worked hard to protect the rights of those people who are unemployed.

Mr. CARDIN. Mr. Speaker, the legislation that is before us should be judged on two bases: first, does it really stimulate our economy; and second, what does it do for unemployed workers?

I would suggest that on both of these standards, the legislation fails and should be rejected. First, it will not stimulate our economy. Two-thirds of the relief provided in this bill will not occur during the critical first year of this legislation, the year in which we are trying to stimulate the economy. We run the real risk of further deficits hurting our economy.

This bill also fails because it will not help the unemployed worker. It falls grossly short on the changes on the unemployment insurance. Currently, only one-third to 40 percent of the people who are unemployed in this Nation get any unemployment insurance benefits, any at all. The legislation before us will do nothing to correct that.

We had suggested that we take the stakeholders of the unemployment insurance system's recommendation and include part-time workers, and include the most recent wage quarter, so those people who have left welfare, who are now working and who may lose their jobs can collect unemployment insurance.

But no, the legislation before us does not incorporate those suggestions. Instead, we make early Reed Act distributions. That is Federal unemployment funds going to our States. Yet, the Congressional Budget Office says only 5 percent of those funds would be used by the State legislatures to improve benefits. So it does not provide any help for the unemployed, or very little help for the unemployed.

We had suggested, why not increase the benefits? That would stimulate the economy and be the right thing to do. But no, the legislation before us does not do that. Instead, it was supposed to include tax relief for unemployment insurance benefits, but now even that has been removed from the bill. That would at least have provided some help. That has now been taken out of the legislation.

We told the people who have lost their jobs that we were going to help them. We told them when we passed the airline bill, and we did not act. We told them when we passed the insurance bill that we would help the unemployed worker, and we have not taken any action. We told them when we passed the trade bill that we would help the unemployed worker, and still no action.

Now we all understand that this bill has no chance of being enacted, another broken promise to millions of unemployed workers. Mr. Speaker, let us reject the bill that is before us, and let us come together as a united body so we can really help those who have lost their jobs with the benefits they deserve.

Mr. Speaker, I have two primary objections to this bill as it relates to unemployed Americans. First, it does not do enough to help the jobless. And second, the legislation holds displaced workers hostage to an additional round of huge tax breaks.

The bill before us would not improve unemployment coverage for low-wage and part-time workers, despite findings from the General Accounting Office that low-wage workers are only half as likely to receive unemployment assistance compared to workers with higher earnings. The Chairman of the Ways and Means Committee has suggested the Reed Act distributions in the bill would address that concern. However, the Congressional Budget Office estimates that only 5 percent of the Reed Act money provided by this legislation would be used to expand coverage or increase benefits in FY 2002. In addition, a recent survey of State UI directors indicates that the vast majority of them do not believe their States would expand UI coverage with the bill's Reed Act distributions.

I am not opposed to providing Federal assistance to State unemployment trust funds, but it is simply not accurate to suggest that such a step will dramatically expand unemployment coverage. There are few simple and relatively modest steps we could take to improve coverage, such as counting a displaced worker's most recent wages when determining UI eligibility, but this bill does not include such reforms. The measure also fails to increase unemployment benefits—a step that would provide immediate stimulus to our economy by sending more money to families who need it and who will spend it quickly.

At one point, Chairman THOMAS suggested temporarily suspending income taxes on UI benefits. While I believe an increase in the unemployment benefit level is a better approach (because it would provide benefits more quickly and more inclusively than suspending taxes on UI), the original Thomas plan at least acknowledged the need to boost the value of unemployment benefits. However, even the proposed suspension of taxes on UI benefits has been dropped from this legislation.

Beyond the specific limitations of this bill, I have a more general concern about a process that will doom assistance to unemployed workers unless Congress also passes a new round of budget-busting tax breaks. How many times have we heard promises that the unemployed would be helped—after the airline bill—after the insurance bill—and mostly recently during the consideration of the trade bill. But today the House is going to pass provisions on displaced workers as part of a larger tax bill that we all know cannot pass the other body in its current form. The final result will be one more broken promise to millions of unemployed Americans.

At a time when cynicism of government is actually declining, let us not break the faith with the Americans who need us the most. If we cannot come together on a larger stimulus package, then we should agree on a package of assistance for displaced workers. The unemployed have been promised help again and again. It is now time to deliver. And it is time to choose responsible governing over political posturing.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, perhaps the gentleman fails to remember, I know it was sometime ago, that we passed on the floor a Trade Adjustment Assistance Act. We said that since the events of 9–11 were so similar, that we attached a rider which provided $23 billion focused directly on those people who lost their jobs associated with 9–11 and the decision by the government to ground the airlines, and to make other decisions which disrupted business.

I know since the Senate has not acted on that legislation that the gentleman may have forgotten that, once again, the House responded almost immediately with direct aid. This bill contains more than 9 billion additional dollars for unemployment. It says that we are putting 13 weeks of additional unemployment out there for those who need it, and the date for that being available will be moved back to March 15. That is in the bill, as well.

If the gentleman does not believe that is adequate, that is his opinion. To say that we have done nothing, I believe, is a gross overstatement. If he would look at the legislation passed by this House and sent over to the Senate, perhaps the gentleman was concerned about the fact that the Senate has sent us no legislation dealing with those issues that we sent them.

Mr. McCRERY. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Louisiana.

Mr. McCRERY. Mr. Speaker, I thank the gentleman for yielding to me.

Also, the previous speaker characterized the Reed Act transfers as being of very little help to the unemployed. The fact is that States can use Reed Act transfers immediately to help the unemployed find a job. Some of the unemployed might consider that help.

So I just wanted to make clear that the Reed Act transfers can be used immediately for that purpose.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from Maryland (Mr. CARDIN) to respond.

Mr. CARDIN. I thank the gentleman for yielding time to me, Mr. Speaker.

Let me point out, they can only use the money if they are in session and they pass legislation improving the unemployment system. There are limitations as to how the States can use it, the Reed money.

Let me point out to my friend, the gentleman from California, we said that when we passed the airline bill that we would help the airline workers. The day after we passed the bill, we saw massive layoffs of airline workers. We have not done one thing to help them with their unemployment benefits.

I agree that we should do something, so let us separate out the unemployment insurance provisions. Let us separate that out and not put it in with the controversial provisions. Let us at least get something done for the unemployed worker. But instead, they want to put it all together, knowing nothing is going to happen.

Mr. THOMAS. Mr. Speaker, I yield 30 seconds to the gentleman from Louisiana (Mr. McCRERY).

Mr. McCRERY. Mr. Speaker, I do not think my friend, the gentleman from Maryland, meant to characterize the Reed Act transfers as he did because he quickly corrected himself to say, well, there are limits on how they can use those.

First, he said the legislatures have to go back into session to use the Reed Act transfers. That is incorrect. Current law allows the States to use the Reed Act transfers within some limits, yes; but they can use those immediately upon transfer.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. McCRERY. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, I would ask the gentleman from Louisiana (Mr. McCRERY), could they use it to increase benefits without the State legislature meeting?

Mr. McCRERY. No. But reclaiming my time, they can use it to help the unemployed find a job. It is called unemployment job services.

Mr. RANGEL. Mr. Speaker, it is my honor and pleasure to yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), a former chairman of the Committee on Commerce and the ranking Democrat.

□ 0115

Mr. DINGELL. Mr. Speaker, it is a good time to bring it up. It is late at night. This kind of cynical legislation should be brought up in the dark because people are not going to want to see this kind of sorry display take place.

First of all, this is a rather shameful piece of legislation. It is a fine compendium of giveaways to special interests on which there is neither economic nor moral justice.

The bill promises laid off workers a lot of help but then squeezes them into a kind of weird situation where they cannot get it. It gives tax credits to people who do not have any money who are going to have to wait for a year to file an income tax, and then get their refund, and then to maybe go out and get the money that they have to have now to buy the unemployed health care program that this bill supposedly sets up.

Does that make sense? I hardly think so.

Now, the Republicans are talking about how this is going to give us a bill that is going to go to the Senate. The Senate is not going to take up this sorry piece of legislation. And on top of that, it is illusion at best. The program of grants that are given to the governors are, in fact, taken away from categorical programs. And it is interesting to note that those programs, the Republicans do not even know how they are going to go to work. And they said, well, we are going to have to find in one discussion, they said, we are going to have to find out how we are going to create some sort of national calamity that will create the need for putting money into some of the States that are losing money.

Now, I am sure with the innovation that they have, if there is a Republican governor that that might occur; but then again, it might not.

In any event, the simple fact is that the unemployed who are supposedly getting health care under this are not. They are getting a tax credit which they will not be able to cash in until such time as they have, in fact, filed a return. And if they have not filed a return, they are not going to get anything. And if they have not gotten any money coming back, they probably are not going to get anything either. So it is all fraud. It is all sham. It is all illusion. It is, in fact, a thinly disguised tax cut for the rich for the world to do.

And I can understand that the stimulus that the Republicans are talking about is a stimulus for their fat cat Republican friends. It is essentially a repealer, believe it or not, of the alternative minimum tax going back for years to take care of their buddies.

Now, I recognize in an election year that probably makes good sense but it is hard to defend morally and it is hard, indeed, to justify on the basis of economics. It is also something which is not going to become law this year. The unemployed are not going to get the health care benefits that my Republican colleagues are talking about. And the end result is that this is just an exercise in frustration and illusion and delusion and deceit.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I tell my friend I have great admiration for the gentleman from Michigan (Mr. DINGELL). But this health insurance plan was devised by someone who proudly calls himself a compassionate conservative, and the description the gentleman just provided is simply flat out wrong. It is an advancable refundable credit. They get it immediately. They do not have to wait until the end of the year. It is not based upon one's income. And it is not something that the gentleman described.

As I said, I have a great deal of admiration for him. But his three minutes were used to describe something that is not in our bill and it simply was wrong.

Mr. Speaker, I yield 2 minutes 30 seconds to the gentleman from Michigan (Mr. CAMP), a member of the committee.

Mr. CAMP. Mr. Speaker, I thank the chairman for yielding me time. And I also thank the chairman for pointing out that the advance payment structure gives immediate help to the unemployed.

But this bill is not only a vehicle to create jobs and help the unemployed, but, unlike my friend from Michigan characterizes, this bill, it is an agent of compassion. The victims of the terrorist attacks in New York and anthrax and Oklahoma City will receive tax relief under this package from death taxes and incomes. There is that provision that would allow charitable organizations to give immediately to those families who lost loved ones in these attacks so they do not have to fill out all the cumbersome paperwork that the charities are demanding to meet their need requirement, so that the families will not be humiliated by going to charity after charity to fill out paperwork after paperwork.

This bill fixes that provision. This bill helps those families and will help them get the assistance they need. Many of them lost their breadwinners. I think it is very, very important that we get this provision passed.

The proposal also provides more than $9 billion in extended unemployment benefits available in any State. My State of Michigan would get an additional 12 percent in funding in unemployment, injecting more than $340 million badly needed in my home State of Michigan to those who need it.

Nationally, workers who have exhausted their benefits will get an additional 13 weeks. Unemployment benefits generally last for 26 weeks, so for a total of 39 weeks of unemployment. Nationwide an estimated 3 million workers will receive these benefits averaging about $230 per week. These benefits would be 100 percent Federally funded, unlike under the regular extended benefits where States have to pick up 50 percent of the cost.

The health insurance provisions provide a health insurance tax credit which covers every displaced worker, whether or not they had employer provided insurance. Many employers in Michigan have small businesses and this will be especially helpful to those employers. And for those employees who had coverage for at least a year, they must be sold a policy. There can be no preexisting condition.

I have heard many Members say that there is no chance of this bill being enacted, and I would say if more Members on the other side would vote for this bill, there would be a chance for this bill being enacted.

There is also an additional $4 billion in emergency block grants to be used for health care services and worker retraining. These are all funds that are much needed for our unemployed workers and for our States to help implement those programs. I urge a yes vote on this bill.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the committee in response to a question that was raised by the former chairman of the Committee on Energy and Commerce was asking well, what does one do with a tax credit? Where does one take it? How does one convert this into health insurance? What does one do if one got a disability? And the distinguished gentleman from California (Mr. THOMAS) said that the gentleman from Michigan (Mr. DINGELL) did not understand because under his bill, under his program it was an advanced refundable tax credit.

Well, I tell Members this, when Members get back home and people ask questions, Members had better staple the gentleman from California's (Mr. THOMAS) press release to their response. Because I said it before and I say it again, the total Republican Thomas health plan is on page 100. There is nothing in this bill about any refundable tax credit. There is nothing in here about anything except what some people who did not like the Secretary of Treasury 2 weeks ago now find him to be the Secretary of Health and the Secretary of the Unemployed.

But I tell Members, if they want to find out where to find the refundable tax credits, which makes sense to me, they had better check with the Secretary of Treasury.

Now, a person who knows about health and who helped to draft this program because he is a doctor and he did not refer to the Secretary of Treasury, is the gentleman from Washington (Dr. MCDERMOTT), a senior member of the Committee on Ways and Means.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me time.

Looking at this bill makes me think of the Enron Corporation. Republican handling of the economy in this House has been just like Enron. We start the year with a $5.6 trillion surplus, and 12 months later we are broke, and we are borrowing to give tax credits and tax cuts around the country. Sounds just like Enron to me. Fortune 500, broke at the end of the year.

How did they do it? Well, they gave big stock options and whatnot to their board of directors. So did you. You gave a tax credit of 1.3 or 1.8 or 2 billion, who knows exactly what it was, or 2 trillion, and ultimately you have disseminated our whole base in this country.

Now we come along again, you blow the bottom of the tax, the lock box. We do not have any pensions left, just like Enron. They have 18,000 people out in with nothing because of their fiscal management and that is more of the same in this bill. But the part that is really irritating is this whole health question.

Now, there is nobody on this floor who has ever been broke, I guess, or they have forgotten what it was like not to have money. We all make $11,000 a month. Now, just imagine if we suddenly were without employment. And we were getting the average benefit for unemployment in this country which is $224 a week. That is a little less than $900 a month. Going from $11,000, right, down to $900.

Now, we got to still pay the house mortgage, right? That is easy. And the next thing is we want to have a little food, right? And then we want to go pay for your health care benefits. Now, we are going to get 60 percent of the premium from the government. We just have got to come up with 40 percent of it, right? How many of us think that we would be able to pay for our rent and pay for our food, and put clothes on our kids' backs and put gas in the car while we look for a job and pay 40 percent of our health care benefit?

This is a fraud. I do not care how many dollars you put in it, it is not going to be any good to give a guy a voucher for, I do not know, $600 and say, okay, go out now and find yourself a health insurance plan. Because he hasn't got the other means to put with it to pay for it. It is simply a fraud.

You are not guaranteeing health benefits to anybody. You could have done something. You could have said let us put them all in the Medicaid. That would be one way. You would guarantee they had some health care. Or you could allow them to buy into Medicare as has been suggested for people between 65 and 50. Let them buy in.

But you do not want to give anybody a guaranteed program. You want to throw them into the free enterprise system and say, good luck. It is a fraud and it should be defeated.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman failed to tell anyone that if they are actually under the COBRA program they can take the certificate, they can go to the unemployment office. As they get the registration for unemployment, they apply it to COBRA. That certainly is available. There are those people who have health insurance who actually pay for it out of their pocket. They, now, when they are unemployed, get 60 percent of every dollar subsidized. They already have health insurance. They continue that health insurance.

The gentleman seems to believe there is only one way to solve the problem when the American worker has been scrambling around for a number of years because, depending on whether your employer provides it or not, you may or may not have health insurance. This guarantees if you get health insurance, whether you had it at your employer's place or not. We simply cover more people than they do. I think that is why they are squirming a little bit.

Mr. Speaker, I yield 30 seconds to the gentleman from Louisiana (Mr. McCRERY).

Mr. McCRERY. Mr. Speaker, with respect to my good friend from Washington's (Mr. McDERMOTT) comments, I agree that people who go from a job to being unemployed and on unemployment insurance have a tough time meeting their mortgage payments and so on.

So in this compromise bill we are considering tonight, in the first time of the history of the United States, we are offering the unemployed a 60 percent subsidy for their health insurance. The gentleman says that they will not use it. Well, the experts who we hire around here to look at these things and estimate how much a proposal will cost have estimated it will cost $13 billion, so somebody is going to take advantage of it.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Well, I am at a disadvantage, Mr. Speaker, because I cannot keep up with the gentleman from California (Mr. THOMAS). He is making up this thing as he goes along and he refuses to refer to what page.

First of all, the whole idea that we cover less people, we have information from the Health Department to indicate we cover 5 million under COBRA, and we cover up to 3.8 million on the Medicaid, and he only covers 3.3 tax credits under his so called health bill. And if he has figures to contradict this, I will eat it on the House floor. So much for that.

But the interesting thing as to when one goes to the unemployment office and they go there with their credit and they do all of these things, sounds exciting to me, but I refer you to page 100. That is not on page 100. The total program is that you got to find Secretary O'Neill and ask him what you do. Do not ask the chairman of the Committee on Ways and Means.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Speaker, the chairman of the committee, the gentleman from California (Mr. THOMAS) indicated in his opening remarks that this is sort of like a compromise, sort of like a conference committee report. Well, it is sort of like it is not.

□ 0130

The fact of the matter is the only good part of the bill is it is as dead as the first you passed, which is even worse.

Now, one of the big hangups between the other body and the House Republicans was not the corporate tax giveaways, totaling some $60 billion for this year; but it was a few billion dollars for the unemployed and those who are losing their health care. And I say to the gentleman from California (Mr. THOMAS), what you have in this bill is woefully inadequate. If we can throw $60 billion at the corporations and the high-income folks, we can do better for those people who have lost their jobs and have lost their health care.

And so the other body, and the gentleman from New York (Mr. RANGEL), and our negotiators were going to swallow hard on the corporate stuff. We will give you the $60 billion, but we want a better shake for the unemployed. And you guys said, you cannot have a better shake, this is all we are giving you.

And then what really squelched the deal was your insistence on health tax credits. Some might say, well, why are they so hung up on it? Well, Mr. Speaker, here is why. Here is a quote from the chairman of the Committee on Ways and Means in an article dated March of 1999, where he indicates, "We will offer a bill this year to jettison the entire employer-based insurance system and replace it with a system of individual tax breaks."

So it did not happen in 1999, but it is happening today, and this is the start of it. Instead of expanding an existing program, COBRA, and giving a better break to workers, what my colleagues are doing is saying we are insisting on these tax credits because the next step, my friend, is to replace employer-sponsored health care with the same type of a tax credit. Now, you can say, no, that is not my quote, I do not remember that, but the chairman has said this four or five times, and I have the exact quotes each time.

Remember the old Medicare program? They had a good idea over there about making it better and giving our seniors a Medicare HMO. And since that happened, 800 million seniors who joined up have quit it. It is a bad deal. It is a failed experiment. And so now my friends on the Republican side, after helping our seniors, are out to help working men and women by jettisoning employer-based health care.

That is what this debate is all about. I am glad this bill is DOA, if it ever gets over to the Senate.

Mr. THOMAS. Mr. Speaker, I yield myself 15 seconds. I am pleased the gentleman believes this program in this bill is mine, because it is an excellent bill. It is in fact the President's plan. The administration has worked out the structure, and this is President Bush's response for those in need.

Those people who have COBRA are able to utilize COBRA. But those who believe that that is a bit expensive when they are unemployed are provided additional options. And I think the President has done an excellent job in responding to those in need.

Mr. Speaker, I yield 2½ minutes to the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me this time. People watching this debate have to be somewhat confused at this particular time, but let us bring everything back to earth and see exactly where we are at this particular time in the debate.

Right here in Washington right now it is 1:30 in the morning. Comments have been made as to the lateness of the hour. Much of the lateness of the hour has been caused by the failed negotiations between this body and the other body in order to try to work something out.

Unfortunately, I have to agree with the previous speaker that this may be dead on arrival when it is received in the other body. But if it is not acted upon, then certain things will not be addressed by this Congress and signed into law by this President; such things as the extension of unemployment compensation for 13 weeks. That is important. That is important to the people who are without jobs, and it may not be enough.

The gentleman from Washington was talking about, well, this was some kind of a big deal. Well, it is if you are out of work. Health care. The Federal Government helping to pay health care costs and health care insurance for those that have lost their insurance because of the loss of their jobs, since March. That is the right thing to do. If it is not taken up by the other body, it will not happen. Such things as accelerated depreciation and things that are going to bring about capital investment by the private sector are not going to happen unless this is taken up by the other body. And as a result there will be more layoffs.

What we are trying to do is to stimulate the economy. This body has already passed a stimulus bill that has languished in the other body. They have seen fit not to take it up. We have tried to negotiate with them with a phantom bill, one they do not have; and we have failed and they have failed. Now is the time for us to pass this bill. Over 50 percent of it goes to individuals, not businesses.

This is a bill that is compassionate, it cares, it stimulates the economy, and it does exactly what this body should do, and that is care about the unemployed and those who have lost their jobs.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would indicate to Members that the use of the word "languish" is probably not appropriate in referring to the inaction or action of the other body.

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that if the other side does not refer to their health bill any further this evening, I will stop embarrassing them.

The SPEAKER pro tempore. The gentleman has not stated a correct unanimous consent request.

Mr. RANGEL. Well, having heard the objection, then I must continue.

Mr. Speaker, I yield myself such time as I may consume, and let me first start off by apologizing to the gentleman from California (Mr. THOMAS). All evening I have been calling it the Thomas health bill, since I thought he drafted it. But his response to the gentleman from Michigan (Mr. KLECZKA) was that this was not his bill at all, it was the President's bill.

So maybe we ought to get unanimous consent to substitute, if we want to find out what is in the bill, the President, instead of the Secretary of the Treasury. Because there is only one sentence in this bill that deals with health care, and that is "the Secretary shall establish the program." So if this is not the program of the gentleman from California (Mr. THOMAS), I apologize. Mr. President, we owe you an apology too.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS), a vital member of the Committee on Ways and Means.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend, the ranking member, for yielding me this time.

Mr. Speaker, this proposed stimulus package is not good for the economy. It is not good for unemployed workers and their families. It is not good for America. This bill is only good for the big contributors to the last Bush campaign, big companies like Enron, a top contributor to President Bush and the Republican Party. The only thing this bill is going to stimulate is more campaign contributions.

This legislation is the result of an illicit relationship between the Republican Party and large campaign contributors. This bill never faced the spotlight in the Committee on Ways and Means. It was conceived in darkness and born in the den of inequity.

I say again this bill is not good for the economy, and it is not good for America. We should send this bill back to where it came from, back to the bosom of Chairman THOMAS and the Republican leadership.

I urge my colleagues to vote against this bill. It would not help the economy. We should be working together on a bipartisan package that helps average working Americans, those who need it most. We should be working on an economic stimulus package that America deserves and deserves now, and not this Thomas bill.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN), a member of the Committee on Ways and Means who has contributed significantly in helping us shape this package so that we can actually get the country moving again.

Mr. RYAN of Wisconsin. Mr. Speaker, let us put all the theatrics aside. We are at war, we have a national emergency and homeland security on our hands, and we are in a recession. So speaker after speaker is coming down to the well playing partisan politics.

Let us talk about what this bill actually does. This bill has two important goals: one, help the people who have lost their jobs with their health insurance and with unemployment compensation at an unprecedented level; and, second, and most importantly, let us help get people back to work.

What this bill does is recognize what has gone wrong with this economy. We now know officially that we are in a recession and that this recession started in March. And we do know that the recession did not come from a decline in consumption but a decline in investment. We have lost 1.3 million manufacturing jobs in America in the last 14 months.

In my own home State of Wisconsin, we have lost 29,900 manufacturing jobs in the last 14 months. This bill injects $89 billion of investment stimulus in the economy this year.

What we are trying to say is this: Americans, employers, we want you to put your capital at risk. We want to give you incentives to go back and hire people, put them back on the payroll, invest in America, reinvest in your company and create jobs. What we are trying to do is use what has worked time and time again when we have conducted these policies in America before, and that is make it easier for our employers to keep being employers, to invest in America, to grow new jobs.

We know for a fact that this bill will stimulate the economy. It will bring people back to work, and it will help those people who are looking for their jobs get other jobs. That is what this is all about.

Let us put the partisan shenanigans aside, cut to the brass tacks, pass this bill, and hope we can pass this in the other body, because that is what our constituents deserve.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume to say to the gentleman from Wisconsin that as soon as he can find what page in the bill all these advance refundable credits are, any of these credits, since he worked so hard on it, it must be in the bill someplace, but whenever he finds that, he can rely on me to give him a minute to show it to the rest of us.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

To the speaker before me, let us not forget that we just did in July a $1.3 trillion stimulus package. We did $40 billion for recovery and relief, we did $15 billion for the airline industry, and we are doing a defense bill that will put money into the economy.

Let us talk about the Republican stimulus proposal for just a little while. The GOP plans to exclude, and I might add that many women in this category, part-timers, temporary workers, and workers who have not worked in the same job for long enough, some by the way might even be some of those welfare mothers that the gentleman talked about so eloquently, so if they do not get 13 weeks, or they do not get unemployment compensation now, they certainly are not going to get 13 weeks of extended unemployment compensation.

The refundable tax credit for health insurance premiums. I hear the rhetoric that is being talked about. But guess what, if they do not have the money, whether it is today or whether at the end of the year, they do not have the money to buy this insurance, and it does not matter whether they get a tax credit.

And I might say to my colleague that he might want to think about what the governors are saying. Paul Patton from Kentucky says, "If Congress is serious about a stimulus package, they need to help States. A temporary increase in the Federal share for Medicaid is the right step to take."

Now, according to CBO, up to 9 million displaced workers would receive relief under the Democratic plan, 5.1 million under COBRA, and up to 3.8 million under Medicaid. The Republican plan only provides assistance to 3.35 million.

But let me just remind my colleagues of a story in Florida recently. We had a legislature that had to go into a special session because they could not meet their needs. The fact of the matter is, what they had to do is to reduce their spending, and they had to delay their promised tax cuts because our constitution requires the State to have a balanced budget. Where are the people tonight who voted for a balanced budget amendment to our constitution?

I would suggest to my colleagues that you are sending us down the wrong path.

□ 0145

Mr. THOMAS. Mr. Speaker, I yield myself such time as I might consume.

I might remind the gentlewoman that under their program, the numbers that she quoted in terms of the number of people that they cover include people who voluntarily retire, people who voluntarily leave their jobs, not that they were distressed or lost their jobs. It seems to me that that is a significant expansion.

What we are trying to do are help people in need, not extend to it people who make a voluntary decision. We are worried about the people who lost their jobs involuntarily.

Mr. Speaker, it is my pleasure to yield 2½ minutes to the gentlewoman from Washington (Ms. DUNN), a member of the Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, 5,000 Boeing workers were laid off in Washington State last week. Yesterday Selectron closed their plant, laying off 345 people. Nordstrom has laid off 900 people. Thirty-eight thousand people, that is the number of how many honest, hard-working Washington State residents have been laid off this year and are now struggling to hold their families together during a tough holiday season.

Yesterday my State's unemployment rate surged to 7 percent, the highest since 1995. What has been the reaction of the United States Senate to this news? Inaction.

Two months ago the House passed a fair and balanced bill that provided business incentives to help our economy and to create jobs. It provided assistance to displaced workers for income and for health insurance; $257 million of that would have come into Washington State. Two months have lapsed and what has the Senate done? Nothing.

We were told that we needed to do more for displaced workers and for their incomes. We agreed and we added an additional 13 weeks of unemployment benefits.

We were told that we needed to do more for displaced workers health care. We agreed and we added $13 billion in health care assistance.

In all, between health care coverage and employment assistance, we went from $12 billion to $37 billion. Now, though, we are being told that there are no disagreements with the new funds that are being added, but with the method of delivery.

This is an argument, Mr. Speaker, that is lost on the American people. Families right now simply want the peace of mind that their children are going to be cared for and that we are going to be able to help them cover an injury or illness.

We are now being told that individual tax cuts should not be part of any stimulus package. Why? Because a teacher in Belleview, Washington, who pays a 27 percent tax rate is considered rich. This teacher, who earns a salary of $30,000, who cannot even afford housing near the school district, and she has to commute up to an hour just to get to class every morning, she is considered rich by the Senators who have failed to act.

Mr. Speaker, in my State, 660,000 people will be helped by this provision. I think it is time for the Senate to give up and to stop making excuses for their inaction.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). The gentlewoman will suspend.

The Chair would again remind all Members not to characterize action or inaction of the Senate.

The gentlewoman may continue.

Ms. DUNN. Mr. Speaker, my commitment to the people I represent is to make sure that the economic security bill we pass will boost our economy and will provide, at the same time, help for displaced workers and stimulate the economy, but if the Senate fails to act again, Mr. Speaker, we must explore every avenue, congressional and administrative, to bring assistance to those in need.

I support this bill, and I hope everybody will vote for this bill. We help my Washington State workers and their own at the same time.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the hardworking gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank my beloved colleague the gentleman from New York (Mr. RANGEL), the distinguished ranking member of the Committee on Ways and Means, for yielding me the time, and I rise in strong opposition.

This is not a bill. It is a raid. First, it is a $260 billion raid on Social Security and Medicare. Yes, tax cuts for the super rich gut the lock box, and it holds the unemployed hostage for tax cuts to the Fortune 500 that are not even required to invest the dollars in America; $1.4 billion more to IBM; $671 million to GE that has not created a manufacturing job in this country in over a decade.

With American troops at war, sacrificing themselves, five of the top corporate tax evaders walk away with over $100 million, and they are in the energy business like discredited Enron that has both hands out. By golly, their CEO, Ken Lay, he is laughing all the way to the bank with the $200 million he took out of the deal, and in fact, he should pay at the 38 percent tax rate. I would not mind if we taxed him at the 50 percent rate to pay for all the unemployed people he put out of work.

Let me just say, we ought to think what Bill Natcher, our colleague, used to tell us, think about it America. Vote no on this Republican trickle down raid on the public Treasury.

Mr. THOMAS. Mr. Speaker, I yield myself 10 seconds to tell the gentlewoman from Ohio (Ms. KAPTUR) that a no vote on this would deny her fellow Ohioans $406 million additional on just the $9 billion in this program for unemployment insurance, and the decision is hers.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I rise in strong support of the economic security and worker assistance package. This legislation will give our economy an urgently needed boost and will provide displaced workers with additional financial assistance in these uncertain economic times.

Specifically, this bill will allow Americans to keep more of their hard earned dollars by deducing the 27 percent tax rate to 25 percent beginning in 2002. This legislation will encourage new business investment by allowing companies to more quickly recover the cost of their investments, allowing small businesses to expense more of their equipment purchases.

In all, this legislation will inject nearly $90 billion of economic stimulus into our economy next year. This package also provides significant new assistance to unemployed workers.

Under the proposal, displaced workers will receive up to 13 weeks of extended unemployment benefits, and an additional $9 billion in surplus Federal unemployment funds will be made available to States.

As chairman of the Subcommittee on Human Resources, I want to thank the gentleman from California (Mr. THOMAS) for all his hard work in this area. This bill is a carefully crafted compromise, supported by a number of centrist Senate Democrats and is a result of weeks of negotiation.

Mr. Speaker, let us pass this bill and send a message to the Senate and the Senate Democrat leadership, which has refused to pass this legislation, that the American economy and American workers cannot wait any longer, and that it is time to act and act now.

Mr. RANGEL. Mr. Speaker, I would just like to thank my friend, the gentleman from California (Mr. HERGER) for not referring to the nonexisting health program for the unemployed.

Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me the time.

Mr. Speaker, this bill is the product of negotiations of the House Republicans with themselves. In our system, a remarkably ineffective way of making law.

They cannot seem to give up writing big checks to big corporations. Take, for example, the alternative minimum tax. It is not repealed retroactively as in the first Republican bill. Under this bill, corporations get only $13 billion in several smaller checks and not all at once.

The gentlewoman from Connecticut said that the unemployed will get $30 billion. We think it is about half that amount. Compare that number to the cost of this bill over 5 years, $260 billion.

While most States right now are facing desperate situations with respect to their own finances, the bonus depreciation provision will reduce State government revenues by $5 billion a year for each of the next 3 years. Tell that to your governors.

Rarely have we heard so much talk about the unemployed and so little help for them.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Ohio (Mr. PORTMAN), a member of the committee.

Mr. PORTMAN. Mr. Speaker, let us back up for a second and talk about why we are here. Let us remind ourselves of the fact that we are in a recession. The economy was already hurting before September 11, and it is in a whole lot worse shape now. Eight hundred thousand people we believe have lost their jobs since September 11. Businesses are shutting down, mostly small businesses, and people are hurting because people are unemployed.

We are trying in a good faith effort to deal with that and to protect people's jobs and help jump start this economy. That is what this is all about. We can do it tonight.

For starters, this package provides needed stimulus to the economy by giving people more money to spend so they can get out and spend more money. We heard earlier people care about consumers. I have heard tonight on the floor that this is all about the super rich; that it is all about fat cats, those are quotes, tax cuts for the rich. Tell me where they are. Is it the $13 billion that is going out to people who did not get checks over the summer and the fall, the $300, $500, and $600 checks? Are they the fat cats? They are at the low end of the economic scale. They need that money. They can use it right now. They will spend it.

Is it lowering the taxes from 27 percent to 25 percent? These are people making $27,000 a year up to about $67,000 a year. Are these the super rich? Are these the fat cats? Are these the folks who I have heard about tonight on the floor? I do not think so.

I do not where these tax cuts for the super rich are. These folks are not super rich. These are the folks who need the money and they need it now.

Yes, there are some things to help companies to retain and grow jobs, and those include allowing businesses to immediately expense things so they can go out and buy them. Thirty percent are meeting expensing.

Yes, the alternative minimum tax makes no sense. It is countercyclical. It hurts companies at a time when the economy is not doing well. Half of America's companies were paying alternative minimum tax during the last recession. It hurts jobs.

There is nothing retroactive in here. It is all prospective, and it is going to help jobs, and that is why we are doing it.

We also need to help people who are already unemployed. Ohio gets $406 million out of this to help the unemployed. The health insurance provisions are very good. I am looking at page 100. I am also looking back to page 93, 94 and 95 and 96 and 97 and so on up to page 108. There is a lot of good stuff in here about it, and what it says to me, it says my colleagues are selling people short.

They can figure out this program. They go to the unemployment office, they get a certificate, they go out and get their health care. Most of them are going to get it through the employer-based system. I do not know where this paranoia comes that we are somehow destroying the employer-based system through this plan. No analysis I have seen, nobody who is objective, who looks at this thinks that most people will not get it through the employer-based system. The employers are providing health care now. They can use a certificate for that.

The point is that you cover more workers because if you do not get the employer-based health care, you can go out and use the certificate in the private market to get health care if you do not have it now. We may cover fewer people, but we cover more people who are unemployed and uninsured, and that is the point, is it not? That is where the resources ought to be directed. That is what this is all about.

This economic stimulus package is going to help put people back to work. It is going to help people who are already out of work, and it is going to get this economy going again. We have an opportunity to do something big tonight, which is send a message to the other body and get this done for the American people.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I may end up apologizing to my friend on the committee because he is a good friend of the President, and so this is the President's program, and so my colleague flipped through those pages a little fast here, but I will yield him 30 seconds to tell me how does a person with a tax credit and no job and no tax liability, what do they do and where do they go, and he can just refer to one of those pages that he flipped, and if he does not know, he can call the President and I will give him time when he comes back.

Mr. PORTMAN. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield 30 seconds to the gentleman from Ohio (Mr. PORTMAN) to tell me what page is this on.

Mr. PORTMAN. Mr. Speaker, this is a very interesting idea, because this actually came out of the Democratic Leadership Council, as well as the President of the United States, as well as people on both sides of the aisle here. No one person has a monopoly on this idea.

Mr. RANGEL. Mr. Speaker, if the gentleman will yield, where does the person go, to the Democratic Council?

Mr. PORTMAN. No. It is a great program because you get the certificate and you use it. Do not sell people short. They can figure this out.

□ 0200

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, I bring you another Christmas story. Long ago, many highly profitable corporations paid zero in Federal income tax. Ebenezer Scrooge rejoiced. But the American people insisted that we pass a corporate alternative minimum tax so that no matter what loopholes a profitable corporation exploited, it still had to pay a minimum tax of 20 percent of its economic income.

Today, Ebenezer cynically dresses as Santa Claus. He is pretending to bring relief for Tiny Tim. But actually he is delivering the virtual repeal of the corporate alternative minimum tax, delivering presents to the largest and richest corporations in America. In doing so, he will take $13 billion away from Social Security and imperil the retirement of Mr. Cratchit.

Bah, humbug.

Mr. THOMAS. Mr. Speaker, it is indeed my pleasure to yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), a member of the committee.

Mr. HAYWORTH. Mr. Speaker, I would caution us all, with the severity of the challenge our Nation faces, with the fact that we are a people at war who were wantonly and brutally attacked on September 11, to continue to preen and posture and play games in the hopes of providing what in some twisted way must be thought of as a clever soundbite does a disservice to people who are out of work, to people who are hurting, to people who need health insurance, to people who need this unemployment, money that has been set aside where we have tried to work in good faith.

People can talk about the lateness of the hour. People can try to use misguided tales of Scrooge. The tragedy is for all the talk of compassion, my friends, if you set aside this last best opportunity to help these people, then you have turned your back on them. And then you have taken on the mantle of those you claim to attack and not to support. You have taken on the mantle of Scrooge. We cannot have that tonight. We cannot have this type of posturing and preening. Let us put the people in front of the politics. You may disagree with us on many matters. We have tried to come halfway and find a plan that can work at the behest of our President.

The American people deserve this opportunity. Do not turn your back on the people, for if you do so, you will ensure that this holiday is one that lacks prosperity and you will ensure that you are not doing your part to add to goodwill and a constructive, united front in the face of a massive war effort.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the hard-working gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, as we pause for the holiday, the loyal opposition party is bent on giving out huge handouts for their country club friends for Christmas. Meanwhile, most Americans, especially minorities, go on suffering the economic consequences of 9-11.

In concentrating on passing tax cuts, trade bills and stimulus packages for the rich, this House, which is supposed to be the people's house, continues to allow the big dogs to eat first. In fact, right now, they are the only dogs that are doing the eating.

More workers lost their jobs in October than any other time in the last 10 years. And what is their response? Pass a tax cut, pass a tax cut, pass a tax cut.

This country needs a stimulus bill that provides money for jobs training, economic development, and real health care. In closing, let me just say one thing. Thank God for the other body and hold the line for the American people. Hold the line.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). The Chair would remind all Members not to urge action or inaction of the other body.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Oklahoma (Mr. WATKINS) who does not believe we ought to hold the line and deny people help when people need that help.

Mr. WATKINS of Oklahoma. Mr. Speaker, I know the night has been long for all of us. But to my colleagues, let me say this night is not near as long as many years ago when our Native Americans were forced by our government to travel from the east coast over 1,200 miles to the Indian Territory. Those were long winter nights and many of them died. Thirty-seven States have Indian reservations. California has the greatest population of Native Americans. Oklahoma has the highest per capita and the second largest population, but 37 States.

This is not a rich bill. This also extends a Native American tax credit, a wage tax credit and also accelerated depreciation. It works. It works because let me say I have personally experienced helping bring industry into those areas, because I was raised with the Native Americans. It is not a rich man's, a rich person's bill. If you have any compassion at all for those who have the worst economic conditions, the highest unemployment, the highest underemployment, the highest outmigration, those with the greatest social problems, of drug problems and also of alcoholism, if you want to lift them up, this can do it. I know because just last Saturday, I broke ground on a $700 million power generation plant that employs hundreds and hundreds of people, many of them with Native American backgrounds. I also know it works because I was going to be home Friday to break ground on a second $65 million operation at the headquarters of the Choctaw Indians in my area of my boyhood home county where I was raised with the Choctaws.

Let me say to my colleagues, please do not overlook these forgotten Native Americans. This bill will help lift them out of their problems into a better way of life.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, with Christmas just around the corner, the Republican leadership is once again handing out its presents to the large corporations. That might not be so bad if there were any economic value to this so-called stimulus bill. We should be putting money into the hands of people most likely to spend it, the unemployed and those people living paycheck to paycheck. Instead, this bill would give billions to corporations, hoping they will make products for people who do not have the money to buy the products. That is not stimulus, that is corporate giveaway.

Even the portions of the bill directed toward rebuilding New York are a disappointment. They are simply the same tax incentives that we passed just last week on the victims tax relief bill. As I noted then, while we welcome these measures in aiding our long-term economic revitalization, they do not provide the immediate relief that New York desperately needs. My distinguished colleague, the gentleman from New York (Mr. RANGEL), has a substitute that has just what we need today.

In particular, he would address the devastation our small businesses are facing now. The gentleman from New York's provisions would help small businesses survive the transitional period until Lower Manhattan is rebuilt and larger businesses return to the area. Only then will their customers return. But this bill just tells them to wait a few years. By then it will be too late.

Mr. Speaker, this bill is nothing new. It follows the tired old Republican script, provide as much money to the wealthy and to the large corporations as possible and then claim there is not enough for the people who really need it.

Vote "no" on this irresponsible bill.

Mr. THOMAS. Mr. Speaker, I yield myself 10 seconds. The gentleman from New York really does need to know that out of the $9 billion, New York gets half a billion; out of the block grant alone, New York gets another half a billion; and out of that victims tax relief, New York gets another $5 billion. Even a New Yorker would recognize that a billion here, a billion there, finally adds up to real money.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Pennsylvania (Mr. ENGLISH), a valued member of the Committee on Ways and Means.

Mr. ENGLISH. Mr. Speaker, American workers need help now. We know that from my district in northwestern Pennsylvania, and we know that from the experience around the country. The legislation before us brings a total of 37 billion new dollars in new benefits for unemployed workers, including 13 extra weeks of additional unemployment benefits. This is a critical initiative that we must pass now. With this bill, the House has made an effort to respond to the needs of the American worker during the current slowdown. But in doing so, we have also insisted that a stimulus package must be just that, a stimulus, that will return our struggling economy back to a growth path.

The single best way to jump-start our sputtering economy today is to allow companies to quickly recapture the money that they invest in capital. We know that huge additional amounts of business capital investment are critical to restart the economy. This bill includes an expensing provision that is no corporate giveaway. It rewards companies that make concrete entrepreneurial investments. We know that productivity is spurred by investment in innovative capital equipment. The sooner manufacturers can recapture the cost of their equipment, the faster they can create and maintain good-paying jobs. Workers not only need a better safety net as provided in this bill, but they need to be able to hold on to their jobs. Yes, workers want help when they are unemployed; but more importantly they want a good-paying, stable job. This bill stimulates the economy to make that possible.

This is a well-balanced bill that addresses both the human needs and the investment needs of this recession and will help many individuals and employers who are bearing the brunt of a slowdown that started last year. We must put partisan differences aside and unite behind this pro-growth, pro-jobs, pro-worker economic program to get America's economy growing again.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO), who is a special assistant to the minority leader.

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this bill. It does not help our economy and little to help those who are hurt by the economy.

Times are tough for American families. Unemployment rates are the highest that they have been in nearly a decade. States are facing severe budget shortfalls. Families need to know that if they lose their jobs that their unemployment benefits will be secure and they will have a way to continue health coverage. This body needs to pass an economic stimulus package that helps the economy get moving, which assists families during difficult times.

I ask my colleagues on the other side of the aisle, where have you been for the last 3 months? This bill and your past actions have done nothing to help those families. This bill does not include unemployment benefit increases. It does not guarantee access to affordable health care coverage. What it does include is a big helping hand to the Republicans' wealthiest contributors by refunding the corporate minimum tax, without any real benefits to the economy or to consumers.

This body has bailed out the insurance companies, it has bailed out the airline industry, and where it has come to the working men and women of this country, you have dragged your feet. And now, weeks and months later, the Republicans are trying to pass a bill that is simply unconscionable. There is no other word for this Republican economic package than greed. It is an unpatriotic grab on the public treasury.

I urge my colleagues to vote "no" on this bill. This leadership needs to be seriously engaged in negotiations to produce a plan that will truly help the economy and truly help the families in this country.

□ 0215

You have paid not a shred, not a shred of attention, to what has happened to working Americans, and it is a sham tonight to hear you talk about working Americans and what their plight is.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was not aware that one party had a monopoly on compassion for people in need.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Missouri (Mr. HULSHOF), a member of the committee.

Mr. HULSHOF. Mr. Speaker, I do not intend to invoke the wrath of the Chair by mentioning the other body. I do not intend, in fact, to focus my comments except for on those colleagues who are actually considering the merits of the bill. Not those, for instance, who say they are in favor of free trade, but then vote against a free trade bill; not against those who say they want some sort of stimulus, but then do everything they can to prevent that stimulus from happening.

What I would like to do is ask a simple question. My colleague, the gentleman from Ohio (Mr. PORTMAN), asked this question earlier, and I ask it again: Why are we here?

The answer to that question I think can be found in a videotape that was released last week of a dinner in Afghanistan when Osama bin Laden boasted to his dinner companions that the attack on September 11 exceeded his wildest expectations. Yes, those terrorists went into those Twin Towers in Lower Manhattan, but they did not intend for those towers of commerce to topple. But they did.

Along with that, our economy has been rocked. Even the Democratic former Secretary of Treasury has said that we were teetering on a recession, but clearly we are in that recession now. This is a bill that addresses the needs of our economy now. It helps rebuild that sagging economy.

Some of the statements on the floor have been just blatantly wrong. Certainly every person is entitled to his or her own opinion, but no one is entitled to his own set of facts, and the facts are these: There is an immediate stimulus in this bill.

My friend from Maryland said that there was no immediate stimulus. We are going to have $90 billion over the next 9 months if this bill were to become law.

My friend from Florida says that the governors have complained. My own Governor from the State of Missouri has complained that if this bill were passed, that Missouri would be harmed. We have $8.6 billion for Medicaid reimbursements and other grants so that States are held harmless.

In addition to boosting consumer confidence, we accepted an idea, a constructive idea, from the other side, a $14 billion income supplement, even if you do not pay income taxes. We boost investor confidence to small business owners, a short-term incentive to invest in equipment. Those laid-off workers, this bill is three times more generous than the bill this House passed a few weeks ago.

For Members who are interested in the policy, Mr. Speaker, inaction is not an option. For Members of this body who are purely interested in politics, however, I say this: A "no" vote means an extended recession. The blood of that extended recession will be on your hands. I urge a "yes" vote.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the hard-working gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I almost rise to a point of being speechless on the last comments being made about the blood being on our hands. For that I will take more time. For, in fact, what a tragic statement.

This is not a stimulus package. This is a raid on the Treasury, for those whose hands are out and in your pockets. The American people are hurting and the American people are being laid off every single day, and what the American people need is what the Democrats have offered, not a sham of an extension of 13 weeks. They need a full loaf of 26 weeks of unemployment insurance, a whole year, because we have not a recession, we have almost a depression. And the stimulus or the tax cut that you gave us just a few months ago did not work.

What the American people need now is to have real coverage of health insurance, not a worthless tax credit that those who are broke and unemployed with no money will not have the ability to be able to use those dollars.

We have millions of dollars of worthless tax cuts that are raiding Social Security, and we are also taking money from equipment by 30 percent depreciation.

Mr. Speaker, let me just say: This is a raid on the Treasury. We need real legislation. This is a worthless bill, and we need to defeat it.

Mr. THOMAS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I find it ironic that I am in receipt of a letter dated December 5 which the gentlewoman from Texas's signature is on which urges the gentleman from Illinois (Speaker HASTERT) to include the $9.2 billion accelerated redact distribution contained in the bill.

Mr. Speaker, it is my pleasure to yield 2½ minutes to the gentleman from Illinois (Mr. WELLER), a valued member of the committee.

Mr. WELLER. Mr. Speaker, my home State of Illinois had bad news this week. Like many communities across America, one of our Nation's largest employers, Motorola, headquartered in Illinois, announced they were going to lay off 8,900 workers yesterday; 8,900 men and women who had to come home to their families and tell their children they no longer had a job. Motorola is just one major employer who has already lost one-third of their employees through layoffs in the past year.

Nationwide we have seen 800,000 workers who have lost their jobs, 8,000 a week, since the terrorist attack on September 11. That is why we are here tonight, because we want to help these American workers. I want to help these American workers. My Republican colleagues want to help these American workers. My hope is my Democratic colleagues will join with us in helping these American workers who have lost their jobs.

Frankly, I think we all want these workers to have the opportunity to go back to work, because every good hardworking American deserves an opportunity to work.

Let us remember one basic economic fact, and that is that investment creates jobs, investment grows the economy. Our bipartisan legislation that is before us rewards investment. The 30 percent expensing, the accelerated depreciation, rewards investment; investment in computers, investment in pickup trucks, investment in machinery and other equipment. Let us remember that when an employer purchases this type of equipment, there is an employee that makes this type of equipment, as well as is required to operate it. That creates jobs.

We also have to recognize that there are American companies losing money this year, and they need investment capital. That is why the NOL carryback, the 5-year opportunity to go back and recover from a profitable year some extra money that can be invested this year in creating jobs, again rewards investment.

The bottom line is we want to reward investment, we want to create jobs. This is an opportunity for us to work together. Frankly, it is a bipartisan bill. My hope is our Democratic friends will set aside their rhetoric and work to help the American worker.

Let us pass this bill. We need economic security. We need to help workers. Let us support this legislation. My hope is the other body will take it up.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI), our new and dynamic minority whip.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time in his capacity as ranking member and for his leadership in fighting this ill-advised bill.

Mr. Speaker, Christmas is coming, the goose is getting fat; pleased to put a penny in the old man's hat. That is what this bill reminds me of tonight.

Corporate America, because of this bill, which puts tax breaks for corporations over assistance to unemployed workers, says to America's families, Bah, humbug.

The Director of the Office of Management and Budget has predicted that we will face deficits through the rest of the Bush presidency. During the previous administration, years of fiscal responsibility had built a strong economy and a significant surplus. Now the surplus is gone. More than half of the lost surplus is directly linked to the Bush tax cut.

Despite this result, Republicans insist that further tax breaks make up the bulk of any stimulus package, refusing to provide additional unemployment and health benefits to displaced workers unless Democrats agree to give huge tax cuts to corporations.

The goose is getting fatter; pleased to put a penny in the old man's hat.

Throughout the economic stimulus negotiations, the Democratic position has been simple: Put unemployed workers first. But the Republicans have refused. They have refused to increase unemployment insurance benefits; they have refused to expand health insurance for unemployed workers who had been employed part-time or on a temporary basis; they have refused to provide sufficient resources for displaced workers to purchase health insurance in the private market.

Mr. Speaker, this is really a tragedy, because in the course of the budget negotiations earlier this year, the House Committee on the Budget and Senate Budget Committee on a bipartisan basis agreed that in order to be effective, the stimulus package must be short-term, provide a quick boost to the economy and not sacrifice our long-term fiscal stability.

This stimulus package fails on all three fronts, it fails America's unemployed workers and it fails America's families. I urge a no vote on this.

Mr. THOMAS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker. Under the temporary State Health Care Assistance of $4.6 billion grant, California out of that $4.6 billion would get $482 million. Out of the $9 billion on the unemployment insurance, California alone would get over $1 billion. That, to me, is real help to real people in need.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Iowa (Mr. NUSSLE), the chairman of the Committee on the Budget and a valued member of the Committee on Ways and Means.

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the distinguished minority whip just mentioned the fact that we had this big surplus going into this year. What happened to it?

Well, of course, the Democrats love to blame the Bush tax cut. The fact of the matter is, as we all know, only $35 billion went out the door in the tax cut for this particular year. So where did the rest of it go? Where did the rest of the $100 billion go that the gentlewoman talked about?

Is it possible that that had to do with Osama bin Laden? Is it possible that is the deepening of the pre-attack economic recession? Is it possible that is what happens when terrorism strikes America? Is it possible that you can put aside your rhetoric for just one moment and take a look at the facts, as opposed to just trying to blame people in the dead of night?

Because do you know what is going to happen? Blaming people in the dead of night probably is not any more effective than trying to pass legislation in the dead of night. But one thing will be alive in the morning, and that is the action that happens. Actions will speak louder than words.

When we were hit with terrorism, we passed an emergency bill. When we had to fight a war in a bipartisan way, we funded the military. But when it came to dealing with the recession, actions speak louder than words.

The House acted. The House put forward a stimulus bill. The House put forward ideas and plans. But where has action come from any other place in this Capitol? Unfortunately, we have not seen much. In fact, it is easy to talk about page 100 in the Republican bill. There is not even a bill to talk about in the other body, page 100 or page 1.

So, you can debate action, but when everything is said and done tonight, you are going to be voting on all of these different provisions, and you are going to have one opportunity to help New York, you are going to have one opportunity to help the victims of this attack, you are going to have one opportunity to deal with this recession, and that one opportunity will be lost if you continue to vote no.

I believe that this instance will be a test for this Congress, and the question will be when the lights come on tomorrow morning and people want to find out exactly what happened, they will ask the question, who acted and who did not?

I am really perplexed by the fact that we have been hearing all tonight about how the Senate has not acted. We cannot talk about that. We are not going to talk about that.

Mr. RANGEL. Do not talk about that.

Mr. NUSSLE. We are not going to talk about that. But I will talk about something else, and that is they cannot. It is not a matter that they will not, they cannot. They have not. They have not.

Mr. RANGEL. He is talking about that.

Mr. NUSSLE. No, I am not talking about anything. I am talking about they cannot. Why have they not, if they can? It is that they cannot. It is not that they will not.

Mr. RANGEL. Point of order. He continues to talk about that.

Mr. NUSSLE. I am not saying that they will not.

□ 0230

PARLIAMENTARY INQUIRIES

Mr. THOMAS. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman will state his inquiry.

Mr. THOMAS. Mr. Speaker, can one say they have not acted? I believe the earlier clarification was that if one stated the fact, and the fact is that the Senate has not acted, that would not rise to a point of order.

The SPEAKER pro tempore. The gentleman is correct. It is appropriate to state factually.

Mr. THOMAS. And a factual statement is, the Senate has not acted?

The SPEAKER pro tempore. The gentleman is correct.

Mr. RANGEL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from New York will state his inquiry.

Mr. RANGEL. Mr. Speaker, is it proper to state that this body, this Committee on Ways and Means, has not acted on this bill? Is that proper?

The SPEAKER pro tempore. Yes.

Mr. RANGEL. I thank the Speaker.

Mr. Speaker, I yield 30 seconds to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me 30 seconds to respond to the references made here.

Mr. Speaker, I do not blame my Republican colleagues for debating this bill in the dark of night. It is a shame. I know why they do not want the American people to hear about this and what the facts are, but I want to address the point of the gentleman from California. He rose and said that there are $482.6 million in Federal funds for the Republican block grant that California will gain under this bill. What he failed to mention is that under the Democratic plan, California would get $722 million, a more than $240 million increase. As far as that point is concerned, the 53 percent of the deficit is attributed to the tax cut, not to September 11.

Mr. RANGEL. Mr. Speaker, they say, what bill? It is the bill that they denied the opportunity for this body to debate, the Democratic alternative.

Mr. THOMAS. Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I will be glad to take some of the time on the other side if they would like to yield it to us.

Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I agree with my Republican colleagues on one very important point. This bill is much, much better than the last time they told us that we had to pass a stimulus bill to save the economy. How is it better? Liberalism has broken out in that unlikely place. Member after Member has bragged about how much they are doing for the unemployed, how much they are doing with health care. All of a sudden the market does not work, and we have the Republicans telling us how much more money they are providing out of public funds.

Well, I agree, they are trying; but like most people who are doing something which they really are not used to, they do not do it well, because what they do is compound it by adding tax cuts. The gentleman from Iowa is partially correct, in my judgment. There are many factors why the surplus that we had has become a deficit. But one thing we do not do is to respond by deepening that deficit by further tax cuts, some of which are entirely unrelated to a short-term stimulus because they are 2 and 3 years.

The biggest difference between the two bills to me is yes, we do say we want to raise taxes over current law for people who make more than $300,000. The Democratic plan puts off that further rate reduction for people who make over $300,000 and prevents the deficit from lessening. The first President Bush said we could not do a lot of important programs because we had more will than wallet. The current President Bush, having inherited a wallet from Bill Clinton, was terrified that this might lead to real programmatic improvements, so my Republican colleagues are helping him throw that wallet away. That is a very important difference.

Yes, they should be proud of doing much better, although not good enough, in trying to respond to the unemployed; but they cannot do it without revenues.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) has 12 minutes remaining; the gentleman from New York (Mr. RANGEL) has 15½ minutes remaining. Who yields time?

Does the gentleman from New York seek to yield time?

Mr. RANGEL. Mr. Speaker, it was said that they have 12 minutes and we have 15½, and they are yielding to us? Okay.

Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I know that the unemployed people of our country need help and our economy needs help, and I think there is broad agreement on that tonight. Where there is disagreement is over the two-thirds of the money in this bill that is not spent this year, Mr. Speaker; $162 billion that does not even get spent this year. It has nothing to do with stimulating the economy.

If we have learned any lesson in the last 30 years, it is that when we run the Federal Government by borrowing money, we destroy jobs and ruin the economy. This bill is as if the last 10 years never happened around here, because here we go again.

This bill is going to take a quarter of $1 trillion and borrow it from the Social Security trust fund. Two-thirds of that money has nothing to do with what is going to happen in the next 12 months. It is simply going to run up the deficit, destroy jobs, and re-create the malignancy that burdened this economy and the people of this country for so long.

We could make an agreement in the short run, but this bill does not do it. It should be opposed.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the song goes, we wish you a merry Christmas; good tidings we bring to you and your kin. That is good tidings if you are unemployed and you have had coverage for 12 to 18 months; it is good tidings if you are eligible for unemployment compensation. It is good tidings if you have money to pay for health care and you can come up with 40 percent. It is good tidings if you can find your way through the unemployment maze.

The gentleman from Ohio failed to admit that in the State of Ohio, our Governor closed down unemployment offices, so they are going to be very hard to find.

But more importantly, as we stand here talking about truth at 2:35 a.m., the truth of the matter is that this bill does not provide all that it could for unemployed workers because many are left out of the pocket. If we really wanted to help unemployed workers, we would do one bill that helps unemployed workers, and then we could say to them, good tidings we bring to you and your kin. We are going to give you some money to take care of your families and your Christmas.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the hardworking gentleman from New Jersey (Mr. PALLONE), especially on health affairs.

Mr. PALLONE. Mr. Speaker, the majority, the vast majority of Americans who are unemployed cannot afford health insurance under our current system. What the Democrats have proposed is so easy. We simply say, okay, we will pay for your COBRA benefits or, if you are not eligible for COBRA, we will pay for your Medicaid benefits and you will get comprehensive coverage.

I think that what is happening here tonight is that the Republicans are so kind of wrapped up into their own idealogy, conservative idealogy, that they just think that what the Democrats have proposed is somehow a giveaway or some kind of welfare or something that is wrong for the American people. They should be looking at this practically in terms of what is actually going to help people get health insurance, and that is true for unemployment compensation and the other aspects of this bill.

It really irks me to hear my Republican colleagues act as if they want to help or do something when they know full well that by bringing this bill up tonight they are going to do nothing. I am going to get a call Friday when I go back to my district office about health insurance; and I am going to have to say, nothing happened in this House of Representatives because of the Republican leadership and because of their conservative, right-wing idealogy and their unwillingness to bend.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, November 26, 2001.

Hon. THOMAS A. DASCHLE,
Majority Leader, U.S. Senate, the Capitol, Washington, DC.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, the Capitol, Washington, DC.

Hon. TRENT LOTT,
Minority Leader, U.S. Senate, the Capitol, Washington, DC.

Hon. RICHARD A. GEPHARDT,
Minority Leader, House of Representatives, the Capitol, Washington, DC.

DEAR SENATOR DASCHLE, SENATOR LOTT, SPEAKER HASTERT, AND REPRESENTATIVE GEPHARDT: The nation's Governors support your negotiations to secure bipartisan action on an economic stimulus program. As you know, the current budget shortfall in states is estimated to be about $15 billion and is being caused primarily by declining revenue growth and the explosion in the costs of the Medicaid program. As the economy continues to slow, this shortfall is expected to increase to between $20 billion and $30 billion. The unprecedented costs of homeland security, as well as other provisions being considered as part of the stimulus package, will add substantially to the growing fiscal crisis. This growing state budget shortfall will continue to be a major drag on economic recovery and will offset a portion of a federal economic stimulus package.

Given this fiscal stress in just about every state, the nation's Governors number one priority in the economic stimulus package is for a temporary increase in the federal medical assistance percentage (FMAP). Our FMAP proposal, which will cost about $5.5 billion, includes three major provisions:

A hold harmless provision for any state that would receive a decrease in its FMAP this year;

An across-the-board one and one-half percent increase in the FMAP for every state; and

A one and one-half percent increase in the FMAP for states with higher than average unemployment.

From a state perspective, this proposal has major advantages over any other provision being considered for the stimulus package. First, it provides fiscal relief for all states. Second, 100 percent of the funds would be spent over the next year, which is a very strong economic stimulus. Third, it is extremely flexible funding. Fourth, it does not require the federal government or the states to develop new legislation or regulations. All other state-administered programs that are being considered as part of the stimulus package are targeted to specific populations or programs and do little to provide fiscal relief to states.

We appreciate the difficult task that you have in negotiating a final package but we strongly urge you to build on the existing federal-state partnership by including a temporary increase in the FMAP in the final stimulus package. The bottom line is that enactment of a temporary increase in the FMAP would both offset some of the other provisions in the stimulus package that would decrease state revenues and dramatically reduce the drag on the economy of the growing state budget shortfall.

Sincerely,

JOHN ENGLER,
Governor.
PAUL E. PATTON,
Governor.

Mr. THOMAS. Mr. Speaker, it is my privilege to yield 15 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, let me just set the record straight. Your bill does not pay people's COBRA benefits. It pays a percent of the COBRA premium, and through our bill we would pay a percent of the COBRA premium, and all of the rhetoric on the floor about how people could not afford their portion is just as big a problem in your bill as in ours. So do not get out there and say we pay the COBRA benefits.

Mr. THOMAS. Mr. Speaker, I yield myself 30 seconds.

Some people might think it is the late hour when they listen to the math on the other side of the aisle. I have to assure those who believe it is the late hour that, actually, they do this in daylight as well.

I read off the amount of money that was going to California. The immediate retort from the gentlewoman from California was, yes, but we give more than you do, and yet we hear the refrain that we put ourselves into a deficit. Well, if we are going to double every number we deal with and you are telling us we put us into deficit, I think you ought to take a look at what you are doing as well.

Mr. Speaker, it is my pleasure to yield 2½ minutes to the gentleman from Georgia (Mr. COLLINS), a very valuable member of the Committee on Ways and Means.

Mr. COLLINS. Mr. Speaker, I thank the gentleman for yielding me this time.

I have always heard that money talks and B.S. walks. Well, Mr. Speaker, there is enough money in this bill to talk, but there is a lot of rhetoric here tonight that should walk.

Yes, there is a difference of opinion as to how this health care and this unemployment should be handled, but the truth of the matter is, it is being handled. If there are questions by constituents of how and who they get in touch with when it comes to their health care, I am pretty sure they have the number in the third district of Georgia of Congressman MAC COLLINS's office and they will call and we will be glad to help them.

There is a lot of rhetoric here about this is for the rich corporations. The rich corporations are only a name. It is the people who work for those businesses that actually make up those businesses. But there are a lot of small businesses in this country that need help. I am going to tell my colleagues about one in particular. Two young men operating a trucking company in Jackson, Georgia, doing fairly well for themselves, deep in debt, a lot of expenses, a lot of overhead. They are working people. Their business is off because of what has happened recently in this economy. It is down some 25 to 30 percent.

This particular bill, based on the tax provisions that will encourage people to invest capital, either into buildings or into equipment, will help those two young men, because someone will order some material and they will get to deliver it; one of their drivers will have another load to haul. That is how we stimulate an economy. Piece by piece, worker by worker. Encouraging investment.

We are taking away something in this bill too that is in the tax codes that punishes people for making investments. We are reducing the burden of the alternative minimum tax. It is a punishment for people to invest, small or large. But it is not the entity; it is the people. People that we are trying to get back into the marketplace, back into the job place, and that is the best thing we can do for anyone who is out of work who works for an employer or who has their own health insurance. Get their job back. Put them back into the workplace. That is what will happen with this bill here.

This is the last train leaving the station, folks. Do not fail, do not fail those working people at home. Small business, or if we want to call it the big fat cat corporations, it is whoever we want to call it, but it is the workers, the people that work for those entities. They need help

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I am so glad that the gentlewoman from Connecticut (Mrs. JOHNSON) is on the floor. No one has worked harder to provide adequate health care for the majority of Americans and continues to work to expand that coverage.

While she does refer to our bill providing only 75 percent of COBRA and fails to talk about the Medicaid provisions that we have to provide for additional care, the truth of the matter is that there is no Democratic bill that we can debate. We have been denied the opportunity to have our substitute on the floor. But I think it is safe to say for those people who wondered what went on in the stimulus conference that we had, I think the chairman of that conference, who happens also to be the chairman of the Committee on Ways and Means, would agree that we accomplished a lot in recognizing that we did need short-term tax incentives to stimulate the economy. We never challenged that.

□ 0245

We never challenged that. I think that he would also agree that in the area of unemployment compensation, while there was a wide gap, we thought if we continued to work, that even that gap could be covered.

The major problem we had was providing health care under a new program that was introduced to us, we thought, by the gentleman from California (Mr. THOMAS) and now we find out by the President, that would allow people to get health insurance with a credit, and if they had no tax liability, they would be able to negotiate with an advance refundable credit.

I ask the gentlewoman from Connecticut (Mrs. JOHNSON), this advance refundable credit, it is more or less, I would suspect, some type of a voucher that would allow the person with no tax liability to go somewhere and try to get health insurance, try to negotiate for it. And while there would be a cap on the cost, still there is some thought that the program would work by allowing them to get into the system.

What I have been saying all night is that if the gentlewoman does not talk about health insurance, I will not talk about page 100. But I have looked through this, and we were unable to find any way to make the credit system work in conference. One of the Senators who was in charge said that we should go to the President, and the White House could not find any way to handle it, so the way they handled it on the floor is to say the program does not exist in terms of what they do with advance refundable payment.

I may be wrong, but all I am saying is that the only thing that I see that refers to how an unemployed person with no health insurance and no tax liability, when we ask how do they get negotiated into the system in order to get health insurance, it is on page 100. If there is another part of this bill that tells how people can really use the advance payment of a displaced person using this so-called credit, I would like the gentlewoman to refer to the page.

Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I did not use the 75 percent versus the 60 percent in the gentleman's bill, because in the gentleman's bill, he allows only 75 percent.

Mr. RANGEL. I do not have a bill. I am saying, in the gentlewoman's bill, how do they negotiate the credit?

Mrs. JOHNSON of Connecticut. There are two questions here.

First of all, let me answer the subsidy one. We provide 60 percent subsidy of the premiums, and we let people buy that plan that CRS has.

Mr. RANGEL. But how do they get in the system? Where do they go?

Mrs. JOHNSON of Connecticut. Here it is. When they go and apply for the unemployment compensation benefits, it says in the bill they certify they are unemployed with the Social Security number.

Mr. RANGEL. What page?

Mrs. JOHNSON of Connecticut. Let me finish, I will get the page in a minute. It says it right there.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). If the Members would suspend, the Chair would request that all Members yield time to one another and direct their comments to the Chair.

The time is controlled by the gentleman from New York (Mr. RANGEL). If the gentleman would like to yield time to the gentlewoman, then it would be the gentlewoman's time to use.

Mr. RANGEL. I yield myself such time as I may consume.

Mr. Speaker, if anyone can tell me how they get these credits. All I am saying is that I respect that the gentlewoman knows that we had a bill and she studied it and she would like to critique it. I only wish that the majority would have allowed us to bring the bill on the floor so it could be critiqued, one.

Two, if we are talking about credits as a substitute for the existing program, the one question that I keep asking is, if they have the credit but no tax liability, how does a guy go to the HMO and try to get insurance? The answer is that the tax credit is advanced, so they can get it up front, they do not have to wait for the Treasury to give it to them. So I accept that.

I am saying if there is this advance credit, where do they go and what do they do with it? The answer is that there is no answer. They make it up as they go along, because the Secretary of the Treasury is the one that is going to determine at some point in time sometime next year how the program works.

But if Members are trying to find out how it works tonight on the floor, as we say in New York, forget about it.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 30 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, if the gentleman will read page 93 to 108, he will find that a person who is noticed goes to the unemployment office and gets unemployment compensation and certification that he is eligible for unemployment compensation. He then gives that certification that his employer gave and is charged only 40 percent of the premium. The rest is collected from the employer from the Department of the Treasury. It is very simple.

Now, when there is $13 billion out there, does the gentleman think insurance companies are not going to make it real easy to pay these premiums? Of course they are.

But back to this premium thing, remember, the gentleman provides a 75 percent premium and it is only for the most expensive plans. Seventy-five percent of the most expensive plans, the COBRA plans, which are usually $400 a week, is less of a subsidy than 60 percent of the average premium according to the Congressional Research Service of $200 a month. So ours is actually more generous than the gentleman's.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2½ minutes to the gentleman from Kentucky (Mr. LEWIS), a member of the Committee on Ways and Means.

Mr. LEWIS of Kentucky. Mr. Speaker, I thank the gentleman for yielding time to me.

The basic question tonight, Mr. Speaker, is where do jobs come from. If the Members will indulge me, I want to give some of my personal experiences.

Tonight the other side of the aisle has indulged in the old political rhetoric of class warfare. That is kind of getting old. It is over and over and over again that we hear it.

Let me tell the Members about my history. I was born in eastern Kentucky in the mountains, in a log cabin. My father was a tenant farmer. He had to work his way up to get a card as a pipefitter in a union. He just retired a few years ago from that.

He had to suffer through several recessions where he was out of work, and yes, we certainly appreciated the unemployment check. But number one and most of all, he wanted his job as soon as he could possibly get it back.

I worked for a steel mill. I was a United Steelworker, belonged to the union. There were times that I was out of work and had to depend on the unemployment check. I appreciated that. But I wanted my job back.

If I had the choice of extending my unemployment and the economy being stimulated through some tax credits and some tax incentives for the steel company I worked for, or my father would have chosen more unemployment or getting some stimulus into the economy where the construction jobs would start back up, do Members know what he would have chosen and what I would have chosen? I would have chosen the stimulus to those companies, those big, fat corporations that provided me a job.

That is what we are talking about tonight: People want jobs, not unemployment checks. But we will help them. We want to help them. We want to help them with health care, we want to help them with unemployment checks, but number one, we want to help them get their jobs back; and those that have jobs, to keep their jobs.

My son, my daughter-in-law, work in a manufacturing company right now. If we do not do something about this economy, they are in danger of losing their jobs. Let us do something tonight to protect their jobs and put people back to work. That is what America needs.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

As I stated, Mr. Speaker, when we were in conference, we wanted to follow what the President had suggested and to take in consideration tax cuts, many of which were not liked by our side, but we thought it was a question of give and take. But there is one thing that we insisted upon, and that is that either we take everything or we take nothing.

So the things that we were willing to do, some of those things we put in our substitute bill as an enticement in believing that if the House was going to be fair enough to give us an opportunity to say that we have a better plan, that Republicans and Democrats would have an opportunity to at least hear the merits of the plan, since ours had substantial tax cuts.

But we just refuse to believe that the unemployed have to be held hostage to the tax cuts, so therefore, we insisted that until we could work out the differences, there would be no agreement.

The complexity of finding an answer to how do you properly give coverage to unemployed people is a problem that the gentlewoman from Connecticut (Mrs. JOHNSON), the gentleman from California (Mr. STARK), and Members of this House have wrestled with for months and perhaps years. We have 44 million people without any type of insurance at all, and that is increasing. The recession is causing more people to become unemployed, and therefore, more people without insurance.

So we struggle to find a way. The majority insisted that we discard the way that we have because, as the gentlewoman from Connecticut (Mrs. JOHNSON) said, it is too expensive. Others said it is a Cadillac system, and some said we are paying for more than people deserve because they are unproductive people.

They talk about how you can get cheaper policies, and that you were given more. But the fact is, there is a cap on what the other people are giving. So given 60 percent, if you cannot afford the 40 percent, you are just out of insurance, because you are there to negotiate with an HMO that is in it for profit, and one cannot really negotiate from that position.

Certainly if we can just picture for one moment that we have lost our jobs and that we have lost our COBRA benefits, and that what we do have are tax credits, can Members imagine what they, their wives, or their kids, would have to go? Where do they go with the credits? What do they do? Who do they ask?

The gentlewoman from Connecticut (Mrs. JOHNSON) said people would be fighting for those credits. Do we wait until it is time to pay taxes and find out that there is no tax liability, and then get a refund? Oh, no, says the gentleman from California (Mr. THOMAS), they do not have to wait. We asked, why do we not have to wait? They said, "Because we have a provision."

What is the provision? The provision is that even before we filed the tax, they know we have no tax liability so they advance the refund, and we take that someplace and negotiate.

We said to the gentleman from California (Mr. THOMAS), that is pretty complicated. We do not understand how that works. He did not understand either, to be honest. He said, it is the President's program. So what did we do? We sent it over to the President. We never heard from anybody since.

So I was really surprised that what I used to refer to as the Thomas tax credits, since the statement is attributed to him, is now the President's tax credit, and I still could not find how do people use the advance refundable credit.

The truth of the matter is the gentleman from California (Mr. THOMAS) did not know then, he does not know now, and it is not in the bill. He may be able to tell us how he would like for this to work, or he may talk about his newly found good relationship with the with the Secretary of the Treasury, or he may say, trust the President.

But there is one thing that he is not going to be able to say, and that is anything concerning how to use the advance credit in order to get insurance, except that on page 100 and only on page 100 they say, check with the Secretary of the Treasury. At some time he will come up with some program.

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What we had suggested is maybe you do not like COBRA. Maybe you think it is too expensive. Maybe you think it is too inclusive. But the whole idea was to do something and do it now.

This was not supposed to provide for a permanent change in health delivery system. It was not a reform bill. The President did not say everything had to be right. Maybe some of the loopholes that we expanded we went too far. But he said give me something, make it temporary and do it now. Which meant what? We could have kept our system for one year, brought in Medicaid to supplement it and to make certain that everyone had coverage. And at least use it as a testing ground that if it was abused, if people was using more than they should, than we could get together and come up with a good Medicaid/Medicare reform bill.

As it is now, we are left with nothing except your imagination and whatever the Secretary of Treasury may come up with. And the reason we broke down in our negotiations is because there was no provisions there for refundable advanced credit for people to get insurance. There is no provision now, and that is why we are opposed to the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself 30 seconds.

The gentleman is entitled to his opinion but not his own set of facts. The bill did and the bill does not have a cap on the payment. And what the payment and what the gentleman has not really shared because with us is that his plan a subsidy for the COBRA program does not exist. Currently people who are unemployed take their own money and pay 102 percent of the cost. That is the structure in place. The gentleman's subsidy program does not exist and has not been created. Where it will be created is with the Secretary of the Treasury, the same place our program is created.

Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. WATTS), the chairman of the Republican Conference.

Mr. WATTS of Oklahoma. Mr. Speaker, I am about to share a story that some of my colleagues will have probably heard me share, but I am going to share it again because I think it is very fitting for the hour.

Back in 1981, I was about 45 days from graduating from the University of Oklahoma and I had gone home one weekend to spend the weekend with my parents, and my father said to me as we sat up in the front room of his home one night until about 2:00 in the morning, and daddy and I solved all of America's problems according to our own opinions and thoughts.

After about 3 hours of discussions he said to me, he said, Junior, I think I want to go to college. And I said, Daddy, why do you want to go to college? You are 57 years old. You are a double bypass heart patient. Mom has diabetes. You have these cows, this rental property. You are pastor of the church. Why do you want to go to college? And he replied to me, he said, I would like to see what makes you guys fools when you get out. He said, you guys seem to lose your ability to use common sense.

What this package is about it is about common sense, trying to address the needs of the American people. Common sense should say to us, we have got people who are unemployed, who are without work, who are without health insurance benefits. Common sense should say to us, our moral fiber should say to us, let us address the needs of these people who need this assistance. Common sense should say to us, we do not need more taxes. We need more taxpayers. How do you created more taxpayers? You allow dollars to stay in the hands of the people who are risking their capital in order to either sustain jobs or to create jobs. Now, that is common sense.

What does this package do? This bill helps laid off workers by providing a generous tax credit for Americans who lost their jobs so they can buy health insurance. It extends unemployment benefits by 13 weeks, 3 months. It gives small businesses help so they may create more jobs or help to sustain the jobs that they currently have.

We give tax rebate checks to lower income Americans and reduce the income tax for middle income Americans. These are initiatives that achieve important goals helping these who need immediate assistance while creating jobs and giving a boost to the economy.

Again, we are not proposing more new taxes or more taxes as our friends on the left would do because we understand that is not the way. I asked my colleagues to do the right thing concerning this vote, this bill. It is not a be-all or an end-all, but it is a solid package to help folks who are suffering from hard times while looking ahead to the future.

Let us reject yesterday's fear and go into tomorrow with great confidence. Let us reject yesterday's rhetoric and go for tomorrow's solutions.

Mr. Speaker, I urge my colleagues to support this bill on December 18, or 19. What day is it? Whatever day it is, I ask my colleagues to support this legislation.

Mr. THOMAS. Mr. Speaker, each day is slipping away.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. McKEON).

Mr. McKEON. Mr. Speaker, I rise on behalf of the American people who need this stimulus package to get back to work.

Mr. Speaker, I rise in support of H.R. 3529, the Economic Security and Worker Assistance Act. This important piece of legislation will bolster our economy in many ways, but I am particularly pleased that it addresses the needs of our dislocated workers and their families.

This legislation incorporates President Bush's proposal to expand the existing National Emergency Grants, found within the Workforce Investment Act, to assist our workers. These grants complement the workforce development resources available in states to ensure an effective response to significant worker dislocation events. Currently, these grants are used to provide a variety of employment and training assistance to workers who have been laid off. These include (1) job training and reemployment services; (2) income support for those that are not eligible or have exhausted their eligibility for unemployment compensation, if they are enrolled in training; and, (3) supportive services such as transportation and child care to allow individuals to get back to work.

The proposal before us today would expand the allowable supportive services to include temporary health care coverage premium assistance. A state would be required to use at least 30 percent of its grant to provide temporary health care coverage of its choosing. The Economic Security and Worker Assistance Act provides $4 billion to enhance this critical safety net for workers. Using the National Emergency Grant as a means to provide additional assistance is the right one for our workers and their families.

First, it is flexible, allowing each governor to implement a seamless package of assistance for the needs of the dislocated workers in his or her state.

Second, it can be implemented quickly since it uses an established mechanism to provide needed assistance without creating a new federal bureaucracy.

Finally, the program is targeted and temporary. The assistance aims to help those affected by the economic downturn, including families impacted by the terrorist attacks of September 11, get back to work.

By passing this legislation, we will keep our commitment to helping every worker return to work while ensuring that they and their families have the critical support they need at this difficult time. I encourage my colleagues to support America's working families and vote yes on the economic stimulus package.

Mr. THOMAS. Mr. Speaker, I yield the remainder of my time to the gentleman from Illinois (Mr. HASTERT), the Speaker of the House of Representatives.

Mr. HASTERT. Mr. Speaker, first of all, this Congress has come through an extraordinary year, a year where a lot of us never thought that the challenges and problems and probably the grief that many Americans have faced we would have to deal with, but we did.

I want to commend my colleagues on both sides of the aisle for facing up from time to time, standing tall and getting things done that were important to the American people. We have stood together. We have faced problems. We have done those things that secured this Nation. But there is one more problem. We also see an economic downturn. We can discuss why that happened. Whether it was the result of September 11 or it was in the mix a year ago, we do not know; but we know it is here. And we know when this country faces problems, this is the body that the American people look to to find solutions.

And somehow from time to time we, as Americans, we, as elected people here, pull together our collective strength and find solutions to those problems. We are human, and solutions many times are not perfect.

I remember a conversation I had with the gentleman from Missouri (Mr. GEPHARDT). He was concerned when we did the airline bill and we did a couple other things so that American workers were taken care of, because at that time there were people out of work. But today there is a lot more people out of work. And those people out of work are on unemployment compensation.

We want to extend that unemployment compensation. This bill does it. It does it to the tune of $30 billion and gives these people a lot of hope and a lot of time to get back on their feet and to find that new job. The problem is, too, some of those people do not have health care. They do not have the COBRAs opportunity. If you have COBRA that means you have to go out and pay 102, 103 percent of your premium.

We tried to find a solution to that problem too. We tried to find it together. In finding it together, we said there is a couple of ways to do this. But the way you do it quickest is give people that little code, that little voucher if you want to say it, I hate to use that word, that you can take and say here is my voucher. Here is my number. I am certified. Here is a check for 40 percent of my health care to your employer or to your insurance company, it depends on what State you are in. You know that. And in 38 States for people who are not covered by COBRA, are not in one of those big corporations, do not want to have one of those Cadillac health care bills, they also have the ability to have many COBRAs. Because you can take that there to small businesses that are not covered by COBRA and extends that insurance coverage.

We do something else. There is another group of people out there that work for companies that do not offer insurance. And they have the ability in this bill to take that code number and a check for 40 percent of their coverage and take it to buy where they buy insurance every day, whether it is down at the Main Street insurance office or some cooperative, people that they buy and do business with every day.

But this bill does more than that. It also puts money in people's pockets. If we are going to change this economy, if we are going to change this system that we have today, we have to get consumer confidence back. And we do that.

We also say every family in this country that works has had some type of security, some types of wealth that have given us a safety net, whether it is a 401(K) or whether it is a savings plan or it is a mutual funds of some kind. And almost every family since September 11 has lost that wealth or some of that wealth.

We are saying let us kick that market and let us get it going. Let us do some of those things that spur this economy and people's confidence of putting money back in the market. Let us bring that wealth back to American families, every family that has a pension or a savings account or a 401(k) is tied to securities. We need to get that done.

Finally, the engine in this country that creates jobs is the magic of people taking capital and creating wealth, taking capital and creating jobs, building buildings, buying machinery, investing in ideas, and you have to have the capital to do that. And this bill also does that and brings that capital into a place where people can invest it and create the jobs and restore this country back to where it should be.

Now, do we do it this way or that way? Is this a perfect way? Well, I say it happens to be a centrist way, because folks on both sides on the aisle, on both sides of the rotunda have basically come together and said this is what we should do, and we should do it. We should do it for this Nation. We should do it for our people who are unemployed. We should do it for the victims in New York because we addressed that too. It is time to get it done.

We have heard a lot of rhetoric. The hour is late. I know this has been a stressful couple of weeks, tempers flair and we get on edge. But I think as this Congress we have done a pretty good job over the years and over the last year, especially. I thank the Members for their help and support when we needed to have that.

There is one more time that we need your help and support, not just us, the American people need it. Here is the solution. Here is the ability to do it, and now is the time to do it. I thank Members for their attention. I thank Members for their consideration. Let us vote this bill and get it done.

Mr. SANDLIN. Mr. Speaker, I rise to oppose the misdirected economic stimulus plan, H.R. 3529, Economic Security and Recovery Act of 2001 because the bill fails to balance worker assistance provisions and tax cuts while wrecking years of Federal fiscal discipline. The economy is stagnating and people with a tenuous grip on the economic ladder fear rising unemployment rates and health costs will cause further pain. I am disappointed that Congress could not come to an agreement on an economic stimulus package and I fault those who cling to rigid ideological positions as a justification for blocking compromise and comity. The plan we will consider today does not do enough to focus on the hundreds of thousands of recently unemployed Americans and enacts risky corporate tax cuts and rebates that would further weaken our fiscal health.

Squandering an opportunity to secure health care coverage for the unemployed and tax reductions to encourage business growth sends the message to American people that Congress is not serious about economic recovery. Mr. Speaker, the Congress acted in a bipartisan manner to give the President the tools necessary to fight the war on terrorism. Democrats and Republicans compromised to pass legislation in the best interest of the country. I believe that many Democrats and Republicans were willing to compromise on an economic stimulus package but, unfortunately, ideology trumped pragmatism and common sense.

Last spring, I voted for the $1.3 trillion tax cut advocated by President Bush. At the time, our budget surplus projections looked strong for years to come. Unlike the present legislation, that tax cut contained relief for working American families and allowed most Americans to share in the expanding economy. I have great reservations that the $250 billion total cost of the bill over 10 years will further exacerbate our fiscal picture and balloon our Federal deficit.

In light of the September 11 tragedy, the priority of Congress and our country must be securing the safety of Americans from further terrorist attack and rooting out terrorist evil around the globe. We are making progress on bringing to justice those responsible for the terrorist attacks and our efforts will forestall future attacks. I believe, however, that more can be done to safeguard the American people and strengthen Homeland Defense. As a Member of the Blue Dog Coalition—a group of fiscally moderate Democrats—we proposed, as part of an economic stimulus plan, a homeland security component. This fiscally responsible initiative addresses the fundamental questions of strengthening our domestic security through targeted initiatives. The security package could also complement legislation aimed at stimulating the economy in the short term by providing relief for those who lost their jobs as a result of September 11. The proper course of action must focus on short-term assistance and avoid long-term business tax cuts that will skew our budget picture and endanger the Social Security trust fund.

I believe that the components of a balanced and fiscally responsible stimulus plan exist and a compromise can be reached. H.R. 3529, however, fails both of these criteria by enacting long-term corporate tax reductions and rebates with dubious short-term economic benefit that will lead to a return of Federal budget deficits. America needs a shot in the arm, not a misdirected tax bill in disguise as economic stimulus.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to voice my strong opposition to this legislation being brought forth under the guise of a stimulus for a sluggish economy.

Once again, just like H.R. 3090, this sham of a stimulus bill is geared toward providing tax breaks to the wealthiest individuals and corporations in our country. Extending for an additional 5 years a tax break for multinational financial corporations? Cutting the 27 percent income tax rate to 25 percent? How many of the men and women who have lost their jobs because of the economic slowdown are going to benefit from these provisions?

Instead of discussing ways to make sure that these individuals are able to afford health insurance for themselves and their families, we are talking, once again, about retroactive corporate tax cuts. We are talking about a tax cut that leaves out 75 percent of all Americans because they don't have high enough income to be in the 27 percent tax bracket.

It was recently announced by the National Bureau of Economic Research that the recession began in March, yet since that time, the House of Representatives has not passed any legislation or committed one dime for worker relief.

I urge my colleagues to oppose this shameful legislation that benefits only the wealthiest corporations and individuals in this great country; a country, Mr. Speaker, that was built on the hard-working shoulders of the types of men and women who are excluded from this very legislation. Oppose this bill.

Mr. MOORE. Mr. Speaker, I rise in opposition to H.R. 3529, the Economic Security and Worker Assistance Act of 2001.

In October, when this House debated and voted on its first stimulus package, I voted against both the majority proposal and the minority's substitute. At that time, I voiced my concern those two competing proposals had one deficiency in common: they both failed to effectively balance our Nation's priorities and needs.

In October, our Nation was at war and I argued that never, in the history of this country, during a time of war, have we cut taxes or spent our precious resources on items unrelated to achieving our wartime objectives. I also argued that we had critical needs both domestically and globally to defeat terrorism, to protect the safety and security of the American people, and to assist the hundreds of thousands of Americans who lost their jobs as a result of the events of September 11.

In October, the President called on this Congress to help our Nation recover from the September 11 terrorist attacks. He called on us to secure our airlines, to strengthen law enforcement, to give him the tools he needs to win the war on terrorism, and to assist those Americans affected by the economic consequences of the terrorist attacks. This Congress heard the call of the President and responded in a bipartisan fashion to each and every one of these needs, except for one—we have failed to provide for those who lost their job through no fault of their own.

Mr. Speaker, since October this Congress has accomplished a lot and much has changed. We have secured our airlines. We have strengthened law enforcement and we are winning the war on terrorism. We should applaud the bipartisan efforts that made these accomplishments possible.

Since October, however, we have witnessed other changes that should demonstrate to each and every one of us that there is much more to accomplish. We experienced firsthand the continued threat of terrorism in the form of anthrax and recognized our deficiencies in providing for our homeland security needs. We learned that the Federal Government ran a unified deficit of $63 billion in the first two months of this fiscal year. We heard from the Director of the Office of Management and Budget that we will face deficit spending for the remainder of the President's term. And, most chillingly, since October over 700,000 Americans have lost their jobs.

Mr. Speaker, while much has changed since October, much remains the same. Our Nation is still at war, our States and municipalities are still at risk, and our displaced workers are still in need of assistance.

This Congress' response is also the same: we are once again debating a bill to reduce revenues without offsets while in a time of war; we are debating a bill that does nothing to shore up homeland defense; we are debating a bill that fails to effectively respond to the needs of our displaced workers; and I will continue to oppose legislation that fails our economy, that fails our cities and States, and that fails our workers.

On December 10, I received a letter from the President calling on Congress to send him legislation to expand unemployment and health insurance benefits by the end of the year, "regardless of the success or failure of any other element of the economic stimulus measures now pending."

In response to the President's call, I introduced H.R. 3471, the Worker Opportunity and Relief Compensation (WORC) Act, which would meet the pressing needs of our Nation's unemployed. Among other items, this bill would expand access to unemployment and extend these benefits for 13 weeks. This bill would also provide assistance for individuals to help cover the cost of COBRA health insurance premiums.

I urge my colleagues today to vote against this legislation and support the President and me in passing a stand-alone bill that will help our Nation's workers before this Congress adjourns for the year.

Ms. WATERS. Mr. Speaker, I rise in opposition to the Republican so-called economic stimulus plan and in support of the Democratic substitute. I am committed to the goals of improving the economy in general. I am specifically committed to providing relief to the working men and women of America and those who have recently lost their jobs. Many of these individuals did not fully realize the benefits of the recent economic expansion and are now being hit the hardest by this current downturn. I believe that it is crucial that their needs must be the top priority in any economic stimulus package, and any authorized spending should be in a form that can get it into communities as quickly as possible.

I believe that true economic stimulus will be achieved by investing in certain existing economic development programs whose benefits far exceed their cost to the government. These programs invest Federal dollars in communities, resulting in job creation and economic growth. My proposal, which was adopted by the Democratic Caucus, increases funding to the Community Development Financial Institutions Fund, section 108 loan guarantees, Empowerment Zones/Enterprise Communities, and Community Development Block Grants.

These proposals are based on provisions of my bill, H.R. 3033, the Job Creation and Economic Revitalization Act of 2001, which provides additional funding for current programs that invest in traditionally overlooked communities, creating jobs and building the economy. The funds allocated to these programs represent a small fraction of the total benefits to communities. For example, over a 2-year period, the CDFI awarded $114 million to organizations who, in turn, made $3.5 billion in community development loans and investments.

Similarly, the section 108 loan program is a very low subsidy program—$15 million in appropriated funds this year will yield $609 million in loans.

I am deeply disappointed that this economic stimulus package was not the product of bipartisan negotiations. This bill represents a failure to put aside petty partisan politics for the greater good. I strongly urge my colleagues to oppose this legislation and support the Democratic substitute.

Mr. BECERRA. Mr. Speaker, it's déjà vu all over again. Nearly 2 months ago, the House narrowly approved a partisan, budget busting economic stimulus package laden with tax cuts for corporations and the affluent that failed to meet the dramatic needs of those suffering the worst effects of the current economic downturn.

Now, here we are again, for a second-go-round with largely the same package of misguided tax cuts and insufficient unemployment and health care assistance for recently laid-off workers. On all counts—tax relief, emergency unemployment benefits, and health care coverage—this bill is inadequate and should be defeated.

The Democratic leadership of the House and Senate have time and time again made good-faith, fiscally responsible offers on the tax, unemployment, and health care provisions in this bill. But, in each and every case, the White House and the Republican congressional leadership have resisted these attempts to reach a middle-ground and instead have insisted on the inclusion of their partisan proposals.

I am extremely disappointed that my colleagues across the aisle are bringing up this legislation today. It is clear to me, and clear to so many of our constituents who desperately need the help promised to them by the President and Congress earlier this fall, that this bill will never become law in its present form. We should not be wasting either the time or the effort on this wholly political enterprise.

House and Senate leaders, Republicans and Democrats alike, should return to the negotiating table and craft a balanced and responsible bill, one that stimulates the economy and deals with the immediate economic and healthcare needs of my constituents in Los Angeles, the citizens of California, and all those suffering throughout the Nation—without threatening the Social Security and Medicare surpluses, without jeopardizing our ability to meet our homeland and national security needs, and without endangering our long-term economic recovery.

While most others may have given up hope that such a consensus, bipartisan agreement can be reached, I continue to believe that it is possible. I say this because broad support exists for a significant number of provisions that could be the basis of such a bipartisan agreement. For example, both Republicans and Democrats have included in their stimulus packages language that provides for bonus depreciation, more generous small business expensing, extended carryback of business losses, and extension of several expiring tax benefits. Beyond these tax items, there are several others that have bipartisan support and would contribute to an economic turnaround, but, regrettably, were never considered for inclusion in the bill before us today.

For instance, I believe the House should have considered a proposal to allow a life insurance company that merges with a nonlife insurance company to file a consolidated tax return. Congress long ago recognized that while an affiliated group of corporations consists of multiple legal entities, it is, in economic reality, a single business enterprise and should be permitted to file a single consolidated tax return so that the income and losses of the entire economic unit may be considered as a whole for tax purposes. However, groups that include life insurance companies—indeed, only such affiliated groups—are unable to take advantage of this common sense tax policy and cannot fully consolidate their income in a single tax return.

These limitations not only add enormous and unjustifiable complexity to the accounting requirements of these companies, but they also hinder their ability to compete with other corporate financial services groups. Even more frustrating, these restrictions will disrupt the economic recovery of an industry so dramatically impacted by the terrorist attacks of September 11 since most corporate groups with life insurance affiliates will be unable to offset their losses against total net income from the current year or carry the losses back to prior years. I hold out hope that we will be able to address these limitations before this Congress adjourns. The time for leveling the playing field for life insurers is long overdue.

In addition, the problem of runaway movie and television productions continues to threaten the well being of many sectors of the American economy. When moviemakers come to town, hotels are filled, restaurants and caterers gain new business, air and ground transportation provides and travel agents experience increased demand for their services. It's no wonder that several foreign governments have adopted tax and other incentives to attract motion picture and television production projects—and the jobs and spending that come with them. Now, more than ever we must counteract these off-shore incentives. The same businesses most affected by runaway production have also been those most dramatically impacted by the aftermath of the terrorist attacks on September 11.

I cannot overemphasize that this is not just about Hollywood or the State of California. Runaway film and television production hurts states and cities across the country—from Illinois to Arkansas, and North Carolina to Washington. We must stop the hemorrhaging of American jobs and businesses to foreign shores. Unfortunately, legislation to keep movie and television production in the United States and generate jobs and revenue in communities throughout the country by providing wage-based tax credits for productions of films, television or cable programming was not considered as a component of the economic stimulus package. Again, I am hopeful that Congress will consider this proposal of such importance to so many Americans in the very near future.

Finally, three pillars—the bull market, unparalleled consumer confidence, and a robust housing market—supported the historic economic growth of the last decade. Over the course of the past year, however, we have seen dramatic declines in both the stock market and in consumer confidence. Of the three, only the housing market has remained unbowed and continues to support a teetering economy. With this in mind, I believe it would have been very constructive to include proposals to ensure the strength and vitality of this sector. We could have stimulated the economy by putting the dream of homeownership within reach of more and more Americans simply by expanding the existing tax credit for first-time homebuyers. For little cost and tremendous and proven return, we could have updated the low-income housing tax credit to encourage additional private sector development of valuable housing stock. These, too, are issues Congress and the President should address next year.

Mr. Speaker, in closing, I must reiterate my profound disappointment that we have spent so many hours tonight debating for the second time an economic stimulus package that should not have been considered by this House the first time around. Time is short, I know, but there is enough for the bipartisan congressional leadership to go back to the negotiating table and craft a bipartisan, fiscally responsible economic stimulus and worker assistance bill that truly lives up to its name. We need a bill that will give families, workers, businesses, and the whole economy a shot in the arm—and we shouldn't go home until we do.

Mr. LANGEVIN. Mr. Speaker, I rise in strong opposition to this partisan stimulus package, which offers little assistance to those most vulnerable in the current economic climate.

Any economic stimulus package must include continued health coverage and unemployment benefits for workers who have lost their jobs. Unfortunately, this measure includes cosmetic changes from previous proposals, and relies on large, permanent multiyear tax cuts for business and higher-income taxpayers, while providing relatively few benefits for the unemployed.

More than 2 million Americans have already lost their jobs this year, with over 700,000 layoffs since September 11th. Our national Unemployment Rate for November has jumped to 5.7%, the highest level in 6 years. In Rhode Inland, unemployment has risen to 4.1%. Clearly, America's workers need our help now.

For this reason, I support the Democratic substitute that contains substantial unemployment benefits and health coverage for dislocated workers while stimulating the economy with temporary business and individual tax cuts. Unlike the underlying bill, the substitute pays for itself by delaying the top income tax rate cut, which was approved earlier this year and benefits only the nation's wealthiest Americans.

I urge my colleagues to support the Democratic substitute and to reject this ineffective economic stimulus package, which fails to provide the relief and stimulus that America's workers desperately need.

Ms. KILPATRICK. Mr. Speaker, the bill we consider today is a misnomer. It is not as it purports itself to be . . . an "economic stumulus" bill. Rather, it is a corporate windfall tax break bill. The bill will do little to turnaround the economy and to assist those working Americans who, through no fault of their own, have lost their jobs. The bill is almost a clone of the tax cut bill we passed in October. I voted against the first bill, and I intend to vote against this one.

Sixty-three percent of the $250 billion in tax breaks contained in this bill go to corporations. Some of the tax loopholes proposed in this bill will allow corporations to shelter interest income from offshore accounts at a cost of $3 billion over three years. The bill cuts the corporate alternative minimum tax by about two-thirds and pays out rebates over a stretched out period of time. The alternative minimum tax was enacted to ensure that America's largest corporations would pay a minimum amount of tax, just as average taxpayers do. The majority on the Ways and Means Committee obviously think otherwise, and it is proposing to virtually eliminate all future minimum corporate tax liability. That means we will return to the days when many corporate entities, who earn millions and billions in profits, will incur a tax liability lower than the average individual wage earner.

The bill will also accelerate the reduction of the 27 percent income tax rate to 25 percent. The main features of this tax bill are easy to figure. For the most part, this is an instant replay of the corporate tax cut bill this House passed in October by the resounding margin of two votes. The majority party in this House is bent on shifting the tax burden away from corporations and individuals of privileged means-income sources that can afford to pay more in taxes—to the average, lunch bucket taxpayer. That doesn't do much for the cause of tax equity nor for the cause of stimulating the economy.

Now this bill is not completely bad. It has some good features that I support. For example, the bill extends unemployment compensation benefits by 13 weeks. As Martha Stewart says: "That's a good thing." I also understand that the bill contains tax relief provisions for those victims who perished in the September 11 terrorist attacks, the anthrax attacks and the 1995 Oklahoma City bombing and to businesses in New York City adversely affected by the terrorist attacks. That, too, is a provision I support. But my support for the bill ends there.

I have consistently voted against industry-specific bailout packages such as the Airline Assistance and the terrorism insurance bills. I did so because this House and the majority leadership of this House were willing to provide assistance to corporate America who suffered from the September 11 tragedy while it ignored victims of those attacks who became jobless in the wake of the economic downturn that ensued. The Leadership gave us assurances that a worker relief package would be crafted during the week of September 24. That week came and went with no worker relief package. More weeks passed without any worker relief package.

It has been almost three months since we received those assurances that the Leadership brings up an economic stimulus package which contains some benefits for the jobless, but falls well short of being regarded as a "worker relief" package. The package of benefits contained in this measure is too little and very late.

We are being forced to vote on a bill that no one has read or studied. What we know of the bill's contents comes from the press releases and comments from Chairman Thomas's office. The Members of the other side of the aisle refer to this measure as a compromise. If this bill represents a compromise, it is a compromise only among those who serve in the majority.

The Members who crafted this bill are not sincere in their intention to assist the victims of the current economic downturn. They argue that the tax cuts proposed in this bill will help keep those currently employed on the job. To their credit, there is some merit to that argument. But when it comes to providing the jobless income assistance and affordable health insurance benefits to help them through these tough economic times, they fall short of the mark.

The priorities of the majority are clearly defined. Bail out the airline industry. Bail out the commercial insurance industry. But forget and neglect those working families who have been displaced by the imperfections of a business cycle that went into a tailspin following the September 11th attack on America.

Mr. KIND. Mr. Speaker, I rise today in opposition to the bill, the second economic stimulus bill to be considered this year. While it is necessary to provide an economic stimulus bill to be considered this year. While it is necessary to provide an economic stimulus package to jump start our currently sagging economy, I do not believe this is the time for Congress to use the economic slump and the war against terrorism as an excuse to revisit a previous tax agenda in a budget-busting frenzy. I am disheartened that the House Leadership has, again this year, chosen to give big corporations a tax break without seriously considering relief for the American workers who need immediate help.

The nation's unemployment rate jumped to 5.7 percent last month, the highest level in more than six years. Nearly a half million people joined the ranks of the unemployed in November, bringing the total of 8.2 million. The rapidly increasing unemployment rate is an unfortunate trend. The rise in the number of unemployed has not, however, influenced the House Leadership to bring to the floor a bill providing substantial worker relief. Rather, they have brought an economic stimulus bill to the floor nearly identical to the one passed in October, without appreciating the suffering working families and their need for short-term assistance. They, after all, are the ones who need the money and will spend it thereby stimulating the economy by generating demand. It is critical that an economic stimulus package help those families who have lost their jobs.

Furthermore, the bill will cost nearly $250 billion over five years. I cannot, in good conscience, support this reckless piece of legislation that will put our country back into deficit spending just to ensure that the Leadership secures its priority tax cuts. These tax cuts will not have the desired effect of boosting our economy; rather, they will threaten the fiscal discipline that prompted much of the 1990's economic boom. Instead of finding reasonable offsets to pay for the stimulus bill, it will be paid by taking funds out of the Social Security and Medicare surplus, which nearly everyone here in Congress agreed not to touch. In addition, a return to deficit spending will increase long-term interest rates, and will slow down any foreseeable economic recovery.

This is not the time to pursue our individual agendas, it is the time to pass a fiscally responsible short-term package that pushes our economy forward and provides relief for families in need. I urge my colleagues to oppose this bill. This rush to cut corporate taxes to stimulate economic recovery is at best a questionable economic prescription and at worst one that could do far more harm than good.

Mr. BENTSEN. Mr. Speaker, for far too many Americans, this economic stimulus package is a "day late and a dollar short." For months, my constituents have shared their concerns about the state of our economy. They knew we were in a recession even before September 11th and the official economic benchmarks reflected as much. The stock market was sagging, corporate investment was declining and consumer confidence was down. The September 11th attacks on New York and Washington sent economic shockwaves throughout the nation and the reverberations are still being felt in my State, especially for those Texans whose livelihoods depended on the aviation and hospitality industries. In Houston, the sudden collapse of the Enron Corporation has dimmed the Holiday spirits of the over 4,500 Enron employees who received word last week that Enron was terminating their employment.

Mr. Speaker, Americans have been courageous during this uncertain time and, all they asked of us, is to do what we can to ensure that the period of unemployment for effected workers is brief and that their families are provided with the income support and health care they need during this difficult time. Regrettably, the Republican Leadership has kept us here at this late hour for a bill that misses the mark on both counts. In its current form, there is little chance that H.R. 3529 will be able to stimulate the economy or meet the emergency income and health care needs of the recently-unemployed.

Mr. Speaker, H.R. 3529 is the Republican Leadership's second stimulus bill in as many months. While this measure is an improvement over its predecessor which offered a broad menu of tax cuts, including a repeal the corporate alternative minimum income tax (AMT) and a substantial cut to capital gains taxes, and did not extend unemployment benefits, it overshoots our short term economic needs for long-term, long-promised corporate tax cuts. Although this bill is supposed to be for short term economic stimulus, it would cost approximately $75 billion in fiscal year 2003 and $55 billion in fiscal year 2004, years when the economy is expected to be in recovery and further stimulus is not expected to be needed. Mr. Speaker, let's not forget that during that same period, the federal unified budget is slated to be in deficit. This $250 billion package is offered with no offsets, which, exacerbates our budgetary condition, not to mention, undermines our commitment, to pay down the national debt. The fact that the Treasury Department told us that the nation will need to increase its debt limit to $6.7 trillion is not incidental.

Though I believe that most of the tax provisions in this will do little to stimulate our economy, there are a few features which I believe have merit. Specifically, the $300 supplemental tax rebate for individuals ($600 for couples) who received only a partial tax rebate or no rebate under last spring's tax cut and the provision reducing the recovery period for leasehold improvements, from 39 years to 15 years, stand out as provisions that have a reasonable likelihood of having a stimulative impact.

Mr. Speaker, last Spring, back when we were "awash in money" and had off-budget surpluses for "as far as the eye could see," we were told that the President's $1.35 trillion tax cut would provide stimulus to prevent this country from going into a recession. Now that the surpluses have turned to deficits, we are being asked to pass another tax bill, which, according to the Joint Committee on Tax, will cost $250 billion over ten years, adding $150 billion to the national debt.

I am disappointed that this measure fails to take any specific steps to improve Unemployment Insurance (UI) coverage for low wage workers, many of whom entered the workforce through welfare reform in the last 1990s. This population is half as likely to receive unemployment benefits as compared with higher-wage workers. Additionally, H.R. 3529 misses an enormous opportunity to spur consumer spending by failing to increase UI benefits for families who are sure to spend the money quickly. I would note that I am pleased that the drafters of H.R. 3529 have seen fit to include provisions calling for $9.2 billion in Reed Act distributions to the States. Knowing that the State of Texas' needs its Reed Act distribution, approximately $644 million, to meet its present commitments, I spearheaded a bipartisan effort with my colleague, Rep. Pete Sessions, to urge negotiators to include this important provision.

Finally, Mr. Speaker, H.R. 3529's healthcare provisions are truly lacking. The Republican Leadership proposes to create a new program through a temporary 60% refundable tax credit for use in purchasing either COBRA or individual market health insurance policies. The Treasury Department will have to design and create this program, denying assistance for months. Mr. Speaker, in the absence of an employer healthcare subsidy of, on average, 73%, towards the health care premiums of its employees' families, how will the vast majority of the newly unemployed pay for the COBRA premiums that average $7,000 annually for family coverage? Realistically, how much can this tax credit help?

In conclusion, Mr. Speaker, as a senior member of the House budget Committee, I was heartened by the unanimity of opinion among House and Senate Budget leaders, on a bipartisan basis, as well as the President, that any economic stimulus package must be temporary, and designed to create an immediate, short-term impact, without jeopardizing our long-term economic security. As I said before, Mr. Speaker, H.R. 3529 misses the mark on every count.

Mr. CRANE. Mr. Speaker, I am pleased that every version of stimulus legislation—whether originating in the Administration, either body of Congress, Republican or Democrat—has included a provision to allow companies which have incurred losses this year to carry back those losses to offset income taxed more than two years ago. This is a very good concept and would actually provide money to these companies and help stimulate the economy. Taxpayers should be taxed on net income, not on some higher amount. If an accounting period longer than one year more appropriately reflects economic reality, we should not be hesitant to reflect that reality in our income tax laws.

Unfortunately, the legislation before us does not remove the barriers denying some groups of corporations, which include life insurance companies, to net all their losses against the income they earned this year when they compute their federal income tax liability. I understand the constraints we were under in drafting the bill, but many of these corporate groups have incurred unexpectedly large losses this year and would be greatly helped if they were allowed to be taxed on net income, rather than some higher amount.

Along with twenty-five colleagues on the Committee on Ways and Means, I introduced legislation earlier this year to amend the consolidated return provisions of the Internal Revenue Code. The bill, H.R. 909, repeals three separate limitations on the ability to net all losses against income within an affiliated group of corporations if one or more of the group members is a life insurance company. We have received no objections to the bill on tax policy or other grounds, and two of the three provisions were included in the Joint Committee staff recommendations of changes that would significantly reduce the complexity of the tax laws.

But, more importantly, it is simply wrong to impose income tax on more than net income. Not only is it bad tax policy, but it has a major economic impact when events such as those of September 11th occur. I would hope that we will be able to enact legislation early next year to accomplish this. These restrictions should have been repealed long ago. In today's economic environment, we should delay no longer.

Mrs. CAPITO. Mr. Speaker, I rise in strong support of H.R. 3529, the Economic Growth and Security Act.

As we all know, in late November, the National Bureau of Economic Research reported that the United States was in an economic recession. This news only confirmed what many of us already feared—that the American economy is slumping and thousands of American workers are losing their jobs.

Their intuition was not off the mark. As of late November, unemployment is on the rise and is at its highest level in six years.

My Congressional District in West Virginia has been especially hit hard by the economic downturn. In recent weeks, several manufacturing plants in West Virginia have announced plans to lay off workers because of the unfavorable economic climate.

Clearly, Congress must pass an economic stimulus package that boosts the ailing economy, preserves and creates new jobs and aids America's workers and families who are the unfortunate victims of this recession.

This bill accomplishes all of these goals, as it is a positive step towards economic recovery.

With provisions for improved health care and unemployment benefits, this stimulus plan will address the needs of the hard-working men and women of America. At the same time, the plan will secure our long-term economic health by stimulating job creation and economic growth.

Mr. Speaker, over three months have passed since the tragic events of September 11. In October, the House passed a sound economic security plan. Legitimate differences have prevented our ability to send a final to the President. This past weekend, the President said that if we do not pass an economic security package, an additional 300,000 American jobs could be lost. This is unacceptable.

Today, we return to the floor with a new bill that reflects the spirit of true bipartisanship and compromise. We must send this stimulus package to the President's desk before concluding our work this session.

Mr. CHAMBLISS. Mr. Speaker, people across America, across Georgia are losing their jobs in very alarming numbers. This is a very critical time for our economy; it is very fragile. It is time this Congress act to help the people of this country.

The terrorists who killed thousands of innocent people would like nothing better than also to destroy the American economy. Small businesses and individuals in Georgia, as well as the rest of the country are facing difficult financial situations. The actual loss of jobs or the threat of a loss of jobs is hitting all of us: our families, our neighbors, and our friends. It is time for Congress to respond.

We need an economic stimulus package that is going to lower the tax burden that is impeding our economic growth and create the incentives to bring people back to work. The people who are losing their jobs in Georgia do not want partisan bickering from their representatives up here in Washington—they want results back home.

We need to put people back to work and get our economy back on its feet. Families are hurting, unemployment is rising, and people need help. The American people deserve action on an economic stimulus package now. It is time to put partisanship aside and work together to turn our economy around.

It has been almost two months since my colleagues and I passed the Economic Security and Recovery Act. The House of Representatives worked as quickly as possible to provide our constituents with the complete, comprehensive, and broad-based economic assistance. Since then, the bill has languished; even though stimulating the economy remains one of the highest priorities for Americans, second only to our Nation's fight against terrorism.

This economic package is a major step to regaining a healthy Georgia economy. Each of the components will help stimulate different areas of the economy and promote economic growth and jobs. Our economy has weathered turbulence in the past during times of war and peace times, but a sound, reasoned economic growth package, such as the one we debate today, will significantly help to put America on the right track back to prosperity.

Mr. EVANS. Mr. Speaker, once again the Republicans have presented an economic stimulus bill that falls short in aiding those most affected by the recession and continues to reward the wealthy and traditional Republican party donors. Under a "compromise" plan, Republicans offer a bounty of corporate tax giveaways at the behest of layed-off workers and their families who are left out in the cold during this Christmas season.

The Republican economic stimulus continues the long-standing Republican tradition of corporate giveaways that does nothing for the constituents of Western and Central Illinois. Republicans continue to insist on eliminating the corporate alternative minimum tax, which would allow thousands of profitable corporate giants to go untaxed. Republicans also continue to accelerate the Bush tax cut, which has erased the budget surplus and reversed four years of budget surpluses. Economists universally agree that these types of tax cuts will do nothing in the short term to stimulate the economy or aid those most affected by the economic downturn.

Americans who have lost their jobs in this economic downturn need immediate help to ensure that they do not also lose their health insurance. But, the Republican's health tax credit proposal falls dramatically short by only providing a partial tax credit to purchase COBRA or private health insurance. By relying on tax credits, Republicans expect recently layed-off workers to come up with hundreds of dollars for overpriced health insurance, while waiting months for government reimbursement of a partial tax credit.

My congressional district has witnessed thousands of layoffs and cutbacks. I am uncompromising on the issue of helping ordinary Americans and therefore support a compassionate and fiscally responsible Democratic economic stimulus plan that provides immediate assistance to those most affected by the recession. The Democratic plan expands COBRA and provides assistance in purchasing COBRA coverage. Moreover, by providing coverage through COBRA, we can guarantee affordable coverage even for workers with preexisting conditions and make a promise that will not have to wait until April 15th to be realized. The Democratic plan also increases unemployment benefits and ensures recently unemployed low income workers receive fair unemployment benefits.

According to the non-partisan Congressional Budget Office, the Democratic plan would reach almost three times as many displaced workers as the Republican plan. Overall, the Republican stimulus plan would hurt the economy by growing the budget deficit by over $200 billion dollars, including the necessary debt maintenance.

Mr. WATTS of Oklahoma. Mr. Speaker, Christmas is coming and Americans are hurting. The economy is in a recession and employees are losing their jobs.

Markets need a boost so retirement security can once again be secure. John and Sally Doe back home in the heartland need our help.

The House of Representatives passed a good economic security bill in October. It's now December 19th—and the Senate has yet to pass a similar bill to help get our economy back on track. The argument coming from the other body and the other side of the aisle is centered upon more benefits for the unemployed. So, here we are today—with a new bill to give more benefits to the unemployed. We have addressed our critics' concerns and included their suggestions in the legislation before us. If that isn't bipartisanship at its best, I don't know what is.

This bill helps laid-off workers by providing a generous tax credit for Americans who have lost their jobs so they may buy health insurance. It extends unemployment benefits by thirteen weeks. It gives small businesses help so they may create more jobs. And we will give tax rebate checks to lower-income Americans and reduce the income tax for middle-class Americans. There are initiatives that achieve important goals; helping those who need immediate assistance, while creating new jobs and giving a boost to the economy.

The president told the country this past weekend: if Congress doesn't pass an economic security package, 300,000 jobs could be lost. Doing nothing is the same as aiding and abetting a sinking ship. We need to step up to the plate and help get our economy back on track.

Mr. Speaker, this bill is not a Republican proposal, nor is it a Democrat proposal. It is a fair and balanced mix of ideas from both parties and both chambers.

Our constituents back home want relief. They want help. They need jobs. They need us to do something to address the situation we are in. We did not create the problem—but we certainly have the tools to fix it.

So, Mr. Speaker, I ask my colleagues to do the right thing and vote for this bill. It is not the be-all or end-all, but it is a solid package to help folks who are suffering through hard times while looking ahead to the future. If we do nothing, the American people lose. If we pass the economic security bill, we will offer hope for our neighbors looking to have decent health care and good jobs to provide for their families.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in strong opposition to the stimulus bill being brought today by the Republican leadership.

As I have come to the floor on previous occasions to say, we must take care of the people of this country who have lost jobs and health coverage because of September 11th, before we do anything else. Not only is it the right thing to do for them and for our country, but also it is one of the best stimuli we could put in place to begin to get our economy back on track.

We have provided help for Airlines, we have provided help for insurance companies, we have allowed our own cost-of-living increase to go into effect, and now what our leaders would have us do is to provide ill-advised and really unnecessary tax cuts to the largest of corporations, and let hundreds of thousands of working people go without.

Some say there is not enough money to allow the temporary one-year extension of the Unemployment Program and an extra twenty-six weeks of unemployment benefits that the Democrats are asking for. My solution is a simple one! Eliminate or at least delay the tax cut until we know the money will be there to fund it, and do not repeal the alternative minimum tax for corporations, save one year's relief, at most.

I commend my colleagues CHARLES RANGEL, JOHN DINGLE, and DICK GEPHARDT, as well as those in the other body who worked hard to reach a good compromise that helps the most people. They did the very best they could. And I applaud them for not giving in or giving up on the people who are depending on them for relief that they will not get otherwise.

I urge my colleagues on this side of the aisle to hold fast and vote "no" on this bill, and I also invite and urge my other colleagues to do what is right for this country, and do the same.

The SPEAKER pro tempore (Mr. THORNBERRY). All time for debate has expired.

Pursuant to House Resolution 320, the bill is considered as read for amendment and the previous question is ordered.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. RANGEL. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. RANGEL moves to recommit the bill H.R. 3529 to the Committee on Ways and Means with instructions that the Committee report the same back to the House forthwith with the following amendment.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Fiscal Stimulus and Worker Relief Act of 2001".

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—TAX PROVISIONS

Subtitle A—Supplemental Rebate

Sec. 101. Supplemental rebate.

Subtitle B—Depreciation Benefits and Expensing

Sec. 111. Special depreciation allowance for certain property.
Sec. 112. Temporary increase in expensing under section 179.

Subtitle C—Extensions of Certain Expiring Provisions

Sec. 121. Allowance of nonrefundable personal credits against regular and minimum tax liability.
Sec. 122. Credit for qualified electric vehicles.
Sec. 123. Credit for electricity produced from renewable resources.
Sec. 124. Work Opportunity Credit.
Sec. 125. Welfare-to-Work credit.
Sec. 126. Deduction for clean-fuel vehicles and certain refueling property.
Sec. 127. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
Sec. 128. Qualified zone academy bonds.
Sec. 129. Cover over of tax on distilled spirits.
Sec. 130. Parity in the application of certain limits to mental health benefits.
Sec. 131. Delay in effective date of requirement for approved diesel or kerosene terminals.
Sec. 132. Subpart F exemption for active financing.
Sec. 133. 1-year extension of supplemental grant program under the TANF program.
Sec. 134. 1-year extension of contingency fund under the TANF program.

Subtitle D—Other Provisions

Sec. 141. Alternative minimum tax relief with respect to incentive stock options exercised during 2000 or 2001.
Sec. 142. Carryback of certain net operating losses allowed for 5 years.
Sec. 143. Temporary waiver of 90 percent AMT limitations.
Sec. 144. Expansion of incentives for public schools.

TITLE II—WORKER RELIEF

Subtitle A—Temporary Unemployment Compensation

Sec. 201. Short title.
Sec. 202. Federal-State agreements.
Sec. 203. Temporary Supplemental Unemployment Compensation Account.
Sec. 204. Payments to States having agreements under this subtitle.
Sec. 205. Financing provisions.
Sec. 206. Fraud and overpayments.
Sec. 207. Definitions.
Sec. 208. Applicability.
Sec. 209. Special Reed Act transfer in Fiscal Year 2002.

Subtitle B—PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE

Sec. 211. Premium assistance for COBRA continuation coverage.

Subtitle C—Additional Assistance for Temporary Health Insurance Coverage

Sec. 221. Optional temporary medicaid coverage for certain uninsured employees.
Sec. 222. Optional temporary coverage for unsubsidized portion of COBRA continuation premiums.

Subtitle D—Temporary Increases of Medicaid FMAP For Fiscal Year 2002

Sec. 231. Temporary increases of medicaid FMAP for fiscal year 2002.

TITLE III—TAX RELIEF FOR VICTIMS OF TERRORISM

Subtitle A—Relief Provisions For Victims of Terrorist Attacks

Sec. 301. Income and employment taxes of victims of terrorist attacks.
Sec. 302. Estate tax reduction.
Sec. 303. Payments by charitable organizations treated as exempt payments.
Sec. 304. Exclusion of certain cancellations of indebtedness.
Sec. 305. Treatment of certain structured settlement payments and disability trusts.
Sec. 306. No impact on social security trust fund.

Subtitle B—General Relief for Victims of Disasters and Terroristic or Military Actions

Sec. 311. Exclusion for disaster relief payments.
Sec. 312. Authority to postpone certain deadlines and required actions.
Sec. 313. Internal Revenue Service disaster response team.
Sec. 314. Application of certain provisions to terroristic or military actions.
Sec. 315. Clarification of due date for airline excise tax deposits.
Sec. 316. Coordination with Air Transportation Safety and System Stabilization Act.

Subtitle C—Disclosure of Tax Information in Terrorism and National Security Investigations

Sec. 321. Disclosure of tax information in terrorism and national security investigations.

TITLE IV—NEW YORK RECOVERY FROM TERRORISM

Sec. 401. Expansion of work opportunity tax credit targeted categories to include certain employees in New York City.
Sec. 402. Tax-exempt private activity bonds for rebuilding portion of New York City damaged in the September 11, 2001, terrorist attack.
Sec. 403. Additional advance refunding permitted of certain bonds.
Sec. 404. Gain or loss from property damaged or destroyed in New York Recovery Zone.
Sec. 405. Credit for individuals residing in Lower Manhattan.

TITLE V—FREEZE OF TOP INDIVIDUAL INCOME TAX RATE AND DOMESTIC SECURITY TRUST FUND

Sec. 501. Freeze of top individual income tax rate and Domestic Security Trust Fund.

TITLE I—TAX PROVISIONS

Subtitle A—Supplemental Rebate

SEC. 101. SUPPLEMENTAL REBATE.

(a) IN GENERAL.—Section 6428 (relating to acceleration of 10 percent income tax rate bracket benefit for 2001) is amended by adding at the end the following new subsection:

"(f) SUPPLEMENTAL REBATE.—

"(1) IN GENERAL.—Each individual who was an eligible individual for such individual's first taxable year beginning in 2000 and who, before October 16, 2001—

"(A) filed a return of tax imposed by subtitle A for such taxable year, or

"(B) filed a return of income tax with the government of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the Virgin Islands of the United States,

shall be treated as having made a payment against the tax imposed by chapter 1 for such first taxable year in an amount equal to the supplemental refund amount for such taxable year.

"(2) SUPPLEMENTAL REFUND AMOUNT.—For purposes of this subsection, the supplemental refund amount is an amount equal to the excess (if any) of—

"(A)(i) $600 in the case of taxpayers to whom section 1(a) applies,

"(ii) $500 in the case of taxpayers to whom section 1(b) applies, and

"(iii) $300 in the case of taxpayers to whom subsections (c) or (d) of section 1 applies, over

"(B) the amount of any advance refund amount paid to the taxpayer under subsection (e).

"(3) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this subsection, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible.

"(4) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this subsection.

"(5) SPECIAL RULE FOR CERTAIN NONRESIDENTS.—The determination under subsection (c)(2) as to whether an individual who filed a return of tax described in paragraph (1)(B) is a nonresident alien individual shall, under rules prescribed by the Secretary, be made by reference to the possession or Commonwealth with which the return was filed and not the United States.".

(b) Technical Correction.—

(1) In general.—Subsection (b) of section 6428 is amended to read as follows:

"(b) Credit Treated as Nonrefundable Personal Credit.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of chapter 1.".

(2) Conforming amendments.—

(A) Subsection (d) of section 6428 is amended to read as follows:

"(d) Coordination with Advance Refunds of Credit.—

"(1) In general.—The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (e). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

"(2) Joint returns.—In the case of a refund or credit made or allowed under subsection (e) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.".

(B) Paragraph (2) of section 6428(e) is amended to read as follows:

"(2) Advance refund amount.—For purposes of paragraph (1), the advance refund amount is the amount that would have been allowed as a credit under this section for such first taxable year if—

"(A) this section (other than subsections (b) and (d) and this subsection) had applied to such taxable year, and

"(B) the credit for such taxable year were not allowed to exceed the excess (if any) of—

"(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(ii) the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under subpart C thereof, relating to refundable credits).".

(c) Conforming Amendments.—

(1) Paragraph (1) of section 6428(d), as amended by subsection (b), is amended by striking "subsection (e)" and inserting "subsections (e) and (f)".

(2) Paragraph (2) of section 6428(d), as amended by subsection (b), is amended by striking "subsection (e)" and inserting "subsection (e) or (f)".

(3) Paragraph (3) of section 6428(e) is amended by striking "December 31, 2001" and inserting "the date of the enactment of the Fiscal Stimulus and Worker Relief Act of 2001".

(d) Reporting Requirement.—For purposes of determining the individuals who are eligible for the supplemental rebate under section 6428(f) of the Internal Revenue Code of 1986, the governments of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States shall provide, at such time and in such manner as provided by the Secretary of the Treasury, the names, addresses, and taxpayer identifying numbers (within the meaning of section 6109 of the Internal Revenue Code of 1986) of residents who filed returns of income tax with such governments for 2000.

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Technicals.—The amendments made by subsection (b) shall take effect as if included in the amendment made by section 101(b)(1) of the Economic Growth and Tax Relief Reconciliation Act of 2001.

Subtitle B—Depreciation Benefits and Expensing

SEC. 111. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY.

(a) In General.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(k) Special Allowance for Certain Property Acquired After September 10, 2001, and Before January 1, 2003.—

"(1) Additional allowance.—In the case of any qualified property—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

"(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) Qualified property.—For purposes of this subsection—

"(A) In general.—The term 'qualified property' means property—

"(i)(I) to which this section applies which has an applicable recovery period of 20 years or less or which is water utility property,

"(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

"(III) which is qualified leasehold improvement property, or

"(IV) which is eligible for depreciation under section 167(g),

"(ii) the original use of which commences with the taxpayer after September 10, 2001, and

"(iii) which is—

"(I) acquired by the taxpayer during the 1-year period beginning on September 11, 2001, and ending on September 10, 2002, and placed in service during such 1-year period, or

"(II) constructed, reconstructed, or erected by or for the taxpayer on or after the first day of such 1-year period, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection during such 1-year period.

"(B) Exceptions.—

"(i) Alternative depreciation property.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) Election out.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) Sale-leasebacks.—For purposes of subparagraph (A)(ii), if property—

"(i) is originally placed in service after September 10, 2001, by a person, and

"(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

"(D) Coordination with section 280F.—For purposes of section 280F—

"(i) Automobiles.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $1,600.

"(ii) Listed property.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

"(3) Qualified leasehold improvement property.—For purposes of this subsection—

"(A) In general.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

"(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

"(I) by the lessee (or any sublessee) of such portion, or

"(II) by the lessor of such portion,

"(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

"(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

"(B) Certain improvements not included.—Such term shall not include any improvement for which the expenditure is attributable to—

"(i) the enlargement of the building,

"(ii) any elevator or escalator,

"(iii) any structural component benefiting a common area, and

"(iv) the internal structural framework of the building.

"(C) Definitions and special rules.—For purposes of this paragraph—

"(i) Binding commitment to lease treated as lease.—A binding commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

"(ii) Related persons.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

"(I) members of an affiliated group (as defined in section 1504), and

"(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.

"(D) Improvements made by lessor.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.".

(b) Allowance Against Alternative Minimum Tax.—

(1) In general.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) Additional allowance for certain property acquired after September 10, 2001, and before January 1, 2003.—The deduction under section 168(k) shall be allowed.".

(2) Conforming amendment.—Clause (i) of section 56(a)(1)(A) is amended by striking "clause (ii)" both places it appears and inserting "clauses (ii) and (iii)".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after such date.

SEC. 112. TEMPORARY INCREASE IN EXPENSING UNDER SECTION 179.

(a) In General.—The table contained in section 179(b)(1) (relating to dollar limitation) is amended to read as follows:

"If the taxable year begins in:	**The applicable amount is:**
2001	$24,000
2002	$50,000
2003 or thereafter	25,000."

(b) Temporary Increase in Amount of Property Triggering Phaseout of Maximum Benefit.—Paragraph (2) of section 179(b) of such Code is amended by inserting before the period "($400,000 in the case of taxable years beginning during 2002)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle C—Extensions of Certain Expiring Provisions

SEC. 121. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) In General.—Paragraph (2) of section 26(a) is amended—

(1) by striking "RULE FOR 2000 AND 2001.—" and inserting "RULE FOR 2000, 2001, AND 2002.—", and

(2) by striking "during 2000 or 2001," and inserting "during 2000, 2001, or 2002,".

(b) Conforming Amendments.—

(1) Section 904(h) is amended by striking "during 2000 or 2001" and inserting "during 2000, 2001, or 2002".

(2) The amendments made by sections 201(b), 202(f), and 618(f) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2002.

(c) Technical Correction.—Section 24(d)(1)(B) is amended by striking "amount of credit allowed by this section" and inserting "aggregate amount of credits allowed by this subpart.".

(d) Effective Dates.—

(1) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2001.

(2) The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 2000.

SEC. 122. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) In General.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking "December 31, 2001," and inserting "December 31, 2002,", and

(B) in subparagraphs (A), (B), and (C), by striking "2002", "2003", and "2004", respectively, and inserting "2003", "2004", and "2005", respectively, and

(2) in subsection (e), by striking "December 31, 2004" and inserting "December 31, 2005".

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 123. CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

(a) In General.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking "2002" and inserting "2003".

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 124. WORK OPPORTUNITY CREDIT.

(a) In General.—Subparagraph (B) of section 51(c)(4) is amended by striking "2001" and inserting "2002".

(b) Effective Date.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 125. WELFARE-TO-WORK CREDIT.

(a) In General.—Subsection (f) of section 51A is amended by striking "2001" and inserting "2002".

(b) Effective Date.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 126. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) In General.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking "December 31, 2001," and inserting "December 31, 2002,", and

(B) in clauses (i), (ii), and (iii), by striking "2002", "2003", and "2004", respectively, and inserting "2003", "2004", and "2005", respectively, and

(2) in subsection (f), by striking "December 31, 2004" and inserting "December 31, 2005".

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 127. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) In General.—Subparagraph (H) of section 613A(c)(6) is amended by striking "2002" and inserting "2003".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 128. QUALIFIED ZONE ACADEMY BONDS.

(a) In General.—Paragraph (1) of section 1397E(e) is amended by striking "2000, and 2001" and inserting "2000, 2001, and 2002".

(b) Extension of Carryover of Unused Limitation from 1998.—Paragraph (4) of section 1397E(e) is amended by striking "3 years for carryforwards from 1998 or 1999" and inserting "4 years for carryforwards from 1998 and 3 years for carryforwards from 1999".

(c) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 129. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) In General.—Paragraph (1) of section 7652(f) is amended by striking "2002" and inserting "2003".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 130. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) In General.—Subsection (f) of section 9812 is amended by striking "2001" and inserting "2002".

(b) Effective Date.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2001.

SEC. 131. DELAY IN EFFECTIVE DATE OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

Paragraph (2) of section 1032(f) of the Taxpayer Relief Act of 1997 (Public Law 105–34) is amended by striking "January 1, 2002" and inserting "January 1, 2003".

SEC. 132. SUBPART F EXEMPTION FOR ACTIVE FINANCING.

(a) In General.—

(1) Section 953(e)(10) is amended—

(A) by striking "January 1, 2002" and inserting "January 1, 2003", and

(B) by striking "December 31, 2001" and inserting "December 31, 2002".

(2) Section 954(h)(9) is amended by striking "January 1, 2002" and inserting "January 1, 2003".

(b) Life Insurance and Annuity Contracts.—

(1) In general.—Subparagraph (B) of section 954(i)(4) is amended to read as follows:

"(B) Life insurance and annuity contracts.—

"(i) In general.—Except as provided in clause (ii), the amount of the reserve of a qualifying insurance company or qualifying insurance company branch for any life insurance or annuity contract shall be equal to the greater of—

"(I) the net surrender value of such contract (as defined in section 807(e)(1)(A)), or

"(II) the reserve determined under paragraph (5).

"(ii) Ruling request.—The amount of the reserve under clause (i) shall be the foreign statement reserve for the contract (less any catastrophe, deficiency, equalization, or similar reserves), if, pursuant to a ruling request submitted by the taxpayer, the Secretary determines that the factors taken into account in determining the foreign statement reserve provide an appropriate means of measuring income."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 133. 1-YEAR EXTENSION OF SUPPLEMENTAL GRANT PROGRAM UNDER THE TANF PROGRAM.

Paragraph (3) of section 403(a) of the Social Security Act (42 U.S.C. 603(a)(3)) is amended by striking "and 2001" each place it appears and inserting "2001, and 2002".

SEC. 134. 1-YEAR EXTENSION OF CONTINGENCY FUND UNDER THE TANF PROGRAM.

Section 403(b) of the Social Security Act (42 U.S.C. 603(b)) is amended—

(1) in paragraph (2), by striking "and 2001" and inserting "2001, and 2002"; and

(2) in paragraph (3)(C)(ii), by striking "2001" and inserting "2002".

SEC. 135. INCENTIVES FOR INDIAN EMPLOYMENT AND PROPERTY ON INDIAN RESERVATIONS.

(a) Employment.—Subsection (f) of section 45A is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(b) Property.—Paragraph (8) section 168(j) is amended by striking "December 31, 2003" and inserting "December 31, 2004".

Subtitle D—Other Provisions

SEC. 141. ALTERNATIVE MINIMUM TAX RELIEF WITH RESPECT TO INCENTIVE STOCK OPTIONS EXERCISED DURING 2000 or 2001.

In the case of an incentive stock option (as defined in section 422 of the Internal Revenue Code of 1986) exercised during calendar year 2000 or 2001, the amount taken into account under section 56(b)(3) of such Code by reason of such exercise shall not exceed the amount that would have been taken into account if, on the date of such exercise, the fair market value of the stock acquired pursuant to such option had been—

(1) its fair market value as of—

(A) April 15, 2001, in the case of options exercised during 2000, and

(B) December 31, 2001, in the case of options exercised during 2001, or

(2) if such stock is sold or exchanged on or before the applicable date under paragraph (1), the amount realized on such sale or exchange.

SEC. 142. CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 5 YEARS.

(a) In General.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

"(H) In the case of a taxpayer which has a net operating loss for any taxable year ending in 2001, subparagraph (A)(i) shall be applied by substituting '5' for '2' and subparagraph (F) shall not apply.".

(b) Election To Disregard 5-Year Carryback.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Election To Disregard 5-Year Carryback for Certain Net Operating Losses.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.".

(c) Temporary Suspension of 90 Percent Limit on Certain NOL Carrybacks.—Subparagraph (A) of section 56(d)(1) (relating to general rule defining alternative tax net operating loss deduction) is amended to read as follows:

"(A) the amount of such deduction shall not exceed the sum of—

"(i) the lesser of—

"(I) the amount of such deduction attributable to net operating losses (other than the deduction attributable to carrybacks described in clause (ii)(I)), or

"(II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus

"(ii) the lesser of—

"(I) the amount of such deduction attributable to carrybacks of net operating losses for taxable years ending in 2001, or

"(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and".

(d) Effective Date.—The amendments made by this section shall apply to net operating losses for taxable years ending in 2001.

SEC. 143. TEMPORARY WAIVER OF 90 PERCENT AMT LIMITATIONS.

Subparagraph (A) of section 56(b)(1) of the Internal Revenue Code of 1986 and paragraph (2) of section 59(a) of such Code shall not apply in determining alternative minimum tax liability for taxable years beginning in 2002.

SEC. 144. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.

(a) In General.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter Y—Public School Modernization Provisions

"Sec. 1400K. Credit to holders of qualified public school modernization bonds.
"Sec. 1400L. Qualified school construction bonds.
"Sec. 1400M. Qualified zone academy bonds.

"SEC. 1400K. CREDIT TO HOLDERS OF QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.

"(a) Allowance of Credit.—In the case of a taxpayer who holds a qualified public school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) Amount of Credit.—

"(1) In general.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified public school modernization bond is 25 percent of the annual credit determined with respect to such bond.

"(2) Annual credit.—The annual credit determined with respect to any qualified public school modernization bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) Applicable credit rate.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of issuance of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

"(4) Special rule for issuance and redemption.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) Limitation Based on Amount of Tax.—

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

"(2) Carryover of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) Qualified Public School Modernization Bond; Credit Allowance Date.—For purposes of this section—

"(1) Qualified public school modernization bond.—The term 'qualified public school modernization bond' means—

"(A) a qualified zone academy bond, and

"(B) a qualified school construction bond.

"(2) Credit allowance date.—The term 'credit allowance date' means—

"(A) March 15,
"(B) June 15,
"(C) September 15, and
"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(e) Other Definitions.—For purposes of this subchapter—

"(1) Local educational agency.—The term 'local educational agency' has the meaning given to such term by section 14101 of the Elementary and Secondary Education Act of 1965. Such term includes the local educational agency that serves the District of Columbia but does not include any other State agency.

"(2) Bond.—The term 'bond' includes any obligation.

"(3) State.—The term 'State' includes the District of Columbia and any possession of the United States.

"(4) Public school facility.—The term 'public school facility' shall not include—

"(A) any stadium or other facility primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public, or

"(B) any facility which is not owned by a State or local government or any agency or instrumentality of a State or local government.

"(f) Credit Included in Gross Income.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(g) Recapture of Portion of Credit Where Cessation of Compliance.—

"(1) In general.—If any bond which when issued purported to be a qualified public school modernization bond ceases to be a qualified public school modernization bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

"(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

"(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

"(2) Failure to pay.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

"(3) Special rules.—

"(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) No credits against tax.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining —

"(i) the amount of any credit allowable under this part, or

"(ii) the amount of the tax imposed by section 55.

"(h) Bonds Held by Regulated Investment Companies.—If any qualified public school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(i) Credits May Be Stripped.—Under regulations prescribed by the Secretary—

"(1) In general.—There may be a separation (including at issuance) of the ownership of a qualified public school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(2) Certain rules to apply.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified public school modernization bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"(j) Treatment for Estimated Tax Purposes.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified public school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

"(k) Credit May Be Transferred.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

"(k) Reporting.—Issuers of qualified public school modernization bonds shall submit reports similar to the reports required under section 149(e).

"(l) Penalty on Contractors Failing To Pay Prevailing Wage.—

"(1) In general.—If the Secretary of Labor certifies to the Secretary that any contractor on any project funded by any qualified public school modernization bond has failed, during any portion of such contractor's taxable year, to pay prevailing wages as would be required under section 439 of the General Education Provisions Act if such funding were an applicable program under such section, the tax imposed by chapter 1 on such contractor for such taxable year shall be increased by 100 percent of the amount involved in such failure. The preceding sentence shall not apply to the extent the Secretary of Labor determines that such failure is due to reasonable cause and not willful neglect.

"(2) Amount involved.—For purposes of paragraph (1), the amount involved with respect to any failure is the excess of the amount of wages such contractor would be so required to pay under such section over the amount of wages paid.

"(3) No credits against tax.—The tax imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit allowable under this chapter, or

"(B) the amount of the minimum tax imposed by section 55.

"(m) Termination.—This section shall not apply to any bond issued after September 30, 2006.

"SEC. 1400L. QUALIFIED SCHOOL CONSTRUCTION BONDS.

"(a) Qualified School Construction Bond.—For purposes of this subchapter, the term 'qualified school construction bond' means any bond issued as part of an issue if—

"(1) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

"(2) the bond is issued by a State or local government within the jurisdiction of which such school is located,

"(3) the issuer designates such bond for purposes of this section, and

"(4) the term of each bond which is part of such issue does not exceed 15 years.

"(b) Limitation on Amount of Bonds Designated.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the sum of—

"(1) the limitation amount allocated under subsection (d) for such calendar year to such issuer, and

"(2) if such issuer is a large local educational agency (as defined in subsection (e)(4)) or is issuing on behalf of such an agency, the limitation amount allocated under subsection (e) for such calendar year to such agency.

"(c) National Limitation on Amount of Bonds Designated.—There is a national qualified school construction bond limitation for each calendar year. Such limitation is—

"(1) $11,000,000,000 for 2002, and

"(2) except as provided in subsection (f), zero after 2002.

"(d) 60 Percent of Limitation Allocated Among States.—

"(1) In general.—60 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective numbers of children in each State who have attained age 5 but not age 18 for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State to issuers within such State.

"(2) Minimum allocations to states.—

"(A) In general.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the sum of—

"(i) the amount allocated to such State under this subsection for such year, and

"(ii) the aggregate amounts allocated under subsection (e) to large local educational agencies in such State for such year,

is not less than an amount equal to such State's minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

"(B) Minimum percentage.—A State's minimum percentage for any calendar year is the minimum percentage described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for such State for the most recent fiscal year ending before such calendar year.

"(3) Allocations to certain possessions.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

"(4) Allocations for Indian schools.—In addition to the amounts otherwise allocated under this subsection, $200,000,000 for calendar year 2002, and $200,000,000 for calendar year 2003, shall be allocated by the Secretary of the Interior for purposes of the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs. In the case of amounts allocated under the preceding sentence, Indian tribal governments (as defined in section 7871) shall be treated as qualified issuers for purposes of this subchapter.

"(e) 40 Percent of Limitation Allocated Among Largest School Districts.—

"(1) In general.—40 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated under paragraph (2) by the Secretary among local educational agencies which are large local educational agencies for such year.

"(2) Allocation formula.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among large local educational agencies in proportion to the respective amounts each such agency received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

"(3) Allocation of unused limitation to state.—The amount allocated under this subsection to a large local educational agency for any calendar year may be reallocated by such agency to the State in which such agency is located for such calendar year. Any amount reallocated to a State under the preceding sentence may be allocated as provided in subsection (d)(1).

"(4) Large local educational agency.—For purposes of this section, the term 'large local educational agency' means, with respect to a calendar year, any local educational agency if such agency is—

"(A) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, or

"(B) 1 of not more than 25 local educational agencies (other than those described in subparagraph (A)) that the Secretary of Education determines (based on the most recent data available satisfactory to the Secretary) are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or such other factors as the Secretary deems appropriate.

"(f) Carryover of Unused Limitation.—If for any calendar year—

"(1) the amount allocated under subsection (d) to any State, exceeds

"(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (d)(4) or (e).

"(g) Special Rules Relating to Arbitrage.—

"(1) In general.—A bond shall not be treated as failing to meet the requirement of subsection (a)(1) solely by reason of the fact that the proceeds of the issue of which such bond is a part are invested for a temporary period (but not more than 36 months) until such proceeds are needed for the purpose for which such issue was issued.

"(2) Binding commitment requirement.—Paragraph (1) shall apply to an issue only if, as of the date of issuance, there is a reasonable expectation that—

"(A) at least 10 percent of the proceeds of the issue will be spent within the 6-month period beginning on such date for the purpose for which such issue was issued, and

"(B) the remaining proceeds of the issue will be spent with due diligence for such purpose.

"(3) EARNINGS ON PROCEEDS.—Any earnings on proceeds during the temporary period shall be treated as proceeds of the issue for purposes of applying subsection (a)(1) and paragraph (1) of this subsection.

"SEC. 1400M. QUALIFIED ZONE ACADEMY BONDS.

"(a) QUALIFIED ZONE ACADEMY BOND.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'qualified zone academy bond' means any bond issued as part of an issue if—

"(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by a local educational agency,

"(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

"(C) the issuer—

"(i) designates such bond for purposes of this section,

"(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

"(iii) certifies that it has the written approval of the local educational agency for such bond issuance, and

"(D) the term of each bond which is part of such issue does not exceed 15 years.

Rules similar to the rules of section 1400L(g) shall apply for purposes of paragraph (1).

"(2) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the local educational agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

"(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the local educational agency) of—

"(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

"(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

"(iii) services of employees as volunteer mentors,

"(iv) internships, field trips, or other educational opportunities outside the academy for students, or

"(v) any other property or service specified by the local educational agency.

"(3) QUALIFIED ZONE ACADEMY.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of a local educational agency to provide education or training below the postsecondary level if—

"(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

"(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the local educational agency,

"(C) the comprehensive education plan of such public school or program is approved by the local educational agency, and

"(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

"(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

"(4) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

"(A) constructing, rehabilitating, or repairing the public school facility in which the academy is established,

"(B) acquiring the land on which such facility is to be constructed with part of the proceeds of such issue,

"(C) providing equipment for use at such academy,

"(D) developing course materials for education to be provided at such academy, and

"(E) training teachers and other school personnel in such academy.

"(b) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—There is a national zone academy bond limitation for each calendar year. Such limitation is—

"(A) $400,000,000 for 1998,

"(B) $400,000,000 for 1999,

"(C) $400,000,000 for 2000,

"(D) $400,000,000 for 2001,

"(E) $1,400,000,000 for 2002, and

"(F) except as provided in paragraph (3), zero after 2002.

"(2) ALLOCATION OF LIMITATION.—

"(A) ALLOCATION AMONG STATES.—

"(i) 1998, 1999, 2000, AND 2001 LIMITATIONS.—The national zone academy bond limitations for calendar years 1998, 1999, 2000, and 2001 shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget).

"(ii) LIMITATION AFTER 2001.—The national zone academy bond limitation for any calendar year after 2001 shall be allocated by the Secretary among the States in proportion to the respective amounts each such State received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

"(B) ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—The limitation amount allocated to a State under subparagraph (A) shall be allocated by the State to qualified zone academies within such State.

"(C) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under subparagraph (B) for such calendar year.

"(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(A) the limitation amount under this subsection for any State, exceeds

"(B) the amount of bonds issued during such year which are designated under subsection (a) (or the corresponding provisions of prior law) with respect to qualified zone academies within such State,

the limitation amount under this subsection for such State for the following calendar year shall be increased by the amount of such excess."

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) REPORTING OF CREDIT ON QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 1400K(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 1400K(d)(2)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting."

(c) CONFORMING AMENDMENTS.—

(1) Subchapter U of chapter 1 is amended by striking part IV, by redesignating part V as part IV, and by redesignating section 1397F as section 1397E.

(2) The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter Y. Public school modernization provisions."

(3) The table of parts of subchapter U of chapter 1 is amended by striking the last 2 items and inserting the following item:

"Part IV. Regulations."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 2001.

(2) REPEAL OF RESTRICTION ON ZONE ACADEMY BOND HOLDERS.—In the case of bonds to which section 1397E of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of this Act) applies, the limitation of such section to eligible taxpayers (as defined in subsection (d)(6) of such section) shall not apply after the date of the enactment of this Act.

TITLE II—WORKER RELIEF

Subtitle A—Temporary Unemployment Compensation

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Temporary Unemployment Compensation Act of 2001".

SEC. 202. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this subtitle with the Secretary of Labor (hereinafter in this subtitle referred to as the "Secretary"). Any State which is a party to an agreement under this subtitle may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) Provisions of Agreement.—

(1) In general.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(A) payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law were applied with the modifications described in paragraph (2), and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have exhausted all rights to regular compensation under the State law,

(ii) do not, with respect to a week, have any rights to compensation (excluding extended compensation) under the State law of any other State (whether one that has entered into an agreement under this subtitle or otherwise) nor compensation under any other Federal law (other than under the Federal-State Extended Unemployment Compensation Act of 1970), and are not paid or entitled to be paid any additional compensation under any State or Federal law, and

(iii) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(2) Modifications described.—The modifications described in this paragraph are as follows:

(A) An individual shall be eligible for regular compensation if the individual would be so eligible, determined by applying—

(i) the base period that would otherwise apply under the State law if this subtitle had not been enacted, or

(ii) a base period ending at the close of the calendar quarter most recently completed before the date of the individual's application for benefits,

whichever results in the greater amount.

(B) An individual shall not be denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work.

(C)(i) Subject to clause (ii), the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this subparagraph), plus an additional—

(I) 25 percent, or

(II) $65,

whichever is greater.

(ii) In no event may the total amount determined under clause (i) with respect to any individual exceed the average weekly insured wages of that individual in that calendar quarter of the base period in which such individual's insured wages were the highest (or one such quarter if his wages were the same for more than one such quarter).

(c) Nonreduction Rule.—Under the agreement, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a way such that—

(1) the average weekly amount of regular compensation which will be payable during the period of the agreement (determined disregarding the modifications described in subsection (b)(2)) will be less than

(2) the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on September 11, 2001.

(d) Coordination Rules.—

(1) Regular compensation payable under a Federal law.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TSUC to serve as second-tier benefits.—Notwithstanding any other provision of law, extended benefits shall not be payable to any individual for any week for which temporary supplemental unemployment compensation is payable to such individual.

(e) Exhaustion of Benefits.—For purposes of subsection (b)(1)(B)(i), an individual shall be considered to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period, or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(f) Weekly Benefit Amount, Terms and Conditions, etc. Relating to TSUC.—For purposes of any agreement under this subtitle—

(1) the amount of temporary supplemental unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to the amount of regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year,

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary supplemental unemployment compensation and the payment thereof, except where inconsistent with the provisions of this subtitle or with the regulations or operating instructions of the Secretary promulgated to carry out this subtitle, and

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 203 shall not exceed the amount established in such account for such individual.

SEC. 203. TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) In General.—Any agreement under this subtitle shall provide that the State will establish, for each eligible individual who files an application for temporary supplemental unemployment compensation, a temporary supplemental unemployment compensation account.

(b) Amount in Account.—

(1) In general.—The amount established in an account under subsection (a) shall be equal to the product obtained by multiplying an individual's weekly benefit amount by the applicable factor under paragraph (3).

(2) Weekly benefit amount.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment in such individual's benefit year.

(3) Applicable factor.—

(A) General rule.—The applicable factor under this paragraph is 13, unless the individual's benefit year begins or ends during a period of high unemployment within such individual's State, in which case the applicable factor is 26.

(B) Period of high unemployment.—For purposes of this paragraph, a period of high unemployment within a State shall begin and end, if at all, in a way (to be set forth in the State's agreement under this subtitle) similar to the way in which an extended benefit period would under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to the following:

(i) To determine if there is a State "on" or "off" indicator, apply section 203(f) of such Act, but—

(I) substitute "5 percent" for "6.5 percent" in paragraph (1)(A)(i) thereof, and

(II) disregard paragraph (1)(A)(ii) thereof and the last sentence of paragraph (1) thereof.

(ii) To determine the beginning and ending dates of a period of high unemployment within a State, apply section 203(a) and (b) of such Act, except that—

(I) in applying such section 203(a), deem paragraphs (1) and (2) thereof to be amended by striking "the third week after", and

(II) in applying such section 203(b), deem paragraph (1)(A) thereof amended by striking "thirteen" and inserting "twenty-six" and paragraph (1)(B) thereof amended by striking "fourteenth" and inserting "twenty-seventh".

(4) Rule of construction.—For purposes of any computation under paragraph (1) (and any determination of amount under section 202(f)(1)), the modification described in section 202(b)(2)(C) (relating to increased benefits) shall be deemed to have been in effect with respect to the entirety of the benefit year involved.

(c) Eligibility Period.—An individual whose applicable factor under subsection (b)(3) is 26 shall be eligible for temporary supplemental unemployment compensation for each week of total unemployment in his benefit year which begins in the State's period of high unemployment and, if his benefit year ends within such period, any such weeks thereafter which begin in such period of high unemployment, not to exceed a total of 26 weeks.

SEC. 204. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS SUBTITLE.

(a) General Rule.—There shall be paid to each State which has entered into an agreement under this subtitle an amount equal to—

(1) 100 percent of any regular compensation made payable to individuals by such State by virtue of the modifications which are described in section 202(b)(2) and deemed to be in effect with respect to such State pursuant to section 202(b)(1)(A),

(2) 100 percent of any regular compensation—

(A) which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in section 202(b)(2)(A)-(B), but only

(B) to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 202(b)(1)(A), have been reimbursable under paragraph (1), and

(3) 100 percent of the temporary supplemental unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) Determination of Amount.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(c) Administrative Expenses, etc.—There is hereby appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act) $500,000,000 to reimburse States for the costs of the administration of agreements under this subtitle (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this subtitle. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act and certified by the Secretary to the Secretary of the Treasury.

SEC. 205. FINANCING PROVISIONS.

(a) In General.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act), and the Federal unemployment account (as established by section 904(g) of the Social Security Act), of the Unemployment Trust Fund shall be used, in accordance with subsection (b), for the making of payments (described in section 204(a)) to States having agreements entered into under this subtitle.

(b) Certification.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums described in section 204(a) which are payable to such State under this subtitle. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (or, to the extent that there are insufficient funds in that account, from the Federal unemployment account) to the account of such State in the Unemployment Trust Fund.

SEC. 206. FRAUD AND OVERPAYMENTS.

(a) In General.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received any regular compensation or temporary supplemental unemployment compensation under this subtitle to which he was not entitled, such individual—

(1) shall be ineligible for any further benefits under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) Repayment.—In the case of individuals who have received any regular compensation or temporary supplemental unemployment compensation under this subtitle to which they were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual, and

(2) such repayment would be contrary to equity and good conscience.

(c) Recovery by State Agency.—

(1) In general.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation or temporary supplemental unemployment compensation payable to such individual under this subtitle or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the regular compensation or temporary supplemental unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) Opportunity for hearing.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) Review.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 207. DEFINITIONS.

For purposes of this subtitle:

(1) In general.—The terms "compensation", "regular compensation", "extended compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to paragraph (2).

(2) State law and regular compensation.—In the case of a State entering into an agreement under this subtitle—

(A) "State law" shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 202(b)(2), subject to section 202(c), and

(B) "regular compensation" shall be considered to refer to such compensation, determined under its State law (applied in the manner described in subparagraph (A)),

except as otherwise provided or where the context clearly indicates otherwise.

SEC. 208. APPLICABILITY.

(a) In General.—An agreement entered into under this subtitle shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into, and

(2) ending before January 1, 2003.

(b) Specific Rules.—Under such an agreement—

(1) the modification described in section 202(b)(2)(A) (relating to alternative base periods) shall not apply except in the case of initial claims filed after September 11, 2001,

(2) the modifications described in section 202(b)(2)(B)–(C) (relating to part-time employment and increased benefits, respectively) shall apply to weeks of unemployment (described in subsection (a)), irrespective of the date on which an individual's claim for benefits is filed, and

(3) the payments described in section 202(b)(1)(B) (relating to temporary supplemental unemployment compensation) shall not apply except in the case of individuals exhausting their rights to regular compensation (as described in clause (i) thereof) after September 11, 2001.

SEC. 209. SPECIAL REED ACT TRANSFER IN FISCAL YEAR 2002.

(a) In General.—Section 903 of the Social Security Act is amended by adding at the end the following:

"Special Transfer in Fiscal Year 2002

"(d)(1) In the case of each State which enters into an agreement under the Temporary Unemployment Compensation Act of 2001, the Secretary of the Treasury shall transfer from the Federal unemployment account to the account of such State in the Unemployment Trust Fund the amount determined with respect to such State under paragraph (2).

"(2) The amount to be transferred under this subsection to a State account shall be equal to the amount which the Secretary of Labor estimates would otherwise be transferred under this section to such State account as of the beginning of fiscal year 2003 (determined disregarding this subsection and sections 202–208 of the Temporary Unemployment Compensation Act of 2001, and assuming that the conditions triggering the application of subsection (b) do not apply).

"(3) A transfer under this subsection to a State account shall be made as soon as practicable once such State has entered into an agreement referred to in paragraph (1).

"(4) Amounts transferred to a State account under this subsection shall not be subject to the last sentence of subsection (c)(2)."

(b) Limitations on Transfers.—Section 903(b) of the Social Security Act shall apply to transfers under section 903(d) of such Act (as amended by this section). For purposes of the preceding sentence, such section 903(b) shall be deemed to be amended as follows:

(1) By substituting "the transfer date described in subsection (d)(3)" for "October 1 of any fiscal year".

(2) By substituting "remain in the Federal unemployment account" for "be transferred to the Federal unemployment account as of the beginning of such October 1".

(3) By substituting "fiscal year 2002 (after the transfer date described in subsection (d)(3))" for "the fiscal year beginning on such October 1".

(4) By substituting "under subsection (d)" for "as of October 1 of such fiscal year".

(5) By substituting "(as of the close of fiscal year 2002)" for "(as of the close of such fiscal year)".

(c) Technical Amendment.—Section 903(c) of the Social Security Act is amended by striking "subsections (a) and (b)" each place it appears and inserting "subsections (a), (b), and (d)".

(d) Regulations.—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section and the amendments made by this section.

Subtitle B—PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE

SEC. 211. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which premium assistance for COBRA continuation coverage shall be provided for qualified individuals under this section.

(2) QUALIFIED INDIVIDUALS.—For purposes of this section, a qualified individual is an individual who—

(A) establishes that the individual—

(i) on or after July 1, 2001, and before the end of the 1-year period beginning on the date of the enactment of this Act, became entitled to elect COBRA continuation coverage; and

(ii) has elected such coverage; and

(B) enrolls in the premium assistance program under this section by not later than the end of such 1-year period.

(b) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE.—Premium assistance provided under this subsection shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer covered under COBRA continuation coverage; or

(2) 12 months after the date the individual is first enrolled in the premium assistance program established under this section.

(c) PAYMENT, AND CREDITING OF ASSISTANCE.—

(1) AMOUNT OF ASSISTANCE.—Premium assistance provided under this section shall be equal to 75 percent of the amount of the premium required for the COBRA continuation coverage.

(2) PROVISION OF ASSISTANCE.—Premium assistance provided under this section shall be provided through the establishment of direct payment arrangements with the administrator of the group health plan (or other entity) that provides or administers the COBRA continuation coverage. It shall be a fiduciary duty of such administrator (or other entity) to enter into such arrangements under this section.

(3) PREMIUMS PAYABLE BY QUALIFIED INDIVIDUAL REDUCED BY AMOUNT OF ASSISTANCE.—Premium assistance provided under this section shall be credited by such administrator (or other entity) against the premium otherwise owed by the individual involved for such coverage.

(d) CHANGE IN COBRA NOTICE.—

(1) GENERAL NOTICE.—

(A) IN GENERAL.—In the case of notices provided under section 4980B(f)(6) of the Internal Revenue Code of 1986 with respect to individuals who, on or after July 1, 2001, and before the end of the 1-year period beginning on the date of the enactment of this Act, become entitled to elect COBRA continuation coverage, such notices shall include an additional notification to the recipient of the availability of premium assistance for such coverage under this section.

(B) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under section 4980B(f)(6) of the Internal Revenue Code of 1986 does not apply, the Secretary of the Treasury shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure provision of such notice.

(C) FORM.—The requirement of the additional notification under this paragraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(2) SPECIFIC REQUIREMENTS.—Each additional notification under paragraph (1) shall include—

(A) the forms necessary for establishing eligibility under subsection (a)(2)(A) and enrollment under subsection (a)(2)(B) in connection with the coverage with respect to each covered employee or other qualified beneficiary;

(B) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with the premium assistance; and

(C) the following statement displayed in a prominent manner:

"You may be eligible to receive assistance with payment of 75 percent of your COBRA continuation coverage premiums for a duration of not to exceed 12 months.".

(3) NOTICE RELATING TO RETROACTIVE COVERAGE.—In the case of such notices previously transmitted before the date of the enactment of this Act in the case of an individual described in paragraph (1) who has elected (or is still eligible to elect) COBRA continuation coverage as of the date of the enactment of this Act, the administrator of the group health plan (or other entity) involved or the Secretary of the Treasury (in the case described in the paragraph (1)(B)) shall provide (within 60 days after the date of the enactment of this Act) for the additional notification required to be provided under paragraph (1).

(4) MODEL NOTICES.—The Secretary shall prescribe models for the additional notification required under this subsection.

(f) OBLIGATION OF FUNDS.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of premium assistance under this section.

(g) PROMPT ISSUANCE OF GUIDANCE.—The Secretary of the Treasury, in consultation with the Secretary of Labor, shall issue guidance under this section not later than 30 days after the date of the enactment of this Act.

(h) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "administrator" has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974.

(2) COBRA CONTINUATION COVERAGE.—The term "COBRA continuation coverage" means continuation coverage provided pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), part 6 of of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), section 8905a of title 5, United States Code, or under a State program that provides continuation coverage comparable to such continuation coverage.

(3) GROUP HEALTH PLAN.—The term "group health plan" has the meaning given such term in section 9832(a) of the Internal Revenue Code of 1986.

(4) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle C—Additional Assistance for Temporary Health Insurance Coverage

SEC. 221. OPTIONAL TEMPORARY MEDICAID COVERAGE FOR CERTAIN UNINSURED EMPLOYEES.

(a) IN GENERAL.—Notwithstanding any other provision of law, with respect to any month before the ending month, a State may elect to provide, under its medicaid program under title XIX of the Social Security Act, medical assistance in the case of an individual—

(1)(A) who has become totally or partially separated from employment on or after July 1, 2001, and before the end of such ending month; or

(B) whose hours of employment have been reduced on or after July 1, 2001, and before the end of such ending month;

(2) who is not eligible for COBRA continuation coverage; and

(3) who is uninsured.

(b) LIMITATION OF PERIOD OF COVERAGE.—Assistance under this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer uninsured; or

(2) 12 months after the date the individual is first determined to be eligible for medical assistance under this section.

(c) SPECIAL RULES.—In the case of medical assistance provided under this section—

(1) the Federal medical assistance percentage under section 1905(b) of the Social Security Act shall be the enhanced FMAP (as defined in section 2105(b) of such Act);

(2) a State may elect to apply alternative income, asset, and resource limitations and the provisions of section 1916(g) of such Act, except that in no case shall a State cover individuals with higher family income without covering individuals with a lower family income;

(3) such medical assistance shall not be provided for periods before the date the individual becomes uninsured;

(4) a State may elect to make eligible for such assistance a spouse or children of an individual eligible for medical assistance under paragraph (1), if such spouse or children are uninsured;

(5) individuals eligible for medical assistance under this section shall be deemed to be described in the list of individuals described in the matter preceding paragraph (1) of section 1905(a) of such Act;

(6) a State may elect to provide such medical assistance without regard to any limitation under sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(a), 1612(b), 1613, and 1631) and no debt shall accrue under an affidavit of support against any sponsor of an individual who is an alien who is provided such assistance, and the cost of such assistance shall not be considered as an unreimbursed cost; and

(7) the Secretary of Health and Human Services shall not count, for purposes of section 1108(f) of the Social Security Act, such amount of payments under this section as bears a reasonable relationship to the average national proportion of payments made under this section for the 50 States and the District of Columbia to the payments otherwise made under title XIX for such States and District.

(d) DEFINITIONS.—For purposes of this subtitle:

(1) UNINSURED.—The term "uninsured" means, with respect to an individual, that the individual is not covered under—

(A) a group health plan (as defined in section 2791(a) of the Public Health Service Act),

(B) health insurance coverage (as defined in section 2791(b)(1) of the Public Health Service Act), or

(C) a program under title XVIII, XIX, or XXI of the Social Security Act, other than under such title XIX pursuant to this section.

For purposes of this paragraph, such coverage under subparagraph (A) or (B) shall not include coverage consisting solely of coverage of excepted benefits (as defined in section 2791(c) of the Public Health Service Act).

(2) COBRA Continuation coverage.—The term "COBRA continuation coverage" means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

(3) State.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

(4) Ending month.—The term "ending month" means the last month that begins before the date that is 1 year after the date of the enactment of this Act.

(e) Effective Date.—This section shall take effect upon its enactment, whether or not regulations implementing this section are issued.

(f) Limitation on Election.—A State may not elect to provide coverage under this section unless the State elects to provide coverage under section 222.

SEC. 222. OPTIONAL TEMPORARY COVERAGE FOR UNSUBSIDIZED PORTION OF COBRA CONTINUATION PREMIUMS.

(a) In General.—Notwithstanding any other provision of law, with respect to COBRA continuation coverage provided for any month through the ending month, a State may elect to provide payment of the unsubsidized portion of the premium for COBRA continuation coverage in the case of any individual—

(1)(A) who has become totally or partially separated from employment on or after July 1, 2001, and before the end of the ending month; or

(B) whose hours of employment have been reduced on or after July 1, 2001, and before the end of such ending month; and

(2) who is eligible for, and has elected coverage under, COBRA continuation coverage.

(b) Limitation of Period of Coverage.—Premium assistance under this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer covered under COBRA continuation coverage; or

(2) 12 months after the date the individual is first determined to be eligible for premium assistance under this section.

(c) Financial Payment to States.—A State providing premium assistance under this section shall be entitled to payment under section 1903(a) of the Social Security Act with respect to such assistance (and administrative expenses relating to such assistance) in the same manner as such State is entitled to payment with respect to medical assistance (and such administrative expenses) under such section, except that, for purposes of this subsection, any reference to the Federal medical assistance percentage shall be deemed a reference to the enhanced FMAP (as defined in section 2105(b) of such Act). The provisions of subsections (c)(6) and (c)(7) of section 221 shall apply with respect to this section in the same manner as it applies under such section.

(d) Unsubsidized Portion of Premium for COBRA Continuation Coverage.—For purposes of this section, the term 'unsubsidized portion of premium for COBRA continuation coverage' means that portion of the premium for COBRA continuation coverage for which there is no financial assistance available under 211.

(e) Effective Date.—This section shall take effect upon its enactment, whether or not regulations implementing this section are issued.

(f) Limitation on Election.—A State may not elect to provide coverage under this section unless the State elects to provide coverage under section 221.

Subtitle D—Temporary Increases of Medicaid FMAP For Fiscal Year 2002

SEC. 231. TEMPORARY INCREASES OF MEDICAID FMAP FOR FISCAL YEAR 2002.

(a) Permitting Maintenance of Fiscal Year 2001 FMAP.—Notwithstanding any other provision of law, but subject to subsection (d), if the FMAP determined without regard to this section for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for fiscal year 2002, before the application of this section.

(b) General 1.5 Percentage Point Increase.—Notwithstanding any other provision of law, but subject to subsections (d) and (e), for each State for each calendar quarter in fiscal year 2002, the FMAP (taking into account the application of subsection (a)) shall be increased by 1.5 percentage points.

(c) Further Increase for States with High Unemployment Rates.—

(1) In general.—Notwithstanding any other provision of law, but subject to subsections (d) and (e), if a State is a high unemployment State for a calendar quarter in fiscal year 2002, then the FMAP for that State for that calendar quarter and for any subsequent calendar quarter in such fiscal year regardless of whether the State continues to be high unemployment State for that subsequent calendar quarter shall be increased (after the application of subsections (a) and (b)) by 1.5 percentage points.

(2) High unemployment state.—For purposes of this subsection, a State is a high unemployment State for a calendar quarter if, for any 3 consecutive month period beginning on or after June 2001 and ending with the second month before the beginning of the calendar quarter, the State has an average seasonally adjusted unemployment rate that exceeds the average weighted unemployment rate during such period. Such unemployment rates for such months shall be determined based on publications of the Bureau of Labor Statistics of the Department of Labor.

(3) Average weighted unemployment rate defined.—For purposes of paragraph (2), the "average weighted unemployment rate" for a period is—

(A) the sum of the seasonally adjusted number of unemployed civilians in each State and the District of Columbia for the period, divided by

(B) the sum of the civilian labor force in each State and the District of Columbia for the period.

(d) Scope of Application.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act; and

(2) payments under titles IV and XXI of such Act.

(e) State Eligibility.—A State is eligible for an increase in its FMAP under subsection (b) or (c) or an increase in a cap amount under subsection (f) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act) is no more restrictive than the eligibility under such plan (or waiver) as in effect on October 1, 2001.

(f) One-Year Increase in Cap on Medicaid Payments to Territories.—Notwithstanding any other provision of law, but subject to section (e), with respect to fiscal year 2002, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g)(2) of section 1108 of the Social Security Act (42 U.S.C 1308) shall each be increased by 9 percent of such amounts.

(g) Definitions.—For purposes of this section:

(1) FMAP.—The term "FMAP" means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) State.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

Subtitle E—Other Medicaid Changes

SEC. 241. PERMANENT APPLICATION OF BBA MEDICAID DSH TRANSITION PAYMENT RULE TO PUBLIC HOSPITALS IN ALL STATES.

(a) In General.—Section 701(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–571) (as enacted into law by section 1(a)(6) of Public Law 106–554) is amended—

(1) in paragraph (1), by striking "During the period described in paragraph (3), with respect to a State," and inserting "Beginning, with respect to a State, on the first day of the first State fiscal year that begins after September 30, 2002,";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 701(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–571) (as enacted into law by section 1(a)(6) of Public Law 106–554).

SEC. 242. SUPPLEMENTAL PAYMENT PLANS.

(a) In General.—With respect to a State described in subsection (b), the aggregate upper payment limits applied under sections 447.272, 447.304, and 447.321 of title 42, Code of Federal Regulations (and any other applicable section of part 447 of title 42, Code of Federal Regulations) shall be no less than those limits specified in the final rule issued January 12, 2001, pursuant to section 705(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–575) (as enacted into law by section 1(a)(6) of Public Law 106–554).

(b) State Described.—A State described in this subsection is a State that had a State medicaid plan payment provision or methodology (including a payment provision or methodology approved under a waiver of the State medicaid plan) which—

(1) provided for payments (other than those payments required under section 1902(a)(13)(A)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(13)(A)(iv)) to hospitals for services provided to recipients of medical assistance under the State medicaid plan that

are supplemental to payments otherwise payable to the hospitals for such services; and

(2) was approved, had been deemed approved, or was in effect on or before October 1, 1992.

(c) Applicability.—The provisions of this section shall continue to apply to a State described in subsection (b) regardless of any subsequent amendments or modifications to the payment provision or methodology described in that subsection.

SEC. 243. DELAY IN MEDICAID UPL CHANGES FOR NON-STATE GOVERNMENT-OWNED OR OPERATED HOSPITALS.

(a) Moratorium on UPL Changes.—Any change in the upper limits on payment under title XIX of the Social Security Act for services of non-State government-owned or operated hospitals that are specified in sections 447.272 and 447.321 of title 42, Code of Federal Regulations as such sections were in effect on March 13, 2001, whether based on the proposed rule published on November 23, 2001, or otherwise —

(1) may not be published in final form before January 1, 2003; and

(2) may not apply for any period beginning before January 1, 2003.

(b) Mitigation Plan.—The Secretary of Health and Human Services shall submit to the Congress, at least 3 months before publishing a final regulation described in subsection (a), a report that contains a plan for mitigating the loss of funding to non-State government-owned or operated hospitals as a result of such regulation. Such report shall also include such recommendations for legislative action as the Secretary deems appropriates.

TITLE III—TAX RELIEF FOR VICTIMS OF TERRORISM

Subtitle A—Relief Provisions For Victims of Terrorist Attacks

SEC. 301. INCOME AND EMPLOYMENT TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) In General.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

"(d) Individuals Dying as a Result of Certain Terrorist Attacks.—

"(1) In general.—In the case of any individual who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or who dies as a result of illness incurred as a result of a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, any tax imposed by this subtitle shall not apply—

"(A) with respect to the taxable year in which falls the date of such individual's death, and

"(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds, injury, or illness were incurred.

"(2) Exceptions.—

"(A) Taxation of certain benefits.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to the amount of any tax imposed by this subtitle which would be computed by only taking into account the items of income, gain, or other amounts attributable to—

"(i) amounts payable in the taxable year by reason of the death of an individual described in paragraph (1) which would have been payable in such taxable year if the death had occurred by reason of an event other than an event described in paragraph (1), or

"(ii) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after the date of the applicable terrorist attack.

"(B) No relief for perpetrators.—Paragraph (1) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in any event described in paragraph (1), or a representative of such individual.".

(b) Refund of Other Taxes Paid.—Section 692, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(e) Refund of Other Taxes Paid.—In determining the amount of tax under this section to be credited or refunded as an overpayment with respect to any individual for any period, such amount shall be increased by an amount equal to the amount of taxes imposed and collected under chapter 21 and sections 3201(a), 3211(a)(1), and 3221(a) with respect to such individual for such period.".

(c) Conforming Amendments.—

(1) Section 5(b)(1) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(2) Section 6013(f)(2)(B) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(d) Clerical Amendments.—

(1) The heading of section 692 is amended to read as follows:

"SEC. 692. INCOME AND EMPLOYMENT TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH.".

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

"Sec. 692. Income and employment taxes of members of Armed Forces and victims of certain terrorist attacks on death.".

(e) Effective Date; Waiver of Limitations.—

(1) Effective date.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) Waiver of limitations.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 302. ESTATE TAX REDUCTION.

(a) In General.—Section 2201 is amended to read as follows:

"SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.

"(a) In General.—Unless the executor elects not to have this section apply, in applying section 2001 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

"(b) Qualified Decedent.—For purposes of this section, the term 'qualified decedent' means—

"(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

"(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

"(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, or

"(2) any individual who died as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or who died as a result of illness incurred as a result of a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

Paragraph (2) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in any such terrorist attack, or a representative of such individual.

"(c) Rate Schedule.—

"If the amount with respect to which the tentative tax to be computed is:	**The tentative tax is:**
Not over $150,000	1 percent of the amount by which such amount exceeds $100,000.
Over $150,000 but not over $200,000.	$500 plus 2 percent of the excess over $150,000.
Over $200,000 but not over $300,000.	$1,500 plus 3 percent of the excess over $200,000.
Over $300,000 but not over $500,000.	$4,500 plus 4 percent of the excess over $300,000.
Over $500,000 but not over $700,000.	$12,500 plus 5 percent of the excess over $500,000.
Over $700,000 but not over $900,000.	$22,500 plus 6 percent of the excess over $700,000.
Over $900,000 but not over $1,100,000.	$34,500 plus 7 percent of the excess over $900,000.
Over $1,100,000 but not over $1,600,000.	$48,500 plus 8 percent of the excess over $1,100,000.
Over $1,600,000 but not over $2,100,000.	$88,500 plus 9 percent of the excess over $1,600,000.
Over $2,100,000 but not over $2,600,000.	$133,500 plus 10 percent of the excess over $2,100,000.
Over $2,600,000 but not over $3,100,000.	$183,500 plus 11 percent of the excess over $2,600,000.
Over $3,100,000 but not over $3,600,000.	$238,500 plus 12 percent of the excess over $3,100,000.
Over $3,600,000 but not over $4,100,000.	$298,500 plus 13 percent of the excess over $3,600,000.
Over $4,100,000 but not over $5,100,000.	$363,500 plus 14 percent of the excess over $4,100,000.
Over $5,100,000 but not over $6,100,000.	$503,500 plus 15 percent of the excess over $5,100,000.
Over $6,100,000 but not over $7,100,000.	$653,500 plus 16 percent of the excess over $6,100,000.
Over $7,100,000 but not over $8,100,000.	$813,500 plus 17 percent of the excess over $7,100,000.
Over $8,100,000 but not over $9,100,000.	$983,500 plus 18 percent of the excess over $8,100,000.
Over $9,100,000 but not over $10,100,000.	$1,163,500 plus 19 percent of the excess over $9,100,000.
Over $10,100,000	$1,353,500 plus 20 percent of the excess over $10,100,000.

"(d) Determination of Unified Credit.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.".

(b) Conforming Amendments.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2053(d)(3)(B) is amended by striking "section 2011(e)" and inserting "section 2011(d)".

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

"Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.".

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents—

(A) dying on or after September 11, 2001, and

(B) in the case of individuals dying as a result of the April 19, 1995, terrorist attack, dying on or after April 19, 1995.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 303. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made using an objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

SEC. 304. EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, and

(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

(b) EFFECTIVE DATE.—This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002.

SEC. 305. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS AND DISABILITY TRUSTS.

(a) IMPOSITION OF EXCISE TAX ON PERSONS WHO ACQUIRE CERTAIN STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS.—

(1) IN GENERAL.—Subtitle E is amended by adding at the end the following new chapter:

"CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

"Sec. 5891. Structured settlement factoring transactions for certain victims of terrorism.

"SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS FOR CERTAIN VICTIMS OF TERRORISM.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

"(b) EXCEPTION FOR CERTAIN APPROVED TRANSACTIONS.—

"(1) IN GENERAL.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

"(2) QUALIFIED ORDER.—For purposes of this section, the term 'qualified order' means a final order, judgment, or decree which—

"(A) finds that the transfer described in paragraph (1)—

"(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

"(ii) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

"(B) is issued—

"(i) under the authority of an applicable State statute by an applicable State court, or

"(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

"(3) APPLICABLE STATE STATUTE.—For purposes of this section, the term 'applicable State statute' means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

"(A) the State in which the payee of the structured settlement is domiciled, or

"(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

"(4) APPLICABLE STATE COURT.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable State court' means, with respect to any applicable State statute, a court of the State which enacted such statute.

"(B) SPECIAL RULE.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

"(5) QUALIFIED ORDER DISPOSITIVE.—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

"(c) DEFINITIONS.—For purposes of this section—

"(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

"(A) which is established by—

"(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

"(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

"(B) under which the periodic payments are—

"(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

"(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

"(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement relating to claims for death, wounding, injury, or illness as a result of the terrorist attacks against the United States on September 11, 2001, or a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

"(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—

"(A) IN GENERAL.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

"(B) EXCEPTION.—Such term shall not include—

"(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

"(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

"(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

"(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

"(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

"(5) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term 'responsible administrative authority' means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

"(6) STATE.—The term 'State' includes the Commonwealth of Puerto Rico and any possession of the United States.

"(d) COORDINATION WITH OTHER PROVISIONS.—

"(1) IN GENERAL.—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

"(2) No withholding of tax.—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.

"(3) No inference.—No inference shall be drawn from the application of this subsection to only those payment rights described in subsection (c)(2).".

(2) Clerical amendment.—The table of chapters for subtitle E is amended by adding at the end the following new item:

"Chapter 55. Structured settlement factoring transactions.".

(3) Effective dates.—

(A) In general.—The amendments made by this subsection (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this subsection) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

(B) Clarification of existing law.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after such 30th day.

(C) Transition rule.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(i) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(I) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority), and

(II) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee, and

(ii) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

(b) Personal Exemption Deduction for Certain Disability Trusts.—

(1) In general.—Section 642(b) (relating to deduction for personal exemption) is amended—

(A) by striking "An estate" and inserting: "(1) In general.—An estate", and

(2) by adding at the end the following new paragraph:

"(2) Full personal exemption amount for certain disability trusts.—Paragraph (1) shall not apply, and the deduction under section 151 shall apply, to any disability trust described in subsection (c)(2)(B)(iv), (d)(4)(A), or (d)(4)(C) of section 1917 of the Social Security Act (42 U.S.C. 1396p) for a beneficiary disabled as the result of a wounding, injury, or illness as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.".

(2) Effective date; waiver of limitations.—

(A) Effective date.—The amendments made by this subsection shall apply to taxable years ending before, on, or after September 11, 2001.

(B) Waiver of limitations.—If refund or credit of any overpayment of tax resulting from the amendments made by this subsection is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 306. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) In General.—Nothing in this title (or an amendment made by this title) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) Transfers.—

(1) Estimate of secretary.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) Transfer of funds.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

Subtitle B—General Relief for Victims of Disasters and Terroristic or Military Actions

SEC. 311. EXCLUSION FOR DISASTER RELIEF PAYMENTS.

(a) In General.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

"SEC. 139. DISASTER RELIEF PAYMENTS.

"(a) General Rule.—Gross income shall not include—

"(1) any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act, or

"(2) any amount received by an individual as a qualified disaster relief payment.

"(b) Qualified Disaster Relief Payment Defined.—For purposes of this section, the term 'qualified disaster relief payment' means any amount paid to or for the benefit of an individual—

"(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

"(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

"(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

"(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

"(c) Qualified Disaster Defined.—For purposes of this section, the term 'qualified disaster' means—

"(1) a disaster which results from a terroristic or military action (as defined in section 692(c)(2)),

"(2) a Presidentially declared disaster (as defined in section 1033(h)(3)),

"(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

"(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

"(d) Coordination With Employment Taxes.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

"(e) No Relief for Certain Individuals.—Subsection (a) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.".

(b) Conforming Amendments.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

"Sec. 139. Disaster relief payments.
"Sec. 140. Cross references to other Acts.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 312. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) Expansion of Authority Relating to Disasters and Terroristic or Military Actions.—Section 7508A is amended to read as follows:

"SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

"(a) In General.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

"(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action), “(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

“(3) the amount of any credit or refund.

“(b) Special Rules Regarding Pensions, Etc.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

“(c) Special Rules for Overpayments.—The rules of section 7508(b) shall apply for purposes of this section.”.

(b) Clarification of Scope of Acts Secretary May Postpone.—Section 7508(a)(1)(K) (relating to time to be disregarded) is amended by striking “in regulations prescribed under this section”.

(c) Conforming Amendments to ERISA.—

(1) Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

“SEC. 518. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

“In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.”.

(2) Section 4002 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following new subsection:

“(i) Special Rules Regarding Disasters, Etc.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.”.

(d) Additional Conforming Amendments.—

(1) Section 6404 is amended—

(A) by striking subsection (h),

(B) by redesignating subsection (i) as subsection (h), and

(C) by adding at the end the following new subsection:

“(i) Cross Reference.—

“For authority of the Secretary to abate certain amounts by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.”.

(2) Section 6081(c) is amended to read as follows:

“(c) Cross References.—

“For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.”.

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

“(3) Postponement of certain acts.—

“For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.”.

(d) Clerical Amendments.—

(1) The item relating to section 7508A in the table of sections for chapter 77 is amended to read as follows:

“Sec. 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.”.

(2) The table of contents for the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 517 the following new item:

“Sec. 518. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.”.

(e) Effective Date.—The amendments made by this section shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

SEC. 313. INTERNAL REVENUE SERVICE DISASTER RESPONSE TEAM.

(a) In General.—Section 7508A, as amended by section 202(a), is amended by adding at the end the following new subsection:

“(d) Duties of Disaster Response Team.—The Secretary shall establish as a permanent office in the national office of the Internal Revenue Service a disaster response team which, in coordination with the Federal Emergency Management Agency, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)).”.

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 314. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.

(a) Exclusion for Death Benefits.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

“(i) Certain Employee Death Benefits Payable by Reason of Death From Terroristic or Military Actions.—

“(1) In general.—Gross income does not include amounts which are received (whether in a single sum or otherwise) if such amounts are paid by an employer by reason of the death of an employee incurred as a result of a terroristic or military action (as defined in section 692(c)(2)).

“(2) No relief for certain individuals.—Paragraph (1) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

“(3) Treatment of self-employed individuals.—For purposes of this subsection, the term ‘employee’ includes a self-employed person (as described in section 401(c)(1)).”.

(b) Disability Income.—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking “a violent attack” and all that follows through the period and inserting “a terroristic or military action (as defined in section 692(c)(2)).”.

(c) Exemption From Income Tax for Certain Military or Civilian Employees.—Section 692(c) is amended—

(1) by striking “outside the United States” in paragraph (1), and

(2) by striking “Sustained Overseas” in the heading.

(d) Effective Date.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 315. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX DEPOSITS.

(a) In General.—Paragraph (3) of section 301(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42) is amended to read as follows:

“(3) Airline-related deposit.—For purposes of this subsection, the term ‘airline-related deposit’ means any deposit of taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air).”.

(b) Effective Date.—The amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

SEC. 316. COORDINATION WITH AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT.

No reduction in Federal tax liability by reason of any provision of, or amendment made by, this Act shall be considered as being received from a collateral source for purposes of section 402(4) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

Subtitle C—Disclosure of Tax Information in Terrorism and National Security Investigations

SEC. 321. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.

(a) Disclosure Without a Request of Information Relating to Terrorist Activities, Etc.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

“(C) Terrorist activities, etc.—

“(i) In general.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

"(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

"(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(iv) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2003.".

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

"(A) DISCLOSURE TO LAW ENFORCEMENT AGENCIES.—

"(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

"(ii) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

"(iii) REQUIREMENTS.—A request meets the requirements of this clause if—

"(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of any terrorist incident, threat, or activity, and

"(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iv) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

"(B) DISCLOSURE TO INTELLIGENCE AGENCIES.—

"(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

"(ii) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request—

"(I) is made by an individual described in clause (iii), and

"(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iii) REQUESTING INDIVIDUALS.—An individual described in this subparagraph is an individual—

"(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

"(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity.

"(iv) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(C) DISCLOSURE UNDER EX PARTE ORDERS.—

"(i) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to such terrorist incident, threat, or activity.

"(ii) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

"(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

"(D) SPECIAL RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

"(ii) LIMITATION ON USE OF INFORMATION.—Information disclosed under clause (i)—

"(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

"(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

"(E) TERMINATION.—No disclosure may be made under this paragraph after December 31, 2003.".

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(a)(2) is amended by inserting "any local law enforcement agency receiving information under subsection (i)(7)(A)," after "State,".

(2) Section 6103(b) is amended by adding at the end the following new paragraph:

"(11) TERRORIST INCIDENT, THREAT, OR ACTIVITY.—The term 'terrorist incident, threat, or activity' means an incident, threat, or activity involving an act of domestic terrorism (as defined in section 2331(5) of title 18, United States Code) or international terrorism (as defined in section 2331(1) of such title).".

(3) The heading of section 6103(i)(3) is amended by inserting "OR TERRORIST" after "CRIMINAL".

(4) Paragraph (4) of section 6103(i) is amended—

(A) in subparagraph (A) by inserting "or (7)(C)" after "paragraph (1)", and

(B) in subparagraph (B) by striking "or (3)(A)" and inserting "(3)(A) or (C), or (7)".

(5) Paragraph (6) of section 6103(i) is amended—

(A) by striking "(3)(A)" and inserting "(3)(A) or (C)", and

(B) by striking "or (7)" and inserting "(7), or (8)".

(6) Section 6103(p)(3) is amended—

(A) in subparagraph (A) by striking "(7)(A)(ii)" and inserting "(8)(A)(ii)", and

(B) in subparagraph (C) by striking "(i)(3)(B)(i)" and inserting "(i)(3)(B)(i) or (7)(A)(ii)".

(7) Section 6103(p)(4) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking "or (5)," the first place it appears and inserting "(5), or (7),", and

(ii) by striking "(i)(3)(B)(i)," and inserting "(i)(3)(B)(i) or (7)(A)(ii),", and

(B) in subparagraph (F)(ii) by striking "or (5)," the first place it appears and inserting "(5) or (7),".

(8) Section 6103(p)(6)(B)(i) is amended by striking "(i)(7)(A)(ii)" and inserting "(i)(8)(A)(ii)".

(9) Section 6105(b) is amended—

(A) by striking "or" at the end of paragraph (2),

(B) by striking "paragraphs (1) or (2)" in paragraph (3) and inserting "paragraph (1), (2), or (3)",

(C) by redesignating paragraph (3) as paragraph (4), and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) to the disclosure of tax convention information on the same terms as return information may be disclosed under paragraph (3)(C) or (7) of section 6103(i), except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government, or".

(10) Section 7213(a)(2) is amended by striking "(i)(3)(B)(i)," and inserting "(i)(3)(B)(i) or (7)(A)(ii),".

(d) Effective Date.—The amendments made by this section shall apply to disclosures made on or after the date of the enactment of this Act.

TITLE IV—NEW YORK RECOVERY FROM TERRORISM

SEC. 401. EXPANSION OF WORK OPPORTUNITY TAX CREDIT TARGETED CATEGORIES TO INCLUDE CERTAIN EMPLOYEES IN NEW YORK CITY.

(a) In General.—For purposes of section 51 of the Internal Revenue Code of 1986 (relating to work opportunity credit), a New York Recovery Zone business employee shall be treated as a member of a targeted group.

(b) New York Recovery Zone Business Employee.—For purposes of this section—

(1) In general.—The term "New York Recovery Zone business employee" means, with respect to the period beginning after September 10, 2001, and ending before January 1, 2005, any employee of a New York Recovery Zone business if—

(A) substantially all the services performed during such period by such employee for such business are performed in a trade or business of such business located in an area described in paragraph (2), and

(B) with respect to any employee of such business described in paragraph (2)(B), such employee is certified by the New York State Department of Labor as not exceeding, when added to all other employees previously certified with respect to such period as New York Recovery Zone business employees with respect to such business, the number of employees of such business on September 11, 2001, in the New York Recovery Zone.

(2) New york recovery zone business.—The term "New York Recovery Zone business" means any business establishment which is—

(A) located in the New York Recovery Zone, or

(B) located in the City of New York, New York, outside the New York Recovery Zone, as the result of the destruction or damage of such establishment by the September 11, 2001, terrorist attack.

(3) New york recovery zone.—The term "New York Recovery Zone" means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

(4) Special rules for determining amount of credit.—For purposes of applying subpart E of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 to wages paid or incurred to any New York Recovery Zone business employee—

(A) section 51(a) of such Code shall be applied by substituting "qualified wages" for "qualified first-year wages",

(B) section 51(d)(12)(A)(i) of such Code shall be applied to the certification of individuals employed by a New York Recovery Zone business before April 1, 2002, by substituting "on or before May 1, 2002" for "on or before the day on which such individual begins work for the employer",

(C) subsections (c)(4) and (i)(2) of section 51 of such Code shall not apply, and

(D) in determining qualified wages, the following shall apply in lieu of section 51(b) of such Code:

(i) Qualified wages.—The term "qualified wages" means the wages paid or incurred by the employer for work performed during the period beginning on September 11, 2001, and ending on December 31, 2004, to individuals who are New York Recovery Zone business employees of such employer.

(ii) Only first $6,000 of wages per taxable year taken into account.—The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed $6,000 per taxable year of the employer.

(c) Credit Allowed Against Regular and Minimum Tax.—

(1) In general.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Special rules for new york recovery zone business employee credit.—

"(A) In general.—In the case of the New York Recovery Zone business employee credit—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) in applying paragraph (1) to such credit—

"(I) the tentative minimum tax shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the New York Recovery Zone business employee credit).

"(B) New york recovery zone business employee credit.—For purposes of this subsection, the term 'New York Recovery Zone business employee credit' means the portion of work opportunity credit under section 51 determined under section 401 of the Fiscal Stimulus and Worker Relief Act of 2001.".

(2) Conforming amendment.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting "or the New York Recovery Zone business employee credit" after "employment credit".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years ending after September 11, 2001.

SEC. 402. TAX-EXEMPT PRIVATE ACTIVITY BONDS FOR REBUILDING PORTION OF NEW YORK CITY DAMAGED IN THE SEPTEMBER 11, 2001, TERRORIST ATTACK.

(a) Treatment as Qualified Bonds.—For purposes of the Internal Revenue Code of 1986, any qualified NYC recovery bond shall be treated as an exempt facility bond under section 141(e) of such Code.

(b) Qualified NYC Recovery Bond.—For purposes of this section, the term "qualified NYC recovery bond" means any bond which—

(1) is issued by the State of New York or any political subdivision thereof (or any agency, instrumentality or constituted authority on behalf thereof), and

(2) meets the requirements of subsections (c) through (f).

(c) Designation Requirements.—A bond meets the requirements of this subsection if it is issued as part of an issue designated as a qualified NYC recovery bond by the Mayor of the City of New York, New York, or an individual specifically appointed to make such designation.

(d) Issuance and Volume Requirements.—

(1) In general.—Except as provided in paragraph (3), a bond issued as part of an issue meets the requirements of this subsection if such bond is issued during 2002 (or during the period elected under paragraph (2)) and the aggregate face amount of the bonds issued pursuant to such issue, when added to the aggregate face amount of qualified NYC recovery bonds previously issued, does not exceed $12,500,000,000.

(2) Elective carryforward of unused limitation.—If the volume cap under paragraph (1) exceeds the aggregate amount of qualified NYC recovery bonds issued during 2002, the issuing authority under subsection (b) may elect to carry forward such excess volume cap for an additional 3-year period under rules similar to the rules of section 146(f) of the Internal Revenue Code of 1986 (other than paragraph (2) thereof).

(3) Certain current refundings not counted.—For purposes of paragraph (1), there shall not be taken into account any current refunding bond the proceeds of which are used to refund any bond described in paragraph (1) to the extent the face amount of such current refunding bond does not exceed the outstanding face amount of the refunded bond.

(e) Qualified Project Requirements.—

(1) In general.—A bond meets the requirements of this subsection if it is issued as part of an issue at least 95 percent of the net proceeds of which are to be used for qualified project costs.

(2) Qualified project costs.—For purposes of this subsection—

(A) In general.—The term "qualified project costs" means—

(i) with respect to a qualified project described in paragraph (3)(A)(i), the costs of acquisition, construction, reconstruction, and renovation of commercial real property and residential rental real property, including—

(I) buildings and their structural components,

(II) fixed tenant improvements, and

(III) public utility property, and

(ii) with respect to a qualified project described in paragraph (3)(A)(ii), the costs of acquisition, construction, reconstruction, and renovation of commercial real property, including—

(I) buildings and their structural components, and

(II) fixed tenant improvements.

(B) Limitations.—

(i) Residential rental real property.—Such term shall not include costs with respect to residential rental real property to the extent such costs for all such property exceed 20 percent of the aggregate face amount of the bonds issued under this section.

(ii) Retail sales property.—Such term shall not include costs with respect to property used for retail sales of tangible property and functionally related and subordinate property to the extent such costs for all such property exceeds 10 percent of the aggregate face amount of the bonds issued under this section.

(iii) Movable fixtures and equipment.—Such term shall not include costs with respect to movable fixtures and equipment.

(3) Qualified projects.—For purposes of this subsection—

(A) In general.—The term "qualified project" means any project—

(i) located within the New York Recovery Zone, or

(ii) located within the City of New York, New York, but outside of the New York Recovery Zone, but only if—

(I) such project consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings, and

(II) the aggregate face amount of the bonds issued to finance such project, when added to the aggregate face amount of all bonds issued to finance all other projects described in this clause, does not exceed $7,000,000,000.

(B) New york recovery zone.—The term "New York Recovery Zone" means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

(f) General Requirements.—A bond meets the requirements of this subsection if it is issued as part of an issue which meets the requirements of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 applicable to an exempt facility bond, except as follows:

(1) Sections 142(d) and 150(b)(2) (relating to qualified residential rental project), and section 146 (relating to volume cap) of such Code shall not apply to bonds issued under this section.

(2) The application of section 147(c) of such Code (relating to limitation on use for land acquisition) shall be determined by reference to the aggregate authorized face amount of all bonds issued under this section rather than the net proceeds of each issue.

(3) Section 147(d) of such Code (relating to acquisition of existing property not permitted) shall be applied by substituting "50 percent" for "15 percent" each place it appears.

(4) Section 148(f)(4)(C) of such Code (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to construction proceeds of bonds issued under this section.

(5) Rules similar to the rules of section 143(a)(2)(A)(iv) of such Code (relating to use of loan repayments) shall apply to bonds issued under this section.

(g) Bond Interest not an AMT Preference Item.—For purposes of section 57(a)(5) of the Internal Revenue Code of 1986, a qualified NYC recovery bond shall not be treated as a specified private activity bond.

(h) Separate Issue Treatment of Portions of an Issue.—This section shall not apply to the portion of the proceeds of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to subsection (a)), if the issuer elects to so treat such portion.

(i) Net Proceeds.—For purposes of this section, the term "net proceeds" has the meaning given such term by section 150(a)(3) of the Internal Revenue Code of 1986.

(j) Interest on Debt Used To Purchase or Carry Qualified NYC Recovery Bonds.—

(1) In general.—Clause (i) of section 265(b)(3)(B) (defining qualified tax-exempt obligation) is amended by adding at the end the following new flush sentence:

"Such term includes a tax-exempt obligation issued pursuant to section 402 of the Fiscal Stimulus and Worker Relief Act of 2001."

(2) Refundings.—Subparagraph (D) of section 265(b)(3) is by adding at the end the following new clause:

"(iv) Refundings of certain obligations.—In the case of a refunding (or a series of refundings) of a qualified tax-exempt obligation that is an obligation issued pursuant to section 402 of the Fiscal Stimulus and Worker Relief Act of 2001, the refunding obligation shall be treated as a qualified tax-exempt obligation if the refunding obligation meets the requirements of such section.".

(2) Effective date.—The amendments made by this subsection shall apply to taxable years ending on or after the date of the enactment of this Act.

SEC. 403. ADDITIONAL ADVANCE REFUNDING PERMITTED OF CERTAIN BONDS.

Paragraph (3) of section 149(d) of the Internal Revenue Code of 1986 shall not apply to the first advance refunding after the date of the enactment of this Act of any issue if—

(1) the original bond was issued by—

(A) the City of New York,

(B) the Port Authority of New York and New Jersey,

(C) the Metropolitan Transit Authority of the City of New York,

(D) the New York City Municipal Water Authority, or

(E) any hospital which is located in the City of New York, , described in section 501(c)(3) of such Code, and exempt from tax under section 501(a) of such Code,

(2) no bond (issued as part of the refunding issue) is issued to advance refund a private activity bond (other than a qualified hospital bond which is a qualified 501(c)(3) bond, as such terms are defined in section 145 of such Code), and

(3) other than the bonds being refunded by such refunding issue, the original bonds and all prior refundings of such bonds have been redeemed as of the date of the enactment of this Act.

The preceding sentence shall apply only if the refunding bonds meet the requirements of clauses (iii), (iv), and (v) of section 149(d)(3)(A) of such Code.

SEC. 404. GAIN OR LOSS FROM PROPERTY DAMAGED OR DESTROYED IN NEW YORK RECOVERY ZONE.

(a) General Rule.—For purposes of the Internal Revenue Code of 1986, if a taxpayer elects the application of this section with respect to any eligible property, then any gain or loss on the disposition of the property shall be determined without regard to any compensation (by insurance or otherwise) received by the taxpayer for damages sustained to the property as a result of the terrorist attacks occurring on September 11, 2001. Such election shall be made at such time and in such manner as the Secretary of the Treasury may prescribe, and, once made, is irrevocable.

(b) Limitation Based on Purchase of Replacement Property.—

(1) In general.—Subsection (a) shall apply to compensation received with respect to eligible property only to the extent of the cost of any qualified replacement property purchased by the taxpayer.

(2) Allocation.—If the aggregate compensation received by a taxpayer with respect to all eligible property exceeds the aggregate cost of all qualified replacement property purchased by the taxpayer, such cost shall be allocated to such eligible property in accordance with rules prescribed by the Secretary.

(3) Special rule for consolidated groups.—For purposes of paragraph (1), an affiliated group filing a consolidated return may elect to treat any qualified replacement property purchased by a member of the group as purchased by another member of the group.

(c) Eligible Property.—For purposes of this section, the term "eligible property" means any tangible property—

(1) which is section 1245 property (as defined in section 1245(a)(3) of the Internal Revenue Code of 1986) or qualified leasehold improvement property (as defined in section 168(k)(3) of such Code),

(2) substantially all of the use of which as of September 11, 2001, was in a business establishment of the taxpayer located in the New York Recovery Zone, and

(3) which was damaged or destroyed in the terrorist attacks of September 11, 2001.

(d) Qualified Replacement Property.—For purposes of this section—

(1) In general.—The term "qualified replacement property" means tangible property—

(A) which is described in subsection (c)(1),

(B) which is purchased by the taxpayer on or after September 11, 2001, and placed in service in the City of New York, New York, before January 1, 2007,

(C) the original use of which in such city begins with the taxpayer, and

(D) substantially all of the use of which is reasonably expected to be in connection with a business establishment of the taxpayer located in such city.

(2) Recapture.—The Secretary shall, by regulations, provide for the recapture of any Federal tax benefit provided by this section in cases where a taxpayer ceases to use property as qualified replacement property and such recapture is necessary to prevent the avoidance of the purposes of this section.

(e) Coordination With Other Provisions of Code.—For purposes of the Internal Revenue Code of 1986—

(1) Special rule for treatment of unrecognized gain in eligible property.—Sections 1245 and 1250 of such Code shall not apply to any gain on the disposition of eligible property not recognized by reason of this section.

(2) Loss election not to apply to eligible property.—If a taxpayer elects the application of this section with respect to any eligible property, the taxpayer may not make an election under section 165(i) of such Code with respect to any loss attributable to the property.

(3) Basis adjustments of qualified replacement property.—

(A) In general.—The basis of any qualified replacement property shall be reduced by the amount of any compensation disregarded by reason of subsection (a).

(B) Special rules for recapture.—For purposes of sections 1245 and 1250 of such Code, any reduction under subparagraph (A) shall be treated as a deduction allowed for depreciation, except that for purposes of section 1250(b) of such Code, the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under subparagraph (A).

(4) Special rules for applying section 1033.—For purposes of applying section 1033 of such Code to converted property which is eligible property with respect to which an election under subsection (a) has been made—

(A) the amount realized from the eligible property shall not include any compensation received by the taxpayer which is disregarded by reason of subsection (a), and

(B) any qualified replacement property shall be disregarded in determining whether property was acquired for the purposes of replacing the converted property.

(f) Other Definitions and Rules.—For purposes of this section—

(1) New york recovery zone.—The term "New York Recovery Zone" means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

(2) Time for assessment.—Rules similar to the rules of subparagraphs (C) and (D) of section 1033(a)(2) of such Code shall apply for purposes of this section.

(3) Related party limitation.—Section 1033(i) of such Code shall apply for purposes of this section.

SEC. 405. CREDIT FOR INDIVIDUALS RESIDING IN LOWER MANHATTAN.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following:

"SEC. 25C. CREDIT FOR RESIDENTS OF LOWER MANHATTAN.

"(a) Allowance of Credit.—In the case of an individual who is a qualified resident with respect to the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $5,000.

"(b) Limitations.—

"(1) Limitation based on adjusted gross income.—

"(A) In general.—The amount of the credit allowed under subsection (a) shall be reduced (but not below zero) by $50 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds $150,000.

"(B) Modified adjusted gross income.—For purposes of subparagraph (A), the term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 911, 931, or 933.

"(2) Maximum credit per residence and per qualified resident.—

"(A) Per residence.—As provided by the Secretary, the credit under subsection (a) shall not be allowed with respect to more than 1 individual with respect to a principal residence for the taxable year.

"(B) Per qualified resident.—The aggregate credit allowed under subsection (a) with respect to any individual for all taxable years shall not exceed $5,000 and no such credit shall be allowed for a taxable year if the credit was so allowed for a preceding taxable year.

"(c) Qualified Resident.—For purposes of this section—

"(1) In general.—The term 'qualified resident' means an individual who—

"(A) maintains a principal residence—

"(i) which is located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York, and

"(ii) for at least 6 consecutive months during calendar year 2002 or 2003,

"(B) makes more than half of the aggregate rental, mortgage, or any similar payment with respect to the residence during the period described in subparagraph (A)(ii), and

"(C) is certified under paragraph (5).

"(2) Multiple residents agreement.—For purposes of paragraph (1)(B), an individual shall be treated as making more than half of the aggregate rental, mortgage, or similar payments for the period with respect to the residence if—

"(A) no one person with respect to the period makes over half of such payments,

"(B) over half of such aggregate payments are made by persons each of whom, but for the fact that such person did not make over half of such payments, would have been a qualified resident with respect to the residence,

"(C) the taxpayer contributed over 10 percent of such payments, and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such payments files a written declaration (in such manner and form as the Secretary may prescribe) that such person will not claim a credit with respect to such residence.

"(3) Principal residence.—The term 'principal residence' has the same meaning as when used in section 121, except that no ownership requirement shall be imposed.

"(4) Year credit allowed.—The credit allowed under subsection (a) shall be allowed for the taxable year in which the period described in paragraph (1)(A)(ii) ends.

"(5) Certification.—For purposes of paragraph (1)(C), the appropriate State or local authority shall—

"(A) certify whether an individual, requesting such certification, meets the requirements of subparagraphs (A) and (B) of paragraph (1),

"(B) issue a certification to such individual meeting such requirements which—

"(i) contains a written statement showing the name and address of the person making such certification and the phone number of the information contact for such person, and

"(ii) is furnished on or before March 1 of the year following the calendar year in which the credit under subsection (a) is allowed, and

"(C) not certify more than 32,000 individuals in any calendar year as being qualified residents for purposes of this section.

"(d) Verification.—No credit shall be allowed under subsection (a) to a taxpayer unless the taxpayer includes, on the return of tax for the taxable year—

"(1) proof of the certification received under subsection (c)(5), and

"(2) such other information as the Secretary determines necessary.

"(e) Information Reporting.—

"(1) In general.—Any State or local authority which issues the certification required under subsection (c)(5) shall make the return described in paragraph (2) (at such time as the Secretary may prescribe) with respect to each individual to whom such certification is provided.

"(2) Form and manner of returns.—A return is described in this subsection if such return—

"(A) is in such form as the Secretary may prescribe, and

"(B) contains—

"(i) the name, address, and TIN of the individual to whom such certification is provided, and

"(ii) such other information as the Secretary may reasonably prescribe.".

(b) Conforming Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following:

"Sec. 25C. Credit for residents of lower Manhattan.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE V—FREEZE OF TOP INDIVIDUAL INCOME TAX RATE AND DOMESTIC SECURITY TRUST FUND

SEC. 501. FREEZE OF TOP INDIVIDUAL INCOME TAX RATE AND DOMESTIC SECURITY TRUST FUND

(a) Freeze of Top Individual Income Tax Rate.—Paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001) is amended—

(1) by striking "37.6" and inserting "38.6", and

(2) by striking "35.0" and inserting "38.6".

(b) Domestic Security Trust Fund.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. DOMESTIC SECURITY TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'Domestic Security Trust Fund', consisting of such amounts as may be transferred or credited to the Trust Fund as provided in this section and section 9602(b).

"(b) Transfers to Fund.—There are hereby transferred from the General Fund of the Treasury to the Domestic Security Trust Fund so much of the additional amounts received in the Treasury by reason of the amendment made by section 501(a) of the Fiscal Stimulus and Worker Relief Act of 2001 (relating to freeze in top individual income tax rate) as does not exceed the sum of—

"(1) the expenditures authorized to be made out of the funds.

"(2) the amount determined by the Secretary to be necessary to pay the interest on any repayable advance made to the Trust Fund.

"(c) Expenditures.—Amounts in the Domestic Security Trust Fund shall be available, as provided by appropriation Acts, for purposes of making expenditures for domestic economic development programs for steel industry loan guarantees to the extent such expenditures are hereafter authorized by law.

"(d) Repayable Advances.—

"(1) In general.—If amounts in the Trust Fund are not sufficient for the purposes of subsection (c), the Secretary shall transfer from the General Fund of the Treasury to the Trust Fund such additional amounts as may be necessary for such purposes. Such amounts shall be transferred as repayable advances.

"(2) Repayment of advances.—

"(A) In general.—Advances made to the Trust Fund shall be repaid, and interest on such advances shall be paid, to the General Fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Trust Fund.

"(B) Rate of interest.—Interest on advances made to the Trust Fund shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.".

(c) Clerical Amendment.—The table of sections for subchapter A of chapter 98 is amended by adding at the end the following new item:

"Sec. 9511. Domestic security trust fund.".

(d) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE VII—SOCIAL SECURITY HELD HARMLESS

SEC. 701. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) In General.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) Transfers.—

(1) Estimate of secretary.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this

Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

SEC. 702. EMERGENCY DESIGNATION.

Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this Act below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this Act in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

Mr. RANGEL (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) is recognized for 5 minutes in support of his motion to recommit.

Mr. RANGEL. Mr. Speaker, I was moved by the remarks of the Speaker. I do not think anyone tried harder in this House in working with the minority leader, the gentleman from Missouri (Mr. GEPHARDT) in trying to bring a solution to the problem that is before this House.

□ 0315

I think it is safe to say that the one thing that they tried to do was to try to bring some resolve to the question of providing health care to people who are unemployed.

We provided over $70 billion in our substitute for tax incentives, corporate and individual taxes; and we did this because we seriously believe that we do have to do certain things in order to create capital, in order to create investments, in order to allow people to be able to invest. But we truly believe that we should have had an opportunity to come before you today and say that the people who are left out of this bill, or the people who are left to the governors to do what they have to do, or the people that may be left up to the Secretary of the Treasury, that we just do not have a provision here that I can explain or that you can explain to the people who have been left out.

We know tonight that we had a missed opportunity to give and to take on this side of the aisle and the other side, on this side of the House and the other side. We missed that opportunity because certain people were convinced that the present health delivery system does not work and they wanted to change it for the future. It is almost unbelievable how you would not give us an opportunity to share with you our views. But to hold us in such disrespect that we could not bring it up in committee; that we did not have a chance to bring it up in conference; that we could not bring it up on the floor, and yet, as we conclude, you know that this bill is not going anywhere in the Senate.

As I look and see the distinguished former chairman of the Committee on the Budget, or maybe the chairman of the former Committee on the Budget, or maybe the chairman that used to be concerned as to what we did with the Social Security Trust Fund and the Medicare Trust Fund, who said we were not going to invade it, who said we would put it in a lockbox, who said so many things, but at the end of the day, this tax cut bill is not paid for, as the substitute was and as the motion to recommit asks you to do.

People have screamed that what we are doing is raising taxes. All we are saying is that the President did not know when he gave the $1.3 trillion tax cut that we were going to go into a recession. He did not know that we would be at war. And all we are saying is that as we look and see and try to bring some balance to the budget, if not now then in the future, at least have it using the language of people on the Committee on the Budget and have a set-aside. But we do not have even that.

So as we plunge into deficit spending, we do it using the payments that people are making for what? For tax cuts? No. To pay for the war? No. For health care? No. For unemployment? No. They are using this for their Social Security. The payroll tax is what is keeping us going, and we are operating on fumes.

I just want you to know that we want to give to the Speaker the sense of bipartisanship that we have given since the war has begun. But partnership means two sides. You first have to talk with people. You have to get people's views. And somewhere down the line we have to get back to the idea that things that are important enough for tax policy and trade policy and unemployment policy and health policy to have hearings and witnesses and markups, and to bring it to the floor in a bipartisan way.

We do not have to win. We are in the minority. We can count. But we demand the respect to be heard, because we do feel a compassionate concern not only that business be allowed to prosper so it can create the wealth and the jobs, but those people who are not in the system, that have been dislocated, they cannot wait until the other body does something. They should have been taken care of by this Congress at this time.

I ask you to support the motion to recommit to give us an opportunity to come back and to put some meat on the bones. Do not leave it to the Secretary of the Treasury to get us out of this. Do not leave it to the President. Leave it to the people that have the experience and the jurisdiction in our committees to do something about it. I hope you will consider that on the motion to recommit.

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from California (Mr. THOMAS) is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, I am sure that there was significant labor on the part of my friends to put this package together. The package is, and all my colleagues should know, to strike all after the enacting clause and insert the following. The following is a bill. And if you would take the copy that was provided to me, and as you turn through the pages you come to a section, and as in the case nowadays, you know when you send things over faxes that at the top you have a heading and it tells you where it came from? I may not be completely familiar, but this says this is from the USWA Legislative Public Affairs. I believe that is United Steelworkers of America Legislative Public Affairs. So a portion of this bill, obviously, has been generated through the fax machine from folks who I do not believe are under the employment of Congress.

However, most of the debate on my friend's side has been focusing on page 100 of our bill, and there he refers to the fact that we say that this new plan that we want to put into effect of providing health insurance to our colleagues is not there in detail; that what it has is an enablement to the Secretary of the Treasury to develop the regulations necessary to carry out the plan. Now, one of the dirty little secrets inside the bill is they do not have a plan either. Because currently COBRA is not subsidized, it is paid for by individuals out of their pocket. They propose to set up a plan which will subsidize COBRA. They are going to have to create a plan, just like they accuse us of doing.

And when you turn to page 44, lo and behold, "not later than 60 days after the date of enactment of this act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program." So, in other words, both of us have to establish programs. But what we have got is one that supports folk on the kind of insurance they have. If it be COBRA, fine; if it is something else, fine. What they have is only a plan to set up COBRA. And if you get your insurance from somewhere else, you are simply left out.

Now, I will tell my colleagues that I will shorten this and yield back the balance of my time, because you only have to refer to one more page in this bill. It happens to be on page 96. It says "title V: Freeze of the top individual income tax rate." And guess what? They believe a stimulus is to deny the most entrepreneurial area of the system, in terms of allowing people to keep marginally a little bit more of their own wealth. That is what they call stimulus.

I invite my colleagues to support or reject that kind of a program and ask you to vote "no" on the motion to recommit.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. THORNBERRY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RANGEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 177, nays 238, not voting 20, as follows:

[Roll No. 508]

YEAS—177

Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Harman
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-
McDonald
Miller, George
Mink
Moore
Moran (VA)
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Slaughter
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wynn

NAYS—238

Abercrombie
Aderholt
Akin
Armey
Bachus
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Condit
Cooksey
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (FL)

NOT VOTING—20

Baker
Clement
Cubin
Dicks
Fattah
Ford
Gutierrez
Hall (OH)
Hastings (FL)
Hefley
Hilleary
Luther
Meek (FL)
Owens
Oxley
Stark
Stearns
Taylor (MS)
Wexler
Young (AK)

□ 0346

Mr. HOOLEY of Oregon and Messrs. REYNOLDS, RAMSTAD, HILL, GILLMOR and ISRAEL changed their vote from "yea" to "nay."

Mr. SANDLIN and Mr. RUSH changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. THORNBERRY). The question is on the passage of the bill.

Pursuant to House Resolution 320, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 224, nays 193, not voting 18, as follows:

[Roll No. 509]

YEAS—224

Aderholt
Akin
Armey
Bachus
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller

Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—18

Baker
Clement
Cubin
Dicks
Fattah
Ford
Hall (OH)
Hastings (FL)
Hefley
Luther
Meek (FL)
Owens
Oxley
Stark
Stearns
Taylor (MS)
Wexler
Young (AK)

□ 0354

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. STEARNS. Mr. Speaker, on rollcall Nos. 507 and 509, I was inadvertently detained. I would have voted "yes".

On rollcall No. 508, the motion to recommit, I would have voted "no."

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the H.R. 3529, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF JOINT RESOLUTION APPOINTING DAY FOR CONVENING FOR SECOND SESSION OF 107TH CONGRESS

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–351) on the resolution (H. Res. 322) providing for consideration of a joint resolution appointing the day for the convening of the second session of the 107th Congress, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. J. RES. 79, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2002

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–352) on the resolution (H. Res. 323) providing for consideration of the joint resolution (H. J. Res. 79) making further continuing appropriations for the fiscal year 2002, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–353) on the resolution (H. Res. 324) waiving points of order against the conference report to accompany the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT REGARDING LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. DREIER. Mr. Speaker, pursuant to the notice requirements of House Resolution 314, I announce that the following measures will be considered under suspension of the rules on Wednesday, December 19, 2001: H.R. 2869 and S. 1741.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore (Mr. SHIMKUS). Pursuant to clause 8 of rule XX and notwithstanding the Chair's prior announcement, votes on the motions to suspend the rules postponed earlier will be taken tomorrow as will any vote, if ordered, on additional motions to suspend the rules considered later today.

ESTABLISHING FIXED INTEREST RATES FOR STUDENT AND PARENT BORROWERS

Mr. BOEHNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1762) to amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.

The Clerk read as follows:

S. 1762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INTEREST RATE PROVISIONS.

(a) FFEL FIXED INTEREST RATES.—

(1) AMENDMENT.—Section 427A of the Higher Education Act of 1965 (20 U.S.C. 1077a) is amended—

(A) by redesignating subsections (*l*) and (m) as subsections (m) and (n), respectively; and

(B) by inserting after subsection (k) the following new subsection:

"(*l*) INTEREST RATES FOR NEW LOANS ON OR AFTER JULY 1, 2006.—

"(1) IN GENERAL.—Notwithstanding subsection (h), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

"(2) PLUS LOANS.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

"(3) CONSOLIDATION LOANS.—With respect to any consolidation loan under section 428C for which the application is received by an eligible lender on or after July 1, 2006, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

"(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

"(B) 8.25 percent.".

(2) CONFORMING AMENDMENT.—Section 428C(c)(1)(A) of such Act (20 U.S.C. 1078-3(c)(1)(A)) is amended to read as follows:

"(1) INTEREST RATE.—(A) Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender—

"(i) on or after October 1, 1998, and before July 1, 2006, the applicable interest rate shall be determined under section 427A(k)(4); or

"(ii) on or after July 1, 2006, the applicable interest rate shall be determined under section 427A(*l*)(3).".

(b) DIRECT LOANS FIXED INTEREST RATES.—

(1) TECHNICAL CORRECTION.—Paragraph (6) of section 455(b) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)), as redesignated by section 8301(c)(1) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 498) is redesignated as paragraph (9) and is transferred to follow paragraph (7) of section 455(b) of the Higher Education Act of 1965.

(2) AMENDMENTS.—Section 455(b) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)) is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph:

"(7) INTEREST RATE PROVISION FOR NEW LOANS ON OR AFTER JULY 1, 2006.—

"(A) RATES FOR FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

"(B) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct PLUS loan for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

"(C) CONSOLIDATION LOANS.—Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after July 1, 2006, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

"(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or

"(ii) 8.25 percent.".

(c) EXTENSION OF CURRENT INTEREST RATE PROVISIONS FOR THREE YEARS.—Sections 427A(k) and 455(b)(6) of the Higher Education Act of 1965 (20 U.S.C. 1077a(k), 1087e(b)(6)) are each amended—

(1) by striking "2003" in the heading and inserting "2006"; and

(2) by striking "July 1, 2003," each place it appears and inserting "July 1, 2006,".

SEC. 2. EXTENSION OF SPECIAL ALLOWANCE PROVISION.

Section 438(b)(2)(I) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)(I)) is amended—

(1) by striking ", AND BEFORE JULY 1, 2003" in the heading;

(2) by striking "and before July 1, 2003," each place it appears, other than in clauses (ii) and (v);

(3) by striking clause (ii) and inserting the following:

"(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan—

"(I) for which the first disbursement is made on or after January 1, 2000, and before July 1, 2006, and for which the applicable rate of interest is described in section 427A(k)(2); or

"(II) for which the first disbursement is made on or after July 1, 2006, and for which the applicable rate of interest is described in section 427A(*l*)(1), but only with respect to (aa) periods prior to the beginning of the repayment period of the loan; or (bb) during the periods in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 427(a)(2)(C) or 428(b)(1)(M);

clause (i)(III) of this subparagraph shall be applied by substituting '1.74 percent' for '2.34 percent'.";

(4) in clause (iii), by inserting "or (*l*)(2)" after "427A(k)(3)";

(5) in clause (iv), by inserting "or (*l*)(3)" after "427A(k)(4)";

(6) in clause (v)—

(A) in the heading, by inserting "BEFORE JULY 1, 2006" after "PLUS LOANS"; and

(B) by striking "July 1, 2003," and inserting "July 1, 2006,";

(7) in clause (vi)—

(A) by inserting "or (*l*)(3)" after "427A(k)(4)" the first place it appears; and

(B) by inserting "or (*l*)(3), whichever is applicable" after "427A(k)(4)" the second place it appears; and

(8) by adding at the end the following new clause:

"(vii) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS ON OR AFTER JULY 1, 2006.—In the case of PLUS loans made under section 428B and first disbursed on or after July 1, 2006, for which the interest rate is determined under section 427A(*l*)(2), a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless—

"(I) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial), as published by the Board of Governors of the Federal Reserve System in Publication H-15 (or its successor), for the last calendar week ending on or before such July 1; plus

"(II) 2.64 percent,

exceeds 9.0 percent.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California, (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1762.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was not objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise tonight in support of S. 1762. This legislation provides for the continued uninterrupted availability of student loan funds to students and their families. The legislation addresses a longstanding problem in the Federal student loan program as to how student loan interest rates are to be calculated. The problem first come to light several years ago when it was clear that a provision within the Higher Education Act would dramatically alter how interest rates would be determined. The interest rate formula set to take effect back in 1998 would have forced many of the leaders now participating in the Federal Family Education Loan Program to reduce or eliminate their participation.

□ 0400

Mr. Speaker, in 1998, the gentleman from California (Mr. MCKEON) and the gentleman from Michigan (Mr. KILDEE) worked diligently to craft a solution to a problem that virtually everyone agreed would be an unintended result of previous legislation. The compromise resulted in the lowest interest rates in the Stafford Loan Program's history. Service was uninterrupted to students and their families and student loan borrowers are now paying the historically low interested rate of 5.99 percent in repayment.

Unfortunately, the compromise reached in 1998 was not made permanent when enacted and is scheduled to expire in 2003, and the unworkable index from the previous legislation is set to go in effect again. It is clear the problem must be corrected to ensure the availability of capital within the student loan program. Lenders in the FFELP program will not be able to finance student loans under the index set to take effect in 2003.

By taking action now and passing S. 1762, we can insure the continued availability of student loan funds to student nationwide. This legislation also extends the current special allowance formula for student loan providers, again, allowing them to continue uninterrupted service to the Nation's students and their families.

Some have asked why do this now. It really does not take effect until 2003. I think the answer is simple: Fixing the problem now will allow us to insure that proper attention is given to improving programs and services during the upcoming reauthorization. This issue consumed the last reauthorization process in 1998 and took away precious time and resources that could have been used more productively. We also have the availability of funds necessary to correct the problem now.

We have agreement on both sides of the aisle and both sides of the Capitol that the time to do this is now, and it should be done now, and, therefore, I urge my colleagues to vote yes tonight on S. 1762.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the gentleman from Ohio has properly explained this bill and what it would do for both the lenders and the student loan program and for the students, and he quite correctly reports to us that this is a work product of a lot of work on a bipartisan basis to approve this legislation to extend the loan rates for the lenders to make sure they can continue to make a profit and to insure student loan availability to the students.

Let me talk about a bill that we will not be able to bring up tonight, and one of the reasons that I believe S. 1762 will not pass tomorrow. The gentlewoman from New York (Mrs. McCARTHY) and the gentleman from California (Mr. McKEON) have introduced legislation which would have provided loan forgiveness to those individuals who lost their spouses on September 11 to make sure that they in fact have this ability to get their lives back in order after this tragic loss of their spouses, in many cases of the major bread winner for the family. It also provided loans to the parents who had a child that might die in that tragedy. Currently they cannot forgive those loans. It also provided for those loans that have been consolidated, because they would not be forgiven under the current law if they had been consolidated by the spouse that died.

This is an effort to try to help these families. We have paid a great deal of attention to this since September 11, recognizing the hardship, recognizing the tragedy that has befallen these families. We have tried to do everything we can to help them get their economic life in order. To have these student loans hanging out there when they have been beset by this tragedy, the victims of terrorism, is just unconscionable.

The bill we are discussing here, the interest rate fix for 2003, need not be done until 2003. The urgency of these families we cannot deny. Already these cases have started to be brought to the attention of the department, and I think it is time for Congress to recognize it.

This is legislation that is not partisan. I think it has every Member of the New York delegation supporting it from both parties, recognizing the needs of these families from the New York metropolitan area and the surrounding states, and we ask that this legislation be passed. But, for whatever reason, we will not be able to consider that. So I think unless we can try and provide the kind of urgency that these families need as they struggle, and we read day-to-day as they try to work their way through all of the bureaucracy that is now springing up over the various funds that have been put in place for them, trying to qualify for funds that have been created with public dollars, with private dollars, with charitable dollars, and at the same time deal with their families, with their children, with the holidays and the rest of it, it is not a big burden.

This has been scored to be essentially de minimis in terms of the cost to the government by CBO. It is one of the things we can do to lighten that burden of these families who have lost individuals in those vicious attacks of September 11.

So, with that, I will say that while this other bill is ready to be passed. I would hope that my colleagues would not support that legislation until such time as we can get consideration of H.R. 3163, offered by the gentlewoman from New York (Mrs. McCARTHY) and the gentleman from California (Mr. McKEON) from the other side.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the remarks of my colleague from California. The committee has worked diligently with the gentlewoman from New York (Mrs. McCARTHY) and her cosponsor, the gentleman from California (Mr. McKEON), over the bill that that was outlined by the gentleman from California (Mr. GEORGE MILLER).

While there were some policy concerns, and we have tried to work through many of them, unfortunately, the scheduling of that bill is way above my pay grade. We have worked for the last several weeks to try to bring some resolution to this matter, and we are going to continue to try to do what we can to bring it to a successful resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. McKEON).

Mr. McKEON. Mr. Speaker, I want to thank the chairman for yielding me time and let you know that I rise in strong support of S. 1762. This very important legislation ensures the availability of higher education financing to the students embarking on a very important time in their lives. I do not believe there is a better way to serve the students of this Nation than to ensure a stable source of higher education funding for those who need it.

This legislation provides for the uninterrupted continuation of the Federal Family Education Loan Program, known as FFELP, and provides certainty of interest rates for all borrowers in later years.

As many of my colleagues will remember, in 1998 the gentleman from Michigan (Mr. KILDEE) and I worked diligently on correcting the problem in the Higher Education Act dealing with student loan interest rate calculations. The success of our bipartisan efforts is evidenced by current student loan interest rates. Students in repayment now pay 5.99 percent, the lowest Stafford rates in the program's history.

This low rate, coupled with the discount programs available to students with excellent repayment histories and expanded tax benefits signed into law earlier this year by President Bush, provides students with a low cost means of financing their education, while maintaining a strong and stable student loan program.

However, the agreement we reached in 1998 is running up against the clock. The interest rate formula resulting in new loan rates while maintaining the viability of the FFELP is set to expire on July 1, 2003. If that occurs, students and parents will be unable to obtain these low cost loans from lenders across the country and lenders that make these low cost loans will not be able to finance student loans under the new rate.

Unfortunately, in 1998 we knew we were only providing a temporary fix to the problem and we would need to address it again in order to permanently correct the problem. By taking this action now, there will be no interruption in the availability of student loan funds and Congress will be able to concentrate fully on the many issues that will confront us during the next reauthorization of the Higher Education Act, including grant aid eligibility, distance education, access, and the high cost of higher education, to name a few.

This legislation also takes one additional step for students and their families. It provides assurances as to what interest rates will be in the future. It provides for both student loans and parent loans to be at a fixed interest rate beginning in 2006. Supporters of this provision feel this will allow families to plan future expenses, knowing clearly what the interest rates on their education loans will be. We can make the continued availability of low cost student loans one less thing students pursuing their dream of higher education need to worry about.

Mr. Speaker, we have worked all year on trying to reach this compromise and work out this solution to this problem. We have worked both sides of the aisle and we have worked with the other body. Sometimes there comes a point where you either do it, or you lose that opportunity forever. I think we all know that we are at that point right now.

I really feel sorry about the thing that has happened with my good friend from New York on not being able to bring her bill up today. But, as the chairman has said, that is above all of our pay ranks on determining that. But it seems to me that hearing the gentleman from California (Mr. GEORGE MILLER) talk about taking this bill down when we have the final vote tomorrow, to inflict the pain of those who have suffered greatly in New York and now to expand that across all the students that will be coming for loans, does not seem to be just to me.

It does not seem to be right where we should inflict somebody's pain or somebody else. I think we would be better off trying to find some other kind of different solution for the problem of the gentlewoman from New York (Mrs. McCARTHY). I would pledge to help her, as we have in the past, to solve this problem.

I think there are other ways to do that, rather than to inflict punishment on all of the students that may want to attend school and have to have this financial aid to achieve their dream, their part of the American dream.

With that, Mr. Speaker, I urge my colleagues to vote yes on this bill, to let the students, the young people of this country, have the opportunity to further their education.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say that I had suggested that the gentleman from California (Mr. McKEON) was coauthor of the McCarthy bill. He is not. But he has been very, very helpful with her in the drafting of that legislation, and the chairman has been very cooperative in this.

But we have now been trying to get this bill scheduled for a month or more and just have not received any assurances that it will be scheduled. The practical effect of holding back on S. 1762 is that we have 18 months in which this solution can be put into effect, and status of the current law will continue to exist.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. McCARTHY).

Mrs. McCARTHY of New York. Mr. Speaker, I thank my chairman, and I really do. I know that he has worked extremely hard to try and bring this bill up on the floor. He gave a promise to me, and, as far as I am concerned, he really kept his end of the deal. I am not upset with him at all.

As far as trying to inflict pain on someone else, on all the work that he has done, that is not my style, and he knows that, and I would not do that. But, being in the minority, I do not have to many recourses on trying to do something.

I believe in this bill very, very closely. These are victims that have suffered tremendously. Not only have they suffered tremendously, I do not think we are setting a good example on how we treat our victims that die because of war.

You know, we talk about compassion here. Well, I have to deal with these victims in my district. I have to go to too many memorial services, which we are still going to. So every little thing that I can do for these victims, I am going to do it. And I do not like doing what I have to do tonight, and I have spent and the gentleman from California (Mr. GEORGE MILLER) has spent the evening. We have the votes, unfortunately, to bring this other bill down. But, as I said, we are in the minority, and I have tried every diplomatic way possible to find out what was wrong. We worked with the committee. We made many changes to satisfy our committee.

So, with that, again, I apologize, because I do not like doing this. But it is also my job to protect the victims that are in my district, in Connecticut and throughout this country, and future victims.

With that, Mr. Speaker, I will be certainly on the floor first thing in a couple hours and have my colleagues to vote against this. I am hoping between now and then something can be worked out. I truly mean that.

But, again, I thank my chairman. He has worked well with us on every single thing this whole year. I have been proud to work with the gentleman. I thank the gentleman from California (Mr. GEORGE MILLER) for everything he has done. Believe me, we do not want to be here at a quarter after 4 in the morning having this kind of debate.

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But I believe in it strongly and I am going to fight for this one.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, the legislation before us has great merit. It would stabilize the student loan program, and I intend to work as hard as I can to see that it is enacted.

However, another piece of legislation that has great merit and bipartisan support is, in my judgment, being arbitrarily withheld from the floor. The gentlewoman from New York (Mrs. McCARTHY) has worked very hard on this. She has had the active cooperation of the chairman of our committee and the subcommittee chairman, for which I commend them both.

However, as she said just a moment ago, the minority has only certain rights. She and the gentleman from California (Mr. GEORGE MILLER) have worked diligently throughout the day and, frankly, in days prior to this, to try to bring this legislation before the body. In my judgment, an arbitrary and unreasonable decision has precluded them from doing so.

In the few hours that remain before this vote is scheduled for floor consideration, there is an opportunity to do something about that. I would urge the Speaker and the leadership of the majority party to take that under advisement so we can move forward two pieces of meritorious bipartisan legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Just in closing, Mr. Speaker, I would say that I want to make it very clear to the Members of the House that we have tried with all due diligence to get this legislation scheduled. We were informed at one point today that it would be scheduled, and then that changed in the last couple of hours, that it would not be. I do not know what the objection would be, and it is not clear to us what the objection would be to help out these families to provide this student loan forgiveness to those spouses that may have loans that have lost their spouse in the tragedy of September 11: but that has been articulated to us.

As has been pointed out by the author of the bill and Members of the minority, extensive negotiations have gone on with respect to this legislation to try and make it workable, to try and make it deliver the benefit that is intended. That has all been worked out. Simply, what we now have is a determination about the scheduling of this.

One could argue, one could argue that we could put this off until next year, but I think as we see these families trying to come to closure, both emotionally and economically, we would do this Congress proud to extend this benefit. We have made several provisions for the forgiveness of student loans. In this instance we simply have overlooked the spouses of those who were killed in the terrorist attack. That can be remedied by the quick passage of this legislation. We really do not know the opposition to it, since we are simply told that it will not be allowed to come to the floor; but we have not had those people come forward and express opposition.

So for that reason, we will be asking Members to withhold their support from the bill under current consideration, S. 1762, for the loan rate fix on student loans. As I said before, there is 18 months before this has to be dealt with. We would like to deal with it now. A lot of work has gone into it. But clearly, we do not have the ability to set the agenda here and we have to use those leverages that are available to us.

I would ask my colleagues to reject this bill so that we can get on with helping these families who are the victims of the terrorist attack on September 11.

Mr. Speaker, I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, before I yield back the balance of my time, let me just say that I hope we will get this issue resolved sometime tomorrow before we take up the votes on this suspension.

Mr. GEORGE MILLER of California. Mr. Speaker, if the gentleman will yield, I would say to the gentleman, that is today.

Mr. BOEHNER. Well, reclaiming my time, it will be tomorrow's legislative day. The gentleman might think it is today, but it really is tomorrow.

But be that as it may, the underlying bill really will fix a very serious problem that will impact the ability of private lenders to offer student loans. The concern is that once we get into the spring and early summer, it will have a devastating impact on the ability of these private lenders to offer student loans across the Nation.

While I understand the concerns of the gentleman from California (Mr. GEORGE MILLER) and the gentlewoman from New York (Mrs. MCCARTHY), we have to make sure that we do not do anything here that would inhibit the ability of any young person or, for that matter, someone who would like to continue their education from getting the financing necessary in order to do so.

Mr. Speaker, I urge my colleagues to vote for the bill.

Mr. HINOJOSA. Mr. Speaker, I rise today in support of S. 1762, a bill to amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.

This legislation proposes to settle the annual issue of student loan interest rate. The issue was temporarily resolved in 1998. S. 1762 incorporates a permanent compromise agreed to by postsecondary student financial aid associations, student groups and lender organizations. Under the bill's provisions, the current variable interest rate formulas for Federal Family Education Loan Program education loans will remain in place until 2006, when the formula for borrowers will revert permanently to fixed rates of 6.8 percent for student borrowers and 7.9 percent for parent borrowers. The only way many Hispanic students can enter postsecondary education and complete their degrees is through the availability to grants and loans. This bill is very important to all Hispanic students nationwide and especially for my state of Texas. I appreciate the support of the Texas Guaranteed Student Loan Corporation, the Texas Association of Student Financial Aid Administrators, and the Association of Texas Lenders for Education for their support.

Finally, Mr. Speaker, I want to thank Ranking Member MILLER and Chairman MCKEON of the 21st Century Competitiveness Subcommittee, for helping to bring the legislation before the House. I also want to fully recognize our Senate colleagues for all their work on this critical issue. I urge all my colleagues in the House to support this bill.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in support of S. 1762, a bill that will ensure the long-term availability of higher education loans for students and their families. Our nation's higher education loan system under the Federal Family Education Loan Program (FFELP) is an example of government at its best. By working in partnership with students, parents, colleges and universities and private sector loan providers, the federal government has made the dream of college a reality for more than 50 million Americans through the education loan program since 1965.

As families come together during this holiday season, those with children heading off to college next fall will be talking about not only where to attend college, but how to pay for it. For high school students and their families gathered around their kitchen tables, today's action means that the only question they have to ask is "where is their high school senior going to attend college," not whether they can afford it.

For the past 35 years, education loans have been critical to the ability of America's families to be able to afford the rising cost of college tuition. By passing this legislation today, we will maintain our national investment in well-educated, well-trained young people who can compete with workers anywhere in the world. In short, this legislation is good for students, families, schools, taxpayers and the economy.

Finally, Mr. Speaker, I want to commend Chairman BOEHNER, Ranking Member MILLER and Chairman MCKEON for their leadership in assuring the continued availability of education loans for future generations of students. This is important legislation for out nation and I urge my colleagues to support it.

Mr. BOEHNER. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and pass Senate bill, S. 1762.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GEORGE MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS ACT OF 2001

Mr. MCKEON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1793) to provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President on September 14, 2001.

The Clerk read as follows:

S. 1793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Higher Education Relief Opportunities for Students Act of 2001".

SEC. 2. WAIVER AUTHORITY FOR RESPONSE TO NATIONAL EMERGENCY.

(a) WAIVERS AND MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education (referred to in this Act as the "Secretary") may waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) as the Secretary deems necessary in connection with the national emergency to provide the waivers or modifications authorized by paragraph (2).

(2) ACTIONS AUTHORIZED.—The Secretary is authorized to waive or modify any provision described in paragraph (1) as may be necessary to ensure that—

(A) borrowers of Federal student loans who are affected individuals are not placed in a worse position financially in relation to those loans because of their status as affected individuals;

(B) administrative requirements placed on affected individuals who are borrowers of Federal student loans are minimized, to the extent possible without impairing the integrity of the student loan programs, to ease the burden on such borrowers and avoid inadvertent, technical violations or defaults;

(C) the calculation of "annual adjusted family income" and "available income", as used in the determination of need for student financial assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) for any such affected individual (and the determination of such need for his or her spouse and dependents, if applicable), may be modified to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such affected individual and his or her family; and

(D) institutions of higher education, eligible lenders, guaranty agencies, and other entities participating in the student assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) that are located in, or whose operations are directly affected by, areas that are declared disaster areas by any Federal, State, or local official in connection with the national emergency may be granted temporary relief from requirements that are rendered infeasible or unreasonable by the national emergency, including due diligence requirements and reporting deadlines.

(b) NOTICE OF WAIVERS OR MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section.

(2) TERMS AND CONDITIONS.—The notice under paragraph (1) shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions.

(3) CASE-BY-CASE BASIS.—The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

(c) IMPACT REPORT.—The Secretary shall, not later than 15 months after first exercising any authority to issue a waiver or modification under subsection (a), report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate on the impact of any waivers or modifications issued pursuant to subsection (a) on affected individuals and the programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and the basis for such determination, and include in such report the Secretary's recommendations for changes to the statutory or regulatory provisions that were the subject of such waiver or modification.

(d) NO DELAY IN WAIVERS AND MODIFICATIONS.—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the waivers and modifications authorized or required by this Act.

SEC. 3. TUITION REFUNDS OR CREDITS FOR MEMBERS OF ARMED FORCES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all institutions offering postsecondary education should provide a full refund to students who are members of the Armed Forces serving on active duty during the national emergency, for that portion of a period of instruction such student was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for such service; and

(2) if affected individuals withdraw from a course of study as a result of such service, such institutions should make every effort to minimize deferral of enrollment or reapplication requirements and should provide the greatest flexibility possible with administrative deadlines related to those applications.

(b) DEFINITION OF FULL REFUND.—For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

SEC. 4. USE OF PROFESSIONAL JUDGMENT.

At the time of publishing any waivers or modifications pursuant to section 2(b), the Secretary shall publish examples of measures that institutions may take in the appropriate exercise of discretion under section 479A of the Higher Education Act of 1965 (20 U.S.C. 1087tt) to adjust financial need and aid eligibility determinations for affected individuals.

SEC. 5. DEFINITIONS.

In this Act:

(1) ACTIVE DUTY.—The term "active duty" has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

(2) AFFECTED INDIVIDUAL.—The term "affected individual" means an individual who—

(A) is serving on active duty during the national emergency;

(B) is serving on National Guard duty during the national emergency;

(C) resides or is employed in an area that is declared a disaster area by any Federal, State, or local official in connection with the national emergency; or

(D) suffered direct economic hardship as a direct result of the national emergency, as determined under a waiver or modification issued under this Act.

(3) FEDERAL STUDENT LOAN.—The term "Federal student loan" means a loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 20 U.S.C. 1087a et seq., and 20 U.S.C. 1087aa et seq.).

(4) NATIONAL EMERGENCY.—The term "national emergency" means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

(5) SERVING ON ACTIVE DUTY DURING THE NATIONAL EMERGENCY.—The term "serving on active duty during the national emergency" shall include service by an individual who is—

(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with such emergency or subsequent actions or conditions, regardless of the location at which such active duty service is performed; and

(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

(6) SERVING ON NATIONAL GUARD DUTY DURING THE NATIONAL EMERGENCY.—The term "serving on National Guard duty during the national emergency" shall include performing training or other duty authorized by section 502(f) of title 32, United States Code, as a member of the National Guard, at the request of the President, for or in support of an operation during the national emergency.

SEC. 6. TERMINATION OF AUTHORITY.

The provisions of this Act shall cease to be effective on September 30, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. MCKEON) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. MCKEON).

GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill, S. 1793.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1793, the Higher Education Relief Opportunities for Students Act. This legislation is extremely important and will serve students in a number of ways. First, as my colleagues know, the House overwhelmingly passed H.R. 3086, its version of the bill, on October 23 by a vote of 415 to zero. We showed our commitment to those directly affected by the attacks of September 11, and now our colleagues in the Senate have shown that same commitment.

It is important to ensure that the Secretary of Education has the ability to address the needs of students, their families, institutions of higher education, and loan providers as they relate to the events of September 11.

The legislation before us is almost identical to the bill that this body passed previously, with one exception. This version of the HEROES legislation, as passed by our colleagues in the other body, makes clear that those individuals called to active duty in the National Guard in response to the national emergency called by the President would be included in those individuals eligible to participate in the regulatory relief provided by the Secretary of Education.

As my colleagues know, under the bipartisan HEROES bill, the Education Secretary can grant waivers so that reservists leaving their jobs and families may be relieved from making student loan payments for a time. Victims' families may be relieved from receiving collection calls from lenders, and consecutive requirements for loan forgiveness programs may be considered uninterrupted.

This legislation will provide relief for the men and women of our military who are defending the freedoms of this great Nation. As families send loved ones into harm's way, the Higher Education Relief Opportunities for Students Act will allow the Secretary of Education to reduce some of the effects of that disruption here at home.

This bill is an indication of the Congress's commitment to our military and to our students and families, as well as to those on the front lines who make higher education accessible.

I urge my colleagues to vote "yes" on this bill, renew the commitment they put forward just 2 short months ago, and let us move forward with the goal of assisting those affected by the tragedy of September 11.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support the Higher Education Relief Opportunities Student Act of 2001, and I thank the gentleman from California (Mr. MCKEON) for his hard work and the bipartisan spirit which he brought to this important bill.

This act will give the Secretary of Education the authority to adjust the laws governing student aid programs, if necessary, in response to the September 11 attacks. It will allow the Secretary to ensure that members of the armed services and students are not punished financially by the attacks.

We obviously support this legislation. I find it ironic that we are doing this piece of legislation, but we are not going to do the previous legislation under discussion to help these families who have been devastated by these attacks.

Mr. Speaker, I yield back the balance of my time.

Mr. McKEON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. McKEON) that the House suspend the rules and pass the Senate bill, S. 1793.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GEORGE MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

AUTHORIZING SPEAKER TO ENTERTAIN MOTION TO SUSPEND THE RULES ON H.R. 2869

Mr. GILLMOR. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to entertain a motion to suspend the rules relating to H.R. 2869, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GEORGE MILLER of California. Mr. Speaker, reserving the right to object. I would also like to ask unanimous consent to add H.R. 3163 to the Suspension Calendar to provide student loan relief to surviving spouses of victims to the September 11 tragedies. I do not believe anybody would oppose this.

The SPEAKER pro tempore. Under the additional request by the gentleman from California (Mr. GEORGE MILLER) and under the guidelines consistently issued by successive speaker, as recorded in section 956 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leadership.

Is there objection to the original request of the gentleman from Ohio?

There was no objection.

SMALL BUSINESS LIABILITY PROTECTION ACT

Mr. GILLMOR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2869) to provide certain relief for small businesses from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to amend such Act to promote the cleanup and resuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Liability Relief and Brownfields Revitalization Act".

TITLE I—SMALL BUSINESS LIABILITY PROTECTION

SEC. 101. SHORT TITLE.

This title may be cited as the "Small Business Liability Protection Act".

SEC. 102. SMALL BUSINESS LIABILITY RELIEF.

(a) EXEMPTIONS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following new subsections:

"(o) DE MICROMIS EXEMPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a person shall not be liable, with respect to response costs at a facility on the National Priorities List, under this Act if liability is based solely on paragraph (3) or (4) of subsection (a), and the person, except as provided in paragraph (4) of this subsection, can demonstrate that—

"(A) the total amount of the material containing hazardous substances that the person arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, at the facility was less than 110 gallons of liquid materials or less than 200 pounds of solid materials (or such greater or lesser amounts as the Administrator may determine by regulation); and

"(B) all or part of the disposal, treatment, or transport concerned occurred before April 1, 2001.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply in a case in which—

"(A) the President determines that—

"(i) the materials containing hazardous substances referred to in paragraph (1) have contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration with respect to the facility; or

"(ii) the person has failed to comply with an information request or administrative subpoena issued by the President under this Act or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the facility; or

"(B) a person has been convicted of a criminal violation for the conduct to which the exemption would apply, and that conviction has not been vitiated on appeal or otherwise.

"(3) NO JUDICIAL REVIEW.—A determination by the President under paragraph (2)(A) shall not be subject to judicial review.

"(4) NONGOVERNMENTAL THIRD-PARTY CONTRIBUTION ACTIONS.—In the case of a contribution action, with respect to response costs at a facility on the National Priorities List, brought by a party, other than a Federal, State, or local government, under this Act, the burden of proof shall be on the party bringing the action to demonstrate that the conditions described in paragraph (1)(A) and (B) of this subsection are not met.

"(p) MUNICIPAL SOLID WASTE EXEMPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, a person shall not be liable, with respect to response costs at a facility on the National Priorities List, under paragraph (3) of subsection (a) for municipal solid waste disposed of at a facility if the person, except as provided in paragraph (5) of this subsection, can demonstrate that the person is—

"(A) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated with respect to the facility;

"(B) a business entity (including a parent, subsidiary, or affiliate of the entity) that, during its 3 taxable years preceding the date of transmittal of written notification from the President of its potential liability under this section, employed on average not more than 100 full-time individuals, or the equivalent thereof, and that is a small business concern (within the meaning of the Small Business Act (15 U.S.C. 631 et seq.)) from which was generated all of the municipal solid waste attributable to the entity with respect to the facility; or

"(C) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code that, during its taxable year preceding the date of transmittal of written notification from the President of its potential liability under this section, employed not more than 100 paid individuals at the location from which was generated all of the municipal solid waste attributable to the organization with respect to the facility.

For purposes of this subsection, the term 'affiliate' has the meaning of that term provided in the definition of 'small business concern' in regulations promulgated by the Small Business Administration in accordance with the Small Business Act (15 U.S.C. 631 et seq.).

"(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the President determines that—

"(A) the municipal solid waste referred to in paragraph (1) has contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration with respect to the facility;

"(B) the person has failed to comply with an information request or administrative subpoena issued by the President under this Act; or

"(C) the person has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the facility.

"(3) NO JUDICIAL REVIEW.—A determination by the President under paragraph (2) shall not be subject to judicial review.

"(4) DEFINITION OF MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'municipal solid waste' means waste material—

"(i) generated by a household (including a single or multifamily residence); and

"(ii) generated by a commercial, industrial, or institutional entity, to the extent that the waste material—

"(I) is essentially the same as waste normally generated by a household;

"(II) is collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services; and

"(III) contains a relative quantity of hazardous substances no greater than the relative quantity of hazardous substances contained in waste material generated by a typical single-family household.

"(B) Examples.—Examples of municipal solid waste under subparagraph (A) include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

"(C) Exclusions.—The term 'municipal solid waste' does not include—

"(i) combustion ash generated by resource recovery facilities or municipal incinerators; or

"(ii) waste material from manufacturing or processing operations (including pollution control operations) that is not essentially the same as waste normally generated by households.

"(5) Burden of proof.—In the case of an action, with respect to response costs at a facility on the National Priorities List, brought under section 107 or 113 by—

"(A) a party, other than a Federal, State, or local government, with respect to municipal solid waste disposed of on or after April 1, 2001; or

"(B) any party with respect to municipal solid waste disposed of before April 1, 2001, the burden of proof shall be on the party bringing the action to demonstrate that the conditions described in paragraphs (1) and (4) for exemption for entities and organizations described in paragraph (1)(B) and (C) are not met.

"(6) Certain actions not permitted.—No contribution action may be brought by a party, other than a Federal, State, or local government, under this Act with respect to circumstances described in paragraph (1)(A).

"(7) Costs and fees.—A nongovernmental entity that commences, after the date of the enactment of this subsection, a contribution action under this Act shall be liable to the defendant for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees, if the defendant is not liable for contribution based on an exemption under this subsection or subsection (o).".

(b) Expedited Settlement.—Section 122(g) of such Act (42 U.S.C. 9622(g)) is amended by adding at the end the following new paragraphs:

"(7) Reduction in settlement amount based on limited ability to pay.—

"(A) In general.—The condition for settlement under this paragraph is that the potentially responsible party is a person who demonstrates to the President an inability or a limited ability to pay response costs.

"(B) Considerations.—In determining whether or not a demonstration is made under subparagraph (A) by a person, the President shall take into consideration the ability of the person to pay response costs and still maintain its basic business operations, including consideration of the overall financial condition of the person and demonstrable constraints on the ability of the person to raise revenues.

"(C) Information.—A person requesting settlement under this paragraph shall promptly provide the President with all relevant information needed to determine the ability of the person to pay response costs.

"(D) Alternative payment methods.—If the President determines that a person is unable to pay its total settlement amount at the time of settlement, the President shall consider such alternative payment methods as may be necessary or appropriate.

"(8) Additional conditions for expedited settlements.—

"(A) Waiver of claims.—The President shall require, as a condition for settlement under this subsection, that a potentially responsible party waive all of the claims (including a claim for contribution under this Act) that the party may have against other potentially responsible parties for response costs incurred with respect to the facility, unless the President determines that requiring a waiver would be unjust.

"(B) Failure to comply.—The President may decline to offer a settlement to a potentially responsible party under this subsection if the President determines that the potentially responsible party has failed to comply with any request for access or information or an administrative subpoena issued by the President under this Act or has impeded or is impeding, through action or inaction, the performance of a response action with respect to the facility.

"(C) Responsibility to provide information and access.—A potentially responsible party that enters into a settlement under this subsection shall not be relieved of the responsibility to provide any information or access requested in accordance with subsection (e)(3)(B) or section 104(e).

"(9) Basis of determination.—If the President determines that a potentially responsible party is not eligible for settlement under this subsection, the President shall provide the reasons for the determination in writing to the potentially responsible party that requested a settlement under this subsection.

"(10) Notification.—As soon as practicable after receipt of sufficient information to make a determination, the President shall notify any person that the President determines is eligible under paragraph (1) of the person's eligibility for an expedited settlement.

"(11) No judicial review.—A determination by the President under paragraph (7), (8), (9), or (10) shall not be subject to judicial review.

"(12) Notice of settlement.—After a settlement under this subsection becomes final with respect to a facility, the President shall promptly notify potentially responsible parties at the facility that have not resolved their liability to the United States of the settlement.".

SEC. 103. EFFECT ON CONCLUDED ACTIONS.

The amendments made by this title shall not apply to or in any way affect any settlement lodged in, or judgment issued by, a United States District Court, or any administrative settlement or order entered into or issued by the United States or any State, before the date of the enactment of this Act.

TITLE II—BROWNFIELDS REVITALIZATION AND ENVIRONMENTAL RESTORATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Brownfields Revitalization and Environmental Restoration Act of 2001".

Subtitle A—Brownfields Revitalization Funding

SEC. 211. BROWNFIELDS REVITALIZATION FUNDING.

(a) Definition of Brownfield Site.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

"(39) Brownfield site.—

"(A) In general.—The term 'brownfield site' means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

"(B) Exclusions.—The term 'brownfield site' does not include—

"(i) a facility that is the subject of a planned or ongoing removal action under this title;

"(ii) a facility that is listed on the National Priorities List or is proposed for listing;

"(iii) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties under this Act;

"(iv) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties, or a facility to which a permit has been issued by the United States or an authorized State under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1321), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

"(v) a facility that—

"(I) is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u), 6928(h)); and

"(II) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

"(vi) a land disposal unit with respect to which—

"(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

"(II) closure requirements have been specified in a closure plan or permit;

"(vii) a facility that is subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe;

"(viii) a portion of a facility—

"(I) at which there has been a release of polychlorinated biphenyls; and

"(II) that is subject to remediation under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

"(ix) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

"(C) Site-by-site determinations.—Notwithstanding subparagraph (B) and on a site-by-site basis, the President may authorize financial assistance under section 104(k) to an eligible entity at a site included in clause (i), (iv), (v), (vi), (viii), or (ix) of subparagraph (B) if the President finds that financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes.

"(D) Additional areas.—For the purposes of section 104(k), the term 'brownfield site' includes a site that—

"(i) meets the definition of 'brownfield site' under subparagraphs (A) through (C); and

"(ii)(I) is contaminated by a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(II)(aa) is contaminated by petroleum or a petroleum product excluded from the definition of 'hazardous substance' under section 101; and

"(bb) is a site determined by the Administrator or the State, as appropriate, to be—

"(AA) of relatively low risk, as compared with other petroleum-only sites in the State; and

"(BB) a site for which there is no viable responsible party and which will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site; and

"(cc) is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)); or

"(III) is mine-scarred land.".

(b) BROWNFIELDS REVITALIZATION FUNDING.—Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604) is amended by adding at the end the following:

"(k) BROWNFIELDS REVITALIZATION FUNDING.—

"(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

"(A) a general purpose unit of local government;

"(B) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

"(C) a government entity created by a State legislature;

"(D) a regional council or group of general purpose units of local government;

"(E) a redevelopment agency that is chartered or otherwise sanctioned by a State;

"(F) a State;

"(G) an Indian Tribe other than in Alaska, or

"(H) an Alaska Native Regional Corporation and an Alaska Native Village Corporation as those terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following) and the Metlakatla Indian community.

"(2) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT GRANT PROGRAM.—

"(A) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to—

"(i) provide grants to inventory, characterize, assess, and conduct planning related to brownfield sites under subparagraph (B); and

"(ii) perform targeted site assessments at brownfield sites.

"(B) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

"(i) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make a grant to the eligible entity to be used for programs to inventory, characterize, assess, and conduct planning related to 1 or more brownfield sites.

"(ii) SITE CHARACTERIZATION AND ASSESSMENT.—A site characterization and assessment carried out with the use of a grant under clause (i) shall be performed in accordance with section 101(35)(B).

"(3) GRANTS AND LOANS FOR BROWNFIELD REMEDIATION.—

"(A) GRANTS PROVIDED BY THE PRESIDENT.—Subject to paragraphs (4) and (5), the President shall establish a program to provide grants to—

"(i) eligible entities, to be used for capitalization of revolving loan funds; and

"(ii) eligible entities or nonprofit organizations, where warranted, as determined by the President based on considerations under subparagraph (C), to be used directly for remediation of 1 or more brownfield sites owned by the entity or organization that receives the grant and in amounts not to exceed $200,000 for each site to be remediated.

"(B) LOANS AND GRANTS PROVIDED BY ELIGIBLE ENTITIES.—An eligible entity that receives a grant under subparagraph (A)(i) shall use the grant funds to provide assistance for the remediation of brownfield sites in the form of—

"(i) 1 or more loans to an eligible entity, a site owner, a site developer, or another person; or

"(ii) 1 or more grants to an eligible entity or other nonprofit organization, where warranted, as determined by the eligible entity that is providing the assistance, based on considerations under subparagraph (C), to remediate sites owned by the eligible entity or nonprofit organization that receives the grant.

"(C) CONSIDERATIONS.—In determining whether a grant under subparagraph (A)(ii) or (B)(ii) is warranted, the President or the eligible entity, as the case may be, shall take into consideration—

"(i) the extent to which a grant will facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;

"(ii) the extent to which a grant will meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community;

"(iii) the extent to which a grant will facilitate the use or reuse of existing infrastructure;

"(iv) the benefit of promoting the long-term availability of funds from a revolving loan fund for brownfield remediation; and

"(v) such other similar factors as the Administrator considers appropriate to consider for the purposes of this subsection.

"(D) TRANSITION.—Revolving loan funds that have been established before the date of enactment of this subsection may be used in accordance with this paragraph.

"(4) GENERAL PROVISIONS.—

"(A) MAXIMUM GRANT AMOUNT.—

"(i) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT.—

"(I) IN GENERAL.—A grant under paragraph (2) may be awarded to an eligible entity on a community-wide or site-by-site basis, and shall not exceed, for any individual brownfield site covered by the grant, $200,000.

"(II) WAIVER.—The Administrator may waive the $200,000 limitation under subclause (I) to permit the brownfield site to receive a grant of not to exceed $350,000, based on the anticipated level of contamination, size, or status of ownership of the site.

"(ii) BROWNFIELD REMEDIATION.—A grant under paragraph (3)(A)(i) may be awarded to an eligible entity on a community-wide or site-by-site basis, not to exceed $1,000,000 per eligible entity. The Administrator may make an additional grant to an eligible entity described in the previous sentence for any year after the year for which the initial grant is made, taking into consideration—

"(I) the number of sites and number of communities that are addressed by the revolving loan fund;

"(II) the demand for funding by eligible entities that have not previously received a grant under this subsection;

"(III) the demonstrated ability of the eligible entity to use the revolving loan fund to enhance remediation and provide funds on a continuing basis; and

"(IV) such other similar factors as the Administrator considers appropriate to carry out this subsection.

"(B) PROHIBITION.—

"(i) IN GENERAL.—No part of a grant or loan under this subsection may be used for the payment of—

"(I) a penalty or fine;

"(II) a Federal cost-share requirement;

"(III) an administrative cost;

"(IV) a response cost at a brownfield site for which the recipient of the grant or loan is potentially liable under section 107; or

"(V) a cost of compliance with any Federal law (including a Federal law specified in section 101(39)(B)), excluding the cost of compliance with laws applicable to the cleanup.

"(ii) EXCLUSIONS.—For the purposes of clause (i)(III), the term 'administrative cost' does not include the cost of—

"(I) investigation and identification of the extent of contamination;

"(II) design and performance of a response action; or

"(III) monitoring of a natural resource.

"(C) ASSISTANCE FOR DEVELOPMENT OF LOCAL GOVERNMENT SITE REMEDIATION PROGRAMS.—A local government that receives a grant under this subsection may use not to exceed 10 percent of the grant funds to develop and implement a brownfields program that may include—

"(i) monitoring the health of populations exposed to 1 or more hazardous substances from a brownfield site; and

"(ii) monitoring and enforcement of any institutional control used to prevent human exposure to any hazardous substance from a brownfield site.

"(D) INSURANCE.—A recipient of a grant or loan awarded under paragraph (2) or (3) that performs a characterization, assessment, or remediation of a brownfield site may use a portion of the grant or loan to purchase insurance for the characterization, assessment, or remediation of that site.

"(5) GRANT APPLICATIONS.—

"(A) SUBMISSION.—

"(i) IN GENERAL.—

"(I) APPLICATION.—An eligible entity may submit to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, an application for a grant under this subsection for 1 or more brownfield sites (including information on the criteria used by the Administrator to rank applications under subparagraph (C), to the extent that the information is available).

"(II) NCP REQUIREMENTS.—The Administrator may include in any requirement for submission of an application under subclause (I) a requirement of the National Contingency Plan only to the extent that the requirement is relevant and appropriate to the program under this subsection.

"(ii) COORDINATION.—The Administrator shall coordinate with other Federal agencies to assist in making eligible entities aware of other available Federal resources.

"(iii) GUIDANCE.—The Administrator shall publish guidance to assist eligible entities in applying for grants under this subsection.

"(B) APPROVAL.—The Administrator shall—

"(i) at least annually, complete a review of applications for grants that are received from eligible entities under this subsection; and

"(ii) award grants under this subsection to eligible entities that the Administrator determines have the highest rankings under the ranking criteria established under subparagraph (C).

"(C) Ranking criteria.—The Administrator shall establish a system for ranking grant applications received under this paragraph that includes the following criteria:

"(i) The extent to which a grant will stimulate the availability of other funds for environmental assessment or remediation, and subsequent reuse, of an area in which 1 or more brownfield sites are located.

"(ii) The potential of the proposed project or the development plan for an area in which 1 or more brownfield sites are located to stimulate economic development of the area on completion of the cleanup.

"(iii) The extent to which a grant would address or facilitate the identification and reduction of threats to human health and the environment, including threats in areas in which there is a greater-than-normal incidence of diseases or conditions (including cancer, asthma, or birth defects) that may be associated with exposure to hazardous substances, pollutants, or contaminants.

"(iv) The extent to which a grant would facilitate the use or reuse of existing infrastructure.

"(v) The extent to which a grant would facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes.

"(vi) The extent to which a grant would meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community.

"(vii) The extent to which the applicant is eligible for funding from other sources.

"(viii) The extent to which a grant will further the fair distribution of funding between urban and nonurban areas.

"(ix) The extent to which the grant provides for involvement of the local community in the process of making decisions relating to cleanup and future use of a brownfield site.

"(x) The extent to which a grant would address or facilitate the identification and reduction of threats to the health or welfare of children, pregnant women, minority or low-income communities, or other sensitive populations.

"(6) Implementation of brownfields programs.—

"(A) Establishment of program.—The Administrator may provide, or fund eligible entities or nonprofit organizations to provide, training, research, and technical assistance to individuals and organizations, as appropriate, to facilitate the inventory of brownfield sites, site assessments, remediation of brownfield sites, community involvement, or site preparation.

"(B) Funding restrictions.—The total Federal funds to be expended by the Administrator under this paragraph shall not exceed 15 percent of the total amount appropriated to carry out this subsection in any fiscal year.

"(7) Audits.—

"(A) In general.—The Inspector General of the Environmental Protection Agency shall conduct such reviews or audits of grants and loans under this subsection as the Inspector General considers necessary to carry out this subsection.

"(B) Procedure.—An audit under this subparagraph shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

"(C) Violations.—If the Administrator determines that a person that receives a grant or loan under this subsection has violated or is in violation of a condition of the grant, loan, or applicable Federal law, the Administrator may—

"(i) terminate the grant or loan;

"(ii) require the person to repay any funds received; and

"(iii) seek any other legal remedies available to the Administrator.

"(D) Report to congress.—Not later than 3 years after the date of enactment of this subsection, the Inspector General of the Environmental Protection Agency shall submit to Congress a report that provides a description of the management of the program (including a description of the allocation of funds under this subsection).

"(8) Leveraging.—An eligible entity that receives a grant under this subsection may use the grant funds for a portion of a project at a brownfield site for which funding is received from other sources if the grant funds are used only for the purposes described in paragraph (2) or (3).

"(9) Agreements.—Each grant or loan made under this subsection shall—

"(A) include a requirement of the National Contingency Plan only to the extent that the requirement is relevant and appropriate to the program under this subsection, as determined by the Administrator; and

"(B) be subject to an agreement that—

"(i) requires the recipient to—

"(I) comply with all applicable Federal and State laws; and

"(II) ensure that the cleanup protects human health and the environment;

"(ii) requires that the recipient use the grant or loan exclusively for purposes specified in paragraph (2) or (3), as applicable;

"(iii) in the case of an application by an eligible entity under paragraph (3)(A), requires the eligible entity to pay a matching share (which may be in the form of a contribution of labor, material, or services) of at least 20 percent, from non-Federal sources of funding, unless the Administrator determines that the matching share would place an undue hardship on the eligible entity; and

"(iv) contains such other terms and conditions as the Administrator determines to be necessary to carry out this subsection.

"(10) Facility other than brownfield site.—The fact that a facility may not be a brownfield site within the meaning of section 101(39)(A) has no effect on the eligibility of the facility for assistance under any other provision of Federal law.

"(11) Effect on federal laws.—Nothing in this subsection affects any liability or response authority under any Federal law, including—

"(A) this Act (including the last sentence of section 101(14));

"(B) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

"(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(D) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

"(E) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(12) Funding.—

"(A) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $200,000,000 for each of fiscal years 2002 through 2006.

"(B) Use of certain funds.—Of the amount made available under subparagraph (A), $50,000,000, or, if the amount made available is less than $200,000,000, 25 percent of the amount made available, shall be used for site characterization, assessment, and remediation of facilities described in section 101(39)(D)(ii)(II).".

Subtitle B—Brownfields Liability Clarifications

SEC. 221. CONTIGUOUS PROPERTIES.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(q) Contiguous Properties.—

"(1) Not considered to be an owner or operator.—

"(A) In general.—A person that owns real property that is contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a hazardous substance from, real property that is not owned by that person shall not be considered to be an owner or operator of a vessel or facility under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if—

"(i) the person did not cause, contribute, or consent to the release or threatened release;

"(ii) the person is not—

"(I) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a facility through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by a contract for the sale of goods or services); or

"(II) the result of a reorganization of a business entity that was potentially liable;

"(iii) the person takes reasonable steps to—

"(I) stop any continuing release;

"(II) prevent any threatened future release; and

"(III) prevent or limit human, environmental, or natural resource exposure to any hazardous substance released on or from property owned by that person;

"(iv) the person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the vessel or facility from which there has been a release or threatened release (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action or natural resource restoration at the vessel or facility);

"(v) the person—

"(I) is in compliance with any land use restrictions established or relied on in connection with the response action at the facility; and

"(II) does not impede the effectiveness or integrity of any institutional control employed in connection with a response action;

"(vi) the person is in compliance with any request for information or administrative subpoena issued by the President under this Act;

"(vii) the person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility; and

"(viii) at the time at which the person acquired the property, the person—

"(I) conducted all appropriate inquiry within the meaning of section 101(35)(B) with respect to the property; and

"(II) did not know or have reason to know that the property was or could be contaminated by a release or threatened release of 1 or more hazardous substances from other real property not owned or operated by the person.

"(B) DEMONSTRATION.—To qualify as a person described in subparagraph (A), a person must establish by a preponderance of the evidence that the conditions in clauses (i) through (viii) of subparagraph (A) have been met.

"(C) BONA FIDE PROSPECTIVE PURCHASER.—Any person that does not qualify as a person described in this paragraph because the person had, or had reason to have, knowledge specified in subparagraph (A)(viii) at the time of acquisition of the real property may qualify as a bona fide prospective purchaser under section 101(40) if the person is otherwise described in that section.

"(D) GROUND WATER.—With respect to a hazardous substance from 1 or more sources that are not on the property of a person that is a contiguous property owner that enters ground water beneath the property of the person solely as a result of subsurface migration in an aquifer, subparagraph (A)(iii) shall not require the person to conduct ground water investigations or to install ground water remediation systems, except in accordance with the policy of the Environmental Protection Agency concerning owners of property containing contaminated aquifers, dated May 24, 1995.

"(2) EFFECT OF LAW.—With respect to a person described in this subsection, nothing in this subsection—

"(A) limits any defense to liability that may be available to the person under any other provision of law; or

"(B) imposes liability on the person that is not otherwise imposed by subsection (a).

"(3) ASSURANCES.—The Administrator may—

"(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

"(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).".

SEC. 222. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 211(a) of this Act) is amended by adding at the end the following:

"(40) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person (or a tenant of a person) that acquires ownership of a facility after the date of enactment of this paragraph and that establishes each of the following by a preponderance of the evidence:

"(A) DISPOSAL PRIOR TO ACQUISITION.—All disposal of hazardous substances at the facility occurred before the person acquired the facility.

"(B) INQUIRIES.—

"(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices in accordance with clauses (ii) and (iii).

"(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in clauses (ii) and (iv) of paragraph (35)(B) shall be considered to satisfy the requirements of this subparagraph.

"(iii) RESIDENTIAL USE.—In the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

"(C) NOTICES.—The person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

"(D) CARE.—The person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to—

"(i) stop any continuing release;

"(ii) prevent any threatened future release; and

"(iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance.

"(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at a vessel or facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions or natural resource restoration at the vessel or facility).

"(F) INSTITUTIONAL CONTROL.—The person—

"(i) is in compliance with any land use restrictions established or relied on in connection with the response action at a vessel or facility; and

"(ii) does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility in connection with a response action.

"(G) REQUESTS; SUBPOENAS.—The person complies with any request for information or administrative subpoena issued by the President under this Act.

"(H) NO AFFILIATION.—The person is not—

"(i) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a facility through—

"(I) any direct or indirect familial relationship; or

"(II) any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services); or

"(ii) the result of a reorganization of a business entity that was potentially liable.".

(b) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by this Act) is further amended by adding at the end the following:

"(r) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

"(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a)(1), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

"(2) LIEN.—If there are unrecovered response costs incurred by the United States at a facility for which an owner of the facility is not liable by reason of paragraph (1), and if each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may by agreement with the owner, obtain from the owner a lien on any other property or other assurance of payment satisfactory to the Administrator, for the unrecovered response costs.

"(3) CONDITIONS.—The conditions referred to in paragraph (2) are the following:

"(A) RESPONSE ACTION.—A response action for which there are unrecovered costs of the United States is carried out at the facility.

"(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed before the response action was initiated.

"(4) AMOUNT; DURATION.—A lien under paragraph (2)—

"(A) shall be in an amount not to exceed the increase in fair market value of the property attributable to the response action at the time of a sale or other disposition of the property;

"(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

"(C) shall be subject to the requirements of subsection (l)(3); and

"(D) shall continue until the earlier of—

"(i) satisfaction of the lien by sale or other means; or

"(ii) notwithstanding any statute of limitations under section 113, recovery of all response costs incurred at the facility.".

SEC. 223. INNOCENT LANDOWNERS.

Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence, in the matter preceding clause (i), by striking "deeds or" and inserting "deeds, easements, leases, or"; and

(B) in the second sentence—

(i) by striking "he" and inserting "the defendant"; and

(ii) by striking the period at the end and inserting ", provides full cooperation, assistance, and facility access to the persons that are authorized to conduct response actions at the facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility), is in compliance with any land use restrictions established or relied on in connection with the response action at a facility, and does not impede the effectiveness or integrity of any institutional control employed at the facility in connection with a response action."; and

(2) by striking subparagraph (B) and inserting the following:

"(B) REASON TO KNOW.—

"(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must demonstrate to a court that—

"(I) on or before the date on which the defendant acquired the facility, the defendant carried out all appropriate inquiries, as provided in clauses (ii) and (iv), into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices; and

"(II) the defendant took reasonable steps to—

"(aa) stop any continuing release;

"(bb) prevent any threatened future release; and

"(cc) prevent or limit any human, environmental, or natural resource exposure to any previously released hazardous substance.

"(ii) STANDARDS AND PRACTICES.—Not later than 2 years after the date of enactment of the Brownfields Revitalization and Environmental Restoration Act of 2001, the Administrator shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under clause (i).

"(iii) Criteria.—In promulgating regulations that establish the standards and practices referred to in clause (ii), the Administrator shall include each of the following:

"(I) The results of an inquiry by an environmental professional.

"(II) Interviews with past and present owners, operators, and occupants of the facility for the purpose of gathering information regarding the potential for contamination at the facility.

"(III) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property since the property was first developed.

"(IV) Searches for recorded environmental cleanup liens against the facility that are filed under Federal, State, or local law.

"(V) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility.

"(VI) Visual inspections of the facility and of adjoining properties.

"(VII) Specialized knowledge or experience on the part of the defendant.

"(VIII) The relationship of the purchase price to the value of the property, if the property was not contaminated.

"(IX) Commonly known or reasonably ascertainable information about the property.

"(X) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation.

"(iv) Interim standards and practices.—

"(I) Property purchased before May 31, 1997.—With respect to property purchased before May 31, 1997, in making a determination with respect to a defendant described of clause (i), a court shall take into account—

"(aa) any specialized knowledge or experience on the part of the defendant;

"(bb) the relationship of the purchase price to the value of the property, if the property was not contaminated;

"(cc) commonly known or reasonably ascertainable information about the property;

"(dd) the obviousness of the presence or likely presence of contamination at the property; and

"(ee) the ability of the defendant to detect the contamination by appropriate inspection.

"(II) Property purchased on or after May 31, 1997.—With respect to property purchased on or after May 31, 1997, and until the Administrator promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as 'Standard E1527–97', entitled 'Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process', shall satisfy the requirements in clause (i).

"(v) Site inspection and title search.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.".

Subtitle C—State Response Programs

SEC. 231. STATE RESPONSE PROGRAMS.

(a) Definitions.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by this Act) is further amended by adding at the end the following:

"(41) Eligible response site.—

"(A) In general.—The term 'eligible response site' means a site that meets the definition of a brownfield site in subparagraphs (A) and (B) of paragraph (39), as modified by subparagraphs (B) and (C) of this paragraph.

"(B) Inclusions.—The term 'eligible response site' includes—

"(i) notwithstanding paragraph (39)(B)(ix), a portion of a facility, for which portion assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986; or

"(ii) a site for which, notwithstanding the exclusions provided in subparagraph (C) or paragraph (39)(B), the President determines, on a site-by-site basis and after consultation with the State, that limitations on enforcement under section 128 at sites specified in clause (iv), (v), (vi) or (viii) of paragraph (39)(B) would be appropriate and will—

"(I) protect human health and the environment; and

"(II) promote economic development or facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes.

"(C) Exclusions.—The term 'eligible response site' does not include—

"(i) a facility for which the President—

"(I) conducts or has conducted a preliminary assessment or site inspection; and

"(II) after consultation with the State, determines or has determined that the site obtains a preliminary score sufficient for possible listing on the National Priorities List, or that the site otherwise qualifies for listing on the National Priorities List; unless the President has made a determination that no further Federal action will be taken; or

"(ii) facilities that the President determines warrant particular consideration as identified by regulation, such as sites posing a threat to a sole-source drinking water aquifer or a sensitive ecosystem.".

(b) State Response Programs.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

"SEC. 128. STATE RESPONSE PROGRAMS.

"(a) Assistance to States.—

"(1) In general.—

"(A) States.—The Administrator may award a grant to a State or Indian tribe that—

"(i) has a response program that includes each of the elements, or is taking reasonable steps to include each of the elements, listed in paragraph (2); or

"(ii) is a party to a memorandum of agreement with the Administrator for voluntary response programs.

"(B) Use of grants by states.—

"(i) In general.—A State or Indian tribe may use a grant under this subsection to establish or enhance the response program of the State or Indian tribe.

"(ii) Additional uses.—In addition to the uses under clause (i), a State or Indian tribe may use a grant under this subsection to—

"(I) capitalize a revolving loan fund for brownfield remediation under section 104(k)(3); or

"(II) purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State response program.

"(2) Elements.—The elements of a State or Indian tribe response program referred to in paragraph (1)(A)(i) are the following:

"(A) Timely survey and inventory of brownfield sites in the State.

"(B) Oversight and enforcement authorities or other mechanisms, and resources, that are adequate to ensure that—

"(i) a response action will—

"(I) protect human health and the environment; and

"(II) be conducted in accordance with applicable Federal and State law; and

"(ii) if the person conducting the response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

"(C) Mechanisms and resources to provide meaningful opportunities for public participation, including—

"(i) public access to documents that the State, Indian tribe, or party conducting the cleanup is relying on or developing in making cleanup decisions or conducting site activities;

"(ii) prior notice and opportunity for comment on proposed cleanup plans and site activities; and

"(iii) a mechanism by which—

"(I) a person that is or may be affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfield site located in the community in which the person works or resides may request the conduct of a site assessment; and

"(II) an appropriate State official shall consider and appropriately respond to a request under subclause (I).

"(D) Mechanisms for approval of a cleanup plan, and a requirement for verification by and certification or similar documentation from the State, an Indian tribe, or a licensed site professional to the person conducting a response action indicating that the response is complete.

"(3) Funding.—There is authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 2002 through 2006.

"(b) Enforcement in Cases of a Release Subject to State Program.—

"(1) Enforcement.—

"(A) In general.— Except as provided in subparagraph (B) and subject to subparagraph (C), in the case of an eligible response site at which—

"(i) there is a release or threatened release of a hazardous substance, pollutant, or contaminant; and

"(ii) a person is conducting or has completed a response action regarding the specific release that is addressed by the response action that is in compliance with the State program that specifically governs response actions for the protection of public health and the environment;

the President may not use authority under this Act to take an administrative or judicial enforcement action under section 106(a) or to take a judicial enforcement action to recover response costs under section 107(a) against the person regarding the specific release that is addressed by the response action.

‘‘(B) EXCEPTIONS.—The President may bring an administrative or judicial enforcement action under this Act during or after completion of a response action described in subparagraph (A) with respect to a release or threatened release at an eligible response site described in that subparagraph if—

‘‘(i) the State requests that the President provide assistance in the performance of a response action;

‘‘(ii) the Administrator determines that contamination has migrated or will migrate across a State line, resulting in the need for further response action to protect human health or the environment, or the President determines that contamination has migrated or is likely to migrate onto property subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States and may impact the authorized purposes of the Federal property;

‘‘(iii) after taking into consideration the response activities already taken, the Administrator determines that—

‘‘(I) a release or threatened release may present an imminent and substantial endangerment to public health or welfare or the environment; and

‘‘(II) additional response actions are likely to be necessary to address, prevent, limit, or mitigate the release or threatened release; or

‘‘(iv) the Administrator, after consultation with the State, determines that information, that on the earlier of the date on which cleanup was approved or completed, was not known by the State, as recorded in documents prepared or relied on in selecting or conducting the cleanup, has been discovered regarding the contamination or conditions at a facility such that the contamination or conditions at the facility present a threat requiring further remediation to protect public health or welfare or the environment. Consultation with the State shall not limit the ability of the Administrator to make this determination.

‘‘(C) PUBLIC RECORD.—The limitations on the authority of the President under subparagraph (A) apply only at sites in States that maintain, update not less than annually, and make available to the public a record of sites, by name and location, at which response actions have been completed in the previous year and are planned to be addressed under the State program that specifically governs response actions for the protection of public health and the environment in the upcoming year. The public record shall identify whether or not the site, on completion of the response action, will be suitable for unrestricted use and, if not, shall identify the institutional controls relied on in the remedy. Each State and tribe receiving financial assistance under subsection (a) shall maintain and make available to the public a record of sites as provided in this paragraph.

‘‘(D) EPA NOTIFICATION.—

‘‘(i) IN GENERAL.—In the case of an eligible response site at which there is a release or threatened release of a hazardous substance, pollutant, or contaminant and for which the Administrator intends to carry out an action that may be barred under subparagraph (A), the Administrator shall—

‘‘(I) notify the State of the action the Administrator intends to take; and

‘‘(II)(aa) wait 48 hours for a reply from the State under clause (ii); or

‘‘(bb) if the State fails to reply to the notification or if the Administrator makes a determination under clause (iii), take immediate action under that clause.

‘‘(ii) STATE REPLY.—Not later than 48 hours after a State receives notice from the Administrator under clause (i), the State shall notify the Administrator if—

‘‘(I) the release at the eligible response site is or has been subject to a cleanup conducted under a State program; and

‘‘(II) the State is planning to abate the release or threatened release, any actions that are planned.

‘‘(iii) IMMEDIATE FEDERAL ACTION.—The Administrator may take action immediately after giving notification under clause (i) without waiting for a State reply under clause (ii) if the Administrator determines that 1 or more exceptions under subparagraph (B) are met.

‘‘(E) REPORT TO CONGRESS.—Not later than 90 days after the date of initiation of any enforcement action by the President under clause (ii), (iii), or (iv) of subparagraph (B), the President shall submit to Congress a report describing the basis for the enforcement action, including specific references to the facts demonstrating that enforcement action is permitted under subparagraph (B).

‘‘(2) SAVINGS PROVISION.—

‘‘(A) COSTS INCURRED PRIOR TO LIMITATIONS.—Nothing in paragraph (1) precludes the President from seeking to recover costs incurred prior to the date of enactment of this section or during a period in which the limitations of paragraph (1)(A) were not applicable.

‘‘(B) EFFECT ON AGREEMENTS BETWEEN STATES AND EPA.—Nothing in paragraph (1)—

‘‘(i) modifies or otherwise affects a memorandum of agreement, memorandum of understanding, or any similar agreement relating to this Act between a State agency or an Indian tribe and the Administrator that is in effect on or before the date of enactment of this section (which agreement shall remain in effect, subject to the terms of the agreement); or

‘‘(ii) limits the discretionary authority of the President to enter into or modify an agreement with a State, an Indian tribe, or any other person relating to the implementation by the President of statutory authorities.

‘‘(3) EFFECTIVE DATE.—This subsection applies only to response actions conducted after February 15, 2001.

‘‘(c) EFFECT ON FEDERAL LAWS.—Nothing in this section affects any liability or response authority under any Federal law, including—

‘‘(1) this Act, except as provided in subsection (b);

‘‘(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

‘‘(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

‘‘(4) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

‘‘(5) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).’’.

SEC. 232. ADDITIONS TO NATIONAL PRIORITIES LIST.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended by adding at the end the following:

‘‘(h) NPL DEFERRAL.—

‘‘(1) DEFERRAL TO STATE VOLUNTARY CLEANUPS.—At the request of a State and subject to paragraphs (2) and (3), the President generally shall defer final listing of an eligible response site on the National Priorities List if the President determines that—

‘‘(A) the State, or another party under an agreement with or order from the State, is conducting a response action at the eligible response site—

‘‘(i) in compliance with a State program that specifically governs response actions for the protection of public health and the environment; and

‘‘(ii) that will provide long-term protection of human health and the environment; or

‘‘(B) the State is actively pursuing an agreement to perform a response action described in subparagraph (A) at the site with a person that the State has reason to believe is capable of conducting a response action that meets the requirements of subparagraph (A).

‘‘(2) PROGRESS TOWARD CLEANUP.—If, after the last day of the 1-year period beginning on the date on which the President proposes to list an eligible response site on the National Priorities List, the President determines that the State or other party is not making reasonable progress toward completing a response action at the eligible response site, the President may list the eligible response site on the National Priorities List.

‘‘(3) CLEANUP AGREEMENTS.—With respect to an eligible response site under paragraph (1)(B), if, after the last day of the 1-year period beginning on the date on which the President proposes to list the eligible response site on the National Priorities List, an agreement described in paragraph (1)(B) has not been reached, the President may defer the listing of the eligible response site on the National Priorities List for an additional period of not to exceed 180 days if the President determines deferring the listing would be appropriate based on—

‘‘(A) the complexity of the site;

‘‘(B) substantial progress made in negotiations; and

‘‘(C) other appropriate factors, as determined by the President.

‘‘(4) EXCEPTIONS.—The President may decline to defer, or elect to discontinue a deferral of, a listing of an eligible response site on the National Priorities List if the President determines that—

‘‘(A) deferral would not be appropriate because the State, as an owner or operator or a significant contributor of hazardous substances to the facility, is a potentially responsible party;

‘‘(B) the criteria under the National Contingency Plan for issuance of a health advisory have been met; or

‘‘(C) the conditions in paragraphs (1) through (3), as applicable, are no longer being met.’’.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. GILLMOR) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. GILLMOR).

GENERAL LEAVE

Mr. GILLMOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GILLMOR. Mr. Speaker, I ask unanimous consent that I may be permitted to yield one-half of my time to the gentleman from Tennessee (Mr. DUNCAN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GILLMOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us, H.R. 2869, is the most important reform of the Federal superfund program in the past 15 years.

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In fact, it will be the most significant environmental reform legislation to pass Congress in several sessions. I am happy to see the strong bipartisan support for this bill.

I want to thank the cosponsors, the gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Energy and Commerce; the gentleman from Louisiana (Mr. TAUZIN); my colleagues on the Subcommittee on Environment and Hazardous Materials, the gentleman from New Jersey (Mr. PALLONE); and I also want to single out the gentleman from Illinois (Mr. SHIMKUS) for the extraordinary work that he has done on the part of this bill dealing with small business liability, not only in this session but in the last session.

This legislation deals with Superfund, which is the Nation's major program dealing with dangerous hazardous waste sites. As good as the goals of Superfund have been, the actual way this program has worked has unfortunately been an example of what too frequently is wrong with government programs.

Some responsible observers have estimated that as much as half of all the money spent for Superfund goes not for cleaning up anything, but goes for attorney fees and regulatory costs.

The legislation before us today reforms two very important parts of Superfund. It provides relief for small businesses from Superfund liability in a number of cases, and it reforms the brownfields program.

Earlier this year, I introduced and the House passed by a margin of 419 to nothing the small business liability reform legislation. That legislation has not moved in the Senate, nor has it had any hearings.

Also earlier this year the Senate passed by a 99 to nothing vote a brownfields reform bill. We have held several hearings on this legislation in the Subcommittee on Environment and Hazardous Materials. What this legislation before us today does is combine those two bills in one package with the hope that we can facilitate getting those bills adopted by Congress as soon as possible and on to the President's desk.

There are approximately 500,000 brownfield locations in this country. Brownfield reform is necessary both to protect the environment and to protect public safety. Too often today, current law produces an outcome that is very anti-environment.

Several witnesses testified before our committee that fear of liability kept them from cleaning up brownfields, and when people are afraid to use a brownfield because of the expense, because of the aggravation involved, they go out and acquire green spaces or virgin land for development instead of safely cleaning up and developing a brownfield.

At a minimum, reform is required to stop the unnecessary plowing up of green spaces in farmlands so they can be covered with asphalt and concrete.

I have been a Member of Congress for six terms, and throughout that time I have heard from Members of both parties, of the public, of three administrations talk about reforming Superfund, and it has yet to happen. Hopefully, today's action will result in a piece of that reform.

Among other things, the brownfields portion of the bill provides money and incentives for State clean-ups, includes limits on Federal enforcement, and protects contiguous property owners, prospective buyers, and innocent landowners. It also creates more liability in the brownfields program. The Senate passed a good bill. It is not perfect, but the perfect should not be the enemy of the good.

The small business liability relief part of this legislation, which passed earlier as H.R. 1831, that bill also enjoyed bipartisan support, and it seeks to end 20 years' worth of anguish and anxiety for individuals, for families, and for small business owners across our country.

It seeks to address the problems of people like Barbara Williams of Gettysburg, Pennsylvania, who has come before our committee in the past to tell how her former restaurant, the Sunny Ray, became enmeshed in the financial quagmire of Superfund liability because she threw chicken bones and other ordinary trash in the local dump. That outcome is not right, and it is not an isolated story.

Specifically, the bill before us provides relief to businesses of 100 people or less who should never have been brought into Superfund and its resultant litigation. This legislation protects small businesses which disposed of very small amounts of waste or ordinary garbage, and it shelters small businesses from serious financial hardship by offering the affected businesses expedited settlements. It does not save any business from Superfund liability if their waste stream caused serious environmental harm.

The bill provides an appropriate helping hand, while keeping the onus on all businesses to be responsible stewards of our environment.

This legislation is supported by the Bush administration, the National Federation of Independent Businesses, the Building and Construction Trade Unions, the U.S. Conference of Mayors, the National Association of Manufacturers, the Real Estate Round Table, including the National Association of Realtors and many other groups.

I would urge all of my colleagues in the House to support the legislation before us, which incorporates both brownfields reform and small business liability reform.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I ask unanimous consent to yield 10 minutes to the gentleman from Oregon (Mr. DEFAZIO), and that he may be permitted to yield time, as well.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased tonight that we are finally considering, after much delay, H.R. 2869, the Small Business Liability Relief and Brownfields Liability Act. The bill is actually a compilation of two popular pieces of legislation.

The first half of the bill is verbatim the provisions of H.R. 1381, the Small Business Protection ACt. This bill, which gives Superfund liability exemptions for those small businesses that discarded ordinary household waste, was favorably reported from our committee and passed the House by a vote of 419 to zero on May 22 of this year.

The second half of the bill contains the provisions of S. 350, the Brownfields Revitalization Act, which passed the Senate on April 25 this year by a vote of 99 to 0.

Brownfields are a relatively recent complex and dynamic area of public policy. Government at all levels, local, State, and Federal, is grappling with liability, environmental and cost issues caused by brownfields reclamation, and is taking steps to resolve them.

Despite the popular image of brownfields as an urban problem they are found in suburbs and rural areas, too. In my home State of New Jersey, which is heavily affected probably with more brown field sites than any State in the Nation, but New Jersey, for that reason, has taken a leadership role in developing regulatory and funding tools for cleaning up brownfields.

The ability to reuse brownfields is important in implementing a smart growth agenda because it blunts pressures to develop untouched green spaces, and therefore helps contain sprawl.

However, brownfields redevelopment is also important because of the public policy perspective, which is essentially a tricky one. It is clear there is no such thing as a typical brownfields site, nor is there one problem common to all sites. They vary greatly in the size, location, origin, marketability, and degree of contamination.

For the most part, none of the sites have been inventoried or assessed. Those two facts make it nearly impossible to prescribe a single solution which provides redevelopment incentives for the wide variety of brownfields sites that currently exist.

With these in mind, I believe the role for the Federal Government is to strike a balance between the desire to provide redevelopment incentives that will work for a variety of sites, while at the same time maintaining the assurance to affected citizens that these sites will no longer threaten the health of the community: This is essentially the basis for our legislation.

The bill provides critically needed funds to assess and clean up abandoned and underutilized brownfield sites which will create jobs, increase tax revenues, preserve and create open space and parks. In addition, it provides legal protections for innocent parties such as contiguous property owners, prospective purchasers, and innocent landowners. I expect or I hope that this legislation will not only pass the House tonight and then the Senate quickly, and then be sent on to the President for his approval.

I have to say, Mr. Speaker, this is really a bill that provides a win-win situation. The gentleman from (Mr. GILLMOR) talked about all the different groups that support it. It is kind of interesting to see environmental groups and the building trades and all the different business organizations all supporting the same bill, but it really, truly is supported by all of them because it is a win-win situation.

By cleaning up these brownfields sites, we provide an opportunity for more jobs while at the same time cleaning up the environment, protecting public health, and curbing suburban sprawl.

I just wanted to say before I conclude, in my home State of New Jersey, as I said, there are so many brownfield sites. Just last week I visited a site in my district called Edison Crossroads. It is a perfect example of the opportunities afforded our communities when this bill becomes law.

This once-abandoned eyesore of a former steel tubing and floor tile manufacturing facility. With the opportunity to recover 75 percent of its remedial costs and receive liability protection by performing a State-approved clean-up, the development company Arc Properties was encouraged to move forward with purchasing this site and conducting a massive clean-up and reuse project, including the excavation of more than 600 tons of tainted soil, nine underground storage tanks, and removal of several buildings filled with asbestos.

Today, and I was there, as I said, last week, the site has attracted a Home Depot, Edwards, World Carpet, and many other large companies, resulting in a positive source of economic growth for the local and regional communities.

We have a lot of those success stories like this in New jersey: the New Jersey Performing Arts Center in Newark, the Jersey Gardens Mall in Elizabeth. This brownfield redevelopment, because of what my State is doing, is having a huge impact on the New Jersey landscape.

I am very pleased our subcommittee was able to move this important piece of bipartisan legislation. It is truly bipartisan, as the gentleman from Ohio (Mr. GILLMOR) mentioned.

I want to thank the gentleman from Ohio (Mr. GILLMOR) and the chairman of our full committee, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DINGELL), and of course, the staffers that have been working so hard on this bill, as well as the members of the Committee on Transportation and Infrastructure, and the gentleman from Oregon (Mr. DEFAZIO).

I think we are on the threshold of this becoming law. We have been working with it on the Democratic side for at lest 4 years, so I am really glad to say that the day has finally come when it is going to come to pass.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2869 combines the text of H.R. 1831, the Small Business Liability Protection Act, with the text of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001.

I strongly support title I of H.R. 2869. As the gentleman from Ohio (Chairman GILLMOR) mentioned, Title I earlier passed the House 419 to 0. Title I will protect small businesses from Superfund liability. It prevents lawsuits against people and businesses who should not be held liable for the costs of cleaning up a Superfund site, either because they send only a very small amount of waste to a site, or because their waste was ordinary trash.

I am very proud of this legislation, and was pleased to have sponsored this, along with the gentleman from Ohio (Chairman GILLMOR) and others.

Title II of this legislation is intended to encourage brownfields redevelopment. Brownfields redevelopment is very important, as previous speakers have mentioned. Our economy is changing. We have lost manufacturing jobs. Communities across America have lost thousands of jobs.

I held a subcommittee hearing on this issue of brownfields redevelopment earlier this year, and I agree that we should be doing everything we can to encourage the redevelopment of these brownfields sites. Unfortunately, the brownfields title of this bill is not drafted as clearly as I would like, but let me make clear the intent of title II is to encourage brownfields redevelopment, and it needs to be read with that goal in mind.

Nothing in this bill should be read to narrow the scope of properties eligible for assistance under the bill. All brownfields sites are eligible, including properties contaminated by petroleum releases, asbestos, or lead paint. Nothing in this bill should be read to make it easier to bring lawsuits against innocent landowners.

The gentleman from Ohio (Chairman GILLMOR) mentioned earlier that some estimates have been as high as half of the amount of the Superfund money that has been spent on lawyers and consultants and so forth. I have seen estimates much higher even than that.

The intent of this bill is to increase liability protections for people who own property that is next to a contaminated site, and people who buy property after all disposal activities have taken place. Nothing in this bill should be read to encourage Federal intervention when brownfields sites are being cleaned up under State programs.

The intent of the bill is to prevent unnecessary Federal involvement. As with most legislation, its successes or failures will depend on how it is implemented. As chairman of the Subcommittee on Water Resources and Environment, I will be keeping a careful watch on the EPA. I expect the EPA to use the discretion given to it under this legislation to remove red tape from brownfields sites.

To date, the EPA has never brought a lawsuit to second-guess a State cleanup decision. I do not expect this deference to States to change after passage of this legislation.

Since 1995, the EPA has viewed the Superfund national priorities list as a last resort for managing contaminated property. In fact, since income taxes, the EPA has had a formal policy of seeking the concurrence of a State government before listing a site on the Superfund list. I do not expect these policies to change after passage of this legislation.

Let me say to the EPA, it should not look at this bill as an excuse or an opportunity to build its bureaucracy or expand its mission.

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The funding in this bill is intended to go into communities around the country to encourage and achieve brownfields redevelopment, not simply to expand the Federal bureaucracy or add to Federal red tape.

Finally, I would like to express concern over the applicable to Davis Bacon prevailing wage rates to brownfields projects under this bill. Davis Bacon wage rates can add unnecessarily to clean up costs. Our goal is to get as many sites as possible cleaned up and returned to productive use. The higher the cost, the fewer the number of sites that can be addressed and actually cleaned up.

There are mixed feelings about this bill from a number of groups, the National Federation of Independent Businesses strongly supports the small business liability relief but does not support the expansion of Davis Bacon. The National Association of Home Builders and the U.S. Chamber of Commerce call the bill the first step for addressing the brownfields but the Chamber expresses serious concerns over David Bacon liability.

Other groups, like the National Association of Realtors, the National Association of Industrial and Office Properties and at least 7 other real estate groups strongly support the election. After weighing the matter carefully, I believe that this litigation, if implemented properly, could go a long way towards protecting small businesses from Superfund liability and is a significant first step towards encouraging the redevelopment of brownfields.

For these reasons, I support H.R. 2869 and encourage all of my colleagues to do likewise.

Mr. Speaker, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased at this very late early hour, however anyone wants to look at it, that we are finally doing some real work on the floor of the House having spent the rest of the morning engaged in an extended fantasy partisan one-upmanship from the other side of the aisle where they jammed through a bill that will not do anything to stimulate the economy. It will never become law.

But this will become law and this is necessary legislation. It should be part of a comprehensive Superfund reform. Unfortunately, we have been unable to move that legislation through this body. But that said, we do have here one key part of Superfund reform, and I just want to emphasize one point.

Legislation will provide needed Federal funding for site assessments to determine whether or not those brownfields are, in fact, contaminated as well as provide funding for the remediation of contaminated property. The technical changes to the Senate bill which I referred to earlier in my prepared statement, involved integrating these funding operations as an amendments to section 104 of CERCLA, change that has been agreed to by all parties involved in negotiations on this bill. By amending section 104 of CERCLA we are hoping to expedite the implementation of this new program by modeling it after one already in operation by the Environmental Protection Agency in order that funds authorized by this legislation get to the cities and the communities that need them as expeditiously as possible and we move ahead with the necessary cleanup.

Mr. Speaker, I yield back the balance of my time.

Mr. GILLMOR. How much time remains, Mr. Speaker?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Ohio (Mr. GILLMOR) has 3½ minutes remaining. The gentleman from New Jersey (Mr. PALLONE) has 4 minutes remaining. The gentleman from Tennessee (Mr. DUNCAN) has 4½ minutes remaining.

Mr. GILLMOR. Mr. Speaker, I yield as much time as he may consume to the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I rise this morning in strong support of this legislation. This much needed bill will help bring confidence to the many developer and contractors who fear lawsuits and intense Federal oversight of the clean up effort.

As a lifelong supporter of Davis Bacon, I also want to thank the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Ohio (Mr. GILLMOR) for keeping this fundamentally fair provision in the bill.

The Davis Bacon Act provides working men and women with critical worker protections. Davis Bacon is one of few Federal laws that truly prevents further erosion of living standards for millions of working families and that is so important during these times. At a time of economic uncertainty, brownfields legislation will help to stimulate development in communities across the country. This bill will clean up the environment, maintain the living standards of working families and create jobs. I urge our colleagues to vote yes.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, first I rise to thank everyone who has worked so hard on both the brownfields and Superfund business liability relief provisions.

Today we have an opportunity to pass landmark legislation which has a very real chance of becoming law. The first portion of this bill deals with Superfund small business liability relief. This issue first came to my attention when a landfill in Quincy, Illinois was declared a Superfund site. Quincy is a small community of 42,000 people located in my district of the banks of the Mississippi River.

The residents of this town have experienced firsthand the unfairness of the Superfund law to innocent small businesses punishing them for legally disposing their trash. Greg Shiering, a franchisee of two McDonalds was asked by the EPA to pay $47,000 for disposing of hamburgers and french fries into the town dump. Mike Nobis, part owner of a 30-year owned family business, JK Creative Printers was asked to pay $42,000 for legally sending trash to the dump in the 70's and 80's. One hundred fifty nine small businesses in the community were offered settlements with the EPA totaling $3 million.

The EPA based these payments purely on volume of waste, not on whether there was hazardous material in the waste. If the business did not settle, they would be open to lawsuits from six large companies. Court costs alone could bankrupt some of these small mom and pop shops that were targeted.

Today we have the opportunity to make sure what happened in Quincy does not happen in other communities. Any many times in my statements in debate of this bill, I just warn my colleagues that this scourge would visit their congressional districts some time sooner or later. I encouraged them to join me to make sure that this does not happen and I am pleased to say that we are almost there. We are almost there. So other members will not have to go through this problem of what has affected their small businesses.

I would also like to commend my colleagues' work on brownfields reform. This legislation is an important first step in addressing problems with the brownfields program. However, I do look forward to the opportunity to address this program again. I am really excited and concerned about the finality provisions and I think they could be made a little bit stronger. We will address that sometime in the future. Tighter finality will encourage this business to clean up brownfields in order for the program to be as successful as possible.

I also support the fact that we have not increased but we have just certified current law as far as the Davis Bacon provisions. It has been successful and it has brought together this great bipartisan agreement to move this legislation forward and I think everyone benefits from it.

At this late hour I am pleased to be here to speak on support of this bill in the floor and thank the chairman of the full committee, the gentleman from Louisiana (Mr. TAUZIN), the ranking member, the gentleman from Michigan (Mr. DINGELL) and then the subcommittee chairman, the gentleman from Ohio (Mr. GILLMOR). I thank them for their help. The gentleman from New Jersey (Mr. PALLONE), I appreciate your diligent efforts on this behalf.

Mr. PALLONE. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. GILLMOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to, in closing, just touch very briefly on this Davis Bacon question which a few groups have risen. There is no expansion of Davis Bacon in this bill.

Brownfields grants are now done under section 104 of the CERCLA Act. Those are covered by Davis Bacon. All this bill does is increase the funding from about 100 million to 200 million and Davis Bacon applies the same as it did before.

Increasing funding for a program that is already covered is not an expansion. I think most of the Members of this Chamber vote for the education bill last week. They voted for all the appropriations bills. All those appropriations bills increase funding for various programs to which Davis Bacon applies. And we do not consider that an expansion. So for those who say it is an expansion in this bill, it is not logical but then it is Congress.

Let me just conclude by saying this is very important legislation, reforming brownfields, reforming small bills liability. I very much appreciate the broad support of bipartisan support in this Chamber, broad support outside of this Chamber this legislation has received and I urge all of my colleagues to vote for it.

Mr. Speaker, I yield back the remainder of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would simply close by saying I view the main intentions of this legislation to be, number one, to make sure that no small businesses are unfairly driven out of existence by unintended and unfair liability under Superfund. And, secondly, and very importantly, to see that more brownfields sites across this Nation are cleaned up and put back into productive use in this country. I simply want to say that I commend all of the Members and the staff that were involved in bringing this very important legislation to the floor of this House.

Mr. DOOLEY of California. Mr. Speaker, while I appreciate that H.R. 2869 is a first step towards addressing the clean up of brownfields, it is unfortunate that this bill does not provide the adequate incentives and protection to those willing to take the risk associated with brownfields remediation. Specifically, this bill does not address the entire universe of brownfields sites in this country. H.R. 2869 only includes a prospective purchaser liability exemption for sites contaminated with a "hazardous substance" as defined under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Petroleum is not considered a hazardous substance under CERCLA and is regulated specifically under the Resource Conservation and Recovery Act (RCRA) statute.

The Environmental Protection Agency (EPA) estimates that approximately one half of the 500,000 brownfields sites in this country are contaminated with petroleum. By excluding RCRA liability protection for petroleum sites, I am concerned that half of the sites in the country may remain contaminated, undeveloped and devoid of any productive use. Without the prospective purchaser liability protections for petroleum sites, developers will likely avoid remediating these sites. I am disappointed that we have not addressed this issue in this pending legislation and I encourage this House to address this issue as soon as possible.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 2869, the Small Business Liability Relief and Brownfields Revitalization Act. This important bipartisan, bicameral brownfields redevelopment legislation, a long time in coming, will help significantly in the redevelopment of many abandoned and long-forgotten properties dotting our nation's city and community centers.

Mr. Speaker, back in the early 1990's, several members of the Democratic caucus began talking about the problems faced in many of our urban centers. Many of our members had spoken with their mayors and other interested constituents about the great number of former commercial and industrial sites left underutilized or abandoned—with no real prospects of redevelopment. These "brownfields", which once housed the machinery and the manpower that helped this country grow throughout the last century, were vacant—generating little tax revenue for the cities, and serving as breeding grounds for crime, vandalism, and a poor quality-of-life for neighboring communities. In 1992, members of the Democratic caucus proposed the idea of using the power of the Federal government to help rejuvenate these brownfields properties—cleaning up the legacy of the industrial age, and returning these forgotten properties to productive use. Unfortunately, these efforts were blocked for a variety of reasons—both substantive and political. Now, almost a decade later, I am pleased that we finally have reached agreement on a package that will achieve those original goals.

Mr. Speaker, this is not, in my opinion, the best bill that we could offer. In fact, few here today can say that they support everything in this legislation. This bill represents a compromise in the constructive sense of that word—almost exactly the same as one that achieved a vote of 99–0 in the other body, and one that will proceed expeditiously to the President's desk for his signature.

Very briefly, this legislation is divided into two titles. The first title contains the text of the Small Business Liability Protection Act that passed the House back in May by a vote of 419–0. This bipartisan legislation seeks to protect small businesses from being sued by overzealous polluters at Superfund sites, as well as protects homeowners and charitable organizations that simply put out the trash.

The second title contains, almost verbatim, the text of S. 350, the Senate brownfields legislation that passed the other body last April. This proposal carves out limited Superfund liability exemptions for innocent landowners, prospective purchasers of contaminated properties, and contiguous property owners—the individuals who should never be subject to Superfund liability for these properties. The bill also preserves the vital federal safety net that allows the Environmental Protection Agency to require additional cleanup of properties when there is a threat to human health or the environment following a cleanup under a state program. This provision will ensure that local residents will be protected should a cleanup plan fail to protect human health or the environment.

Finally, this legislation will provide much needed funding for brownfields site assessment and cleanup to move brownfields properties into productive reuse as quickly as possible. The bill will make Federal monies available for brownfields site assessment and remediation by amending section 104 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)—the only change in legislative text from S. 350. By placing the legislative funding authority directly in section 104 of CERCLA, this legislation aims to take advantage of Environmental Protection Agency's experiences gained through its current brownfields program, and attempts to build upon these successes through explicit legislative brownfields authority, increased authorizations, and greater flexibility in the case of Federal dollars. Accordingly, we expect EPA to closely model its implementation of this legislation on the Agency's existing brownfields program, and to get these desperately needed funds out the door and directly to the cities and communities as soon as possible.

Mr. Speaker, as I said earlier, I am pleased to support this important brownfields revitalization legislation. While it has been a long time coming, I believe that this legislation will greatly assist in the redevelopment of brownfields properties that have troubled our nation for too long. I urge my colleagues to support the bill.

Mr. GARY G. MILLER of California. Mr. Speaker, although H.R. 2869 represents a step forward in addressing brownfields reform, I am concerned that the legislation before us does not encourage the clean up and redevelopment of all brownfields sites. Specifically, although H.R. 2869 includes prospective purchaser federal liability protection for "hazardous substances" defined under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), it does not include prospective purchaser liability exemption for petroleum based contaminants under the Resource Conservation and Recovery Act (RCRA). This is a critical issue that is being overlooked in this legislation.

It is my understanding that the EPA has estimated that there are approximately 200,000 petroleum-based brownfields sites in this nation. If Congress is to address this important environmental issue, it is critical that we pass meaningful reform. I am disappointed that we have chosen not to do so with this legislation. I have to imagine that each one of us has an abandoned gas station in our district that could be cleaned up and redeveloped were it not for liability uncertainty. The reality is that without prospective purchaser liability protections for petroleum sites, developers—who did not cause the contamination—will not be willing to take the risk of cleaning up these sites and legislation will fail to meet its goal. I encourage the House to address this oversight as soon as possible.

Mr. CANTOR. Mr. Speaker, While I am pleased that Congress has chosen to address the important issue of brownfields reform, I am concerned that the House has not chosen to fully address liability protection for all brownfields sites.

While H.R. 2869 is a first step in addressing brownfields reform, the legislation lacks a critical component that will prevent the clean up and redevelopment of brownfields on a meaningful scale. H.R. 2869 does not include federal liability protections for the clean up of petroleum-contaminated sites under the Resource Conservation and Recovery Act.

By not addressing petroleum liability, half of the brownfields sites in this country have the potential to remain undeveloped under H.R. 2869. EPA has estimated that 200,000 of the 500,000 brownfields sites in the country are petroleum based. It is probably safe to say that almost every congressional district has an abandoned gas station that could be remediated and redeveloped. However, developers will not likely tackle these projects.

Redevelopment of brownfields presents an opportunity to combine Smart Growth principals with economic development. many brownfields, especially petroleum-based sites, are located in urban areas, like my district, or close-in suburbs where whole communities stand to be revitalized through new building and the economic activity it will stimulate. Further, petroleum-contaminated sites are obvious targets for redevelopment because of the well-known and cost-effective remediation technologies currently available for petroleum contamination.

Without liability protections developers will not be willing to take the risk of cleaning up these sites and legislation will fail to meet its goal. Congress needs to address liability protections for petroleum-based sites if we are to achieve meaningful, effective brownfields reform.

Mr. BOEHLERT. Mr. Speaker, I rise in support of H.R. 2869, a comprehensive brownfields and targeted Superfund small business liability relief bill. This is a bipartisan, bicameral compromise that will help protect the environment, restore brownfields, revitalize local economies, and return a little bit of basic fairness to Superfund's liability regime. Unfortunately, the bill does not include a reauthorization of Superfund's corporate environmental income tax and more comprehensive reform of the Superfund statute; and so my enthusiasm today is tempered by feelings of “missed opportunities” and growing concerns about the future of the Superfund Program.

Nonetheless, today's bill is a feat in itself and I want to thank and congratulate all of those who helped over the years and recent months. The nation's mayors and their constituencies see the tremendous opportunities for economic development and environmental protection embodied in brownfields revitalization and they are rallying behind this legislation, just as they did when they began their initiative to “recycle America's land.” The leadership of the House and Senate, the Chairs and ranking members of the authorizing committees and subcommittees, and the administration should all be commended for making today's action possible. Special thanks should go to the committee staff, such as Susan Bodine and Jim Barnette, who have endured the torturous legislative process for years.

It has taken far too long to get to this point. I myself have quite a few “scars” from the many battles that began in the early 90's and culminated in the 105th and 106th Congresses, when I chaired the Committee on Transportation and Infrastructure's Subcommittee on Water Resources and Environment. We moved my comprehensive bill (H.R. 1300) through the committee on an unprecedented, bipartisan vote of 69 to 2. It brought people together because it provided broad-based reform, brownfields revitalization, and called for a responsible reauthorization of Superfund taxes to help maintain the “polluter pays” principle.

I continue to believe such an approach is the right one and that is why I reintroduced the bill as H.R. 324. However, given the complications of moving a more comprehensive bill, I support moving forward today with this more targeted compromise, as long as we also continue to work on other important components of reforming and financing Superfund. H.R. 2869 should be viewed as the first of several steps in securing the fairness, effectiveness, and funding for improving the Nation's approach to hazardous and abandoned waste sites.

Title I of H.R. 2869 responds to the need for Superfund liability reform relating to small businesses. It includes the text of the House-passed bill, H.R. 1831. It provides a “de-micromis” exemption for those who were contributors of truly tiny amounts of waste. It also exempts those who contributed nonhazardous garbage (“municipal solid waste”). Finally, it encourages faster and fairer settlements through “ability to pay” procedures.

Mr. Speaker, the inequities and inefficiencies of the current liability regime continue. One recent example, involving a local newspaper in my district, illustrates the need for limited exemptions and fair share allocations of responsibility. The Rome Sentinel, which disposed of waste at a landfill many decades ago, was notified that it was a potentially responsibility party. Under the current strict, joint, and several liability system, there are not many incentives for a fair and efficient allocation process. Instead, the Government may focus on “deep pockets” who then sue everyone else, large and small, culpable and not-so-culpable, to recover their costs. Even though the newspaper may have contributed only minor amounts of waste (and did so lawfully at the time of the disposal), it faced the prospects of being dragged into a tremendously costly and protracted legal battle in third party lawsuits.

H.R. 2869 will make some modest improvements to the current liability system. More comprehensive reform is needed, however.

Title II includes brownfields legislation that passed the Senate earlier this year by a vote of 99 to 0. It is not perfect legislation, but it is legislation we can and should support. Like the brownfields provisions from my bill last Congress (H.R. 1300), it not only removes barriers to cleanup and redevelopment but it retains a “safety net” for environmental protection and governmental enforcement. It also allows for the application of Davis-Bacon labor protections.

Where should we go from here? Congress and the administration should honor the polluter pays principle. It should heed the findings and conclusions of the July 2001 report by Resources for the Future, “Superfund's Future, What Will it Cost,” that a “ramp-down” of the Superfund program is not imminent and that the total estimated cost to EPA of implementing the Superfund program from FY 2000 through FY 2009 ranges from $14 billion to $16.4 billion.

Therefore, to meet the goals of the cleanup program, to remain true to the polluter pays principle, and to finance the needed liability reforms, Congress should reauthorize the corporate environmental income tax, which expired on December 31, 1995. This broad-based tax of .12% of all corporate income above $2 million could generate needed funds in a fair and responsible manner. Contrary to what some might believe, the oil industry would not pay a disproportionate amount. For example, in 1995 oil companies paid $37.7 million in corporate environmental income taxes, only 5.3 percent of the total amount collected in that year.

In response to my request, the Joint Committee on Taxation estimated on September 24, 2001 that a re-imposed corporate environmental income tax would generate over $3 billion over a 5-year period. This is exactly the type of revenue needed for a program that continues to deliver public health, environmental, and economic development benefits.

Mr. Speaker, I urge my colleagues not only to support passage of H.R. 2869 today but to work towards enactment of broader Superfund reform, including reauthorization of the expired corporate environmental income tax.

Mrs. WILSON of New Mexico. Mr. Speaker, I rise today to express my concern about legislation that the House passed by voice vote early this morning H.R. 2869, the “Small Business Liability Relief and Brownfields Revitalization Act.”

Brownfields redevelopment effectively marries the principles of economic development and environmental protection by slowing the developing of open space by presenting property owners and developers with access to brownfields sites located in desirable locations, with existing infrastructure and affordable pricing. While I am a strong supporters and advocate of brownfields clean up, I am dishearten that H.R. 2869 did not go further to address the entire brownfields problem in this country.

The Environmental Protection Agency (EPA) estimates that approximately one half of the 450,000 brownfields sites in this country are contaminated with some type of petroleum pollution. Unfortunately, H.R. 2869 ignored petroleum-contaminated sites by only including a liability exemption for brownfields sites contaminated with a “hazardous substance” as defined under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Petroleum contamination, which is not considered a “hazardous substance” under CERCLA, is regulated under the Resource Conservation and Recovery Act (RCRA). While H.R. 2869 does include federal grant money for a very specific set of petroleum contaminated sites, I fear that these grants alone will not be an incentive to spur the clean up of petroleum brownfields sites. Without a RCRA liability exemption for petroleum contaminated sites, only half of the brownfields sites in this country have the potential to be redeveloped.

It is my sincere hope that H.R. 2869 only represents a beginning of our intent to address brownfields redevelopment. I hope this Congress will address liability protection for petroleum-contaminated brownfields sites next year so we can truly address the entire brownfields problem in this country. I look forward to working with the leadership and the committees to make comprehensive brownfields redevelopment a reality.

Mr. DINGELL. Mr. Speaker, I am an original co-sponsor of H.R. 2869. This bill combines the brownfields provisions of S. 350 that unanimously passed the Senate on April 25, 2001, and the small business liability protection provisions of H.R. 1831 that unanimously passed the House on May 22, 2001. This bill is a good piece of legislation. It deserves the support of all members.

In the past two Congresses, members on this side of the aisle have put forward, and strongly supported, stand-alone brownfields legislation and targeted relief for small business. Those policies are contained in this bill. The passage of this legislation will help revitalize and redevelop our communities. Using the provisions of this bill, local governments will be able to obtain increased funding and remove urban eyesores and create new jobs. At the same time, risks to the public health from petroleum and hazardous substances contamination will also be addressed at these lesser-contaminated brownfield sites.

In the Detroit metropolitan area alone, which has been home to our country's industrial strength for over 100 years, brownfields cover tens of thousands of acres of lands once occupied by mighty manufacturing facilities and thriving communities. Brownfields development is occurring in Michigan communities like Taylor and Monroe, as local governments, developers, and citizens are finding creative ways to rebuild our communities.

This bill maintains the policies of EPA's current and very successful brownfields program. Adoption of this brownfields legislation is a top priority for our Nation's mayors, who have testified that it meets all of their fundamental needs.

I congratulate Subcommittee Chairman GILLMOR, Ranking Member PALLONE, and our former Ranking Member from New York, Mr. TOWNS, for their hard work over several years on this important legislation.

I strongly urge adoption of H.R. 2869 as amended.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. GILLMOR) that the House suspend the rules and pass the bill, H.R. 2869, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIVE AMERICAN BREAST AND CERVICAL CANCER TREATMENT TECHNICAL AMENDMENT ACT OF 2001

Mr. GILLMOR. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1741) to amend title XIX of the Social Security Act to clarify that Indian women with breast or cervical cancer who are eligible for health services provided under a medical care program of the Indian Health service or of a tribal organization are included in the optional medicaid eligibility category of breast or cervical cancer patients added by the Breast and Cervical Cancer Prevention and Treatment Act of 2000.

The Clerk read as follows:

S. 1741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001".

SEC. 2. CLARIFICATION OF INCLUSION OF INDIAN WOMEN WITH BREAST OR CERVICAL CANCER IN OPTIONAL MEDICAID ELIGIBILITY CATEGORY.

(a) TECHNICAL AMENDMENT.—The subsection (aa) of section 1902 of the Social Security Act (42 U.S.C. 1396a) added by section 2(a)(2) of the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Public Law 106–354; 114 Stat. 1381) is amended in paragraph (4) by inserting ", but applied without regard to paragraph (1)(F) of such section" before the period at the end.

(b) BIPA TECHNICAL AMENDMENTS.—

(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 702(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–572) (as enacted into law by section 1(a)(6) of Public Law 106–554), is amended by redesignating the subsection (aa) added by such section as subsection (bb).

(2) Section 1902(a)(15) of the Social Security Act (42 U.S.C. 1396a(a)(15)), as added by section 702(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–572) (as so enacted into law), is amended by striking "subsection (aa)" and inserting "subsection (bb)".

(3) Section 1915(b) of the Social Security Act (42 U.S.C. 1396n(b)), as amended by section 702(c)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–574) (as so enacted into law), is amended by striking "1902(aa)" and inserting "1902(bb)".

(c) EFFECTIVE DATES.—

(1) BCCPTA TECHNICAL AMENDMENT.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Public Law 106–354; 114 Stat. 1381).

(2) BIPA TECHNICAL AMENDMENTS.—The amendments made by subsection (b) shall take effect as if included in the enactment of section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–572) (as enacted into law by section 1(a)(6) of Public Law 106–554).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. GILLMOR) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. GILLMOR).

GENERAL LEAVE

Mr. GILLMOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative day within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is their objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GILLMOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1741, the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am also in support of the legislation. While this bill is technical in nature, it does basically fill a vacuum and it offers real benefits to low income Native American women who are diagnosed with breast or cervical cancer.

Basically what happened is that in a bill that was passed last year, the interpretation of it has been made so that it excludes Native American women have Medicaid coverage. The legislation today would resolve this problem by clarifying that they would indeed come under the coverage of that initial legislation.

I would point out that Native American and Alaskan Native women have a higher incidence of breast and cervical cancer than the U.S. population generally. So it really is important that we enact this bill to ensure that they receive needed assistance.

The Senate already passed the legislation by unanimous consent. It is supported by a number of health care groups. And I just again want to extend my appreciation and recognition to the lead sponsor, the gentleman from New Mexico (Mr. TOM UDALL) and also commend the gentlewoman from California (Ms. ESHOO) who worked tirelessly on this.

Mr. Speaker, I yield back the balance of my time.

Mr. GILLMOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to point out I do want to express my appreciation to the tremendous work that our staff did on the previous legislation we passed.

Mr. PALLONE. Mr. Speaker, I am pleased to speak today in support of S. 1741, the "Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001." This legislation makes a simple but extremely important technical change to the "Breast and Cervical Cancer Treatment and

Prevention Act" to improve the coverage of breast and cervical cancer treatment for American Indian and Alaska Native women.

The Breast and Cervical Cancer Treatment Act—which Congress passed last year—gives States the option to extend coverage to certain women who have been screened by programs operated under the National Breast and Cervical Cancer Early Detection program of the Public Health Service Act and who have no "creditable coverage." The term "creditable coverage" was established by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under the HIPAA definition, creditable coverage includes a reference to the medical care program of the Indian Health Service (IHS). In short, the reference to "creditable coverage" in the law effectively excludes Indian women from receiving Medicaid breast and cervical cancer treatment as provided for under this act.

The Indian health reference to IHS/tribal care was originally included in HIPAA so that members of Indian tribes eligible for IHS would not be treated as having a break in coverage simply because they had received care through Indian health programs, rather than through a conventional health insurance program. Thus, in the HIPAA context, the inclusion of the IHS/tribal provision was intended to benefit American Indians and Alaska Natives, not penalize them.

However, use of the HIPAA definition in the recent "Breast and Cervical Cancer Treatment and Prevention Act" has the exact opposite effect. In fact, the many Indian women who rely on IHS/tribal programs for basic health care are excluded from the new law's eligibility for Medicaid. Not only does the definition deny coverage to Indian women, but the provision runs counter to the general Medicaid rule treating IHS facilities as full Medicaid providers.

While American Indian and Alaska Native women have a higher incidence of breast and cervical cancer than the U.S. population generally, many Indian women with these conditions will be left with fewer resources to fight breast and cervical cancer because of their exclusion from the new Medicaid coverage option.

This bill, S. 1741, would resolve these problems by clarifying that, for purposes of the "Breast and Cervical Cancer Prevention and Treatment Act," the term "creditable coverage" shall not include IHS-funded care so that American Indian and Alaska Native women can be covered by Medicaid for breast and cervical cancer treatment. Since a number of states are currently moving forward to provide Medicaid coverage under the state option, the need for this legislation is immediate to ensure that American Indian and Alaska Native women are not denied from receiving life-saving breast and cervical cancer treatment.

Up to 40 States have either taken the option and have been granted a Medicaid state plan amendment by HHS already or are in the process of filing a Medicaid state plan amendment to provide coverage to low-income for breast and cervical cancer treatment as a result of the passage of last year's bill. Unfortunately, in all of those states, Native American women may be ineligible for coverage unless we take up this technical correction. Time is of the essence to pass this legislation so that Native American women are appropriately provided treatment for their breast and cervical cancer as States begin implementing this law.

I am pleased today, that we are taking action on this bill. When the time comes for a vote, I urge all of my colleagues to support it and I hope that we may pass this bill before the end of the year.

Mr. WATTS of Oklahoma. Mr. Speaker, it is a fact that American Indian and Alaska Native women have a higher incidence of breast and cervical cancer than the general population of the United States.

Unfortunately, many of these women who are at a higher risk of breast and cervical cancer are also without the life-saving care they need. This is due to the fact that American Indian and Alaska Native women are eligible for breast cancer diagnosis coverage, but not medical treatment.

American Indian and Alaska Native women need the option for more advanced care. The legislation before the House today would improve the coverage of breast and cervical cancer treatment for these Americans by putting them on equal footing with other low-income citizens eligible for Medicaid.

Mr. Speaker, breast and cervical cancer can be the worst nightmares thinkable for women. Thankfully, this Congress has made health care and medical research a top priority—promoting increased health care benefits, empowering patients to get the best care possible and generously funding disease research.

By correcting the system to allow American Indian and Alaska Native women the treatment they need with respect to breast and cervical cancer, we will aid these who need help the most. I thank my colleagues for their work on this important issue and urge passage of the legislation.

Mr. HAYWORTH. Mr. Speaker, I rise today to express my support for the Native American Breast and Cervical Cancer Treatment Technical Amendment Act.

I am a cosponsor of this important legislation that would make a simple but extremely technical change to the "Breast Cancer and Cervical Treatment and Prevention Act" (P.L. 106–354). The legislation would improve the coverage of breast and cervical cancer treatment for American Indian and Alaska Native women.

The Breast and Cervical Cancer Treatment Act, which Congress passed last year, gives states the option to extend coverage to certain women who have been screened by programs operated under title XV of the Public Health Service Act (the National Breast and Cervical Cancer Early Detection program) and who have no "creditable coverage." The term "creditable coverage" was established by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under the HIPAA definition, creditable coverage includes a reference to the medical care program of the Indian Health Service (IHS). In short, the reference to "creditable coverage" in the law effectively excludes Native American women from receiving Medicaid breast and cervical cancer treatment as provided for under this act.

The Native American health reference to IHS/tribal care was originally included in HIPAA so that members of Indian tribes eligible for IHS would not be treated as having a break in coverage (and thus subject to pre-existing exclusions and waiting periods when seeking health insurance) simply because they had received care through Indian health programs, rather than through a conventional health insurance program. Thus, in the HIPAA context, the inclusion of the IHS/tribal provision was intended to benefit American Indians and Alaska Natives, not penalize them.

However, use of the HIPAA definition in the recent "Breast and Cervical Cancer Treatment and Prevention Act" has the exact opposite effect. In fact, the many Indian women who rely on IHS/tribal programs for basic health care are excluded form the new law's eligibility for Medicaid.

Not only does the definition deny coverage to Indian women, but the provision also runs counter to the general Medicaid rule treating IHS facilities as full Medicaid providers.

This legislation would resolve these problems by clarifying that, for purposes of the "Breast and Cervical Cancer Prevention and Treatment Act," the term "creditable coverage" shall not include IHS-funded care so that American Indian and Alaska Native women can be covered by Medicaid for breast and cervical cancer treatment.

Since a number of States are currently moving forward to provide Medicaid coverage under the state option, the need of this legislation is immediate to ensure that American Indian and Alaska Native women are not denied life-saving breast and cervical cancer treatment.

I urge my colleagues to vote yes on the Native American Breast and Cervical Cancer Treatment Technical Amendment Act that is critically important to many American Indian and Native Alaskan Women.

Mr. DINGELL. Mr. Speaker, I rise today in support of the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001. While this bill is technical in nature, it offers real benefits to low-income Native American women who are diagnosed with breast or cervical cancer.

The bill makes a technical correction to legislation that Congress enacted last year, the Breast and Cervical Cancer Treatment and Prevention Act. Last year's legislation allowed States, at their option, to cover low-income women diagnosed with breast or cervical cancer through the Centers for Disease Control and Prevention screening program under Medicaid. The bill, however, inadvertently excluded Native American women from receiving assistance under this option due to an underlying definition of "creditable coverage" intended to protect Native Americans receiving health services through Indian Health Services in the context of the Health Insurance Portability and Accountability Act. Unfortunately, in this instance, the definition had the effect of excluding Native American women from coverage rather than protecting them. The legislation before us today will resolve this problem by clarifying the term "creditable coverage."

While Native American and Alaskan Native women have a higher incidence of breast and cervical cancer than the U.S. population generally, the exclusion from the new Medicaid coverage option leaves Native American women with fewer resources to fight their breast and cervical cancer. This legislation needs quick enactment to ensure that Native American and Alaskan Native women receive this needed assistance.

The Senate already passed this legislation by unanimous consent. This bill is supported by the American College of Obstetricians and Gynecologists and American Cancer Society among others. I am pleased that the House will address this very important issue this year.

I wish to extend my appreciation and recognition as well to my colleagues on both sides of the aisle who have worked on this issue, including the lead sponsor Representative TOM UDALL. I also want to commend Representative ANNA ESHOO, who worked tirelessly last year to make this State option under Medicaid a reality. I urge my colleagues to join me in supporting this bill.

Mr. GILLMOR. Mr. Speaker, I yield back the balance of my time.

□ 0500

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Ohio (Mr. GILLMOR) that the House suspend the rules and pass the Senate bill, S. 1741.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HASTINGS of Florida (at the request of Mr. GEPHARDT) for today and the balance of the week on account of personal reasons.

Mr. LUTHER (at the request of Mr. GEPHARDT) for today on account of family matters.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:

Mr. MASCARA, for 5 minutes, today.

Ms. BERKLEY, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

SENATE JOINT RESOLUTION AND CONCURRENT RESOLUTION REFERRED

A joint resolution and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 13. Joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette; to the Committee on the Judiciary.

S. Con. Res. 80. Concurrent resolution expressing the sense of Congress regarding the 30th anniversary of the enactment of the Federal Water Pollution Control Act; to the Committee on Transportation and Infrastructure.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on December 18, 2001 he presented to the President of the United States, for his approval, the following bills.

H.R. 483. Regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon.

H.R. 1291. To amend title 38, United States Code, to modify and improve authorities relating to education benefits, compensation and pension benefits, housing benefits, burial benefits, and vocational rehabilitation benefits for veterans, to modify certain authorities relating to the United States Court of Appeals for Veterans Claims, and for other purposes.

H.R. 2559. To amend chapter 90 of title 5, United States Code, relating to Federal long-term care insurance.

H.R. 2883. To authorize appropriations for fiscal year 2002 for intelligence and intelligence related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 3323. To ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes.

H.R. 3442. To establish the National Museum of African American History and Culture Plan for Action Presidential Commission to develop a plan of action for the establishment and maintenance of the National Museum of African American History and Culture in Washington, D.C., and for other purposes.

ADJOURNMENT

Mr. GILLMOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 1 minute a.m.), the House adjourned until today, Thursday, December 20, 2001, at 10 a.m.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat.22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will sell and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 107th Congress, pursuant to the provisions of 2 U.S.C. 25:

Honorable JOE WILSON, 2nd South Carolina.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4929. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Sodium thiosulfate; Exemption from the Requirement of a Tolerance [OPP-301196; FRL-6811-6] (RIN: 2070-AB78) received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4930. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Imazapic; Pesticide Tolerance [OPP-301198; FRL-6816-2] (RIN: 2070-AB78) received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4931. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Fluthiacet-methyl; Pesticide Tolerance [OPP-301184; FRL-6806-7] (RIN: 2070-AB78) received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4932. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

4933. A letter from the Director, Office of Management and Budget, transmitting appropriations reports, as required by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; to the Committee on the Budget.

4934. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators; State of Kansas [KS 0145-1145a; FRL-7120-2] received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4935. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Tennessee: Final Authorization of State Hazardous Waste Management

Program Revision [FRL–7121–1] received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4936. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Kentucky: Final Authorization of State Hazardous Waste Management Program Revision [FRL–7120–8] received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4937. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Redesignation of Lafourche Parish Ozone Nonattainment Area to Attainment for Ozone [LA–55–1–7485a; FRL–7121–4] received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4938. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Section 112(I) Authority for Hazardous Air Pollutants; District of Columbia; Department of Health [DC001–1000; FRL–7121–7] received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4939. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Amendment to the List of Proscribed Destinations—received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

4940. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the redesignation as "foreign terrorist organizations" pursuant to Section 219 of the Immigration and Nationality Act, as added by the Antiterrorism and Effective Death Penalty Act of 1996, and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; to the Committee on International Relations.

4941. A letter from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Listing the Tumbling Creek Cavesnail as Endangered (RIN: 1018–AI19) received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4942. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Pennsylvania Regulatory Program [PA–122–FOR] received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4943. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—West Virginia Regulatory Program [WV–093–FOR] received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4944. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Iowa Regulatory Program [IA–012–FOR] received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4945. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone Regulations: Savannah, GA [COTP SAVANNAH–01–022] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4946. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Windsor Beach State Park, Lake Havasu, Colorado River, AZ [COTP San Diego, CA; 01–001] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4947. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations: Mile Marker 94.0 to 96.0, Lower Mississippi River, Above Head of Passes [COTP New Orleans, LA 01–07] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4948. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30280; Amdt. No. 2079] received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4949. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30276; Amdt. No. 2076] received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4950. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30277; Amdt. No. 2077] received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4951. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30279; Amdt. No. 2078] received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4952. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace, Logan, UT [Airspace Docket No. 01–ANM–14] received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4953. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E5 Airspace; Reform, AL [Airspace Docket No. 01–ASO–3] received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4954. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes [Docket No. 98–NM–122–AD; Amendment 39–12475; AD 2001–21–04] (RIN: 2120–AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4955. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F.28 Series Airplanes [Docket No. 2001–NM–208–AD; Amendment 39–12487; AD 2001–22–08] (RIN: 2120–AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4956. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations: Mile Marker 94 to 96, Lower Mississippi River, Above Head of Passes [COTP New Orleans, LA 01–006] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4957. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes [Docket No. 2001–NM–21–AD; Amendment 39–12453; AD 2001–20–05] (RIN: 2120–AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4958. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations: Mile Marker 95 to 96, Lower Mississippi River, Above Head of Passes [COTP New Orleans, LA 01–005](RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4959. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone Regulations: Mile 95.5, Erato Street Wharf, extending 300 feet around the USS AUSTIN (LDP–4), Lower Mississippi River, Above Head of Passes [COTP New Orleans, LA 01–004] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4960. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes [Docket No. 2000–NM–68–AD; Amendment 39–12488; AD 2001–22–09] (RIN: 2120–AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4961. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting The Department's final rule—Safety Zone Regulations: Mile Marker 95 to 98, Lower Mississippi River, Above Head of Passes [COTP New Orleans, LA 01–002] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4962. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting The Department's final rule—Security Zone Regulations: Port of Gulfport, Mississippi; Gulfport Harbor, North Basin, East Terminal Berth 2 and 3, extending a radius of 150 foot surrounding the USS ASHLAND (LSD–48) (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4963. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone Regulations: Mobile River, Alabama State Docks, extending for a radius of 150 feet around the USS GUNSTON (LSD 44), USS CORMORANT (MHC 57), and USS SHRIKE (MHC 62) [COTP Mobile, AL 01-003] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4964. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulation [COTP Memphis, TN Regulation 01–004] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4965. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulation [COTP Memphis, TN Regulation 01–002] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4966. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulation [COTP Memphis, TN Regulation 01–003] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4967. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Demolition of the Hennepin Bridge, Hennepin, Illinois [CGD09–01–007] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4968. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zones, Security Zones, and Special Local Regulations [USCG–2001–9668] (RIN: 2115–AA97) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMIMTTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of New Jersey: Committee on Veterans' Affairs. H.R. 3423. A bill to amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery; with amendments (Rept. 107–346). Referred to the Committee of the Whole House on the State of the Union.

Mr. SAXTON: Report of the Joint Economic Committee on the 2001 Economic Report of the President (Rept. 107–347). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 320. Resolution providing for consideration of the bill (H.R. 3529) to provide tax incentives for economic recovery and assistance to displaced workers (Rept. 107–348). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 321. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 107–349). Referred to the House Calendar.

Mr. LEWIS of California: Committee of Conference. Conference report on H.R. 3338. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–350). Ordered to be printed.

[December 20 (legislative day of December 19), 2001]

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 322. Resolution providing for consideration of a joint resolution appointing the day for the convening of the second session of the One Hundred Seventh Congress (Rept. 107–351). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 323. Resolution providing for consideration of the joint resolution (H.J. Res. 79) making further continuing appropriations for the fiscal year 2002, and for other purposes (Rept. 107–352). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 324. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–353). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

[December 20 (legislative day of December 19), 2001]

H.R. 556. Referral to the Committee on the Judiciary extended for a period ending not later than March 29, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SCHAFFER (for himself, Mr. Udall of New Mexico, Mr. Combest, Mr. Lucas of Oklahoma, and Mr. Stenholm):

H.R. 3522. A bill to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System; to the Committee on Transportation and Infrastructure.

By Mr. ISSA:

H.R. 3523. A bill to direct the Secretary of the Interior to take action with respect to a fee into trust application submitted by the Pechanga Band of Luiseno Mission Indians; to the Committee on Resources.

By Mr. GEORGE MILLER of California (for himself, Mr. Andrews, Mr. Owens, Mr. Moran of Virginia, Mr. Hinojosa, Ms. Lee, Mr. Frank, Ms. Woolsey, Mr. Green of Texas, Mr. Kildee, Ms. McCollum, Mr. Abercrombie, Mr. McGovern, Ms. DeLauro, Mr. Nadler, Mr. Brown of Ohio, Mr. Stark, and Mrs. McCarthy of New York):

H.R. 3524. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide access to early care and education so that families can work and children can receive quality custodial care; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SENSENBRENNER.

H.R. 3525. A bill to enhance the border security of the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Intelligence (Permanent Select), International Relations, Ways and Means, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; which was considered and passed.

By Mr. GILMAN:

H.R. 3526. A bill to suspend temporarily the duty on (2-benzothiazolythio) butanedioic acid; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 3527. A bill to suspend temporarily the duty on 60–70% amine salt of 2-benzothiazolythio succinic acid in solvent; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 3528. A bill to suspend temporarily the duty on 4–Methyl-g-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1); to the Committee on Ways and Means.

By Mr. THOMAS:

H.R. 3529. A bill to provide tax incentives for economic recovery and assistance to displaced workers; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Energy and Commerce, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; which was considered and passed.

By Mr. HOUGHTON (for himself, Mr. Becerra, Mr. Boehlert, and Mr. Coyne):

H.R. 3530. A bill to amend the Internal Revenue Code of 1986 to clarify that certain settlement funds established under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 are beneficially owned by the United States and are not subject to tax; to the Committee on Ways and Means.

By Mr. HOYER:

H.R. 3531. A bill to authorize appropriations for salaries and expenses of the United States Capitol Police, and for other purposes; to the Committee on House Administration.

By Mr. ANDREWS:

H.R. 3532. A bill to require the establishment of programs by the Administrator of the Environmental Protection Agency, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Health and Human Services to improve indoor air quality in schools and other buildings; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BIGGERT:

H.R. 3533. A bill to amend the Fair Debt Collection Practices Act to clarify the relationship between such Act and rules of civil procedure, and for other purposes; to the Committee on Financial Services.

By Mr. CARSON of Oklahoma (for himself, Mr. Watkins, Mr. Kildee, and Mr. Largent):

H.R. 3534. A bill to provide for the settlement of certain land claims of Cherokee, Choctaw, and Chickasaw Nations to the Arkansas Riverbed in Oklahoma; to the Committee on Resources.

By Mr. DEMINT (for himself and Mr. Armey):

H.R. 3535. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to preserve and strengthen the Social Security Program through the creation of individual Social Security accounts ensuring full benefits for all workers and their families, giving Americans ownership of their retirement, restoring long-term Social Security solvency, and for other purposes; to the Committee on Ways and Means.

By Mr. CLEMENT:

H.R. 3536. A bill to clarify authority of States to establish licensing and training programs for new positions and categories of nursing assistants to relieve the shortage of nurses and the availability of Medicare funding for such new positions and categories; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CROWLEY:

H.R. 3537. A bill to direct the Secretary of Transportation to establish a pilot program to facilitate the use of natural gas buses at public airports through grants for energy demonstration and commercial application of energy technology, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CUBIN (for herself and Mr. Carson of Oklahoma):

H.R. 3538. A bill to amend the Mineral Leasing Act to reduce impediments to the prompt development of natural gas and oil resources on Federal lands; to the Committee on Resources.

By Mr. DEUTSCH:

H.R. 3539. A bill to provide for the transfer of certain real property by the Secretary of Housing and Urban Development; to the Committee on Government Reform.

By Mr. GEKAS (for himself and Mr. Costello):

H.R. 3540. A bill to amend title XVIII of the Social Security Act to extend the minimum Medicare deadlines for filing claims to take into account delay in processing adjustments from secondary payor status to primary payor status; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREEN of Wisconsin:

H.R. 3541. A bill to explicitly authorize religious organizations and organizations having religious purposes to participate in certain housing assistance programs of the Department of Housing and Urban Development; to the Committee on Financial Services.

By Mr. GREEN of Wisconsin:

H.R. 3542. A bill to amend title 18, United States Code, to include scientific materials in the definition of material support for the purposes of the prohibition against giving material support to terrorists; to the Committee on the Judiciary.

By Mr. HYDE (for himself and Mr. Frank):

H.R. 3543. A bill to modify the application of the antitrust laws to authorize collective negotiations among playwrights and producers regarding the development, licensing, and production of plays; to the Committee on the Judiciary.

By Mrs. McCARTHY of New York (for herself, Ms. Lee, Mr. Frost, Mr. Owens, Mr. Pascrell, Mr. Abercrombie, Mr. Serrano, Mr. Fossella, Mr. Hinchey, Mr. Pallone, Mr. Nadler, and Mr. McNulty):

H.R. 3544. A bill to provide for a congressional medal of appropriate design to be awarded by the President to civilians killed or wounded in terrorist attacks; to the Committee on Financial Services.

By Mr. MURTHA:

H.R. 3545. A bill to amend title XVIII of the Social Security Act to increase by 20 percent the payment under the Medicare Program for ambulance services furnished to Medicare beneficiaries in rural areas, to determine rural areas based on population density, and to require the use of recent data in determining payment adjustments; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OTTER (for himself and Mr. Simpson):

H.R. 3546. A bill to increase the Government's share of development project costs at certain qualifying airports; to the Committee on Transportation and Infrastructure.

By Mr. PETERSON of Minnesota (for himself and Mr. Green of Texas):

H.R. 3547. A bill to protect the public's ability to fish for sport, and for other purposes; to the Committee on Resources.

By Mr. SIMMONS (for himself, Mrs. Johnson of Connecticut, Mr. Green of Wisconsin, Mr. Maloney of Connecticut, and Mr. Shays):

H.R. 3548. A bill to provide for uniform recognition of Indian tribes by the Bureau of Indian Affairs, and for other purposes; to the Committee on Resources.

By Mr. SWEENEY:

H.R. 3549. A bill to provide indemnification and liability protection to, and facilitate the procurement of insurance for, contractors responding to the World Trade Center attacks; to the Committee on the Judiciary.

By Mr. TIAHRT (for himself and Mr. Weldon of Florida):

H.R. 3550. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for maintaining a strong travel and tourism industry, and for other purposes; to the Committee on Ways and Means.

By Mr. WICKER:

H.R. 3551. A bill to provide that, in establishing wage schedules for certain prevailing rate employees with respect to whom the Government is currently experiencing recruitment and retention problems, rates of pay for comparable positions in the nearest, most similar wage area shall be taken into account; to the Committee on Government Reform.

By Mr. YOUNG of Florida:

H.J. Res. 79. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes; to the Committee on Appropriations.

By Mr. McCRERY:

H. Con. Res. 292. Concurrent resolution supporting the goals of the Year of the Rose; to the Committee on Government Reform.

By Mr. CROWLEY (for himself, Mr. King, and Mr. Cantor):

H. Con. Res. 293. Concurrent resolution expressing the sense of the Congress that the United Nations should suspend the membership of any state identified as a sponsor of terrorism by the Department of State; to the Committee on International Relations.

By Mr. SIMMONS:

H. Con. Res. 294. Concurrent resolution expressing the sense of the Congress that the Secretary of the Navy should name a new naval vessel the "U.S.S. Bluejacket"; to the Committee on Armed Services.

By Mrs. MALONEY of New York (for herself, Mrs. Kelly, Mrs. McCarthy of New York, Mr. Hinchey, Mr. Towns, Mr. Grucci, Mr. Israel, Mr. Serrano, Mr. King, Mr. Nadler, Mr. Meeks of New York, and Mr. Engel):

H. Res. 325. A resolution recognizing the courage and professionalism of the New York City public school community during and after the terrorist attack on the World Trade Center on September 11, 2001, and supporting Federal assistance to New York City public schools; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 68: Ms. Velázquez.

H.R. 218: Mr. Moore, Mr. Boswell, and Ms. Sanchez.

H.R. 318: Mr. Wu.

H.R. 476: Mr. Grucci.

H.R. 535: Mr. Barr of Georgia.

H.R. 547: Mrs. Morella.

H.R. 600: Mr. Pascrell, Mr. Olver, and Mr. Saxton.

H.R. 662: Mr. Paul.

H.R. 747: Mr. Honda.

H.R. 840: Mr. Engel.

H.R. 854: Ms. Kaptur.

H.R. 912: Mr. Doyle and Mr. Traficant.

H.R. 975: Mr. Quinn.

H.R. 978: Mr. Filner.

H.R. 986: Mr. Ehrlich.

H.R. 1083: Mr. Luther.

H.R. 1155: Ms. Solis and Mr. Sununu.

H.R. 1186: Mr. Rush.

H.R. 1194: Mr. Kildee.

H.R. 1220: Mr. Pascrell.

H.R. 1262: Mr. Rothman.

H.R. 1296: Mr. Saxton.

H.R. 1305: Mr. Etheridge.

H.R. 1309: Mr. Gilchrest.

H.R. 1330: Mr. Rush.

H.R. 1353: Mr. Rogers of Kentucky.

H.R. 1354: Mr. Delahunt and Mr. Quinn.

H.R. 1433: Mr. Honda.

H.R. 1435: Mr. Kennedy of Rhode Island and Mr. Schiff.

H.R. 1436: Mr. Quinn.

H.R. 1494: Mr. Kennedy of Rhode Island.

H.R. 1609: Mr. Gutknecht and Mr. Quinn.

H.R. 1642: Mr. Lynch.

H.R. 1700: Mr. Kildee.

H.R. 1841: Mrs. Maloney of New York and Mrs. Jones of Ohio.

H.R. 1897: Mr. Moore, Mr. Davis of Illinois, and Mr. Quinn.

H.R. 1948: Mr. WHITFIELD.

H.R. 2037: Mr. OSE, Mr. KANJORSKI, Mr. MICA, Mr. BONILLA, Mr. WELDON of Pennsylvania, Mr. ROYCE, and Mr. CLEMENT.

H.R. 2071: Mr. OLVER.

H.R. 2073: Mr. LARSEN of Washington.

H.R. 2160: Mr. MOORE.

H.R. 2163: Mr. REYES.

H.R. 2173: Mr. ALLEN.

H.R. 2220: Mr. RUSH, Mr. DAVIS of Illinois, and Mr. PAYNE.

H.R. 2292: Mr. FOSSELLA.

H.R. 2316: Mr. SAXTON, Mr. HASTINGS of Washington, and Mr. WATKINS.

H.R. 2379: Mrs. MORELLA, Mr. TOWNS, Mr. MCHUGH, and Mr. HOLT.

H.R. 2486: Mr. UDALL of Colorado.

H.R. 2523: Mr. HASTINGS of Florida.

H.R. 2527: Mr. LAMPSON and Mr. ROTHMAN.

H.R. 2592: Mr. SABO and Mr. ANDREWS.

H.R. 2605: Mr. FILNER.

H.R. 2629: Mr. BARTON of Texas.

H.R. 2638: Mr. GEORGE MILLER of California and Mr. JOHNSON of Illinois.

H.R. 2684: Mr. WALDEN of Oregon.

H.R. 2763: Mr. SOUDER.

H.R. 2805: Mr. GRUCCI.

H.R. 2974: Mr. MCDERMOTT, Mr. TOM DAVIS of Virginia, and Mr. ENGLISH.

H.R. 2996: Mr. LARSEN of Washington and Mr. PLATTS.

H.R. 3006: Mr. LARGENT and Mr. GRUCCI.

H.R. 3007: Mr. HASTINGS of Florida and Mr. FOLEY.

H.R. 3058: Mr. NADLER, Mr. TOM DAVIS of Virginia, Mr. PASTOR, Mr. GILCHREST, Mr. OLVER, Mr. DELAHUNT, Mr. FORBES, Mr. HALL of Ohio, Mr. HOBSON, Ms. SLAUGHTER, Ms. BERKLEY, Mr. PAYNE, Mr. KENNEDY of Rhode Island, Mr. TIERNEY, Mr. SMITH of New Jersey, Mr. WEINER, Mr. WEXLER, Mr. TOWNS, Mr. LARSEN of Washington, Ms. HOOLEY of Oregon, Mrs. TAUSCHER, Mr. MCGOVERN, Mr. BLAGOJEVICH, Mr. BORSKI, Mr. ANDREWS, Mr. CAPUANO, Mr. FERGUSON, Mr. WYNN, Mr. HILLIARD, Mr. THOMPSON of Mississippi, Mr. ABERCROMBIE, Mr. BILIRAKIS, Mr. RAHALL, Mr. ROTHMAN, Mr. SUNUNU, and Mr. BOSWELL.

H.R. 3080: Mrs. CHRISTENSEN, Mr. OWENS, Mr. CONYERS, Mr. PAYNE, and Mr. BRADY of Pennsylvania.

H.R. 3109: Mr. PLATTS, Mr. HOLT, and Mr. ROTHMAN.

H.R. 3132: Mr. KUCINICH.

H.R. 3175: Ms. WOOLSEY.

H.R. 3185: Mr. BONIOR, Mr. ENGEL, Mr. KUCINICH, and Mr. PLATTS.

H.R. 3211: Mr. BACHUS.

H.R. 3217: Mr. DINGELL.

H.R. 3230: Mr. PRICE of North Carolina and Mr. MCNULTY.

H.R. 3238: Mr. MOORE.

H.R. 3250: Mr. GEORGE MILLER of California.

H.R. 3278: Mr. WAMP.

H.R. 3284: Mr. LANTOS.

H.R. 3292: Mr. GRAVES.

H.R. 3318: Mr. HOEFFEL and Ms. LEE.

H.R. 3331: Mr. BRADY of Pennsylvania.

H.R. 3339: Mr. BALDACCI and Mr. PAYNE.

H.R. 3351: Mr. WALDEN of Oregon, Ms. ROS-LEHTINEN, Mr. REYNOLDS, Mr. MICA, Mr. TANNER, Mr. SMITH of Texas, Mr. THOMPSON of Mississippi, Ms. LEE, Mr. PAYNE, Mr. LARGENT, Mr. OWENS, Mr. MOORE, and Mr. GIBBONS.

H.R. 3360: Mr. HALL of Texas, Mr. BROWN of Ohio, Mr. HOUGHTON, Mr. CALLAHAN, Mr. REYES, Mr. SHAW, Mr. DAVIS of Illinois, Mr. LAFALCE, Mr. LUCAS of Oklahoma, Mrs. WILSON of New Mexico, Mr. LEACH, Mr. MICA, Mr. HILLIARD, Mr. CRAMER, Mr. SHOWS, Mr. MARKEY, and Mr. ROGERS of Kentucky.

H.R. 3368: Mr. LANTOS.

H.R. 3375: Mr. FORD, Mr. WAMP, Mr. HONDA, Mrs. EMERSON, Mr. KUCINICH, Mr. HOYER, Mrs. MEEKS of Florida, and Mr. TIAHRT.

H.R. 3390: Mr. PRICE of North Carolina.

H.R. 3397: Mr. GEKAS.

H.R. 3407: Mr. BACA.

H.R. 3414: Mr. SANDLIN, Mr. PRICE of North Carolina, Mr. WEXLER, Ms. DEGETTE, Mr. SHIMKUS, Ms. KAPTUR, Mr. DAVIS of Illinois, Mr. KENNEDY of Rhode Island, Mr. KIRK, Mr. ETHERIDGE, Ms. BROWN of Florida, and Mrs. TAUSCHER.

H.R. 3415: Mr. ABERCROMBIE, Mr. SANDERS, and Mr. SAWYER.

H.R. 3424: Mr. SCHAFFER, Mr. BACA, Ms. GRANGER, Mr. TANCREDO, Mr. BURR of North Carolina, Mr. THOMPSON of California, Mr. ADERHOLT, Mr. HOLT, and Mr. LUCAS of Kentucky.

H.R. 3431: Mr. WHITFIELD, Mr. LANGEVIN, and Mr. MORAN of Virginia.

H.R. 3443: Mr. CALVERT, Mr. COX, Mr. TOM DAVIS of Virginia, Mr. DREIER, Mr. EHLERS, Mr. HERGER, Mr. HUNTER, Mr. MCGOVERN, Mr. MCKEON, Mr. GARY G. MILLER of California, Mr. OSBORNE, Mr. OSE, Mr. ROHRABACHER, Mr. ROYCE, Mr. SHAYS, Mr. SAXTON, Mr. THOMAS, Mr. SCHAFFER, Mr. TERRY, and Mr. LEACH.

H.R. 3450: Mr. SWEENEY, Mr. BEREUTER, Mr. GRAHAM, Mr. BORSKI, Mr. DAVIS of Illinois, Mr. FILNER, Mr. PASTOR, Mrs. MEEK of Florida, Mr. STUPAK, and Mr. WALSH.

H.R. 3460: Mr. STUPAK and Mr. UDALL of Colorado.

H.R. 3462: Mr. BARTON of Texas and Mr. TOWNS.

H.R. 3466: Mr. BEREUTER and Mr. STUPAK.

H.R. 3471: Mr. ENGEL, Mr. LUCAS of Kentucky, Mr. NADLER, Mr. MCGOVERN, Ms. MILLENDER-MCDONALD, Ms. JACKSON-LEE of Texas, Ms. DELAURO, Mr. BERRY, and Mr. SKELTON.

H.R. 3479: Mr. CRAMER, Mr. BECERRA, Mr. QUINN, Ms. KAPTUR, Mr. KUCINICH, Mr. THOMPSON of California, Mr. GEORGE MILLER of California, Mr. FROST, Mr. EDWARDS, Mr. MCNULTY, Mr. UDALL of New Mexico, and Mr. RANGEL.

H.R. 3487: Mr. MALONEY of Connecticut, Mr. KENNEDY of Minnesota, and Mr. STUPAK.

H.R. 3494: Mr. KUCINICH, Mr. ACKERMAN, Mr. OWENS, Ms. RIVERS, Ms. MCCARTHY of Missouri, and Ms. WOOLSEY.

H.R. 3495: Mr. TANCREDO.

H.R. 3498: Mr. FROST.

H. Con. Res. 222: Mr. HEFLEY.

H. Con. Res. 230: Mr. GUTIERREZ.

H. Con. Res. 240: Ms. WOOLSEY.

H. Con. Res. 245: Mr. MCGOVERN, Mr. ENGLISH, Mr. WOLF, Mr. MCNULTY, Mr. BONIOR, Mr. LIPINSKI, Mr. FROST, Mr. FORD, Ms. SLAUGHTER, Mr. ROGERS of Kentucky, Mr. WALSH, Mr. LUCAS of Kentucky, Mr. SHUSTER, and Ms. HART.

H. Con. Res. 247: Mr. FILNER.

H. Con. Res. 249: Mrs. MINK of Hawaii, Ms. SCHAKOWSKY, Mr. LUCAS of Kentucky, Mr. SHOWS, Mr. ROSS, and Mr. SANDERS.

H. Con. Res. 265: Mr. GOODLATTE and Mr. HASTINGS of Florida.

H. Con. Res. 284: Mr. HORN.

H. Res. 259: Mr. DUNCAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3427: Ms. ROS-LEGHTINEN.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 5. Wednesday, December 19, 2001, by Mr. KUCINICH on House Resolution 304, was signed by the following Members: Dennis J. Kucinich, Danny K. Davis, Frank Mascara, Bill Pascrell, Jr., Stephanie Tubbs Jones, Marcy Kaptur, Earl F. Hilliard, Diane E. Watson, Lynn N. Rivers, Lane Evans, Ted Strickland, Jerrold Nadler, Frank Pallone, Jr., Robert E. Andrews, Dale E. Kildee, Jesse L. Jackson, Jr., Grace F. Napolitano, Tom Lantos, Bernard Sanders, Peter A. DeFazio, William Lacy Clay, Major R. Owens, James L. Oberstar, David E. Bonior, James R. Langevin, Brad Carson, Sanford D. Bishop, Jr., Albert Russell Wynn, Maxine Waters, John Lewis, Barbara Lee, Stephen F. Lynch, Carolyn C. Kilpatrick, James A. Barcia, Eddie Bernice Johnson, Sherrod Brown, Karen L. Thurman, Bart Gordon, Max Sandlin, Michael E. Capuano, Louise McIntosh Slaughter, Robert C. Scott, Rosa L. DeLauro, Sheila Jackson-Lee, Maurice D. Hinchey, John W. Olver, Martin Frost, William O. Lipinski, Bobby L. Rush, Janice D. Schakowsky, Juanita Millender-McDonald, Sam Farr, Carolyn McCarthy, Peter Deutsch, James P. McGovern, Lynn C. Woolsey, William D. Delahunt, Nydia M. Velázquez, Brad Sherman, James H. Maloney, Ed Pastor, Cynthia A. McKinney, Thomas H. Allen, Karen McCarthy, Donald M. Payne, Susan A. Davis, Jose E. Serrano, Hilda L. Solis, Tom Udall, George Miller, Dennis Moore, Tammy Baldwin, Joseph M. Hoeffel, Joe Baca, Patsy T. Mink, Luis V. Gutierrez, John Conyers, Jr., Bennie G. Thompson, Loretta Sanchez, Neil Abercrombie, Jerry F. Costello, Elijah E. Cummings, Jim Turner, Bob Filner, Julia Carson, Betty McCollum, Eliot L. Engel, Mike Thompson, Gregory W. Meeks, Bart Stupak, Barney Frank, Eva M. Clayton, Melvin L. Watt, Steny H. Hoyer, Steven R. Rothman, Michael F. Doyle, Rush D. Holt, Michael M. Honda, Ike Skelton, Corrine Brown, John B. Larson, David D. Phelps, John Elias Baldacci, Robert A. Brady, Ciro D. Rodriguez, Harold E. Ford, Jr., Benjamin L. Cardin, Edolphus Towns, Lois Capps, Chaka Fattah, Robert T. Matsui, Adam B. Schiff, Nancy Pelosi, Nita M. Lowey, Baron P. Hill, Patrick J. Kennedy, James E. Clyburn, Nick J. Rahall II, Joseph Crowley, Steve Israel, Michael R. McNulty, and Thomas M. Barrett.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 3, by Mr. TURNER on House Resolution 203: Alcee L. Hastings, Eddie Bernice Johnson, Greg Ganske, and Peter J. Visclosky.

Petition 4, by Mr. RANDY "DUKE" CUNNINGHAM on House Resolution 218: Brian D. Kerns.

EXTENSIONS OF REMARKS

IN RECOGNITION OF BOWIE HIGH SCHOOL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. HOYER. Mr. Speaker, I rise today to give recognition to the football team of Bowie High School for winning the Maryland State Football Championship. An estimated ten thousand fans were in attendance at Byrd Stadium on the Campus of the University of Maryland to witness Bowie High School's first ever division 4A football championship.

On December 1st, Bowie completed their season with a 23–6 victory over rival and previously unbeaten Eleanor Roosevelt High School. The game was the first All-Prince George's County title game since 1983, and the first time Bowie High School has played for the championship since 1987. The victory capped an outstanding season for Coach Scott Chadwick and his Bulldogs.

The championship culminated an incredible revival of the football program. When athletic director Bob Estes was hired two years ago, the football program had not had a winning record since 1988. The team had a 38–61 record from 1989 to 1997, including six years with less than four wins. Since Head Coach Chadwick took over the team four years ago, they have increased their win total each year, and now have a championship trophy.

Bowie High School's first championship is especially gratifying for the fans that have been vocally and passionately supporting the team throughout the year. Many parents of the team have been actively involved in the school's pep rallies and have stuck with the team throughout some tough years.

I applaud the efforts of the team members, their coaching staff, their fans, the school system and the Bowie Community for a winning season and for being the Maryland State Football Champions.

Mr. Speaker, and colleagues, please join with me in wishing the Bowie High School football team continued success and congratulations on their outstanding achievement.

STUDENT VISAS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. GEORGE MILLER of California. Mr. Speaker, I rise in support of the International Student Responsibility Act, which I am introducing today.

Each year, over 500,000 international students enter the United States to study at our colleges, universities, and trade schools. The vast majority of these students contributes to the intellectual achievements of our universities, promotes understanding across cultures, and acquires an appreciation for the American values of freedom and democracy.

I am troubled, however, that the poor administration of the student visa program has become a threat to national security. At least one of the September 11th hijackers entered the country on a student visas, as did one of the 1993 World Trade Center bombers. Last year, a congressional commission on terrorism concluded that national security requires tighter monitoring of the status of foreign students.

On October 31, 2001, two subcommittees of the Committee on Education and the Workforce held a hearing on the student visa program. We discovered some gaping loopholes.

For example, all the information in student visa applications is reported by the international student. There is no due diligence requirement from home countries to ensure that this information is accurate and that the student is trustworthy.

Second, the State Department does not notify the college when a visa is granted, nor does the Immigration and Naturalization Service promptly notify the college when the student enters the country. The last contact the college had with the student may have been granting admission. If the student enters the country but doesn't show up on campus, neither the college nor the INS may know anything went wrong for a year or longer.

Third, the INS is lagging behind schedule implementing the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which requires data collection on international students' enrollment status and current address. Without that database, the INS does not know when an international student graduates or drops out. Nor has the INS established a database to track foreign visitors' entry and exit from the country, so the INS does not know how many students stay in the country after completing their studies.

I would like to include for the record a recent editorial from the Contra Costa Times, which draws sound, sensible conclusions on this issue. As the editorial notes, "One of the easiest, albeit illegal, ways to get into the United States and stay here indefinitely is through student visas. . . . With America's heightened awareness of the need for secure borders and internal security, we no longer can afford to ignore student visa requirements."

Like many Americans, I value the attendance of international students at our colleges and universities, but we should make sure they follow the rules. The databases mandated by the 1996 law, but not yet implemented, are a good place to start. The International Student Responsibility Act gives the INS additional resources to implement them as quickly as possible. It also authorizes to funding to ensure that the databases are not a paper exercise, but are used aggressively as the basis for investigations and, if appropriate, deportations.

The Act also adds new procedures to address current law's shortcomings. It requires the INS to notify colleges with 10 days when their students enter the country, and requires colleges to promptly notify the INS is any of their students fail to enroll. It creates an incentive for international students to comply with the law by withholding their transcripts and diplomas until they return home or extend their stay in the U.S. legally.

Finally, the best protection against potential terrorists is to prevent them from entering the U.S. at all. The Act requires the Department of State to ask international students' home countries whether the students are known criminals or terrorists before granting the visas. It also requires heightened scrutiny of students from countries that are state sponsors of terrorism.

We must strive to keep America as open as possible to foreign students, but also to ensure that we have closed the gaping loopholes in the student visa program that make our country more vulnerable to terrorism. I urge my colleagues to join me in supporting this important legislation.

[From the Contra Costa Times, Nov. 23, 2001]

CONTROL STUDENT VISAS

One of the easiest ways, albeit illegal, to get into the United States and stay here in definitely is through student visas. The visas are issued for full-time students for a specified time. Yet students often stay in the country well past the visas' expiration dates with impunity. This situation must not continue for students or anyone else who received a visa to come to the United States.

That does not mean this country has to close its doors to foreign students or other wishing to work in or visit the United States. It certainly does not mean the United States should place a six-month moratorium on all student visas, as Sen. Dianne Feinstein has proposed. It does mean the Immigration and Naturalization Service is going to have to do a far better job of controlling visas and keeping track of everyone with a visa who enters this country.

Those who are here past the expiration dates on their visas should be deported. However, it also should not be such an onerous burden for visa holders, particularly students, to get their visas properly renewed before they expire as long as the person continues full-time studies in this country and is law-abiding.

With America's heightened awareness of the need for secure borders and internal security, we no longer can afford to ignore student visa requirements. Nor can we grant visas to anyone without closer scrutiny of his or her background.

Of particular concern are students from countries with a record of harboring terrorists who are seeking visas. The list of such countries is short, but includes several nations in the Middle East, where much of the world's international terrorism is bred.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

It is critical that those seeking visas from such nations receive extensive background checks before they enter the United States. Some may see this as racial profiling. It is actually nation profiling, and it is necessary for public security. Thorough background checks need not prevent the United States from accepting large numbers of foreign students, even from countries where terrorism is a problem.

It simply means that the United States must enforce its visa laws to reduce the chance of terrorism and to get a better grip on controlling its borders.

To accomplish this goal in a humane manner, the INS is going to have to increase its work force so that those wishing to spend extended periods of time in the United States are carefully screened, are easily able to renew visas for legitimate purposes and are deported when they violate the terms of their visas.

TRIBUTE TO MS. MELINDA DAY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. DUNCAN. Mr. Speaker, I rise today to congratulate Ms. Melinda Day of Lenoir City, Tennessee, in my District. She was recently chosen as Tennessee Teacher of the Year 2002. Ms. Day teaches fifth grade at Lenoir City Elementary School.

This honor is well deserved for Ms. Day, who has been teaching for six years. Even when she was a child, Ms. Day would practice being a teacher in the basement of her parents' home.

Her students enjoy learning in her classroom. she teaches with enthusiasm and a real love for educating children.

Ms. Day has traveled to Japan on two occasions to teach as a part of the Fulbright Memorial Fund Teacher Program and the Fulbright Master Fund Teacher Program.

This Nation would be a much better place and our students would be better educated if there were more people and teachers like Melinda Day.

Mr. Speaker, I would like to congratulate Ms. Day on a job well done. She serves as an inspiration for educators all over the Country. I have included an article from the Knoxville News-Sentinel that highlights the accomplishments of Ms. Day that I would like to call to the attention of my fellow Members and other readers of the RECORD.

[From the Knoxville (TN) News-Sentinel, Nov. 19, 2001]

TENNESSEE'S TOP TEACHER

MELINDA K. DAY IS NOW VYING FOR NATIONAL HONOR

(By Jennifer Lawson)

Lenoir City Elementary School fifth-grader Alexis Lawson thinks she knows why her teacher, Miss Day, was chosen the Tennessee Teacher of the Year 2002.

"She's a good teacher because she listens to people," Alexis said as she led a visitor to Melinda K. Day's classroom.

Day was recently chosen to represent Tennessee in the competition for National Teacher of the Year, which will culminate next April in a ceremony at the White House.

At 28, Day's been teaching for six years officially, but she actually started teaching at age 6 when she set up a classroom complete with a row of antique desks in her parents' basement or in the back of the family horse trailer.

"Every day after school I would rush home to 'teach' what I learned that day and model my teacher's actions in my play classroom," Day wrote in her state competition essay. "This love of learning and teaching has always been an integral part of me. My mom and dad instilled the value of education in me at a very early age."

It only takes a few minutes spent in Day's classroom to feel the enthusiasm and energy she spreads to her students. Her classroom is decorated with fish and palm trees, and a tank of goldfish sits on one counter. She loves things tropical and through her fiancé, Chris Webster, she's become a fan of Jimmy Buffett and his ocean-inspired music.

"Your life is so precious you can't be replaced by anyone," is written across the top of the blackboard.

Her age belies her experience, which includes summers teaching in Japan and Wales as well as bachelor's, master's and education specialist's degrees from the University of Tennessee. She also traveled to Japan to teach as part of the Fulbright Memorial Fund Teacher Program in 1998 and again last year as a recipient of the Fulbright Master Teacher Program.

She said spending time in Japan and not speaking the language made her understand the frustration Spanish speaking children feel when they come to Lenoir City Elementary. Over the past few years, the school has taught a growing population of Mexican immigrants.

"She has served as an inspiration to more experienced teachers and helped to change the attitudes of some teachers with less enthusiasm," wrote Lenoir City Schools Superintendent Wayne Miller in a letter supporting Day's nomination. "Another point which makes Ms. Day an exemplary teacher."

The Alabama native, who grew up in Lenoir City, Iowa and South Carolina, said she's like her father who "has to have change constantly." She channels that need for change into her teaching.

"Teaching to her is 24-7," said Lenoir Elementary Principal Patricia Jones. "She's got a unique quality about her that creates an environment for the children where they feel safe to learn."

Day credits three elementary teachers for cultivating her natural love of teaching: Melanie Amburn and Donna Langley (now Zukjowski) of Eaton Elementary School in Loudon County and Julia Pratt, who teaches in Marion, Iowa. More than the subject matter she learned, she remembers how the teachers made her feel about learning and her potential.

"Not only did these teachers set high expectations for students (to) learn the basic skills, but (they) also wanted each child to gain confidence and develop a sense of humor to enjoy life," she wrote in her essay. "The small acts of kindness exhibited by these teachers still make me realize the importance of personally knowing all of my students and learning what encouragements they need to make them feel better about themselves each day."

Her toughest decision after winning the $3,500 prize accompanied by a crystal award and a certificate signed by Gov. Don Sundquist, was deciding whom to take to Washington with her—her mother, her father or her fiancé.

"I'm taking my mom with me." Day said. "She's a big Republican. When I told her, she jumped up and down like a little girl."

COMMENDING THE WORK OF THE UNITED STATES COAST GUARD'S MARINE SAFETY OFFICE OF HUNTINGTON, WEST VIRGINIA

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. RAHALL. Mr. Speaker, the events of September 11th demanded a great deal from all those involved in ensuring the safety and security of our Nation. Countless individuals and organizations were called upon to aid our country in this time of need, and many answered this call with a great amount of effort and dedication to the American cause.

I would like to take this opportunity to commend the United States Coast Guard's Marine Safety Office of Huntington, West Virginia, the recent recipients of the Commandant's Quality Award for 2001. This honor rewards the leadership, strategic planning, customer focus, information and analysis, human resource focus, process management and business results produced by individual U.S. Coast Guard offices. In addition, the Huntington office was specifically recognized for their development of efficient business practices after the tragedy our Nation suffered on September 11th. Despite the fact that this office is one of the smallest of the 45 marine safety offices nationwide, their newly developed risk assessment plan was praised in Washington for their invaluable contributions to the Coast Guard as a whole in this area.

I would also like to recognize the achievements of United States Coast Guard Auxiliary member James Perry of Huntington, WV. As the communications director for his local office, he was singled out for improving that particular office's pager, cell phone and voice mail systems, all of which have proven to be crucial for operations in the post-September 11th era.

The article in the Herald Dispatch is included on this hero.

COAST GUARD OFFICE HONORED FOR BUSINESS PRACTICES

(By Bob Withers)

HUNTINGTON.—The local U.S. Coast Guard's Marine Safety Office was honored Tuesday for developing efficient business practices that influenced the entire Coast Guard after the terrorist attacks of Sept. 11.

Master Chief Petty Officer Vincent W. Patton III of Washington, D.C., the Coast Guard's highest-ranking enlisted member, presented the unit with the Commandant's Quality Award for 2001 during a ceremony at the local headquarters.

The annual honor—patterned after the Malcolm Baldrige National Quality Award, the nation's premier award for performance in business and industry—recognizes commands and major staff elements that, through commitment to customer and employee satisfaction and continuous improvement, serve as examples for other Coast Guard organizations.

The award encompasses several categories of management—leadership, strategic planning, customer focus, information and analysis, human resources, process management and business results.

Patton said officers in Washington were particularly impressed with the local office's newly developed risk assessment plan.

"We needed that information after 9-11," he told the members "When emergency situations arise, we need a frame of reference to measure our use of personnel, money and assets. You have no idea what your plan is doing for us back in Washington."

Patton compared the accomplishments of the local unit—one of the smallest of 45 marine safety offices nationwide—to the heroics of the outmanned and outgunned crew of the "tiny, dinky" revenue cutter Eagle, which was driven ashore in Long Island Sound in October 1814 in an encounter with the British brig Dispatch. The crew dragged their few weapons up a bluff and continued the battle, using log books for cartridges and returning the enemy's small shells that had lodged in the Eagle's hull.

Cmdr. Lincoln Stroh, commanding officer of the local office, also honored U.S. Coast Guard Auxiliary member James Perry of Huntington, the local office's communications officer, for improving its pager, cell phone and voice mail systems.

Stroh also praised Perry for working extra hours to help the office meet increased port safety and security responsibilities following the terrorist attacks.

PAYING TRIBUTE TO GAYLE POTTER'S EIGHTH GRADE CLASS AT DURAND MIDDLE SCHOOL

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to a group of eighth grade students from Durand Middle School in Durand, Michigan. These students along with their teacher, Gayle Potter, have taken the initiative to send to my office their own ideas for helping rebuild vital areas of our economy after the tragic events of September 11th.

The events of September 11th were meant to create fear in every American, especially our children. Yet, the terrorists who carried out those evil acts have succeeded in only strengthening our resolve as Americans. It is also clear, through these students' great example, that our nation's greatest resource, our youth, is as strong, brave, and as bright as they have ever been.

Mr. Speaker, this group of students truly exemplifies the spirit of all Americans at this time in our history. They have set a wonderful example that every American can follow. I ask that my colleagues join with me in saluting their devotion to our country and its continued prosperity.

WISHING WELL TO MR. NORMAN BRINKER

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to salute a great Dallas-Fort Worth resident. Mr. Norman Brinker is a trailblazer and trendsetter. He has been a pioneer in business and a great friend to our community.

There is perhaps no more amazing restaurateur than Mr. Brinker. He revolutionized the combination of good food, reasonable cost and great customer service through his Steak and Ale restaurant chain. He built the chain to 100 units before The Pillsbury Company, of which Mr. Brinker later became Chairman, bought it.

As Chairman of The Pillsbury Company, he oversaw the world's second largest restaurant organization, presiding over sales of $4 billion. Never one to rest on his laurels, Mr. Brinker soon ventured out on his own again, buying Dallas based chain Chili's. Under his leadership, the 23 operating units of Chili's became Brinker International, a world restaurant power with hundreds of operating units and over $2 billion in sales. Brinker International now owns Chili's, On the Border, Macaroni Grill, Cozymel's, Corner Bakery, Big Bowl and Eatzi's restaurant chains.

Brinker International is an extraordinarily important corporate citizen of the Dallas-Fort Worth area, but just as important is Mr. Brinker's leadership in the industry and society. The leaders of Outback Steakhouse, Houston's, Red Lobster and Boston Market all spent time under Mr. Brinker's tutelage. In addition, he has been a trendsetter in philanthropy, encouraging entrepreneurs to pair their financial donations with donations of time, and helping to start the Susan G. Komen Breast Cancer Foundation with his wife Nancy.

Mr. Speaker, Norman Brinker has relinquished his position as Chairman of Brinker International and is engaged in a new challenge—defeating his own cancer ailment. As he approaches this new challenge with the same zeal as the other challenges in his life, Dallas-Fort Worth looks forward to his leadership for years to come. I ask that the Congress and the country join the citizens of Dallas-Fort Worth in wishing him well.

ECONOMIC STIMULUS BILL

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. FRELINGHUYSEN. Mr. Speaker, weeks ago the House acted on President Bush's request for an economic stimulus package. We knew then what has now been confirmed—America is in a recession. And, here in New Jersey, the economic slowdown has been especially acute as many New Jersey residents lost their jobs, many as a result of the tragic events of September 11, and others because our economic slowdown began well before September. First and foremost, we need to help the victims and families of the terrorist attacks and the many workers who have lost their jobs. And, with the $40 billion in emergency assistance already approved by Congress, President Bush and his Administration are doing just that. Under the emergency federal assistance provided to our state, workers who have lost their jobs as a result of the attacks are eligible for unemployment and health insurance for up to 26 weeks—that's through at least March of next year. And these benefits have been extended to the self-employed and others who are not otherwise eligible for this assistance.

After addressing these immediate, emergency needs, the House acted quickly to take steps to get our economy moving again. Those steps focused on helping to restore consumer confidence and encouraging private sector investment and expansion to help replace lost jobs and to add more, new jobs. The House has acted on just such a plan. My colleagues in the other body must act now on an economic security bill to help our economy, and those who have lost their jobs.

While most Americans heard recent news reports that said our nation is now "officially" in a recession, it didn't take a headline in the newspaper or "Breaking News" on CNN for far too many New Jerseyans to realize that these are hard times in America. Even before September 11 changed our lives forever, layoffs at some of New Jersey's largest, most established companies, like Lucent, AT&T and Honeywell, for example, were taking their toll. Alarmingly, 27,000 jobs were lost in the first nine months of this year in New Jersey. Our state's unemployment rate rose to 4.8 percent in October, up from 4.5 percent in September.

It's time for the other body to act and I call on the other body to reject their plans to expand federal programs and increase federal spending beyond our budget agreement with the Administration. More government spending, to my mind, will not serve to stimulate our economy.

Let's face it—the only answer for job loss is to create new jobs. And with the exception of the newly federalized baggage screeners, the Federal Government does not create jobs or economic activity. In fact, the more we "grow" government, the more dollars we take out of the private sector, away from the taxpayer and out of our economy. That is why the House version of the economic stimulus provides rapid tax relief to businesses, large and small, to continue to invest, to purchase equipment, expand production and promote job hiring. While some have criticized the House bill as corporate welfare, we need companies to stop layoffs and hire again! Our proposal is critical to the success of New Jersey business. According to the New Jersey Business and Industry Association, even before the September 11 terror attacks, New Jersey employers as a group had lost their confidence in our economy. Two-thirds of 1,600 employers participating in the Association's 2002 Business Outlook Survey said their industries were already in a recession or heading into one at the time of the attacks. We've got to turn that thinking around and provide the incentives to New Jersey's companies to start growing their businesses again.

The House bill also returns more tax dollars back to working Americans by accelerating the tax rate cuts we passed earlier this year and by including tax rebate checks for those individuals who didn't receive them in the first round. Returning these dollars will give people more dollars to spend and invest. These actions—as opposed to more government spending and more government programs—will better address the underlying weaknesses in our economy, namely consumer confidence, consumer spending, and the need for renewed and sustained business investment and expansion.

And, early next year, when existing unemployment and health benefits may be depleted, I am confident that we will continue to help those who need it most. In fact the House economic security package includes a provision that provides another $9 billion in surplus Federal unemployment funds to the states. This translates into approximately $368 million that will be immediately available for New Jersey to pay for more or to expand regular unemployment benefits. This is real Federal assistance to lend a helping hand to New Jerseyans who are hurting the most.

Prompt Senate action will help get our fellow Americans back in the workforce, not still standing in the unemployment line next Spring. While not every provision of the House bill is perfect, our economic security package is a better starting point than the legislative paralysis in the other body! To the other body, I say, get your job done, and let's get America back to work.

CONGRATULATING MITCH LOUIS MANSOUR ON HIS RETIREMENT FROM THE GROCERY BUSINESS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. RAHALL. Mr. Speaker, I rise today to pay tribute to Michael Louis "Mitch" Mansour, of Huntington, WV, who, after half a century in the grocery business, retired on November 4, 2001.

For thirty-eight years Mitch owned and operated "Mansour's Market," a family neighborhood grocery market that survived the intense competition brought about by "superstores" and continues to thrive today.

Mitch Mansour's entrepreneurial career began almost from birth. The son of Lebanese immigrants, Mitch was born in 1930 next door to his father's modest grocery store. Even before adolescence Mitch worked alongside his father, Elia, cultivating customer relationships and a solid work ethic. Mitch eventually took over this small store in 1954 after returning home from service during the Korean War.

In 1963, Mitch and his bride, Melanie, began "Mansour's Food Market," which has served as a source of quality foods and employment for hundreds of residents from the local community. From loyal employees that have built careers in catering, meat cutting, grocery management, and customer relations to summer and part-time employees who have pursued professions in law and medicine, "Mansour's" has been a solid and reassuring pillar in the Huntington community.

An innovator in customer service, Mitch would not just point the customer to the desired aisle, but walk them to the display and personally present the product choices. In the 1960's, "Mansour's" began their grocery home delivery service, which continues to be a valuable service today, especially for elderly and disabled residents. If a customer cannot make it to "Mansour's," "Mansour's" comes to them.

In today's transient world it's rare to find someone who spends their life so closely entwined in their community. Michael Mansour and "Mansour's Market" has been an important part of the Huntington community and will continue to be for a long time.

I ask that my colleagues join me in offering sincere congratulations to Mitch on the event of his retirement and best wishes for the future.

PRESIDENT BUSH'S WITHDRAWAL FROM THE ABM TREATY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. SCHAFFER. Mr. Speaker, President Bush's decision to withdraw from the 1972 Anti-Ballistic Missile (ABM) deserves the applause of every American. For too many years our country has been left undefended from the threat of a ballistic missile attack because of the ABM Treaty. Even Soviet Premier Kosygin supported a ballistic missile defense when he remarked, "Defense is moral, aggression is immoral."

We need to defend our country from ballistic missile attack. Withdrawing from the ABM Treaty with its special prohibition against space-based defenses is a major step toward that goal. The terrorist attacks of September 11 should have taught us that we should not let our guard down.

We need to act decisively to build a ballistic missile defense, especially a space-based defense, taking advantage of the benefits of an orbital defense with its global coverage, multiple opportunities for intercepting a ballistic missile, and boost phase interception capability.

Our lack of a space-based ballistic missile defense reflects a lack of political will to build such a defense. The ABM Treaty limited the United States to an inferior defense using ground-based interceptors. The technology for building a space-based ballistic missile defense has been available for years, even decades, but not the funding.

We need to fully fund our ballistic missile defense programs, particularly for space. This will require an increase in spending. This increase is justified. Our lack of ballistic missile defense is not justified. Freedom has a price. The ballistic missile threat is increasing, whether seen in North Korea's missile program, or China's buildup of its road-mobile DF–31 ICBM and other missiles.

Increased funding, for example, is justified for the Space Based Laser. Instead of being funded annually at between $50 and $150 million, the Space Based Laser should be funded an order of magnitude greater at $500–$1500 million. This will enable the Space Based Laser to be tested and deployed well before 2010, instead of after 2010 as currently scheduled.

Lack of funding, not technology, keeps us from building Space Based Lasers. In 1995, three major aerospace contractors wrote the Chairman of the Senate Armed Services Committee, Senator STROM THURMOND, pointing out how funding of about $1.5 billion over four years could result in a test launch of a Space Based Laser. The Space Based Laser, moreover, with its boost phase interception capability and global coverage, will provide a more effective defense compared to the Mid Course Phase ground-based interceptor currently under development.

We need a robust ballistic missile defense encompassing a variety of technologies and layers. A defense made up of several layers will more easily defend against countermeasures such as China's plan to attack U.S. radar and communication nodes, or Russia's use of ballistic missiles as platforms for launching hypersonic scramjets that travel in the upper atmosphere.

Funding is needed to re-start the Brilliant Pebbles space-based interceptor program that was successfully ground-tested under the elder Bush's administration. Additional spending for research and development into high-energy laser technologies is called for. Nor should high-energy particle beams be neglected, which showed promise as in the 1989 BEAR experiment. Particle beams as well as lasers can provide effective mid-course phase discrimination of decoys from warheads.

With defense spending at one of its lowest levels since before Pearl Harbor, the political will is now needed to ask for an increase in funding for a space-based ballistic missile defense. Do we need to wait for another September 11 using ballistic missiles before we defend our country?

TRIBUTE TO THE ART STUDENTS AT CLEVELAND HIGH SCHOOL

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. DUNCAN. Mr. Speaker, the events of September 11th of this year had a great impact on our Country. While the devastating terrorist attacks have caused us great sorrow for the loss of lives, Americans have pulled together like never before.

Those who carried out the attacks thought that they would destroy the American Spirit, but I can tell they did exactly the opposite.

People have come together to show their support for those lost in New York, the Pentagon and Pennsylvania. Recently, art students at Cleveland High School showed their support by creating a mural that depicts the events of September 11th and our resolve to never let this happen again.

This piece of work has been talked and written about in local newspapers and television.

Cleveland High School Art Teacher, Martha Kidwell, created a collage of images from magazines and newspapers which were used as a base for this mural.

The mural measures 13 by 6 feet. This piece of art shows the attacks on America, but it also portrays the heroic firefighters, a determined President Bush, the Statue of Liberty, the American Flag and the Bald Eagle.

This work of art was created by 22 high school students who have shown their patriotism and care for their fellow Americans.

Mr. Speaker, I believe that Martha Kidwell and her students should be commended for their hard work and determination to show their fellow citizens that we will overcome terrorism.

This mural will serve as an inspiration to anyone who sees it. It is currently on display in Southeast Tennessee, and I encourage anyone traveling through this part of the Country to stop by and see this mural entitled, "We Will Never Forget".

GLOBAL ACCESS TO HIV/AIDS PREVENTION, AWARENESS, EDUCTION, AND TREATMENT ACT OF 2001

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. RANGEL. Mr. Speaker, I rise today in support of H.R. 2069 the Global Access to HIV/AIDS Prevention, Awareness, Education, and Treatment Act of 2001. The HIV/AIDS pandemic threatens the stability of the modern world, as we know it in both developed and developing countries.

I would first like to thank Chairman HYDE for introducing this important legislation. I also would like to thank Congresswoman BARBARA LEE for her tireless work in the area of AIDS and her efforts to raise the consciousness of her colleagues to combat this horrendous disease.

The devastation of the HIV/AIDS disease does not discriminate, and impacts the lives of us all. Recent reports from the United Nations state that more than 58 million people globally have been infected with HIV/AIDS. This horrendous disease has negatively impacted the economies of Africa, the Caribbean, Asia, and Eastern Europe.

This legislation takes a comprehensive approach to combating HIV/AIDS by providing funding for the prevention, education, testing, treatment, and care of individuals with HIV/AIDS. I support and applaud the substantial increase in funding that H.R. 2069 provides to fight HIV/AIDS around the world. I am happy to see that this bill authorizes $485 million in bilateral funding, $50 million for treatment, and $750 million for multilateral funding for fiscal year 2002. 1 hope that this contribution by the United States is the first of many, and that it will serve as a down payment on the improvement of our global future.

The HIV/AIDS pandemic has erased decades of progress in improving the lives of families in the developing world and has claimed 22,000,000 lives since its inception.

More than 17,000,000 individuals have died from HIV/AIDS in sub-Saharan Africa alone.

Two-thirds of those diagnosed with the AIDS virus in the Caribbean are dead within two years. AIDS is the leading cause of death in the Caribbean for those fifteen to forty-five years of age and these numbers continue to increase.

We as a nation must once again exhibit the strong leadership that is our heritage and do the right thing by addressing this humanitarian and economic crisis head on. H.R. 2069 does just that by exhibiting our commitment in the U.S. Congress to combating this dreaded disease through the authorization of this much needed and necessary funding.—

CONFERENCE REPORT ON H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. FRELINGHUYSEN. Mr. Speaker, on December 13, the House passed H.R. 1, the No Child Left Behind Act of 2001 Conference Report by an overwhelming, bi-partisan majority vote. By doing so, we have delivered on President Bush's promise and commitment to improve the education of every child in America!

It is our President's number one domestic priority, other than Homeland Security.

In his Inaugural Address, President Bush in speaking about our responsibilities and values as citizens said "Together, we will reclaim America's schools, before ignorance and apathy claim more young lives."

President Bush called upon Congress to achieve that goal by coming up with a plan to reform education in new and bold ways.

Earlier this year, the House responded first by passing the most comprehensive education reform package in almost three decades.

This bill, the No Child Left Behind Act calls for a major increase in federal funds for both states and local school districts. The final agreement with the House and Senate does just that.

It sets aside close to $135 billion for education over the next 5 years alone.

But more importantly, these dollars will ensure accountability by providing the following: unprecedented new flexibility for states and school districts in the use of federal education funds, ensures higher levels of achievement for students to meet and surpass, sets new accountability standards to keep only the most qualified teachers in our classroom and provides more choices for parents in determining the best education possible for their children.

These are important reforms that will replace three and a half decades of increased education spending that have simply not produced the results Americans deserve.

As President Bush rightly put it, "dollars alone do not always make a difference."

Today's victory ensures that no child will be left behind. In fact, following the enactment of our reform bill, immediate new options will be available to students in thousands of failing public schools across the United States.

A Department of Education analysis finds that students at nearly 3,000 underachieving public schools nationwide will be eligible for immediate, new options to achieve a better education in a more suitable learning environment.

Mr. Speaker, today I urge my colleagues in the other body to pass H.R. 1 so that we can get it to President's desk and signed into law before the end of the year.

For years, we have been providing critical funds for the education of our children. Now we are taking an extra step to ensure those dollars produce results.

HONORING NASA ADMINISTRATOR DANIEL GOLDIN

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today on behalf of the Congressional Black Caucus to recognize NASA's longest-serving Administrator, Mr. Daniel Saul Goldin, who during his nearly decade-long tenure, starting in 1992, demonstrated a commitment to the educational excellence of minorities in the areas of science, mathematics, engineering and research.

He has demonstrated his commitment to educational excellence for all Americans through NASA's Office of Equal Opportunity Programs', Minority University Research and Education Division. His efforts helped the Agency to focus on establishing Historically Black Colleges and Universities (HBCUS) and Other Minority Universities (OMUS) as model institutions of teaching, learning, research and service, effectively educating diverse populations for NASA and the nation.

During his tenure, NASA's Minority University Research and Education Division's budget realized a 200% increase from about $40 million in FY 1992 to $82 million dollars in FY 2001.

Under his exceptional leadership, NASA's HBCU and Hispanic Education Programs received Presidential citations as models for the federal sector, and the pre-college Science Engineering Mathematics Aerospace Academy (SEMAA) Program, begun in 1993 under the auspices of former Congressman Louis Stokes, has been replicated to more than 17 sites nationwide.

Mr. Goldin also established several programs that were aimed at increasing the number of minority students in the areas of science, engineering, mathematics, and research. Those programs include: the Model of Institutions for Excellence (MIE), which upgrades the quality of science, engineering and mathematics education; the Network Resources and Training Site (NRTS), which provides state-of-the-art computer and information technology to minority institutions; and Project ACCESS (Achieving Competence in Computers, Engineering, Space Science), which provides a NASA-wide intern program for college students with targeted disabilities.

Administrator Goldin encouraged enhanced NASA-related research by faculty at minority institutions through the Faculty Awards Research Program. He also provided sustained funding to 14-multidisciplinary University Research Centers (URCS) at minority institutions, and he facilitated the integration of HBCUs and OMUs into conventional mainstream research programs at NASA.

As led by Administrator Goldin, NASA and the Congressional Black Caucus partnered successfully to expand educational opportunities for minorities in science, mathematics and engineering to increase the presence of minorities in research and technology-related fields.

In addition to initiating the "faster, better, cheaper" approach that enabled NASA to deliver programs of high value to the American public without sacrificing safety, his aggressive management reforms helped to produce a 40 billion dollar reduction from prior budget plans.

He reduced NASA's workforce by about a third while reducing the Headquarters' workforce by more than half, without resorting to forced layoffs—all of this with a 40% gain in productivity.

Mr. Goldin implemented a more balanced aeronautics and space program by reducing human space flight from 48% of the Agency's total budget to 38%.

He also played a pivotal role in redesigning the International Space Station and in 1995, he personally visited more than 200 members on Capitol Hill to win support for Space Station.

Defense Business named Mr. Goldin as one of the world's most influential defense-industry leaders saying "he has tightened the workforce, introduced a stunning array of new missions, including information-gathering journeys to the Moon and Mars, and became the major player in the embryonic International Space Station."

He has also been named as one of the 100 most influential men and women in Government by the National Journal, which observed that "most space watchers say that Dan Goldin is a brilliant visionary who brought NASA back from the brink of a black hole."

Once again, the members of the Congressional Black Caucus, recognize the enduring contributions of Administrator Daniel S. Goldin and appreciate his dedication to the improvement of science, engineering, and mathematics education and research, among minority students in the United States.

TRIBUTE TO JAMES D. RUTH

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. GARY MILLER of California. Mr. Speaker, it is with great pleasure that I rise to honor James D. Ruth who is retiring after 22 years of exemplary service to the City of Anaheim and 45 years in public service.

Mr. Ruth's impressive resume includes numerous noteworthy accomplishments. Under his tenure as city manager, Anaheim became internationally recognized as a hub for entertainment and for its world class convention center. His crowning achievement was the role he played in negotiations for the construction of the 19,500-seat Arrowhead Pond arena, which has affectionately been called "the house that Ruth built," and his work with the Walt Disney Company to bring the Mighty Ducks of the National Hockey League to the Pond.

Mr. Ruth was very instrumental in the $118 million renovation of Edison Field, and thereby the retention of the Anaheim Angels and Major League Baseball in Orange County. He negotiated with the Walt Disney Company to develop in Anaheim their new theme park, California Adventure, at cost of $1.4 billion. In conjunction with the park expansion, the city initiated and began the implementation of a $510 million improvement program to the Anaheim Resort Area and a $1.9 billion renovation of the Santa Ana (I–5) Freeway. Revitalization projects provided low income housing in the Jeffrey-Lynne neighborhood west of Disneyland, a $58.2 million Community Center, and a much needed Senior Center.

Mr. Ruth's vision, outstanding business and governmental acumen, strong leadership skills and dedication to public service have earned the admiration and respect of those who have had the privilege of working with him. I would like to congratulate him on these outstanding accomplishments and sincerely thank him for his exemplary record of service to the City of Anaheim.

DEFENDING AMERICA FROM BALLISTIC MISSILE ATTACKS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. SCHAFFER. Mr. Speaker, we need to defend our country from ballistic missile attack. President Bush has taken a major step toward that goal by withdrawing from the 1972 ABM Treaty. President Bush has our sincere thanks and congratulations for removing the United States from a treaty that inhibited our defense and was repeatedly violated by Russia.

We need to act decisively to build a ballistic missile defense. The fact that our country is undefended from ballistic missiles is a reflection of our lack of political will to build a defense. The technology for a ballistic missile defense is available, and has been for years and even decades, as noted by the Director of the Strategic Defense Initiative Organization under President George H.W. Bush's administration.

I strongly urge the President to fully fund a robust ballistic missile defense program encompassing a variety of technologies and defenses. A robust defense made up of several layers will more easily guard against countermeasures such as those planned by China to attack U.S. radar and communication nodes, or by Russia to use ballistic missiles for launching hypersonic scramjets.

Full funding for a robust ballistic missile defense will call for increases in spending. This spending is justified. Our lack of ballistic missile defense is not justified. Freedom has a price, including a strong defense, and the ballistic missile threat is increasing, whether measured by North Korea's ballistic missile program, or China's buildup involving its road-mobile DF–31 ICBM.

Funding, for example, needs to be increased for the Space Based Laser program. Instead of being funded annually at between $50–150 million, the Space Based Laser should be funded an order of magnitude greater at $500–1500 million. This increase in funding will enable the Space Based Laser to be tested and deployment begin sooner than after 2010 as currently scheduled.

Lack of funding, not technology, keeps us from building a constellation of Space Based Lasers. In 1995, three major aerospace contractors wrote to the Chairman of the Senate Armed Services Committee, STROM THURMOND, on the Space Based Laser, pointing out how additional funding of approximately $1.5 billion over four years could result in a test launch of a Space Based Laser.

While this estimate for testing the Space Based Laser in space was prepared nearly seven years ago, it clearly illustrates how the level of funding for the Space Based Laser should be on a billion-dollar level rather than $50–150 million. (The Space Based Laser, with its boost phase interception capability and global coverage, will provide a more effective defense compared to the Mid Course Phase ground-based interceptor currently under development.)

Additional money for research and development into other high-energy laser technologies is called for. In October 2001 key defense scientists recommended a substantial cash infusion into laser technology. Over and above funding for the Space Based Laser, additional funding is needed for research into high-energy lasers. These lasers could include chemical gas lasers such as the DF laser (the Space Based Laser uses an HF chemical reaction), excimer and free electron lasers, or even solid-state lasers. Nor should high-energy particle beams be neglected, which showed promise in the 1989 BEAR experiment. (Particle beams as well as lasers can provide effective mid-course phase discrimination of decoys from warheads.) This research into lasers and particle beams would be invaluable, and result in commercial applications. Funding, similar to the Strategic Defense Initiative, should be on a billion-dollar level.

In addition, funding is needed to re-start the Brilliant Pebbles space-based interceptor program that was successfully ground-tested under President George H.W. Bush's administration, and successfully flight-tested in the Clementine lunar mission. Annual funding for this program should be expected at around $500–1500 million to deploy a constellation of at least a thousand interceptors. Brilliant Pebbles can provide a boost phase interception capability, as well as mid-course phase interception. This space-based defense is not far off into the future, but was approved to enter its acquisition phase under the Bush Senior administration in 1992. To supplement the mid-course interception capability of Brilliant Pebbles, funding for the SBIRS-low constellation of missile launch detection and tracking satellites should be accelerated.

The funding increases needed for ballistic missile defense are in line with any other major arms acquisition program. But the political will is now needed to ask for this funding.

It is worth noting that current U.S. defense spending is at one of its lowest levels since before Pearl Harbor.

I urgently request that President Bush prepare a ballistic missile defense budget that will enable the United States to exploit its technology in high-energy lasers and hit-to-kill interceptors. Much of this technology should be deployed in orbit where it can provide global coverage, multiple opportunities for interception, and a boost phase interception capability.

TRIBUTE TO THE DOMINICAN AMERICAN NATIONAL ROUNDTABLE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. RANGEL. Mr. Speaker, Representatives of the community with a common heritage from the Dominican Republic gathered December 7–9, 2001 for the fourth annual conference of the Dominican American National Roundtable. Each year, this group comes together to reflect on the past year, discuss areas of need within the community, and plan for the upcoming year. This year's conference was especially meaningful in light of the recent tragedies affecting the Dominican American community and I extend my most sincere congratulations to the DANR and its president Adriano Espaillat for hosting such a successful weekend here in Washington DC.

Already struggling to overcome the devastating effects of September 11 attacks on the World Trade Center and Pentagon, the crash of American Airlines Flight #587 has impacted our Nation's Dominican community deeply. Almost all 260 persons aboard the flight were of Dominican ancestry and, as was pointedly demonstrated during the conference, it seems as if every person of Dominican heritage in the United States has been personally touched by this tragedy. During the opening session Moises Perez, Executive Director of Alianza Dominicana a social service community based non-profit agency located in northern Manhattan illustrated this with this with a story of personal quest to find one person who did not know someone aboard the plane. He has yet to find one person.

Our ability to gather and reflect on these recent occurrences was essential in providing a discourse for this community to begin to make sense of these horrific events. It also provided a forum to discuss the next forward step. As the Dominican community continues to mourn the loss of so many loved ones, we must support its efforts to continue its work to address the items that impact the community.

This year's conference celebrated the opening of the DANR's Washington DC office. The DANR seeks to bring the voices of all people of Dominican origin who lived in the United States together and provide a forum for analysis, planning, and action to advance the primary interests of the community. The office will serve as the coordinating center for the Dominican American's agenda, ensuring that their voice is heard at the national level and their interests are being addressed in the legislative arena. Representing the largest Dominican community in the United States, I am strongly supportive of the opening of this office and I pledge my support to this community as it continues to grow in strength and size in the United States.

This year's theme, "Empowerment through Education" demonstrates the importance of education to the future of this community. Like many Americans, education is high on the list of critical priorities for the Dominican American community. However, the Dominican American population is plagued by sky rocketing drop out rates, poorly funded and dilapidated schools, educators ill-prepared to face the challenges of migratory communities and bilingual education, and a lack from or familiar with the community.

I commend the DANR's commitment to its youth. In addition to the participation of so many key leaders within the community, the presence of a large number of young people was particularly heart-warming and telling of the potential success this community will find if it is given the opportunity to participate in the framing and addressing of the issues and challenges which face it. From high school to graduate school, these students represented the future leaders of the Dominican American community and their dedication to their roots in the Dominican Republic and United States is evident. Too often our children are forced to shed and hide the heritage that defines them. Our culture is not a curse; it is a blessing, and we must never let our youth forget that where we come from is essential in determining who we will become.

I would like to thank all those whose hard work made the weekend possible, especially the DANR President Adriano Espaillat. I would also like to extend my appreciation to the DANR Board of Directors including Alejandra Castillo, Raysa Castillo, Miguel De Jesus, Ana Garcia, Epifanio Gil, Josefina Infante, Rafael Latingua, Mania Luna, Manuel Matos, Rafel Morel, Barbara Perez, Moises Perez, Felipe Rodriguez, Ydanis Rodrigues, Elvis Ruiz, Luis Salcedo and Slivio Torres-Saillant and the DANR staff consisting of Jose Bello, Rademes Peguero, Victor F. Capellan, Ninoska Uribe, Roberto Alvarez, and Margarita Cepeda.

I look forward to continuing our work to supporting and advancing the Dominican American community.

PAYING TRIBUTE TO SOUTHEAST ELEMENTARY SCHOOL

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to Southeast Elementary School for earning the Golden Apple Award for educational excellence.

The annual Golden Apple Award is awarded by Governor John Engler for improved scores in the 4th and 5th grades on the Michigan Education Assessment Program, which test the sections of math, science, reading, and writing. Schools must attain a 60-point increase over three year period to receive the honor.

Last year 54 percent of the students successfully passed the reading portion of the MEAP test compared to 77.3 this year. Also, 74 percent of the students passed the math portion last year compared to 90.7 this year.

The advances by Southeast Elementary School were a result of aggressively employing strategies to help students who placed in the bottom 20–30 percent for the MEAP. Southeast employed dozens of teachers, tutors, and volunteers in a 6–8 week program last winter. The program students focused on reading, writing, math, and science on a daily basis. Further, the school utilized a full-time literacy leader to concentrate on English skills and an educator to concentrate in math. Both programs centered on working with small groups or individuals to help the students improve in the areas in which they were lacking in.

Therefore Mr. Speaker, I respectfully ask my colleagues to join me in paying tribute to Southeast Elementary School for earning the Golden Apple Award. I salute their commitment to teaching our nations future leaders and commend each educators commitment to teaching these important skills.

TRIBUTE TO THE HOUSE OFFICE OF EMPLOYEE ASSISTANCE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. NEY. Mr. Speaker, I would like to acknowledge that the House Office of Employee Assistance has been recognized with the EAP Digest/Employee Assistance Professionals Association Quality Award for EAP Excellence for 2001.

The House of Representatives, for the last fourteen years, has been privileged to have a high-performing team in its Office of Employee Assistance. Those of us who have worked with these individuals have often experienced their high level of service and passion for their work. Now, the entire nation will know too, as the House Office of Employee Assistance has been recognized with the EAP Digest/Employee Assistance Professionals Association Quality Award for EAP Excellence for 2001.

The awaro states, "Evaluation and quality improvement has always been a key component of the U.S. House of Representatives program. Whether through client satisfaction surveys, peer reviews or more innovative techniques such as customer interviews and the system-wide evaluation, all modes of evaluation came to the same finding: The Office of Employee Assistance demonstrates exemplary continuous improvement efforts that enhanced the quality of EAP services."

The House team of Bern Beidel, Liz McBride, Debbie Frank, Kristin Welsh-Simpson, and Patty Prince should feel quite proud of its accomplishments and for this recognition that is well deserved.

It's also appropriate to pay tribute to a number of former House Members and employees who laid the groundwork for this program.

First, former Clerk of the House, Donnald K. Anderson, whose initiative and vision were instrumental in the House instituting an employee assistance service. Second, thanks goes out to the initial Members of Congress who were critical to winning the endorsement of the elected Members—former Speaker Tom Foley, former Minority Leader Bob Michel, former Members Bill Emerson, Rod Chandler, Ben Jones, Mary Rose Oakar, and current Senator Pat Roberts.

The combined work of these professionals has yielded an exemplary level of support for House employees through a program that is now recognized as among the best in its field. Congratulations to the Office of Employee Assistance team, and keep up the outstanding work!

CONFERENCE REPORT ON H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

SPEECH OF

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 2001

Mr. PETRI. Mr. Speaker, I rise in support of the H.R. 1 Conference Report, which is the result of months of relentless effort on the part of Members and particularly staff in both chambers in both parties. It is also a great achievement for President Bush, who made education the top priority of his domestic agenda from his first day in office. This conference report largely reflects his priorities and his active support and involvement in this process have been crucial in bringing us to this point.

In the context of a bipartisan, bicameral compromise final product, there are many features of this bill that represent significant departures from the old, failed Federal education policy. In this bill, we have given states and school districts an unprecedented level of flexibility to use Federal funds as they see fit. We have included, as one of the many new options for children trapped in failing schools, an opportunity to use Title I money to purchase supplemental services such as tutoring, which is a reform that many in this House have advocated for years. We have also consolidated many of the current duplicative education programs to better focus money to the students who need help the most.

Additionally, this conference report makes a strong statement that, where Darwinian evolutionary theory or other controversial scientific topics are taught, students should be exposed to multiple viewpoints. Too often, students are taught only one theory where evolution is concerned, and this language gives support to those at the local and state level who uphold the value of intellectual freedom in the teaching of science. This statement is especially important to make now because H.R. 1 requires all students eventually to be tested in science on a regular basis as a condition of aid.

I am also pleased that the conference report reauthorizes and updates the Troops-to-Teachers program, which assists qualified former members of the military in finding employment in the teaching profession. Since this program's beginning in 1993, Troops-to-Teachers has a proven track record of supplying high-quality teachers, even though it has thus far received little funding. I am hopeful that, when the appropriators finish their work in the coming days, this program will receive the full $30 million dollars authorized in H.R. 1.

To be sure, I have some misgivings about the new accountability provisions in this conference report. Many states, such as Wisconsin, have spent years developing successful accountability systems that do not necessarily involve testing all students on an annual basis. For the Federal Government to now demand that annual testing in reading and math take place every year in grades 3–8 amounts to a new mandate placed on states over and above what we already ask of them in other areas. On the other hand, given that the national government has poured upwards of $130 billion dollars into elementary and secondary education over the last 36 years with no discernible improvement in educational outcomes for our most disadvantaged students, I fully understand the urgent need to find some way to make sure that new federal resources are tied to results.

In any case, I am pleased that the conference report makes a credible attempt to address my concerns about saddling states with this new responsibility. For example, the conferees increased the amount of money authorized to help states develop and administer the new tests. Both the House bill and Senate amendment provided $400 million, however the conference report increases this to $490 million. If this account is fully funded by the appropriators, states will be able to put in place high-quality accountability systems that provide the data that parents need about their child's school. Additionally, we included a Senate provision that makes state administration of the new testing contingent on adequate funds being provided.

This bill is a significant improvement over current law that, when fully implemented, might actually achieve its intended effect of making sure that henceforth no child is left behind, and on that basis I am pleased to support it and urge my colleagues to do the same.

WOMEN SPEAK FOR PEACE RESOLUTION

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the September 11th attack on the people and institutions of America has eliminated any illusion that we are safe from the violence and discord which seem to plague the rest of the world.

Currently, the United Nations has peace keeping missions in every corner of the world including the Golan Heights; Lebanon; Iraq/Kuwait; Angola; the Western Sahara; Kosovo; Cyprus; Georgia; Tajikistan; Sierra Leone; East Timor; Congo and Ethiopia/Eritrea and has established war crimes tribunals in Yugoslavia and Rwanda. Our unfortunate global picture of war, ethnic conflict, civil war and terrorism serves as a strong indication of the need to establish and maintain a dialogue leading to a blueprint to establish lasting peace in war-torn and strife ridden areas of the world. Several studies have shown that while women are not usually combatants in these hostilities, women and children tend to disproportionately form the ranks of the displaced and victimized.

Today, I will introduce a resolution encouraging worldwide efforts seeking the greater involvement of women to challenge the belief that violence is an acceptable tool in resolving conflicts. While every member of a community should take affirmative steps to ameliorate violence, the role of women in these efforts are often undervalued. My resolution will encourage women of every race, class and economic circumstance to work together to form coalitions and strengthen communities to work toward international peace-building efforts and will encourage governmental leaders to seek the participation of women at all levels of peacebuilding and peace-keeping efforts.

My resolution encourages the use of the week following Mother's Day to hold forums, conferences, and other activities dedicated to examining the need for peace and the role of women in establishing and maintaining peace-building efforts. I am asking each Member of this House to join me in my efforts to raise the volume of women's voices and encourage non-violent solutions to domestic, national and international disputes, by co-sponsoring this legislation.

TRIBUTE TO REIKO KAWAKAMI

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. MATSUI. Mr. Speaker, I rise in tribute to Reiko Kawakami, my dear friend and a most loyal and dependable staff member for the last twenty-three years. As her friends and family gather to celebrate Reiko's wonderful career, I ask all of my colleagues to join with me in saluting one of Sacramento's finest citizens.

The youngest child of George and Ann Kashiwada, Reiko was born in Sacramento on July 8th, 1941. As a youngster in midtown Sacramento, where her parents owned a neighborhood market, Reiko demonstrated her trademark responsibility at a very early age. Reiko and her sister Ellen assumed the task of making sure that things were in order at home. Reiko would often prepare meals and perform various household chores when her parents were busy tending to the family business.

When World War II broke out, Reiko and her family were sent away to the Tule Lake Internment Camp. During the internment, Reiko first demonstrated her gregarious nature and agreeable personality by socializing and playing with the other children in the camp. In the years since the internment, Reiko has remained open to share her experience with others. Reiko has been a clear and thoughtful voice in educating the people of Sacramento about the Japanese American internment experience.

After the internment and a two-year stay in Denver, Colorado, Reiko and her family returned to Sacramento in 1948. It was during my early years at William Land Park Elementary School that I began my lifelong friendship with Reiko. While at McClatchy High School, Reiko caught the eye of Hachi Kawakami. Although a school boundary change forced Reiko to finish her senior year at Sacramento High School, Reiko and Hachi's romance continued and they were soon married after Reiko's graduation from high school in 1958.

For the next two decades, Reiko devoted her energy to raising her five wonderful children; Deann, Cynthia, Mark, Susan, and John. While most people would rest on their laurels and look for less demanding pursuits after raising five children, Reiko decided that she was ready to embrace another challenge by starting a career. After serving as a tireless volunteer on my first congressional campaign, Reiko took on the position as my first district Staff Assistant.

Many things have changed about our world since Reiko first assumed the position of Staff Assistant in my district office in January of 1979. We have seen five different occupants of the White House, the fall of the former Soviet Union, and the rise of the information superhighway. But, one thing has always remained constant in my office over the past twenty-three years; Reiko has been a stalwart part of ensuring that business in my office is handled professionally and in the proper manner. Reiko has truly been the epitome of a leader through example to her peers from Sacramento to Washington, DC over the years. For that, I will always be grateful for her twenty-three years of unparalleled service and life long friendship.

Although Reiko's professional career may be coming to an end, she certainly has much to look forward to in her retirement years. In addition to her five children and their spouses, Reiko can look forward to taking an active role in the lives of her lovely grandchildren; Nicole, Rachelle, Jordan, Dylan, Brett, and Taylor. Reiko and Hachi can also look forward to pursuing their dream to travel to fun and exciting places in their leisure time.

Mr. Speaker, as Ms. Reiko Kawakami's friends and family gather to celebrate and honor her illustrious twenty-three year career I am honored to pay tribute to one of my dearest friends. Her contributions to my office and the citizens of Sacramento are unparalleled and her friendship is invaluable, and it is a great honor for me to have the opportunity to pay tribute to her. I ask all my colleagues to join with me in celebrating the lifetime of this extraordinary person.

TRIBUTE TO CAMERON BALLANTYNE

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to pay tribute to a member of my Washington, DC staff for his tireless efforts on behalf of the good people of Oregon's 2nd Congressional District. Cameron Ballantyne will conclude his internship this week to pursue a degree at my alma mater, the University of Oregon. I wish him well in this endeavor and know that he will excel in his pursuit of a career in the field of journalism.

Cameron comes from a fine Oregon family. I know and admire his parents, Kent and Mary Ballantyne of Lake Oswego, Oregon, and count myself fortunate to call them my friends. I have not been surprised to find that in Cameron's case, the apple does not fall far from the tree.

Following his graduation from high school, Cameron's academic pursuits led him to the Rexburg, Idaho, campus of Brigham Young University. After an exemplary academic performance there, Cameron embarked on a two-year mission in the service of his church in Moscow, Russia, where he became fluent in the Russian language. His strong sense of duty and idealism was further demonstrated when he returned to Oregon to work for the American Red Cross Blood Service. Cameron continued his record of civic service in September by moving to the nation's capital to serve as an intern in my congressional office.

During his stay in Washington, DC, Cameron experienced much more than the typical intern. He joined my staff only one week before the tragic events of September 11th and from his vantage point in Washington witnessed the best and worst of humanity. Cameron was undeterred by the attacks and continued to perform every task he was given with diligence and attention to detail. His efforts were instrumental in responding to the immediate challenges facing my staff, providing much needed help during our temporary displacement from the Longworth Building. Cameron's faithful service gave me full confidence to trust him with important work in a number of subject areas, including press relations.

Cameron's departure will not go unnoticed in my office, especially among my staff, who relied upon his assistance on a daily basis. I know I speak for them all in testifying to the competence and professionalism Cameron exhibited in carrying out his duties, attributes that will serve him well in any career he chooses. I am confident that Cameron will always approach life with the same enthusiasm he brought with him to work every day. I am sorry to see him leave, but wish him the best life has to offer. Cameron, good luck, Go Ducks, and thank you for a job well done.

GEORGE BATH HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to my good friend George Bath, a native of my district, who is on his way back to his hometown of Edwardsville after a long career here on Capitol Hill. A farewell party will be held for George on December 18th.

After graduating from Wyoming Valley West High School and Wilkes College, George moved to the Washington, D.C., area to begin his career in the procurement field. While working here, he earned a Masters in Business Administration from Frostburg State University in Maryland. His strong negotiation skills, coupled with an unyielding commitment to quality management and teamwork, have earned him the respect of his colleagues on both sides of the aisle and the Hill.

George arrived on Capitol Hill in June of 1989, working as a Purchasing Agent for the Senate Sergeant At Arms Office in the start-up procurement office. During his tenure, he helped to mold an office that saved millions of dollars for the taxpayer while also receiving the highest quality goods and services.

In August 1996, George transferred to the House side, where he became a Procurement Specialist in the Office of Procurement under the Chief Administrative Officer. George possessed exceptional knowledge of procurement practices and principles and worked superbly well with Member, Leadership and Committee offices and all other House Officers. No job was too small or too great for George. Just as he had done on the Senate side, he focused on saving taxpayer money, while achieving the highest quality product for the offices he served. George's uncanny knack for resolving disputes for the offices he served consistently resulted in win-win outcomes.

In 1998, George became a Senior Procurement Specialist because of his ability to handle high-stress and high-visibility projects on behalf of a very demanding customer base. His accomplishments and talents in this position include diligence and attention to the House's unique needs for improved vendor performance, using the Internet to post procurements, and opening the realm of competition to a wider range of vendors. He worked in conjunction with the Committee on House Administration in providing House-wide briefings to all House offices, and it would be hard to find an office that has not heard the name George Bath. After all, he developed a training manual and class and then taught House personnel on how to effectively manage contracts.

In June 2000, George received recognition for his exemplary contributions to the organizations of both the Chief Administrative Officer and the Architect of the Capitol by earning the Distinguished Service Award. George was honored for his management of the procurement process supporting a first-of-its-kind project demonstrating the ability of these offices to work together to produce a successful delivery. As part of this process, George oversaw the installation of a state-of-the-art audio-visual system for the International Relations Committee hearing room. Perhaps his greatest story involved the delivery of a 10-feet-square-by-40-feet-long crate for the hearing room through the front door of the Rayburn Building as he was suddenly surrounded by police.

In November 2000, George ultimately became the head of the Office of Procurement because of his excellent overall performance. He became a known commodity unto himself throughout the House, recognized for his ability, responsiveness and candid, reliable advice. Bill Dellar, Associate Administrator of Procurement, has said, "George Bath has indeed served the House with pride, energy, and creativity. His shoes will be hard to fill!" Mr. Speaker, I heartily agree.

But, Mr. Speaker, George's new life back in Pennsylvania has been on hold since October of this year. You see, he was supposed to start his new job there in October, but he was called into action after the September 11th terrorist strikes and October 17th anthrax attacks and has extended his time here to put the House in a better and more secure position. His devotion and dedication to the emergency contract challenges that followed have proven exemplary. The challenges he encountered were frequent and varied, but George's engaging personality and recognized professionalism met these needs effectively.

Now George's wife, Diane, and two sons, Stephen and John Paul, are patiently awaiting his return to Pennsylvania, and we, here at the House, need to let him go. His professionalism and performance bring great credit upon himself, to the House of Representatives, and, I am sure, to his new employer, the Department of Veterans Affairs Medical Center in Wilkes-Barre.

I will close by repeating the words of the Chief Administrative Officer, Jay Eagen, about George: "If I have a complaint about George Bath, it's that he tried to do too much, for too many people. But of course, that's not really a complaint, it's a compliment." Mr. Speaker, I am pleased to call George Bath's public service to the attention of the House of Representatives, and I send my best wishes to him and his family.

TRIBUTE TO MR. RALPH PACKINGHAM ON HIS UNFLINCHING COMMITMENT TO MIAMI'S INNERCITY RESIDENTS

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mrs. MEEK of Florida. Mr. Speaker, it is indeed a great honor to pay tribute to one of Miami-Dade County's unsung heroes, Mr. Ralph Packingham. Recently, people from all walks of life came together to thank and pay homage to this incessant gadfly for the many years he has devoted to the less fortunate of our innercity neighborhoods.

As a Korean War veteran, he served honorably in heeding our nation's call to duty toward safeguarding our freedom and security. After his stint with our Armed Forces, he attended professional schools of beauty culture and hair styling in New York, expanding his knowledge and expertise on the subject with the Helene Curtis Laboratories. Though a North Carolinian by birth, he came down to Miami to live and make his mark on our community's well-being. Dubbed simply as the irrepressible Mr. Ralph, he involved himself in virtually creating the esthetic appearance of those who came to his beauty salon to design a better look of themselves and thus achieve a more confident self-esteem.

Out of his hard work and diligence, coupled with his business acumen and personal warmth, his fame as Miami's hairstylist par excellence emerged. Under the aegis of his salon, Hairstyles by Mr. Ralph, he became the legendary cosmetologist whose advice on the challenges of beauty culture and intricacies of hairstyling was sought far and wide.

His tremendous entrepreneurship ultimately propelled him to his engagement with the well-being of Miami's innercity residents. In 1983 he was appointed President of the Allapartah Merchants Association where he superbly managed the development and construction of a private/public business venture toward the retailing of beauty products and the consolidation of a series of pharmaceutical operations. While he exercised optimum vigilance over the business aspects of the Association, he became involved with the overall amelioration of the residents in the innercity.

Sensitized by the awesome hurdles which poor families have to contend with in getting affordable housing and access much-needed capital, Mr. Ralph Packingham became the Executive Director of the Word of Life Community Development Corporation under the auspices of the Word of Life Missionary Baptist Church. At the most recent gathering, in Liberty City tendered to acknowledge his countless contributions to our community, the Rev. Richard P. Dunn II, his pastor, described him as ". . . a man among men (who) has impacted the lives of thousands of people."

His commitment to affordable housing paved the way for his becoming the driving force of detached, affordable single family homes in Liberty City. The first two of these affordable homes were dedicated last Monday, December 10, 2001. More poor families from Miami's innercity will soon move in and live in their respective dream homes via the low-cost affordable housing initiative born out of the vision and fortitude of this outstanding community leader.

Ever since I have known this quintessential trailblazer who leads by the fortitude of his exemplary sacrifices, Mr. Ralph has always been at the forefront of ensuring equality of opportunity in our community. Countless others have been touched by his unflinching advocacy for those who could least fend for themselves. Though currently ailing and confined to a wheel chair, this 72-year old dynamic personality goes about his leadership role over the faith-based Word of Life CDC in reaching out to poor families, engendering in them genuine hope and optimism.

Buoyed by his sterling Faith in a providential God, he has been and continues to be our community's superlative steward and consummate activist. He is a decent and caring man who thoroughly understands the accouterments of power and leadership by exercising them alongside the mandate of his conviction and the wisdom of his conscience. The uniqueness of his modus operandi genuinely personifies his credo that "* * * you gotta do a lot of praying and a little politicking" to ameliorate the lives of others.

Mr. Ralph Packingham epitomizes a refreshing advocate whose unflinching compassion and resilient spirit appeal to our noblest character. Indeed, I feel so privileged but deeply humbled to represent him in the hallowed halls of Congress.

CONGRATULATING STEPHEN JOHNSON AND DENNIS PARKER ON THEIR ESSAYS ABOUT "WHAT MAKES AMERICA GREAT"

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. KAPTUR. Mr. Speaker, each year Crestwood Elementary School in Swanton, Ohio spends Veterans' Day honoring local veterans. It is an insightful and moving day-long series of events in which both the children and adults fully participate. The 2001 observance featured two essays describing "What Makes America Great" which I would like to enter into the RECORD. The first is by 6th grader Stephen Johnson and the second by 6th grader Dennis Parker.

Three things that make America great are: freedom, the land and its climate, and the people.

First of all freedom makes America great because we can choose our government. For example we can elect candidates for president, vice president, mayor, trustee, secretary, and various other offices within our country's governmental system. We have the freedom to go where we want, and how we're going to get there. We also have freedom to buy, and drive what we want. For example, we can buy airplane tickets, cars, houses, and many other things. We are even allowed to choose what we want to do with our lives. For example we could be a doctor, nurse, dentist, president, vice president, and many different jobs within our country.

Secondly America's land and its climate make America an abundant and bountiful country to live in. The land provides us with minerals, food, water, shelter, wildlife, and the clothes such as cotton. The climate provides this country with sunshine, darkness, warmth, coldness,, and the four seasons. The climate has caused America to form oceans, mountains, valleys, plateaus, and hills. The natural resources give us wood for pencils, lumber, paper, and fire, oil for cars and other automobiles, water for drinking, and land for farming.

Thirdly the people make America great because history and events are based on people. The people are faithful, and loyal to their country. There are many different kinds of people living in America. The history, and events are based on people because there was the Boston Tea Party, World War I, World War II, and there was the tragedy that happened just recently. The people are faithful, and loyal to their country by recycling, burning waste, not polluting the air, and many other things to help our environment. There are many different kinds of people living in America because in America you are free to pick your job, your house, and many other things that make America a great place to live in.

Here is the second essay:

If you want to know what makes America great, then take a look around you. I think people took America for granted until the terrorists' acts on September 11, 2001. In a heartbeat, innocent lives were destroyed.

Instead of television heroes like Batman and Superman, they became firefighters, policemen, and just ordinary people like moms and dads, every day Americans just like you and me.

Our country's freedom was taken for granted by Americans that was won by our veterans and forefathers. We fought in wars to end injustices, communism, and nationalism. Now, we are trying to stop terrorists, and our country is united even more.

People show their love and patriotism for our country by flying flags, giving blood, money and food to people in need. They don't care about how much money we have or our skin color. They just want to help out. That is why America is the best country in the world.

If you want to know what freedom is, then look around you. We have freedom of speech, religion, and education. We can go to school, speak, and pray without being punished. We aren't told what job to have, where to live, and what to do. We have many laws, but they are not to punish us, they are to protect us.

America is great because we can vote for whomever we want in a secret ballot. We are allowed to choose our president, governor, or mayor without being punished.

So basically, America is cared for and so are its people. They want to help America and make it even more united. Our veterans played a very important part in American history because they helped us gain freedom.

So remember every time you say the Pledge of Allegiance, or sing the national anthem, be proud, and think of our real heroes. We are united because we are free and we are free because we are United. God Bless America!

HONORING THE DEARBORN/DEARBORN HEIGHTS CHAPTER OF THE LEAGUE OF WOMEN VOTERS ON THE OCCASION OF THEIR 50TH ANNIVERSARY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. DINGELL. Mr. Speaker, I am pleased to rise today to pay tribute to the Dearborn/Dearborn Heights Chapter of the League of Women Voters on their 50th Anniversary.

Recognized by the National League of Women Voters on December 19th, 1951, the Dearborn/Dearborn Heights Chapter has fulfilled and continues to fulfill it's primary goal of encouraging the informed and active participation of citizens in government, working to increase understanding of major public issues and influencing public policy through education and advocacy.

The Dearborn/Dearborn Heights Chapter has provided numerous services to the community since their inception in 1951. In 1952, they provided election-day childcare in 63 precincts, allowing parents to vote. They helped establish the Northwestern Child Guidance Clinic in 1963. Throughout the years, they have worked with ABC News on election-day exit polling. These fine women have helped pass library proposals and establish a diversity committee which works to engage local students in community discussions. Mr. Speaker, these women have served their community well.

Though they are a non-partisan group, the Dearborn/Dearborn Heights Chapter of the League of Women's Voters is extremely political, focusing their efforts on child health and welfare, juvenile justice, and campaign finance reform. A League representative sits on the Rouge River Advisory Council, as well as the Southeast Michigan Council of Governments Educational Advisory Council. As spelled out in their original charter, the League's actions are always a reflection of their member's priorities.

I would like to recognize the current officers of the Dearborn/Dearborn Heights Chapter of the League of Women Voters: Elizabeth Linick, Janice Berry, Mary Jo Durivage, Mary Anne Wilkinson, Jeni Dunn and Mary Bugeia. I thank all the fine members of this Chapter of the League for all their hard work over the past 50 years, and would ask that they keep it up. On the occasion of their 50th anniversary, I would ask all my colleagues to salute the Dearborn/Dearborn Heights Chapter of the League of Women Voters.

INTRODUCTION OF THE DEFERRED ANNUITANT FAIRNESS ACT OF 2001

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Ms. VELÁZQUEZ. Mr. Speaker, later today I will introduce legislation, the Deferred Annuitant Fairness Act of 2001, to correct a glaring inequity in Federal retirement law. At a time when we are considering legislation to protect the hard-earned retirement benefits of working men and women—and give them more control and responsibility over their income in retirement, at least one class of federal government retirees find themselves at an unfair disadvantage and their retirement benefits eroded through no action of their own.

I speak of deferred annuitants of the federal government—employees who work for the Federal Government for at least five years, vest in the retirement program, and who separate from service before becoming eligible for immediate retirement. When these individuals claim their retirement annuity in later years, the pension benefit they have financed is eroded by inflation and they are put at a financial disadvantage which they cannot overcome.

Under current law and practice, the Civil Service Retirement and Disability Fund invests employee contributions but gives no added value to a retiree for the time his or her money was invested before the deferred annuity starts to be paid out. As a consequence, if two employees gave identical service, with the first retiring in 1970 and the second in 2000 with annuities for each starting in 2000, the second retiree receives nearly five times the annuity of the first. In addition, the spouse of a CSRS retiree is not protected during the deferral period. (This protection is already afforded to FERS spouses and spouses of Members of Congress participating in CSRS.)

This legislation will make two primary changes in current law to correct this inequity. First, it will compensate deferred annuitants for the added value generated over the deferred period from investing what was deposited into the trust fund on behalf of the employee up to the time of separation from service is compensated. Second, it will eliminate the disparity in spousal protection for deferred annuitants covered under CSRS and FERS.

Mr. Speaker, fairness and equity should be the watchword when it comes to the treatment of our federal workforce—the hundreds of thousands of men and women who dedicate their lives to service to this nation and our people. With the changes proposed in the legislation I introduce today, federal employees who take a hiatus from their federal service before retiring will be protected from inflation and the erosion of their pension benefit available upon retirement. I urge my colleagues to join me in support of these changes.

This measure is endorsed by the National Association of Retired Federal Employees.

RETIREMENT OF TOM MILLER, PRINCIPAL OF ST. JOSEPH HIGH SCHOOL IN ST. JOSEPH, MICHIGAN

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. UPTON. Mr. Speaker, I rise tonight to offer heartfelt congratulations to Tom Miller. Throughout his career, Tom Miller has constantly demonstrated a commitment to the educational and athletic development of the future leaders of our society. His professional life has consisted of numerous positions of leadership at various schools in Southwest Michigan, including his current post as principal of St. Joseph High School, which he has served for over 23 years. Tom's dedication to the enhancement of the educational experience of young people is a truly noble quality, and one that will be sorely missed.

Additionally, Tom's involvement in the athletic arena of the school system has earned him a place in the Battle Creek St. Philip High School Athletic Hall of Fame. Tom spent numerous years involved in student athletics, his basketball teams enjoying a host of victories during his tenure. I would like to wish the best of luck to Tom in his retirement, which will allow him to spend the coming years with his family, including his wife Mary Lou and all of his loved ones.

CONFERENCE REPORT ON H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

SPEECH OF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 2001

Mr. CRANE. Mr. Speaker, I want to praise President Bush for putting forth an education plan that offered children in failing schools a chance to get a better education. It is too bad that Democrats and supporters of the failing status quo were allowed to gut the legislation, H.R. 1, at the Committee level to remove any chance for failing schools to successfully improve their performance or to let parents have the option to move their children to better schools.

I believe that control of education should be retained at the local level. Last year, Illinois high school students led the nation in Advanced Placement scores. With a few exceptions we have good schools in the 8th District, and I don't want to force parents, school boards, and teachers into a one-size fits all approach that might work in New York City or Atlanta but not in Barrington or Wauconda.

One of the reasons I supported broad-based tax relief, including eliminating the marriage tax penalty and doubling the child tax credit, is because it lets 70,000 married couples and families with 125,000 children in the 8th District of Illinois keep $162 million per year in their pockets. That is $162 million per year that families could spend in our district on education if they chose to do so.

Former President Ronald Reagan, in a March 12, 1983 radio address to the nation on education, said, "Better education doesn't mean a bigger Department of Education. In fact, that Department should be abolished. Instead, we must do a better job teaching the basics, insisting on discipline and results, encouraging competition and, above all, remembering that education does not begin with Washington officials or even State and local officials. It begins in the home, where it is the right and responsibility of every American."

When we send a dollar to the federal government from Illinois, we only get 75 cents back. In my district, we send more than $2 to Washington and only get $1 back. With a return like this, it is easy to see why I support letting taxpayers keep more of their hard-earned money and having parents decide locally how their money should be spent on education.

Federal education funding is at an all-time high, and H.R. 1 increases it by a huge amount. Yet, student achievement continues to lag. Most Republicans in Congress want to give local schools more freedom to use new models to solve old problems while maintaining high accountability standards. I am saddened that H.R. 1 does not accomplish this worthy goal.

One concept that has strong support from parents is President Bush's proposal to improve public education by testing children in reading and math in grades three through eight once each year. Under President Bush's proposal, schools would be held accountable for either improving scores or losing their federal money, which accounts for seven cents of every education dollar.

I fully support this provision and am gratified it has been included in the conference report before us today. In fact, during debate on H.R. 1 in May of this year, I voted against the amendment co-sponsored by Congressmen PETER HOEKSTRA and BARNEY FRANK to remove President Bush's test requirement from the bill. The tough new testing regimen designed to identify failing public schools—an idea at the heart of President Bush's education plan—survived when the amendment failed. But the rest of the President's plan to give local schools more control to make the changes necessary to improve and to give parents the option to move their children to a better private school were stripped out of the bill.

For the reasons I have outlined, I have decided to vote against H.R. 1. Again, I want to praise President Bush for his leadership in proposing creative solutions to improving the education of our children. I encourage him to continue to move the federal government out of the way and to give schools more flexibility and parents more choices for their children.

TRIBUTE TO THE STUDENTS AND STAFF OF BECKEMEYER GRADE SCHOOL, HILLSBORO, ILLINOIS

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to the students and staff of Beckemeyer Grade School in Hillsboro, Illinois, and the heartwarming project they undertook to bring comfort to the victims of the recent tragedies.

The attacks of September 11th were a horrible shock to everyone in the United States, but to none were they more devastating than to the victims and their families. American hearts went out to those who would now have to struggle on without the light and laughter of their loved ones who had died. The outpouring of support for these families was enormous, like a bright light of kindness that shone out through the darkness of the disaster. Money, well-wishes and prayers poured in from all across the nation.

Mr. Speaker, the students and staff of Beckemeyer Grade School were part of that outpouring. They purchased several thousand small, glass figurines, called Comfort Angels. These beautiful angels were meant to bring hope and well-wishes to all who viewed them. The people of Hillsboro, lead by their coordinator Pamela Hopper, then set an ambitious goal: to distribute an angel to the families of every victim of the tragedy.

They have come astonishingly close to that goal—thousands of Comfort Angels have been distributed to families all over the world. They have found their way to embassies, fire stations, Congressional offices, and homes in New York and Washington. Two thousand of them were distributed by the Salvation Army alone, at the Memorial for the Pentagon on October 11th. And the results have been equally amazing. Letters have poured into Hillsboro, filled with thanks and touching stories.

Mr. Speaker, I am convinced that the terrorists of September wished to divide and demoralize our country. Instead, in many ways they have energized us and brought us closer together. The amazing success of the people of Beckemeyer Grade School is a wonderful example of this—their faith and hard work has allowed them to make a difference in many lives, and they deserve my thanks and the thanks of these chambers.

COMMENDING THE CANADIAN PACIFIC RAILWAY HOLIDAY TRAIN

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. NADLER. Mr. Speaker, this year, the Canadian Pacific Railway Holiday Train embarked on its third annual "journey of goodwill" to collect food throughout Canada and the United States for those most in need. The two previous drives have collected 18 tons of food, and have raised more than $500,000 to combat hunger. On December 4th, one of the three trains traveling throughout the United States and Canada embarked on its journey from the Fresh Pond Junction Rail Yard in Queens, New York. There, the Canadian Pacific Railway hosted a special ceremony honoring and remembering the heroes of September 11th.

I would like to sincerely thank the Canadian Pacific Railway for having one of their beautifully decorated trains originate in New York City. This was a tribute to the men and women who lost their lives in the September 11th tragedy, as well as a tribute to their families. The victims' families were invited to the ceremony, and Christmas trees were given to all of the families of the firefighters and police officers who were killed. In addition, Canadian Pacific Railway donated $100,000 to the NYSE Fund for Fallen Heroes. This kindness and generosity is just the most recent example of Canadian Pacific Railway's long standing commitment to the people of New York.

I commend the Canadian Pacific Railway on their benevolent gestures towards the city of New York, and thank them for not only supporting the United States and our families in this time of tragedy, but also for continuing their plight to feed the hungry.

IN HONOR OF MARY LOU WEISS UPON HER RETIREMENT FROM HERMOSA BEACH SCHOOL BOARD

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Ms. HARMAN. Mr. Speaker, I rise today to honor a good friend, Mary Lou Weiss, who retires this month from the Hermosa Beach Unified School District Board of Trustees, on which she has served as Trustee for 16 years, including 6 tours as President.

In her capacity as a School Board Trustee, Mary Lou has been a strong advocate for Hermosa Beach children, helping to ensure they receive the best educational opportunities. Because of her knowledge and expertise, I asked her to serve on my Education Advisory Committee.

A long time resident of Hermosa Beach, Mary Lou has contributed to the community in so many other ways as well. She has served as an advisory member for the Hermosa Beach Chamber of Commerce, coached AYSO boys soccer, and served on the advisory board for the Hermosa Beach Education

Foundation. For her active contributions, she was named 1989 Hermosa Beach Woman of the Year.

Of special interest, she has managed several local farmers' markets, making sure the vendors get the space they need and that the markets run smoothly. I have taken advantage of these markets many times—during my campaigns, the farmers' markets have always been a great way to reach a lot of people, and as a member of Congress, my staff and I often bring our office resources to the community by setting up our own booth. Mary Lou not only accommodates these important visits for me, but she is always thoughtful enough to provide flowers and to remember that I like Diet Coke.

Mary Lou also is a tremendous resource to my staff, always available to answer questions about policy, politics, or which vendor has the best produce. My staff members over the years consider Mary Lou as an additional "mother."

This year, Mary Lou chose not to run for another term as a School Board Trustee in order to apply her years of experience to a run for Hermosa Beach City Council. Although she was not successful in this endeavor, she once again demonstrated her leadership and commitment to the community through the classy way she ran her campaign,

I will miss Mary Lou on the School Board, but I know we will continue to work together to ensure that we do the best we can for the children of our community. I join the citizens of Hermosa Beach in wishing Mary Lou and her family well in their future endeavors.]

DO REGISTRATION REQUIREMENTS THWART RELIGIOUS FREEDOM?

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. SMITH of New Jersey. Mr. Speaker, the "Helsinki" Commission on Security and Cooperation in Europe recently convened a briefing which examined the policies of various governments which require registration of religious groups and the effect of such policies on the freedom of religious belief and practice. There was evidence that such requirements can be, and often are, a threat to religious freedom among countries in the Organization for Security and Cooperation in Europe (OSCE).

As Co-Chairman of the Helsinki Commission, mandated to monitor and encourage compliance with the Helsinki Final Act and other OSCE commitments, I have become alarmed over the past decade by the creation of new laws and regulations in some OSCE countries that serve as a roadblock to the free exercise of religious belief. These actions have not been limited to emerging democracies, but include Western European countries such as Austria.

Many of these laws are crafted with the intent to repress religious communities deemed nefarious and dangerous to public safety. One cannot deny that certain groups have hidden behind the veil of religion in perpetrating monstrous and perfidious acts. The September 11th tragedies have been a grim reminder of that. Yet, while history does hold examples of religion employed as a tool for evil, these are exceptions and not the rule. In our own country, during the Civil Rights Movement, religious communities were the driving force in the effort to overturn the immoral "separate but equal" laws and provide legal protections. If strict religious registration laws had existed in this country, government officials could have clamped down on this just movement, possibly delaying long overdue reform.

While OSCE commitments do not forbid basic registration of religious groups, governments often use the pretext of "state security" to quell groups espousing views contrary to the ruling powers' party line.

Registration laws are often designed on the premise that minority faiths are inimical to governmental goals. Proponents of more strenuous provisions cite crimes committed by individuals in justifying stringent registration requirements against religious groups, ignoring the fact that criminal laws should be adequate to combat criminal activity. In other situations, some governments have crafted special church-state agreements, or concordats, which exclusively give one religious group powers and rights not available to other communities. By creating tiers or hierarchies, governments run the risk of dispersing privileges and authority in an inequitable fashion, ensuring that other religious groups will never exist on a level playing field, if at all. In a worst case scenario, by officially recognizing "traditional" or "historic" communities, governments can reflect an ambivalence towards minority religious groups. Such ambivalence can, in turn, create an atmosphere in which hostility or violence is perpetrated with impunity. The persistent brutality against Jehovah's Witnesses and evangelical groups in Georgia is an example of State authorities' failure to bring to justice the perpetrators of such violence.

Mr. Speaker, religious registration laws do not operate in a vacuum; other rights, such as freedom of association or freedom of speech, are often enveloped by these provisions. Clamping down on a group's ability to exist not only contravenes numerous, long-standing OSCE commitments, but can effectively remove from society forces that operate for the general welfare. The recent liquidation of the Salvation Army in Moscow is a lucent example. Who will suffer most? The poor and hungry who now benefit from the Salvation Army's ministries of mercy.

Each OSCE participating State has committed to full compliance with the provisions enumerated in the various Helsinki documents. The Bush Administration's commitment to religious freedom has been clearly articulated. In a March 9, 2001 letter, Dr. Condoleezza Rice, National Security Advisor, wrote: "President Bush is deeply committed to promoting the right of individuals around the world to practice freely their religious beliefs." She also expressed her concern about religious discrimination. In a separate letter on March 30th of this year, Vice President DICK CHENEY echoed this commitment when he referred to the promotion of religious freedom as "a defining element of the American character." He went on to declare the Bush Administration's commitment "to advancing the protection of individual religious freedom as an integral part of our foreign policy agenda."

Since the war on terrorism was declared, the President has made clear the distinction between acts of terrorism and religious practice. In his address to the country, Mr. Bush stated: "The enemy of America is not our many Muslim friends. . . . Our enemy is a radical network of terrorists and every government that supports them." He further stated, "The terrorists are traitors to their own faith, trying, in effect, to hijack Islam itself." Accordingly, I believe this administration will not stray from supporting religious freedom during this challenging time.

Out of concern about recent developments and trends in the OSCE region, the Helsinki Commission conducted this briefing to discuss registration roadblocks affecting religious freedom. I was pleased by the panel of experts and practitioners assembled who were kind enough to travel from Europe to share their thoughts and insights, including Dr. Sophie van Bijsterveld, a professor of law in The Netherlands and current Co-Chair of the OSCE Advisory Panel of Experts on Freedom of Religion or Belief, Dr. Gerhard Robbers, a member of the OSCE Advisory Panel of Experts and professor of law in Germany; Mr. Vassilios Tsirbas, interim executive director and senior legal counsel for the European Centre for Law and Justice in Strasbourg; and Col. Kenneth Baillie, commanding officer for the Salvation Army in Eastern Europe.

Dr. van Bijsterveld made the point that "the assessment of registration from the point of view of religious liberty depends entirely on the function that registration fulfills in the legal system, and the consequences that are attached to registration."

She continued: "A requirement of registration of religious groups as a pre-condition for the lawful exercise of religious freedom is worrisome in the light of international human rights standards. [Needing the government's] permission for a person to exercise his religion in community with others is, indeed, problematic in the light of internationally acknowledged religious liberty standards. Religious liberty should not be made dependent on a prior government clearance. This touches the very essence of religious liberty."

Dr. Robbers noted that registration of religious communities is often a requirement but "it need not be a roadblock to religious freedom. In fact, it can free the way to more positive religious freedom if correctly performed." If utilized, "registration and registration procedures must meet certain standards. Registration must be based on equal treatment of all religious communities. . . . [and] the process of registration must follow due process of law." He further noted that "religious activity in and as community, must be possible even without being registered as religious community." He made clear that the minimum number of members required for registration need not be too many and there should be no minimum period of existence before registration is allowed.

The third panelist, Mr. Tsirbas, opined, "Within this proliferation of the field of human rights, the Helsinki Final Act is a more than promising note. The commitment to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief for all, without distinction as to race, sex, language or religion, basically summarizes the . . . protection of international and domestic legal documents. Religious liberty stands out as one of those *sine qua non* conditions for an atmosphere of respect for the rights of individuals or whole communities."

Mr. Tsirbas also stated, "If the protection of the individual is considered the cornerstone of our modern legal system, religious freedom should be considered the cornerstone of all other rights. The right itself is one of the most recent to be recognized and protected, yet it embraces and reflects the inevitable outworking through the course of time of the fundamental truths of belief in the worth of a person."

Lastly, Col. Kenneth Baillie, spokesman for the Salvation Army in Eastern Europe, outlined the experience of registering his organization in Moscow. "In Russia, as of February this year, we are registered nationwide as a centralized religious organization, [however] the city of Moscow is another story. We have been registered as a religious group in Moscow since 1992. In response to the 1997 law, like everyone else, we applied for re-registration, thinking that it would be merely pro forma. Our application documents were submitted, and a staff person in the city Ministry of Justice said everything was in order, we would have our signed and stamped registration in two days.

"Two days later," Col. Baillie continued, "the same staffer called to say, in a sheepish voice, 'There's a problem.' Well, it is now three years later, and there is still a problem. Someone took an ideological decision to deny us, that is absolutely clear to me, and three years of meetings and documents and media statements and legal briefs are all window-dressing. Behind it all is an arbitrary, discriminatory, and secret decision, and to this day I do not know who made the decision, or why."

Based on the difficult experience of trying to register in Moscow and the Salvation Army's subsequent "liquidation" by a Moscow court, Col. Baillie offered some observations. He noted how "the law's ambiguity gives public officials the power to invent arbitrary constructions of the law." Col. Baillie concluded by stating, "We will not give up," but added he is "understandably skeptical about religious registration law, and particularly the will to uphold what the law says in regard to religious freedom."

Mr. Speaker, this Helsinki Commission briefing offered a clear picture of how the law and practice affecting, registration of religious groups have become critical aspects in the defense of the right to freedom of conscience, religion or belief. No doubt registration requirements can serve as a roadblock which is detrimental to religious freedom. The Commission will continue to monitor this trend among the region's governments which are instituting more stringent registration requirements and will encourage full compliance with the Helsinki commitments to ensure the protection of this fundamental right.

TO RECOGNIZE THE ARGYRO LALOS SCHOLARSHIP FUND AT ARIZONA STATE UNIVERSITY, AND THE OUTSTANDING CITIZEN IT HONORS

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. PASTOR. Mr. Speaker, I stand before you today to recognize the Argyro Lalos Scholarship Fund at Arizona State University (ASU), and the outstanding citizen it honors, Ms. Argyro Lalos of Phoenix, Arizona.

Recently, the Lalos family, with the help of 20 contributors, endowed a scholarship fund on behalf of 93-year-old Yia Yia (ya-ya, which is "grandmother" in Greek), as she is affectionately known, to honor her lifelong respect for quality education. Each year, Ms. Lalos will help select a recipient of the award, which is in the amount of $500, from among the engineering students at ASU that apply. Engineering students are the focus because the Lalos family believes that Yia Yia would have excelled in this field had she been given the opportunity. Applicants are judged on academic standing and essays they write explaining obstacles they have overcome in achieving a higher education.

Her desire to learn was prominent at an early age. Raised in Greece, she was pulled out of elementary school because of the perceived lack of value in educating young women in that society. Often sneaking to school and borrowing school books, she eventually taught herself how to read, while never receiving a formal education. She continues to be an avid reader of novels and biographies and reads the Greek newspapers daily.

After World War II, Yia Yia came to America with her husband and worked as a seamstress while he worked at a dry cleaning and tailor shop. Achieving an education was stressed in the household and their goal was always to be able to provide their children the opportunity to receive a quality education. Throughout the years, with the money they saved, this goal was accomplished as Yia Yia's children and four grandchildren have all received a higher education.

Having endured World War I, the flu epidemic of 1918, the economic depression of the 1930's, German occupation during World War II, and the Greek Civil War, the only heartache Argyro Lalos holds is over never having received a formal education. However, assisting today's students in overcoming the financial obstacles to higher education is a selfless way to give to others the opportunity she never had and therefore a fitting tribute to the much beloved matriarch of the Lalos family.

INTRODUCING THE RETIREMENT ACCOUNT PROTECTION ACT OF 2001

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. BENTSEN. Mr. Speaker, I am introducing legislation to address one troubling issue raised in the wake of the Enron Corporation's sudden stunning demise—the lockdown of Enron employee 401(k) accounts. The Retirement Account Protection Act of 2001 (RAPA) will bar employers from unilaterally and arbitrarily freezing sales of company stock by an employee from their 401(k) pension plans or other Employee Stock Ownership Plans (ESOPs).

Mr. Speaker, while we accept that lockdowns are often ordered in the routine course of plan management by a business, the simple fact is that they unfairly tie the hands of employees. The sudden collapse of the Enron Corporation illustrates how the impact of a lockdown can damage the retirement security of employees. As part of a routine switch of administrators for its employees' 401(k) program, Enron froze employee retirement accounts, packed with its stock, right as shares plummeted in late October and early November. When all was said and done, Enron Corporation's 401(k) plan lost about $1 billion in value. Enron employees assert that during the lockdown, they could only watch in horror as the value of their company stock fell from $30.72 at the close of trading on October 16 to $11.69 on November 19. The anxiety about their jobs was compounded by their inability to protect their retirement savings from decimation.

Under RAPA, employers would have to petition the Secretary of Labor for permission to order an administrative lockdown or freeze of employee defined contribution plans. The Secretary would apply a three-part test and the lockdown would be permitted if the Secretary found it to be administratively feasible, in the interests of the plan and its participants and, most importantly, "protective of the rights of participants and beneficiaries of the plan." Presently, freezes or lockdowns of employee transactions in the Employer stock plans are routinely ordered for administrative reasons such as switches in benefit administrators or during transition times associated with corporate mergers. My bill also orders the appropriate regulators to study the advisability of imposing a cap on company stock purchases by employees for their defined contribution plans, in the wake of Enron's demise and the devastation of thousands of retirement accounts. There are serious questions about the prudence of imposing diversification requirements on employee investments.

Under RAPA, employers who are granted an exemption by the Secretary of Labor could then order a lockdown or freeze of account activity, but not before giving employees adequate notice. Under my bill, current employees, former employees and pension plan beneficiaries would receive written notice of the lockdown at least ninety days prior to the effective date. The importance of providing timely, adequate written notice to all effected parties, regardless of whether they still are employed, cannot be overstated. Former Enron employees who were plan participants, but no longer had access to Enron's internal e-mail network, report that the first time they received notice of the lockdown was when they tried to sell their company stock.

Mr. Speaker, the Employee Retirement Income Security Act (ERISA) has done a good job of protecting the interests of plan participants and beneficiaries, particularly with respect to defined benefit plans. But, since enactment of the ERISA in 1974, the nation's landscape has changed substantially. Though the number of employer-sponsored pension plans have steadily increased, proportionately fewer employers offer traditional defined benefit plans and, instead, offer defined contribution plans such as 401(k) or ESOPs. The growth in defined contribution plans has resulted in a shift of responsibility, from the employer to the employee, with respect to how the funds should be invested. Mr. Speaker, my bill seeks to amend ERISA to ensure that employees continue to have the right to oversee their investments without interference by their employer.

Under RAPA, employers would no longer have the unfettered discretion to undertake such actions. While there is nothing that the Congress can do to guarantee against downturns in the value of company stock, we can ensure that employees retain the same right that any investor has to take whatever actions they deem necessary to protect their retirement savings, including selling company stock.

RECOGNITION OF MRS. CORA HIDALGO HOLLAND'S DEATH

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Ms. SOLIS. Mr. Speaker, I rise to recognize Mrs. Cora Hidalgo Holland, my dear friend Michael Aldaco's aunt, who was a victim of the terrorist attacks on September 11, 2001.

Mrs. Hidalgo Holland led an exemplary life that touched many people's lives. She exercised a subtle kind of leadership and made numerous contributions to her community. Throughout her life of service she became a role model to many. She was very active in her community, helping young, severely "at-risk" mothers, Spanish-speaking teenagers, who were largely on their own. Mrs. Hidalgo Holland taught them the basics of parenting and basics of child-rearing and about nutrition, hygiene and intellectual development. She also volunteered at a center that collected and provided free groceries to needy families.

Mrs. Hidalgo Holland played an integral role in her family. She showed her unbounded love to those dearest to her because family was of utmost importance to her. Thus, she contributed greatly to their development and happiness. She will be missed by those who loved her dearly for the many blessings she brought. Although her death brought much pain, it served to bring her family closer and to realize the fragility of life and the importance of voicing our love for those we love.

I am saddened by the loss of such a fine member of our community. I extend my sincerest condolence to Mrs. Hidalgo Holland's family, as we all mourn the loss of a role model and a exceptional person.

EXPRESSING THANKS TO THE GOVERNMENT PRINTING OFFICE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. HOYER. Mr. Speaker, with my strong support the House recently approved resolutions expressing gratitude to the General Accounting Office for accommodating the House during the recent closure of the House office buildings, and honoring the Capitol Police for their commitment to security at the Capitol in the wake of the September 11 attacks. I wish to bring to the House's attention yet another legislative-branch agency that has gone the extra mile to support the Congress in this period of crisis: the Government Printing Office.

We would be remiss in overlooking the GPO's many contributions of the last three months. When the presence of anthrax necessitated the closure of House and Senate office buildings in October and November, GPO was ready to lend a hand. GPO provided conference room and office space for personnel from the Office of the Clerk of the House and the Senate's Office of Legislative Counsel to continue their important operations. For the Capitol Police, GPO made available the loading docks in its North Capitol Street warehouse for use in screening deliveries to Capitol Hill. Each day, up to 70 trucks destined for the Capitol complex pass through this operation, and it has been an enormous help to us.

GPO has provided other help since September 11. For example, when the Equal Employment Opportunity Commission's regional office was destroyed in the collapse of the World Trade Center complex, GPO established a secure, password-protected area on their web site, so displaced EEOC employees could log-on from home or other places and resume the Commission's work. Personnel from GPO's Inspector General office even helped with recovery efforts at the Pentagon and in New York.

While GPO has provided support in these extraordinary ways, it has also carried on its routine but essential work in printing and information dissemination under the leadership of Public Printer Michael F. DiMario. GPO's printing operation recently earned accolades as the "Number One In-Plant in the Nation" from In-Plant Graphics magazine, a printing-industry journal, for the fourth consecutive year.

Mr. Speaker, the past three months have been unlike any in recent memory. People are working hard the world over to see that such a period never recurs, and to rid the world of terrorism once and for all. We are reminded that at times we must meet extraordinary challenges in extraordinary ways in order to fulfill our responsibilities. As a citizen, and as a Representative in Congress, I find it tremendously gratifying to know that we have in the GPO the creativity, the capability, and the willingness to keep the wheels of our democracy turning on behalf of the American people. I thank the dedicated employees of the GPO for doing their part of a job well done.

HOUSE OF REPRESENTATIVES—*Thursday, December 20, 2001*

The House met at 10 a.m.

The Reverend Msgr. Peter J. Vaghi, Pastor, St. Patrick Catholic Church, Washington, D.C., offered the following prayer:

Almighty God, we call upon You this cold December morning. You are Light of Lights and Light From Light. You are the Light who pierces the perennial darkness of our world, the darkness of our mind and soul, the darkness of a world at war. Because of You, O living and true God, we live, walk, and have our being. You are Emmanuel, God-with-us.

We pray to You this day that passage from the Advent prophet Isaiah: "Let justice descend, O heavens, like the dew from above, like gentle rain let the skies drop it down. Let earth open and salvation bud forth; let justice also spring up."

We pray also for peace. Peace in our world begins with peace in our hearts. And peace in our hearts comes from You, Almighty Father. Draw near to us and grant us Your peace.

Encourage us, O Lord, in this holy season in all our humble efforts carried out in Your life-giving name, O Prince of Peace and Light, Lord of Justice. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from North Carolina (Mrs. MYRICK) come forward and lead the House in the Pledge of Allegiance.

Mrs. MYRICK led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

INTRODUCTION OF REVEREND MONSIGNOR PETER VAGHI

(Mr. FERGUSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FERGUSON. Mr. Speaker, I rise today to honor Monsignor Peter Vaghi for his dedicated service to St. Patrick's Church here in Washington, D.C.

Monsignor Vaghi was born here in Washington, D.C., and attended Gonzaga College High School and the College of the Holy Cross, where he was awarded a Fulbright Scholarship to attend the University of Salzburg in Austria.

Returning home to America, he went on to get his juris doctor at the University of Virginia Law School and worked in Washington, D.C., before he answered a calling to the priesthood and attended the Gregorian University in Rome, Italy.

Monsignor Vaghi was ordained a Catholic priest on June 29, 1985, and designated a "Prelate of Honor" by Pope John Paul II on November 13, 1995.

Mr. Speaker, it is my privilege to welcome Monsignor Vaghi to this House. He is not only a family friend, but he also gave my wife Maureen and me the honor of officiating at our wedding in 1996. I thank him for being here today. His presence and his blessing on this House and on our work here means so very much to me and to every Member of this body.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 324 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 324

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. CAMP). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

NOTICE—DECEMBER 20, 2001

A final issue of the Congressional Record for the 107th Congress, 1st Session, will be published on January 3, 2002, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the office of the Official Reporters of Debates, Room 1718, Longworth House Office Building by noon January 3, 2002. The House Office of the Official Reporters will be open in 1718 Longworth House Office Building, December 26, 27, 28 and January 2 and 3 between the hours of 9:00 a.m. and 6:00 p.m. The final issue will be dated January 3, 2002, and will be delivered on Friday, January 4, 2002.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

MARK DAYTON, *Chairman.*

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, yesterday, the Committee on Rules met and granted a normal conference report rule for H.R. 3338, the Fiscal Year 2002 Department of Defense Appropriations Act.

The rule waives all points of order against the conference report and against its consideration. In addition, the rule provides that the conference report shall be considered as read.

Mr. Speaker, this should not be a controversial rule. It is the type of rule we grant for every conference report we consider in the House. The gentleman from Texas (Mr. FROST), who is managing this rule for the minority, understands the importance of a strong national defense, and I am sure I do not need to convince him or anyone else that this bill is important, now more than ever before.

At a time when we are facing terrorism at home and engaged in combat abroad, we need to give our government the tools to defend us overseas and at home. This bill does just that. It provides our military with $317 billion in much-needed support, including a 4.6 percent pay raise; and the supplemental portion of the bill will bolster our fight against terrorism by providing much-needed funding for border patrols, port security, bioterrorism prevention, and the FBI.

Lastly, Mr. Speaker, this bill contains our strong support for the people of New York by providing another $8.2 billion in disaster assistance, including $2 billion in community development block grants.

Mr. Speaker, we are about to go home for the holidays and after the events of this fall, I cannot think of a better thing to do before we leave town than to provide for our armed forces, for our fight against terrorism, and for the victims of September 11.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we speak, the brave men and women of the U.S. military are halfway around the world waging and winning the war on terrorism. Their courage and professionalism are a fitting tribute to the strength and unity of the United States of America.

Meanwhile, here at home, domestic security has become our top priority, and thanks to the funding priorities in this conference report, America will now be better prepared to prevent, defend against, and recover from any future terrorist attacks.

I am very pleased that the conference report more closely reflects Democratic priorities on homeland defense than was provided in the House-passed bill. Specifically, it provides more funding for nuclear, border, port, aviation and bioterrorism priorities. On bioterrorism alone, Democrats were able to secure $2.5 billion, $1 billion more than the President requested. While additional funding will be necessary to fully address other domestic security needs, this conference report is a good start.

Mr. Speaker, here in Congress, there has always been strong bipartisan support for America's armed forces. The history of this defense appropriations bill reflects that fact.

Last month, the House Committee on Appropriations reported its original version of H.R. 3338, and the full House passed it by a vote of 406 to 20. I am confident that another large bipartisan majority will pass this conference report today. That is because Democrats and Republicans are strongly committed to America's national defense and to a first-rate military that carries it out. As the President said yesterday in addressing House Democrats, security of the United States is not a partisan issue.

Mr. Speaker, this is a good conference report, and I support it. I would like to commend the gentleman from Florida (Chairman YOUNG); the gentleman from Wisconsin (Mr. OBEY), the ranking Democrat; the gentleman from California (Chairman LEWIS); and the gentleman from Pennsylvania (Mr. MURTHA), the ranking Democrat on the subcommittee, for the tremendous job they have done to support America's troops and to protect Americans here at home.

This conference report provides $478 million to combat chemical and biological attacks against the military and $404 million for the Nunn-Lugar nuclear nonproliferation program. It provides for a significant military pay raise and for substantial increases in critical readiness accounts; and it strengthens research for tomorrow's weapons and equipment while providing the weapons and equipment the U.S. military needs today.

Mr. Speaker, I am especially pleased by the substantial quality-of-life improvements funded by this conference report. It includes funding for a significant pay raise of between 5 and 10 percent for every member of the military. And to boost critical midlevel personnel retention, much of the pay raise will be directed towards junior officers. It also significantly increases funding for health benefits for service members and their families.

I am also pleased that this conference report continues to fund the wide range of weapons programs that ensure our military's superiority throughout the world. For instance, it includes more than $2.6 billion for the initial production of 13 of the F–22 Raptor aircraft, the next-generation air dominance fighter for the Air Force. The conference report also provides $882 million for research and development for this aircraft.

Additionally, Mr. Speaker, the conference report provides $1.5 billion for continued development of the Joint Strike Fighter, the high-technology multirole fighter of the future for the Air Force, the Navy, and the Marines. It also includes $1.04 billion for procurement of 11 MV–22 Osprey aircraft.

Mr. Speaker, all of these aircraft are important components in our national arsenal, and moving forward on the research and production sends a clear signal that the United States has no intention of relinquishing our air superiority.

The first duty of the Congress, Mr. Speaker, is to provide for the national defense and the men and women who protect it. This conference report does a great deal to improve military readiness and to improve the quality of life for our men and women in uniform as well as their families. It is a good first step at providing the needed funding to ensure that attacks like those that occurred on September 11 will never happen again.

Mr. Speaker, I wish we could have done more, but Republican leaders insisted that many homeland security priorities wait until next year. I hope they will allow us to address the remaining priorities as soon as possible.

Mr. Speaker, I urge the adoption of this rule and of this conference report.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, there are two provisions in this bill which I think are of note. One is a bad provision which is here because of OMB, and the other is a good provision in the bill which is here despite OMB.

This country has a serious need to purchase additional tankers. This bill does that. It meets our national responsibility in doing so. But because OMB would prefer to keep a pretty set of books, rather than saving the taxpayers money, it will cost us significantly more to lease those tankers than it would to buy them. That is unfortunate, but it was the only choice the committee was left with because OMB appears to be more concerned with accounting niceties than it is with fiscal realities or cost realities. And I think people need to understand that that regretful result is not the fault of the committee.

I would hope that OMB in the future would recognize the need to allow reality to occasionally interfere with their philosophical biases.

Second, as was indicated by the gentleman from Texas (Mr. FROST), we do have $2.8 billion in this bill above the House bill for homeland security items. After the tragic events of September 11, on a bipartisan basis the gentleman from Florida (Mr. YOUNG) and I tried to put together a list of the actions that both sides of the aisle thought were necessary in order to improve the homeland security of the United States.

That process was rudely interrupted, to say the least, by OMB, who informed us in rather blunt terms that they had all the wisdom, that they did not need to provide any additional funding, and that we could put a "Wait 'Til Next Year" sign on our homeland security needs.

Mr. Speaker, I am pleased to say that despite that resistance, the conferees brought back to this House a bill which contains crucial items that will increase the security of this country at home. I want to congratulate Senators BYRD and STEVENS and the gentleman from Florida (Chairman YOUNG) and the gentleman from California (Chairman LEWIS) for helping to see to it that rationality prevailed over stubbornness. As a result, we have $664 million in this bill that was not contained in the House bill to protect the country against bioterrorist attacks; we have $50 million more in this bill to provide for cockpit security; we have law enforcement additions to the bill of over $407 million, including $208 million for the FBI so that they will be able to modernize their computer system by this coming summer, rather than having to wait until the year 2004.

Right now the FBI has a large number of computers that cannot even send pictures of potential terrorists to other FBI terminals because they do not have the adequate computer capacity. This bill fixes that.

The most crucial item of all is keeping weapons of mass destruction away from terrorists. We wound up with $382 million in additional funding in this bill above the amount that was originally in the House bill. We have $120 million of additional funding to secure nuclear material in the former Soviet Union so it does not fall into terrorists' hands.

The bill provides $383 million for increased security for our Nation's ports and for our border, especially the Canadian border. For food safety, it increases the percentage of imported food subject to inspection from the present 1 percent to 10 percent, as we have been asking all along.

It contains a number of other items which I will insert in the record.

Mr. Speaker, I insert the table in the RECORD at this point.

CONFERENCE ADDITIONS TO THE HOUSE BILL FOR DOMESTIC SECURITY

[in millions of dollars]

	House	Conference	Conference over House
Protecting Against Bioterrorism			
Upgrading State & Local Health Departments & Hospitals	593	1,000	407
Expanding CDC Support of State and Local Health Departments	50	100	50
Accelerating Research on Biohazards, Detection and Treatment	100	93	-7
Bio Safety Laboratories at NIH and Fort Detrick, MD	0	71	71
Vaccine and Drug stockpiles	1,103	1,105	2
Other Bioterrorism Requirements	110	56	-54
Total	1,956	2,425	469
Securing the Mail			
Procurement of Sanitation Equipment for Postal Service	0	500	500
Airport and Airline Safety			
Federal Assistance for Mandated Security Upgrades at Airports	0	175	175
Increased Sky Marshals and Sky Marshal Training	288	155	-133
Cockpit Door Security & Explosive Detection Equipment	159	209	50
Innovations in Airport Security	90	50	-40
Total	537	589	52
Law Enforcement			
FBI Case Management Computer System (Trilogy)	105	237	132
FBI Data Backup and Warehousing	0	56	56
FBI Cybersecurity, Transportation and Other	434	452	18
Other Justice Department Law Enforcement	106	80	-26
Law Enforcement Assistance (Olympics)	17	17	0
Law Enforcement Assistance (National Capital Area)	25	234	209
Federal Law Enforcement Training Center	14	32	18
Secret Service, IRS etc.	236	236	0
Total	937	1,344	407
Keeping Weapons of Mass Destruction Away from Terrorists			
Improved Security at 4 DoD Sites Storing Tons of Chemical Weapons	35	35	0
Improved Security for Nuclear Weapons Activities	88	131	43
Improved Security for U.S. commercial/research nuclear reactors (NRC)	0	36	36
Nuclear Non Proliferation Assistance for Russia	0	148	148
Security of Russian Nuclear and Biological Scientists	0	0	0
Nuclear, Chemical and Biological Detection	18	78	60
Improved Security at Nuclear Cleanup Sites	8	8	0
Energy Intelligence	4	4	0
CDC Oversight and Training for Labs Handling Dangerous Pathogens	0	10	10
Improved Security at Fort Detrick, MD	9	9	0
Improved Security at CDC, NIH, FDA and USDA Research Facilities	58	143	85
Total	220	602	382
Immigration, Port and Border Security			
Additional Customs Agents for Canadian Border and seaports	160	246	86
Machine Readable Visa Machines at All U.S. Consulates	0	0	0
Immigration Inspectors, Border Patrol & Related Equipment	410	450	40
Adequate INS Detention & Admin. Facilities at U.S. Border Crossings	0	100	100
Full Annual Cost of Expanding Coast Guard by 640 positions	145	209	64
Federal Grants for Port Security Assessments and Enhancements	0	93	93
Total	715	1,098	383
Train and Bus Security			
Federal Grants for Enhancing Security of Rail and Bus Travel	0	100	100
Food and Water Safety			
Expand FDA Inspections to Cover 10% of All Food Imports	61	97	36
Increase in FDA Emergency Operations and Investigations Staff	0	0	0
Assessment and Enhancement of Security for Drinking Water	115	80	-35
Total	176	177	1
Security of Government Buildings and Facilities			
Security Upgrades for Supreme Court and Other Federal Courthouses	32	93	61
Security Upgrades for Federal Buildings and Facilities	182	248	66
Increased Security for Federal Museums, Parks and Monuments	81	81	0
Security Upgrades for National Water Infrastructure	169	169	0
Security Measures for White House and Congress	306	306	0
Security Upgrades for U.S. Military Facilities	105	104	-1
Total	875	1,001	126
Security for Schools and Colleges			
Grants for Assessments and Emergency Response Planning	0	0	0

CONFERENCE ADDITIONS TO THE HOUSE BILL FOR DOMESTIC SECURITY—Continued

[in millions of dollars]

	House	Conference	Conference over House
Other Security			
Counterterrorism Assistance for State and Local First Responders	400	400	0
Grants for Firefighters	0	210	210

Mr. OBEY. Mr. Speaker, I simply want to say that I think what this bill demonstrates is that when committees are allowed to work in a substantive way, casting aside ideology or political views, the result is good for the country, and it is good for this institution, and I congratulate all of those involved.

Mrs. MYRICK. Mr. Speaker, I would inquire of the gentleman from Texas (Mr. FROST) if he has any other speakers.

Mr. FROST. Mr. Speaker, we have no more speakers.

Mr. Speaker, I urge adoption of the rule, and I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.J. RES. 79, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2002

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 323 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 323

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 79) making further continuing appropriations for the fiscal year 2002, and for other purposes. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 323 is a closed rule providing for the consideration of H.J. Res. 79, which is a continuing resolution that makes further appropriations for fiscal year 2002.

The rule provides for 1 hour of debate in the House equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Appropriations. The rule waives all points of order against consideration and provides for one motion to recommit.

Mr. Speaker, as we approach the end of this year's session, I urge my colleagues to join me in supporting this rule so that we may proceed to consideration on the underlying continuing resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule makes in order the consideration of H.J. Res. 79. H.J. Res. 79 is a continuing resolution which will be in effect from December 21, 2001, to January 10, 2002.

This is a simple housekeeping matter, Mr. Speaker, and merely ensures that should the Senate be unable to complete its work, or if the President has not signed the remaining bills sent to him, the funding will be in place for those departments and agencies.

This is a noncontroversial matter, and I urge adoption of this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H. RES. 322, APPOINTING DAY FOR THE CONVENING OF THE SECOND SESSION OF THE 107TH CONGRESS

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 322 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 322

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House a joint resolution appointing the day for the convening of the second session of the One Hundred Seventh Congress. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the Majority Leader and the Minority Leader or their designees; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 322 is a closed rule providing for consideration of a joint resolution appointing the day for the convening of the second session of the 107th Congress. The joint resolution shall be considered as read for amendment.

The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) 1 hour of debate, equally divided and controlled by the Majority Leader and the Minority Leader or their designees; and (2) one motion to recommit.

Mr. Speaker, we had hoped to bring this resolution to the floor under unanimous consent agreement, but were unable to secure such an agreement. Accordingly, in the interest of completing the work of the House as expeditiously as possible, I encourage my colleagues to support both this rule and the resolution that it makes in order.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule makes in order a joint resolution which sets the date for convening of the second session of the 107th Congress as January 23, 2002. This is a totally noncontroversial rule and joint resolution, and I urge adoption of both.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all

Members may have 5 legislative days within which to revise and extend their remarks on the conference report accompanying H.R. 3338, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

Mr. LEWIS of California. Mr. Speaker, pursuant to House Resolution 324, I call up the conference report accompanying the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 324, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Wednesday, December 19, 2001.)

The SPEAKER pro tempore. The gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to my colleagues and the gentleman from Pennsylvania (Mr. MURTHA), my friend, that the House has had a long night this past night. We have very, very extensive discussions that should take place regarding this bill, but we have heard this discussion before. So I am going to pass on those formal remarks, and I hope that my colleagues will read about them very carefully in the RECORD. But in the meantime, there are a couple of items of business that I must attend to.

First, due to a clerical error, language was mistakenly omitted from the Statement of Managers that relates to the FMTV truck program, a very important program to some of the Members of the House.

That language, agreed to by the conferees but inadvertently not included in the statement of managers, is as follows: "The conferees understand that the Army did not request legislative authority to extend the current multi-year contract. The conferees direct the Army to act in the best interest of the Army with respect to the FMTV."

Secondly, I would ask that on behalf of myself and Chairman YOUNG, that I be allowed to insert in the RECORD at the end of my opening remarks a series of tables summarizing the conference agreements, on both the Defense and Supplemental appropriations bills.

Finally, let me mention that our former colleague from the Committee on Appropriations, Larry Coughlin of Pennsylvania, who was a proud Marine by the way, Larry Coughlin was laid to rest at Arlington Cemetery this morning.

H.R. 3338 - Defense Appropriations Act, 2002

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
TITLE I						
MILITARY PERSONNEL						
Military Personnel, Army	22,175,357	23,626,684	23,336,884	23,446,734	23,752,384	+1,577,027
Military Personnel, Navy	17,772,297	19,606,984	19,574,184	19,465,964	19,551,484	+1,779,187
Military Personnel, Marine Corps	6,833,100	7,365,040	7,343,640	7,335,370	7,345,340	+512,240
Military Personnel, Air Force	18,174,284	20,151,514	19,784,614	20,032,704	19,724,014	+1,549,730
Reserve Personnel, Army	2,473,001	2,604,197	2,629,197	2,670,197	2,670,197	+197,196
Reserve Personnel, Navy	1,576,174	1,643,523	1,644,823	1,650,523	1,654,523	+78,349
Reserve Personnel, Marine Corps	448,886	463,300	466,800	466,300	471,200	+22,314
Reserve Personnel, Air Force	971,024	1,055,160	1,055,160	1,061,160	1,061,160	+90,136
National Guard Personnel, Army	3,782,536	4,014,135	4,004,335	4,052,695	4,041,695	+259,159
National Guard Personnel, Air Force	1,641,081	1,776,744	1,777,654	1,783,744	1,784,654	+143,573
Total, title I, Military Personnel	75,847,740	82,307,281	81,817,291	81,965,391	82,056,651	+6,208,911
TITLE II						
OPERATION AND MAINTENANCE						
Operation and Maintenance, Army	19,144,431	21,191,680	21,021,944	22,941,588	22,335,074	+3,190,643
(By transfer - National Defense Stockpile)	(50,000)					(-50,000)
Operation and Maintenance, Navy	23,419,360	26,961,382	26,628,075	27,038,067	26,876,636	+3,457,276
(By transfer - National Defense Stockpile)	(50,000)					(-50,000)
Operation and Maintenance, Marine Corps	2,778,758	2,892,314	2,939,434	2,903,863	2,931,934	+153,176
Operation and Maintenance, Air Force	22,383,521	26,146,770	25,842,968	26,303,436	26,026,789	+3,643,268
(By transfer - National Defense Stockpile)	(50,000)					(-50,000)
Operation and Maintenance, Defense-Wide	11,844,480	12,518,631	12,122,590	12,864,644	12,773,270	+928,790
Operation and Maintenance, Army Reserve	1,562,118	1,787,246	1,788,546	1,771,246	1,771,246	+209,128
Operation and Maintenance, Navy Reserve	978,946	1,003,690	1,003,690	1,003,690	1,003,690	+24,744
Operation and Maintenance, Marine Corps Reserve	145,959	144,023	144,023	144,023	144,023	-1,936
Operation and Maintenance, Air Force Reserve	1,903,659	2,029,866	2,029,866	2,023,866	2,024,866	+121,207
Operation and Maintenance, Army National Guard	3,333,835	3,677,359	3,723,759	3,743,808	3,768,058	+434,223
Operation and Maintenance, Air National Guard	3,474,375	3,867,361	3,972,161	3,998,361	3,988,961	+514,586
Overseas Contingency Operations Transfer Fund	3,938,777	2,844,226	2,744,226		50,000	-3,888,777
United States Court of Appeals for the Armed Forces	8,574	9,096	9,096	9,096	9,096	+522
Environmental Restoration, Army	389,932	389,800	389,800	389,800	389,800	-132
Environmental Restoration, Navy	294,038	257,517	257,517	257,517	257,517	-36,521
Environmental Restoration, Air Force	376,300	385,437	385,437	385,437	385,437	+9,137
Environmental Restoration, Defense-Wide	21,412	23,492	23,492	23,492	23,492	+2,080
Environmental Restoration, Formerly Used Defense Sites	231,499	190,255	190,255	230,255	222,255	-9,244
Overseas Humanitarian, Disaster, and Civic Aid	55,900	49,700	49,700	44,700	49,700	-6,200
Former Soviet Union Threat Reduction	443,400	403,000		357,000		-443,400
Quality of Life Enhancements, Defense	160,500					-160,500
Support for International Sporting Competition,Defense		15,800	15,800	15,800	15,800	+15,800
Total, title II, Operation and maintenance	96,889,774	106,788,645	105,282,379	106,449,689	105,047,644	+8,157,870
(By transfer)	(150,000)					(-150,000)
TITLE III						
PROCUREMENT						
Aircraft Procurement, Army	1,571,812	1,925,491	1,974,241	1,893,891	1,984,391	+412,579
Missile Procurement, Army	1,320,681	1,859,634	1,057,409	1,774,154	1,079,330	-241,351
Procurement of Weapons and Tracked Combat Vehicles, Army	2,472,524	2,276,746	2,252,669	2,174,546	2,193,746	-278,778
Procurement of Ammunition, Army	1,220,516	1,193,365	1,211,615	1,171,465	1,200,465	-20,051
Other Procurement, Army	4,497,009	3,961,737	4,103,036	4,160,186	4,183,736	-313,273
Aircraft Procurement, Navy	8,477,138	8,252,543	8,084,543	8,030,043	7,938,143	-538,995
Weapons Procurement, Navy	1,461,600	1,433,475	1,429,492	1,478,075	1,429,592	-32,008
Procurement of Ammunition, Navy and Marine Corps	498,349	457,099	492,599	442,799	461,399	-36,950
Shipbuilding and Conversion, Navy	11,614,633	9,344,121	10,134,883	9,294,211	9,490,039	-2,124,594
Other Procurement, Navy	3,557,380	4,097,576	4,290,776	4,146,338	4,270,976	+713,596
Procurement, Marine Corps	1,233,268	981,724	1,028,662	974,054	995,442	-237,826
Aircraft Procurement, Air Force	7,583,345	10,744,458	10,549,798	10,617,332	10,567,038	+2,983,693
Missile Procurement, Air Force	2,863,778	3,233,536	2,918,118	3,657,522	2,989,524	+125,746
Procurement of Ammunition, Air Force	647,808	865,344	866,844	873,344	866,644	+218,836
Other Procurement, Air Force	7,763,747	8,159,521	7,856,671	8,144,174	8,085,863	+322,116
Procurement, Defense-Wide	2,346,258	1,603,927	1,387,283	1,473,795	2,389,490	+43,232
National Guard and Reserve Equipment	100,000		501,485	560,505	699,130	+599,130
Defense Production Act Purchases	3,000	50,000	50,000	15,000	40,000	+37,000
Total, title III, Procurement	59,232,846	60,440,297	60,190,124	60,881,434	60,864,948	+1,632,102
TITLE IV						
RESEARCH, DEVELOPMENT, TEST AND EVALUATION						
Research, Development, Test and Evaluation, Army	6,342,552	6,693,920	7,115,438	6,742,123	7,106,074	+763,522
Research, Development, Test and Evaluation, Navy	9,494,374	11,123,389	10,896,307	10,742,710	11,498,506	+2,004,132
Research, Development, Test and Evaluation, Air Force	14,138,244	14,343,982	14,884,058	13,859,401	14,669,931	+531,687
Research, Development, Test and Evaluation, Defense-Wide	11,157,375	15,050,787	6,949,098	14,445,589	15,415,275	+4,257,900
Operational Test and Evaluation, Defense	227,060	217,355	245,355	216,855	231,855	+4,795
Total, title IV, Research, Development, Test and Evaluation	41,359,605	47,429,433	40,090,256	46,006,678	48,921,641	+7,562,036

H.R. 3338 - Defense Appropriations Act, 2002 — continued

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
TITLE V						
REVOLVING AND MANAGEMENT FUNDS						
Defense Working Capital Funds	916,276	1,951,986	1,524,986	1,826,986	1,312,986	+396,710
National Defense Sealift Fund:						
Ready Reserve Force	270,500	506,408	412,708	407,408	432,408	+161,908
Acquisition	130,158					-130,158
Subtotal	400,658	506,408	412,708	407,408	432,408	+31,750
National Defense Airlift Fund:						
C-17	2,170,923					-2,170,923
C-17 advance procurement	257,800					-257,800
C-17 ICS	412,200					-412,200
Subtotal	2,840,923					-2,840,923
Total, title V, Revolving and Management Funds	4,157,857	2,458,394	1,937,694	2,234,394	1,745,394	-2,412,463
TITLE VI						
OTHER DEPARTMENT OF DEFENSE PROGRAMS						
Defense Health Program:						
Operation and maintenance	11,414,393	17,565,750	17,574,750	17,656,185	17,659,475	+6,245,082
Procurement	290,006	267,915	267,915	267,915	267,915	-22,091
Research and development	413,380	65,304	434,738	452,304	463,804	+50,424
Total, Defense Health Program	12,117,779	17,898,969	18,277,403	18,376,404	18,391,194	+6,273,415
Chemical Agents & Munitions Destruction, Army: 1/						
Operation and maintenance	600,000	789,020	728,520	739,020	739,020	+139,020
Procurement	105,700	164,158	164,158	164,158	164,158	+58,458
Research, development, test and evaluation	274,400	200,379	200,379	201,379	202,379	-72,021
Total, Chemical Agents	980,100	1,153,557	1,093,057	1,104,557	1,105,557	+125,457
Drug Interdiction and Counter-Drug Activities, Defense	869,000	820,381	827,381	865,981	842,581	-26,419
Office of the Inspector General	147,545	152,021	152,021	152,021	152,021	+4,476
Total, title VI, Other Department of Defense Programs	14,114,424	20,024,928	20,349,862	20,498,963	20,491,353	+6,376,929
TITLE VII						
RELATED AGENCIES						
Central Intelligence Agency Retirement and Disability System Fund	216,000	212,000	212,000	212,000	212,000	-4,000
Intelligence Community Management Account	148,631	152,776	144,929	144,776	160,429	+11,798
Transfer to Department of Justice	(34,100)	(27,000)	(34,100)	(27,000)	(42,752)	(+8,652)
Payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund	60,000	25,000	25,000	75,000	67,500	+7,500
National Security Education Trust Fund	6,950	8,000	8,000	8,000	8,000	+1,050
Total, title VII, Related agencies	431,581	397,776	389,929	439,776	447,929	+16,348
TITLE VIII						
GENERAL PROVISIONS						
Additional transfer authority (Sec. 8005)	(2,000,000)	(2,500,000)	(2,500,000)	(1,500,000)	(2,000,000)	
Indian Financing Act incentives (Sec. 8022)	8,000		8,000	8,000	8,000	
FFRDCs (Sec. 8032)				-80,000	-40,000	-40,000
Disposal & lease of DOD real property (Sec. 8038)	24,000	19,000	19,000	19,000	19,000	-5,000
Overseas Mil Fac Invest Recovery (Sec. 8041)	3,000	3,362	3,362	3,362	3,362	+362
Rescissions (Sec. 8054)	-546,980		-441,578	-201,317	-531,475	+15,505
Navy Working Capital Fund Cash Balances	-800,000		-245,000			+800,000
Fuel Pricing/Rate Stabilization Adjustment	-705,000		-527,000			+705,000
Excess Foreign Currency Cash Balance (Sec. 8095)	-856,900		-200,000	-140,591	-240,000	+616,900
Travel Cards (Sec. 8103)	5,000	8,000	8,000	8,000	8,000	+3,000
Transfer to Department of Transportation	(10,000)					(-10,000)
United Service Organizations (Sec. 8111)	7,500		10,000	10,000	8,500	+1,000
Davis Bacon Act Threshold Increase		-190,000				
Depot Maintenance Utilization Waiver		-140,000				
Government Purchase Card (Sec. 8146)			-330,000		-100,000	-100,000
Performance Based Academic Model	5,000					-5,000
BMDO Support reduction	-14,000					+14,000
Preservation of Democracy	20,000					-20,000
Quarantine benefits	1,000					-1,000
National D-Day Museum (Sec. 8117)	2,100			5,000	4,250	+2,150
Chicago Military Academy	5,000					-5,000

H.R. 3338 - Defense Appropriations Act, 2002 — continued

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Ship scrapping initiative	10,000					-10,000
American Red Cross (Sec. 8087)	5,000			5,000	3,500	-1,500
U.S./China Security Review Commission	3,000					-3,000
Gulf War Illness	1,650					-1,650
Oakland military academy	2,000					-2,000
Newmark (Sec. 8142)	10,000		10,000		8,500	-1,500
Brownfield site	2,000					-2,000
Fisher House (Sec. 8119)	2,000		2,000		1,700	-300
Zero emission steam technology demo (Sec. 8121)	2,000		2,000		1,700	-300
CAAS/Contract Growth (Sec. 8123)	-71,367		-955,000	-1,650,000	-1,650,000	-1,578,633
Excess Funded Carryover	-92,700		-797,919			+92,700
Headquarters and Administration	-159,076					+159,076
Overseas Contingency Operation Transfer Fund	-1,100,000					+1,100,000
Utilities (Sec. 8135)			-230,000		-105,000	-105,000
Tethered Aerostat Radar System (Sec. 8144)			3,000		3,000	+3,000
Fairchild Air Force Base (Sec. 8140)			6,000		6,000	+6,000
Army Acquisition Restructuring (Sec. 8149)			-37,200		-5,000	-5,000
USS Alabama Museum Memorial (Sec. 8138)			6,000		4,200	+4,200
Special Needs Learning Center (Sec. 8141)			5,000		3,500	+3,500
Ballistic Missile Defense / Counterterrorism				1,300,000		
Eisenhower Commission (Sec. 8120)				3,000	2,600	+2,600
Travel cost growth (Sec. 8102)				-171,296	-262,000	-262,000
Legislative liaison savings (Sec. 8098)				-50,000	-50,000	-50,000
Reserve Component Incentive and Bonus programs (Sec. 8049)				10,000	10,000	+10,000
Fort Des Moines Memorial Grant (Sec. 8116)				5,000	4,500	+4,500
Clear Radar Upgrade (Sec. 8122)				8,000	8,000	+8,000
Regional Defense Counter-Terrorism Fellowship program (Sec. 8125)				21,000	17,900	+17,900
Padgett Thomas Barracks (Sec. 8158)				15,000	15,000	+15,000
USS Intrepid Museum Memorial (Sec. 8139)			5,000		4,250	+4,250
Pentagon Renovation Cost Adjustment			-333,000			
910th Airlift Wing, Youngstown-Warren			10,000			
Pentagon Reservation Emergency Response			10,000			
C-5 avionics modernization			20,000			
Agile combat support			10,000			
WRAMC equipment			6,000			
Armed Forces Retirement Home (Sec. 8163)					5,200	+5,200
Total, title VIII (net)	-4,227,773	-299,638	-3,953,335	-852,842	-2,832,813	+1,394,960
TITLE IX						
COUNTER-TERRORISM AND DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION						
Counter-Terrorism & Operational Response Transfer Fund			1,670,000		478,000	+478,000
Transfer to Department of Justice			(10,000)		(10,000)	(+10,000)
Former Soviet Union Threat Reduction			403,000		403,000	+403,000
Ballistic Missile Defense Organization - Procurement			794,557			
Ballistic Missile Defense Organization - RDT&E			7,053,721			
Ballistic Missile Defense Organization - FY 2001 Rescission			-73,800			
Defense Against Chemical & Biological Weapons, Defense-Wide			1,065,940			
Defense Threat Reduction Agency			806,471			
Total, title IX, Counter-terrorism and Defense against Weapons of Mass Destruction (net)			11,719,889		881,000	+881,000
Total for the bill (net)	287,806,054	319,547,116	317,624,089	317,623,483	317,623,747	+29,817,693
OTHER APPROPRIATIONS						
Miscellaneous Appropriations (P.L. 106-554):						
Repair of U.S.S. COLE (emergency funding)	150,000					-150,000
Marine Corps Ground Task Force Training Command	2,000					-2,000
Overseas Contingency Operations Transfer Fund (emergency funding)	100,000					-100,000
Defense Imagery and Mapping Agency	2,000					-2,000
Rapid diagnostic and fingerprinting techniques	1,000					-1,000
Fort Irwin National Training Center expansion:						
O & M, Army	2,500					-2,500
BLM, Management of Lands & Resources	2,500					-2,500
Supplemental (P.L. 107-20) (net)	5,457,700					-5,457,700
Emergency Response Fund (P.L. 107-38)	5,460,400					-5,460,400
Across the board cut (0.22%)	-469,000					+469,000
Total, other appropriations	10,709,100					-10,709,100
Net grand total (including other appropriations)	298,515,154	319,547,116	317,624,089	317,623,483	317,623,747	+19,108,593

H.R. 3338 - Defense Appropriations Act, 2002 — continued

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
CONGRESSIONAL BUDGET RECAP						
Scorekeeping adjustments:						
Adjustment for unapprop'd balance transfer (Stockpile)	150,000					-150,000
Stockpile collections (unappropriated)	-150,000	-150,000	-150,000	-150,000	-150,000	
O&M, Army transfer to National Park Service:						
Defense function	-5,000		-1,000			+5,000
Nondefense function	5,000		1,000			-5,000
O&M, AF transfer to Dept of Transportation:						
Defense function	-10,000					+10,000
Nondefense function	10,000					-10,000
Disabled military retiree payments (mandatory)		55,000	55,000	55,000	55,000	+55,000
Military personnel accounts (discretionary)		-55,000	-55,000	-55,000	-55,000	-55,000
Total adjustments		-150,000	~150,000	-150,000	-150,000	-150,000
RECAPITULATION						
Title I - Military Personnel	75,847,740	82,307,281	81,617,291	81,965,391	82,056,651	+6,208,911
Title II - Operation and Maintenance	96,889,774	106,788,645	105,282,379	106,449,689	105,047,644	+8,157,870
(By transfer)	(150,000)					(-150,000)
Title III - Procurement	59,232,846	60,440,297	60,190,124	60,881,434	60,864,948	+1,632,102
Title IV - Research, Development, Test and Evaluation	41,359,605	47,429,433	40,090,256	46,006,678	48,921,641	+7,562,036
Title V - Revolving and Management Funds	4,157,857	2,458,394	1,937,694	2,234,394	1,745,394	-2,412,463
Title VI - Other Department of Defense Programs	14,114,424	20,024,928	20,349,862	20,498,963	20,491,353	+6,376,929
Title VII - Related agencies	431,581	397,776	389,929	439,776	447,929	+16,348
Title VIII - General provisions (net)	-4,227,773	-299,838	-3,953,335	-852,842	-2,832,813	+1,394,960
Title IX - Counter-terrorism & Defense against Weapons of Mass Destruction (net)			11,719,889		881,000	+881,000
Total, Department of Defense (in this bill)	287,806,054	319,547,116	317,624,089	317,623,483	317,623,747	+29,817,693
Other appropriations	10,709,100					-10,709,100
Total DoD funding available (net)	298,515,154	319,547,116	317,624,089	317,623,483	317,623,747	+19,108,593
Other scorekeeping adjustments		-150,000	-150,000	-150,000	-150,000	-150,000
Total mandatory and discretionary	298,515,154	319,397,116	317,474,089	317,473,483	317,473,747	+18,958,593
RECAP BY FUNCTION						
Mandatory	216,000	267,000	267,000	267,000	267,000	+51,000
Discretionary:						
Defense discretionary	298,282,154	319,130,116	317,204,089	317,206,483	317,205,047	+18,922,893
Nondefense discretionary	17,000		3,000		1,700	-15,300
Total discretionary	298,299,154	319,130,116	317,207,089	317,206,483	317,206,747	+18,907,593
Grand total, mandatory and discretionary	298,515,154	319,397,116	317,474,089	317,473,483	317,473,747	+18,958,593

1/ Included in Budget under Procurement title.

H.R. 3338 DIVISION B - FISCAL YEAR 2002 SUPPLEMENTAL APPROPRIATIONS

(Amounts in thousands)

	Supplemental Request	House	Senate	Conference	Conference vs. House	Conference vs. Senate
CHAPTER 1						
DEPARTMENT OF AGRICULTURE						
Office of the Secretary (emergency)	45,188	4,582	80,919	80,919	+76,337	....
Agriculture buildings and facilities and rental payments (emergency)	....	2,875	....	....	-2,875	....
Agricultural Research Service:						
Salaries and expenses (emergency)	....	5,635	70,000	40,000	+34,365	-30,000
Buildings and facilities (emergency)	....	....	73,000	73,000	+73,000	....
Cooperative State Research, Education, and Extension Service:						
Research and education (emergency)	....	....	50,000	....	....	-50,000
Animal and Plant Health Inspection Service:						
Salaries and expenses (emergency)	....	8,175	95,000	105,000	+96,825	+10,000
Buildings and facilities (emergency)	....	14,081	14,081	14,081	....	....
Food and Safety Inspection Service (emergency)	....	9,800	15,000	15,000	+5,200	....
Food and Nutrition Service: Special supplemental nutrition program for women, infants, and children (WIC) (emergency)	....	....	39,000	39,000	+39,000	....
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Food and Drug Administration: Salaries and expenses (emergency) 1/	....	104,350	127,000	151,100	+46,750	+24,100
INDEPENDENT AGENCY						
Commodity Futures Trading Commission (emergency)	6,495	6,495	10,000	16,900	+10,405	+6,900
Total, chapter 1	51,683	155,993	574,000	535,000	+379,007	-39,000
CHAPTER 2						
DEPARTMENT OF JUSTICE						
General Administration						
USA Patriot Act activities (emergency)	....	....	25,000	5,000	+5,000	-20,000
Administrative review and appeals (emergency)	3,500	3,500	3,500	3,500	....	....
Legal Activities						
Salaries and expenses, General legal activities (emergency)	12,500	12,500	21,250	12,500	....	-8,750
Salaries and expenses, United States Attorneys (emergency)	74,600	68,450	74,600	56,370	-12,080	-18,230
United States Marshals Service:						
Salaries and expenses (emergency)	11,100	11,100	26,100	10,200	-900	-15,900
Construction (emergency)	....	....	35,000	9,125	+9,125	-25,875
Federal Bureau of Investigation						
Salaries and expenses (emergency)	538,500	538,500	654,500	745,000	+206,500	+90,500
Immigration and Naturalization Service						
Salaries and expenses, Enforcement and Border Affairs (emergency)	399,400	409,600	449,800	449,800	+40,200	....
Construction (emergency)	....	....	99,600	99,600	+99,600	....
Office of Justice Programs						
Justice assistance (emergency) 2/	....	400,000	400,000	400,000	....	....
State and local law enforcement assistance (emergency)	4,400	17,100	245,900	251,100	+234,000	+5,200
Crime victims fund (emergency)	68,100	68,100	68,100	68,100	....	....
DEPARTMENT OF COMMERCE						
International Trade Administration						
Operations and administration (emergency)	1,500	750	1,500	1,000	+250	-500
Export Administration						
Operations and administration (emergency)	1,756	1,756	1,756	1,756	....	....
Economic Development Administration						
Salaries and expenses (emergency)	335	....	335	....	....	-335
National Telecommunications and Information Administration						
Public telecommunications facilities, planning and construction (emergency)	8,250	8,250	8,250	8,250	....	....
United States Patent and Trademark Office						
Salaries and expenses (emergency)	3,360	....	3,360	1,500	+1,500	-1,860
National Institute of Standards and Technology						
Scientific & technical research & services (emergency)	400	....	10,400	5,000	+5,000	-5,400
Construction of research facilities (emergency)	1,225	....	1,225	1,225	+1,225	....
National Oceanic and Atmospheric Administration						
Operations, research, and facilities (emergency)	2,750	750	2,750	2,750	+2,000	....
Departmental Management						
Salaries and expenses (emergency)	7,276	8,636	881	4,776	-3,860	+3,895
THE JUDICIARY						
Supreme Court of the United States						
Care of the Building and Grounds (emergency)	10,000	10,000	30,000	30,000	+20,000	....

H.R. 3338 DIVISION B - FISCAL YEAR 2002 SUPPLEMENTAL APPROPRIATIONS — continued

(Amounts in thousands)

	Supplemental Request	House	Senate	Conference	Conference vs. House	Conference vs. Senate
Court of Appeals, District Courts, and Other Judicial Services						
Salaries and expenses (emergency)	....	....	5,000	5,000	+5,000	....
Court security (emergency)	21,500	21,500	57,521	57,521	+36,021	....
Administrative Office of the United States Courts: Salaries and expenses (emergency)	....	....	2,879	2,879	+2,879	....
DEPARTMENT OF STATE AND RELATED AGENCY						
RELATED AGENCY						
Broadcasting Board of Governors						
International broadcasting operations (emergency)	....	9,200	....	9,200	....	+9,200
Broadcasting capital improvements (emergency)	....	10,000	....	10,000	....	+10,000
RELATED AGENCIES						
Department of Transportation						
Maritime Administration						
Operation and training (emergency)	....	....	11,000	....	....	-11,000
Maritime guaranteed loan (title XI) program account (emergency)	....	....	12,000	....	....	-12,000
Equal Employment Opportunity Commission						
Salaries and expenses (emergency)	1,301	1,301	1,301	1,301	....	....
Securities and Exchange Commission						
Salaries and expenses (emergency)	20,705	20,705	20,705	20,705	....	....
Small Business Administration						
Business loans program account, guaranteed loans (emergency)	....	....	75,000	75,000	+75,000	....
Disaster loans program account (emergency)	150,000	140,000	75,000	75,000	-65,000	....
Total, chapter 2	1,342,458	1,761,698	2,424,213	2,423,158	+661,460	-1,055
CHAPTER 3						
DEPARTMENT OF DEFENSE - MILITARY						
Operation and Maintenance						
Defense Emergency Response Fund (emergency)	7,020,989	7,242,911	1,525,000	3,395,600	-3,847,311	+1,870,600
Transfer to Department of State, Nonproliferation, Anti-Terrorism, Demining and Related Programs	....	(30,000)	....	....	(-30,000)	....
Procurement						
Other Procurement, Air Force (emergency)	303,000	....	....	....	....	....
Total, chapter 3	7,323,989	7,242,911	1,525,000	3,395,600	-3,847,311	+1,870,600
CHAPTER 4						
DISTRICT OF COLUMBIA						
Federal Funds						
Federal Payment to the District of Columbia for:						
Emergency Response and Planning (emergency)	25,000	....	....	....	....	....
Protective clothing and breathing apparatus (emergency)	....	12,144	7,144	7,144	-5,000	....
Specialized hazardous materials equipment (emergency)	....	1,032	1,032	1,032	....	....
Chemical and biological weapons preparedness (emergency)	....	10,355	10,355	10,355	....	....
Pharmaceuticals for responders (emergency)	....	2,100	2,100	2,100	....	....
Response and communications capability (emergency)	....	....	14,960	14,960	+14,960	....
Search, rescue and other emergency equipment and support (emergency)	....	....	8,850	8,850	+8,850	....
Equipment, supplies and vehicles for the Office of the Chief Medical Examiner (emergency)	....	....	1,780	1,780	+1,780	....
Hospital containment facilities for the Department of Health (emergency)	....	....	8,000	8,000	+8,000	....
The Office of the Chief Technology Officer (emergency)	....	....	43,994	45,494	+45,494	+1,500
Emergency traffic management (emergency)	....	....	20,700	20,700	+20,700	....
Training and planning (emergency)	....	....	11,449	9,949	+9,949	-1,500
Increased facility security (emergency)	....	....	25,536	25,536	+25,536	....
Federal Payment to the Washington Metropolitan Area Transit Authority (emergency)	....	....	39,100	39,100	+39,100	....
Federal Payment to the Metropolitan Washington Council of Governments (emergency)	....	....	5,000	5,000	+5,000	....
Total, chapter 4	25,000	25,631	200,000	200,000	+174,369	....
CHAPTER 5						
DEPARTMENT OF DEFENSE - CIVIL						
Department of the Army						
Corps of Engineers - Civil						
Operation and Maintenance, General (emergency)	139,000	139,000	139,000	139,000	....	....

H.R. 3338 DIVISION B - FISCAL YEAR 2002 SUPPLEMENTAL APPROPRIATIONS — continued

(Amounts in thousands)

	Supplemental Request	House	Senate	Conference	Conference vs. House	Conference vs. Senate
DEPARTMENT OF THE INTERIOR						
Bureau of Reclamation						
Water and related resources (emergency)	30,259	30,259	30,259	30,259		
DEPARTMENT OF ENERGY						
Atomic Energy Defense Activities						
National Nuclear Security Administration						
Weapons activities (emergency)	106,000	88,000	131,000	131,000	+43,000	
Defense nuclear nonproliferation (emergency)		18,000	226,000	226,000	+208,000	
Environmental and Other Defense Activities						
Defense environmental restoration and waste management (emergency)	8,200	8,200	8,200	8,200		
Other defense activities (emergency)	3,500	3,500	3,500	3,500		
INDEPENDENT AGENCY						
Nuclear Regulatory Commission (emergency)			36,000	36,000	+36,000	
Total, chapter 5	286,959	286,959	573,959	573,959	+287,000	
CHAPTER 6						
Bilateral Economic Assistance						
Funds Appropriated to the President						
United States Agency for International Development						
Operating expenses (transfer) (emergency)	(50,000)					
International disaster assistance (emergency)				50,000	+50,000	+50,000
CHAPTER 7						
DEPARTMENT OF THE INTERIOR						
National Park Service						
Operation of the National Park System (emergency)	6,098	10,098	10,098	10,098		
United States Park Police (emergency)	25,295	25,295	25,295	25,295		
Construction (emergency)	21,624	21,624	21,624	21,624		
Departmental Offices						
Departmental Management: Salaries and expenses (emergency)	2,205	2,205	2,205	2,205		
OTHER RELATED AGENCIES						
Smithsonian Institution						
Salaries and expenses (emergency)	21,707	21,707	21,707	21,707		
National Gallery of Art						
Salaries and expenses (emergency)	2,148	2,148	2,148	2,148		
John F. Kennedy Center for the Performing Arts						
Operations and Maintenance (emergency)	4,310	4,310	4,310	4,310		
National Capital Planning Commission						
Salaries and expenses (emergency)	758	758	758	758		
Total, chapter 7	84,145	88,145	88,145	88,145		
CHAPTER 8						
DEPARTMENT OF LABOR						
Employment and Training Administration						
Training and employment services (emergency)	2,000,000		32,500	32,500	+32,500	
State unemployment insurance and employment service operations (emergency)	4,100	4,100	4,100	4,100		
Workers compensation programs (emergency)			175,000	175,000	+175,000	
Pension and Welfare Benefits Administration						
Salaries and expenses (emergency)	1,600	1,600	1,600	1,600		
Occupational Safety and Health Administration						
Salaries and expenses (emergency)	1,000	1,000	1,000	1,000		
Departmental Management						
Salaries and expenses (emergency)	5,880	5,880	5,880	5,880		
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Centers for Disease Control and Prevention						
Disease control, research, and training (emergency)			12,000	12,000	+12,000	
Office of the Secretary						
Public Health and Social Services Emergency Fund (emergency) 1/	1,595,000	1,990,600	2,715,000	2,644,314	+653,714	-70,686

H.R. 3338 DIVISION B - FISCAL YEAR 2002 SUPPLEMENTAL APPROPRIATIONS — continued

(Amounts in thousands)

	Supplemental Request	House	Senate	Conference	Conference vs. House	Conference vs. Senate
DEPARTMENT OF EDUCATION						
School Improvement Programs						
Project SERV (emergency)	10,000	10,000	10,000	10,000		
RELATED AGENCIES						
National Labor Relations Board						
Salaries and expenses (emergency)	180	180	180	180		
Social Security Administration						
Limitation on administration expenses (emergency)	7,500	7,500	7,500	7,500		
Total, chapter 8	3,625,260	2,020,860	2,964,760	2,894,074	+873,214	-70,686
CHAPTER 9						
LEGISLATIVE BRANCH						
Joint Items						
Legislative Branch Emergency Response Fund (emergency)	256,081					
Senate						
Sergeant at Arms and Doorkeeper of the Senate (emergency)		34,500	34,500	34,500		
House of Representatives						
Salaries and expenses (emergency)		40,712	40,712	41,712	+1,000	+1,000
Capitol Police Board						
General expenses (emergency)		179,869	180,869	31,000	-148,869	-149,869
Capitol Guide Service and Special Services						
Expenses (emergency)				350	+350	+350
Architect of the Capitol						
Capitol Buildings (emergency)				106,304	+106,304	+106,304
Library of Congress						
Salaries and expenses (emergency)				29,615	+29,615	+29,615
Government Printing Office						
GPO revolving fund (emergency)				4,000	+4,000	+4,000
Government Accounting Office						
Salaries and expenses (emergency)				7,600	+7,600	+7,600
United States Capitol Historical Society						
Grant (emergency)		1,000		1,000		+1,000
Total, chapter 9	256,081	256,081	256,081	256,081		
CHAPTER 10						
MILITARY CONSTRUCTION						
Defense Emergency Response Fund (emergency)	25,000					
Military Construction, Army (emergency)		55,700		20,700	-35,000	+20,700
Military Construction, Navy (emergency)		2,000		2,000		+2,000
Military Construction, Air Force (emergency)		47,700		46,700	-1,000	+46,700
Military construction, Defense-wide (emergency)			475,000	35,000	+35,000	-440,000
Total, chapter 10	25,000	105,400	475,000	104,400	-1,000	-370,600
CHAPTER 11						
DEPARTMENT OF TRANSPORTATION						
Office of the Secretary						
Salaries and expenses (emergency)	1,500	458	1,500		-458	-1,500
Transportation security administration (emergency)		15,000		94,800	+79,800	+94,800
Aircraft passenger and baggage screening activities (emergency)		1,250,000			-1,250,000	
Offsetting collections (emergency)		-1,250,000			+1,250,000	
Payments to Air Carriers (Airport and Airway Trust Fund) (emergency)			57,000	50,000	+50,000	-7,000
Coast Guard						
Operating Expenses (emergency)	203,000	144,913	285,350	209,150	+64,237	-76,200
Federal Aviation Administration						
Operations (Airport and Airway Trust Fund) (emergency)	300,000	291,500	251,000	200,000	-91,500	-51,000
Facilities & equipment (Airport and Airway Trust Fund) (emergency)	108,500	175,000		108,500	-66,500	+108,500
Research, engineering, and development (Airport and Airway Trust Fund) (emergency)			50,000	50,000	+50,000	
Grants-in-aid for airports (Airport and Airway Trust Fund) (emergency)			200,000	175,000	+175,000	-25,000
Federal Highway Administration						
Miscellaneous appropriations (Highway Trust Fund) (emergency)	10,000		110,000	100,000	+100,000	-10,000
Federal-aid highways (Highway Trust Fund): Emergency relief program (emergency)	75,000	75,000	75,000	75,000		

H.R. 3338 DIVISION B - FISCAL YEAR 2002 SUPPLEMENTAL APPROPRIATIONS — continued

(Amounts in thousands)

	Supplemental Request	House	Senate	Conference	Conference vs. House	Conference vs. Senate
Federal Railroad Administration						
Safety and operations (emergency)	6,000	6,000	6,000	6,000		
Capital grants to the National Railroad Passenger Corporation (emergency)			100,000	100,000	+100,000	
Federal Transit Administration						
Formula grants (emergency)	23,500	23,500	23,500	23,500		
Capital investment grants (emergency)			100,000	100,000	+100,000	
Research and Special Programs Administration						
Research and special programs (emergency)	6,000	2,500	6,000	2,500		-3,500
Office of Inspector General						
Salaries and expenses (emergency)			2,000	1,300	+1,300	-700
RELATED AGENCY						
National Transportation Safety Board						
Salaries and expenses (emergency)	836	465	836	650	+185	-186
Total appropriations	734,336	1,984,336	1,268,186	1,296,400	-687,936	+28,214
Offsetting collections		-1,250,000			+1,250,000	
Total, chapter 11	734,336	734,336	1,268,186	1,296,400	+562,064	+28,214
CHAPTER 12						
DEPARTMENT OF THE TREASURY						
Departmental Offices						
Salaries and expenses (emergency)	9,400					
Treasury Inspector General for Tax Administration (emergency)	2,032	2,032	2,032	2,032		
Financial Crimes Enforcement Network (emergency)	1,700	1,700	1,700	1,700		
Federal Law Enforcement Training Center						
Salaries and expenses (emergency)	13,846	23,231	22,846	23,000	-231	+154
Acquisition, construction, improvements and related expenses (emergency)		8,500		8,500		+8,500
Financial Management Service						
Salaries and expenses (emergency)	600		600			-600
Bureau of Alcohol, Tobacco and Firearms						
Salaries and expenses (emergency)	31,431	31,431	31,431	31,431		
United States Customs Service						
Salaries and expenses (emergency)	107,500	301,759	292,603	392,603	+90,844	+100,000
Operation, Maintenance and Procurement, Air and Marine Interdiction Programs (emergency)	6,700	6,700	6,700	6,700		
Internal Revenue Service						
Processing, Assistance, and Management (emergency)	16,658		16,658	12,990	+12,990	-3,668
Tax Law Enforcement (emergency)	4,544	4,544	4,544	4,544		
Information Systems (emergency)	15,991		15,991	15,991	+15,991	
United States Secret Service						
Salaries and expenses (emergency)	104,769	104,769	104,769	104,769		
POSTAL SERVICE						
Payment to the Postal Service Fund (emergency)			600,000	500,000	+500,000	-100,000
EXECUTIVE OFFICE OF THE PRESIDENT						
Office of Administration (emergency)	50,040		50,040	50,040	+50,040	
INDEPENDENT AGENCIES						
General Services Administration						
Real Property Activities						
Federal Buildings Fund (emergency)	200,500	87,360	126,500	126,512	+39,152	+12
National Archives and Records Administration						
Operating Expenses (emergency)	4,818		4,818	1,600	+1,600	-3,218
Repairs and Restoration (emergency)	2,180		2,180	1,000	+1,000	-1,180
Total, chapter 12	572,709	572,026	1,283,412	1,283,412	+711,386	
CHAPTER 13						
DEPARTMENT OF VETERANS AFFAIRS						
Departmental Administration						
General operating expenses (emergency)		2,000		2,000		+2,000
Construction, Major Projects (emergency)	2,000		2,000			-2,000
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
Community Planning and Development						
Community development fund (emergency)			2,000,000	2,000,000	+2,000,000	

H.R. 3338 DIVISION B - FISCAL YEAR 2002 SUPPLEMENTAL APPROPRIATIONS — continued

(Amounts in thousands)

	Supplemental Request	House	Senate	Conference	Conference vs. House	Conference vs. Senate
Management and Administration						
Office of Inspector General (emergency)	1,000	1,000	1,000	1,000		
INDEPENDENT AGENCIES						
Department of Health and Human Services						
National Institutes of Health						
National Institute of Environmental Health Sciences (emergency)		10,500	10,500	10,500		
Environmental Protection Agency						
Science and Technology (emergency)	40,040	10,000	41,514	90,308	+80,308	+48,794
Environmental Programs and Management (emergency)	25,170	140,380	38,194	39,000	-101,380	+806
Hazardous Substance Superfund (emergency)	5,790	5,800	41,292	41,292	+35,492	
State and Tribal Assistance Grants (emergency)	5,000	5,000	5,000	5,000		
Federal Emergency Management Agency						
Disaster relief (emergency)	4,900,000	4,345,000	5,824,344	4,356,871	+11,871	-1,467,473
Salaries and expenses (emergency)	20,000	30,000	20,000	25,000	-5,000	+5,000
Emergency Management Planning and Assistance (emergency) 2/	580,000	35,000	290,000	220,000	+185,000	-70,000
National Aeronautics and Space Administration						
Human space flight (emergency)	64,500	81,000	64,500	76,000	-5,000	+11,500
Science, Aeronautics and Technology (emergency)	28,600	36,500	28,600	32,500	-4,000	+3,900
Office of Inspector General (emergency)		3,000			-3,000	
National Science Foundation						
Research and Related Activities (emergency)	300	300	300	300		
Total, chapter 13	5,672,400	4,705,460	8,367,244	6,899,771	+2,194,311	-1,467,473
CHAPTER 14						
ADDITIONAL EMERGENCY RELIEF AND RECOVERY PROVISIONS						
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Centers for Disease Control and Prevention						
Disease control, research, and training (emergency)		12,000			-12,000	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
Community Planning and Development						
Community development fund (emergency)		1,825,000			-1,825,000	
DEPARTMENT OF LABOR						
Employment and Training Administration						
Training and employment services (emergency)		32,500			-32,500	
State Unemployment Security Office						
Workers compensation programs (emergency)		175,000			-175,000	
Total, chapter 14		2,044,500			-2,044,500	
Grand total	20,000,000	20,000,000	20,000,000	20,000,000		
CONGRESSIONAL BUDGET RECAP						
Scorekeeping adjustments:						
Defense Cooperation Account (emergency)	1,000	1,000			-1,000	
Total discretionary	20,001,000	20,001,000	20,000,000	20,000,000	-1,000	

1/ FDA appropriation of $104.35 million was originally requested by the President as part of the HHS Public health and social services emergency fund account.

2/ Amounts for counterterrorism assistance to State and local governments were requested by the President as part of FEMA.

3/ National Park Service relocation costs were originally requested by the President as part of the GSA Federal buildings fund account.

Mr. Speaker, I reserve the balance of my time.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no requests for time. We did the best we could with the little bit of money we had.

Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. DICKS) for a very brief colloquy.

Mr. DICKS. Mr. Speaker, I would like to enter into a colloquy with the distinguished gentleman from California (Mr. LEWIS).

Mr. Speaker, I rise in support of this Defense Appropriations bill. Chairman LEWIS and Ranking Member MURTHA have done excellent work in balancing very difficult and demanding priorities. Most of all, I am very pleased that the conferees agreed to accept a Senate provision which allows the Air Force to lease new aircraft to replace the oldest of our KC–135 tankers. The issue of replacing the Air Force's tanker refueling aircraft is, in fact, very simple despite the cloud of confusion being created by its opponents. In their frenzy to condemn what they see as a special deal, they have totally lost sight of the facts. The truth is this provision is a good deal—a good deal for our armed forces and a good deal for taxpayers.

First, it is important to understand that every credible defense and aviation observer agrees that it is time to replace the aging KC–135–E tanker aircraft fleet with new tankers based on the 767 aircraft. Both of the large tanker refueling aircraft now in use were built by the Boeing Company—current aircraft are based on the 707 and DC–10 airliners—and Air Force analyses have shown that the 767 due to its size, range, and carrying capacity is uniquely suited to this role. The proof of this is already evident in the commercial marketplace. The Italian Government has already signed a deal for 767 tankers for its Air Force, Japan recently did the same, and several other European governments are likely to be close behind. The 136 KC–135 E model aircraft the Air Force is seeking to replace average 43 years of age. They exhibit severe corrosion and structural damage due to age and spend on average well over a year in depot in an attempt to patch up this damage. The Air Force has two choices, either spend billions to attempt to repair and partially modernize these aircraft, or make the transition to a new airframe with much greater capability and lower cost of operation. The decision is not hard. The Air Force must replace its KC–135 Es and it must begin its program now.

The war in Afghanistan has shown just how vital our tanker capability is. Navy aircraft flying from aircraft carriers are being refueled at least 2 and sometimes 3 or 4 times on each mission. Bombers from Diego Garcia, and even those coming all the way from the United States, are being refueled, some up to as much as 6 times on one mission. Simply put, we could not fight a war in Afghanistan without these tankers, and what we've discovered is that our current fleet is too old to do the job for long in high intensity situations like the current one. The only question then is how do we pay to replace these tankers? Again, for the Air Force the choice is relatively simple. It needs 100 aircraft delivered as quickly as possible. The Air Force calculates that phasing out the KC–135 Es on an aggressive schedule will save at least $5.9 billion. But the Air Force's procurement budget was held flat this year by the new administration, and for now there doesn't appear to be any help for procurement in sight. The Air Force bears the responsibility of paying not only for the nation's tanker aircraft, but also for all of the nation's airlift, most of our space assets, and our Air superiority capability. So the right answer is to lease tanker aircraft, which allows the Air Force to spread the cost over up to 10 years, and buy down the value of these aircraft to the point where at the end of the lease, the Air Force can easily buy or release these aircraft for their residual value. This is the same principle on which a car lease operates, an arrangement understood and exercised by millions of Americans. And the Office of Management and Budget (OMB) has determined that "the lease price quoted is a very good price." How can the taxpayer be sure that Boeing will not turn around at the end of the lease and sell these aircraft to somebody else? Boeing can sell or lease these aircraft only with US government approval under export control laws.

Mr. Speaker, I ask unanimous consent that the next six lines of the colloquy be inserted in the record.

Mr. LEWIS of California. Absolutely.

The SPEAKER pro tempore. The Chair advises the gentleman that colloquies may not be inserted in the record.

Mr. LEWIS of California. Mr. Speaker, would the gentleman read this very brief colloquy to me, and I will try to respond.

Mr. DICKS. Mr. Speaker, I understand that this bill grants approval for the Air Force to enter into a lease for new tanker aircraft to be delivered as general purpose aircraft in commercial configuration. Is that correct?

Mr. LEWIS of California. Mr. Speaker, reclaiming my time, the gentleman is correct.

Mr. DICKS. Mr. Speaker, it is also my understanding that Italy and Japan have selected the 767 tanker for their air forces. Italy intends to buy at least four of the tankers, and Japan intends to procure at least one. Further, I believe that the same tanker configuration is being offered commercially to other countries to meet their in-flight refueling requirements. Is that the gentleman's understanding?

□ 1030

Mr. LEWIS of California. Yes, it is.

Mr. DICKS. Then the gentleman would say that a commercial market exists for general purpose, commercially configured aerial refueling tanker aircraft?

Mr. LEWIS of California. Yes, very well said.

Mr. DICKS. Would the gentleman agree a general purpose aircraft that will meet the general requirements of many customers; that can operate as a passenger aircraft, a freighter, a passenger/freighter "combination" aircraft, or as an aerial refueling tanker; and is available to either government or private customers, meets the definition of a general purpose, commercially configured aircraft?

Mr. LEWIS of California. Absolutely.

Mr. DICKS. The gentleman would agree with that assessment?

Mr. LEWIS of California. Of course. Of course.

Mr. DICKS. I thank the chairman.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the chairman of the full committee, the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, this is a very good bill, and I think we will pass it expeditiously here this morning, but I want to remind the Members that it does include the $20 billion emergency supplemental, which is divided into three basic sections; which is national defense, or military, homeland defense, and the recovery effort for after the terrible September 11 attack.

I want to thank the gentleman from Pennsylvania (Mr. MURTHA) for being a good partner on the minority side, and the gentleman from Wisconsin (Mr. OBEY), who has been a tremendous partner as we went through this process. And, of course, the gentleman from California (Mr. LEWIS) is an outstanding chairman of the Subcommittee on Defense of the Committee on Appropriations.

I am happy to report, Mr. Speaker, that this is the 15th, let me repeat, the 15th appropriation bill that we have done this year. We have not lumped any of them together. Each bill has had its own identity. This is something we have been striving to do for years, and this year we finally accomplished it.

Mr. Speaker, today the House is considering a very important piece of legislation, our last appropriations bill—H.R. 3338, the Defense Appropriations bill for fiscal year 2002. Included in this bill is not only critical funding for the Defense Department and the Intelligence Community, but also an allocation of the $20 billion in emergency supplemental appropriations enacted as part of the Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States.

I commend Chairman LEWIS, working closely with his partner, the ranking Member of the subcommittee, JACK MURTHA—as well as all of the members of the Defense Appropriations Subcommittee, on the cooperation that has produced a truly bipartisan Defense portion of this bill that shares broad-based support. This was not only because of the way this bill was put together, but because of what it does. It is a bill which provides strong support for our troops—both in the immediate circumstances they find themselves, as well as the longer term security challenges confronting our Nation.

You may know that the Defense Subcommittee was actually beginning its subcommittee mark-up of this bill on the very morning of September 11th—when our country suffered the horrific attacks on New York and Washington. As we all know, those attacks have changed so many, many things—and I can report that this Defense Appropriations bill was re-worked by the committee following the attacks as well as the onset of our military operations overseas, to reflect the new demands of the war on terrorism as well as the other challenges we confront around the world. The bill addresses new threats of this new century—ranging from areas such as Ballistic Missile Defense, to force protection measures for our troops in the field, and new equipment and technologies such as aerial refueling aircraft and unmanned aerial vehicles. It also fully funds the President's initiatives in the area of military pay and quality of life programs—such as the largest military pay raise in 15 years, and more than a 50 percent increase in funding for the medical programs supporting our troops and their families. And it includes a new title to deal with counter-terrorism—ranging from more funding for intelligence, to providing additional resources in the area of so-called "cyber war" (computer network protection) and improved equipment and research to counter the threats of chemical and biological weapons.

EMERGENCY SUPPLEMENTAL

With regard to Emergency supplemental portion of the bill—Division B—I believe we have struck an appropriate balance between funding to address our homeland security, recovery efforts and humanitarian assistance, and defense requirements. We expect that this is only the first bill that will provide funding to support our war against terrorism and the needs of this country to respond and recover from the attacks of September 11th.

The conference report before you today includes $20 billion to address the immediate requirements.

RECOVERY

The bill provides approximately $8.2 billion to help impacted areas recover from the terrorist attacks. This brings the total provided for recovery at $11.2 billion when $3 billion in previously released funds are added. Included is: $2 billion for the Community Development Block Grant for economic recovery assistance in New York City; $4.357 billion for FEMA disaster relief $300 million in additional transportation assistance and security enhancements, including funds for Amtrak, subways and ferries; and $140 million in reimbursement to hospitals impacted by the terrorist attacks.

HOMELAND SECURITY

The bill provides approximately $8.3 billion to improve our homeland defense and to assist communities in their emergency preparedness, including: $399.7 million for the Customs Service for increased border and seaport inspections, $285.5 million more than the request; $209 million for the Coast Guard, $6 million above the President's request; $2.5 billion for Public Health and Bioterrorism activities, $1 billion above the request; Aviation security initiatives through the Federal Aviation Administration receive $200 million which includes $100 million for cockpit door modifications and $65 million for the hiring of additional Sky marshals. An additional $108.5 million is provided to the FAA for the purchase and installation of explosive detection systems; $93 million for grants to U.S. seaports for security assessments and enhancements; $745 million for the Federal Bureau of Investigation for a variety of counterterrorism efforts, $206 million above the request; $256 million for Legislative branch security and the U.S. Capitol Police are authorized to hire an additional 195 FTEs; $226 million for Nuclear Nonproliferation, including $120 million to secure nuclear materials at sites in Russia and the Newly Independent States.

NATIONAL DEFENSE

The bill provides $3.5 billion for the Department of Defense for increased operational costs, Pentagon reconstruction and classified activities. This brings the total for defense spending in the counter-terror supplemental to $17.2 billion. Also provides authority for agencies to reimburse the National Guard.

I am asking that we move this important legislation forward so we can get it to the President for his signature. Critical funding for our military during a time of war and for homeland security and recovery efforts is at stake.

Mr. RYUN of Kansas. Mr. Speaker, I rise today in support of our national security. During most of the last decade, the United States military has been consistently asked to make do with inadequate budgets. By adding more than $19 billion over the funding made available last year, this bill marks a turn for the better in defense funding.

Our nation has recently suffered a devastating blow from a new and faceless enemy. Terror was brought to our door on September 11th—masterminded by an enemy as devious as he is evasive.

As we witness the day-by-day actions of our military response to Operation Enduring Freedom, the importance of our readiness to dominate the conflict is a constant reminder. If we expect to control the battlefield, we must be prepared to fight quickly and with decisive force. We must allocate enough resources to support our troops at the highest level of readiness.

By appropriating $317.5 billion, H.R. 3338 will give our fighting forces the funding levels needed to succeed in protecting our national security interests.

I urge my colleagues to vote for this conference report and give our expectional military personnel the support and equipment they need to achieve current goals and those of the future.

Mr. SCHAFFER. Mr. Speaker, I commend the leaders of the House, our colleagues in the Senate and the president and his administration for following through today on a commitment made to Colorado to construct a new facility in Fort Collins, Colorado to replace the aging Center for Disease Control building there which houses the Division of Vector-Borne Infectious Diseases (DVBID). The first, and most important step, in fulfilling this commitment is contained in the resolution before us now, H.R. 3338—the Department of Defense Appropriations Act conference report and its supplemental appropriations for bio-terrorism.

As you know, the safety and security of the Division of Vector-Borne Infectious Diseases in Fort Collins has been of the utmost importance to me, to Colorado and to the nation. It is a high complement to the outstanding professional staff and administrators of the Fort Collins CDC facility to know that they will finally be getting a new facility commensurate with the world-class researchers who daily accomplish there important mission in the spirit of devoted public service.

The DVBID employs a number of epidemiologists, entomologists, molecular biologists, laboratory technicians, and behavioral scientists along with the other members of their prestigious staff. The DVBID performs critical functions for the country including conducting epidemiological studies to monitor disease spread, identification of risk factors associated with transmission and measuring public health impact, studying pathogens and developing new and more effective integrated, community-based prevention and control strategies, including vaccine development programs.

The facility deals with such deadly pathogens as Lyme disease, Dengue, Hemorrhagic Fever, Arboviral Encephalitides, Plague and Aedes albopictus that can be transmitted through hosts such as insects, mammals, and rodents. Clearly, Mr. Speaker, the work done by the DVBID entails life-saving research affecting not only Colorado and the United States, but also the entire world. The new facility initiated by this bill will lend another helping hand as the DVBID continues to fight these diseases.

Mr. Speaker, the working conditions at the existing facility are not conducive to allowing the doctors and researchers of the DVBID to do their jobs as well as they otherwise would be able. As many in this House know, the Inspector General will soon be issuing a report citing approximately $100 million as the possible cost for completing this new facility. Due to the dramatic state of disrepair of the facility and the more urgent shortcomings in security as documented in the report, expediting the construction becomes even more critical. When the laboratory was first constructed in the 1960s, it was only designed to accommodate 50 employees. Through the years, new personnel have been added and now the facility contains more than 150 scientists, researchers, and other workers. Clearly, the number of people working in this building have tested its capacity and created an extremely cramped working environment. The security needs of the facility are well documented in the IG's report and are self-explanatory. Because of the sensitivity of the report's recommendations, I will not restate them herein but will insist the report's findings receive expedient attention.

In addition to the confining workspace, the facility's airflow system has been a chronic problem. In most government offices, such a ventilation problem would only be a minor inconvenience (my office in the U.S. House of Representatives suffers from a similar problem). However, proper airflow and ventilation become much larger issues when placed within the context of laboratory conducting research on some of the world's most volatile viruses.

Mr. Speaker, while I worked hard to make sure the new building would be constructed, this was certainly not a one-man effort. The Senator from Colorado Mr. ALLARD, and gentle lady from Colorado Ms. DEGETTE were instrumental in helping me elevate the needs of the Fort Collins lab to a state of national concern. In fact, Ms. DEGETTE traveled to Fort Collins and toured the facility with me. Together we observed first hand the clear and convincing conditions of the facility, which fully warrant replacement of the lab. Fort Collins Mayor Ray Martinez also joined me on a separate tour of the facility. His observations and subsequent leadership likewise proved crucial in conveying to this Congress the urgency of this project.

The gentlemen from Texas, Mr. DELAY took personal interest in the facility as well and played the pivotal role in inserting the necessary language to effectuate the facility replacement into the legislation under our immediate consideration. Finally, Mr. Speaker, I thank President George W. Bush whose staff helped set this victory in motion. By pledging its word and its honor early on, the White House has assured me and Colorado that the new facility will be completed in a speedy and timely fashion, and through his representatives, the president has given me his commitment to place the goal of completion of the Fort Collins facility among his administration's highest priorities.

Once again the Colorado delegation to this Congress has proved that working together across party lines for the greater good of Colorado and all our constituents yields productive results in Congress for America. I am deeply grateful for the support and assistance of my Colorado colleagues. Absent their devoted attention to this important matter, it is most likely the new DVBID facility would remain an elusive dream.

Mr. Speaker as I have stated, I am proud to announce the new DVBID facility to be housed at Colorado State University. I congratulate the employees of the facility, especially the director, Dr. Duane Gubler. I applaud the efforts of the DVBID and look forward to being at the groundbreaking ceremony.

Mr. PETRI. Mr. Speaker, while we all want to support our military, our fight against terrorism, and efforts to rebuild areas affected by the terrorist attacks of September 11, I find I must once again express my strong objection to the continued disregard for existing law and the House Rules shown by the Appropriations Committee. While the conference report has only been available for a few hours, there clearly are several objectionable provisions. While too numerous to specify all of them, I will highlight just a few.

When the House considered H.R. 3338 on November 28, several points of order were made striking provisions that funded certain aviation and highway spending from the Aviation and Highway Trust Funds. The points of order were upheld because language directing that the funding be from the trust funds was determined to be a violation of the House Rules because this funding from the Trust Funds was not authorized. The $40 billion emergency response supplemental passed after September 11 did not provide for funding from the Trust Funds. This spending should come from the general fund. Perhaps it is no surprise to find that this conference report inserts the Trust Fund provisions again, in violation of the House Rules.

It is shocking that just a few days after the FY2002 Department of Transportation Appropriations Act was signed into law, the Appropriators have seen a need to make "technical corrections" to the Act and continue their practice of Revenue Aligned Budget Authority diversion which negatively impacts state formula funds. The Transportation Appropriations Act diverted roughly $1 billion of RABA (which under TEA 21 is to be distributed proportionately to states and among allocated programs) into a few programs to increase their earmarking opportunities. One of the programs which had its share of RABA funds zeroed out was the Woodrow Wilson Bridge, which under TEA 21 should have received $29.9 million in RABA funds this year. Now, I am no fan of the vast amounts of federal highway funds going toward this project, but that is the project's fair share under TEA 21. H.R. 3338 restores $29.9 million to the Wilson Bridge. But the Bridge's good fortune is more bad news for the States. In order to make room for the additional funding for the Bridge, all the States will receive another cut from their TEA 21 formula funds to pay for the $29.5 million. This is on top of the $423 million cut in formula funds as a result of the first raid on the States included in the DOT Appropriations Act.

Inexplicably, the Appropriators cut RABA funds for the National Scenic Byway Program, a program that seeks to preserve some of the great driving roads across our nation and that should receive $3.4 million in RABA funds.

The Appropriators found time to do a little more earmarking, though in a less objectionable fashion. Two more projects for Mississippi and Washington are included, but funded from general funds and added to the $144 million of projects funded in sec. 330 of the original DOT Act and then earmarked. While unauthorized, we should at least be thankful that, unlike the Senate bill, the conference report does not fund these two projects from the Trust Fund programs that were the beneficiaries of the raid on the RABA funds from the states and other programs.

On December 11, less than 10 days ago, the House passed by voice vote H.R. 3441. This bill, requested by the Administration, creates the positions of Under Secretary of Transportation for Policy and Assistant Secretary for Public Affairs. When the House considered this bill on the Floor, not one member of the Appropriations Committee expressed any concerns. In fact, not one word of opposition was uttered on the Floor. And again, it was passed by voice vote. Yet, section 1107 of this conference report prohibits the use of any funds for these two positions. Why? No explanation is given.

Section 1102 provides that no appropriated funds or revenues generated by Amtrak may be used to implement section 204(c)(2) of Amtrak's current authorization law until Congress has enacted an Amtrak authorization law. Section 204(c)(2) requires Amtrak to prepare a liquidation plan within 90 days of the Amtrak Reform Council determining that Amtrak will not reach operational self-sufficiency by December, 2002. It also requires the Council to submit a plan to restructure Amtrak within 90 days of that finding. The Council made such a finding last month.

This prohibition on developing such plans will impede Congress' consideration of the future of Amtrak. The liquidation and restructuring plans would help educate Members and provide vital information during reauthorization of Amtrak. It is sad that the Appropriators saw fit to eliminate this statutory requirement. And, since it prohibits use of appropriations and revenues generated by Amtrak, I would argue that this is legislating on an appropriations bill in violation of the House Rules.

Chapter 11 of this conference report is replete with legislative provisions affecting programs under the jurisdiction of the Transportation and Infrastructure Committee. This practice of usurping the jurisdiction of authorizing committees must stop. And it is getting worse with each passing year. Thankfully, we have completed all action on appropriations bills for FY 2002, but next year we must not continue to proceed down this path. I urge all Members, particularly those on authorizing committees, to stand together against this continuing assault on the jurisdiction of the authorizing committees.

Mr. BLUMENAUER. Mr. Speaker, the Defense Appropriations bill for 2002 (H.R. 3338) includes important language to solve a critical problem with funding deficiencies in a technical assistance program under the Multifamily Assisted Housing and Assistance Restructuring Act (MAHRA). The Office of Multifamily Housing and Assistance Restructuring (OHMAR) was charged with the administration of this program, which offers grants to nonprofit groups for outreach and rehabilitation of housing. OMHAR mistakenly exceeded an annual $10 million restriction in two of the last four fiscal years. HUD has subsequently frozen all funds for the program. Over 100 nonprofit and tenant organizations with written, signed contracts have incurred expenses on the assumption that the contracts would be honored. Even though these organizations have completed work according to the terms of their contracts, they are now forced to lay off staff because invoices for reimbursement have not been paid. The solution included in the defense appropriations bill does not require the appropriation of new money. Rather, it includes a technical correction to appropriate money that already exists within the HUD budget.

While I strongly support this technical correction as a necessary and critical step to ensure that 100's of non-profit organizations around the country are properly compensated, there remains one area of concern. The language embodies requirements for additional audits and reviews of the office responsible as well as other elements of the program. While a full and ongoing investigation of the reasons for OMHAR's financial errors is absolutely necessary, these steps can and should be taken without further delaying the reimbursement of non-profit organizations associated with the program. Any additional requirements for financial reviews and audits should balance the need for continued accountability with the need to meet our current and future obligations to these important non-profit organizations.

I urge my colleagues to work with their local non-profit housing organizations to ensure that any additional requirements posed by this legislation do not serve to stymie their efforts to provide quality housing in our nation's communities.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in support of H.R. 3338, the Fiscal Year 2002 Defense Appropriations Conference Report and ask unanimous consent to revise and extend by remarks.

As a member of the Defense Subcommittee, let me first thank our Chairman JERRY LEWIS and our ranking member, Congressman MURTHA, as well as our full Committee Chairman BILL YOUNG.

Our subcommittee was first scheduled to begin work on this bill on the morning of September 11 at the very hour that terrorists attacked our county, killing thousands of our fellow Americans and forever changing the course of our nation's history.

America is now at war and our young men and women in the military have been called on to defend our citizens and our nation. The course of our nation's history *will not* be written by the terrorists *but by* the bravery and success of our troops now serving on the frontlines of this war against terrorism. And our history will be written, in part, *by the actions we take here today.*

Today, there is no more important task before this Congress than to provide our military with the tools and resources they need to defend our citizens and fight for our freedom. Our military needs to know that this Congress *not only* supports their mission in theory *but in substance;* that we are prepared to take all the necessary steps and provide all the necessary means for their safety and their success in battle. With this Conference Report, we go a long way in doing just that.

With this bill, we help meet the immediate needs of our troops and their families, to keep our military at the ready, and to invest in all the many, diverse capabilities we need to protect our citizens from all potential threats.

Overall, we provide $317.5 billion for the Department of Defense and with those dollars, we do the following:

First and foremost, we give our troops better pay.

We add much needed dollars for troop readiness, training, supplies, and mobility that allow our Commander in Chief to send our Armed Forces into battle anywhere and at a moment's notice.

We add support for our National Guard and reserves, so many of whom have now been called to duty.

We provide for modernizing major weapon systems that allow us to better combat our enemies in the air, on the ground and at sea.

We continue to support critical long-term investments in research and development so we have the most lethal and effective weapons now and in the future.

We add significant resources to strengthen classified intelligence programs, and accelerate and enhance U.S. military intelligence, surveillance and reconnaissance capabilities.

And we also add critical funds for our homeland defense to better protect our citizens from all potential threats.

And with the release of $20 billion in emergency appropriations, we are also helping to meet the very real needs of those communities and states most directly impacted by the attacks of September 11 and to strengthen our homeland defense.

As my colleagues know, New Jersey was on the frontlines of the attacks of September 11 our people suffered greatly as so many lives were lost and our state and local law enforcement where there to answer the call to help our neighbors in New York. And it's important that we all work to help rebuild lower Manhattan and most important, work together to help our fellow citizens who suffered to rebuild their lives.

I want to thank the House for agreeing to requests to help New Jersey directly by including $30 million to replace our state police communications system which sat atop the World Trade Center and was destroyed in the attack. And as a result of the destruction of the PATH station, thousands of New Jersey commuters are struggling every day to get to work. Our commuters need help and this bill provides relief for our commuters by providing $100 million for increased mass transit and $100 million for increased ferry service. We also provide $100 million critical safety improvements for the tunnels that take millions of people to and from Manhattan and New Jersey every day.

Finally, let us also be clear that the commitments we make in this bill to our military do not meet every need. As more will be required of our troops, more will be required of this Congress.

Mr. Speaker, as those of us who have served in the military know only too well, wars are fought by the young. We know, too, that freedom never has, nor will it be this time, free. At no time in our nation's history has the sacrifice and service of our young men and women been more important to the defense of our country and the security of our future.

Mr. Speaker, I urge my colleagues to pass the fiscal year 2002 Defense Appropriations Conference Report and to do so unanimously.

[From Daily Record, Dec. 20, 2001]

FRELINGHUYSEN DISAPPOINTED WITH FUNDING FOR N.J. MILITARY

(By Matt Manochio)

U.S. Rep. Rodney Frelinghuysen said Wednesday he's disappointed with the funding provided by the U.S. Senate for New Jersey's military installations, but the state's two Democratic senators say they are steadfast in their support of those bases.

Frelinghuysen, R-Harding, released a statement with details of the Department of Defense budget that soon will land on President' Bush's desk.

At Picatinny Arsenal in Rockaway Township, $447 million is slated for research and development for the arsenal's Crusader self-propelled howitzer program. All totaled, more than $600 million is earmarked for Picatinny projects in the 2002 budget.

Frelinghuysen's statement compared House and Senate funding requests, along with the amounts that actually made it into the budget.

The House asked for $98 million for the Crusader's "Common Engine" program, compared to $43 million requested by the Senate. The final amount budgeted was $98 million.

The release listed various projects at Picatinny and other bases, showing the Senate budgeted no money for them while the House set aside between $1.5 million and $40 million.

The state's two Democratic senators strongly disagreed with Frelinghuysen's suggestion that the Senate has failed to adequately support the military, according to their spokespeople.

"Basically, we're surprised about it," said David Wald, a spokesman for Sen. Jon Corzine. "We know that the bulk of the ($300 million) for Homeland Defense that impacts on New Jersey started on the Senate side."

Likewise, Sen. Robert G. Torricelli's spokeswoman, Debra DeShong, took exception to the Frelinghuysen document.

New Jersey military bases have no bigger advocate than Sen. Torricelli," she said, adding that the senator was "disappointed that Congressman Frelinghuysen has chosen to politicize our state's defense projects and our efforts to protect our priorities."

Frelinghuysen's spokesman, Mark Broadhurst, said that the congressman wasn't trying to politicize anything.

"To say that he was disappointed with the final numbers this year, that would be an accurate statement," Broadhurst said.

"But in no way is the congressman trying to point any fingers," he said, adding that Frelinghuysen is telling the Senate "we have to do better."

Picatinny Arsenal spokesman Pete Rowland said he was pleased with the congressman's efforts.

"I think that it goes without saying (Frelinghuysen) has displayed a real strong support for military installations not only in his district but in the state of New Jersey and military services at large," he said. "And this is another example of his personal support, as well as that of the other members of the New Jersey congressional delegation."

Picatinny Arsenal covers about 6,500 acres with 1,000 buildings. It employs approximately 3,500 people designing new weapons and munitions for the military.

[From the Star Ledger, Dec. 20, 2001]

MILLIONS EXPECTED FOR AREA'S TRANSIT AND SECURITY

(By J. Scott Orr)

WASHINGTON.—House and Senate negotiators have agreed on a Pentagon spending bill that includes hundreds of million of dollars for law enforcement and transportation aid to New Jersey in the aftermath of the Sept. 11 terrorist attacks.

Included is close to $300 million to improve commuter access to New York City from New Jersey and more than $50 million for the State Police and the Newark and Jersey City police departments to help tighten security.

"These important security and transportation initiatives are critical to the safety and well-being of New Jersey residents," said Rep. Rodney Frelinghuysen (R–11th Dist.), the state's senior member of the House Appropriations Committee.

"Through no choice of its own, New Jersey has become one of the front lines in the war on terrorism, and it is absolutely crucial that the state receives the resources it needs to provide the strongest security possible," added Sen. Robert Torricelli (D–N.J.), who fought for the New Jersey money in the Senate.

While they joined in applauding the transportation and security funding, Frelinghuysen and Torricelli were divided over another part of the bill that sets funding levels for New Jersey's military installations, including Picatinny Arsenal, Fort Monmouth, McGuire Air Force Base and Fort Dix. The bases would receive more than $650 million under the bill.

Without mentioning Torricelli or Sen. Jon Corzine (D–N.J.), Frelinghuysen charged that the Senate failed to support more than $25 million in additional funding for programs at the bases, including more than $20 million at Picatinny.

Frelinghuysen had complained privately that the money for the transportation and security projects, championed in the Senate by Torricelli and Corzine, could jeopardize funding levels for other military programs in the state.

Speaking through a spokesperson, Torricelli said he was "disappointed" that Frelinghuysen would blame the Senate for "shortcomings that resulted from the work of the committee on which he serves."

The transportation and security funding is part of $20 billion in anti-terror and reconstruction funding included in the appropriations bill for the Department of Defense for the fiscal year that began Oct. 1.

The agreement still requires final approval by the House and the Senate, but its backers said there is little doubt it will be approved quickly, possibly today.

The transportation funding includes:

$100 million to expand ferry service for PATH commuters between New Jersey and Manhattan.

$100 million in capital investment funding to accelerate improvements under way by the Port Authority of New York and New Jersey to improve PATH and NJ Transit systems.

$100 million for Amtrak to enhance safety and security of its rail tunnels under the East and Hudson rivers.

$93.3 million to improve security at all U.S. seaports, including the Port of New York and New Jersey, and along the Delaware River in New Jersey.

"The enhancement of the metropolitan area's transportation infrastructure is central to the region's ability to recover economically from both the attacks on the World Trade Center and the economic situation we are currently facing," Torricelli said.

The transportation funding—usually not included in an appropriations package for the Department of Defense—was put in to help New Jersey and New York recover from the destruction of the World Trade Center, which sat atop a vital PATH station.

The loss of the World Trade Center station forced some 67,000 daily commuters to seek alternative routes to Manhattan. The station is expected to be out of service at least until mid-2003.

The aging Amtrak Hudson River rail tunnels are slated for a $1 billion rehabilitation in addition to the $100 million in the Pentagon bill, which will go for immediate improvements to protect them against terrorist attack.

For police, the bill would provide:

$30 million to replace the New Jersey State Police Radio System tower, lost in the attacks on the World Trade Center.

$10.7 million for modernization of the Jersey City Police Department's communications system.

$10 million for law enforcement purposes and security equipment updates in Newark.

"This funding will help ensure that our men and women of the State Police continue to have the tools and resources necessary to protect our state and its citizens," Frelinghuysen said.

Mr. BOEHLERT. Mr. Speaker, I want to congratulate the appropriators on reporting a fine defense bill overall. However, I need to put in the record my objections to the inclusions of a provision related to the Homestake mine in South Dakota. I made the same comments when the language passed as a freestanding measure, S. 1389.

I'm afraid I must oppose the Homestake language, despite the strenuous efforts made to improve it by both Mr. THUNE and the House leadership. As a Member of Congress, I'm afraid that this language could still unnecessary saddle taxpayers with costly and unprecedented environmental responsibilities. And as Chairman of the House Science Committee, I'm concerned that it may distort the priorities of the National Science Foundation for years to come.

This provision sets up dangerous and unprecedented situation in which the federal government will be financially responsible for activities it did not undertake at a piece of property it does not control. That flies in the face of common sense and fiduciary responsibility.

Under this language, the federal government will be responsible for any environmental liability connected with the portions of the Homestake mine that are conveyed to South Dakota—even if they originated while the mine was privately operated. And while the mine will be owned by South Dakota, the state will have no financial responsibility for it; that will rest solely with the federal taxpayer. It's lucky that South Dakota doesn't have any bridges to sell us.

In S. 1389 as originally introduced the federal government did not even have any real ability to have problems at the mine cleaned up before it was transferred. Thanks to the efforts of Mr. THUNE, that situation has been improved.

I would urge the Environmental Protection Agency (EPA), which will hire a contractor to review the mine, not to accept any contractor with which it is not completely satisfied. The unfortunate fact that the contractor must be selected "jointly" by Homestake, South Dakota and EPA should not be allowed to pressure EPA into hiring a contractor that will not fully protect the federal taxpayer. And the requirement that EPA consult with Homestake and the State over the nature of the contract with the independent entity" must not be interpreted to give Homestake or the State any veto over the content of that contract.

But EPA should consult with the National Science Foundation (NSF) throughout the environmental review process, as NSF is the federal agency that will have continuing responsibility if a laboratory is established at the mine.

Importantly, the bill now allows the EPA Administrator to reject the final report of he contractor if it identifies conditions that would make the federal assumption of liability "contrary to the public interest." I believe this allow the federal government to reject the transfer of the mine if it would cost too much to remedy existing environmental problems. This is vital since Homestake's contribution to pre-transfer remediation could well turn out to be nothing, given the language in this bill.

The bill says nothing about which federal agency would be responsible for overseeing or financing any pre-transfer remediation. This is a major, conspicuous, and I assume, purposeful gap in the legislation.

I certainly would hope that these costs—which should not have been federalized in the first place—are not borne by the National Science Foundation, a small agency with important tasks that do not include environmental remediation.

But this bill raises many other concerns related to the National Science Foundation. All the activities under this bill are contingent on NSF approval of an underground laboratory at the Homestake mine.

While such a laboratory certainly has scientific merit, it may not be a high priority compared to other NSF programs and projects, especially given that construction of other neutrino detectors is either under consideration or underway.

This bill must not be used to pressure NSF to change or circumvent its traditional, careful selection procedures. Normally, a project of this magnitude would require several years of review. NSF would have to determine its relative priority among other Major Research Equipment proposals. And NSF would have to ensure that proper management is in place. Those procedures must be followed in this case. Indeed, this is even more important in the case of Homestake because any mismanagement could result in both environmental harm and substantial liability for the federal government.

I would also urge the National Science Foundation (NSF) not to make a decision on whether to award a grant to the underground laboratory until the report to EPA has been prepared. This is essential even though NSF will have to have an Environmental Impact Statement prepared about the conversion of the mine into a laboratory.

NSF should not be committing federal resources to a project until it knows how much the project will cost the federal taxpayer and which agencies will be responsible for shouldering that burden.

The federal assumption of liability will already pose unfortunate costs for NSF. The laboratory is to pay into an Environment and Project Trust Fund, and some if not all of that money will come from NSF.

NSF must be an active participant in determining how much needs to be contributed to the trust fund, especially since it may end up being the only contributor to that fund. And NSF must have a role in determining the final disposition of the fund. The bill is silent on what is to become of the fund if a laboratory is started and then closed. All that is clear is that the federal government gets saddled with the costs of closing the mine. But which agency is responsible for that undertaking? And what will happen to any leftover funds? NSF should have an active role in deciding that.

The Homestake language bill poses enormous, unnecessary and unprecedented risks for the federal taxpayer. It is, in a phrase, a sweetheart deal for the Canadian company that owns Homestake and for the State of South Dakota. It could threaten the stability of the National Science Foundation, a premier science agency whose processes have been viewed as a model of objectivity and careful review.

I should point out that the federal government is already paying Homestake $10 million in this fiscal year to keep the mine open because it might become a laboratory. If that continues through the period of NSF decision-making the federal government could easily sink as much as $50 million into a mine that it may never use.

I will work to ensure that NSF itself is not saddled with those unnecessary costs, which could be spent on worthy grants to researchers.

The Science Committee will be following this matter extremely closely to ensure that the environmental review is rigorous and protects the public interest. We will watch closely to ensure that the laboratory is being reviewed in the same manner as every other NSF project and does not distort the agency's processes or priorities or weigh it down with unsustainable costs. The risks of proceeding with this bill are clear; we will work to see that they are never realized.

Mr. Speaker, I am attaching an exchange of letters with the National Science Foundation that will further highlight the risks inherent in proceeding in this unorthodox manner.

House of Representatives,
Committee on Science,
Washington, DC.

Dr. Rita Colwell,
Director, National Science Foundation, Arlington, VA.

Dear Dr. Colwell: As you know, the Senate recently passed S. 1389, the "Homestake Conveyance Act of 2001." This bill has serious implications for the National Science Foundation (NSF).

With that in mind, we want to be sure that NSF is considering the likely consequences should S. 1389 be enacted. Therefore, I am writing to request that you submit to the House Science Committee the following items by no later than December 15:

(1) A plan for how NSF would absorb the expected costs of an underground laboratory at Homestake beginning in Fiscal Year 2003, with special attention to the impact on other projects in the Major Research Equipment account.

(2) A plan for how NSF would ensure that the laboratory was properly managed, even if a project were awarded in calendar 2002.

(3) A plan for how NSF would interact with the Environmental Protection Agency and the State of South Dakota to ensure that the mine is in proper condition for the establishment of a laboratory and to determine amounts NSF grantees would have to pay into the Environment and Project Trust Fund established under the bill.

The enactment of S. 1389 could complicate NSF's situation for years to come both directly and through the precedents the bill may set. We want to work together with you, starting immediately, to limit any problems this measure may cause.

Sincerely,

Sherwood Boehlert,
Chairman.

National Science Foundation,
Arlington, VA December 14, 2001.

Hon. Sherwood Boehlert,
Chairman, Committee on Science, House of Representatives, Washington, DC

Dear Mr. Chairman:

Thank you for your letter regarding S. 1389, the "Homestake Conveyance Act of 2001' and its possible implications for the National Science Foundation (NSF).

The following responds to your requests:

(1) A plan for how NSF would absorb the expected costs of an underground laboratory at Homestake beginning in Fiscal Year 2003, with special attention to the impact on other projects in the Major Research Equipment account.

NSF has not identified funds to support the conversion of the Homestake mine into an underground research laboratory. Unless the President requests and Congress appropriates additional monies for the lab, its establishment would force us to reconsider the priorities within the Research and Related Activities appropriation or reevaluate the funding profiles and timelines of existing MRE projects.

(1) A plan for how NSF would ensure that the laboratory was properly managed, even if a project were awarded in calendar 2002.

An applicant for a grant of this magnitude must submit a management plan for NSF's review prior to any funding decision by the Foundation. That plan must cover all phases of the project including the planning process, construction or acquisition, integration and test, commissioning, and maintenance and operations. The management plan sets forth the management structure and designates the key personnel who are to be responsible for implementing the award. This proposed management plan then becomes the basis for NSF's review of the adequacy of management for the project.

The technical and managerial complexity of the proposed lab suggests that NSF would utilize a Cooperative Agreement as the funding instrument. The particular terms of a Cooperative Agreement covering the lab would be established prior to NSF's funding of the proposal. That Cooperative Agreement would specify the extent to which NSF would advise, review, approve or otherwise be involved with project activities. To the extent NSF does not reserve or share responsibility for certain aspects of the project, all such responsibilities remain with the recipient.

(3) A plan for how NSF would interact with the Environmental Protection Agency (EPA) and the State of South Dakota to ensure that the mine is in proper condition for the establishment of a laboratory and to determine amounts NSF grantees would have to pay into the Environment and Project Trust Fund established under the bill.

NSF would interact in good faith with the EPA and the State of South Dakota to ensure that the mine is in satisfactory condition for the establishment of a laboratory. Additionally, assessment of the proposal before us will presumably require an Environmental Impact Statement (EIS). The findings of that EIS would very much inform our evaluation of the proposal.

We share your concern about the mandatory contribution to the Fund required of each project conducted in the lab. Our review of each proposal for science in the lab would include a careful analysis of (1) the projected costs of removing from the mine or laboratory equipment or other materials related to a proposed project, and (2) the projected cost of claims that could arise out of or in connection with a proposed project. Meaningful analysis of both factors would require close cooperation with the lab's Scientific Advisory Board, the State of South Dakota, and the EPA. These costs will factor into our evaluation of each proposal.

I appreciate the opportunity to work with you in assessing the possible impact of this legislation on the National Science Foundation.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the President's program.

Sincerely,

Rita R. Colwell,
Director.

Mr. RYUN of Kansas. Mr. Speaker, I rise today to commend the House Defense Appropriations Subcommittee for the extraordinary job they have done in bringing this Conference Report to the Floor. Never before in most of our lifetimes has the security of our Nation been more paramount than it is at this moment. All the Members in this body, indeed, every American, owe a great debt of gratitude to Chairman LEWIS of California and the Ranking Member, Congressman MURTHA of Pennsylvania along with their hard working staff. They have ensured that the men and women in uniform receive the pay increases that they deserve and the modern equipment that they need to defend our homeland and other freedom-loving people in harm's way.

I was pleased to see in the Committee Report an initiative to accelerate and enhance the United States' intelligence, surveillance and reconnaissance capabilities through a program called the Multi-Sensor Command and Control Aircraft or MC2A, a concept strongly advocated by the Chief of Staff of the Air Force. Such an aircraft will advance the capabilities of AWACS and Joint STARS air and ground surveillance radars and will serve as the airborne integrator for a large variety of battlefield information systems. This aircraft will be the cornerstone of our military's transformation to network centric warfare.

However, due to overall budget constraints, the MC2A program was not funded. While this is a disappointment to the Air Force and to the warfighters that would readily benefit from this revolutionary capability, I strongly encourage the Air Force, along with their industry partners, to continue to find ways to bring this program forward. I look forward to working with this Committee next year to accelerate the MC2A program providing our forces dominance over the information battlefield.

Mr. LEWIS of California. Mr. Speaker, sections 901 and 903 of the division B of the Emergency Supplemental Act, 2002, give the Sergeant at Arms of the Senate and the Chief Administrative Officer of the House of Representatives identical authority to acquire buildings and facilities in order to respond to emergencies. The phrase "notwithstanding any other provision of law" was included in these sections to clarify that provisions of law which would otherwise prohibit these individuals from acquiring buildings and facilities, such as section 3736 of the Revised Statutes (41 U.S.C. 14), would not interfere with this authority. It was not the intent of the conferees or the Congress for this phrase to be construed more broadly to waive the application of other provisions of law which may apply to these kind of activities, such as the Anti-Deficiency Act.

Indeed, subsection (d) of each of these sections permits any portion of the costs incurred by the Sergeant at Arms or Chief Administrative Officer in acquiring buildings and facilities under this authority during a fiscal year to be covered by funds which are appropriated to the Architect of the Capitol during the fiscal year and transferred to the Sergeant at Arms or Chief Administrative Officer. It would be unnecessary for Congress to permit this kind of transfer if the Sergeant at Arms and Chief Administrative Officer were permitted to carry out the underlying acquisitions without using appropriated funds, since that would eliminate the need for these costs to be covered with other appropriated funds in the first place.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 6, not voting 20, as follows:

[Roll No. 510]

YEAS—408

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—6

Conyers
Filner
Jackson (IL)
Lee
Paul
Petri

NOT VOTING—20

Baker
Barcia
Clay
Clement
Cubin
Cummings
Dingell
Hall (OH)
Hastings (FL)
Johnson, E. B.
Jones (OH)
Luther
Markey
Meek (FL)
Spratt
Stark
Waters
Waxman
Wexler
Young (AK)

☐ 1056

Mr. CONYERS changed his vote from "yea" to "nay."

Mr. OBERSTAR changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. SPRATT. Mr. Speaker, I was late arriving this morning, and I missed rollcall vote 510, final passage of the Department of Defense Appropriations Act for Fiscal Year 2002. Had I been present, I would have voted "yea."

Mrs. JONES of Ohio. Mr. Speaker, I inadvertently missed the vote on H.R. 3338 Defense Appropriations Conference Report. Had I been present I would have voted "yea."

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J. Res. 79, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentleman from Florida?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2002

Mr. YOUNG of Florida. Mr. Speaker, pursuant to House Resolution 323, I call up the joint resolution (H.J. Res. 79) making further continuing appropriations for the fiscal year 2002, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 79 is as follows:

H.J. RES. 79

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 107–44 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof "January 10, 2002"; and by striking the date specified in section 123 and inserting in lieu thereof "January 1, 2002".

The SPEAKER pro tempore. Pursuant to House Resolution 323, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

☐ 1100

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this continuing resolution merely extends the date of the previous continuing resolution until the 10th of January. We do this not because we need the extra time in the Congress, but the President does need some additional time to review these last bills that we have sent to him.

I hope that we can pass this expeditiously and everybody get home for a very merry Christmas or a happy Hanukkah or whatever celebration that we all enjoy.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Would the gentleman entertain a unanimous-consent request to change the January 10, 2002 date to January 10, 2003?

Mr. YOUNG of Florida. That would make our life a lot easier, but we probably could not get that kind of unanimous consent.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). All time for debate has expired.

The joint resolution is considered as having been read for amendment.

Pursuant to House Resolution 323, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR ADJOURNMENT SINE DIE OF BOTH HOUSES OF CONGRESS

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 295) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

HOUSE CONCURRENT RESOLUTION 295

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, December 20, 2001, or Friday, December 21, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns at the close of business on Thursday, December 20, 2001, or Friday, December 21, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTING DAY FOR THE CONVENING OF THE SECOND SESSION OF THE 107TH CONGRESS

Mr. ARMEY. Mr. Speaker, pursuant to House Resolution 322, I call up the joint resolution (H.J. Res. 80) appointing the day for the convening of the second session of the 107th Congress, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 80

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DAY FOR CONVENING OF SECOND REGULAR SESSION OF ONE HUNDRED SEVENTH CONGRESS.

The second regular session of the One Hundred Seventh Congress shall begin at noon on Wednesday, January 23, 2002.

SEC. 2. AUTHORITY FOR CALLING SPECIAL SESSION BEFORE CONVENING OF SECOND REGULAR SESSION.

If the Speaker of the House of Representatives and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House of Representatives and the Minority Leader of the Senate, determine that it is in the public interest for Congress to assemble before the convening of the second regular session of the One Hundred Seventh Congress as provided in section 1—

(1) the Speaker and Majority Leader shall notify the Members of the House and Senate, respectively, of such determination and of the place and time for Congress to so assemble; and

(2) Congress shall assemble in accordance with such notification.

The SPEAKER pro tempore. Pursuant to House Resolution 322, the gentleman from Texas (Mr. ARMEY) and the gentleman from Missouri (Mr. GEPHARDT) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, not seeing the minority leader, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

The joint resolution is considered as having been read for amendment.

Pursuant to House Resolution 322, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VACATING ORDERING OF YEAS AND NAYS ON H.R. 3423, H.R. 2561, AND H.R. 1432

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to vacate the ordering of the yeas and nays on H.R. 3423, H.R. 2561, and H.R. 1432 to the end that the Chair put the question on each of those measures de novo.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today (legislative day of Wednesday, December 19, 2001).

Votes will be taken in the following order:

S. 1714, de novo;
H.R. 1432, de novo;
S. 1202, de novo;
H. Con. Res. 279, de novo;
H.R. 3507, de novo;
H.J. Res. 75, by the yeas and nays;
concurring in Senate amendments to H.R. 2336, de novo;
H.R. 3423, de novo;
H.R. 2561, de novo;
H.R. 3504, de novo;
H.R. 3487, de novo;
H. Con. Res. 292, de novo;
S. 1762, de novo;
S. 1793, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PROVIDING FOR PLACEMENT OF PLAQUE HONORING DR. JAMES HARVEY EARLY IN THE WILLIAMSBURG, KENTUCKY, POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1714.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the Senate bill, S. 1714.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

MAJOR LYN McINTOSH POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1432.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 1432.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT OF 2001

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1202.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and pass the Senate bill, S. 1202.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

RECOGNIZING SERVICE OF CREW MEMBERS OF USS ENTERPRISE BATTLE GROUP FOR WAR EFFORT IN AFGHANISTAN

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 279, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCHROCK) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 279, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent Resolution recognizing and commending the excellent service of members of the Armed Forces who are prosecuting the war to end terrorism and protecting the security of the Nation."

A motion to reconsider was laid on the table.

COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 2002

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3507.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. LOBIONDO) that the House suspend the rules and pass the bill, H.R. 3507.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REGARDING MONITORING OF WEAPONS DEVELOPMENT IN IRAQ

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the joint resolution, H. J. Res. 75, as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the joint resolution, H.J. Res. 75, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 12, answered "present" 7, not voting 23, as follows:

[Roll No. 511]

YEAS—392

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baldacci
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)

Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

NAYS—12

Abercrombie
Baldwin
Bonior
Fattah
Hilliard
Lee
McDermott
McKinney
Paul
Payne
Rivers
Woolsey

ANSWERED "PRESENT"—7

Capuano
DeFazio
Dingell
Ehlers
Miller, George
Slaughter
Wilson (NM)

NOT VOTING—23

Baker
Barcia
Clay
Clement
Conyers
Coyne
Cubin
Hall (OH)
Harman
Hastings (FL)
John
Johnson, E. B.
Luther
Manzullo
Meek (FL)
Meeks (NY)
Peterson (PA)
Stark
Traficant
Waters
Waxman
Wexler
Young (AK)

☐ 1131

Messrs. FILNER, RUSH, JACKSON of Illinois and STRICKLAND changed their vote from "yea" to "nay."

Mr. GEORGE MILLER of California changed his vote from "nay" to "present."

Mr. PASTOR changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

The title of the joint resolution was amended so as to read: "Joint resolution regarding inspection and monitoring to prevent the development of weapons of mass destruction in Iraq.".

A motion to reconsider was laid on the table.

MAKING PERMANENT THE AUTHORITY TO REDACT FINANCIAL DISCLOSURE STATEMENTS OF JUDICIAL EMPLOYEES AND JUDICIAL OFFICERS

The SPEAKER pro tempore (Mr. CAMP). The unfinished business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 2336.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2336.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and Senate amendments were concurred in.

A motion to reconsider was laid on the table.

ELIGIBILITY OF CERTAIN PERSONS FOR BURIAL IN ARLINGTON NATIONAL CEMETERY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3423, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3423, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to enact into law eligibility of certain Reservists and their dependents for burial in Arlington National Cemetery, and for other purposes.".

A motion to reconsider was laid on the table.

LIVING AMERICAN HERO APPRECIATION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2561, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 2561, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to increase the rate of special pension for recipients of the Medal of Honor and to make that special pension effective from the date of the act for which the recipient is awarded the Medal of Honor and to amend title 18, United States Code, to increase the criminal penalties associated with misuse or fraud relating to the Medal of Honor.".

A motion to reconsider was laid on the table.

AMENDING PUBLIC HEALTH SERVICE ACT WITH RESPECT TO ORGAN PROCUREMENT ORGANIZATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3504.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 3504.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NURSE REINVESTMENT ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3487.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 3487.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS OF THE YEAR OF THE ROSE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 292.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 292.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ESTABLISHING FIXED INTEREST RATES FOR STUDENT AND PARENT BORROWERS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1762.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and pass the Senate bill, S. 1762.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair two-thirds of those present have voted in the affirmative.

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 148, not voting 29, as follows:

[Roll No. 512]

AYES—257

Aderholt
Akin
Armey
Baca
Bachus
Baldacci
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Costello
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Fattah
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Mascara
Matheson
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pence
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Rush
Ryan (WI)
Ryun (KS)
Sawyer
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOES—148

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Carson (IN)
Clayton
Clyburn
Condit
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Flake
Frank
Frost
Gephardt
Gonzalez
Green (TX)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (OH)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moran (KS)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Schakowsky
Schiff
Scott
Serrano
Shows
Skelton
Smith (WA)
Snyder
Solis
Spratt
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—29

Baker
Barcia
Clay
Clement
Combest
Conyers
Cox
Coyne
Cubin
Gallegly
Hall (OH)
Harman
Hastings (FL)
John
Johnson, E. B.
Kaptur
Luther
Manzullo
Meek (FL)
Peterson (PA)
Roukema
Slaughter
Smith (NJ)
Stark
Traficant
Walsh
Waters
Wexler
Young (AK)

□ 1153

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote No. 512. Had I been present, I would have voted "no."

HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS ACT OF 2001

The SPEAKER pro tempore (Mr. SIMPSON). The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1793.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MCKEON) that the House suspend the rules and pass the Senate bill, S. 1793.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

FIXED INTEREST RATES FOR STUDENT AND PARENT BORROWERS

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I would just like to point out that increasing student loans and making them less expensive and costly has been a big part of our objectives in this majority, and we are very disappointed in the loss of this bill that just failed, S. 1762. I will mention that we will be having that bill available under a rule as soon as we can reconvene in the next session.

APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 327) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 327

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 327, the Chair appoints the following Members of the House to the committee to notify the President: The gentleman from Texas (Mr. ARMEY) and the gentleman from Missouri (Mr. GEPHARDT).

AUTHORIZING THE SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING SINE DIE ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that until the day the House convenes for the second session of the 107th Congress, and notwithstanding any adjournment of the House, the Speaker, the majority leader, and the minority leader may accept resignations and make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING SPEAKER TO APPOINT MEMBER TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE NOTWITHSTANDING SINE DIE ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that until the day the House convenes for the second session of the 107th Congress, the Speaker, pursuant to clause 11 of rule X and clause 11 of rule I, and notwithstanding the requirement of clause 11(a)(1) of rule X, may appoint a Member to the Permanent Select Committee on Intelligence to fill the existing vacancy thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND AND REVISE REMARKS IN CONGRESSIONAL RECORD UNTIL LAST EDITION IS PUBLISHED

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that Members may have until publication of the last edition of the CONGRESSIONAL RECORD authorized for the first session by the Joint Committee on Printing to revise and extend their remarks and to include brief, related extraneous material on any matter occurring before the adjournment of the first session sine die.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXPRESSING THE WILL OF THE HOUSE THAT THE NATION HAVE A SAFE AND HAPPY HOLIDAY PERIOD

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that it be the will of this House that all this Nation have a very merry holiday period that is safe and happy for all their families.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LAYING ON THE TABLE H. RES. 290, H. RES. 291, H. RES. 317, H. RES. 318, AND H. RES. 321

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the following resolutions be laid on the table: H. Res. 290, H. Res. 291, H. Res. 317, H. Res. 318, and H. Res. 321.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF HON. TOM DAVIS OR HON. WAYNE T. GILCHREST TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS UNTIL HOUSE CONVENES FOR SECOND SESSION OF 107TH CONGRESS

The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 20, 2001.

I hereby appoint the Honorable TOM DAVIS or, if not available to perform this duty, the Honorable WAYNE T. GILCHREST to act as Speaker pro tempore to sign enrolled bills and joint resolutions until the day the House convenes for the second session of the 107th Congress.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

MARSHALL UNIVERSITY GMAC BOWL CHAMPIONS

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, last night's GMAC Bowl in Mobile, Alabama could have carried a warning from the Surgeon General: Not recommended for those with heart conditions. In the end, with all due respect to the gentleman from North Carolina (Mr. JONES), the best team won.

In only its fifth year, the Marshall University Thundering Herd stampeded over East Carolina. Although the Herd was down 38–8 at half-time, the enthusiasm of Marshall's fans did not waiver.

But Marshall rallied in the third quarter and charged on in the fourth. When time expired, the game was tied at 51. The noble opponents battled through two overtimes before Byron Leftwich connected on a pass to Josh Davis, ending the contest and securing the laurels of victory for our Thundering Herd. As the headline in the Huntington Herald Dispatch reads this morning, "Miracle in Mobile."

I congratulate Marshall's tenacious players and coaches, and applaud its faithful fans. Few football programs have suffered as severe a loss, struggled so valiantly, and risen to such heights, all in the course of 30 years.

During half time, Coach Bobby Pruett, who hails from my hometown of Beckley, West Virginia, talked with his team of belief and faith. It is a lesson we should all remember, not only in times of need, but in our everyday lives.

□ 1200

RURAL EQUITY PAYMENT INDEX REFORM ACT

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, I advise Members that today I am introducing the Rural Equity Payment Index Reform Act, a bill that will address the difference in reimbursement levels between urban and rural physicians and other health professionals. The formulas presently used by the Medicare program to reimburse these health professionals for beneficiaries' medical care do not accurately measure the cost of providing services; and, consequently, Medicare currently pays rural providers less than it should for equal work.

According to the Centers for Medicare and Medicaid Services, "physician work" is the amount of time, skill and intensity a physician puts into patients' visits. Physicians and other health care providers in rural areas put in as much or even more time, skill and intensity into a patient visit as do physicians in urban areas. Yet, rural physicians are paid less for their work. This is not only unfair, it is discriminatory.

Mr. Speaker, I ask my colleagues to consider cosponsoring this legislation. We do not take it away from the urban health care providers. We do adjust upward the formula for rural areas.

TRIBUTE TO MELVIN SMITH

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, it is my pleasure to pay tribute to one of my constituents, Melvin Smith of Ellicott City, Maryland, who is retiring after more than 33 years of distinguished service with the United Parcel Service, the UPS. Mel was born on September 30, 1946, in Los Angeles, California. He attended Fremont High School and Los Angeles City College, and served in the Vietnam War.

He began his 33-year UPS career in 1968 as a package car driver in southern California. In 1976, Mel began his management career when he was promoted to full-time supervisor in the feeder transportation department. In 1981, Mel was promoted to hub division manager, and in 1993 he was promoted to district manager. Before Mr. Smith's retirement, he served as the chief operating officer of the UPS Atlanta district serving Maryland, Delaware, and parts of West Virginia.

Mel has always been active in numerous charities. In Maryland, Mr. Smith has served in a leadership capacity for the United Way, the Baltimore Urban

League, and the Baltimore Chapter of the NAACP.

Mr. Speaker, I congratulate Mel Smith, his wife Debra Ann, and his entire family. Mel, enjoy your retirement.

(Ms. PELOSI asked and was given permission to speak out of order for 5 minutes and to revise and extend her remarks).

TRIBUTE TO THE HONORABLE DAVID E. BONIOR, MEMBER OF CONGRESS

Ms. PELOSI. Mr. Speaker, today, and I do not want to use the word "last," but just in terms of chronology, today is the last day that our great minority whip, Democratic whip of the House, the gentleman from Michigan (Mr. BONIOR) will serve in that capacity while the House is in session.

We will benefit for years to come from his service, 10 years, an historic 10 years as Democratic whip of the House, 4 years as chief deputy whip before that. That incredible experience is marked not only by longevity, but by the quality of his service. Leaders for all time to come will benefit from the example that he has set as a leader. Working families into perpetuity in our country have benefited and will continue to benefit from his championing of their issues. They have no greater champion. Working families in America have no greater champion than DAVID BONIOR. He has been a model leader. He has been a tireless worker for workers. We all owe him a tremendous debt of gratitude. I urge my colleagues to join me in paying tribute to the gentleman from Michigan (Mr. BONIOR).

Mr. GEORGE MILLER of California. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Speaker, I join in this tribute to a career of remarkable service as a Member of this Congress, as our chief deputy whip, and as our whip for the last 10 years to my friend, the gentleman from Michigan (Mr. BONIOR), who will be stepping down from that position of whip and will be going on to run a successful race for Michigan. I have supported him in everything he has ever run for, and I plan to continue to support him. I have never been more proud of a public servant.

I have to say to the Members of this House and to the public that may be listening, this is an individual that all of us can be proud that his district sent him to Washington because he never, never once veered from the track of taking care of the needs of his district. And as the gentlewoman from California (Ms. PELOSI) has pointed out, on behalf of working families, he made it part of our agenda, he made it part of our lexicon, he made it part of our principles and part of our morality. He has done it in almost every meeting that I have been in. He has done it on our motions to recommit.

We are not always given the best forum here to pursue these issues, but he has made sure that every opportunity we had, we did do it. Why? Because of his strong convictions about a notion of economic and social justice in this country, that those individuals who get up and go to work every day and work hard, that they ought to have the rewards to be able to support their families. If they fall on economic hard times, there ought to be an income supplement program so they do not have to lose their car or house or take their children out of school.

Mr. Speaker, many people we are seeing in this recession have worked 15, 20, 30 years, and now they find themselves unemployed. He has been a champion.

I had the pleasure of traveling with DAVID to Central America in pursuit of social and economic justice in Central America at a time when the violence was unbelievable. Many people forget what was taking place in Central America, the murder of American citizens, of religious individuals, of the archbishop, of so many people who were simply trying to get along, trying to live a life in Central America. He spent an incredible amount of his energy trying to bring the peace process around. We were eventually successful in Nicaragua, in El Salvador, and Guatemala trying to stop the violence. The gentlewoman has been deeply involved in those issues with us.

Mr. Speaker, we should all aspire to be such a champion of economic and social justice.

DAVID, I am very, very proud to have served in this Congress with you. I am very proud to be your friend, and I know that you are going to do great things for the people of Michigan and for the people of this Nation.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Ms PELOSI. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, this is not a eulogy. The gentleman from Michigan (Mr. BONIOR) is alive and well, I am happy to say. But I must take this opportunity as we end this session of Congress and his career as the Democratic whip, recognizing he will continue to serve his district and our country in Congress next year, I want to say that knowing the gentleman from Michigan (Mr. BONIOR) personally and professionally has been one of the tremendous rewards of all of my years in public service, whether that be in Texas or here in the Nation's Capital.

Many Americans may not know the name DAVID BONIOR, but millions of decent working families across America are living a better life today, making higher wages. Even those living at the bottom of the economic rung on minimum wage, have a higher minimum wage today than they would have had had it not been for one person's passionate commitment to working families and their opportunity to have a decent life for their children, and that is the gentleman from Michigan (Mr. BONIOR).

DAVID BONIOR, I am convinced, will be the next Governor of Michigan. While I do not know all of the voters of that great State, I have to believe that they recognize integrity and decency when they see it.

What I have seen for 5 years working under the gentleman from Michigan (Mr. BONIOR) as the chief deputy whip is the epitome of decency and integrity. For anyone who might be cynical about our democratic process in America, I wish they could have seen up close and firsthand what I have seen in the person I call my friend, DAVID BONIOR.

His accomplishments are too numerous to mention in this brief time today, but they are well earned. They are significant. But I would conclude my remarks with two thoughts. It is not the tremendous accomplishments of making the difference for working families of America, and there is a list of specific achievements that I will ultimately respect the gentleman from Michigan (Mr. BONIOR) for, and although they are tremendously important, it is the kind of person that he is, the kind of human being he is, so honest, treating everyone as we would want others to treat us.

I would just conclude with this thought. Winston Churchill, during some of the darkest hours of World War II, spoke to the British people and the world when he said, "We make a living by what we get, but we make a life by what we give." By that high standard, DAVID BONIOR has lived and will continue to live an extraordinarily successful life. His passion, his decency and his integrity will be a model for future public servants for generations to come, and I am honored to be his friend and his colleague.

Ms. PELOSI. Mr. Speaker, in honoring the service of DAVID BONIOR, his vision, his knowledge, his effectiveness, his energy, his integrity, his experience, indeed the people of Michigan are very blessed to have him as their future Governor.

I also want to acknowledge his very experienced staff who have served this Congress so well, the staff of DAVID BONIOR. I know that others will speak today about DAVID and his staff, but I wanted to be sure to acknowledge their considerable contributions to this body as well.

(Ms. DELAURO asked and was given permission to speak out of order for 5 minutes and to revise and extend her remarks).

TRIBUTE TO HONORABLE DAVID E. BONIOR, MEMBER OF CONGRESS

Ms. DELAURO. Mr. Speaker, I come this afternoon to say thank you to the gentleman from Michigan (Mr. BONIOR). Ten years ago I first came to this institution, and at this very place I was given the honor of seconding the nomination of DAVID BONIOR for whip. I have served with him for 10 years. I have known him for 14 years. I learned from him as a mentor. I learned the skills of serving as a whip with him. I learned the battle for economic and social justice in Central America with him.

He comes from the earth, he comes from a family of working-class Americans, the way so many of us come to this institution. And he came here and he accomplished good public policy for the great people of this Nation. And in all that time, and in all that time, he never faltered. He never was afraid to stand up. He has never been afraid to championing the cause of the people of this country. And because of that tenacity and that brutal effectiveness, he has changed the lives of people in this country.

No one has fought harder for worker standards, for minimum wage, for those things that help people to live their lives because he understands their lives. He is a peaceful veteran, and, like myself, a Catholic who cares about life in its broader sense. His sense of integrity, his sense of honesty and his soul will be missed in this institution.

He will go on to do wonderful things, and we are all here for you, DAVID. We will stand with you and do what you want and try to help you be the next Governor of Michigan. To you and to Judy and to your family, we wish you the best.

There have been folks who have tried to demonize DAVID BONIOR, but his genuineness comes through, and they cannot do it. His gentle strength will prevail. It prevailed in what he did before he came here, it prevailed here, and it will prevail as he serves as Governor of the State of Michigan. God bless DAVID BONIOR, and I thank the gentleman for all that he has given to all of us.

Mr. Speaker, I yield to the gentlewoman from California (Ms. WOOLSEY).

□ 1215

Ms. WOOLSEY. DAVID, what am I going to do without you? Good grief. I have been here 8 years. After we lost the House in 1994, dithering, all of us, frustrated, all of us, I got a call from one of my sons. All of my kids tell me what I should be doing here because they are smart and they care. My son said, "Mother, I hope you're listening to DAVE BONIOR." I said, "Well, yeah, what are you saying?" And he said, "He's the only one that's saying anything."

So I started listening more closely, because I knew the background and what you brought to us all along, but I listened to your message, and it became very important to me to get on your team, to be part of it. Thank you for putting me on the whip organization so I can do what I do best, which is rally and push and nudge and count. It has been a pleasure working for you.

Thank you very much. I have learned more from you than you will ever know.

My nice constituents worry about me here because they think it is kind of a mean place and a lot of them will say, "How can you stand to work with all those people?" And I say, "Uh-uh, I get to work with DAVE BONIOR." They go, oh, yeah, there are good people there too; among others, of course.

Thank you again. I miss you already. Our loss is Michigan's gain for sure.

Ms. DELAURO. I yield to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I rise with deep regret that DAVID BONIOR is leaving this institution. I arrived here about 9 years ago. It was in a special election. But I think of all the people I have met, DAVID BONIOR was the kindest person I met. What I have learned over the years of working here is, this is a tough institution; and to survive and to be into leadership, you have got to have tough skin, but you have also got to have a kind and soft heart.

The wonderful thing about DAVID BONIOR is how much he gives of himself to everybody else's problem. He will come to your district. And when he sees a wrong, he is out there trying to right it, whether it is in the fields of farm workers in California, whether it is in the stockyards, wherever it may be in the United States, where men and women are suffering or are not having a fair wage, a fair treatment in their workplace, DAVID BONIOR is the first to be there to understand the problem and the first on the floor to talk about righting that wrong.

The people of Michigan are so fortunate to have this person in elective office. I hope they have the good wisdom to select him as governor because he is going to be a great leader in this country as a governor, as he was a Member of the House of Representatives. He rose to a leadership position. Who knows, if he were staying here, he could have been Speaker of the House, perhaps Vice President of the country, and maybe those days will still come.

But this is truly one of the great Members serving in a great institution at a great time in our history. This institution is going to suffer with his leaving, but the people of Michigan I hope will have the great wisdom to keep him in the public limelight and keep him in public office by electing him as their governor.

(By unanimous consent, Ms. KAPTUR was allowed to speak out of order for 5 minutes.)

TRIBUTE TO THE HONORABLE DAVID E. BONIOR, MEMBER OF CONGRESS

Ms. KAPTUR. Mr. Speaker, I rise to say what a joy it has been in my life for 19 years to be able to work with the great gentleman from the State of Michigan, DAVE BONIOR. There must be something in the water of Lake Michigan and Lake Erie to produce the Phil Harts of this country and the Dave Boniors. I want to thank the Wolverine State for sending this incredibly decent human being here to the Congress of the United States.

There are many things I like about DAVE BONIOR. The first thing I like is his wife. I think Judy is just so incredible and what a great partnership they do have. But I like the way that he treats her. I like the way he treats the Members. I watch the way he treats people, always with great love and with affection and with such great passion for the work that he does.

We have had so many fights here that deal with economic justice domestically and internationally. DAVE BONIOR has always been at the head of that line. He has always been leading us. I can remember during the great fight on the rules that would govern trade in the Americas, as he stood here and he talked about what would happen to working people on this continent in the factories and on the farms. I was sitting out there with tears in my eyes; and I thought, how could he have the strength and the intestinal fortitude, knowing what is going to happen, to stand there and to be such a strong advocate and to maintain his passion and his composure. That was a point in my career where I could not have done that.

I hope that from him I have learned how to do that better, and I thank him for what he is, because what he is has kept other Members here and running for office because of his beliefs and his unwillingness to change who he is and who he represents and how he loves people, that it is still possible to be here and to carry those values so close to your heart. In fact, they are his heart.

I just want to say from the Buckeye State, always a competitor to those to the north, that we deeply, deeply appreciate your service to the people of our country and the world. We appreciate your service as a spokesman for those who have no voice or who have less voice. You have never wavered, you have always been a gentleman, you have always been a leader, you have always been a scholar.

It has been my deep privilege to serve with you, Congressman DAVE BONIOR of Michigan. May you be Michigan's next governor. I only wish I could vote for you. God bless you.

Mr. WU. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Oregon.

Mr. WU. I thank the gentlewoman for yielding.

Mr. Speaker, the wonderful thing about being a junior Member is that all the large issues are thoroughly addressed by others. I just want to focus briefly for one moment on how DAVID BONIOR has treated fellow Members and me.

I have seen him defend others with whom he deeply disagrees. I have seen his gentle guidance on sensitive votes. And I also wanted to share just briefly how well he treated me as a very new Member of Congress. With a name that starts with W, I was definitely last in my class. Yet he spent a chunk of time with me early on when it was just of benefit to me and clearly of no benefit to him.

But we spent some time together. I learned many, many things, but I want to mention three specific things that he said to me: There is a small lunchroom where you should share food with other Members and get to know them. Be sure to get some exercise. And there is a spiritual piece to being here and you should pay attention to that, also.

It took me 6 months to eat lunch with any regularity. After being here for 3 years, I think I am finally getting to the exercise piece. And I am working hard toward the spiritual piece. I tell this story because I think that it is an allegory for DAVE as he goes on to the governor's race and far beyond, because as we are eating lunch or getting exercise or becoming more spiritual, for DAVE BONIOR, for this country as a whole, it is always the case that the best is yet to be, the best of life for which the rest was meant.

Thank you, DAVE, for treating everyone, large, small and in the middle with grace and with dignity. Thank you very, very much.

(By unanimous consent, Ms. WOOLSEY was allowed to speak out of order for 5 minutes.)

TRIBUTE TO THE HONORABLE DAVID E. BONIOR, MEMBER OF CONGRESS

Ms. WOOLSEY. Mr. Speaker, I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, we have people here who make a very major contribution. There are partisan differences in this body, too many to my judgment, but when a person here is retiring from an important post and still going to make some contributions here, no doubt, I think he ought to be recognized for the extraordinary public service that he has provided here.

I admire DAVE BONIOR for the kind of person he is as well as for his effectiveness. I was thinking just yesterday, if I might say to the gentleman from Michigan, about you and the gentleman from Illinois, Mr. EVANS, because to your credit some years ago, you helped Mr. Cavanaugh and I, two Nebraskans, deauthorize the O'Neill project, which made it possible for us to subsequently declare the Niobrara River as a scenic river. It is the most appreciated ecological feature in the State of Nebraska by its citizens today.

So we actually owe you a debt of gratitude in Nebraska. You stepped up and helped John Cavanaugh and this Member at that time, along with Mr. EVANS. I want to commend you for your public service, but also thank you, as a Nebraskan, for what you did to preserve part of our natural heritage.

I thank the gentlewoman for yielding.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentleman from Vermont.

Mr. SANDERS. I thank the gentlewoman for yielding. I was watching C-Span and I heard all these fine words about DAVID BONIOR. I thought, "My God, something has happened. He's dead. What a shame."

I came down here, he looks very good and the only thing that is happening to him is, he is going to be governor of the great State of Michigan and certainly while it is our loss, it is Michigan's gain.

In this institution, given all of the political and economic and financial pressures that are on all the Members, it is very difficult to hold out a moral compass, to be very sure that the values that you are fighting for are what you believe. It is doubly difficult to do that year after year. The first year you could do it and the second year, but after many years, it becomes harder and harder to do.

I think on virtually every issue affecting the lives of working people, whether it is helping people join unions and fight for their dignity there, whether it is developing a sane trade policy which protects the needs of American workers or raising the minimum wage or affordable housing or all the things that millions and millions of working families need, year after year, right up here, at this podium, DAVE BONIOR has been leading the fight. We are very proud of him, not just because he is a good politician; because of the strong sense of morality and values that motivate him.

DAVID, you have been an inspiration to all of us. My wife says that you are her second favorite Congressman. I am not sure who the first one is, to tell you the truth, but we are going to miss you very much and the people of Michigan are very lucky to have you.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Speaker, like the gentleman from Vermont, I was in my office watching C-Span. I looked at all these bright faces down here in the front rows, DAVID BONIOR's staff and DAVID sitting down here, as well, and I could see him so I knew he was not gone; but I did want to come over and say a few things about DAVE BONIOR.

First of all, DAVID, I just want to thank you for all you have done for me. I cannot tell you how much I appreciate having been part of the whip organization and having the chance to work with Members here on the floor to make sure that the right thing gets done on particular pieces of legislation.

For those who do not know all the details, the whip organization is really a way of bringing information to other Members so that they are voting with good information and not necessarily bad information, that they have complete information. DAVID has done this job extraordinarily well for many years.

But beyond that, I have to say, this is a city, not alone in the country, but this is a city where people's faces can turn and their votes can turn to those who have money and to those who have power. But not with DAVID BONIOR. Because DAVID BONIOR in the House of Representatives has been what I think the Founding Fathers expected of a Representative, that he would represent all of the people all of the time and not be diverted by special interests. I cannot think of anyone in this Congress who has consistently day after day after day, in a long legislative career, kept the people in his district right in the forefront of his mind. He has not forgotten them ever in terms of what he does here and what we do here.

□ 1230

So I think it is a remarkable career and he is a remarkable human being.

As I have gotten to know DAVID over the last 5 years here, several things have struck me. One is that he treats everyone the same, which is, as I said, not common in this place, and that he is receptive to information and to people from all walks of life.

But the other thing I have noticed is you know where DAVID BONIOR comes from. He comes from Michigan, and in many respects my image of Michigan is shaped by you, DAVID, because I know how important working men and women who have had to join unions in order to get ahead, to have decent wages and decent benefits, have been to your State. Yet I know your State has such incredible diversity, with aspects of the new economy as well, with the service economy, as well as the manufacturing economy, and you seem to have somehow captured all of those threads.

I know from your remarks before the Democratic Caucus yesterday that you also have appreciation for the outdoors. I come from Maine, and this is real important to me. But I know how much you have walked around the State, how much time you spend on your own, getting away from this hurly-burly, in order to renew yourself so that you can do the best thing, day-to-day, for the people who sent you here to the House and who I believe will send you to the Governor's mansion in Michigan.

I cannot help but think that, to me, you have always been someone who has Michigan in his bones, Michigan in his blood, and Michigan in his dreams, and I know that you will be a fabulous governor for the people of Michigan. Thank you very much.

(Mr. HOLTL asked and was given permission to speak out of order for 5 minutes).

TRIBUTE TO THE HONORABLE DAVID E. BONIOR, MEMBER OF CONGRESS

Mr. HOLT. Mr. Speaker, this is not the time to recount the full Congressional career of DAVE BONIOR, because he continues to build on that record, but I would like to speak for a moment about the way that he does the job of whip, the job he is leaving within the House now.

We all know that there is a strong competitive streak in DAVE BONIOR. We have seen it on the baseball field, we have seen it in close votes, but we also see that in everything he does he exudes decency and civility.

Civility has been talked about so much in this House in recent years. When I say DAVE BONIOR exudes civility, I mean that it is really contagious. And when I look at his staff, some of his staff here with him today, I know that they would agree with me that they do their jobs better and probably would agree that they are better people because of their association with DAVE BONIOR and the way he does his job, which helps them do their job, and helps all of us here in Congress do our job.

It is a remarkable ability that DAVE BONIOR has to improve the performance of everyone round them so that competition does not mean meanness, and it does not lead to a lack of civility.

The way you do the job as whip, DAVE BONIOR, is a model for every public servant. We will talk about all you have done in your Congressional will career later after we are congratulating you for your election as Governor. But, for now, I want to thank you for what you have done for each of us individually here in the House of Representatives.

I yield to the gentlewoman from Indiana.

Ms. CARSON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I was sitting in my office planning to do some work before I drive back to Indianapolis, and saw this very special man was being praised today, a man who is worthy of praise, a hero who has earned his medal of honor, if you will.

DAVID BONIOR knew JULIA CARSON before JULIA CARSON knew DAVID BONIOR. When I first declared my candidacy for this august body, he was one of the first people who obviously believed that I was going to get elected and came out to Indiana to do what he could with his resources and his brain power.

Even beyond that, DAVID BONIOR has struck me as the perfect illustration of family values. A lot of us get up to the microphone, and we tap dance about family values and we waive the flag and my country tis of Thee and God bless America. But DAVID BONIOR has never missed the mark in terms of what is great and good and right for the American family and the United States of America. He is a gentleman's gentleman, he is a politician's politician, he is a family man par excellence.

I do not want to look at him because I am going to cry, but I love DAVID BONIOR and I want to tell you that.

Mr. HOLT. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I, like JULIA CARSON, was sitting in my office and I heard the tribute, and I wanted to come over for just a couple of seconds and highlight I think DAVE's contributions to this institution, but, most importantly, to the American family.

DAVID BONIOR's sense of America is community, and what he means by community is a place where nobody is ever to be abandoned and nobody is ever to be left behind.

One of the best speeches I ever heard on this House floor came the night that DAVID led us in opposition to the NAFTA treaty, when he raised the question for all of us here that night of what the Edmond Pettis Bridge meant to a generation of Americans, and what it meant to cross that bridge, what it meant to have a sense of justice and fairness and equity in this life, a catholic sense of justice; fairness, equity, the notion that you just cannot walk by the poor, that you just cannot abandoned them and turn your back, that government is there in the end to help them.

Another thing I am going to say about DAVID, in an institution that really troubles me, because many of the people that have gotten here on both sides of the aisle, they have run this institution into the ground day in and day out with their diatribes on what has always been wrong, and then they abandon in the next breath term limits, they abandoned the line item veto, they abandon things like disturbing the Constitution based upon every whim that moves along.

Not DAVID BONIOR. DAVID BONIOR believed in something, and for too many people that have come to this institution for the last few years, their beliefs are bland. Their beliefs are based upon the emotion of the moment, there is no long-held view of anything.

It has been an honor for me to serve with DAVID, and, most importantly, I supported you when you ran for these jobs and was glad to do it. The manner in which you carried yourself day in and day out, you could be as fierce a partisan as there was, but you loved this institution, and, most importantly, you loved the community that we call the American family.

Thanks for all the goods things you did, DAVE.

(Mr. FRANK asked and was given permission to speak out of order for 5 minutes).

TRIBUTE TO THE HONORABLE DAVID E. BONIOR, MEMBER OF CONGRESS

Mr. FRANK. Mr. Speaker, I will begin by yielding to the gentleman from Guam (Mr. UNDERWOOD).

Mr. UNDERWOOD. Mr. Speaker, I thank the gentleman for yielding me to speak on this.

Mr. FRANK. I will yield to the gentleman to speak anywhere he wishes, other than Guam.

Mr. UNDERWOOD. I wanted to take the time to pay tribute to DAVID BONIOR. In a way this is great, because, you know, you get to see all your friends. You do not have to wait until you pass away. This is a terrific opportunity to pay honor to our friend here.

But I have an office with a very not-so-eloquent title of Non-voting Delegate to the U.S. House of Representatives. It is always a curiosity to me, because he is the whip. He is supposed to count votes, and he knows I do not matter in that count. But it is really a mark of his approach to politics and his commitment to every member of the caucus that he has taken the time and the energy to support me in the various projects that I have had.

When I first decided to run for this office, he received me very well and he took the time to try to understand some of the issues and some of the unique circumstances that we deal with. For a long time, and it is a mark of the high regard and the approach that DAVID has taken over the years, for a long time I thought I was the only one that had a special relationship with him, but, as it turns out, he has got hundreds of these special relationships, and that is really a mark and a testimony to the terrific job that you have done.

Mr. Speaker, despite all the trials and tribulations here, when people ask me who are some of the Members that you really admire, certainly he comes to mind.

Mr. FRANK. Mr. Speaker, reclaiming my time, I just want to make two points.

First of all, recently we did have a real eulogy for a Member who passed away, our late colleague Joe Moakley, and the outpouring of affection and respect for Joe Moakley was very impressive. I am in a position to tell you, as someone who was a neighbor to Joe Moakley's district, there was no one in this business that he admired more than DAVID BONIOR.

One of the things Joe Moakley made his goal was when DAVE BONIOR ran for whip was to get Massachusetts Members to vote for him. So let me just past on that if Joe Moakley was still with us, you would be hearing from him his enormous respect and admiration for DAVID BONIOR.

I want to thank him for one other thing. I am a great believer in free speech. I generally vote against it when we start telling adults what they can read and what pictures they can show of each other. But if I was going to amend the Constitution, I would make it illegal to use the words "pragmatism" and "idealism" as if they were in opposition to each other.

The notion that the world should be divided between people who have a strong set of values and people who are effective is really a disaster morally. In fact, the more you are committed to a set of ideals, the more you are morally obligated to be effective in implementing those ideals. Otherwise, they are just something you put on in the morning to make yourself feel good. They do not do anybody else any good.

I know of nobody else in politics who better exemplifies that synthesis. I know of nobody else who is equally a passionate idealist in politics because he has a vision of the world that he wants to have implemented, which would be a fairer and kinder and better world for people who are in need in various ways, and who, at the same time, understands that that gives him the obligation to be as effective as possible; fair but tough; understanding the rules and abiding by the rules; but putting everything every ounce of energy into it. And for his exemplifying that merger of pragmatism and idealism, for understanding that a tough-minded approach to political reality in fact is a necessary compliment to a commitment to a set of values you want to implement, I want to join in honoring DAVID BONIOR and thank him for what he has shown us.

(Mr. GREEN asked and was given permission to speak out of order for 5 minutes).

TRIBUTE TO THE HONORABLE DAVID E. BONIOR, MEMBER OF CONGRESS

Mr. GREEN of Texas. Mr. Speaker, like my colleagues, I was actually over in my office and did not know that this was happening today. But I have had the honor to serve five terms in this House and served with DAVID for many years as part of the whip operation, and for somebody who comes from Texas and sounds like I do, to get to know DAVID and to appreciate him and to realize he is a very low-keyed individual, but, as someone said earlier, very competitive, because I also have had the opportunity to play basketball with him, and not just try and pass or defeat legislation. So he is competitive, but he is very low-keyed.

Typically if I have something to say, I am not only out there and in your face, but DAVID is very quiet about it. So I appreciate that, and I think a lot of us could emulate what he does.

But working with him for these 9 years, I appreciate not only his inward strength, but also his dedication to the issues. It helps having, even though, again, a very urban district in Houston, and DAVID being from Michigan, having a lot of blue collar workers, some of the same demands are in Michigan on the economy as we have in Houston, Texas, a very industrialized district.

So I just appreciate, DAVE, your work here in the House. Like say, I have only seen you the last five terms, but the American people and the people of Michigan owe you a debt of gratitude for your work here in the House.

Obviously, if it does any good for somebody who sounds like me to come up and knock doors in Michigan, I will be up there.

So, DAVID, obviously we will be serving with you for the next year. But not only as our whip, but also just as a person, we will miss you; and I know I will too. Thank you, DAVE.

□ 1245

(Mr. PAYNE asked and was given permission to speak out of order for 5 minutes).

TRIBUTE TO THE HONORABLE DAVID E. BONIOR, MEMBER OF CONGRESS

Mr. PAYNE. Mr. Speaker, I guess I did not think any Members looked at their screens in the office, at least after we adjourn, but I too was looking at the screen and I saw the gentleman from Massachusetts (Mr. NEAL) come and say that he was looking at his screen and saw that there was a program, so to speak, being held. I fussed at my scheduler, who was out to lunch, because I did not know about this, but I am so glad that I was listening.

I too want to simply add to what has already been said about a person that I have just respected for as long as I have been here in the House. I think that first connection, as I am from the 10th Congressional District too, of New Jersey, but I knew there had to be something good about the gentleman from Michigan (Mr. BONIOR). We had the same number. And then looking at his high school achievements, I tried to play a little ball and I see where DAVE was a quarterback on the championship team at the Catholic school he attended and earned a scholarship to college and just worked his way through the military.

But the issue that DAVE has really dealt with, I recall when I was in county government many years ago, we talked about a "bottle bill," and it was because DAVE sort of pushed that environmental concern ahead many years ago when he was in government in Michigan's State legislature. We talked about environmental protection for PCBs, in that DAVE was always worrying about people who might be afflicted by these diseases that many times went unnoticed because the big guys sort of kept things quiet, even though they knew they were injurious to the health of people, and it was DAVE who talked about these birth defects that were being created.

The statement of "let us separate the warrior from the war," taking the Vietnam era veterans and separating them from an unpopular war, and as people turned their backs, I think it was a disgrace the way Vietnam veterans were treated; but DAVE talked about that and sort of raised the issue, along with the whole question of the Nicaragua Contras in El Salvador, those brutal death squads, when we traveled down there together. It was DAVE always on the side of things that were for justice, for those who were down and out, the HOPE scholarships and increasing Pell grants, increasing minimum wage. These are the areas, the SAVE Act, which really went to help guidance counselors.

So I am just proud to say that I know DAVE. I had the opportunity to vote in 1991, and there was not even a question when he ran for his current position. I happen to pick winners in that, even in the new one too, DAVE; so one of my strengths in Congress is that I know how to pick the winners. It does not say much about me, but it does say that maybe I have good judgment.

I do wish the gentleman from Michigan (Mr. BONIOR) well. I appreciate the courage that he takes when there are difficult votes to give, unpopular votes. We have talked about many of these issues. I think some of the things that we have talked about in the past, now others are seeing that there are issues that we should have been talking about all along which might have made a difference in where we are today.

It has been my pleasure to know you.

Mr. Speaker, as we draw this, what has turned into a Special Order, to a conclusion, I am pleased to yield to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentlewoman for yielding. I could not resist the opportunity to come over and say how much my good friend, DAVID BONIOR, has meant to me in my service in the U.S. House of Representatives. I came to Congress in January of 1993, and DAVID was certainly one of the people who took me under his wing and taught me the process. He is a student of parliamentary procedure, and we had a little group called the parliamentarian group that we used to use, sometimes to our substantive advantage and sometimes to the chaos of the House, but when we wanted to try to get things accomplish that the leadership would not voluntarily accomplish.

It has been a great pleasure for me to serve with DAVID BONIOR. He has certainly been at the top of the list of principal people who have served in this House with strong beliefs in, and willingness to fight for, working people and the things that he believes in. This House is going to miss him immensely and wish him godspeed and the very best in the future.

Mr. PAYNE. Mr. Speaker, I yield time to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding and for our excellent words about our colleague.

In conclusion, I would like to thank all of our colleagues for coming. This was intended to be 5 minutes. Our phone is ringing off the hook in the office saying, why did you not tell us that this was going to happen, so we will need many more days, Mr. Speaker, to accommodate the words that people want to say about the greatness of DAVID BONIOR. I thank him for the vision with which he has led us, with his knowledge, with his experience, with his integrity. Every one of us who serves in this body has a great privilege to do so. One of our greatest privileges, though, is to have called DAVID BONIOR colleague.

Ms. NORTON. Mr. Speaker, if many of us had our way, DAVE BONIOR would never leave this House. No one can or would begrudge a man of DAVE's multiple talents another high office, as Governor of Michigan, or deny the people of Michigan the extraordinary leadership he will bring. Yet, the place DAVE has carved out here in public service to his district, his state, and his country is an unique as it is lasting and unforgettable.

DAVE is a modest man who possesses large personal gifts. You can bet, therefore, that he is embarrassed by the spontaneous, maximum praise usually reserved for eulogies that is coming forward for him today. But, DAVE is going to have to grin, or blush, and bear it.

DAVE BONIOR has managed to lead the Democrats on issues when he agreed and when he did not by using his good head without ever losing his own heart and soul on issues of principle to him and his own constituents. Where DAVE got his bewildering combination of great calm and fierce determination I cannot say. Perhaps that kind of versatility is honed in the success DAVE has had in two very different games, basketball, and football.

The hallmark of the game DAVE played in the House was fairness, strategic skill, and devotion to principle. I am personally grateful for DAVE's strong support and action when the Democratic House voted to allow a vote in the Committee of the Whole for the people of the District of Columbia, the first time District residents who are second per capita in Federal income taxes have ever had a vote on the House floor since the Nation was founded. Members of every variety can quote countless examples of thoughtful, critical support for their districts or their issues DAVE has gathered. However, the affection and respect for DAVE is not centered in mere individual gratitude but fundamentally in the way he brought the best of this institution to bear.

DAVE BONIOR's tenure as a member of Congress from Michigan and as whip has prepared him well to be Michigan's next Governor. Between these two roles, DAVE has shown a mastery of both executive and legislative skills. Add this unique bonus to DAVE's extraordinary personal qualities, and the people of Michigan are guaranteed to continue to get from DAVE what they certainly deserve but much more than they bargained for.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair will recognize Members for Special Order speeches without prejudice to the resumption of legislative business.

PARLIAMENTARY INQUIRY

Mr. FRANK. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state it.

Mr. FRANK. What legislative business?

The SPEAKER pro tempore. If there is legislative business that comes from the Senate.

Mr. FRANK. Well, I wonder, is any contemplated? I think the minority would have an interest in that prospect. Does anyone know if any legislative business is contemplated?

The SPEAKER pro tempore. The Chair has been informed that there may be legislative business.

Mr. FRANK. Well, I have checked with our staff here who usually have good channels of communication. We did not know about any, and I would express some hope that there would be some communication so that we would have some idea of what legislative business might be transacted with everybody no longer in Washington.

The SPEAKER pro tempore. The Chair would suggest consultation with the leadership.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONTRIBUTIONS OF THE U.S. NAVY TO OUR VICTORY IN AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, I requested this time to highlight the contribution of the United States Navy to our victory in Afghanistan.

After the September 11 attacks, the investigation quickly turned to Osama bin Laden and his al Qaeda training camps in Afghanistan. At first glance, a war in Afghanistan offered few options for the United States. Afghanistan has no coast line and is situated hundreds of miles from any shoreline. None of the nations bordering Afghanistan would permit U.S. strikes against Afghanistan from their own soil.

With few options, President Bush turned to the one asset in our military that can strike anywhere at any time, without needing permission from anyone, the United States Navy, which moved into action. In fact, September 11 fits the classic model of any crisis in our recent past. One of the first questions any President asks in time of national peril is this: Where are the carriers?

In this case, the USS *Enterprise* was in the Indian Ocean, heading home after a long deployment in the Gulf. Her crew saw the aircraft hit the World Trade Center and Pentagon on CNN; and without direction from Washington, the skipper ordered his battle group to come about and head for harm's way. Within minutes of this crisis beginning, the United States Navy, our Navy, was moving into position to strike back at our enemies in the heart of Central Asia.

The war against terrorism is unlike any war we have fought before. Of the approximately 60,000 U.S. military members currently deployed as part of Operation Enduring Freedom, more than half are sailors or Marines. The Navy and Marine Corps has served as the backbone of Operation Enduring Freedom.

From the very beginning, the Navy has been involved in power projection and combat operations against Osama bin Laden, the al Qaeda network, and the Taliban. Two weeks prior to the first shots of the war, the USS *Enterprise* was on station in the Arabian Sea, ready to launch strike aircraft against Taliban air defenses at a moment's notice. At the same time, Navy submarines were positioned near Afghanistan, gathering intelligence on the movements of Taliban and al Qaeda leadership and preparing to insert Navy Special Operation forces, namely, the legendary SEALs. These missions performed by the "silent service" are frequently cloaked in secrecy, but are vital to our efforts in Afghanistan.

More than 50 U.S. Navy ships have participated in Operation Enduring Freedom, including five aircraft carriers and two Amphibious Ready Groups, carrying the 15th and 16th Marine Expeditionary Units. U.S. Navy and coalition surface combatants continue to play an important role in ongoing interdiction missions in the Arabian Sea.

Navy ships operating in the Arabian Sea have demonstrated the adaptability and flexibility of the modern Navy that is unprecedented. The USS *Kitty Hawk* is operated as a Mobile Offshore Logistics Base, serving as a launch platform and supply base for Special Operations forces operating inside Afghanistan. This large carrier did not launch strike aircraft, but adapted to the unconventional needs of the war ahead.

The Navy and Marine Corps tactical air assets have also remained flexible, agile, and adaptable. The ability to rapidly retask aircraft and Tomahawk missiles provides the combatant commander with the flexibility he needs to engage the enemy. For example, Navy F-14 fighters have been engaged in air-to-ground strike missions, missions the aircraft was not originally intended to perform. The ability to position aircraft carriers just offshore has allowed the coalition to strike targets for special operations in Afghanistan. The nearest base from which the Air Force has been able to launch strike aircraft in the region is Kuwait, leaving the bulk of close air support to the Navy. On any given day, naval aircraft have been flying 60 to 80 strike sorties as part of the campaign against al Qaeda. Naval strike aircraft have flown more than 4,000 strike sorties and dropped nearly 5,000 weapons against Afghanistan. While the Air Force has performed most of the long-range strategic bombing, the Navy and Marine Corps have provided all of the close air support and precision strike capabilities required by forces on the ground.

For many of us unfamiliar with the geography of Central Asia, the scale and scope of the task before the Navy is hard to understand. If you were to superimpose a map of Afghanistan on the eastern United States, our carriers would be based off the coast of Pensacola, Florida, and the aircraft would be striking targets near Milwaukee. That capability, providing global reach to our Commander in Chief, gives the United States options and influence far in excess of any other nation.

The capability to strike hard and deep requires a complicated ballet of personnel and equipment that is daunting, at best, from the many ships supplying and protecting the battle groups to teams maintaining the aircraft to the air crews of airborne control, tankers, electronic warfare support, fighter caps, and close air support. We have won another war from the air.

I want to note the contribution of the sister services, especially the Air Force's heavy bombers, that dropped most of the strategic ordnance in this campaign. They made a vital contribution to this effort. But the key support was provided by tactical aircraft, close air support for our troops, provided overwhelmingly by the Navy.

The tactical aircraft from the U.S. Air Force were very limited because, from Kuwait, 13 hours' flight from Afghanistan, gave permission for U.S. strikes from their soil. They had little flexibility arriving over their targets. This diplomatic limitation meant that naval aviation had to carry the vast load of the work in Afghanistan.

I want to make special note of the Navy's electronic warfare aircraft and what they did.

With that, let me just close by saying that we want to take this opportunity to thank the men and women of the following battle groups: the *Enterprise*, the *Roosevelt*, the *Vinson*, *Kitty Hawk*, *Bataan*, the *Bonhomme*, *Richard*, and the many men and women of the 15th and 26th MEUs. To the men and women of Enduring Freedom, we wish you a happy holiday and the thanks of a grateful Nation; and in the words of the Navy, we would say "Bravo Zulu."

□ 1300

TRIBUTE TO MR. AND MRS. ULYSSES B. KINSEY

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON of California. Mr. Speaker, I come to pay tribute to a couple that exemplifies strong family values and ideals, Ulysses and Christine Kinsey, who celebrate their 60th wedding anniversary on December 28, 2001, in Florida.

Ulysses Bradshaw Kinsey, or U.B., as he was lovingly called, and Christine Teresa Stiles, met while attending college at the Florida A&M University, and married in Tampa, Florida. The wedding ceremony was performed on December 28, 1941, at the home of Christine's parents.

U.B.'s values of compassion, fairness, and integrity were instilled while working in his father's grocery store. He closely observed his father's treatment of people regardless of race, color, creed, or status. U.B. also admired his mother for her kindness and thoughtfulness towards others.

By watching her mother, who was an enterprising and industrious role model during the Depression, Christine learned the art of making ends meet and training others to do so. Christine epitomized both her parents in her development of compassion and values about hard work. These lessons helped for her to become an excellent homemaker, a caring mother, a resourceful wife, and are reflected in the way she and her husband raised their six children: Eula, Bradshaw, Bernard, Cassandra, Cheryl, and Linda.

The cultivation of U.B. and Christine's relationship over the years has given stability, guidance, structure, and a positive role model, and the results were shown in their children.

This husband and wife team, residing now in West Palm Beach, Florida, has far-reaching influence across the country and out to California, in California's 32nd District. My constituent, Bernard William Kinsey, is the former senior vice president of Xerox Corporation and President of KBK Enterprises, a consulting firm located in Los Angeles, California. Bernard was a member of Our L.A. and instrumental in rebuilding Los Angeles after the 1992 uprising.

The other Kinsey children, teachers, executives, and operating an elderly care home, have all contributed to the progress in this great Nation.

U.B. Kinsey retired July 31, 1989, after 39 years of service as the principal of Palm View Elementary. While there, he watched more than 30,000 students enroll and graduate. The school was renamed U.B. Kinsey Palm View Elementary School, an unprecedented action in recognizing a living African American former principal.

Christine Kinsey has provided care, love, and support to her husband, her family, and her community for over 60 years. Among other organizations, Christine has been involved with the YWCA, the Tabernacle Baptist Church, and the Palm Beach County School District.

Mr. Speaker, U.B. and Christine Kinsey serve as a shining example of America's family values and ideals. This congressional tribute to the 60th wedding anniversary of the Kinseys exemplifies what is good in our country, and makes us, because of their contributions, the greatest country in the world. Congratulations and commendations.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. BROWN).

TRIBUTE TO HONORABLE DAVID S. BONIOR, MEMBER OF CONGRESS

Mr. BROWN of Ohio. Mr. Speaker, I want to say a word about my friend, the gentleman from Michigan (Mr. BONIOR).

In 1965, a Mississippi civil rights leader said, Do not tell me what you believe; show me what you do, and I will tell you what you believe.

When I hear these words I think of the gentleman from Michigan (Mr. BONIOR), I think of his 10 years as Democratic whip, and I think of his leadership on issues of Central America, on issues of trade, on issues of social justice.

He did not just pay lip service, as many in this institution do, to those issues. The kind of hard work, the kind of day-to-day effort, the kind of persistence, the kind of stick-to-itiveness that the gentleman from Michigan (Mr. BONIOR) brought to this job, always in the name of social justice, always in the name of doing the right thing, standing on the floor doing special orders, doing meetings in his office, making calls to groups to encourage them to lobby this Congress, all that he did in the name of social justice, all that he did in the name of fair trade, meant so much to all of us.

Do not tell me what you believe; show me what you do, and I will tell you what you believe. That describes the gentleman from Michigan (Mr. BONIOR).

THE RIGHT OF COUNTRIES TO SELF-DEFENSE AGAINST TERRORISM, AND RECOGNIZING BRAVE AMERICANS ON THE FRONT LINES, AT HOME AND ABROAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, as we depart for the Christmas and the rest of the holiday season, we all pray for peace and justice in the world. But I think that I have some concerns, as do others, that some people are having difficulty sorting the differences between terrorists and those who are trying to respond to terrorism.

The people who attacked the World Trade Towers and who blew Americans up are not the same as when people like us try to respond. We need to understand that same difference in Israel. For example, when a terrorist who attacks innocent people who are going about their daily routine with the sole purpose of causing terror, that is different than trying to respond with as much precision as possible, although there may be innocents killed, which is unfortunate, but it is still different. We cannot hold Israel to a different standard than we hold ourselves.

We now see the same problem in India. Once again, terrorists have stormed their Parliament and they have attempted to kill and assassinate the leadership of a democratic country. These are difficult times. They are difficult for us when we try to figure out how to respond, too. We all need to be carefully and prayerfully thinking of any response that might lead to more death in the world.

At the same time, it would be wrong for the United States to say that it is okay for us to respond to terrorists, and not for other countries. We all, including us, should be wise and careful in our responses, but respond we must.

I would also like to pay tribute to those brave Americans who are on the front lines protecting us all the time; not only our soldiers in Afghanistan and throughout the world, particularly those who are in immediate harm's way, but also to all the brave firemen and policemen who daily risk their lives to help us. We have all become more aware of their sacrifices.

I also want to thank all those on the front lines trying to protect us from future terrorist attacks: those in the Coast Guard, the INS, the Border Patrol, the DEA, the FBI, the U.S. Marshals, and the U.S. Customs Service. Every day they are trying to protect us from future terrorist attacks and from chemical and biological attacks, whether it be anthrax, heroin, smallpox, or cocaine.

Protecting our borders is not easy. It takes people of judgment, and daily they have to exercise that judgment.

I was recently along a number of the borders in Washington State. Diane Dean is one of our American heroes, along here with Mark Johnson and Gerald Slaminski. In late 1999 at the Port Angeles Customs Station in Washington State; she thought one of the people were behaving suspiciously. She detained him. As they looked further, they thought he had stuff for a meth lab in the car.

It turned out they were handling nitroglycerine. He had enough weapons to blow up LAX Airport, where they had the information that that was where he was headed to rendezvous with another person.

Because one Customs officer detained and went through a thorough examination, and two other Customs officers basically violated orders and chased the person down the street, because we have this absurd position right now that if the person can get away from the immediate border, they cannot be chased, but they took it in their hands to chase him.

We saved LAX Airport, and we also have a suspect who has been one of the key people, or we have a convict, basically, at this point, who has been one of the key people in identifying the al-Qaeda network in the United States and around the world. That information hopefully will save and has already saved and will save more lives in America and around the world.

We need to thank these public servants who are so key in keeping each of us safe, not only during this holiday season, but all year long.

Before closing, I would also like to add a few words of tribute to the gentleman from Michigan (Mr. BONIOR). I came in as a fierce partisan in 1995. I have tremendous respect for people who are also fierce partisans.

I also know he is a good man, a dedicated Midwesterner who stands up for the working man. And whether or not Members disagree with each other at times, it is important to have civility in this body. I believe he has been a fierce partisan, and that helps lead us to the type of debate that we have to have in America if we are going to arrive at public policy.

Too often, it seems to be coming in this day and age that we are trending towards blow-dried cookie cutters, where we all sound the same, we all move the same. It is important that we have people of conviction and people that follow the patterns that many before us have set.

I, too, will miss him in a different way. I will not miss part of his abilities and I will not miss part of his enthusiasm for his cause, but it is always a tragedy when we lose dedicated leaders who spent their lives having such an impact.

I have appreciated his time here as one of the rowdy class of 1994.

IN APPRECIATION OF MEMBERS OF CONGRESS AND IN TRIBUTE TO SUPPORTIVE AND CAPABLE STAFF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, first of all, let me apologize to my friend, Elie Abboud, who has been waiting for me for an hour and a half to have lunch. I did not expect this to happen, and I am overwhelmed by the wonderful tributes and comments of my colleagues.

I want to thank the gentleman from Indiana (Mr. SOUDER) and the gentleman from Nebraska (Mr. BEREUTER) for their comments, and for spending the time that they have here on the floor throughout this hour-and-a-half, 2 hours.

Mr. Speaker, I came to the floor this afternoon, or actually I came this morning, but it is afternoon now, to pay tribute to my staff.

Before I do that, I want to express my appreciation to all the Members who came to this well and spoke so lovingly and so wonderfully concerning my service here.

It means a great deal to me to, number one, have such wonderful friendships of people that I admire and respect, and to have them publicly express their feelings and their thoughts. It was quite an emotional and heartfelt experience and well received, I might say, and I thank them for it.

The gentlewoman from California (Ms. PELOSI), of course, is going to be our next whip and a great leader of our country, and she already is, but more greatness awaits her; and my friend, the gentleman from California (Mr. GEORGE MILLER), who, with me, has had so many battles over so many years on education, labor issues, Central America; we go back a long time, and he is one of the best.

Of course, there is the gentlewoman from California (Ms. WOOLSEY), who I have come to admire and respect, and is about as genuine and as real and as committed to people as we can find in this place; and the gentleman from Ohio (Mr. BROWN), who was here and has now left, who will commence the leadership on the trade issue. He is already a great leader in it, but he will be even more so in the days and weeks and months ahead.

Thanks to the gentleman from Texas (Mr. EDWARDS) and the chief deputy whip, the gentleman from California (Mr. FARR); the gentlewoman from Connecticut (Ms. DELAURO), who spoke with such eloquence and love; the gentlewoman from Ohio (Ms. KAPTUR); the gentleman from Vermont (Mr. SANDERS), who always proves that I am bipartisan; the gentleman from Oregon (Mr. WU); the gentleman from Maine (Mr. ALLEN); the gentlewoman from Nevada (Ms. CARSON); the gentleman from Guam (Mr. UNDERWOOD), who is going to be the next Governor of Guam; the gentleman from Texas (Mr. GREEN); the gentleman from Massachusetts (Mr. FRANK); the gentleman from New Jersey (Mr. PAYNE); the gentleman from North Carolina (Mr. WATT); and the gentleman from Indiana (Mr. SOUDER), I thank him for his comments.

Thanks also to Harold Volkmer who came here, I saw him on the floor. Many of you knew him; he served many years in the House. He was a classmate of mine, and was very instrumental in getting me elected whip.

□ 1315

So I thank them all and I look forward to a final year of service with them here. We are going to do wonderful things for our country together.

I take this floor tonight to express my appreciation to people who have made it possible for me to be the whip of my party and be a leader in my party, and that is my staff. They are an extraordinary group of people, some of whom I will miss dearly. Although I am sure we will be in contact with each other over the years and the months as they go by, but some of them are leaving now, and they have been part of my whip staff, and I want to express my thoughts and feelings to them today.

Bridget Andrews will be coming over to the Rayburn staff with me for the next year and she is just a bright, thoughtful, caring, quiet but smart woman, and I am really honored to have her and look forward to working with her.

Brian Taylor, who is here on the floor as well, Brian has been with us a short time, but he has done a great, great job, and he has got all the abilities to be a great legislative assistant in this institution, and I wish him all the best. He has had the obligation of answering the phone when someone calls to find out what is going on and he does a great job. He knows how this place works now. He is a wonderful person.

Then Kim Kovach, who I will dearly miss. She started off not too long ago with us, a couple of years ago, several years ago, and she has done everything in the office, and she did our trade stuff for us on fast track. She has just progressed in such a wonderful fashion. She is caring, she is decent. She is going back to Pittsburgh. She got married. She is a lovely person, and whoever gets her in employment in Pittsburgh is going to be very, very fortunate. I wish Kim all the best in her endeavors.

I also want to take this opportunity to thank Howard Moon, who came from the gentleman from California's (Mr. MATSUI) staff. Howard is one of our floor people here, and he will continue on in that capacity in the next session of this Congress. He and Kristen are very special people, smart, hardworking, thoughtful, competent, all the things someone would want in a staff person, and I wish Howard all the best and I will miss him. We will see him, though, on the floor. So I guess I will not miss him that much. He will be around.

Jerry Hartz. Jerry has been with me now for, I do not want to get these things wrong, but it has been at least 15 years, since 1987. So let me do my math, about 15 years, and he will be continuing on serving this great institution, and he is an enormously talented individual, a floor person here who we relied on. Wonderful family. Jerry started in our offices when we were the chief deputy whip. There were just four of us in there Judy, my wife; Jerry, Kathy and then Sarah. I guess that is five, and he was so instrumental in our battles on Central America and disarmament issues and you name it, he is there. He is a great resource for this institution, and I wish Jerry all the best in his endeavors.

Sarah Dufendach and Kathy Gille have been with me the longest of the group. They worked on my first campaign 25 years ago. Sarah and Kathy and I, we all kind of grew up on the east side of Detroit, and as I said, they both worked on my first campaign, and Kathy came to work with me about 20 years ago, seems like 22, but she was in at the very beginning and she has been an enormous, wise consult to me. She has great instincts. She has great humanitarian instincts. She has great political wisdom and caring, and I am just going to miss her very, very much, but I know she is looking forward to the day when she can have a little bit of rest, as we all are, and I wish her and Doug much happiness. I know that it will be there in abundance for them. They put together well in their lives the different pieces that make life so profound and wonderful. The spiritual, the physical, the emotional, the educational, all those pieces they do very, very well, and she does extremely well.

Kathy traveled to Central America. She has been at all the battles that we have done over the years and the Vietnams veterans stuff, all the trade issues, worked on the Committee on Rules, as did Jerry, and she is just a very special person, and I thank her from the bottom of my heart for her service.

Then Sarah, who with Kathy, worked in that first campaign, has been with me in the office now for 25 years. She started in Michigan. She lived in the same community I did. She has worked in social services her whole life, and I consider this part of that. She has got enormous amounts of energy and optimism and can-do-it-iveness and is a deeply caring person and was the administrative and political part of our operation that was so very, very important. She did a great, great job for many, many years.

She is going on to wonderful things working for an organization called the Vietnam Veterans of America Foundation, which was an offshoot of the original Vietnam Veterans of America. I guess it really was not an offshoot, but it is Bobby Muller who was instrumental in forming both of those organizations, one which is now a national veterans organization. She is going to go work over there, and they do stuff like land mines.

They are the folks that got the Nobel Peace Prize for the work they did on land mine issues around the world. So it is a good place for Sarah because when she puts her heart and soul into something, she works hard at it, and there is nothing that could be more important than doing that kind of work, making sure we demilitarize our land so that our loved ones around the world do not lose their lives and their limbs. There will be other things I am sure that she will be doing over there but she is a great person, and I wish her all the best in her endeavors, and I thank her for her service.

Another person who I should mention is Chris Cook, who was with me for 25 years as well and left just recently. I have four people that were with me virtually the whole time, Kathy, Sarah, Ed Bruley, who is still there and Chris Cook, Christine Cook. And Christine left recently from the Michigan office and those now kind of form the team that we have operated with for two and a half decades. And I am going to miss Christine. I will see her. She is busy now as a grandma. We were all young when we started out in this business, but we have other responsibilities now in our lives. And she is handling that with great grace and she is a gracious, lovely woman and I miss her already.

Then let me finally say that my wife, Judy, who worked in our office, in the whip's office, chief deputy whip's office and then in the majority whip's office and in the minority whip's office was an enormous piece in making things work and is the central piece of my life. And she was just fabulous in doing all the wonderful things she does. Caring, loving and advocating and fighting for the things that are important to her, socioeconomic justice, racial justice. So she is a beacon of light for me and for many people, and I want her to know that. I look forward to marching through life with her.

To all the Hill staff who I had the pleasure to work with, thank you for your cooperation and for your support. To run a whip shop is not easy. You do not just need your staff. There is a lot of people that are involved and a lot of energy and a lot of heart and soul gets poured into these issues. And, I hope over the next year, to thank you all individually and to give you my best wishes in your careers.

Mr. Speaker, you have been very generous. This has been a long 5 minutes, and I want to thank you for your kindness this afternoon. I want to wish my colleagues a very happy holiday season; a happy Hanukkah which has passed; a merry Christmas and a spiritual Kwanzaa and a Ramadan Koran for those who just finished their holy season.

We look forward to a good session the next part of this 107th Congress.

LEGISLATION TO BE CONSIDERED IN SECOND SESSION OF 107TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. BEREUTER) is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, today I have introduced four bills for consideration during the next year and I want to call them at least briefly to the attention of the House for the Members and staff who will be watching or reading the CONGRESSIONAL RECORD.

The first of them is entitled the Lewis and Clark Voyage of Scientific Discovery Act, and it really is a comprehensive effort to foster the better management of the biological and physical health of the Missouri River.

The second and third bills relate to Afghanistan and Central Asian republics and the ability and assistance and authorization for that part of the world to produce food sufficient to feed themselves, at least on a sustainable or subsistence basis.

The second of the bills relates to a multi-lateral approach we would participate through the Treasury Department with cooperation and assistance with the State Department. It has 15 bipartisan cosponsors already, and it would utilize a trust fund with the fiduciary responsibility placed in the World Bank.

The third is a bilateral authorization program involving the State and USAID, and I will come back to those two bills briefly.

The fourth bill is a Rural Equity Payment Index Reform Act, and I had a chance to briefly mention that in a 1 minute address several hours ago. This bill will address a significant differential and reimbursement levels to urban and rural health care providers. The formulas used by Medicare programs to reimburse health care providers for beneficiaries' medical care, are not accurately measuring the cost of the providing services and are reimbursing physicians and other health care providers in a manner that disadvantages rural providers and, therefore, rural citizens.

Many rural communities have had great difficulty retaining physicians and other skilled health care professionals. Recruitment difficulties for primary and tertiary care remain more severe in areas with lower costs of living indices. It makes little sense, therefore, to pay physicians less in lower costs of living areas when these areas usually have the physician shortages.

The Rural Equity Payment Index Reform Act will lessen the disparity which currently exists between urban and rural areas. Specifically, the legislation would guarantee that we would have a gradual phase-in of a floor of 1.000 for the Medicare physician work adjuster, thereby gradually raising all localities with a work adjuster below 1.000 to that level.

Since it would be politically impossible to lower the work adjuster levels for health care providers in urban areas, the adjustment upward to the 1.000 floor would be enacted without regard to budget neutrality agreement in the present law, thereby requiring Congress to change law to authorize an increase in program expenditures.

While Congress has attempted to correct the inequities for hospitals, it has not addressed parallel problems with the physician component of our country's rural health infrastructure.

The Benefits Improvement and Protection Act of 2000 addressed inadequate payment for Medicare+Choice organizations, and took steps to stabilize and improve rural hospital payment. Nothing substantive in the legislation, however, addressed the underlying issues of inadequate reimbursement of the costs of providing physician services under Medicare Part B.

According to the Centers for Medicare and Medicaid Services, "physician work" is the amount of time, skill and intensity a physician puts into a patient visit. Physicians and other health care providers in rural areas put in as much or even more time, skill and intensity into a patient visit as do physicians in urban areas. Yet, rural physicians are paid less for their work under the Medicare program than those who practice in urban areas! This is not only unfair, but discriminatory against rural areas!

The amount Medicare spends on its beneficiaries varies substantially across the country, far more than can be accounted for by differences in the cost of living or differences in health status. Since beneficiaries and others pay into the program on the basis of income and wages and beneficiaries pay the same premium for Part B services, the geographic disparity results in substantial cross-subsidies from people living in low payment states with conservative practice styles or beneficiary preferences to people living in higher payment states with aggressive practice styles or beneficiary preferences. Physician work should be valued equally, irrespective of the geographic location of the physician.

The work geographic practice costs index for Nebraska is currently 0.949. According to this Member's calculations, establishing a floor of 1.000 would translate into a $7,562,772 annual increase in Medicare payments to Nebraska physicians. We have information of the current index levels for other states that we can make available to interested Members.

Mr. Speaker, this Member urges his colleagues to support the Rural Equity Payment Index Reform Act.

Mr. Speaker, with respect to the Afghanistan bills, the two that I have introduced, I would say it is important that Members understand that as Afghanistan moves towards developing a new government, it is important for the U.S. to provide incentives for the people of Afghanistan to create a new national government which will move towards increased stability in the region.

I would like to thank the distinguished Members from both sides of the aisle who have agreed to serve as original co-sponsors of the measure, and, in particular, the distinguished gentlelady from North Carolina (Mrs. CLAYTON). Her commitment to assistant people in the U.S. and the rest of the world feed themselves through the Farmer-to-Farmer program and other technical education programs will truly be missed in this Body during the next Congress.

Mr. Speaker a very special note of appreciation is extended to Dr. Fred Starr of the School for Advanced International Studies of Johns Hopkins University for the concepts that undergird this legislation and for his generous amount of time and advice to this member and my staff Alicia O'Donnell, as we drafted this legislation. The distinguished Dr. Starr first explained his views and proposal at an Aspen institute breakfast sponsored by the distinguished former senator from Iowa, Rich Clark.

□ 1330

One important incentive which the U.S. can extend is assistance to address one of its most immediate needs, the need to rebuild Afghanistan's capability to feed itself.

Indeed, nearly all of the indigenous tools for food production and rural development in the Afghanistan area have been destroyed. The people of Afghanistan, necessarily, have eaten their seed stocks and most have slaughtered all of their breeding livestock to meet their immediate food requirements. Additionally, over 20 years of civil war and political unrest in Afghanistan have resulted in the destruction of the country's limited basic irrigation systems.

Unfortunately, the food production capabilities in the mountainous regions of Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan, and Pakistan have reached abject levels, too, thus results in a regional crisis.

Mr. Speaker, the Afghanistan and Central Asia Republics Sustainable Food Production Trust Fund Act that I have introduced directs the Secretary of the Treasury to enter into negotiations for the creation of a multilateral global trust fund to address the food production crisis in Afghanistan and the surrounding Central Asian Republics. Through the trust fund, nongovernmental organizations, working in conjunction with local and regional entities, would receive grants to conduct food production in rural development projects, including microenterprise loan programs, in Afghanistan and in the impoverished mountainous regions of the countries I previously mentioned.

Upon the creation of the trust fund, the NGOs would be immediately eligible to receive grants to execute projects in the countries of the Central Asian Republics. This is a model laid out for us by Dr. Fred Starr, a very distinguished member of SAIS at Johns Hopkins University, in a breakfast for the Aspen Institute held in this Capitol building several months ago.

In order to provide the important incentive during critical stages of statebuilding, Afghanistan would not be eligible for programming until the Secretary of State certifies that the people of Afghanistan have made substantial progress towards creating a national government which meets four criteria: one, has diverse ethnic and religious representation; two, does not sponsor terrorism or harbor terrorists; three, demonstrates a strong commitment to eliminating poppy production use for opium production; and, four, meets internationally recognized human rights standards.

Mr. Speaker, helping the people in the region feed themselves is not only benefits which we are creating for them, it is important to us and to other countries. It would provide an opportunity to build good will in a region which has been neglected by U.S. policymakers and U.S. assistance programs. We cannot leave a vacuum there like the one that was left behind after the Soviets were expelled from Afghanistan.

U.S. leadership, in creating a long-term trust fund, can be a critical step towards rebuilding confidence in the USA. When funds from public and private sources are gathered and distributed through a multilateral mechanism, it becomes much more difficult for governments in the region to dismiss the projects as ephemeral U.S. foreign policy initiatives. Additionally, providing programming funds for the Central Asian Republics and not solely to Afghanistan, which will certainly become the recipient of massive bilateral and multilateral human assistance programs, will further demonstrate the U.S. commitment to the entire region.

Mr. Speaker, I hope my colleagues will look at this legislation. I think it begins the process of seeking a long-term solution to the region's dire food production challenges; and, furthermore, it is a real incentive for them to move the kind of government which will bring peace and stability to the region.

Mr. Speaker, this Member would note that the Afghanistan and Central Asian Republics Sustainable Food Production Trust Fund is not intended to replace similar bilateral projects which USAID has begun to conduct in the region. Furthermore, the trust fund is not intended to supplant the very necessary emergency food assistance programs in Afghanistan and the surrounding Central Asian Republics.

Mr. Speaker, it is critical that the U.S. and the rest of the global community begin to seek long-term solutions to the region's dire food production challenges. Through the creation of the Afghanistan and Central Asian Republics Sustainable Food Production Trust Fund, the U.S. can take an important step toward that end.

INDIAN TRUST MANAGEMENT REFORM

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, the U.S. Government has repeatedly committed to a trustee relationship with the American Indian nations. Defined by treaties, statutes, and interpreted by the courts, the trust relationship requires the Federal Government to exercise the highest degree of care with tribal and Indian lands and resources.

At first, the Federal trust responsibility served to protect tribal lands and tribal communities from intrusion. However, in a push to acquire tribal lands and turn Indians into farmers, the Federal Government imposed reservation allotment programs pursuant to the General Allotment Act of 1887. Under these policies, the selling and leasing of allotted lands and inherited interests became primary functions of the Bureau of Indian Affairs. Tribes lost 90 million acres and much of the remaining 54 million acres was opened to non-Indian use by lease. In sum, the Federal Government took the trust responsibility for Indian land upon itself in order to gain the benefit of vast tribal lands and resources that were guaranteed by treaty, executive order, and agreements for exclusive use by the tribes.

It is widely known, Mr. Speaker, that the BIA grossly mismanaged and squandered billions of dollars worth of resources that should have gone to the benefit of often impoverished American Indians. Today, the Secretary of the Interior is faced by a mandate from Congress to clean up the accounting and management of the Indian trust funds, and by a lawsuit alleging a great failure by the Secretary's trust responsibility for Indian lands. In response, the Secretary has proposed a plan to create a new Bureau of Indian Trust Asset Management and remove the trust functions from the Bureau of Indian Affairs.

Mr. Speaker, in my opinion, this proposal will profoundly affect the BIA's management of 54 million acres of Indian lands, the administration of trust funds derived from those lands, and nearly every aspect of economic development, agriculture, and land management within Indian country.

I am greatly concerned that this plan is repeating the failure of the many trust reform efforts of the past. Recently, 193 Indian tribes unanimously adopted a resolution opposing this reorganization and transfer of the responsibilities of the BIA. I strongly believe that this reorganization effort cannot go forward until the Department consults with Indian tribes in the development of a business processes plan for trust reform, a clear plan for performing the basic trust functions of accounting, collections, recordkeeping inspections enforcement and resource management. The plan must include policies, procedures and controls.

The fundamental and consistent criticism of the Department's trust reform efforts over the last decade has been the failure to develop a plan for these business operations of trust management. Instead, the DOI has a well-documented record of making short-term cosmetic changes in response to court-imposed deadlines or congressional inquiries.

Mr. Speaker, it is notable that this criticism, a lack of structural foundation, is exactly the same as has been leveled against the Department's development of the Trust Asset and Accounting Management System. All tribal leaders strongly support trust reform and want to work constructively with the Department and with Congress to ensure sound management of tribal assets. In fact, it is the tribes that have the greatest interest in ensuring that tribal assets and resources are properly managed.

In this spirit, I will submit for the RECORD the following principles of the

National Congress of American Indians, which should guide the Department of the Interior in its trust reform efforts. Secretary Norton clearly needs help in attending to the concerns of Native Americans, and I would hope these principles would be taken into consideration by her.

I. Put first things first. Creating a new agency does not create trust reform, and we unequivocally oppose this proposal as currently framed. Tribal leadership urges the Secretary to stop the BITAM reorganization effort until there has been an opportunity to actively engage and consult with tribes in developing an alternative plan for the business processes of trust management in an open and consensus-based process. Once the Department, working with tribes, has a clear definition of the tasks that must be accomplished, then any staff reorganization should be based on this business processes plan.

II. Tribes can help solve this problem, but the Secretary must consult and collaborate with the tribal leadership on a government-to-government, sovereign-to-sovereign basis. Announce and defend is not consultation. The Secretary and the tribes should agree that the upcoming regional meetings should be to consult on the scope of the issues to be addressed. The scoping meetings planned at present are too fast and too few, and should be extended to cover all regions, with an extended timeline. A Tribal Leaders Task Force on Trust Reform should be created and funded, and consultation should include the IIM account holders. Consultation must continue throughout the trust reform effort, and the discussions must be marked by some fundamental ground rules. The tribes insist that the Department agree to deal in good faith, avoid self-dealing, and commit to full disclosure of relevant and material information (including that relating to known failures and losses).

III. In the past twelve years, Interior has paid more than a billion dollars in judgments and settlements for its failures to protect the trust assets. The costs of continued failure will far outstrip the costs of doing it right. Congress must fund trust reform, and the IIM beneficiaries and tribes should not bear the burden of paying to fix the trust system. We therefore oppose the Department's proposed reprogramming of $300 million within the Fiscal 2002 budget from the BIA budget to fund the proposed BITAM, and any other proposal to remove funds from the BIA for this purpose.

IV. The Secretary of Interior should come forward in an honest and forthright way to discuss ways of settling on historic account balances. If she cannot do this, then Congress must address this issue substantively.

V. Do no harm. Many tribes and BIA field offices have been successful in establishing sound trust management for their lands pursuant to the tribal self-determination policy. These successful systems should not be harmed or modified by the trust reform efforts without tribal consent.

VI. Successful development and resource management in Indian Country are linked to Indian control. The future of trust management includes increased protection and tribal control over lands and resources, and a federal system that provides technical assistance and trust oversight on resource management in a flexible arrangement that is driven by self determination through the special circumstances, legal and treaty rights of each tribe and reservation. Different regions in Indian Country and their specialization in grazing, timber, oil & gas, commercial real estate, agriculture, fisheries, water, etc., will all require different systems that must reflect the unique needs of each.

VII. The survival of tribal cultures and traditions is dependent upon the continuance of tribal lands and resources as durable means to live and be Indian. One role of the trustee is to protect the long-term viability of tribal lands and resources and ensure that the actions of the trustee are consistent with tribal control of the use and development of Indian lands.

ANNIVERSARY OF CEDAW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, this past Tuesday, December 18, marked the 22nd anniversary of the United Nations' adoption of the Convention on the Elimination of All Forms of Discrimination Against Women, otherwise known as CEDAW. Adopted by the U.N. General Assembly in 1979, CEDAW established a universal definition of discrimination against women and provides international standards to discourage sex-based discrimination. These standards encourage equality in education, health care, employment, and all other areas of public life.

This comprehensive United Nations treaty serves as a powerful tool for all women as they fight against discrimination, and this treaty has led to substantial improvements for women's lives in countries including Japan, Brazil, Sri Lanka, and Zambia. In fact, when Brazil redrafted its constitution, they used CEDAW as a framework for their human rights for women. The Brazilian constitution now contains provisions on gender equality, gender-based violence, equality of rights within marriage, family planning, and employment, paralleling those contained in CEDAW.

To date, 168 countries have ratified CEDAW. However, the United States is not one of those countries. In fact, the United States is the only industrialized nation that has not ratified CEDAW, a distinction that places us in the company of North Korea, Iran, and Afghanistan. The decision to abandon this embarrassing distinction is long overdue.

The last 3 months have focused on recovering from the tragic events of September 11 and fighting against terrorism. And as a part of our response to the terrorist attacks, the U.S. has overthrown the Taliban, a government that stripped Afghan women of all freedoms, dignity, and respect. Now the United States will play an important role in rebuilding the Afghan Government. Critical to building this new democracy will be the inclusion and acceptance of Afghan women.

But in our quest to help Afghanistan rebuild, we are presented with a shameful irony. While we are trying to teach the Afghani people that women must be an equal part of a post-Taliban democracy, we contradict ourselves by refusing to ratify the one international treaty that ensures the rights of all women. If we truly want to be regarded as a world leader and champion of human rights, our country must ratify this treaty. Women around the world are depending on the United States to show support for CEDAW, because United States' support will strengthen CEDAW's purpose and enhance its credibility.

During my 9 years in Congress, the ratification of this treaty has been a top priority of mine. Although it is the purview of the other body to ratify a U.N. treaty, 90 bipartisan Members of the House of Representatives have signed a House Resolution asking the Senate to take up this issue and ratify CEDAW. Please join this effort to convince the administration and the other body that the time has come for the United States to join 168 other nations who have committed themselves to safeguarding basic human rights and ending gender discrimination and ratifying CEDAW.

NO EXPRESSION OF SUPPORT IN CONGRESS FOR WAR IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK. Mr. Speaker, along with a large majority of the House, I voted for a resolution that reiterated our opposition to the acquisition by Saddam Hussein of Iraq of weapons of mass destruction. But I am concerned that some might try, quite inaccurately, to take that large vote repeating our condemnation of Saddam Hussein and our insistence he comply with U.N. resolutions regarding these weapons, that some might mistake this as an expression of support for a war in Iraq.

First of all, we should be very clear: there is no legislation, no resolution that has passed this House, that expresses support for war in Iraq. The post-September 11 resolution was explicitly limited to involvement in the attack on the World Trade Center. And to date, no one has produced evidence, as reprehensible as Saddam Hussein is, as despicable as his regime, that he was in any significant way involved in that.

Many of us, in fact many of us who voted for the resolution, signed a letter to the President reiterating we do not believe it would be appropriate to commit America to a major military action in Iraq or anywhere else in the world without a congressional vote. And I would be, at this point, voting against that.

We did a very good job in Afghanistan. The American military made us proud. And, by the way, that is the American military that President Bush inherited from President Clinton. All during the campaign of 2000 candidates Bush and CHENEY denigrated the American military, claimed inaccurately that Clinton had somehow left it impotent. All of a sudden it got very good in a hurry, because that very military that President Bush inherited from President Clinton showed a great capacity in Afghanistan.

But as good as they were and as careful as they were, innocent lives were lost, property was destroyed, the economy, already in tough shape, was disrupted, food distribution was inhibited. We had a moral right and a moral obligation to go into Afghanistan. But having done that, having unleashed significant military power in that poor country, for good moral reasons, I think it is now an equal moral obligation to show that we can work just as hard to help rebuild the country, to help feed people, and to help reconstruct it.

In the first place, I would say this: until we have shown an equal ability and commitment and dedication to giving the people of Afghanistan a better life, as we should, to helping them get rid of that terrible regime, then I do not think we have earned the right to go do that somewhere else.

□ 1345

I do not think that we can simply go from country and oppose destruction, even when it is morally justified to go after some bad people, without living up to the second part that of commitment.

Secondly, an attack on Iraq, unlike the war in Afghanistan, would be almost universally opposed by a variety of others. The Bush administration has learned that going it alone is not the best strategy. I am glad the Bush administration has abandoned the kind of unilateralism that unfortunately marked its early months. But if we now attack Iraq, we would be back in that situation. In fact, any hope of further cooperation with Arab regimes in getting intelligence, in prosecuting terrorists and continuing to go after al Qaeda would be discouraged.

Mr. Speaker, I am no fan of the regime in Saudi Arabia which is lacking in so many respects; I have become increasing disenchanted with Mubarak in Egypt, but they, at this point, seem to me better than what we would get as an alternative if we were to launch an attack on Iraq that could destabilize those countries. And as King Abdullah, the King of Jordan, in the tradition of his father, seems to be a responsible individual trying to do well, I do not want to see those efforts undercut.

So it would be counterproductive in the war against terrorism to go after Iraq. I would love to see Saddam Hussein out of power. He is a vicious and brutal man, but to attack him militarily at this point, engendering the opposition this would engender in the Muslim world, would be counterproductive to our fight against terrorism.

Indeed, as a strong supporter of the legitimate right of Israel for self defense, which is now under attack from the most irresponsible elements in the Arab world, people should understand, President Bush never said that he was for a Palestinian state until after September 11. The political need to show some connection to the Muslim world moved him in that direction. I fear greatly that an attack on Iraq, with all of the negative consequences that would have in the Muslim world would, in fact, lessen rather than strengthen America's support for Israel's legitimate needs. I fear there would be a tendency to trade-off a little bit of that support for Israel at a time of great crisis because of this.

Finally, they are not analogous. Not only do we not have Saddam Hussein not having attacked us the way the Afghan-supported Taliban allowed al Qaeda to do it, we do not have the same situation. There is no Northern Alliance. One of the things that helps morally vindicate our effort in Afghanistan was the obvious joy of so many people in Afghanistan that we helped rid them of this barbarous repressive regime.

Saddam Hussein is not a lot better than the Taliban, but I do not see in Iraq the kind of opposition that would allow us to do the same thing. So while to continue to support the sanctions and I continue to say we should work with opposition within Iran, if possible, to launch a military assault on Iraq comparable to what we do in Afghanistan would be counterproductive. I hope it will not be done. Clearly, the resolution we voted offers no support for that.

MORATORIUM CALLED FOR ON VETERAN PRESCRIPTION DRUG CO-PAYS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I may be the last speaker in this Chamber of this particular session of the House of Representatives. I rise today to say when it comes to the way we treat our veterans in this country, talk is cheap, but actions speak louder than words. Why do I say that?

Mr. Speaker, I have in my hands this afternoon a document from the Department of Veterans Affairs entitled, "Implementation of Medication Co-payment Changes." It is a document that details the changes that will take place in the level of co-payment made available to veterans who get their prescription medications at the VA hospitals. What we are proposing is outrageous in my judgment.

Currently, most veterans who go to VA hospitals and receive their medications as an outpatient pay a $2 co-pay per prescription. On February 4, according to this document, that co-pay will be increased from $2 a prescription to $7 a prescription, a whooping 250 percent increase. An unacceptable increase. Why is this so outrageous? It is outrageous because this House has recently passed a $15 billion bailout for the huge airline companies, $15 billion. This House has recently passed a bill that would have provided $24 billion in tax rebates going all of the way back to 1986, giving profitable companies a give-back of all of the taxes they had paid under the alternative minimum tax since 1986, estimated to be a $24 billion give-back. And yet at the same time, we are in the process of increasing the co-pay for veterans' medicines from $2 to $7.

Mr. Speaker, I serve a veterans hospital in southern Ohio, the Chillicothe VA Hospital. I have been told by administration there that the average veteran who gets prescription drugs at that facility will get 10 or more prescriptions per month. If we take a $7 co-pay and multiply that by 10, it is $70, a sizable amount of money for a veteran living on a fixed income. These veterans frequently get not 1-month supply, but a 3-month supply at a time. If we take $70 times 3, it is $210. Why is it that we talk so eloquently in this House about our concern for our military, we honor our veterans, and yet when it comes to taking action, we penalize them at the same time we are willing to give huge, huge tax cuts to profitable corporations, many of them multi-national corporations.

A 250 percent increase on our veterans for medicines they need to stay healthy or maybe even to stay alive, and we are doing it at a time when we are passing out money up here like drunken sailors. We have passed so many give-backs and pork barrel spending bills in this session of this House of Representatives, and yet we are penalizing our veterans. It is no wonder that veterans across this country have a right to say when it comes to the actions of this House, talk is cheap, but actions speak louder than words.

On February 4 when veterans go to our VA facilities to get their medicines, and they have been used to pay $2 per prescription and they are asked to pay $7 for that prescription, I hope they rebel. I hope they let those of us in this Chamber know how they feel about this outrageous action.

Mr. Speaker, I have introduced a bill to place a 5-year moratorium on any increase for veterans' prescription drugs. My bill is H.R. 2820. I currently have 42 cosponsors. I am hopeful that every Member of this Chamber will choose to cosponsor this legislation, and as soon as we get back here after the first of the year, we will pass this legislation so that we will not penalize our veterans and require them to pay more than they are currently paying for their needed prescription medications.

□ 1400

ACCOMPLISHMENTS OF FIRST SESSION OF 107TH CONGRESS

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentleman from Illinois (Mr. HASTERT) is recognized for 5 minutes.

Mr. HASTERT. Mr. Speaker, I rise today to talk about the accomplishments of the first session of the 107th Congress. I am proud of this House of Representatives and how it has risen to the challenges of this very turbulent year.

We started this session after the closest Presidential election in our Nation's history, with an evenly divided Senate and a closely divided House. We conclude it with an admirable track record of accomplishments in the face of a Nation that has utterly changed in a time of war. The themes we focused on at the beginning—economic security, retirement security, national security, and education—still occupy our attention at the end.

We started this session debating economic security. Should we take the steps necessary to jump-start our economy? The Congress, amid great debate, considered the President's campaign pledge to return $1.35 trillion of the taxpayers' money to the taxpayers themselves. We started in the House with the principle that it is wrong to penalize married people with a higher tax rate. We passed legislation to get rid of the marriage penalty. We believed it was wrong to tax people when they die, so we got rid of the death tax. We believed that all Americans deserved some tax relief, so we passed broad, across-the-board tax relief, which included a refund check for all Americans who pay income taxes.

We believed that families needed help to raise their kids and to send their kids to school. We doubled the child tax credit from $500 to $1,000 to give parents more money at home to take care of diapers and school supplies and braces and all the other things that kids need. We also passed tax-free education savings accounts to encourage parents to save money for their children's education. To improve retirement security, we included monumental IRA/401(k) reform so that people could save more money tax-free for their retirement.

Tax relief is the best remedy for a slowing economy, and there is no question in my mind that we did the right thing by passing the tax relief package early enough to soften what could have been an even greater economic blow to our country. The President signed this legislation on June 7. He kept his promise to the American people, and we kept our commitment to economic security. But tax relief was not our only accomplishment in this historic session of this Congress.

The President promised to work on a bipartisan basis to reform education, to improve our education system so that no child is left behind. As a former teacher and coach, I understand how important education is to our Nation's future and how complicated school reform truly is.

We worked on legislation that would do the following: children from the third to eighth grades would be tested annually in such important subjects as reading and mathematics so that we could make sure that they are learning. States and school districts will have more freedom to decide the most effective way to spend Federal dollars. And they will be held accountable for their decisions. Federal funds will be put in the programs that have the most positive impact on children, programs, for instance, that make sure that all our kids are reading by the third grade. Parents will be empowered with information about the quality of their children's schools and their teachers so that parents can make the best decisions for their kids' education. And parents with children in failing schools will be able to use Federal funds to pay for private, religious, or community-based after-school tutoring.

Last week, the House passed the conference report and the Senate completed its work and the President will sign this legislation in early January. From the beginning, we planned on tax relief and educational reform. But the Congress showed it was able to respond to an immediate crisis.

On September 11, the American people were deliberately and viciously attacked by terrorists who hijacked four airplanes, crashing two of them into the World Trade Towers, one of them into the Pentagon. The fourth crashed into a field in Pennsylvania after a heroic struggle by crew and passengers that led to the crash of that airplane. Many of us believe that the terrorists planned to crash that plane into this very Capitol of the United States of America. Those people who stopped those terrorists from their dastardly deed did a great service not only to the people who work here, the people who serve here, but certainly to the American people themselves. We hold those deeds in the greatest and highest honor that I think this country can bestow.

This disaster changed the character of Congress and the face of this Nation. I am proud of how this House has reacted. From the moment we sang "God Bless America" on the steps of the Capitol building, we sent the message to the world that we are united in fighting this new war on terrorism. We immediately got to work on a series of initiatives to go after these murderers and safeguard our Nation from future attacks.

Three days after the attack, Congress passed a bill providing $40 billion to fund September 11 recovery efforts and to combat terrorism. On the same day, we passed a resolution authorizing the President to use force against those who played a role in these attacks.

In the days that followed, we passed legislation vitally important to fighting this new war and in protecting America from further attack:

An airline recovery bill to help those airlines struggling after the attack on our Nation.

An antiterrorism bill to provide our law enforcement officials with the tools they need to track terrorists and bring them to justice.

An aviation security bill to improve safety at our country's airports for travelers and airport employees.

For bioterrorism, to protect our Nation from this growing threat, which we hope the Senate will complete this week.

The terrorist attacks pushed an already struggling economy into a recession. The House responded by passing an economic stimulus package. Unfortunately, the other body was unable to pass similar legislation. Our bill was a fair and balanced bill that would have helped workers who lost their jobs keep their health insurance. Most importantly, it would have helped those workers get back to work. It looks today that the other body will not complete work on our legislation. I think that is a shame.

One of the biggest frustrations this year has been the lack of production from our friends on the other side of the Rotunda. The House has led the way in implementing the President's agenda, but on too many occasions the Senate has dropped the ball.

Here is the long list of items that passed this House but that the Senate has left for next year:

We passed the President's faith-based initiative, to give religious organizations the same rights as other groups to use Federal funds to help America's less fortunate.

We passed a comprehensive energy bill to step up energy production here at home, reduce our reliance on foreign sources of energy, and make energy cleaner and cheaper and more dependable for years to come. Not only does this bill set us on a more secure road for the future, it helps our economy by creating another 700,000 American jobs.

We passed a bill that banned human cloning for reproduction and research to uphold the sanctity of life, as well as the Unborn Victims of Violence Act, which makes it a Federal crime to harm or kill an unborn child during a violent attack against a pregnant woman.

We passed Trade Promotion Authority for our President so that he could open new world markets for American goods and services, grow our economy, and open up 1 million new jobs by the year 2006.

We passed election reform, to restore the American public's confidence in the democratic process and ensure that America's voting system is the very best in the world.

Clearly, the other body has much work to do in the next session of the 107th Congress. We also must complete action on the President's issue that he said in his election that he wanted every American to have access to health care. The Patients' Bill of Rights legislation was passed in this House earlier this year.

□ 1415

The bill has been stuck in conference since August. It is time to get that legislation finished. The bill we passed in August aims to improve care to expand patient protections, make health care more affordable for the many families that lack coverage, and hold HMOs accountable, allowing patients to challenge their insurance plans if they fail to deliver quality coverage.

We will have other initiatives. We must authorize the historic Welfare Reform Act, first passed in 1996. We will consider proposals to strengthen retirement security, including making prescription drugs more affordable and available to America's seniors.

We must also help our President in this historic fight against terrorism. Whether it be providing more resources for homeland security and getting more money for our armed services, whether it be the effort to prepare our Nation for biological and chemical terrorism, or our efforts to reform our insurance laws so that our Nation will be adequately prepared for the consequences of terrorist attacks, this Congress will do the right things for the American people.

Looking over the events of this last year, I cannot help but note the passing of several important Members of Congress: Joe Moakley, a great American from Massachusetts; Norm Sisisky, a wonderful person who served this House from Virginia; Floyd Spence, from South Carolina; and Julian Dixon, from California, all served their country with distinction, in different ways, but with the same sense of patriotic duty. They will be sorely missed in this House of Representatives.

In conclusion, let me report to you, Mr. Speaker, that this House of Representatives has served the people in a year of turbulence and war with distinction. I am proud of our efforts, and I look forward to an equally successful year in the second session of the 107th Congress.

Mr. Speaker, I would be remiss if I did not thank the people who make this Congress work, who are here day in and day out, in the wee hours of the morning, who enroll our bills, who make this institution a great institution; and also those people who in the times of terror and terrorist attack spent countless hours and days and weeks making this place available to the American people so that this Congress could do its work. I thank you.

God bless America.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 1088. An act to amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes.

H. Con. Res. 295. Concurrent resolution providing for the sine die adjournment of the first session of the One Hundred Seventh Congress.

The message also announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3061) "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2002, and for other purposes.".

RECESS

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 19 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1702

AFTER RECESS

The recess having expired, the House was called to order at 5 o'clock and 2 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment to House amendment to Senate amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2884. An act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001.

The message also announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3338) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.".

GENERAL LEAVE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the topic of the out-of-order speech of the gentlewoman from California (Ms. PELOSI).

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONDITIONAL ADJOURNMENT OF THE HOUSE AND SENATE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 4 p.m. on Friday, December 21, 2001, unless it sooner has received a message from the Senate transmitting its passage without amendment of House Joint Resolution 79, in which case the House shall stand adjourned sine die pursuant to House Concurrent Resolution 295.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

VICTIMS OF TERRORISM RELIEF ACT OF 2001

Mr. THOMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2884) to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001, with a Senate amendment to the House amendment to the Senate amendments thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment, as follows:

Senate Amendment to House Amendment to Senate Amendments:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE; ETC.

(a) Short Title.—This Act may be cited as the "Victims of Terrorism Tax Relief Act of 2001".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—VICTIMS OF TERRORISM TAX RELIEF

Subtitle A—Relief Provisions for Victims of Terrorist Attacks

Sec. 101. Income taxes of victims of terrorist attacks.
Sec. 102. Exclusion of certain death benefits.
Sec. 103. Estate tax reduction.
Sec. 104. Payments by charitable organizations treated as exempt payments.
Sec. 105. Exclusion of certain cancellations of indebtedness.

Subtitle B—Other Relief Provisions

Sec. 111. Exclusion for disaster relief payments.
Sec. 112. Authority to postpone certain deadlines and required actions.
Sec. 113. Application of certain provisions to terroristic or military actions.
Sec. 114. Clarification of due date for airline excise tax deposits.
Sec. 115. Treatment of certain structured settlement payments.
Sec. 116. Personal exemption deduction for certain disability trusts.

TITLE II—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

Sec. 201. Disclosure of tax information in terrorism and national security investigations.

TITLE III—NO IMPACT ON SOCIAL SECURITY TRUST FUNDS

Sec. 301. No impact on social security trust funds.

TITLE I——VICTIMS OF TERRORISM TAX RELIEF

Subtitle A—Relief Provisions for Victims of Terrorist Attacks

SEC. 101. INCOME TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) In General.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

"(d) Individuals Dying as a Result of Certain Attacks.—

"(1) In general.—In the case of a specified terrorist victim, any tax imposed by this chapter shall not apply—

"(A) with respect to the taxable year in which falls the date of death, and

"(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds, injury, or illness referred to in paragraph (3) were incurred.

"(2) $10,000 minimum benefit.—If, but for this paragraph, the amount of tax not imposed by paragraph (1) with respect to a specified terrorist victim is less than $10,000, then such victim shall be treated as having made a payment against the tax imposed by this chapter for such victim's last taxable year in an amount equal to the excess of $10,000 over the amount of tax not so imposed.

"(3) Taxation of certain benefits.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to the amount of any tax imposed by this chapter which would be computed by only taking into account the items of income, gain, or other amounts attributable to—

"(A) deferred compensation which would have been payable after death if the individual had died other than as a specified terrorist victim, or

"(B) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after September 11, 2001.

"(4) Specified terrorist victim.—For purposes of this subsection, the term 'specified terrorist victim' means any decedent—

"(A) who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or

"(B) who dies as a result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

Such term shall not include any individual identified by the Attorney General to have been a participant or conspirator in any such attack or a representative of such an individual.".

(b) Conforming Amendments.—

(1) Section 5(b)(1) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(2) Section 6013(f)(2)(B) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(c) Clerical Amendments.—

(1) The heading of section 692 is amended to read as follows:

"SEC. 692. INCOME TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH.".

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

"Sec. 692. Income taxes of members of Armed Forces and victims of certain terrorist attacks on death.".

(d) Effective Date; Waiver of Limitations.—

(1) Effective date.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) Waiver of limitations.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 102. EXCLUSION OF CERTAIN DEATH BENEFITS.

(a) In General.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(i) Certain Employee Death Benefits Payable by Reason of Death of Certain Terrorist Victims.—

"(1) In general.—Gross income does not include amounts (whether in a single sum or otherwise) paid by an employer by reason of the death of an employee who is a specified terrorist victim (as defined in section 692(d)(4)).

"(2) Limitation.—

"(A) In general.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to amounts which would have been payable after death if the individual had died other than as a specified terrorist victim (as so defined).

"(B) Exception.—Subparagraph (A) shall not apply to incidental death benefits paid from a plan described in section 401(a) and exempt from tax under section 501(a).

"(3) Treatment of self-employed individuals.—For purposes of paragraph (1), the term 'employee' includes a self-employed individual (as defined in section 401(c)(1)).".

(b) Effective Date; Waiver of Limitations.—

(1) Effective date.—The amendment made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) Waiver of limitations.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 103. ESTATE TAX REDUCTION.

(a) In General.—Section 2201 is amended to read as follows:

"SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.

"(a) In General.—Unless the executor elects not to have this section apply, in applying sections 2001 and 2101 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

"(b) Qualified Decedent.—For purposes of this section, the term 'qualified decedent' means—

"(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

"(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

"(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, and

"(2) any specified terrorist victim (as defined in section 692(d)(4)).

"(c) Rate Schedule.—

"If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over $150,000	1 percent of the amount by which such amount exceeds $100,000.
Over $150,000 but not over $200,000.	$500 plus 2 percent of the excess over $150,000.
Over $200,000 but not over $300,000.	$1,500 plus 3 percent of the excess over $200,000.
Over $300,000 but not over $500,000.	$4,500 plus 4 percent of the excess over $300,000.
Over $500,000 but not over $700,000.	$12,500 plus 5 percent of the excess over $500,000.
Over $700,000 but not over $900,000.	$22,500 plus 6 percent of the excess over $700,000.
Over $900,000 but not over $1,100,000.	$34,500 plus 7 percent of the excess over $900,000.
Over $1,100,000 but not over $1,600,000.	$48,500 plus 8 percent of the excess over $1,100,000.

"If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Over $1,600,000 but not over $2,100,000.	$88,500 plus 9 percent of the excess over $1,600,000.
Over $2,100,000 but not over $2,600,000.	$133,500 plus 10 percent of the excess over $2,100,000.
Over $2,600,000 but not over $3,100,000.	$183,500 plus 11 percent of the excess over $2,600,000.
Over $3,100,000 but not over $3,600,000.	$238,500 plus 12 percent of the excess over $3,100,000.
Over $3,600,000 but not over $4,100,000.	$298,500 plus 13 percent of the excess over $3,600,000.
Over $4,100,000 but not over $5,100,000.	$363,500 plus 14 percent of the excess over $4,100,000.
Over $5,100,000 but not over $6,100,000.	$503,500 plus 15 percent of the excess over $5,100,000.
Over $6,100,000 but not over $7,100,000.	$653,500 plus 16 percent of the excess over $6,100,000.
Over $7,100,000 but not over $8,100,000.	$813,500 plus 17 percent of the excess over $7,100,000.
Over $8,100,000 but not over $9,100,000.	$983,500 plus 18 percent of the excess over $8,100,000.
Over $9,100,000 but not over $10,100,000.	$1,163,500 plus 19 percent of the excess over $9,100,000.
Over $10,100,000	$1,353,500 plus 20 percent of the excess over $10,100,000.

"(d) DETERMINATION OF UNIFIED CREDIT.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2053(d)(3)(B) is amended by striking "section 2011(e)" and inserting "section 2011(d)".

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

"Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.".

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents—

(A) dying on or after September 11, 2001, and

(B) in the case of individuals dying as a result of the April 19, 1995, terrorist attack, dying on or after April 19, 1995.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 104. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made in good faith using a reasonable and objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

SEC. 105. EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or as the result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, and

(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

(b) EFFECTIVE DATE.—This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002.

Subtitle B—Other Relief Provisions

SEC. 111. EXCLUSION FOR DISASTER RELIEF PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

"SEC. 139. DISASTER RELIEF PAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any amount received by an individual as a qualified disaster relief payment.

"(b) QUALIFIED DISASTER RELIEF PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster relief payment' means any amount paid to or for the benefit of an individual—

"(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

"(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

"(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

"(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare, but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

"(c) QUALIFIED DISASTER DEFINED.—For purposes of this section, the term 'qualified disaster' means—

"(1) a disaster which results from a terroristic or military action (as defined in section 692(c)(2)),

"(2) a Presidentially declared disaster (as defined in section 1033(h)(3)),

"(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

"(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

"(d) COORDINATION WITH EMPLOYMENT TAXES.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

"(e) NO RELIEF FOR CERTAIN INDIVIDUALS.—Subsections (a) and (f) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

"(f) EXCLUSION OF CERTAIN ADDITIONAL PAYMENTS.—Gross income shall not include any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act."

(b) CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

"Sec. 139. Disaster relief payments.

"Sec. 140. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 112. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) EXPANSION OF AUTHORITY RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS.—Section 7508A is amended to read as follows:

"SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

"(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

"(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

"(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

"(3) the amount of any credit or refund.

"(b) Special Rules Regarding Pensions, Etc.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

"(c) Special Rules for Overpayments.—The rules of section 7508(b) shall apply for purposes of this section.".

(b) Clarification of Scope of Acts Secretary May Postpone.—Section 7508(a)(1)(K) (relating to time to be disregarded) is amended by striking "in regulations prescribed under this section".

(c) Conforming Amendments to ERISA.—

(1) Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

"SEC. 518. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

"In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.".

(2) Section 4002 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following new subsection:

"(i) Special Rules Regarding Disasters, Etc.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.".

(d) Additional Conforming Amendments.—

(1) Section 6404 is amended—

(A) by striking subsection (h),

(B) by redesignating subsection (i) as subsection (h), and

(C) by adding at the end the following new subsection:

"(i) Cross Reference.—

"For authority to suspend running of interest, etc. by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(2) Section 6081(c) is amended to read as follows:

"(c) Cross References.—

"For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

"(3) Postponement of certain acts.—

"For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(e) Clerical Amendments.—

(1) The item relating to section 7508A in the table of sections for chapter 77 is amended to read as follows:

"Sec. 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.".

(2) The table of contents for the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 517 the following new item:

"Sec. 518. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.".

(f) Effective Date.—The amendments made by this section shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

SEC. 113. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.

(a) Disability Income.—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking "a violent attack" and all that follows through the period and inserting "a terroristic or military action (as defined in section 692(c)(2)).".

(b) Exemption From Income Tax for Certain Military or Civilian Employees.—Section 692(c) is amended—

(1) by striking "outside the United States" in paragraph (1), and

(2) by striking "Sustained Overseas" in the heading.

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 114. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX DEPOSITS.

(a) In General.—Paragraph (3) of section 301(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42) is amended to read as follows:

"(3) Airline-related deposit.—For purposes of this subsection, the term 'airline-related deposit' means any deposit of taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air).".

(b) Effective Date.—The amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

SEC. 115. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS.

(a) In General.—Subtitle E is amended by adding at the end the following new chapter:

"CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

"Sec. 5891. Structured settlement factoring transactions.

"SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

"(a) Imposition of Tax.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

"(b) Exception for Certain Approved Transactions.—

"(1) In general.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

"(2) Qualified order.—For purposes of this section, the term 'qualified order' means a final order, judgment, or decree which—

"(A) finds that the transfer described in paragraph (1)—

"(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

"(ii) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

"(B) is issued—

"(i) under the authority of an applicable State statute by an applicable State court, or

"(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

"(3) Applicable state statute.—For purposes of this section, the term 'applicable State statute' means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

"(A) the State in which the payee of the structured settlement is domiciled, or

"(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

"(4) Applicable state court.—For purposes of this section—

"(A) In general.—The term 'applicable State court' means, with respect to any applicable State statute, a court of the State which enacted such statute.

"(B) Special rule.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

"(5) Qualified order dispositive.—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

"(c) Definitions.—For purposes of this section—

"(1) Structured settlement.—The term 'structured settlement' means an arrangement—

"(A) which is established by—

"(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

"(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

"(B) under which the periodic payments are—

"(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

"(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

"(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

"(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—

"(A) IN GENERAL.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

"(B) EXCEPTION.—Such term shall not include—

"(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

"(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

"(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

"(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

"(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

"(5) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term 'responsible administrative authority' means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

"(6) STATE.—The term 'State' includes the Commonwealth of Puerto Rico and any possession of the United States.

"(d) COORDINATION WITH OTHER PROVISIONS.—

"(1) IN GENERAL.—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent oocurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

"(2) NO WITHHOLDING OF TAX.—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.".

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end the following new item:

"Chapter 55. Structured settlement factoring transactions.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

(2) CLARIFICATION OF EXISTING LAW.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into before, on, or after such 30th day.

(3) TRANSITION RULE.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(i) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority), and

(ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee, and

'(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

SEC. 116. PERSONAL EXEMPTION DEDUCTION FOR CERTAIN DISABILITY TRUSTS.

(a) IN GENERAL.—Subsection (b) of section 642 (relating to deduction for personal exemption) is amended to read as follows:

"(b) DEDUCTION FOR PERSONAL EXEMPTION.—

"(1) ESTATES.—An estate shall be allowed a deduction of $600.

"(2) TRUSTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of $100.

"(B) TRUSTS DISTRIBUTING INCOME CURRENTLY.—A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of $300.

"(C) DISABILITY TRUSTS.—

"(i) IN GENERAL.—A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d), determined—

"(I) by treating such trust as an individual described in section 151(d)(3)(C)(iii), and

"(II) by applying section 67(e) (without the reference to section 642(b)) for purposes of determining the adjusted gross income of the trust.

"(ii) QUALIFIED DISABILITY TRUST.—For purposes of clause (i), the term 'qualified disability trust' means any trust if—

"(I) such trust is a disability trust described in subsection (c)(2)(B)(iv) of section 1917 of the Social Security Act (42 U.S.C. 1396p), and

"(II) all of the beneficiaries of the trust as of the close of the taxable year are determined by the Commissioner of Social Security to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382c(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled."

"(3) DEDUCTIONS IN LIEU OF PERSONAL EXEMPTION.—The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after September 11, 2001.

TITLE II—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

SEC. 201. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.

(a) DISCLOSURE WITHOUT A REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

"(C) TERRORIST ACTIVITIES, ETC.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

"(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

"(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(iv) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2003.".

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

"(A) DISCLOSURE TO LAW ENFORCEMENT AGENCIES.—

"(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

"(ii) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

"(iii) REQUIREMENTS.—A request meets the requirements of this clause if—

"(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of any terrorist incident, threat, or activity, and

"(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iv) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

"(B) DISCLOSURE TO INTELLIGENCE AGENCIES.—

"(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

"(ii) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request—

"(I) is made by an individual described in clause (iii), and

"(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iii) REQUESTING INDIVIDUALS.—An individual described in this subparagraph is an individual—

"(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

"(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity.

"(iv) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(C) DISCLOSURE UNDER EX PARTE ORDERS.—

"(i) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened to inspection or disclosure pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to such terrorist incident, threat, or activity.

"(ii) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

"(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

"(D) SPECIAL RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

"(ii) LIMITATION ON USE OF INFORMATION.—Information disclosed under clause (i)—

"(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

"(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

"(E) TERMINATION.—No disclosure may be made under this paragraph after December 31, 2003.".

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(a)(2) is amended by inserting "any local law enforcement agency receiving information under subsection (i)(7)(A)," after "State,".

(2) Section 6103(b) is amended by adding at the end the following new paragraph:

"(11) TERRORIST INCIDENT, THREAT, OR ACTIVITY.—The term 'terrorist incident, threat, or activity' means an incident, threat, or activity involving an act of domestic terrorism (as defined in section 2331(5) of title 18, United States Code) or international terrorism (as defined in section 2331(1) of such title).".

(3) The heading of section 6103(i)(3) is amended by inserting "OR TERRORIST" after "CRIMINAL".

(4) Paragraph (4) of section 6103(i) is amended—

(A) in subparagraph (A) by inserting "or (7)(C)" after "paragraph (1)", and

(B) in subparagraph (B) by striking "or (3)(A)" and inserting "(3)(A) or (C), or (7)".

(5) Paragraph (6) of section 6103(i) is amended—

(A) by striking "(3)(A)" and inserting "(3)(A) or (C)", and

(B) by striking "or (7)" and inserting "(7), or (8)".

(6) Section 6103(p)(3) is amended—

(A) in subparagraph (A) by striking "(7)(A)(ii)" and inserting "(8)(A)(ii)", and

(B) in subparagraph (C) by striking "(i)(3)(B)(i)" and inserting "(i)(3)(B)(i) or (7)(A)(ii)".

(7) Section 6103(p)(4) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking "or (5)," the first place it appears and inserting "(5), or (7),", and

(ii) by striking "(i)(3)(B)(i)," and inserting "(i)(3)(B)(i) or (7)(A)(ii),", and

(B) in subparagraph (F)(ii) by striking "or (5)," the first place it appears and inserting "(5) or (7),".

(8) Section 6103(p)(6)(B)(i) is amended by striking "(i)(7)(A)(ii)" and inserting "(i)(8)(A)(ii)".

(9) Section 6105(b) is amended—

(A) by striking "or" at the end of paragraph (2),

(B) by striking "paragraphs (1) or (2)" in paragraph (3) and inserting "paragraph (1), (2), or (3)",

(C) by redesignating paragraph (3) as paragraph (4), and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) to the disclosure of tax convention information on the same terms as return information may be disclosed under paragraph (3)(C) or (7) of section 6103(i), except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government, or".

Mr. THOMAS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from California?

There was no objection.

The SPEAKER. The gentleman from California (Mr. THOMAS) is recognized for 1 hour.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

I do want to note that the final act of the Senate in this year of 2001 and the final act of the House in this year of 2001 was in fact a very feeble gesture to those victims of terrorism that fundamentally changed our lives on September 11. And notwithstanding the difficulties of a democratic government, in which decisions are made quantitatively, as we close for this holiday season, the House and the Senate want this to be a gesture, small though it may be, to the victims of September 11.

Finally, Mr. Speaker, on behalf of all the Members of the House of Representatives, I wish to extend to the constitutional head of the House of Representatives, the Speaker of the House of Representatives, and his family, a very merry holiday, happy Christmas, and a good new year.

The SPEAKER. Thank you.

Without objection, the Senate amendment to the House amendment is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

THANKING THE STAFF

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, as the first session of the 107th Congress draws to a close, I wish to thank the staff for their assistance throughout this eventful year. None of us could discharge our responsibilities without the help and support of the staff.

Let me begin by expressing gratitude to the employees of the Architect of the Capitol, who maintain the Capitol buildings and grounds. Without the vital work of engineers, carpenters, painters, electricians and others, especially the custodians who clean our offices each night, we could not work. AoC employees do a wonderful job under difficult circumstances, and they deserve special recognition.

Next, I wish to thank the three House Officers and all their employees, who collectively maintain the framework in which the House operates. Jay Eagen, our Chief Administrative Officer, and his deputy Lawrence Davenport, manage a diverse organization that provides us with everything from furniture and carpets to office supplies and information technology, child care and other personnel-related support, including food services and even our paychecks. Bill Livingood, our Sergeant at Arms, and his deputy, Kerri Hanley, oversee Capitol security for the benefit of Members, staff, dignitaries, tourists and others who visit the complex every year, working in conjunction with the brave men and women of the U.S. Capitol Police. Our Clerk, Jeff Trandahl, his deputy, Martha Morrison, and their staff compile the House Journal, tally our votes, enroll our bills, transcribe our debates, and generally ensure that our legislative process functions smoothly. Jeff also oversees the Page program, which provides an enriching experience for the Pages, who do a great job.

Let us all give thanks for the House Chaplain, Father Daniel Coughlin, who tends his flock superbly. Charles Johnson, our distinguished Parliamentarian, and his learned deputies and assistants John Sullivan, Tom Duncan, Muftiah McCartin, Tom Wickham, Ethan Lauer, Gay Topper, Brian Cooper and Debby Khalili, provide invaluable procedural guidance to the Speaker and Members who preside over the House. I recall being greatly comforted by their presence when, during an earlier era, I occasionally occupied the Chair.

The General Counsel, Geraldine Gennet, and her staff well represent the House in legal matters. The Law Revision Counsel, John Miller, and his staff organize our legislation into a useful body of laws. The Inspector General, Steve McNamara, and his staff help us seek ways to improve the administration of the House. For all of them we are grateful.

We are also greatly indebted to the Legislative Counsel, Pope Barrow, and his staff for helping us draft legislation. They work long hours, often under intense pressure, transforming our public-policy ideas into the magic words of bills and amendments, doing so with grace and magnanimity and making it look easy. I want to applaud one particular legislative counsel, Noah Wofsy, whose help has been indispensable to the Committee on House Administration, most recently on the landmark Help America Vote Act (H.R. 3295). I greatly value Noah's help and expertise, and look forward to working with him again during the second session.

We also owe special thanks to our cloakroom staffs, who always have the answer to our favorite question ("when's the next vote?"), and to our leadership and floor staff, who are crucial members of the team.

We should also remember our "extended" staff, including Dan Mulhollan and his experts at the Congressional Research Service, and Dan Crippen and his Congressional Budget Office staff, all of whom provide excellent support to our deliberations. The Attending Physician, Dr. John Eisold and his staff, have coped superbly with the anthrax attack and its aftermath, inspiring confidence. As always, the professionals of the Government Printing Office and the General Accounting Office have provided exceptional support. Our tour guides provide constituents wonderful tours of the Capitol, for which we, and they, are always thankful.

Finally, I wish to thank the committee and joint-committee staffs, and the personal staffs of Members, whose efforts are also highly valued. I am obviously most grateful for the work of my own staff, beginning with Cory Alexander, John Bohanan, Betsy Bossart, Tom Craddock, Chonya Davis-Johnson, Stacey Farnen, Wanda Hardesty, Corey Jackson, Dayle Lewis, Kenya McGruder, Kathy May, Scott Nance, Faron Paramore, Andy Quinn, Thomas Richards, Betty Richardson, Betty Rogers, Erica Rossi, and Ryan Seggel of my personal office; Keith Abouchar, Robert Bean, Kevin Cyron, Connie Goode, Michael Harrison, Charles Howell, Ellen McCarthy, Matt Pinkus, Bernard Raimo, David Ransom, Brian Romick, and Sterling Spriggs of the House Administration Committee; Rob Nabors, of the Treasury, Postal Appropriations Subcommittee; and Marlene Kaufmann, of the Helsinki Commission. I could not fulfill my responsibilities without them.

Mr. Speaker, Members aren't always aware of what all the staff do, and the staff aren't always aware of what Members do. But together, we make this House work for the American people. I hope all Members will join me in thanking the staff, wherever they work and whatever they do, for all their hard work this year.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LUTHER (at the request of Mr. GEPHARDT) for today on account of family matters.

Ms. EDDIE BERNICE JOHNSON of Texas (at the request of Mr. GEPHARDT) for today on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. WATSON of California, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. FRANK, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. KIRK, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HASTERT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DOOLITTLE and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $17,963.63.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 643. An act to reauthorize the African Elephant Conservation Act.

H.R. 645. An act to reauthorize the Rhinoceros and Tiger Conservation Act of 1994.

H.R. 2199. An act to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes.

H.R. 2657. An act to amend title 11, District of Columbia Code, to redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, to recruit and retain trained and experienced judges to serve in the Family Court, to promote consistency and efficiency in the assignment of judges to the Family Court and in the consideration of actions and proceedings in the Family Court, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to enrolled bill of the Senate of the following title:

S. 1438. An act to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year to the Armed Forces, and for other purposes.

SINE DIE ADJOURNMENT

Mr. THOMAS. Mr. Speaker, pursuant to House Concurrent Resolution 295, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Accordingly, pursuant to the previous order of the House of today, the House stands adjourned until 4 p.m. on Friday, December 21, 2001, unless it sooner has received a message from the Senate transmitting its passage without amendment of House Joint Resolution 79, in which case the House shall stand adjourned for the first session of the 107th Congress sine die pursuant to House Concurrent Resolution 295.

Thereupon (at 5 o'clock and 8 minutes p.m.), pursuant to House Concurrent Resolution 295, the House adjourned under the previous order of the House until 4 p.m. on Friday, December 21, 2001, unless it sooner has received a message from the Senate transmitting its passage without amendment of House Joint Resolution 79, in which case the House shall stand adjourned for the first session of the 107th Congress sine die pursuant to House Concurrent Resolution 295.

OATH FOR ACCESS TO CLASSIFIED INFORMATION

Under clause 13 of rule XXIII, the following Members executed the oath for access to classified information:

Neil Abercrombie, Aníbal Acevedo-Vilá, Gary L. Ackerman, Robert B. Aderholt, W. Todd Akin, Thomas H. Allen, Robert E. Andrews, Richard K. Armey, Joe Baca, Spencer Bachus, Brian Baird, Richard H. Baker, John Elias E. Baldacci, Tammy Baldwin, Cass Ballenger, James A. Barcia, Bob Barr, Thomas M. Barrett, Roscoe G. Bartlett, Joe Barton, Charles F. Bass, Xavier Becerra, Ken Bentsen, Doug Bereuter, Shelly Berkley, Howard L. Berman, Marion Berry, Judy Biggert, Michael Bilirakis, Sanford D. Bishop, Jr., Rod R. Blagojevich, Earl Blumenauer, Roy Blunt, Sherwood L. Boehlert, John A. Boehner, Henry Bonilla, David E. Bonior, Mary Bono, John Boozman, Robert A. Borski, Leonard L. Boswell, Rick Boucher, Allen Boyd, Kevin Brady, Robert A. Brady, Corrine Brown, Sherrod Brown, Henry E. Brown, Jr., Ed Bryant, Richard Burr, Dan Burton, Steve Buyer, Sonny Callahan, Ken Calvert, Dave Camp, Chris Cannon, Eric Cantor, Shelly Moore Capito, Lois Capps, Michael E. Capuano, Benjamin L. Cardin, Brad Carson, Julia Carson, Michael N. Castle, Steve Chabot, Saxby Chambliss, Donna M. Christensen, Wm. Lacy Clay, Eva M. Clayton, Bob Clement, James E. Clyburn, Howard Coble, Mac Collins, Larry Combest, Gary A. Condit, John Cooksey, Jery F. Costello, Christopher Cox, William J. Coyne, Robert E. (Bud) Cramer, Jr., Philip P. Crane, Ander Crenshaw, Joseph Crowley, Barbara Cubin, John Abney Culberson, Elijah E. Cummings, Randy "Duke" Cunningham, Danny K. Davis, Jim Davis, Jo Ann Davis, Susan A. Davis, Thomas M. Davis, Nathan Deal, Peter A. DeFazio, Diana DeGette, William D. Delahunt, Rosa L. DeLauro, Tom DeLay, Jim DeMint, Peter Deutsch, Lincoln Diaz-Balart, Norman D. Dicks, John D. Dingell, Lloyd Doggett, Calvin M. Dooley, John T. Doolittle, Michael F. Doyle, David Dreier, John J. Duncan, Jr., Jennifer Dunn, Chet Edwards, Vernon J. Ehlers, Robert L. Ehrlich, Jr., Jo Ann Emerson, Eliot L. Engel, Phil English, Anna G. Eshoo, Bob Etheridge, Lane Evans, Terry Everett, Eni F. H. Faleomavaega, Sam Farr, Chaka Fattah, Mike Ferguson, Bob Filner, Jeff Flake, Ernie Fletcher, Mark Foley, J. Randy Forbes, Harold E. Ford, Jr., Vito Fossella, Barney Frank, Rodney P. Frelinghuysen, Martin Frost, Elton Gallegly, Greg Ganske, George W. Gekas, Richard A. Gephardt, Jim Gibbons, Wayne T. Gilchrest, Paul E. Gillmor, Benjamin A. Gilman, Charles A. Gonzalez, Virgil H. Goode, Jr., Bob Goodlatte, Bart Gordon, Porter J. Goss, Lindsey O. Graham, Kay Granger, Sam Graves, Gene Green, Mark Green, James C. Greenwood, Felix J. Grucci, Jr., Luis Gutierrez, Gil Gutknecht, Ralph M. Hall, Tony P. Hall, James V. Hansen, Jane Harman, Melissa A. Hart, J. Dennis Hastert, Alcee L. Hastings, Doc Hastings, Robin Hayes, J. D. Hayworth, Joel Hefley, Wally Herger, Baron P. Hill, Van Hilleary, Earl F. Hilliard, Maurice D. Hinchey, Rubén Hinojosa, David L. Hobson, Joseph M. Hoeffel, Peter Hoekstra, Tim Holden, Rush D. Holt, Michael M. Honda, Darlene Hooley, Stephen Horn, John N. Hostettler, Amo Houghton, Steny H. Hoyer, Kenny C. Hulshof, Duncan Hunter, Henry J. Hyde, Jay Inslee, Johnny Isakson, Steve Israel, Darrell E. Issa, Ernest J. Istook, Jr., Jesse L. Jackson, Jr., Sheila Jackson-Lee, William J. Jefferson, William L. Jenkins, Christopher John, Eddie Bernice Johnson, Nancy L. Johnson, Sam Johnson, Timothy V. Johnson, Stephanie Tubbs Jones, Walter B. Jones, Paul E. Kanjorski, Marcy Kaptur, Ric Keller, Sue W. Kelly, Mark R. Kennedy, Patrick J. Kennedy, Brian D. Kerns, Dale E. Kildee, Carolyn C. Kilpatrick, Ron Kind, Peter T. King, Jack Kingston, Mark Steven Kirk, Gerald D. Kleczka, Joe Knollengberg, Jim Kolbe, Dennis J. Kucinich, John J. LaFalce, Ray LaHood, Nick Lampson, James R. Langevin, Tom Lantos, Steve Largent, Rick Larsen, John B. Larson, Tom Latham, Steven C. LaTourette, James A. Leach, Barbara Lee, Sander M. Levin, Jerry Lewis, John Lewis, Ron Lewis, John Linder, William O. Lipinski, Frank A. LoBiondo, Zoe Lofgren, Nita M. Lowey, Frank D. Lucas, Ken Lucas, Bill Luther, Stephen F. Lynch, Carolyn B. Maloney, James H. Maloney, Donald A. Manzullo, Edward J. Markey, Frank Mascara, Jim Matheson, Robert T. Matsui, Carolyn McCarthy, Karen McCarthy, Betty McCollum, Jim McCrery, James P. McGovern, John McHugh, Scott McInnis, Mike McIntyre, Howard P. McKeon, Cynthia, A. McKinney, Michael R. McNulty, Martin T. Meehan, Carrie P. Meek, Gregory W. Meeks, Robert Menendez, John L. Mica, Juanita Millender-McDonald, Dan Miller, Gary G. Miller, George Miller, Jeff Miller, Patsy T. Mink, Alan B. Mollohan, Dennis Moore, James P. Moran, Jerry Moran, Constance A. Morella, John P. Murtha, Sue Wilkins Myrick, Jerrold Nadler, Grace Napolitano, Richard E. Neal, George, R. Nethercutt, Jr., Robert W. Ney, Anne M. Northup, Eleanor Holmes Norton, Charlie Norwood, Jim Nussle, James L. Oberstar, David R. Obey, John W. Olver, Solomon P. Ortiz, Tom Osborne, Doug Ose, C.L. Otter, Major R. Owens, Michael G. Oxley, Frank Pallone, Jr., Bill Pascrell, Jr., Ed Pastor, Ron Paul, Donald M. Payne, Nancy Pelosi, Mike Pence, Collin C. Peterson, John E. Peterson, Thomas E. Petri, David D. Phelps, Charles W. Pickering, Joseph R. Pitts, Todd Russell Platts, Richard W. Pombo, Earl Pomeroy, Rob Portman, David E. Price, Deborah

Pryce, Adam H. Putnam, Jack Quinn, George Radanovich, Nick J. Rahall, II, Jim Ramstad, Charles B. Rangel, Ralph Regula, Dennis R. Rehberg, Silvestre Reyes, Thomas M. Reynolds, Bob Riley, Lynn N. Rivers, Ciro D. Rodriguez, Tim Roemer, Harold Rogers, Mike Rogers, Dana Rohrabacher, Ileana Ros-Lehtinen, Mike Ross, Steven R. Rothman, Marge Roukema, Lucille Roybal-Allard, Edward R. Royce, Bobby L. Rush, Paul Ryan, Jim Ruyn, Martin Olav Sabo, Loretta Sanchez, Bernard Sanders, Max Sandlin, Tom Sawyer, Jim Saxton, Bob Schaffer, Janice D. Schakowsky, Adam B. Schiff, Edward L. Schrock, Robert C. Scott, F. James Sensenbrenner, Jr., José E. Serrano, Pete Sessions, John B. Shadegg, E. Clay Shaw, Jr., Christopher Shays, Brad Sherman, Don Sherwood, John Shimkus, Ronnie Shows, Bill Shuster, Rob Simmons, Michael K. Simpson, Joe Skeen, Ike Skelton, Louise McIntosh Slaughter, Adam Smith, Christopher H. Smith, Lamar S. Smith, Nick Smith, Vic Snyder, Hilda L. Solis, Mark E. Souder, Floyd Spence, John N. Spratt, Jr., Fortney Pete Stark, Cliff Stearns, Charles W. Stenholm, Ted Strickland, Bob Stump, Bart Stupak, John E. Sununu, John E. Sweeney, Thomas G. Tancredo, John S. Tanner, Ellen O. Tauscher, W. J. (Billy) Tauzin, Charles H. Taylor, Gene Taylor, Lee Terry, William M. Thomas, Bennie G. Thompson, Mike Thompson, Mac Thornberry, John R. Thune, Karen L. Thurman, Todd Tiahrt, Patrick J. Tiberi, John F. Tierney, Patrick J. Toomey, Edolphus Towns, James A. Traficant, Jr., Jim Turner, Mark Udall, Robert A. Underwood, Fred Upton, Nydia M. Velázquez, Peter J. Visclosky, David Vitter, Greg Walden, James T. Walsh, Zach Wamp, Maxine Waters, Wes Watkins, Diane E. Watson, Melvin L. Watt, J.C. Watts, Jr., Henry A. Waxman, Anthony D. Weiner, Curt Weldon, Dave Weldon, Jerry Weller, Robert Wexler, Ed Whitfield, Roger F. Wicker, Heather Wilson, Joe Wilson, Frank R. Wolf, Lynn C. Woolsey, David Wu, Albert Russell Wynn, C.W. Bill Young, Don Young.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4969. A letter from the Director, Office of Management and Budget, transmitting notification of the intention to modify the November 9th release of funds from the Emergency Response Fund; to the Committee on Appropriations.

4970. A letter from the Senior Paralegal, Department of the Treasury, transmitting the Department's final rule--Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Capital Treatment of Recourse, Direct Credit Substitutes and Residual Interests in Asset Securitizations [Docket No. 2001-68] (RIN: 1550-AB11) received December 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4971. A letter from the Assistant Secretary for Communications, Department of Commerce, transmitting the Department's final rule--Notice of Solicitation of Grant Applications (RIN: 0660-ZA06) received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4972. A letter from the Attorney-Advisor, NHTSA, Department of Transportation, transmitting the Department's final rule—Insurer Reporting Requirements; List of Insurers Required to File Reports [Docket No. NHTSA-2001-001; Notice 02] (RIN: 2127-AI07) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4973. A letter from the Secretary, Department of Transportation, transmitting the Department's report entitled, "TREAD Follow-Up Report"; to the Committee on Energy and Commerce.

4974. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense export license for any major defense services sold under a contract to Germany (Transmittal No. DTC 158-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4975. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defenseexport license for any major defense services sold under a contract to Japan (Transmittal No. DTC 157-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4976. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense export license for any major defense services sold under a contract to Japan (Transmittal No. DTC 129-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4977. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense export license for any major defense services sold under a contract to Denmark and Belgium (Transmittal No. DTC 145-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4978. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with France (Transmittal No. DTC 050-01), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

4979. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Japan (Transmittal No. DTC 126-01), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

4980. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense export license for any major defense services sold under a contract to Japan (Transmittal No. DTC 154-01), pursuant to 22 U.S.C. 2776(c)and 22 U.S.C. 2776(d); to the Committee on International Relations.

4981. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed transfer of major defense equipment with Australia, Canada, Finland, Kuwait, Malaysia, Spain, and Switzerland (Transmittal No. RSAT-3-01), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

4982. A letter from the Assistant Administrator Bureau for Legislative and Public Affairs, Agency for International Development, transmitting a report on the Implementation of the Support for Overseas Cooperative Development Act; to the Committee on International Relations.

4983. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule--Entity List: Removal of Two Russian Entities [Docket No. 010220046-1046-01] (RIN: 0694-AC40) received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

4984. A letter from the Special Assistant to the President and Director, Office of Administration, Executive Office of the President, transmitting the White House personnel report for the fiscal year 2001, pursuant to 3 U.S.C. 113; to the Committee on Government Reform.

4985. A letter from the Deputy Administrator, Environmental Protection Agency, transmitting a report on the Federal Activities Inventory Reform Act; to the Committee on Government Reform.

4986. A letter from the Chief Financial Officer, Export-Import Bank, transmitting the 2001 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 app.; to the Committee on Government Reform.

4987. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Circular 2001-02; Introduction—received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4988. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Definitions of "Component" and "End Product" [FAC 2001-02; FAR Case 2000-015; Item I] (RIN: 9000-AJ24) received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4989. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Energy-Efficiency of Supplies and Services [FAC 2001-02; FAR Case 1999-011; Item II] (RIN: 9000-AI71) received December 19, 2001, pursuant to 5 U.S:C. 801(a)(1)(A); to the Committee on Government Reform.

4990. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Prompt Payment and the Recovery of Overpayment [FAC 2001-02; FAR Case 1999-023; Item III] (RIN: 9000-AI89) received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4991. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Javits-Wagner-O'Day Act Subcontract Preference Under Service Contracts [FAC 2001-02; FAR Case

1999-017; Item IV] (RIN: 9000-AI82) received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4992. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Definition of Subcontract in FAR Subpart 15.4 [FAC 2001-02; FAR Case 2000-017; Item VI] (RIN: 9000-AJ25) received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4993. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; North American Industry Classification System [FAC 2001-02; FAR Case 2000-604; Item VII] (RIN: 9000-AI75) received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4994. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Iceland-Newly Designated Country Under the Trade Agreements Act [FAC 2001-02; FAR Case 2001-025; Item VIII] (RIN: 9000-AJ26) received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4995. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Contractor Personnel in the Procurement of Information Technology Services [FAC 2001-02; FAR Case 2000-609; Item IX] (RIN: 9000-AJ11) received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4996. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Small Entity Compliance Guide—received December 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4997. A letter from the General Counsel, Office of Management and Budget, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4998. A letter from the Director, Office of Personnel Management, transmitting a report on the Federal Activities Inventory Reform Act; to the Committee on Government Reform.

4999. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Kentucky Regulatory Program [KY-221-FOR] received December 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5000. A letter from the Assistant Secretary, Department of the Interior, transmitting a proposed plan under the Indian Tribal Judgment Funds Act, 25 U.S.C. 1401 et seq., as amended, for the use and distribution of the Red Lake Band of Chippewa Indians (Tribe) judgment funds in Docket 189-C and the escrow funds remaining in Dockets 189-A and 189-B; to the Committee on Resources.

5001. A letter from the Assistant Attorney General, Department of Justice, transmitting the Office for Victims of Crime's Report to Congress on the Department's implementation of the Victims of Crime Act, as amended, pursuant to 42 U.S.C. 10604(g); to the Committee on the Judiciary.

5002. A letter from the Director, Policy Directives and Instructions Branch, Department of Justice, transmitting the Department's final rule— Adjustment of Certain Fees of the Immigration Examinations Fee Account [INS No. 2072-00] (RIN: 1115-AF61) received December 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5003. A letter from the Director, Bureau of Transportation Statistics, transmitting the Transportation Statistics Annual Report 2000, pursuant to 49 U.S.C. 111(f); to the Committee on Transportation and Infrastructure.

5004. A letter from the Assistant Secretary, Department of the Interior, transmitting the Department's final rule—Distribution of Fiscal Year 2002 Indian Reservation Roads Funds (RIN: 1076-AE28) received December 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5005. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 2000-NM-116-AD; Amendment 39-12480; AD 2001-12-08 R1] (RIN: 2120-AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5006. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model B-17E, F, and G Airplanes [Docket No. 95-NM-15-AD; Amendment 39-12485; AD 2001-22-06] (RIN: 2120-AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5007. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2000-NM-220-AD; Amendment 39-12483; AD 2001-22-04] (RIN: 2120-AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5008. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 Series Airplanes [Docket No. 2000-NM-348-AD; Amendment 39-124828; AD 2001-22-03] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5009. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Honeywell International, Inc. LTP 101 Series Turboprop and LTS101 Series Turboshaft Engines [Docket No. 99-NE-16-AD; Amendment 39-12486; AD 2001-22-07] (RIN: 2120-AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5010. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Mystere-Falcon 50, Mystere-Falcon 900, and Falcon 900EX Series Airplanes [Docket No. 2001-NM-10-AD; Amendment 39-12489; AD 2001-22-10] (RIN: 2120-AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5011. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines [Docket No. 99-NE-62-AD; Amendment 39-12473; AD 2001-21-063] (RIN: 2120-AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5012. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes [Docket No. 2000-NM-337-AD; Amendment 39-12476; AD 2001-21-05] (RIN: 2120-AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5013. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 2001-NM-258-AD; Amendment 39-12510; AD 2001-17-28 R1] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5014. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737-100, -200, -300, -400, and -500 Series Airplanes; and Model 747, 757, 767, and 777 Series Airplanes [Docket No. 2000-NM-395-AD; Amendment 39-12492; AD 2001-22-13] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5015. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2000-NM-317-AD; Amendment 39-12478; AD 2001-21-07] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5016. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757 Series Airplanes [Docket No. 98-NM-225-AD; Amendment 39-12460; AD 2001-20-12] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5017. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737 Series Airplanes [Docket No. 2000-NM-146-AD; Amendment 39-12458; AD 2001-20-10] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5018. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers Model SD3 Series Airplanes [Docket No. 2001-NM-175-AD; Amendment 39-12484; AD 2001-22-05] (RIN: 2120-AA64) received December 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5019. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model EC 155B Helicopters [Docket No. 2001-

SW-32-AD; Amendment 39-12509; AD 2001-23-11] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5020. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Overland Aviation Services Fire Extinguishing System Bottle Cartridges [Docket No. 98-CE-113-AD; Amendment 39-12493; AD 2001-22-14] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5021. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company 33, T-34, 35, 36, 55, 56, 58, and 95 Series Airplanes [Docket No. 2001-CE-35-AD; Amendment 39-12507; AD 2001-23-10] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5022. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model 717 Series Airplanes [Docket No. 2001-NM-230-AD; Amendment 39-12437; AD 2001-18-11] (RIN: 2120-AA64) received October 4, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5023. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities [Docket No. FAA-2000-8431; Amendment No. 121-287] received November 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5024. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, 222U, and 230 Helicopters [Docket No. 2001-SW-49-AD; Amendment 39-12470; AD 2001-19-52] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5025. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model SA341G, SA342J, and SA-360C Helicopters [Docket No. 2001-SW-48-AD; Amendment 39-12508; AD 2001-19-51] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5026. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc. RB211 535 Turbofan Engines, Correction [Docket No. 2001-NE-22; Amendment 39-12445; AD 2001-19-05] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5027. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model Beech 400, 400A and 400T Series Airplanes, Model Mitsubishi MU-300 Airplanes, and Model Beech MU-300-10 Airplanes [Docket No. 2001-NM-347-AD; Amendment 39-12528; AD 2001-24-11] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5028. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes [Docket No. 2001-NM-330-AD; Amendment 39-12519; AD 2001-24-03] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5029. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aeromot-Industria Mecanico Metalurgica ltda. Models AMT-100 and AMT-200 Powered Sailplanes [Docket No. 2001-CE-40-AD; Amendment 39-12515; AD 2001-23-16] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5030. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones [Docket No. FAA-1999-5926] (RIN: 2120-AG74) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5031. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Flightcrew Compartment Access and Door Designs [Docket No. FAA-2001-10770; SFAR 92-2] (RIN: 2120-AH54) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5032. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B4-600, B4-600R and F4-600R (Collectively Called A300-600) Series Airplanes; and Model A310 Series Airplanes [Docket No. 2001-NM-349-AD; Amendment 39-12526; AD 2001-23-51] (RIN: 2120-AA64) received December 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5033. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Flightcrew Compartment Access and Door Designs [Docket No. FAA-2001-10770; SFAR 92-1] (RIN: 2120-AH52) received December 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5034. A letter from the Deputy Secretary, Department of Defense, transmitting notification on the status of the Department's annual report on the current and future military power of the People's Republic of China; jointly to the Committees on Armed Services and International Relations.

5035. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the Progress made toward opening the United States Embassy in Jerusalem and notification of Suspension of Limitations Under the Jerusalem Embassy Act (Presidential Determination No. 2002-05), pursuant to Public Law 104—45, section 6 (109 Stat. 400); jointly to the Committees on International Relations and Appropriations.

5036. A letter from the Administrator, U.S. Agency for International Development, transmitting the quarterly update of the report required by Section 653(a) of the Foreign Assistance Act of 1961, as amended, entitled "Development Assistance and Child Survival/Diseases Program Allocations-FY 2001"; jointly to the Committees on International Relations and Appropriations.

5037. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting a proposed bill to amend the Federal Employees' Retirement System Act of 1986; jointly to the Committees on Government Reform and the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHERMAN (for himself, Mr. Maloney of Connecticut, Mr. Waxman, Mr. Crowley, Mr. McNulty, Mr. Frost, Mr. Kucinich, Mr. Hoeffel, Mr. Owens, Ms. Watson, Mr. Udall of New Mexico, and Mrs. Capps):

H.R. 3552. A bill to establish a National Foundation for the Study of Holocaust Assets; to the Committee on Financial Services.

By Mr. THOMAS (for himself, Mr. Crane, and Mr. Dreier):

H.R. 3553. A bill to provide for the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Russian Federation; to the Committee on Ways and Means.

By Mr. OSE:

H.R. 3554. A bill to transfer to the State of California certain Federal land in Yolo and Solano Counties, California, to provide for the establishment of a wildlife area on that land, and for other purposes; to the Committee on Resources.

By Mr. MENENDEZ (for himself, Mr. Gephardt, Ms. Harman, Mr. Scott, Mr. Skelton, Mr. Borski, Mr. Pascrell, Mr. Bishop, Mrs. Tauscher, Mr. Turner, Mr. Costello, Ms. Roybal-Allard, Mr. Honda, Ms. Jackson-Lee of Texas, Ms. Pelosi, Ms. DeLauro, Mr. Conyers, Mr. Tierney, Mr. Udall of New Mexico, Mr. Israel, Mr. Baca, Mr. Larson of Connecticut, Mr. Berman, Mr. Thompson of California, Ms. Kaptur, Mrs. Christensen, Mr. Hoeffel, Ms. Millender-McDonald, Mr. Sherman, Mr. Lantos, Mr. Ortiz, Ms. Berkley, Ms. McCarthy of Missouri, Mr. Hastings of Florida, Ms. Kilpatrick, Mr. Holt, Mr. Green of Texas, Mr. Owens, Ms. Lee, Mr. Acevedo-Vilá, Mr. Jackson of Illinois, Mr. Rothman, Mr. Sandlin, Mr. Crowley, Mr. Kildee, Mrs. Maloney of New York, Mrs. Capps, Mr. Reyes, Mr. Allen, Mr. Wynn, Mr. Rodriguez, Mr. Baldacci, Mr. Farr of California, Mr. Langevin, Mr. Delahunt, Mr. Udall of Colorado, Mr. Hinojosa, Mr. McIntyre, Mr. Towns, Mr. Oberstar, Mr. Gonzalez, Mr. McGovern, Ms. Woolsey, Mr. Stupak, Mr. Engel, Mr. Larsen of Washington, Ms. Schakowsky, Mr. Pastor, Ms. Solis, Mr. Markey, Mrs. McCarthy of New York, Mr. Fattah, Mr. Barcia, Ms. McCollum, Mr. Etheridge, Mr. Schiff, Mr. Lynch, Mr. Hinchey, Mr. Davis of Illinois, Mr. Frank, Mr. Maloney of Connecticut, Mr. Cardin, Mrs. Lowey, Mr. HOLDEN, Mr. SERRANO, Mr. DICKS, Mr. SABO, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. OLVER, Ms. HOOLEY of Oregon, Mr. MORAN of Virginia, Mr. CLYBURN, Mr. UNDERWOOD, Mr. LAMPSON, Mr. PRICE of North Carolina, Mr. LIPINSKI, Mr. CRAMER, Mr. FALEOMAVAEGA, Mrs. JONES of Ohio, Mrs. THURMAN, Mr. ACKERMAN, Mr. HOYER, Mr. CUMMINGS, Mr. DEUTSCH, Mr. BRADY of Pennsylvania, Mr. KENNEDY of Rhode Island, Mr. PALLONE, Mr. KUCINICH, Mr. BLAGOJEVICH, Mr. FORD, Mr. THOMPSON of Mississippi, Ms. SLAUGHTER, Mr. FROST, Ms. CARSON of Indiana, Mr. BAIRD, and Mr. SAWYER):

H.R. 3555. A bill to prevent, prepare for, and respond to the threat of terrorism in America, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, Education and the Workforce, Government Reform, Ways and Means, Armed Services, International Relations, Intelligence (Permanent Select), Financial Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS (for herself and Mr. MICA):

H.R. 3556. A bill to prohibit assistance for Afghanistan unless the national government of Afghanistan undertakes efforts to control illegal drugs in Afghanistan, and for other purposes; to the Committee on International Relations.

By Mr. THOMAS:

H.R. 3557. A bill to repeal the antidumping provisions contained in the Act of September 8, 1916; to the Committee on the Judiciary.

By Mr. RAHALL (for himself, Mr. GILCHREST, and Mr. UNDERWOOD):

H.R. 3558. A bill to protect, conserve, and restore native fish, wildlife, and their natural habitats on Federal lands through cooperative, incentive-based grants to control, mitigate, and eradicate harmful nonnative species, and for other purposes; to the Committee on Resources.

By Mr. VISCLOSKY (for himself and Mr. QUINN):

H.R. 3559. A bill to amend the Emergency Steel Loan Guarantee Act of 1999 to revise eligibility and other requirements for loan guarantees under that Act, and for other purposes; to the Committee on Financial Services.

By Mr. YOUNG of Alaska:

H.R. 3560. A bill to require the use of certain vessels for laying, servicing, and maintaining Federal submarine cables; to the Committee on Armed Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LINDER (for himself, Mr. DEAL of Georgia, and Mr. CALVERT):

H.R. 3561. A bill to establish the Twenty-First Century Water Policy Commission; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACKERMAN:

H.R. 3562. A bill to amend title 49, United States Code, to authorize the Under Secretary of Transportation for Security to establish a program to permit Federal, State, and local law enforcement officers to be trained to participate in the Federal air marshal program as volunteers, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:

H.R. 3563. A bill to promote and facilitate expansion of coverage under group health plans, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARR of Georgia:

H.R. 3564. A bill to authorize the limited use of military tribunals absent a war declared by Congress in cases arising out of acts of international terrorism committed in the United States; to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARRETT:

H.R. 3565. A bill to amend title XIX to increase the Federal medical assistance percentage under the Medicaid Program for nursing facilities with a high proportion of Medicaid patients; to the Committee on Energy and Commerce.

By Mr. BEREUTER (for himself, Mrs. CLAYTON, Mr. NETHERCUTT, Mr. SAWYER, Mr. OSBORNE, Mr. HALL of Ohio, Mrs. JOHNSON of Connecticut, Mr. DOGGETT, Mr. EHLERS, Mr. GEORGE MILLER of California, Mr. SHAYS, Ms. MILLENDER-MCDONALD, Mr. SNYDER, Mr. WAXMAN, Mr. PAYNE, and Ms. BALDWIN):

H.R. 3566. A bill to provide for the establishment of a trust fund at the International Bank for Reconstruction and Development to address long-term food production and rural development needs in Afghanistan and the Central Asian Republics; to the Committee on Financial Services.

By Ms. PRYCE of Ohio (for herself, Mr. ARMEY, Mr. CAMP, Mr. DELAY, Ms. DUNN, Mr. HALL of Texas, Mr. POMEROY, and Mr. SESSIONS):

H.R. 3567. A bill to amend the Internal Revenue Code of 1986 and the Surface Mining Control and Reclamation Act of 1977 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund and 1992 Benefit Plan by providing additional sources of revenue to the Fund and Plan, and for other purposes; to the Committee on Ways and Means.

By Mr. BEREUTER:

H.R. 3568. A bill to provide assistance to address long-term food production and rural development needs in Afghanistan and the Central Asian Republics; to the Committee on International Relations.

By Mr. BEREUTER (for himself, Mr. FOLEY, Mr. HALL of Texas, Mr. MCHUGH, Mr. FROST, Mr. HEFLEY, Mr. LEACH, Mr. PETERSON of Pennsylvania, Mr. OSBORNE, Mr. MCINTYRE, Mr. SANDLIN, Mr. BASS, Mr. GORDON, Mr. MCINNIS, Mr. LATHAM, Mr. GREEN of Wisconsin, Mr. PETRI, Mr. HILLIARD, Mrs. EMERSON, Mr. TOWNS, Mr. SCHAFFER, Mrs. CUBIN, Mr. TERRY, and Mr. TURNER):

H.R. 3569. A bill to amend title XVIII of the Social Security Act to establish a minimum geographic cost-of-practice index value for physicians' services furnished under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEREUTER:

H.R. 3570. A bill to direct the Secretary of the Interior to monitor the health of the Missouri River and measure biological, chemical, and physical responses to changes in river management and other significant variables; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BERRY (for himself, Mrs. MYRICK, Mr. CRAMER, Mr. GRAHAM, Mr. SPRATT, Mr. BROWN of South Carolina, Mr. KERNS, Mr. HAYES, Mr. EVANS, Mr. STUPAK, Ms. KAPTUR, Mr. ENGLISH, and Mr. TURNER):

H.R. 3571. A bill to amend the Tariff Act of 1930 to provide for an expedited antidumping investigation when imports increase materially from new suppliers after an antidumping order has been issued, and to amend the provision relating to adjustments to export price and constructed export price; to the Committee on Ways and Means.

By Mr. BURR of North Carolina (for himself and Ms. ESHOO):

H.R. 3572. A bill to amend title XVIII of the Social Security Act to provide for coverage of remote monitoring services under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAMP (for himself, Mr. FOLEY, and Mr. RANGEL):

H.R. 3573. A bill to amend the Internal Revenue Code of 1986 to modify certain rules applying to individuals employed in the entertainment industry; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 3574. A bill to amend the Internal Revenue Code of 1986 to change the calculation and simplify the administration of the earned income tax credit; to the Committee on Ways and Means.

By Ms. DUNN:

H.R. 3575. A bill to amend the Internal Revenue Code of 1986 to repeal the disallowance of the marital deduction where the spouse is not a United States citizen for purposes of estate and gift taxes; to the Committee on Ways and Means.

By Mr. FALEOMAVAEGA:

H.R. 3576. A bill to provide that American Samoa hold a primary election when more than 2 eligible individuals file for candidacy to be elected to the office of Delegate representing American Samoa in the United States House of Representatives, and to provide that active duty members of the military be able to fully pariticipate in Federal elections in American Samoa; to the Committee on Resources.

By Mr. GILCHREST (for himself and Mr. UNDERWOOD):

H.R. 3577. A bill to reauthorize the Coastal Zone Management Act of 1972, and for other purposes; to the Committee on Resources.

By Mr. GREEN of Wisconsin (for himself and Mr. Ryan of Wisconsin):

H.R. 3578. A bill to require the Secretary of Agriculture to use the Department of Agriculture's preferred Option 1B as the price structure for Class I fluid milk under Federal milk marketing orders, to provide emergency market loss payments to dairy producers for any calendar year quarter in which the national average price for Class III milk under Federal milk marketing orders is less than a target price of $11.50 per hundredweight, and for other purposes; to the Committee on Agriculture.

By Mr. GREEN of Wisconsin:

H.R. 3579. A bill to increase community capacity and commitment to promote and support local comprehensive strategies and traceable actions to prevent and reduce crime, violence, and substance abuse through prevention, education, treatment, law enforcement, and continuing care activities; to the Committee on the Judiciary.

By Mr. GREENWOOD (for himself, Ms. Eshoo, Mr. Upton, Mr. Pallone, Mr. Deutsch, Mr. Towns, Mr. Bryant, and Mr. Barton of Texas):

H.R. 3580. A bill to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes; to the Committee on Energy and Commerce.

By Ms. HARMAN (for herself and Ms. Pelosi):

H.R. 3581. A bill to authorize the Secretary of Health and Human Services to award on a competitive basis grants to public and private entities to establish or expand teenage pregnancy prevention programs; to the Committee on Energy and Commerce.

By Mr. HOUGHTON (for himself, Mr. Neal of Massachusetts, and Mr. English):

H.R. 3582. A bill to amend the Internal Revenue Code of 1986 to disregard $30,000,000 of capital expenditures in applying $10,000,000 limit on qualified small issue bonds; to the Committee on Ways and Means.

By Mr. ISRAEL:

H.R. 3583. A bill to amend the Internal Revenue Code of 1986 to provide that no organization providing support to terrists or terrorist organizations shall be qualified for exemption from tax under 501(a) of such Code; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Cardin, Mr. Israel, Mr. Smith of New Jersey, Mr. Hayworth, Mr. Ramstad, Mr. Sam Johnson of Texas, Mr. Shaw, Mr. English, Mr. LoBiondo, Mr. Ferguson, Ms. Dunn, Mr. Crane, Mr. Saxton, Mr. Camp, Mrs. McCarthy of New York, Mr. Pascrell, Mr. Herger, Mr. Simmons, Mr. McCrery, Mr. Larsen of Washington, and Mr. Dicks):

H.R. 3584. A bill to amend title XVIII of the Social Security Act to improve payments and regulation under the MedicareChoice Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLECZKA (for himself and Mr. Stark):

H.R. 3585. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of substitute adult day care services; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Kentucky:

H.R. 3586. A bill to amend the Internal Revenue Code of 1986 to clarify the small issuer exception from the tax-exempt bond arbitrage rebate requirement; to the Committee on Ways and Means.

By Mr. MALONEY of Connecticut:

H.R. 3587. A bill to amend title 10, United States Code, to provide for the award of a medal called the "Crimson Cross" to members of the Armed Forces who, while on active duty, suffered a qualifying injury or illness in connection with combatant activities during a period of war or as a result of hostile actions against the United States and who are not eligible to receive the Purple Heart as a result of such injury or illness; to the Committee on Armed Services.

By Mr. MALONEY of Connecticut:

H.R. 3588. A bill to provide bonus funds to local educational agencies that adopt a policy to end social promotion; to the Committee on Education and the Workforce.

By Mr. MALONEY of Connecticut:

H.R. 3589. A bill to direct the Secretary of Health and Human Services to award grants to eligible entities to implement and evaluate demonstrations of models and best practices in nursing care and to develop innovative strategies for retention of professional nurses; to the Committee on Energy and Commerce.

By Mrs. MALONEY of New York:

H.R. 3590. A bill to require operators of electronic marketplaces to disclose the ownership and financial arrangements of such marketplaces to market participants, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MICA (for himself, Mr. DeLay, Mr. Graves, Mr. Hefley, Mr. Dan Miller of Florida, Mr. Kingston, Mr. Linder, Mr. Collins, Mr. Pombo, Mr. Petri, and Mr. Stearns):

H.R. 3591. A bill to provide for the competitive operation of the Northeast rail corridor and Autotrain using State and private sector initiatives; to the Committee on Transportation and Infrastructure.

By Mr. MOORE (for himself and Ms. Hart):

H.R. 3592. A bill to reduce the impacts of hurricanes, tornadoes, and related natural hazards through a program of research and development and technology transfer, and for other purposes; to the Committee on Science, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NADLER:

H.R. 3593. A bill to extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001; to the Committee on Transportation and Infrastructure.

By Mr. OLVER (for himself, Mr. McGovern, Mr. Frank, Mr. Serrano, Mr. Frost, Mr. Strickland, and Mr. Hinchey):

H.R. 3594. A bill to amend title XIX of the Social Security Act to improve access to advanced practice nurses under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. ROTHMAN (for himself, Mr. Crowley, Mr. English, Mr. Stark, Mr. Blagojevich, Mr. Capuano, Mr. Udall of New Mexico, Ms. Hooley of Oregon, Ms. Schakowsky, Ms. Slaughter, Mr. Moran of Virginia, Mr. Owens, Mrs. Christensen, Mrs. Jones of Ohio, Ms. McKinney, Ms. Solis, Mrs. Capps, Mr. Pallone, Mr. Wexler, Mr. Holt, and Mrs. Mink of Hawaii):

H.R. 3595. A bill to amend Federal crime grant programs relating to domestic violence to encourage States and localities to implement gun confiscation policies, reform stalking laws, create integrated domestic violence courts, and hire additional personnel for entering protection orders, and for other purposes; to the Committee on the Judiciary.

By Mr. RYAN of Wisconsin (for himself and Mr. Green of Wisconsin):

H.R. 3596. A bill to amend the Clean Air Act requirements relating to gasoline to prevent future supply shortages and price spikes in the gasoline market, and for other purposes; to the Committee on Energy and Commerce.

By Ms. SLAUGHTER (for herself, Mr. Hinchey, Mr. DeFazio, and Mr. Kucinich):

H.R. 3597. A bill to prohibit the Secretary of Defense from purchasing equipment containing electronic components that are not manufactured in the United States; to the Committee on Armed Services.

By Mr. SMITH of Michigan (for himself and Mr. Weldon of Pennsylvania):

H.R. 3598. A bill to require the induction into the Armed Forces of young men registered under the Military Selective Service Act, and to authorize young women to volunteer, to receive basic military training and education for a period of up to one year; to the Committee on Armed Services.

By Mr. SOUDER (for himself, Mr. Scott, Mr. Green of Wisconsin, Mr. Edwards, Mr. Nadler, and Mr. Kirk):

H.R. 3599. A bill to promote charitable giving, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANCREDO (for himself, Mr. Goode, Mr. Deal of Georgia, Mr. Hayworth, and Mr. Schaffer):

H.R. 3600. A bill to establish a National Border Security Agency; to the Committee on Government Reform, and in addition to the Committees on the Judiciary, Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TIAHRT:

H.R. 3601. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain terrorist attack zone compensation of civilian uniformed personnel; to the Committee on Ways and Means.

By Mr. TOWNS (for himself, Mr. Upton, Mrs. Capps, Ms. Millender-McDonald, Mr. Waxman, Mr. Lewis of Georgia, Mr. Abercrombie, Mr. Rush, Mr. Leach, Mr. Baldacci, Ms. Rivers, Mrs. Morella, Mr. Thompson of Mississippi, Mr. Pallone, Mr. Hinchey, Mrs. Lowey, Mrs. Maloney of New York, Mrs. Clayton, Mr. Price of North Carolina, Mr. Udall of New Mexico, Mr. OXLEY, Mr. GILLMOR, Mr. KENNEDY of Rhode Island, Mr. KLECZKA, Mr. DINGELL, Mr. OWENS, Mr. MOORE, Mr. STRICKLAND, Mr. THOMPSON of California, Mr. WEINER, Mr. DAVIS of Illinois, Mr. HILLIARD, Mr. MCNULTY, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Ms. KILPATRICK, Ms. ROYBAL-ALLARD, and Ms. CARSON of Indiana):

H.R. 3602. A bill to amend title XVIII of the Soical Security Act to provide for reimbursement of certified midwife services, to provide for more equitable reimbursement rates certified nurse-midwife services, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VITTER:

H.R. 3603. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit of $500 to public safety volunteers; to the Committee on Ways and Means.

By Mr. VITTER:

H.R. 3604. A bill to amend title 10, United States Code, to improve the ability of students at institutions of higher education to enroll in units of the Senior Reserve Officer Training Corps; to the Committee on Armed Services, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VITTER:

H.R. 3605. A bill to amend title 44, United States Code, to provide for the suspension of fines under certain circumstances for first-time paperwork violations by small-business concerns; to the Committee on Government Reform, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALDEN of Oregon:

H.R. 3606. A bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes; to the Committee on Resources.

By Ms. WATERS:

H.R. 3607. A bill to amend the Truth in Lending Act to strengthen consumer protections and prevent predatory loan practices, and for other purposes; to the Committee on Financial Services.

By Mr. YOUNG of Alaska:

H.R. 3608. A bill to provide for the conveyance of certain property in the State of Alaska, and for other purposes; to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. TAUZIN, Mr. PETRI, Mr. BARTON of Texas, Mr. GREEN of Texas, Mr. SANDLIN, Mr. CARSON of Oklahoma, and Mr. HALL of Texas):

H.R. 3609. A bill to amend title 49, United States Code, to enhance the security and safety of pipelines; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARMEY:

H.J. Res. 80. Joint resolution appointing the day for the convening of the second session of the One Hundred Seventh Congress; considered and passed.

By Mr. ISTOOK (for himself, Mr. ADERHOLT, Mr. AKIN, Mr. ARMEY, Mr. BAKER, Mr. BALLENGER, Mr. BARR of Georgia, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BACHUS, Mr. BEREUTER, Mr. BROWN of South Carolina, Mr. BURTON of Indiana, Mr. CALVERT, Mr. COMBEST, Mr. CRANE, Mrs. JO ANN DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DEMINT, Mr. DOOLITTLE, Mr. DUNCAN, Mrs. EMERSON, Mr. EVERETT, Mr. FORBES, Mr. GEKAS, Mr. GOODE, Mr. GRAHAM, Mr. GRAVES, Mr. GRUCCI, Mr. HALL of Texas, Mr. HANSEN, Ms. HART, Mr. HAYES, Mr. HAYWORTH, Mr. HEFLEY, Mr. HOEKSTRA, Mr. HULSHOF, Mr. HUNTER, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KERNS, Mr. KINGSTON, Mr. LARGENT, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LIPINSKI, Mr. MCHUGH, Mrs. MYRICK, Mr. OXLEY, Mr. PENCE, Mr. PETERSON of Pennsylvania, Mr. PICKERING, Mr. PITTS, Mr. POMBO, Mr. RAHALL, Mr. RILEY, Mr. RYUN of Kansas, Mr. SCHAFFER, Mr. SHOWS, Mr. SHUSTER, Mr. SMITH of New Jersey, Mr. SOUDER, Mr. STEARNS, Mr. TANCREDO, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. TERRY, Mr. THORNBERRY, Mr. TIAHRT, Mr. VITTER, Mr. WAMP, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, and Mr. WICKER):

H.J. Res. 81. A joint resolution proposing an amendment to the Constitution of the United States restoring religious freedom; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 295. Concurrent resolution providing for the sine die adjournment of the first session of the One Hundred Seventh Congress; considered and agreed to.

By Mr. BARR of Georgia (for himself, Mr. BACHUS, Mrs. JO ANN DAVIS of Virginia, Mr. GOODE, and Mrs. MYRICK):

H. Con. Res. 296. Concurrent resolution urging the President to negotiate a new base rights agreement with the Government of the Republic of Panama in order for United States Armed Forces to be stationed in Panama for the purposes of defending the Panama Canal; to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOEKSTRA (for himself and Mr. TOM DAVIS of Virginia):

H. Con. Res. 297. Concurrent resolution recognizing the historical significance of 100 years of Korean immigration to the United States; to the Committee on Government Reform.

By Mr. ISRAEL:

H. Con. Res. 298. Concurrent resolution expressing the sense of the Congress that State and local officials should designate school nurses as "first responders" and remove any legal or regulatory barriers that would impede school nurses from responding to a biological or chemical attack; to the Committee on Energy and Commerce.

By Ms. MCCARTHY of Missouri (for herself, Ms. MCCOLLUM, Mr. BEREUTER, Ms. LEE, Mr. BLUMENAUER, Mr. GUTKNECHT, Mr. KENNEDY of Minnesota, Mr. PETERSON of Minnesota, Mr. LUTHER, Mr. SKELTON, Mr. TIAHRT, Mr. MOORE, Mr. MORAN of Kansas, and Mr. SABO):

H. Res. 326. A resolution encouraging more revenue sharing among major league baseball teams as an alternative to team eliminations; to the Committee on Energy and Commerce.

By Mr. ARMEY:

H. Res. 327. A resolution providing for a committee of two Members to be appointed by the House to inform the President; considered and agreed to.

By Ms. KAPTUR:

H. Res. 328. A resolution expressing the sense of Congress that, during this holiday season, peace may prevail in the Middle East; to the Committee on International Relations.

By Ms. KILPATRICK:

H. Res. 329. A resolution expressing the sense of the House of Representatives that lobbyists should not be granted special access privileges to the Capitol and congressional offices that are not available to other citizens of the United States; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. WATTS of Oklahoma introduced a bill (H.R. 3610) for the relief of Lindita Idrizi Heath; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolution as follows:

H.R. 102: Mr. FORBES.

H.R. 111: Ms. LOFGREN.

H.R. 397: Mr. SPRATT, Ms. BERKLEY, Mr. BROWN of Ohio, Mr. HILLIARD, Mr. THOMPSON of Mississippi, Mrs. BONO, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 488: Ms. SANCHEZ and Ms. RIVERS.

H.R. 639: Mr. BALDACCI, Ms. HART, and Mr. MANZULLO.

H.R. 804: Mr. PRICE of North Carolina.

H.R. 876: Mr. STEARNS.

H.R. 951: Mrs. LOWEY, Mr. PHELPS, Ms. LEE, Ms. SANCHEZ, Mr. THOMPSON of California, and Mrs. TAUSCHER.

H.R. 978: Mr. GEORGE MILLER of California.

H.R. 1097: Mr. KING, Mr. FARR of California, and Mr. ROTHMAN.

H.R. 1116: Ms. SCHAKOWSKY.

H.R. 1136: Mr. MOORE.

H.R. 1143: Mr. ROSS.

H.R. 1172: Mr. HINOJOSA.

H.R. 1204: Mr. INSLEE.

H.R. 1213: Mr. TOM DAVIS of Virginia, Mr. SHUSTER, and Mr. POMEROY.

H.R. 1214: Mr. TOM DAVIS of Virginia and Mr. KANJORSKI.

H.R. 1265: Mr. OBERSTAR.

H.R. 1296: Mr. SMITH of Washington.

H.R. 1351: Ms. LOFGREN.

H.R. 1377: Mr. LARSEN of Washington.

H.R. 1421: Mr. THOMPSON of Mississippi, Mr. ROTHMAN, Mr. LATOURETTE, Mr. BAIRD, Mr. BRADY of Pennsylvania, Mr. BROWN of Ohio, Mr. Hilliard, Mr. Ferguson, Mr. Isakson, and Ms. Eddie Bernice Johnson of Texas.

H.R. 1433: Mr. Matsui.

H.R. 1460: Mr. Goodlatte.

H.R. 1475: Mr. Platts.

H.R. 1515: Mrs. Thurman.

H.R. 1596: Mr. Hayworth.

H.R. 1624: Mr. Ryun of Kansas.

H.R. 1645: Ms. Carson of Indiana.

H.R. 1700: Mr. Snyder.

H.R. 1759: Mr. Hoeffel.

H.R. 1779: Mrs. Lowey.

H.R. 1784: Mr. Doyle.

H.R. 1795: Mr. Knollenberg.

H.R. 1810: Mr. Mascara.

H.R. 1822: Ms. Hooley of Oregon and Mr. McHugh.

H.R. 1848: Mr. Goodlatte.

H.R. 1935: Mr. Hostettler.

H.R. 1984: Mr. Norwood.

H.R. 2008: Mr. Watts of Oklahoma.

H.R. 2037: Mr. Wilson of South Carolina, Mr. Crenshaw, and Mr. Murtha.

H.R. 2109: Mr. Mica, Mr. Bilirakis, Mr. Goss, Mr. Foley, and Mr. Dan Miller of Florida.

H.R. 2125: Mr. Largent, Ms. DeGette, and Mr. Hastings of Florida.

H.R. 2148: Mr. Berman and Mr. Underwood.

H.R. 2290: Mr. Gilchrest.

H.R. 2316: Mr. Stearns.

H.R. 2327: Mr. Stearns.

H.R. 2348: Mr. Pascrell, Mr. George Miller of California, Mr. Rothman, and Mrs. Davis of California.

H.R. 2349: Mr. Traficant, Mr. Meehan, Mr. Peterson of Minnesota, Mr. Kildee, Mr. Dingell, Mr. Neal of Massachusetts, Mr. Stupak, Mrs. Maloney of New York, Mr. Lipinski, Mr. Gonzalez, and Mr. Sawyer.

H.R. 2357: Mr. Grucci and Mr. Istook.

H.R. 2426: Mr. Goodlatte.

H.R. 2484: Mr. Lantos and Mr. Grucci.

H.R. 2537: Mr. McHugh and Mr. Kirk.

H.R. 2570: Mr. Pascrell, Mr. Evans, Mr. Ford, Mr. Cardin, Mr. Spratt, and Ms. Schakowsky.

H.R. 2573: Mr. Farr of California.

H.R. 2610: Mr. Osborne, Mr. Cummings, Mr. Langevin, and Mr. Watts of Oklahoma.

H.R. 2618: Mr. McDermott.

H.R. 2629: Mr. Tierney.

H.R. 2633: Mrs. Lowey and Mrs. Johnson of Connecticut.

H.R. 2634: Mrs. Lowey and Mrs. Johnson of Connecticut.

H.R. 2714: Mr. Chabot.

H.R. 2718: Mrs. Lowey.

H.R. 2735: Ms. Brown of Florida, Ms. Jackson-Lee of Texas, Mr. Meeks of New York, and Mr. Wynn.

H.R. 2807: Mr. Nussle.

H.R. 2817: Mr. Rogers of Kentucky.

H.R. 2917: Mrs. Lowey.

H.R. 2974: Mr. Grucci.

H.R. 2989: Mr. Israel and Mr. Kildee.

H.R. 3017: Mr. Kildee.

H.R. 3026: Ms. Berkley.

H.R. 3058: Mr. Baird, Ms. Eddie Bernice Johnson of Texas, Ms. McKinney, Mr. Meehan, Mr. Bass, Mr. Brady of Pennsylvania, Mr. Upton, Mr. Holt, Mr. Platts, Mr. Ackerman, Mr. Neal of Massachusetts, Mr. Berman, Mr. English, Mr. Udall of New Mexico, Mrs. Capps, and Mr. Weldon of Pennsylvania.

H.R. 3068: Mr. Kanjorski.

H.R. 3075: Ms. Schakowsky.

H.R. 3080: Ms. Woolsey.

H.R. 3142: Mr. Peterson of Minnesota, Mr. Deal of Georgia, Mr. Terry, Mr. Gutknecht, and Mr. McHugh.

H.R. 3154: Mrs. Myrick, Mr. Price of North Carolina, and Mr. Rothman.

H.R. 3161: Mr. Watt of North Carolina.

H.R. 3185: Mr. Delahunt.

H.R. 3194: Mr. Lantos.

H.R. 3205: Mr. Green of Wisconsin.

H.R. 3229: Mr. Akin and Mr. Hayworth.

H.R. 3244: Ms. Harman, Mr. Gordon, and Mr. Hastings of Florida.

H.R. 3270: Mr. Barr of Georgia.

H.R. 3286: Mr. Hayworth.

H.R. 3288: Mr. Bilirakis.

H.R. 3296: Mr. Frost and Mr. Payne.

H.R. 3319: Mr. Goodlatte.

H.R. 3332: Mr. Rothman.

H.R. 3341: Ms. Roybal-Allard, Ms. Lee, and Ms. Schakowsky.

H.R. 3347: Mr. Burton of Indiana, Mr. Abercrombie, Mr. Larsen of Washington, and Mr. Upton.

H.R. 3351: Mr. Simpson, Mr. Frost, Mr. Wilson of South Carolina, Mr. Tiahrt, Mr. Cantor, Mr. Platts, and Mrs. Biggert.

H.R. 3412: Mr. Skeen, Mr. Forbes, Mr. Saxton, and Mr. Rohrabacher.

H.R. 3414: Mrs. Thurman.

H.R. 3415: Mr. Ross and Ms. Schakowsky.

H.R. 3424: Mr. Rogers of Michigan, Mr. Tauzin, Mrs. Wilson of New Mexico, Mr. Mascara, Ms. Schakowsky, Mr. Lewis of Kentucky, Mr. Vitter, Ms. Lofgren, and Mr. Weldon of Pennsylvania.

H.R. 3429: Mr. Kerns and Mr. Simmons.

H.R. 3435: Ms. Kilparick and Mr. Underwood.

H.R. 3443: Mr. Wicker, Mr. Sam Johnson of Texas, and Mr. Faleomavaega.

H.R. 3464: Mr. DeFazio, Ms. Eddie Bernice Johnson of Texas, Mr. Schiff, and Ms. Solis.

H.R. 3478: Mr. Kerns.

H.R. 3479: Mr. Graves, Mr. Stupak, and Mr. Hobson.

H.R. 3498: Mr. Faleomavaega and Mr. Lipinski.

H.R. 3501: Ms. Eshoo.

H.R. 3505: Mr. George Miller of California.

H.R. 3511: Mr. English.

H.R. 3514: Mr. Frost.

H.R. 3524: Ms. Millender-McDonald.

H. Con. Res. 30: Mr. Forbes.

H. Con. Res. 46: Ms. Carson of Indiana.

H. Con. Res. 132: Mr. Goodlatte.

H. Con. Res. 180: Mr. Brown of Ohio.

H. Con. Res. 220: Mr. Akin.

H. Con. Res. 285: Mr. Thompson of California, Ms. Solis, and Mr. Capuano.

H. Res. 281: Ms. Solis.

H. Res. 300: Ms. McCarthy of Missouri.

H. Res. 302: Mr. Combest, Mr. Barcia, Mr. Bryant, Mr. Shaw, and Mr. Manzullo.

H. Res. 313: Mr. Neal of Massachusetts, and Mr. Stark.

H. Res. 325: Mr. McNulty, Mr. Fossella, and Ms. Velázquez.

SENATE—*Thursday, December 20, 2001*

(Legislative day of Tuesday, December 18, 2001)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, sovereign of this Nation, we press on with the work of the Senate with the message and meaning of this sacred season in our hearts. Although the Senators worship You in different liturgies based on their religious backgrounds, they all believe in You as sovereign of this Nation. Help them and their staffs work together in a way that exemplifies to our Nation that people who trust in You can trust one another; that people who experience Your goodness can be people of good will. May this historic Chamber be a place of creative exchange of insight that leads to greater unity around shared convictions about what is best for America. You are here listening, watching, judging. When we end this week, may we hear Your affirmation: "Well done, you have pulled together for the sake of America." Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, December 20, 2001.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to consideration of the conference report to accompany H.R. 3061 which the clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2002, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment and the Senate agree to the same, signed by all conferees on the part of both Houses.

(The conference report is printed in the House proceedings of the RECORD of Wednesday, December 19, 2001.)

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the time that has been assigned run equally against all parties during this time. There is no one here on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NEBRASKA SENATORS

Mr. REID. Mr. President, until someone comes to work on these bills, I would like to mention one thing. I wanted to say this last night. The hour was late. The Presiding Officer was the same.

I have had the good fortune during the time I have served in the Senate to work with some outstanding Senators. The two who come to my mind are from the State of Nebraska. Senator Jim Exon was such a unique individual. I have so many fond memories of this great big man who had such a big body, but in that big body was a great big heart. He was a tremendous Senator. I miss him a great deal.

Then, of course, to serve with BOB KERREY is an experience. He was truly a free spirit, someone who was not only an American hero, having the Congressional Medal of Honor, but someone who was as valiant in his legislative duties as he was in his military duties.

Following in the footsteps of these two men whom I enjoyed serving with so much is the Presiding Officer, a man who served as Governor of the State of Nebraska and came to the Senate with great credentials from my perspective. On paper, the Presiding Officer has all the credentials to be a great Senator. A lot of people are good on paper in all walks of life. But in the short time I have served with the Presiding Officer as a Senator from Nebraska, his credentials certainly have served him well in the Senate because the Presiding Officer is as good a person as he is on paper.

I extend my congratulations to the people of Nebraska for sending to the Senate a person with such great qualities. I am sure the people of Nebraska appreciate Senator BEN NELSON. But I am not sure they appreciate him enough. For those of us who work personally with the Presiding Officer on a daily basis, in some of the most difficult legislative matters that ever come before this country, I can say without hesitation that Senator BEN NELSON is in the same caliber as Nebraskans who have served before him and with whom I have had the honor of serving: Senators Exon and KERREY.

Nebraska should be very proud of the dignity and the service of the three people I have had the good fortune of serving with in the Senate.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

ECONOMIC STIMULUS

Mr. THOMAS. Mr. President, I rise to make a couple of general comments. As we move towards perhaps the final day, certainly very close to the final day of our time here, I hope we can move forward. We have three appropriations bills that we have been looking forward to discussing and have to finish before we end. There will probably be some discussion on particularly the Defense appropriations.

Nevertheless, the bill and the issue that I suppose we will talk about the most, and seems to be one that is not agreed to, is that of economic stimulus. Certainly that will be coming forward. We have talked about it for a very long time. The President has talked about it. We have had meetings about it. The House obviously has worked out a separate proposal for us. I am hopeful that as we undertake this effort, we will decide, as we should on all of the topics that come before us, what do we want to see as the result.

So often we get wrapped up entirely with the details of what is going on here, and the details obviously are important, but what is more important is what it is we want to accomplish and how will what we are talking about do that.

Certainly, I hope we talk about what is the purpose of an economic stimulus package. Obviously, we are in a recession. No one seems to know exactly what the best techniques are to deal with stimulating the economy. We have listened to all kinds of economists, including our nationally celebrated economists. There are different ideas about that. Certainly, we want to see if we can't create more jobs, if we can't strengthen the economy.

If it is called an economic stimulus, then certainly that has to be the purpose.

How do you do that? You do it by creating jobs and investment. You do it by putting more money in the hands of the people in the countryside, particularly those who have suffered, of course. That is another alternative. The proposals we have had do both of those things in varying degrees. So I hope we can do that.

There are those, of course, who believe that at this point an economic stimulus is not necessary. I don't agree with that, but it is a point of view. I was thinking this morning, listening to the TV, about politics. This is politics. Well, having different views is not unusual. Everyone in the country has different views. In many places, that is defined as standing up for what you believe. When we disagree here, it is suddenly called politics. I understand that. There are legitimate, different views.

I hope we can keep in mind that certainly one of the major purposes of an economic stimulus is to stimulate the economy, to create jobs. We are not looking for a continuing assistance program. We are looking for something that will cause jobs to come back, so people can spend money. The other thing that, obviously, we want to do is assist those who have suffered as a result of the September 11 tragedy.

I look forward to it. I hope we can do something that will have an impact. Frankly, we will be limited in time, but I hope we don't establish new entitlement programs through this kind of emergency program. We ought to really be serious about seeing what we can do that is effective in measuring against the results we would like to have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

STIMULUS PACKAGE

Mr. REID. Mr. President, I didn't want this morning to disturb the mood of our last day here. Therefore, I didn't do anything about the message delivered from the House this morning. When she came in and bowed—and I appreciate the dignity that creates here—I had a big smile on my face. I wrote on my pad here "laugh," because it is laughable.

A stimulus package now? What in the world are they trying to do in the House of Representatives? They are going home at 1:30 this afternoon. Did they think, after we worked on this so long and hard, we are going to accept that in the Senate? It makes the original bill they did that was so bad look good.

So I hope the American public understands the charade. That is what it is. The House of Representatives worked until 4:30 this morning coming up with a stimulus package strictly for political purposes. It has no substantive merit whatsoever. They knew that, and they know it has no chance of passing over here. That is too bad.

We started out with a stimulus package that made sense. Senator BYRD and I wanted to do something to create jobs. We knew that for every billion dollars spent on road building, 42 thousand jobs are created, and those 42,000 people would, of course, pay taxes and buy refrigerators and cars. The Republicans would not go along with that. We were always attempting to protect the American worker—their unemployment benefits, health benefits.

Because of the very narrowminded of the Republican House of Representatives, we are unable to do anything. That is too bad. I am disappointed that we have, on the last day of the session, this silly package brought to us from the House of Representatives. That is what it is—a silly package.

COMPLIMENTING SENATOR HARKIN

Mr. REID. Mr. President, changing the subject for a minute, while I still have the floor, I have spent 2 or 3 weeks with the Senator from Iowa on the farm bill. He has done a wonderful job getting the bill out of committee, trying to satisfy the disparate groups throughout America that have farm interests. He has done that. Again, because of a filibuster, we were unable to bring the bill forward. He is here again today as chairman of the Labor-HHS Appropriations Subcommittee, which is, other than Defense, the biggest money-spending bill we have.

There are so many important provisions for the State of Nevada and every State in our Nation. I hope people in Iowa understand what a resource they have in TOM HARKIN, chairman of the Agriculture Committee, chairman of the Labor-HHS Appropriations Subcommittee, one of the most senior members of the Appropriations Committee. I didn't have a chance, because of the parliamentary situation in the last few days, to say anything complimentary about my friend. I want him to understand, on behalf of the entire Democratic caucus, how much we appreciate what he does. He is a resource that is invaluable to the Senate and this country.

Mr. HARKIN. I thank my friend from Nevada for the very kind words. I, again, thank him for all of his great support and help as we tried to get the farm bill through, but it was stopped by the other side. I thank my friend from Nevada for his great help on getting our appropriations bill through.

As Senator REID said, this is the second largest appropriations bill—second only to Defense. But what is important is that this is the appropriations bill that binds our country together. This is the bill that makes America unique in the world. This is the appropriations bill that says to every kid in America: No matter where you are born, no matter the circumstances of your birth, you are going to get a good education; we are going to put the resources out there. No matter what your resources are, we are going to get you the funds you need to go to college, or for job training if you don't want to go to college.

This provides the underpinning of our medical research. This bill underpins the health care of America in so many ways. This is the bill that provides all of the support for our jobs, our Job Corps, our training programs, all of the worker training programs that come through the Department of Health. This is the bill that covers the Department of Education, the Department of Health and Human Services, and the Department of Labor, and all biomedical research.

So I am very proud and I feel very privileged to be a Senator, but also to be on the Appropriations Committee and to chair this subcommittee that I believe speaks about what America really is. I am also on the Defense Appropriations Subcommittee. That is the committee that defends our interests around the globe. This is the subcommittee that makes America what America is in the world community—unique among nations.

I am proud and privileged to bring to the Senate Chamber this morning the conference report on the Labor, Health and Human Services, Education and related agencies appropriations bill.

First, I thank my good friend and longtime partner in this effort, Senator SPECTER. We have had a great partnership for a number of years. Some time ago, I was chairman of this subcommittee, and he was my ranking member. Then when the other party took control of the Senate, he became chairman and I was ranking member. Now I am chairman again and he is ranking member again. We have had a great partnership, going back now just about an even dozen years. I thank him and his staff, who I will name after a bit, for helping put together this bill on a truly bipartisan basis.

The conference report is a good bill. It is one I can strongly recommend to my colleagues. Senator SPECTER and I worked with our subcommittee members, the House leaders, Congressmen OBEY and REGULA, to help shape it. We have done our best to accommodate the literally thousands of requests we have received from our colleagues.

I wish to highlight some of the main features of our conference report.

First, it takes a number of important steps to improve the quality, affordability, and accessibility of health care in America. We included a record increase for the National Institutes of Health of $3 billion—again, building upon the excellent work done when Senator SPECTER chaired this subcommittee, in meeting the stated goal of the Congress to double NIH funding over 5 years. So we put a record $3 billion into this bill for NIH.

We have also combined with that an additional approximately $200 million in NIH resources related to bioterrorism, which is included not in this bill but in the supplemental appropriations bill. This keeps us on track in doubling our commitment. This action holds the hope of improving the lives of millions of Americans plagued by killers such as Alzheimer's, cancer, Parkinson's, heart disease, diabetes, osteoporosis, and so many other things.

The conference agreement also makes a major improvement in access to affordable health care by providing a $175 million increase to community health centers and major increases in critical prevention activities, such as cancer and heart disease screening. These changes will save lives and improve health around the country.

As a Senator from Iowa and cochair of the Rural Health Caucus of the Senate, I am pleased to report that the agreement includes a major new effort to improve health care in rural areas and small towns.

We will bring more doctors, nurses, and other health professionals to places they are needed by expanding the National Health Service Corps and the Nurse Loan Repayment Program. Our struggling rural hospitals are given help to deal with Medicare paperwork and help to expand into other activities, such as adult daycare.

This agreement also includes substantial new resources to improve education. While I am disappointed that additional funds were not provided by beginning to fully fund special education as a part of the education reform bill, I believe we did a good job with the resources we were provided.

The agreement makes college more affordable for millions of young people by increasing the Pell grant maximum to $4,000. We increase the TRIO Program by $72.5 million, which brings total funding for the TRIO Program to $802 million.

The bill also increases funding for title I reading and math by $1.6 billion for a total of $10.35 billion to title I.

We increase afterschool programs by $154 million. We finally broke the $1 billion threshold. We provide for $1 billion in afterschool programs.

We increase the funding for teacher quality by three-quarters of a billion dollars. The total we have in this bill for teacher quality is $2.85 billion.

The Senate bill contained nearly $1 billion when we passed it to make needed repair to our schools, including security enhancements. We started this initiative last year. It has been a great success. I am very disappointed we could not reach an agreement to continue it this year. However, I have made it clear that I will bring the issue back again next year. We have schools crumbling all over America, and I think it is a legitimate role for the Federal Government to play to help our States and local communities repair, rebuild, and modernize their schools to make them adaptable for the 21st century. The average age of our schools now is well over 40 years, many 50 years old and over 75 years old. They need to be upgraded. They need to be modernized. Our property-tax payers in my State and I know in the Presiding Officer's State are overburdened as it is. Property tax is not a real reflection of one's ability to pay, and yet that is still how we fund the rebuilding of our schools across America.

We started on this last year. I am disappointed we could not continue it this year, but hopefully we will be back again next year to meet that need.

I am also pleased this agreement improves our commitment to worker training and safety. We funded our State unemployment offices to handle the increased caseloads they are facing now and probably will face for the remainder of the winter. At this time of economic downturn, these investments are crucial.

I wish to highlight a substantial initiative in this bill to improve services to our Nation's elderly. We will allow more homebound seniors to receive Meals on Wheels. We provide a major increase in services, such as adult daycare, to help the elderly stay in their own homes and to give their loved ones who are taking care of them needed respite care and support.

Finally, our subcommittee held a series of four hearings on the need to better protect Americans from the threat of bioterrorism. Based on these hearings, Senator SPECTER and I put together a comprehensive anti-bio-terrorism funding plan.

While the agreement before us contains a modest level of funding to address this need, our comprehensive $3 billion plan is included in the homeland security package which we will work on later today on the Defense appropriations bill. Between the two, we will be substantially improving the security of Americans against a bioterrorist attack. For the record, in the bioterrorism supplemental, we have provided $865 million to expand State and local public health capacity, to expand the health alert network, and for round-the-clock disease investigators in every State.

We provided $512 million to acquire enough smallpox vaccine for every American, and hopefully the smallpox vaccine will be available for every American sometime towards the end of next year, maybe as early as September of next year.

We included $593 million to beef up our entire vaccine stockpile in America; $135 million to help our hospitals with surge capacity. If, God forbid, we did have a terrorist attack, our hospitals in so many areas just would not be able to handle it. We have provided $135 million that will help hospitals meet that surge capacity if they require it.

We provided $155 million to improve vaccine research and lab capacities at NIH. And we included up to $10 million for a new national tracking system for deadly pathogens such as anthrax. Right now, we track every microscopic ounce of radioactive material that is in our powerplants, in our laboratories, and weapons. We keep a good inventory and tracking system of radioactive nuclear materials, but we do not have such a capacity with our deadly pathogens, as we have seen with anthrax.

It now looks as though the anthrax that was sent to Senator DASCHLE's office and Senator LEAHY and others that came through the mail originated in this country. There are all kinds of stories in the press of it coming through Fort Detrick, MD, and Dugway in Utah, but no one knows because we have never had in place an inventory and tracking system for deadly pathogens. The money we appropriated will begin the process of making sure this situation does not happen again.

We put in $71 million to improve security at our Nation's laboratories.

That is all the money we put into the bioterrorism portion of the bill which will be in the Defense appropriations bill later today.

I believe we have a good bill of which we can be proud. It is the product of a bipartisan compromise. As I said, it is not perfect. Some of us wanted different provisions. I wish we could have kept the money in for school construction, but that is the legislative process. We had good bipartisan cooperation in getting to the end result.

I close by thanking my chairman, Senator BYRD, for all of his support and for the excellent leadership he has provided to make this bill and the bioterrorism package possible. I thank our ranking member, Senator STEVENS. Again, at every step of the way he has been a strong supporter and has made sure we received the necessary allocations for our bill.

Finally, this bill, as I said earlier, would not have been possible without the tireless and outstanding staff work. Our staffs have done a terrific job. I know they have not had much sleep in the process. In fact, I understand the night before last they broke at 6 o'clock in the morning. They worked all night to get this done. That is the kind of dedication and hard work of our Appropriations Committee staff of which I am proud.

I especially note the great work of the staff director on the subcommittee, Ellen Murray, who worked tirelessly through the year to shape, form, and work on the allocations and bring this all together. Just as I have worked closely with Senator SPECTER, I know she has worked closely with another great staff person, Bettilou Taylor with Senator SPECTER, and all of our staffs. Bettilou and Ellen have just done an outstanding job of putting this together. It would not have been possible without them. I thank them both very much for their expertise and their hard work.

I thank Jim Sourwine, Erik Fatemi, Mark Laisch, Adam Gluck, Lisa Bernhardt, Adrienne Hallett, and Carole Geagley, as well as Bev Schroeder and Chani Wiggins of my personal staff for their terrific and tireless efforts.

As I said, the bill before us simply would not have been possible without them. I mentioned my staff. Let me also mention Mary Dietrich on Senator SPECTER's staff, Sudip Parikh—I do not know where Sudip is, but I thank him for all the great briefings he has given me in the past. I thank him very much.

Maybe after all my briefings on anthrax he will let me know how it all works. Emma Ashburn, also I thank Emma for all of her great work.

I say again, we have an outstanding staff, and I thank them all. I take this opportunity publicly to wish them a restful Merry Christmas. I hope they catch up on all the sleep they have lost over the last couple weeks. They have done a great job and have my undying appreciation and admiration and thanks for the great job they have done.

I know a couple of other Senators were seeking time. How much time do I have remaining?

The PRESIDING OFFICER (Ms. STABENOW). The Senator has 22 minutes.

Mr. HARKIN. How much time does the Senator desire?

Mr. DURBIN. Ten minutes.

Mr. HARKIN. I yield 10 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair. I thank Senator HARKIN. He and I were colleagues in the House of Representatives, and he would probably recall that Congressman Bill Natcher of Kentucky on the Appropriations Committee always chaired the subcommittee that had this appropriations, the Labor-HHS appropriations, and he would come to the floor in his courtly and dignified way and announce that this was the people's bill, Labor-HHS appropriations was the people's bill.

When Congressman Natcher took a look at the rollcalls he had in support of the bill, all the people were voting for it. And I think it reflects what Senator HARKIN said earlier about what is in this bill. I noticed Senator INOUYE was here a few moments ago. As chair of the Appropriations Subcommittee on Defense, he has a responsibility to defend and protect America. Senator HARKIN of the Labor-HHS Subcommittee of Appropriations has the responsibility to make sure that Americans' lives are worth living, whether it is education, health care or a commitment to labor. Time and again Senator HARKIN, in this appropriations bill, has answered the call of this country. I commend him, as Senator REID did earlier.

This is an important bill for America. It is a better bill because of the hard work Senator HARKIN and Senator SPECTER and the staffs have put into it. I am going to be an anxious supporter of the bill.

I have been fortunate to have served 12 years on the House Appropriations Committee and now 3 years on the Senate Appropriations Committee, but my dream to be on this appropriations subcommittee is still yet to be realized. I hope someday to make it because I think it is most important and certainly reflects your hard work has made it to the bill that will be considered on what may be the last day.

VERIFICATION OF PERSONAL IDENTITY

Madam President, I would like to address another issue very quickly, if I may.

Since September 11, 2001, all of us in Federal, State, and local governments have been looking for ways to enhance our homeland security. We have reviewed just about every government regulation or practice that affects the security of our daily lives in order to fix weaknesses, close loopholes, and beef up protection for all Americans.

Among other efforts that I have led—such as airline security, food safety, assuring a state of national readiness—I am now working on a bill to address weaknesses in our nation's personal identification system.

Specifically, I am interested in fixing the problems in the current disparate system we have where states issue driver's licenses without uniformity and without cross-checking with sister States.

In the aftermath of the most devastating attacks on America, we learned that some of the terrorists who were responsible for the September 11 tragedy carried driver's licenses issued to them by states that had extremely lax application process.

In Virginia, for example, it was reported that a terrorist paid a complete stranger $50 in the parking lot of a Department of Motor Vehicles to sign a sworn statement that vouched for the terrorist's identity and in-state residence on his driver's license application.

It was also reported that 13 of the 19 terrorists held driver's licenses from Florida, a state that—at that time—did not require any proof of permanent residency from anyone. In fact, any foreign tourist could walk into a motor vehicles office, fill out a form on his own, and get one.

I am certainly not asserting that the September 11 attacks would have been avoided had the terrorists not had these driver's licenses. Clearly, there is little direct connection between the cards these evil men carried and the ungodly deeds that they carried out.

But what these driver's licenses—which have now become the most widely used form of personal ID in the country—gave these terrorists was the cover of legitimacy that allowed them to walk around and mingle into American society without being detected.

A driver's license is a key that opens many doors. In America, anyone who can produce a valid driver's license can access just about anything.

It can get you a motel room, membership in a gym, airline tickets, flight lessons, and even buy guns—all without anyone ever questioning you about who you are. If you can produce a driver's license, we just assume that you are legitimate, and you have a right to be here.

I realize that the investigations surrounding September 11 are still ongoing, but I think we can safely assume what some of the problems were that led to the vulnerability we left for the terrorists to exploit.

The terrorists took advantage of a combination of failures in our intelligence, law enforcement, border patrol, aviation security, and other infrastructures that, at some point, should have been able to discover and identify these individuals as threats.

As we enhance homeland security, it is critical that we improve all of these areas. But no amount of data sharing among Federal, State, local, and international law enforcement and regulatory agencies can be useful if one of the most significant pieces of the data that they transmit back and forth is unreliable.

And today, verification of personal identification is that weakest link in the process.

Whenever someone presents identification to a government official, we must be able to rely on that ID to be sure that the person is in fact who he says he is. That is the only way to ensure accurate results when a government official inputs that person's name into various databases that agencies use.

But today, with hundreds of different forms of ID cards that are in use across the Nation and with rampant identity theft problems, it is nearly impossible to know with certainty who a person is standing before you, no matter how many ID cards they can produce.

To further aggravate the problem, one form of ID often begets another, and can help someone assume a completely false identity.

For example, a person can start with a fake driver's license; and then pick up a fake Social Security number—this is really easy to get, and you don't even need a photo.

With this, he can easily obtain credit cards, library cards, video rental membership cards, etc.—all genuine forms of ID based on the fake original.

To begin the process of critically reviewing our Nation's ID system, I am drafting legislation to enhance the reliability of today's most popularly-used form of identification—the driver's license and State ID card.

But before I explain what this bill does, let me be absolutely clear what it does not do.

This is not about creating a new national ID card nor is it about developing one centralized mega-database that houses everyone's personal data. I understand the concerns that Americans have about going in that direction, and I agree that we do not need a national ID card which crosses that critical line of personal privacy.

Instead, my effort is focused on fixing a problem that we can address immediately and with significant results. My bill is about making the driver's license—which many consider as a de facto national ID card—more reliable and verifiable as a form of personal identification than it is today.

First, my bill requires all States and U.S. territories to adopt a minimum uniform standard in issuing drivers' licenses.

If someone walks into a department of motor vehicles in Virginia, he should be required to provide the same methods of verifying who he is, and should go through the same set of requirements, as someone who walks into a DMV in Illinois.

Why? Because if we don't have uniformity among States, we will remain vulnerable to those who exploit the system by forum shopping for a driver's license card in the weakest State. With that initial ID card, they can go on to obtain other ID cards and gain official recognition.

Or, under reciprocity, they can trade in that driver's license for a driver's license in another State with more strict application requirements even though they may not have qualified to get a license in the other State.

If we mandate a minimum standard that is applied uniformly across the Nation, we can ensure that anyone who presents any State-issued driver's license can be trusted that he is in fact who he claims he is, since he would not have been able to obtain the card but for having initially verified his identity in the same way across the country.

To set up the criteria and implementation of the uniform standard, I have enlisted the assistance of the American Association of Motor Vehicle Administrators AAMVA, which is a nonprofit organization whose members consist of motor vehicle and traffic law enforcement administrators of jurisdictions in the U.S., Canada, and Mexico.

AAMVA is the national expert on issues dealing with motor vehicle administration, and it develops model programs and encourages uniformity and reciprocity among the States.

My bill appoints AAMVA as the regulatory document and biometric standards-setting body, and tasks AAMVA to develop the minimum verification and identification requirements that each State must adopt for issues such as:

Uniform definition of in-State "residency"; validation of source or "breeder" documents to verify ID; establishment of legal presence in the country; initial issuance procedures; and minimum security features.

With congressional oversight, AAMVA would supervise the implementation by the States so that within reasonable time, every State of our Nation will finally have uniform standards.

In implementing the uniform standards, it is also important to make sure the State DMVs have the support they need to verify the data they receive. Many DMVs across the country have complained that they receive little cooperation from Federal agencies who maintain databases containing information that could verify and confirm the information that people present at the DMV counter.

For example, the Social Security number is one of the primary unique identifiers used across the country. Yet many State DMVs have a difficult time accessing records from the Social Security Administration to match the number with the name of the applicant of the driver's license.

My bill addresses this problem by authorizing the Social Security Administration, Immigration and Naturalization Service, law enforcement agencies and any other sources of appropriate, relevant, real-time databases to provide motor vehicle agencies with limited access to their records.

My bill would also authorize and fund an initiative to ensure that all of these databases are compatible and can communicate with each other effectively.

Let me emphasize here that the access to the records is for the limited purpose of cross-checking and verifying individuals' name, date of birth, address, social security number, passport number if applicable, or legal status.

It is not a carte blanche access to records that could contain many confidential and sensitive and private information.

But we know that there may be unscrupulous employees in any organization, and some DMV employee, unfortunately, may be tempted to cut corners.

In order to discourage and prevent anyone from accessing these records without authorization, or use it in an unauthorized manner, my bill provides stiff penalties for any employee, agent, contractor, or anyone else who engages in unlawful access to such records.

Similarly, my bill provides for internal fraud within a department of motor vehicle where state employees access DMV records to make fake IDs or to personally profit in any way.

My bill also encourages individuals to report any suspicious activities within such offices by providing whistleblower protection to those who uncover internal fraud.

But setting up the uniformity and data sharing are not enough to ensure security. I also want to make sure that the driver licenses and other forms of government identification cards issued by departments of motor vehicles are tamper proof so that there is no other source from which someone can obtain such a card.

It is time to stamp out the multi-billion dollar cottage industry of fake IDs.

My bill will make life miserable for those who manufacture, distribute, market, or sell fake driver's licenses or other forms of government identification cards, by raising the stakes for those caught in the act.

Identity theft is a national problem, and it deserves a national response. That is why I propose to make it a Federal offense to engage in the fake ID business.

I have heard from State and local officials across the country who complain that they didn't have sufficient tools to go after these crooks who hang out in parking lots and on the web luring people to buy fake IDs

In most States, such offenses are dealt with a slap on the wrist and the criminals are back on the streets eagerly trying to earn back the fines they just paid with the sale of a few more fake cards.

So I believe we need to federalize the illegal nature of this activity and go after the manufacturers, distributors, and marketers with full force of the law.

Likewise, I propose severe penalty for anyone who purchases fake IDs, obtains legitimate ID cards in a fraudulent manner, or engages in any activity that misrepresents their personal identification in anyway by using a fake or altered government-issued ID card.

Last year, I worked with Senator COLLINS to pass the Internet False

Identification Prevention Act of 2000 which addressed many of these problems. My bill is designed to ensure that this and other laws dealing with fake IDs which are already in the books are working, and if they are not, that we find ways to ensure they are enforced against criminals.

Since September 11, all of us have been working around the clock with a singular goal: enhancing security of our homeland. I believe this bill will help us seal some of the cracks in our internal security systems, and I urge my colleagues to join me in this effort.

As chairman of the Governmental Affairs' Subcommittee on Oversight of Government Management, I will be holding a hearing when we return from the holidays to address this problem.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. I think there is time that has been allocated to the Senator from Massachusetts. Am I correct?

The PRESIDING OFFICER. There has not at this point been time allocated to the Senator from Massachusetts.

Mr. KENNEDY. I see my friend and colleague from Minnesota. I am mindful that there is only about 12 minutes remaining to the Senator from Iowa.

The PRESIDING OFFICER. Fifteen remain.

Mr. DURBIN. Madam President, I yield any time remaining under my allocation of time until Senator HARKIN's return to the floor.

The PRESIDING OFFICER. Without objection, the Senator is recognized. The Senator from Massachusetts.

Mr. WELLSTONE. Madam President, also to facilitate the Senator from Massachusetts, I think I have 10 minutes separately allotted; is that correct?

The PRESIDING OFFICER. The Senator is correct. The Senator from Massachusetts.

Mr. KENNEDY. I thank the Chair.

Madam President, first of all, I join with others in commending our friend and colleague from Iowa for an excellent job in finding scarce resources and focusing them on the Nation's needs. I think particularly of the great efforts he made to make sure children in this country were going to have the benefits, hopefully, of an education bill that can provide educational opportunities for young people in this country. As a result of the actions of Senator HARKIN and his committee, more than 600,000 children who would not have participated in the title I program will participate in that program; 400,000 children who would not have participated in a bilingual program will participate in those programs; 200,000 children who would not have had an opportunity for after-school programs will benefit from those programs; and there will be tens of thousands of children who will benefit from the 1.2 billion that he has had in special education. So this has been an impressive achievement.

When you look at the allocations for funding of these programs in the early part of the year, none of this was foreseen. I think he would agree with me that we are going to have to do even better in the future as we are facing the challenges in education, and understanding the importance that has in the lives of families in this country.

I also commend him for his extraordinary efforts in leading this body, along with Senator HAGEL and our colleague, Senator JEFFORDS, in the funding for the IDEA program, which is related to education. There are those who say it is not, but I think we understand, as indicated in the conclusion of the debate on education, that two out of three of the children who receive IDEA funding also qualify for Title I. These, in many instances, are the same children. Shortchanging one group pits one group against the other. By adding the money even over the administration's budget, it will mean additional quality services for needy children.

We were unable to get the funding for the children who need IDEA, and that is going to be the subject of my comments this morning.

I also want to thank Senator HARKIN and Senator SPECTER for the great progress that was made in funding the health care priorities. Graduate Medical Education was increased by $50 million; the National Health Service Corps was increased by $24 million; and Community Health Centers received an increase of $175 million, which is the largest increase in its history.

Of course Senator HARKIN was there in the beginning with his subcommittee, understanding the importance of getting the funding to deal with bioterrorism. His committee worked with the Appropriations Committee and had very instructive and productive hearings developing the strong case for funding for bioterrorism as well as building a stockpile of vaccines. I feel strongly that, just as we have a petroleum reserve, we ought to have a pharmaceutical reserve so every child can be protected against any of these potential threats.

Senator HARKIN, in his committee, held very important hearings. Then Senator BYRD, with his strong leadership was able, working with Senator HARKIN, to make sure we are going to meet our Nation's responsibility. All of us are thankful for that leadership.

For more than 200 years, Americans have fought battle after battle against discrimination in all its forms. We have fought for racial equality to assure that all people are judged not by the color of their skin. We have fought for voting rights for women, and their rightful place in shaping the nation's democracy. We have acted to end discriminatory practices against the elderly and disabled.

Despite our many successes in the ongoing battle for fairer treatment for all, there is one form of dangerous discrimination that still pervades every community in this country. Few families have escaped facing this discrimination personally, or seeing the harm it has caused to loved ones, friends, or acquaintances. This discrimination is not based on skin color, gender, or age. It is based on an illness—mental illness.

For years, millions of Americans across this country with mental illness have faced stigma and misunderstanding. Even worse, they have been denied the treatment that can cure or ease their cruel afflictions. Too often, they are the victims of discrimination practiced by health insurance companies. It is unacceptable that the Nation continues to tolerate actions by insurers that deny medically necessary care for curable mental illnesses, while fully covering the cost of treatment for physical illnesses that are often more costly, less debilitating, and less curable.

It is long past time to end this unjust discrimination.

Unfortunately, we have just suffered a serious setback in the ongoing battle for the rights of the mentally ill. The House Republican leadership has blocked the Domenici-Wellstone Mental Health Equitable Treatment Act, which assures fair health insurance coverage of mental illness for the millions of Americans who must live with depression, post-traumatic stress, anorexia, and other mental illnesses.

This important bill was approved by the Senate Health, Education, Labor, and Pensions Committee last month on a unanimous vote. It passed the Senate without a word of opposition. This success was achieved by the skilful leadership and hard work of the bipartisan team of Senator PAUL WELLSTONE and Senator PETE DOMENICI.

That bill deserved to become law this year, but the House Republican leadership has refused to act. Three House committees have jurisdiction over parts of this legislation, but none has held a markup. Not one has held a single day of hearings. Now, operating behind the closed doors of the conference committee, the House Republican leadership has insisted on striking the amendment which the Senate added to the Labor, Health and Human Services Appropriations bill to achieve this essential goal.

The House leadership has bowed to the pressure of insurers and big business, at the peril of the health of millions of Americans. This legislation has the support of the American people. It has the support of a broad bipartisan majority of the Congress. It is cosponsored by 65 Members of the Senate. Over 240 Members of the House have signed a letter urging the House leadership to accept the Senate mental health parity amendment as part of the appropriations bill. The collective will of Congress has been flagrantly disregarded.

The message of the opponents on this basic issue is the same message of delay and denial that has been such a shameful blot on our national history when it was applied to African-Americans, to women, to the disabled, and to the elderly.

One of the most disappointing things about this first session of Congress has been the apparent retreat from the principles of equality and nondiscrimination.

On the education bill, the Congress failed to provide needed funding for IDEA. The Congress retreated from the commitment made a quarter of a century ago to assure that every child with disabilities would have a fair and equal chance for a quality education. Today, Congress has once again retreated on a basic question of civil rights and nondiscrimination—fair treatment for the mentally ill.

As one who has been involved in these struggles to end discrimination throughout my career, I know that the American people understand that discrimination against any American diminishes all Americans. They understand that discrimination is not only a denial of our brotherhood as human beings, it denies our country the ability to benefit from the talents and contributions of all our citizens.

Surely, this time of renewed patriotism in the struggle against the common enemy of terrorism is the wrong time to retreat from our basic American ideals.

Equal treatment for the mentally ill is not just an insurance issue, it is a civil rights issue. At its heart, mental health parity is a question of simple justice.

The House Republican leadership has now succeeded in blocking action for this session of Congress. But the battle goes on, and it will not end until true parity has been achieved once and for all. The American people understand that this battle is about justice for the mentally ill and their families. The Senate and a majority of the House understand it. It is time for the House Republican leadership to stop kowtowing to powerful special interests and listen to the voice of the American people—and to what is fair, just, and right for all those who suffer from mental illness.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa?

Mr. HARKIN. Madam President, before I yield time to my good friend from Minnesota, let me again thank Senator SPECTER, who showed up here from the hearing in which he has been tied up.

Let me thank Senator KENNEDY for his great leadership on the two areas on which he spoke. Basically, I want to speak about education. I am privileged to serve on his committee and have for almost all the time I have been in the Senate. There isn't anyone I could even think of mentioning here in the Chamber who has devoted more of his or her life to the education of our kids and making sure they have a good quality education than Senator KENNEDY of Massachusetts. It has been a privilege and honor to work with him all these years.

We have had a tough fight over the last year in reauthorizing the Elementary and Secondary Education Act. I believe we came out with a good bill, one that will move us forward. But now, as I said at the time when the authorizing bill passed: We have created the authorization, now show us the money.

I think this is an appropriate time to say the President's budget will be coming down in a couple of months, the budget for next year. The President, I know, is a strong supporter of the reauthorization of the Elementary and Secondary Education Act. It has all these requirements for schools for testing and teacher quality and improvement, all the things on which we agreed. But will we have the resources? Will this President, in his budget, provide those resources to back up the authorization bills we passed? That will be the real test.

I hope this President will meet that test. I hope we get a budget from him next year that reflects those priorities.

Again, on the issue of the mental health parity, we had it on this bill.

As the Senator from Massachusetts said—I know Senator WELLSTONE will speak about it here in just a second—we had it in the bill, and it was widely supported, almost unanimously, in the Senate. It was widely supported in the House. But for some reason which I can't really divine and understand, the House Members decided they were going to vote against it. But it was the moment in time when we could have finally gotten over this, when we finally could have provided the same access to health care for mental health problems as we do for physical health problems.

Quite frankly, I believe we have failed in this endeavor. It should have been done. We held as long as we could, but when the House decided they would not agree to it, we had to abide by that and come back to the Senate without that provision in it. It is perhaps the biggest glaring loophole in our entire appropriations bill that we are now reporting back to the Senate.

My friend from Minnesota, Senator WELLSTONE, has been the leader in fighting for the people with mental health problems in this country to assure they have the same kind of health care coverage in their policies that people have for physical health problems. He has been the leader. He has led the charge on it. I know he is not going to give up. If I know anything about PAUL WELLSTONE, he is not going to give up on this fight. We will be back again next year. I will look to him next year for the same kind of leadership he provided this year, and for so many years in the past, for finally breaking down this last civil rights issue. I think Senator KENNEDY spoke about that. We have to confront it here in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I begin by congratulating my distinguished colleague, Senator HARKIN, with whom I have worked closely on the subcommittee which has the responsibility for appropriations for the Departments of Labor, Health and Human Services, and Education for many years. While I liked it better when I was chairman for 6½ years, I believe the work of the subcommittee goes on seamlessly regardless of whether TOM HARKIN is chairman or ARLEN SPECTER is chairman. I think Senator HARKIN and I both recognize you can't get anything done in Washington if you are not willing to cross party lines and make accommodations.

May I just parenthetically note my very deep disappointment that there has not been an agreement on a stimulus package before Congress adjourns, according to the most recent reports. Perhaps that will be corrected before we adjourn. If they would assign it to me and Senator HARKIN, I am sure we could get it worked out.

But this subcommittee report adopted by the full committee—and now by both the Senate and the House—is one of the most important pieces of legislation to emerge from the Congress all year.

I regret that I could not be here at the outset when the bill was called up. But I had reason to go to the hearing of the Commerce Committee which is considering the nomination of John Magaw to be the No. 3 man at that Department. I came back as soon as I could to make brief opening comments before yielding to Senator WELLSTONE who I know is waiting to speak.

This bill is one of enormous importance to America. The total figure of $123 billion represents an enormous investment in critical aspects of our way of life.

This bill contains very important funding and increases in the Department of Labor on worker safety, funding for the National Labor Relations Board, funding for the various other agencies, the Mine Health Safety Board, and OSHA.

It is my hope yet that we will resolve the critical question of ergonomics on which we await action by the Department Of Labor subcommittee. The subcommittee has held extensive hearings.

With respect to education, this bill contains more than $48 billion. There is an enormous increase for Federal participation in education. Last year's budget increased education funding by $5 billion. This year's budget increases education funding by $8 billion more.

Not only is there additional Federal funding but, as a result of action by the Congress, we are directing more of this money to the neediest students. Philadelphia, illustratively, under the new formula will get $115 million as opposed to $90 million last year.

In the conference, we adopted an amendment to provide additional targeted funding for those who were the neediest. We have provided very extensive funding on Pell grants and on guaranteed student loans in our recognition that education is a priority second to none and a major capital investment for the United States.

On a brief personal note, education was very heavily emphasized in the Specter household, perhaps because my parents had so little of it. My father was an immigrant from Russia in 1911 and had no formal education but became very extensively self-educated. My mother only went to the eighth grade but increased her educational background on her own. But my brother and my two sisters and I have been able to share the American dream because of our educational opportunity. When the President talks about leaving no child behind, it is not only for children, it is for college students, adult education, and literacy training.

There is very important funding in this bill.

The health subcommittee has taken the lead in increasing the funding for the National Institutes of Health—some $11 billion in the past several appropriations cycles. This year's increase was $2.9 billion. Frankly, I would like to have seen more, but there were other priorities.

The mark from our Senate subcommittee was $3.4 billion. The National Institutes of Health are the crown jewels of the Federal Government—maybe the only jewels of the Federal Government. They have made marvelous strides in conquering Parkinson's, perhaps with a sight 5 years down the road to cure Parkinson's, Alzheimer's, cancer, heart disease, and virtually every known malady.

Three years ago, there burst upon the scene the stem cell issue. Stem cells are extracted from embryos. Now they are working on inserting the stem cells in the human brain to cure Parkinson's or delay Alzheimer's; or into the heart, or into many other parts of the body.

A controversy has arisen because some object to stem cell research because they are extracted from embryos. Embryos can produce life. But the ones which are used for stem cell research would be discarded. Embryos are created from in vitro fertilization—customarily about a dozen. Mainly three or four are used, and the balance are being discarded.

If any of those embryos could produce life, I think they ought to produce life and ought not be used for stem cell production. If they are not going to produce life, why throw them away? Why not use them for saving lives?

We have put into this bill $1 billion for sort of a test program on embryo adoption. Let us try to find people who will adopt embryos and take the necessary steps on implanting them in a woman to produce life. If that could be done and use all of the embryos, that would be marvelous to produce life. But where those embryos are going to be discarded, I think the sensible thing to do is to use them for saving lives.

We have had in this Chamber an effort by our subcommittee and then the full committee to expand Federal funding for research on stem cells.

Right now Federal funding is permitted on stem cells once they have been extracted but not to extract them. My view is, that is something in which the Federal Government ought to participate, with the extensive funding available now in NIH.

Our efforts to expand that activity, to some extent, was complicated by amendments offered by the Senator from Kansas, Mr. BROWNBACK, who wanted to raise the cloning issue. We deferred that until next year because it would have tied up the bill for a protracted period of time. As the slow schedule of the Senate has worked, we could have been tied up, in any event, but we made the judgment, with the agreement of the majority leader, that a freestanding bill would come up in February or March.

While there is a consensus against cloning of another individual, there has been an unfortunate use of the terminology "therapeutic cloning," which is really a transplant. That involves a process where there is the DNA for a person, for example, who has Parkinson's, and that is inserted into the embryo so the stem cells come out consistent with the patient, not being rejected by the patient. So that is something we will be working on further with hearings set for our subcommittee into the next year.

We have taken a very firm stand on the bioterrorism issue, with our bill containing $338 million, and our subcommittee taking the lead on having hearings which eventuated in the supplemental appropriations bill having an additional $2.5 billion for the needs of State and local health departments purchasing vaccines against bioterrorism.

When the officials from the Centers for Disease Control came in, we admonished, I guess is as good a word as any, why they had not made the subcommittee aware of their needs before. It is no secret, you did not have to wait until anthrax came into the Hart Building or the terrorist attack on September 11 to realize the dangers of bioterrorism. Had they told us what their needs were, we would have responded as we were responding with billions for NIH.

But we worked through that. We asked them in an October 3 hearing for a list of all the bioterrorism threats and what it would cost to cure them. They produced the list, but we could not get it. CDC had to give it to HHS which did not want to disclose it because HHS had to give it to OMB, the Office of Management and Budget. By the time you finish playing alphabet soup in Washington, virtually everything is stymied.

But we had a subsequent hearing, and we got these figures, asking them what their professional judgment was as to what the funding should be. We have taken very important steps to protect America on bioterrorism.

Head Start has been a big issue for the subcommittee. There is additional funding, as we have in community health centers, and elevating women's health with additional funding. There was an initiative taken in the early 1990s by Senator HARKIN and myself to create a separate unit on women's health in the National Institutes of Health. There is additional funding for LIHEAP, the aging programs, AIDS, education, including education for disadvantaged children, school improvement programs, impact aid, bilingual education, special education, student aid, and public broadcasting.

Madam President, the conference agreement on the Labor, Health and Human Services, and Education bill before the Senate today includes $123.1 billion in discretionary spending, the full amount of the subcommittee's budget authority allocation under section 302(b) of the Budget Act. This amount represents an increase of $14 billion over the fiscal year 2001 freeze level.

At this time, I want to take this opportunity to thank the distinguished Senator from Iowa, Mr. HARKIN, the chairman of the committee, for his hard work in bringing this bill through the committee and on the floor for full consideration by all Senators.

The programs funded within the subcommittee's jurisdiction provide resources to improve the public health and strengthen biomedical research, assure a quality education for America's children, and offer opportunities for individuals seeking to improve job skills. I would like to mention several important accomplishments of this bill.

The conference agreement includes $23.3 billion for the National Institutes of Health, the crown jewel of the Federal Government. The $2.9 billion increase over the fiscal year 2001 appropriation will support medical research that is being conducted at institutions throughout the country. This increase will continue the effort to double NIH by fiscal year 2003. These funds will be critical in catalyzing scientific discoveries that will lead to new treatments and cures for a whole host of diseases.

Since September 11, 2001, Americans have become acutely aware that our enemies will use any means to murder and maim large numbers of U.S. civilians. The use of biological agents is no longer a threat—it is a reality. The committee has included $338 million to coordinate state and local readiness, stockpile appropriate pharmaceuticals, and build our public health infrastructure to respond to any act of bioterrorism. The anthrax found in Senator DASCHLE's office and in the House and Senate mail rooms, at postal facilities in New Jersey and the District of Columbia and surrounding areas, in news and other media facilities proves that we must try and prevent, detect and quickly respond to any further acts of bioterrorism. The supplemental appropriations bill which the Senate will take up shortly contains an additional $2,504,314,000 to address the needs of state and local health departments, purchase smallpox vaccine, to upgrade the capacity of laboratories and the CDC and NIH, and develop new vaccines at the National Institutes of Health.

For the first time, the conference agreement includes $1 million for a public awareness campaign to educate Americans about the existence of spare embryos and adoption options. During stem cell hearings, we were made aware that there are 100,000 spare frozen embryos stored in invitro fertilization clinics throughout the U.S. Many infertile couples could choose to adopt and implant such embryos if they were aware of that option.

To enable all children to develop and function at their highest potential, the agreement includes $6.5 billion for the Head Start Program, an increase of $338 million over the last year's appropriation. This increase will provide services to 916,000 ch8ldren in 49,420 classrooms across the nation.

To help provide primary health care services to the medically indigent and undeserved populations in rural and urban areas, the agreement contains $1.34 billion for community health centers. This amount represents an increase of $175.1 million over the fiscal year 2001 appropriation. These centers provide health care to nearly 12 million low-income patients, many of whom are uninsured.

Again this year, the conferees placed very high priority on women's health. Included in the amount is $26.8 million for the Public Health Service, Office of Women's Health, an increase of $9.5 million over last year's funding level to continue and expand programs to develop model health care services for women, provide monies for a comprehensive review of the impact of heart disease on women, and to launch an osteoporosis public educatoin campaign aimed at teenagers. Also included is $265 million for family planning programs; $124.4 million to support the programs that provide assistance to women who have been victims of abuse and to initiate and expand domestic violence prevention programs.

In fiscal year 2001, the Labor-HHS Subcommittee held several hearings to explore the factors leading to medical errors and received testimony from family members and patients detailing their experiences with medical mistakes. The Institute of Medicine also gave testimony and outlined findings from their recent report which indicated that 98,000 deaths occur each year because of medical errors and these deaths may cost up to $29 billion in excess health care expenditures and lost productivity each year. The conference report bill before the Senate contains $55 million to determine ways to reduce medical errors.

The agreement maintains $2 billion for the low Income Home Energy Assistance Program LIHEAP. The amount, when combined with the additional $300 million in emergency appropriations, will provide a total of $2.3 billion for the LIHEAP program fiscal year 2002 LIHEAP is the key energy assistance program for low income families in Pennsylvania and in other cold weather states throughout the Nation. Funding supports grants to states to deliver critical assistance to low income households to help meet higher energy costs.

For programs serving the elderly, the agreement includes: $357 million for supportive services and senior centers; $566.5 million for congregate and home-delivered nutrition services; and $206 million for the national senior volunteer corps; $445 million for the community service employment program which provides part-time employment opportunities for low-income elderly. Also, the bill provides $893.4 million for the National Institute on Aging for research into the causes and cures of Alzheimer's disease and other aging related disorders; funds to continue geriatric education centers; and the Medicare insurance counseling program.

For AIDS, the agreement includes in this amount is $1.9 billion for Ryan White programs, an increase of $103.1 million. also included is $; $781.2 million for AIDS prevention programs at the Centers for Disease Control; and $2.341 billion for research at the National Institute of Allergy and Infectious Diseases.

To enhance this Nation's investment in education, the bill before the Senate contains $48.5 billion in discretionary education funds, an increase of $8.3 billion over the fiscal year 2001 level, and $4 billion more than the President's budget request.

For programs to educate disadvantaged children, the bill recommends $12.3 billion, an increase of $2.6 billion over last year's level. The agreement also includes $250 million for the Even Start program to provide educational services to low-income children and their families.

For school improvement programs, the agreement includes $7.8 billion, an increase of $1.6 billion over the fiscal year 2001 appropriation. Within this amount, $2.850 billion will be used for a new state grant program for improving teacher quality. The agreement also includes $700.5 million for educational technology state grants.

For impact Aid programs, the agreement includes $1.143 billion, an increase of $150.1 million over the 2001 appropriation. Included in the recommendation is: $50 million for payments for children with disabilities; $982.5 million for basic support payments, $48 million for construction and $50 million for payments for Federal property.

For bilingual education, the agreement provides $665 million to assist in the education of immigrant and limited—English proficient students. This recommendation is an increase of $205 million over the 2001 appropriation.

For special education, the $8.6 billion provided in the agreement will help local educational agencies meet the requirement that all children with disabilities have access to a free, appropriate public education, and all infants and toddlers with disabilities have access to early intervention services. The $1.2 billion increase over the FY'01 appropriation will serve an estimated 6.5 million children age 3–21, at a cost of $1,133 per child. While also supporting 612,700 preschoolers at a cost of $637 per child.

For student aid programs, the agreement provides $12.3 billion, an increase of $1.6 billion over last year's amount. Pell grants, the cornerstone of student financial aid, have been increased by $250 for a maximum grant 34 million, the work study program is held at the FY '01 level and the Perkins loans programs is increase by $7.5 million.

The agreement includes $380 million for the Corporation for Public Boardcasting. In addition to the core amount provided for CPB, the committee recommends $25 million for the conversion to digital broadcasting.

There are many other notable accomplishments in this agreement, but for the sake of time, I have mentioned just several of the kep highlights so that the nation may grasp the scope and importance of this bill.

In closing, Madam President, I again thank Senator HARKIN and his staff and the other Senators on the subcommittee for their cooperation.

I thank my distinguished colleague from Minnesota for his patience, if, in fact, he was patient.

I yield the floor. And may I note for the record that I am going to have to return to the Commerce Committee, but I will be back to carry forward on the floor consideration of the conference report.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I, first of all, say to Senator SPECTER that was very gracious. Senator SPECTER and Senator HARKIN—Senator HARKIN and Senator SPECTER—are the ones who have led us, the ones who have been the leaders on this bill. So it was important to hear Senator SPECTER outline this legislation. I thank Senators HARKIN and SPECTER for their leadership. I am very proud of what they have done, given the resources with which we had to work.

I also thank Ellen Murray and Bettilou Taylor for their work. For a lot of us, there is a lot in this bill that is important to the people we love and believe in in our States. It is just a fact that a lot of the real tough work is done by the people who work with us. I thank them.

I also thank Ellen Gerrity because she is the one who has really driven, for me, and for lots of people, the mental health work. I am blessed to have her working with me. Senator DOMENICI and I are blessed to have her working with us.

On the vote which occurred 2 days ago in the conference committee, 10 House Members basically decided to eliminate the mental health parity legislation which would have ended the discrimination against people who struggle with this illness. This was the chance to end the discrimination, and they decided not to do so.

There were 67 Senators who were cosponsors of this legislation. It passed our committee—the HELP Committee—with the leadership of Senator KENNEDY, by a 21-to-0 vote. It was unanimously accepted on the floor of the Senate. And 244 House Members called on the conference committee: Please, don't block this legislation. This is an idea whose time has come. You can do something very good. You can end the discrimination against people struggling with this illness.

But the insurance companies won the day. The insurance companies lobbied furiously, and they got the House leadership to stop this. And the White House did not give us the support. No. The White House did not give us the support.

House leaders say next year they will hold hearings. They never have in the last 6, 7, 8, 9 years, but they say they will hold hearings. The White House says: We want to help next year. They could have helped this year. They could have helped now. It is not as if this discrimination just started yesterday. It is not as if we have not been working on this legislation for years. But they did not help now.

But I am confident, working with Senator DOMENICI—I am proud to work with him—that we will get their support next year. All of the groups and organizations representing all the people who struggle with this illness, and all the people who have loved ones who struggle with this illness, will be back.

My hope is that next year there will be a thousand people who struggle with this illness and who have friends and loved ones who struggle with this illness who will go to the House of Representatives and get 1 inch away from these Members who have blocked this bill and say: We are not going to let you do this to us any longer. We are men and women of worth and dignity and substance, and we refuse to accept this discrimination any longer.

They argue premiums would go up, but the Congressional Budget Office said premiums would go up 0.9 percent. They say it would be too expensive, but they do not talk about the $70 billion a year that we save by getting the treatment to people who now work, who can work with more productivity, with less absenteeism, or whose children now will be in school and will not be in jail, incarcerated, and needing to receive social services help.

The Washington Post editorialized last week that "the new asylums of the 21st century" for people struggling with mental illness are the prisons. I visited some of these juvenile "correctional" facilities. I have seen these children who never should have been there.

I say to Senator HARKIN, if there had been treatment for them on the front end, they would have never wound up incarcerated.

I went down to a hearing in Houston with SHEILA JACKSON-LEE. She asked me to come down there. It was packed with desperate parents who talked about the fact that their children ended up in jails because they couldn't get any coverage or help anywhere else. And the leadership of the House of Representatives, doing the bidding of the insurance companies, blocked this bill, and the White House did not help.

Now with the insurance industry we have something we have to be careful about. They are saying maybe next year we will cover only serious mental illness. They know that 90 percent of their costs are associated with severe mental illness, and they know that if they now all of a sudden say other illnesses won't be covered, the accountants working for the insurance companies will decide, not the doctors.

Do you want to know what will happen if all of a sudden we say we will only cover what they say is serious mental illness? The children will be the ones most discriminated against.

Suicide is the third leading cause of death of young people in the United States. Every year 30,000 Americans take their lives. In 90 percent of these situations it is because of depression, and the cause is inadequately treated mental illness. Every 18 minutes a child or adult takes their life because of the unmitigated, searing pain of depression and mental illness, and next year, while Americans wait for fairness in mental health care, thousands more will die and millions more will suffer because the House of Representatives, the Republican leadership, couldn't stand up to the insurance industry and couldn't do the right thing. And the White House couldn't see its way to help.

I thank the 67 Senators who helped. I thank the 244 House colleagues who helped. I thank the 154 organizations that have supported this legislation. I thank the Coalition for Fairness in Mental Illness Coverage, and I thank all of the organizations that are involved in that coalition.

I look forward to the day when people with mental illness will receive decent, humane, and timely health care. It will be a good day for our country.

A critical vote occurred in the Labor Health and Human Services conference committee earlier this week when 10 House members decided whether Congress would respond to the will of the people and establish fair treatment for people with mental illness. They decided they would not. The Mental Health Equitable Treatment Act (S. 543), supported by 67 Senators and 244 House members, was included in the Senate version of the LHHS appropriations bill, but not in the House version. Most of the 32 conferees had expressed strong support for this bill, and thus had their chance to vote their conscience and resist the enormous pressure that had been brought to bear by the business and insurance industries to kill this measure. Unfortunately, these lobbyists were joined by the House Republican Leadership and the White House to stop this bill in its tracks. They succeeded when the 10 House Republicans voted against accepting the mental health provision. Mental health parity was dropped.

House leaders are reportedly promising to hold hearings on parity for next year, and I strongly urge them to do so, and to allow no further delay to pass a full mental health parity bill. I look forward to continuing my long partnership with Senator DOMENICI and working with the House to ensure that such hearings are fair and represent all those with mental illness. Mental health parity supporters on the House side have waited nine years for the authorizing committees to do just that and move the mental health parity legislation in the House. The White House too has expressed support for working on mental health parity legislation next year, though they had no explanation for their opposition to moving the bill now. They were very pleased with the bill as it was voted out of the

Senate HELP committee with a vote of 21–0 on August 1, 2001. Yet, when Americans with mental illness needed the support of their President, now more than ever, he was not there for them.

Sometimes opponents claim that ending unfair limits for mental health care will cost too much, yet the Congressional Budget Office reported that the bill would increase total premium costs by only 0.9 percent. Moreover, this estimate does not even take into account the cost savings that have resulted in overall health care costs when mental health care is properly covered. Nor does it consider the cost savings in the workplace when absenteeism is reduced, and productivity is increased. Something else is lurking behind the claim of cost problems. What is lurking there is the continuing and widespread discrimination against people with mental illness in our health care system.

The stigma against people with mental disorders has persisted throughout history. As a result, people with mental illness are often afraid to seek treatment for fear that they will not be able to receive help, a fear all too often realized when they encounter outright discrimination in health coverage. Why is it that because the illness is located in the brain, and not the heart or liver or stomach, that such stigma persists?

One of the most serious manifestations of stigma is reflected in the discriminatory ways in which mental health care is paid for in our health care system. Health plans routinely set aside "mental" illnesses as distinct from "physical" illnesses in health care coverage. Inexplicably, they set an arbitrary number of hospital days or visits, or a higher level of copayments or deductible, as a way to handle mental health care. There is no clinical or scientific evidence that mental illness, or any illness for that matter, can always be treated successfully within a fixed number of days. Nor is there any economic or moral justification for charging people with mental illness more money for their care. One can only conclude that health plans try to save money at the expense of people with mental illness, and they bank on the stigma that accompanies this illness to discourage individuals from demanding better care. What a sad commentary on our health care system, and on our country.

The opponents, business and insurance lobbyists and their Congressional friends, who cite cost issues fail to recognize that proper treatment of mental illness actually saves money. They ignore the $70 billion per year cost of untreated mental illness. They also fail to recognize that our society picks up the cost of untreated mental illness in any case, for untreated illnesses don't just go away. Children with mental illness may end up in public institutions, foster care, or jail because their parents cannot afford their care. Adults who have private insurance are often forced into public health care systems financed through State governments, Medicare, and Medicaid. These systems are then forced to take scarce resources from those who have no insurance. Families are forced into bankruptcy; lives are broken; and lives are lost.

We also know that the number of people with serious mental illnesses in America's jails and prisons today is five times greater than the number in state mental hospitals. That is what happens when people, including those with jobs and private health insurance, do not get adequate care. How can our country tolerate this kind of abuse of basic human rights? Prisons, as the Washington Post editorial noted last Monday, are "the new asylums of the 21st century." This criminalization of the mentally ill is inhumane. It is also emotionally and financially costly, and a testament to government failure at all levels. We cannot afford to lose any more lives and we must not let those with mental illness go on being treated as criminals or as unworthy of medical care.

Opponents also often try to defeat mental health parity legislation by claiming they want to cover mental illness, but only "serious" mental illness, and thus they would limit coverage to a selected list that is also designed to discriminate, most of all against children. The bill that was developed this year was carefully crafted to address the health needs of all those with mental illness as well as the concerns of employers, and it did so without discriminating against particular diagnoses. The insurance industry is very aware that 90 percent of their costs associated with mental illness are associated with the most severe, as is true for other kinds of health issues as well. And yet, they want to oppose coverage for life-threatening illnesses that accountants, and not doctors, have listed as not "serious". Any effort on the part of the lobbyists, the House Republicans, or the White House to limit coverage by particular diagnoses should be stopped immediately. It is just another way to try to stop the effort to provide fairness in treatment for people with mental illness.

We know that mental illness is a real, painful, and sometimes fatal disease. It is also a treatable disease. The gap between what we know from scientific research and clinical expertise and what we do on behalf of patients is lethal. Suicide is the third leading cause of death of young people in the U.S. Each year, 30,000 Americans take their lives, and in 90 percent of these situations, the cause is inadequate treated mental illness. This is one of the true costs of delaying this bill that I hope those who voted against this understand: Every 18 minutes, a child or adult takes their lives because of the unmitigated, searing pain of depression or other mental illness. Next year, while Americans wait for fairness in mental health care, thousands will die and millions will suffer.

Parity will do so much to end the unfair cost requirements, access limits, and personal indignities that people seeking mental health care have been forced to endure. Parity in private insurance has been shown to save other health care costs and would revolutionize our country and our health care system in extraordinarily humane ways. Congress was stopped from doing this right now because of a few members and their lobbyist friends. We must not let these powerful lobbyists subvert the will of the Congress and the will of the 154 supporting organizations of the 2001 Mental Health Equitable Treatment Act and the millions of Americans they represent whose lives are touched by the pain, suffering, and sorrow of mental illness.

I thank the 67 Senate and the 244 House colleagues who worked hard to do the right thing for people with mental illness, and I urge them to not take this defeat lightly. I especially want to thank the 154 organizations who supported this legislation and fought for its passage, particularly the Coalition for Fairness in Mental Illness Coverage and its member organizations: American Managed Behavioral Healthcare Association, American Medical Association, American Psychiatric Association, American Psychological Association, Federation of American Hospitals, National Alliance for the Mentally Ill, National Association of Psychiatric Health Systems, and National Mental Health Association.

We must return quickly to this bill early in 2002 and accept no excuses from the Administration or the House for any further delay. I look forward to the day when people with mental illness receive decent, humane, and timely health care. It will be a good day for our country.

Mr. SARBANES. Madam President, today I would like to bring to your attention title VI of the Labor, Health and Human Services Appropriations bill (H.R. 3061), which is the "Mark to Market Extension Act of 2001". This legislation was passed unanimously out of the Committee on Banking, Housing and Urban Affairs on August 1, 2001. We worked closely with both the House and the Administration to craft the final product that is now part of this conference report.

The legislation will ensure that HUD continues to have the authority to restructure the rents and the mortgages of its FHA-insured section 8 project-based portfolio. These properties have been operating for the past 20 years on long term rental subsidy contracts, many of which are currently paying above-market rents. The program we seek to reauthorize provides HUD with the tools to reduce those rents to market levels and to restructure the underlying mortgages so that the new, lower rents will be sufficient to cover the debt. At the same time, the program provides for the rehabilitation of these projects, and requires another long term commitment to keep the properties affordable.

The appropriators asked that this reauthorization be incorporated into this appropriations bill in order to make use of the $300 million in savings that this legislation will generate. We were happy to accommodate this request.

I would like to thank Senator REED, the Chairman of the Subcommittee on Housing and Transportation, Senator GRAMM and Senator ALLARD for their hard work, support and cooperation throughout this process.

Below is a detailed description of title VI, which I would like to submit for the record on behalf of myself and Senators REED, GRAMM and ALLARD.

I ask unanimous consent that the two statements be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR SARBANES, SENATOR GRAMM, SENATOR REED, AND SENATOR ALLARD ON EXTENSION OF MARK-TO-MARKET PROGRAM FOR MULTIFAMILY ASSISTED HOUSING IN FY-20 LABOR-HHS APPROPRIATIONS LEGISLATION

The following represents the views of the Chairman and Ranking Members of the Senate Committee on Banking, Housing, and Urban Affairs and its Subcommittee on Housing and Transportation regarding the "Mark-to-Market Extension Act of 2001," which is part of the Labor-HHS Appropriations Conference Report.

SUBTITLE A—MULTIFAMILY HOUSING MORTGAGE AND ASSISTANCE RESTRUCTING AND SECTION 8 CONTRACT RENEWAL

Section 602: Purposes

The bill includes a number of new purposes that reflect some of the concerns of the Committee and a number of stakeholders regarding the administration of the mark-to-market (MTM) program. For example, concerns were raised that the private participating administrative entities (PAEs) might not be providing the amount of rehabilitation and reserves necessary for the properties to meet the 30 years affordability commitment required by the law. Likewise, it is important for the PAEs, both public and private, to correctly calculate project expenses. Underestimation of expenses, as with inadequate investment in rehabilitation, will undermine the physical and financial condition of the properties. Failure to account realistically and accurately for the expenses of running a project could result in the project underwriting being too "tight" with too little debt restructured, and too little cash flow. In such cases, unexpected events, such as spikes in energy prices, could force the property into default. Such an outcome would undercut the purpose of this program, which is intended to reposition these properties both physically and financially to continue to serve low-income residents for the long haul.

The Committee expects the Department to continue to keep track of the properties after they have been restructured. This is particularly important for a number of properties that have had rents reduced to market levels without the debt being restructured. These properties have been put on a "watch list" to make sure the owners continue to maintain the properties, despite the reduction in cash flow. The Committee expects HUD to act expeditiously if these properties show any signs of deterioration.

Section 611: Mark-to-Market Amendments

Subsection (a)—Authorizes $10 million per year for tenant groups, non-profit organizations, and public entities for technical assistance and capacity building to meet the purposes of the Act. This provision allows the funding to be carried over. Entities that qualify for debt forgiveness under section 517(a)(5) automatically qualify for grants under this subsection.

(b) Exception rents are allowed for up to 5 percent of the total number of projects subject to a portfolio restructuring agreement.

(c) Provides for notice to residents of the Secretary's rejection of an assistance plan.

(d) Allows certain properties to go through the program upon transfer of ownership, at the request of the new owner.

(e) Provides the Secretary the authority to reduce the amount of funds contributed by owners for rehabilitation in cases where additional features such as an elevator or air conditioning are added to the project and were not previously in that project. This flexibility extends to these additional features only; the Committee expects the Secretary to continue to apply the full matching funds requirement for all standard rehabilitation.

(f) Allows owners of previously eligible projects to opt back into the program. HUD believes that the section 8 contracts on some properties that should have gone through the mark-to-market program were renewed without going through the program. This subsection allows such properties, at the owner's consent, to get back into the program, if the property would have been otherwise eligible.

(g) Redefines second mortgages to allow inclusion of miscellaneous costs, subject to likelihood of repayment. This subsection also allows the Secretary to assign the second mortgage to an entity that meets the conditions for debt modification or forgiveness. The Congress intends this additional tool to be used in the same framework as modification or forgiveness. For example, if HUD would otherwise have forgiven a second mortgage, we would expect the Secretary to assign the mortgage to the eligible owner without any additional requirements, if that is the preference of the non-profit owner.

(h) Retains program exemption for elderly projects financed through section 202 that have been refinanced.

Section 613: Consistency of Rent Levels Under Enhanced Voucher Assistance and Rent Restructurings

The Mark-to-market program is designed to lower section 8 rental payments that are above market and, where necessary, restructure the underlying debt in eligible properties. To determine if the contract rent is above, below, or at market levels requires that a rent comparability study be done. The Department raised a concern that some rent comparability studies may be inaccurate, resulting in a number of contracts being renewed at above market rents. Alternatively, the Committee has heard reports that OMHAR is setting rents too low, or that the value of vouchers being provided to residents in the case of opt outs are being set too high, thereby encouraging owners to avoid the mark-to-market program.

The Committee believes that none of these results is desirable: properties with rents that are above market should go through the program in order to get a thorough financial and physical review. Moreover, whatever organization is establishing the comparable market rent, whether it is the PAE or the PHA, the results should be consistent so that the owner's decision to stay in the program or opt out is not determined by who is doing the rent study. In this section, the Committee directs the Secretary to establish procedures for ensuring rents as determined through this program, the contract renewal process, or for enhanced vouchers for the same units are reasonably consistent.

Section 614: Eligible Inclusions for Renewal Rents of Partially Assisted Buildings

Allows certain projects that are partially assisted with section 8 to get budget-based rents up to comparable market rents, sufficient to cover the costs of maintenance of the project.

Section 615: Eligibility of Restructuring Projects for Miscellaneous Housing Insurance

Amends Section 223(a)(7) of the National Housing Act to allow HUD-held mortgages on properties in the program to be treated as FHA-insured loans to expedite the refinancing process. In addition, it extends the maximum term of FHA-insured and HUD-held mortgages refinanced under this subsection to 30 years.

SUBTITLE B—OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

Section 621: Reauthorization of Office and Extension of Program

Extends the program to October 1, 2006. Extends the Office until October 1, 2004.

Sections 622 and 623: Appointment of Director and Vacancy in Position of Director

Establishes the procedure for appointing the Director of OMHAR and for filling vacancies. The Director would be appointed by the President, but would no longer be a Senate-confirmed position.

Section 624: Oversight by Federal Housing Commissioner

Places OMHAR under the jurisdiction of the FHA Commissioner/Assistant Secretary of Housing, as requested by the Administration. This is being done to enable better coordination between the Office of Housing and OMHAR. The Committee does this with the understanding, as expressed by Assistant Secretary Weicher at the Subcommittee's June 19, 2001 hearing, that HUD has "every expectation that [OMHAR] will continue to be fully dedicated to [the mark-to-mark] work."

The Committee also expects the FHA Commissioner to work conscientiously to maintain the highly qualified staff that exists at OMHAR. At the hearing, the GAO witness noted several times of the need to retain OMHAR's "contract staff that have unique expertise in this program. . . ."

Section 625: Limitation on Subsequent Employment

Prohibits certain OMHAR employees from subsequent compensation from parties with financial interests in the program for a period of 1 year.

SUBTITLE C—MISCELLANEOUS HOUSING PROGRAM AMENDMENTS

Section 631: Extension of CDBG Public Services Cap Exception

Extends the expanded public services cap for Los Angeles for an additional 2 years. It is expected that this will be the last in a number of extensions.

Section 632: Use of Section 8 Enhanced Vouchers for Prepayments

Extends eligibility for enhanced vouchers to projects that prepaid in 1996.

Section 633: Prepayment and Refinancing of Loans for Section 202 Supportive Housing

Makes the refinancing provisions for elderly (section 202) projects in the American Homeownership and Economic Opportunity Act of 2000 self-enacting. The Committee believes that the provisions enacted last year should have already been implemented by HUD. This Section makes it clear that the provisions from the 2000 Act are self-enacting, and do not need implementing regulations from the Department.

CHANGES TO THE 2001 AND 2002 APPROPRIATIONS COMMITTEE ALLOCATIONS AND THE BUDGETARY AGGREGATES

Mr. CONRAD. Madam President, section 314 of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to adjust the budgetary aggregates and the allocation for the Appropriations Committee by the amount of appropriations designated as emergency spending pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. The conference report to H.R. 3061, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for 2002 includes $300 million in emergency-designated funding for the Low-Income Home Energy Assistant Program. That budget authority will result in $75 million in new outlays in 2002.

Pursuant to section 302 of the Congressional Budget Act, I hereby revise the 2002 allocation provided to the Senate Appropriations Committee in the concurrent budget resolution in the following amounts.

TABLE 1.—REVISED ALLOCATION FOR APPROPRIATIONS COMMITTEE, 2002

[In millions of dollars]

	Budget authority	Outlays
Current Allocation:		
General Purpose Discretionary	549,444	551,304
Highways	0	28,489
Mass Transit	0	5,275
Conservation	1,760	1,232
Mandatory	358,567	350,837
Total	909,771	937,137
Adjustments:		
General Purpose Discretionary	300	75
Highways	0	0
Mass Transit	0	0
Conservation	0	0
Mandatory	0	0
Total	300	75
Revised Allocation:		
General Purpose Discretionary	549,744	551,379
Highways	0	28,489
Mass Transit	0	0
Conservation	1,760	1,232
Mandatory	358,567	350,837
	910,071	937,212

Mr. CONRAD. Mr. President, I rise to offer for the RECORD the Budget Committee's official scoring for the conference report to H.R. 3061, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for fiscal year 2002.

The conference report provides $123.371 billion in discretionary budget authority, which will result in new outlays in 2002 of $50.089 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for H.R. 3061 total $107.791 billion in 2002. The conference report provides virtually the same amount of budget authority as did the Senate-passed bill, which provided $123.37 billion. The conference report is at the Senate subcommittee's section 302(b) allocation for both budget authority and outlays.

Included in the conference report's total is $300 million in emergency-designated funding for the low-income home energy assistance program, (LIHEAP), which will result in new outlays of $75 million in 2002. In accordance with standard budget practice, I am adjusting the appropriations committee's allocation by the amount of that emergency-designated spending.

Additionally, H.R. 3061 also provides $18.874 billion in advance appropriations for 2003 for employment and training, health resources, child care, and education programs. Those advances are specifically allowed for under the budget resolution adopted for 2002, and, combined with all other advance appropriations considered by the Senate to date, fall within the limit imposed by the resolution. Further, the report adopts the Senate provision extending the Mark-to-Market Program for multifamily assisted housing. That provision, which is included in the above totals, is estimated to save $355 million in 2002. Finally, the report includes language that extends by one year certain benefits regarding mental health parity. Because that provision includes language directing how its costs are to be counted for budgetary purposes, it violates section 306 of the Congressional Budget Act of 1974.

I ask unanimous consent that a table displaying the budget committee scoring of this report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 3061, CONFERENCE REPORT TO THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

[Spending comparisons—Conference Report, in millions of dollars]

	General purpose	Mandatory	Total
Conference report:			
Budget Authority	123,371	272,937	396,308
Outlays	107,791	272,968	380,759
Senate 302(b) allocaiton:[1]			
Budget Authority	123,371	272,937	396,308
Outlays	107,791	272,968	380,759
President's request:			
Budget Authority	116,382	272,937	389,265
Outlays	105,957	272,968	378,925
House-passed:			
Budget Authority	123,371	272,937	396,308
Outlays	106,828	272,968	379,796
Senate-passed:			
Budget Authority	123,370	272,937	396,307
Outlays	107,749	272,968	380,717
CONFERENCE REPORT COMPARED TO			
Senate 302(b) allocation:[1]			
Budget Authority	0	0	0
Outlays	0	0	0
President's request:			
Budget Authority	7,043	0	7,043
Outlays	1,834	0	1,834
House-passed:			
Budget Authority	0	0	0
Outlays	963	0	963
Senate-passed:			
Budget Authority	1	0	1
Outlays	42	0	42

[1] For enforcement purposes, the budget committee compares the conference report to the Senate 302(b) allocation.

Notes.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions. In addition, the conference report provides $18.874 billion in advance appropriations for fiscal year 2003.

Mr. DURBIN. Mr. President, during this summer's debate on the ESEA reauthorization legislation, I offered an amendment to increase the authorization for the new math and science partnerships program from $500 million in the Senate bill to $900 million in fiscal year 2002. Raising the authorization to this level brought math and science partnership participated and science partnership funding to the same level as the Reading First program also created in the education bill. My amendment passed by voice vote.

During that debate, I joined several of my colleagues in emphasizing the critical need to improve math and science education in our nation's elementary and secondary schools. U.S. students consistently score lower than their counterparts in other nations in math and science, yet more than one in four high school math teachers and nearly one in five high school science teachers lack even a minor in their main teaching field. The training and preparation of math and science teachers must be a top priority.

I am disappointed that the Labor-HHS-Education Appropriations bill funds the math and science partnerships at just $12.5 million in fiscal year 2002— a level far below the $450 million authorized by Congress for this program in the final ESEA legislation.

But I am encouraged by language included in the conference report that states,

> the conferees believe math providing high-quality math and science instruction is of critical importance to our nation's future competitiveness, and agree that math and science professional development opportunities should be expanded. The conferees therefore strongly encourage the Secretary and the State to continue to fund math and

science activities within the Teacher Quality Grant program at a comparable level in fiscal year 2002.

I understand that the conferees intend that at a minimum, the current commitment to the training of math and science teachers will be upheld. The conference report urges the Secretary of Education and the States to use the Teacher Quality grant program, funding available for math and science partnerships and through other federal grants to bring math and science education is a level that adequately prepares our young people for the demands for the demands of the 21 century. I hope that States and districts continue to increase their efforts in the area. I look forward to working with my colleagues next year to further support strong math and science education in schools.

SMALLPOX VACCINATION FOR FIRST RESPONDERS

Mrs. BOXER. Mr. President, smallpox is a deadly disease that if not treated within the few first days after initial exposure, can cause death in 1 out of 3 cases. Clearly, this is not a disease to take lightly.

The problem with smallpox, unlike our recent experience with anthrax, is that it is highly contagious, and not simply infectious. Thus, one person can spread the disease to hundreds of people within a matter of days.

In this new climate of threatened bioterrorist attacks, it is essential that we prepare ourselves for the worst case scenario and not simply sit back and hope for the best.

This fact was highlighted in disturbing detail in the "Dark Winter" exercise conducted by the Center for Civilian Biodefense Studies at John Hopkins University.

"Dark Winter" showed that an aerosol release of smallpox virus would spread easily, and that the dose needed to cause infection is very small. The exercise showed that 20 confirmed cases could result in as many as 300,000 additional infections and 100,000 deaths in just 3 short weeks.

In light of this, the Federal Government is working quickly to ensure that public health officials at all levels of government are able to work together should an outbreak occur.

I applaud the steps already taken by the Centers for Disease Control to vaccinate some of its first response personnel and to ensure the safety of those vaccinations.

But I believe it is not only essential to have a trained and ready team in place at the federal level to respond immediately to a possible outbreak, I believe that such a vaccination program should be expanded.

That is why I sent a letter to Health and Human Services Secretary Thompson urging him to work with Governors to identify and vaccinate key first responders in all 50 States. I specifically asked Secretary Thompson to instruct CDC officials to reach out to Governors and work with them to create lists of critical first responders in their States, and to authorize those vaccinations within the next 60 days.

We must also work quickly to make sure we have at least 290 million doses of smallpox vaccine available to treat the entire population as well as support additional research on antiviral therapies and other vaccines to help control and contain any bioterrorist attack.

In California, many companies are already making progress toward such antiviral therapies for smallpox, and I hope that we will not delay in providing funding for this type of research.

Mr. HARKIN. I commend my colleague from California on her thoughtful comment on the dangers of smallpox. I agree with her that much more research on new vaccines and therapies is needed and am proud of the many companies across the nation that are leaders in this important effort.

As my colleague indicates, the CDC has recently developed a strategy for vaccination in response to a smallpox outbreak and the funding provided in the Labor, Health and Human Services and Education Appropriations bill will help the CDC in carrying out this goal.

Additionally, I believe that the funding provided for the Office of Emergency Preparedness for bioterrorism-related activities can be especially useful in making the vaccine available to first responders.

Mrs. BOXER. I thank my distinguished colleague from Iowa for his supportive remarks, and hope that Secretary Thompson will seriously consider his suggestion.

I truly believe that a small cadre of vaccinated first responders from each of the 50 states would provide an indispensable complement to the CDC staff already inoculated.

Mr. HARKIN. I agree with my colleague from California that vaccinating first responders should be given serious consideration as the CDC and the Office of Emergency Preparedness pursue bioterrorist activities.

Mrs. BOXER. As we continue to discuss funding to prepare for potential bioterrorist attacks, we should also have confidence in this country's ability to react to a smallpox outbreak promptly. Ensuring that first responders are "armed" with a vaccination and in a position to respond is a responsible way to achieve this goal.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I thank the conferees on this bill for their hard work. This is important legislation that provides Federal funding for the Departments of Labor and Health and Human Services, and Education, and related agencies.

I am pleased to see increased funding for many programs, especially in light of our Nation's war on terrorism. This includes an increase in funding for bioterrorism activities and for strengthening our Nation's public health infrastructure. This funding is critical for all our States, localities, and our Nation as a whole to ensure that we are ready to respond to all contingencies.

There is funding to ensure our Nation's food supply remains safe and resources for helping meet the health care needs of the uninsured. In addition to funding key public health programs, this bill provides funds for helping States and local communities educate our children. Furthermore, it funds our scientists who are dedicated to finding treatments, if not cures, for many illnesses, including Parkinson's, Alzheimer's, and ALS.

The legislation also ensures our Nation's most vulnerable, our children, senior citizens and the disabled, have access to quality health care.

Funds are also provided for important programs that assist working families needing child care, adult daycare for elderly seniors, and Meals on Wheels.

For all the good in this bill, I ask: How many other worthy programs are being shortchanged because of our parochial appetites? Again, I find myself in the unpleasant position of speaking about parochial projects in yet another conference report. I have identified nearly $1 billion in earmarks. The total amount in porkbarrel spending appropriations bills considered so far is $15 billion.

I would like to start out by asking unanimous consent to print in the RECORD the Web site of the U.S. Senate Committee on Appropriations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE COMMITTEE ON APPROPRIATIONS

AUTHORIZATIONS AND APPROPRIATIONS: WHAT'S THE DIFFERENCE?

Authorization laws have two basic purposes. They establish, continue, or modify federal programs, and they are a prerequisite under House and Senate rules (and sometimes under statute) for the Congress to appropriate budget authority for programs.

Some authorization laws provide spending directly. In fact, well over half of federal spending now goes to programs for which the authorizing legislation itself creates budget authority. Such spending is referred to as direct, or mandatory, spending. It includes funding for most major entitlement programs. (Some entitlements are funded in annual appropriation acts, but the amounts provided are controlled by the authorization law that established the entitlement.) The authorization laws that provide direct spending are typically permanent, but some major direct spending programs, such as the Food Stamp program, require periodic renewal.

Discretionary spending, which is provided in the 13 appropriation acts, now makes up only about one-third of all federal expenditures. For discretionary spending, the role of the authorizing committees is to enact legislation that serves as the basis for operating a program and that provides guidance to the Appropriations Committees as to an appropriate level of funding for the program. That guidance typically is expressed in terms of an authorization of appropriations. Such authorizations are provided either as specific dollar amounts (definite authorizations) or "such sums as are necessary" (indefinite authorizations).

In addition, authorizations may be permanent and remain in effect until changed by the Congress, or they may cover only specific fiscal years. Authorizations that are limited in duration may be annual (pertaining to one fiscal year) or multiyear (pertaining to two, five, or any number of specific fiscal years). When such an authorization expires, the Congress may choose to extend the life of a program by passing legislation commonly referred to as a reauthorization. Unless the underlying law expressly prohibits it, the Congress may also extend a program simply by providing new appropriations. Appropriations made available for a program after its authorization has expired are called "unauthorized appropriations."

Longstanding rules of the House allow a point of order to be raised against an appropriation that is unauthorized. During initial consideration of a bill in the House (which by precedent originates appropriation bills), unauthorized appropriations are sometimes dropped from the bill. However, the House Committee on Rules typically grants waivers for unauthorized appropriations that are contained in a conference agreement. In the Senate, there is a more limited prohibition against considering unauthorized appropriations.

Both House and Senate rules require that when the Committees on Appropriations report a bill, they list in their respective committee reports any programs funded in the bill that lack an authorization. The information in the committee reports, however, differs somewhat from the information shown in this report. This report covers programs that at one time had an explicit authorization that either has expired or will expire. Unlike the lists shown in the Appropriations Committee reports, this report does not include programs for which the Congress has never provided authorizations of appropriations. For example, some Treasury Department programs have never received explicit authorizations of appropriations. They receive appropriations nonetheless because the authority to obligate and spend funds is considered "organic"—inherent in the underlying legislation or executive action that originally empowered the Treasury to perform particular functions.

As mentioned above, many laws establish programs with authorizations of discretionary appropriations that do not expire. Both the Appropriations Committee reports and this CBO report exclude programs with that type of authorization because its effect is permanent."

WHERE DOES THE MONEY GO?

While the size of the annual federal budget has increased in dollar terms (reflecting inflation, increased population and economy) over the years, the proportion available for common government services has shrunk dramatically. Competition among federal agencies for funding is heating up.

Over the last three decades, discretionary spending has been cut significantly to accommodate rapid growths in other expenses. Discretionary spending covers everything from road building to police protection to medical research to our national defense—most of the government services with which Americans are familiar. All other spending is mandatory—required by law regardless of what is left over for discretionary spending. Mandatory spending includes entitlements such as Social Security and Medicare, and the enormous interest the U.S. must pay every year to finance the national debt.

Three decades ago, nearly two-thirds of the federal budget was available for discretionary programs: 1966—$9 billion, interest; $43 billion, entitlement; $90 billion (63%), discretionary.

In the 1970s, entitlement spending jumped, placing a crimp on discretionary spending: 1976—$27 billion, interest; $189 billion, entitlement; $475 billion, (45%), discretionary.

By the mid-1980's, interest payments on the national debt began to rise: 1986—$136 billion, interest; $462 billion, entitlement; $438 billion (42%), discretionary.

By 1996, entitlement spending took half of the budget pie. In just 30 years, the amount left over for roads, police, defense, and most other government services shrunk to a third of the budget: 1966—$241 billion, interest; $859 billion, entitlement; $535 billion (33%), discretionary.

Current budget projections show the same trend. By 2006, entitlement spending will demand the majority of the federal budget. Interest payments will continue to be a major drain on the Treasury, and the remaining amount will be divided among discretionary programs: 2006—$209 billion, interest; $1,476 billion, entitlement; $6266 billion (27%), discretionary.

Compare the forty-year difference side-by-side: 1966—$9 billion, interest; $43 billion, entitlement; $90 billion (63%), discretionary. 2006—$209 billion, interest; $1,476 billion, entitlement; $626 billion (27%), discretionary.

RULE XVI—APPROPRIATIONS AND AMENDMENTS TO GENERAL APPROPRIATIONS BILLS

1. On a point of order made by any Senator, no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act or resolution previously passed by the Senate during that session; or unless the same be moved by direction of the Committee on Appropriations or of a committee of the Senate having legislative jurisdiction of the subject matter, or proposed in pursuance of an estimate submitted in accordance with law.

2. The Committee on Appropriations shall not report an appropriation bill containing amendments to such bill proposing new or general legislation or any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law if such restriction is to take effect or cease to be effective upon the happening of a contingency, and if an appropriation bill is reported to the Senate containing amendments to such bill proposing new or general legislation or any such restriction, a point of order may be made against the bill, and if the point is sustained, the bill shall be recommitted to the Committee on Appropriations.

3. All amendments to general appropriation bills moved by direction of a committee having legislative jurisdiction of the subject matter proposing to increase an appropriation already contained in the bill, or to add new items of appropriation, shall, at least one day before they are considered, be referred to the Committee on Appropriations, and when actually proposed to the bill no amendment proposing to increase the amount stated in such amendment shall be received on a point of order made by any Senator.

4. On a point of order made by any Senator, no amendment offered by any other Senator which proposes general legislation shall be received to any general appropriation bill, nor shall any amendment not germane or relevant to the subject matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; nor shall any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law be received if such restriction is to take effect or cease to be effective upon the happening of a contingency; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate; and any such amendment or restriction to a general appropriation bill may be laid on the table without prejudice to the bill.

5. On a point of order made by any Senator, no amendment, the object of which is to provide for a private claim, shall be received to any general appropriation bill, unless it be to carry out the provisions of an existing law or a treaty stipulation, which shall be cited on the face of the amendment.

6. When a point of order is made against any restriction on the expenditure of funds appropriated in general appropriation bill on the ground that the restriction violates this rule, the rule shall be construed strictly and, in case of doubt, in favor of the point of order.

7. Every report on general appropriation bills filed by the Committee on Appropriations shall identify with particularity each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session.

8. On a point of order made by any Senator, no general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced.

Mr. McCAIN. I will quote from it. It says:

> Authorization laws have two basic purposes. They establish, continue, or modify federal programs, and they are a prerequisite——

I emphasize, "a prerequisite"——

> under House and Senate rules . . . for the Congress to appropriate budget authority for programs.

I found that entertaining and amusing because we have this list of hundreds of projects which are not authorized and are funded at whatever level the appropriators see fit.

I will go through a number of them. Some of them are entertaining; some of them make you sad. I would like to pose a question to the manager of the bill, if I could have his attention. I see that there is $1 million for the Shakespeare Rose Theater to enhance educational and cultural programs and language literacy in the arts for students and the general public.

Could the manager of the bill tell me where the Shakespeare Rose Theater is located?

I admit there are hundreds here. I can understand why the manager of the bill wouldn't know why it is a paltry $1 million, but could the manager of the bill tell me where the Shakespeare Rose Theater is located?

Mr. HARKIN. Might I inquire of the Senator, what committee does the Senator——

Mr. McCAIN. I only have 10 minutes. Can you tell me where the theater is located? That is a pretty straightforward question. It deserves a straightforward answer.

Mr. HARKIN. You know, Madam President, I would just say to the Senator, he asked me a question——

Mr. McCAIN. I withdraw the question.

Mr. HARKIN. You asked me a question. Now he won't let me answer it.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. McCAIN. I asked for an answer. I didn't get an answer.

Mr. HARKIN. The answer is there are 1,600 different items in this bill. If the Senator has about 60 seconds of patience, I will find out for him.

Mr. McCAIN. I thank you, but it is an example. The manager of the bill doesn't even know where a place that we are giving $1 million of the taxpayers' dollars is located.

Mr. HARKIN. It is in Massachusetts.

Mr. McCAIN. That is instructive. That is instructive about the proliferation of the pork in this legislation.

Let me cite a few others: $500,000 for the Mattatuck Museum in Waterbury, CT; $800,000 for the Mind-Body Institute of Boston, MA—the Mind-Body Institute of Boston, MA?—$150,000 for the Lady B Ranch Apple Valley, CA, for the Therapeutic Horseback Riding Program.

I want to go back to what the Senator said, that there are 1,600 earmarks. So the manager of the bill doesn't even know where $1 million goes. Maybe $1 million isn't much to the manager of the bill, but it sure as heck is a great deal of money to my constituents. I won't pursue this.

Again, $150,000 for the Lady B Ranch Apple Valley, CA, for the Therapeutic Horseback Riding Program. If you asked the average citizen if a therapeutic horseback riding program was at the top of their priority list, I don't think so. But therapeutic horseback riding has to be earmarked for Apple Valley, CA.

Continuing, $500,000 for the University of Washington Center for Health Workforce Studies in Seattle, WA. By the way, there is $800,000 for the Seattle King County Workforce Development Council, Seattle, WA, for the purpose of retraining displaced Boeing employees. Now in the Defense appropriations bill, which is coming up very shortly, we will have a $26 billion bailout for Boeing. Yet we still need $800,000 to retrain their workers. That is a good deal for Boeing.

The list continues:

$750,000 for the Center for Textile Training and Apparel Technology at Central Alabama Community College;

$200,000 for the University of Arkansas Medical Services BioVentures Incubator for equipment needed for wetlabs used in training;

$800,000 for Bishops Museum. I dare not ask the manager where Bishops Museum is, but I can find out for myself.

Continuing with the list: $200,000 for the Mississippi State University, Center for Advanced Vehicular Systems, Mississippi State, MS, for automotive engineering training.

The list goes on and on and on. Here is something that is really entertaining, or saddening, depending on whether or not you are a taxpayer. For example, it earmarks $5 million, $5 million for a program never authorized—never a hearing through the Commerce Committee—$5 million for a program to promote educational, cultural apprenticeships, and exchange programs for Alaska Natives, native Hawaiians, and their historical whaling and trading partners in Massachusetts. That is remarkable, remarkable—$5 million. This is a new program authorized by the Senate-passed version of the ESEA authorization bill. It was not requested by the administration.

It is interesting to note that even though the United States does not engage or support commercial whaling—we are against commercial whaling—we are willing to provide $5 million for a program highlighting the practice.

Another issue of concern is the report's inclusion of $25 million for equipment and facilities to assist public broadcasters with the transition to digital television. I would remind my colleagues that this request was never the subject of a hearing by the Commerce Committee, which is the authorizing committee. I don't believe that Congress is exercising sound fiscal policy when it decides to appropriate millions of dollars to publicly funded television stations so that they may purchase the latest in digital technology.

Rather, the Corporation for Public Broadcasting should have come before the Commerce Committee to discuss with us the best way to achieve the goals of public broadcasters and ensure that taxpayer dollars are spent wisely.

So as the manager said, there are 1,600 earmarks in this bill, very few of them, if any, previously authorized; all of them are in violation of the Web site the Appropriations Committee has. The overwhelming majority of these earmarks are for members of the Appropriations Committee, so that those States that are not represented on the Appropriations Committee are shortchanged. There is no competition. There is no authorization. There is no hearing. We are talking about a billion dollars here. It is remarkable.

The rules of the Senate have to be changed. The rules of the Senate have to be changed so that those of us who don't support these programs will have an opportunity to have our States' priorities considered as well.

I have something that my staff put in front of me regarding the Rose. Apparently, it is in London, England. It was built in 1587 by Philip Henslowe. The Rose was the first theater on London's Bankside. Its repertory included plays by Kyd, Jonson, Shakespeare, and Marlowe. In 1989 its remains were discovered and partially excavated amidst a blaze of international press coverage.

Are we now giving a million dollars to a theater in London, England? Remarkable. Put in without any hearing, without any authorization, without anything? We are going to give a million dollars for that? Are the British so bad off that they need a million dollars from us for a theater in London?

We have homeless people wandering the cities of America and we are going to give a million dollars to the Rose Theater? Remarkable. Remarkable.

Madam President, it is outrageous, disgraceful, and it is an abrogation of the process of legislation. Again, I will continue to oppose this and try to bring this to the attention of the American people.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, the Senator from Arizona never mentioned the projects in Arizona in the amount of $6.7 million. Let me read a couple: University of Arizona for a border health initiative. There is one for Pima Community College in Arizona for minority students to attend college. There is the Pima County Department of Health and the University of Arizona. Here is one for Herd Museum in Phoenix to develop exhibits and educational programs about the historic Phoenix Indian School and the Native Americans who attended the school.

Does the Senator want us to knock all those out?

Mr. McCAIN. Absolutely. I have opposed every earmarked project for my State, and I have done so for all the years I have been here. I am sorry the Senator from Iowa doesn't know that.

Mr. HARKIN. The Senator knows full well that the other Senator from Arizona supports those.

Mr. McCAIN. The other Senator does not support those. It came from the House.

Mr. HARKIN. So does the Congressman.

Mr. McCAIN. It came from the House. He doesn't even know where the theater is in London.

Mr. HARKIN. The Congressman also supports them. I want to mention a couple of other projects. The Senator mentioned the Bishop Museum located in Hawaii. The other one mentioned was in Massachusetts. The Senator made fun of a horseback riding project that he kind of mocked. I don't know that program intimately, but I remember when it was brought up. This is a program in California for therapy for severely mentally retarded and brain-injured kids. It is a program where they have found that by using this kind of therapy, it allows these kids to have a little bit better life. I am not a medical expert. I don't know how this works. But according to the Member of Congress who brought this up, this is something the health care professionals believe is very important to these disabled kids.

I am told that the Senator from Arizona may be slightly mistaken, that the Senator from Arizona did ask for some of these projects. The Pima County Department of Health in Arizona, a $400,000 grant was asked for by the Senator from Arizona, Mr. McCAIN—I am sorry, Mr. KYL. It was asked for by the other Senator from Arizona. Certainly, the other Senator from Arizona —I can't speak for him—would not say just this is mine and nobody else's. So I say that there are four projects in Arizona asked for by Senator KYL from Arizona. I want the record to show that.

Mr. McCAIN. Madam President, do I have any time remaining?

The PRESIDING OFFICER. The Senator does not have any time remaining.

The Senator from Kansas is recognized.

Mr. BROWNBACK. I believe I have 10 minutes.

The PRESIDING OFFICER. Correct.

Mr. BROWNBACK. I yield a minute to the Senator from Arizona.

Mr. McCAIN. The Senator from Iowa knows that Senators speak for themselves. My record is clear over many years. I have never supported earmarks, not because of its virtue or vices, but because it didn't go through an authorizing procedure. The Pima County College project may be good and beneficial, and the therapeutic horseback riding project might be good and beneficial. I happen to be ranking member of the Commerce Committee. Those are under the oversight of our Committee and they should be authorized. It is disgraceful the way these are put in.

The Senator from Kansas will soon bring out an example of a problem of legislating on appropriations. There is a major issue in his State concerning Indian gaming on which there has never been a hearing, never consideration. It was stuck into an appropriations bill, and it has profound effects on the State of Kansas. He is here, and rightfully upset, to say the least, about the fact that he, as a Senator from Kansas, never had any input into it and it was stuck into an appropriations bill.

I tell the Senator from Kansas that I will do everything I can to help him in the authorizing process to see that the process is carried out in a legitimate fashion.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

INDIAN GAMING

Mr. BROWNBACK. Madam President, I want to draw attention to something that happened in my State that I think is completely wrong in the appropriations process. The Senator from Nevada is aware of this and stated yesterday his support to help me out with this problem. I hope I can get the attention, as well, of the Senator from Iowa. This is what happens in the worst situations in the appropriating committees. It is not about money or an appropriation for a particular line item. In a conference committee, a half sentence was written in the report that overturned a Tenth Circuit Court of Appeals decision about Indian gaming in Kansas. It affects the Huron Cemetery in Kansas City, KS.

You can look at this picture. This is not a casino site. This is a cemetery site, Huron Indian Cemetery. It has been there several hundred years. It is on the banks of the Kansas River. It is a beautiful site, maintained well. What took place was this. We have four recognized Indian tribes in Kansas, and all four have casinos. A fifth tribe from outside the State, the Wyandotte tribe of Oklahoma, bought adjacent land and said: We want to make it into a reservation and casino, even though our tribe is in Oklahoma. We want to do this in Kansas City because this looks lucrative to us.

So they said, first, they wanted to put it right on top of this site. Then the courts and local opinion said no. Then they wanted to build the casino on stilts on the site. They said no to that, also. So they bought an adjacent building. That was blocked. That was blocked in the courts. The State of Kansas fought it.

The four recognized tribes of Kansas fought against it. I fought against it. The other Senator from Kansas fought against that. It has been stopped. The people of Kansas City don't want this taking place there.

OK. So then the tribe from Oklahoma litigates it in court. They are defeated at the Tenth Circuit Court of Appeals. They can't do this casino in Kansas, according to the Tenth Circuit Court of Appeals. The Governor doesn't want it, we Senators don't want it, and the tribes don't want it. Then they go into a conference committee—Department of Interior—and in the conference, at the last minute, a half-sentence, handwritten note was put in that overturns the Tenth Circuit Court of Appeals. Now they are going to be able to go forward and build a casino next to this beautiful cemetery.

This is a sacred site to a number of Native Americans in the United States. But because in a conference committee they got a half sentence in, written in pencil, it will overturn all of this work by all of these people. Is that right? Is that fair to take place? Is that the way the system is supposed to work? I don't think that is what is supposed to take place.

So we came back in the Labor-HHS appropriations bill and on the floor we worked with the managers and said: Look, this isn't right. Let's correct this in this appropriations bill.

The managers in the Senate, to their great credit—and I thank the Senator from Iowa—said: You are right; we will correct it in the Labor-HHS bill. Then it got stripped out of the bill because the House would not recede. We were trying to correct what took place in the dark of night through this conference committee report on Labor-HHS, and we were not able to get it done.

Now we are left with the possibility of a casino being built next to a cemetery by an out-of-State tribe that the tribes in Kansas, the Governor of Kansas, and the Senators from Kansas do not want, and it took place in the Appropriations Committee process.

We need a rule change so it does not happen again. I am here today to tell my colleagues that I am going to be working on this next year to get this overturned, to get this clarified. There were no hearings on this issue—none—in either the House or the Senate. It was stuck in at the last minute. It should not have taken place, yet it did, and now it is the law of the land, in spite of what all the people involved in this think about it.

This is clearly not appropriate. I hope we can put a rule in place to raise a point of order, requiring a 60-vote supermajority, against situations such as this happening to the Huron Indian Cemetery in Kansas City, KS. This just is not right. I am going to raise this issue next year. I hope my colleagues, and those on the Appropriations Committee, will work with us to correct such an injustice.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Madam President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Iowa has no time remaining.

Mr. HARKIN. How much time does Senator SPECTER have remaining?

The PRESIDING OFFICER. Twenty-nine minutes.

If no one yields time, time is charged equally to both parties.

Mr. HARKIN. Madam President, parliamentary inquiry: If a quorum call is instituted, does that time run against both sides?

The PRESIDING OFFICER. Under a previous order, it will run against all sides.

Mr. HARKIN. In that case, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I ask unanimous consent for 5 minutes to speak on the underlying bill and another unrelated subject.

The PRESIDING OFFICER. Against whose time?

Ms. LANDRIEU. Whatever time is remaining.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. I thank the Chair.

Ms. LANDRIEU. Mr. President, I realize there is time remaining and I thank the Senators for yielding. I have spoken many times on this issue, but I want to take another minute to speak about the underlying appropriations bill, particularly the educational aspects and components of this legislation. There were a few things I didn't get to say that I would like to add for the RECORD.

I thank the chair of the subcommittee, the Senator from Iowa, Mr. HARKIN, for his extraordinary work in this area for helping bring forward an appropriations bill that reflects the positive changes of the authorization bill, to have the appropriations reflect those new strategies for improving our schools and strengthening our move for reform, for strengthening the notion that every child can learn, that we can really have excellence in every school, that we are not happy with the status quo, that we recognize some schools are terrific, some teachers are wonderful, but the system itself is not as invigorated and as strong as it should be, and it can be improved.

That is what this legislation says: No to the status quo and yes to change; no to process and yes to progress; no to "incomes" and yes to outcomes; and yes to results.

In this holiday season it is a wonderful gift to ourselves, to our Nation, to change the way we are appropriating funding for public schools and for all schools in this Nation.

Today marks a historic moment. For the first time in 35 years since the Federal Government says we will work in partnership with States to help educate our children; it needs to be a local responsibility, but it must be a national priority. Our Nation cannot be strong, it cannot be great, it cannot be economically as vital if we don't have good schools. In Florida and Louisiana, that does not begin in kindergarten or end with a college degree; that is prekindergarten, early childhood education, and lifelong learning.

It is clearly in our Nation's interest to help States and local communities educate and bring schools to our citizens. The best place to begin doing that is in the home. The second best place to shore that up is in schools, starting at the lower grades and working up. As a mother with young children, I know directly and very personally that those first few years, the foundation, are important.

This bill is historic because in that whole partnership, for the first time, we have actually funded something we talk about. We targeted the grants for title I. We have funded the effort to help get the money to the districts that need a helping hand, that have difficulty raising either sales tax or property tax or industrial tax and corporate tax because the tax base is not there, but the children are. The tax base might not be there, but there are smart children who live in that county. The tax base is not there, but their parents are working hard.

This bill, for the first time, sends the new money through the targeting formulas to bring that help to poor and disadvantaged children so they can take the new tests, pass them, and meet the new standards of accountability.

It is an extraordinary accomplishment. I thank the Senator from Vermont. I know he cast his vote—it was a difficult vote to cast—against the authorization bill because we failed to fully fund special education. I am disappointed in that. I will work with him and pledge to work with Democrats and Republicans to pick up more of our fair share of those special education dollars. I will work to reform special education, to make sure it works for our students, our families, our children who are greatly challenged, mentally and physically, as well as our teachers.

Without Senator JEFFORDS, the Senator from Vermont, his untiring commitment and focus to education, we never would have had $3 billion added to the Education bill. It would have been left on the table and there would not be the energy to get it. I know he is disappointed, but I hope he hears my words this morning and is encouraged.

There are those in the Chamber who recognize without his complete commitment and dedication to the schoolchildren of this Nation, this bill would be short a lot of money. But because he put his political muscle behind it and did what he needed to do, we have seen a tremendous increase in these investments. He should be happy and grateful. I know he is disappointed in special education, but I commit to him I will work diligently to see if we cannot shore up that part of the bill.

I ask unanimous consent to have printed in the RECORD the list of the moneys the States will receive, additional funds. Every State and county will be helped, but we will get resources to those families and communities that need a helping hand. It is a historic moment.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes remaining.

Mr. DOMENICI. Did I lose time?

The PRESIDING OFFICER. There was a quorum call in progress that was evenly divided.

Mr. DOMENICI. Mr. President, fellow Senators, let me take a few minutes. First, I rise with a sense of great sadness and yet a feeling of great hope. You really can have both votes in yourself at the same time. Two nights ago Mental Health Equitable Treatment of 2001 was dropped from the Labor-HHS appropriations conference report. The Senate passed a wonderful bill. We sent it to the House as part of Labor appropriations, even though it was a major, major authorizing bill. We had our hopes high because in the Senate the support was high. The time had come to make sure, 2 years from now in the United States, most insurance policies would cover the mentally ill. That meant to this Senator in 8 or 10 years we would be able to look back and see a very different America when it came to street people, people who during cold winter months we see on the grates of our cities with the blankets wrapped around them.

In our jails and prisons, we know that now and for the ensuing months those who have mental illnesses such as distress that comes from depression, manic depression, schizophrenia, and a whole host of serious mental diseases, are more apt to be found in the county jail or the State jail than they are in treatment centers, be they treatment centers to which you take your sick person, and they are run privately or publicly. More mentally ill people, men and women, are in jails and facilities not intended for them than there are in facilities intended for them.

We in the Senate, with the leadership and help of my friend, Senator WELLSTONE, have a bill. We call it the Domenici-Wellstone bill. It is moving right along. It cleared the Senate, sending a powerful signal to those in America by the millions who are sick with these diseases, their relatives, and their friends. They had an extremely high hope that ran through their bodies and in many cases gave them a superb ray of hope that maybe, in the future in the greatest land on Earth, we would have insurance—subject to some limitations and some exclusions, but across this land the large businesses would be offering insurance coverage for those who were mentally ill who worked for them; that we would begin to see the same thing happen there that has happened to people with heart conditions. We would have doctors taking care of them. We would have research taking place. We would have centers and facilities for research and for care growing up across this land, public or private. We know that would be happening. Sure enough, we could cast our eyes, cast our vision not too far ahead of us, and say we are doing the right thing, serious mental illness is going to receive treatment.

I ask consent I have 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Insurance companies will be putting forth the kind of coverage necessary. What a day this will be. What a time that will be. What joy will come to those of us who have worked so hard. But more importantly, what joy will come to the millions of parents who will now see their children, when they probably have the first signs of these dread diseases, and these parents are going to be able to say we are not going to go broke trying to take care of an uninsured child with one of these dread diseases. What a marvelous, wonderful thing America will have done.

What do we hear? Over on the side, a dull but powerful beat of the insurance companies that are saying: This hasn't been covered before. Let's not cover it now. We hear a large undercurrent saying: We have never done this before. We should not start now. It is going to cost too much.

To them let me say: We hope you will join us when this bill clears both Houses, and when at that point you have to start writing insurance for people who are sick with schizophrenia, manic depression, those kinds of diseases—and there are many other diseases that will be covered. Research will start to take place because these kinds of sick people are carrying on their backs a package of assets, assets that are the payments that will be forthcoming from the sick person running to the doctor, to the clinic, to the research facilities. What a change and how America will have grown up when that occurs.

There are a lot of workers in this vineyard. There are thousands upon thousands of Americans who are busy in this field, in their home cities, in their States. Many came to town this past week to show up at the conference meeting where the House and Senate met on this Labor, Health and Human Services appropriations bill. Why did they show up? They showed up because the Senate had attached to that bill a thorough covering of these diseases.

We knew it was a chance because the House would rather have this considered by another committee, not an appropriations committee. We got our chance to speak a few words. What words were spoken. Clearly, the message did not stay in this little cubicle, Senator WELLSTONE. The message went out from that room. The message went out that it is the time, it is the place, and it is ready.

As a matter of fact, I believe the members there present would have, by overwhelming numbers, voted to take this bill and put it on this appropriations bill and send it to the President for his signature. We made some good things happen. The President of the United States has issued a letter saying next year will be the time. We will hold him to it. He is saying he would like to do that. We know he had a distinguished friend who had depression and committed suicide, and he doesn't have any trouble with the idea of this being a disease, severe depression. It must be treated. Severe depression must have coverage just as the other dread diseases.

I have here lately been comparing these dread diseases of the mind with the diseases of the heart. Clearly, we covered heart even though it is part spiritual, part physical. We do not say "we don't cover that because it is very difficult to diagnose and do research on." Thank God we got it together and worked on it.

So I understand my time is about to run out. I thank the Chair.

I just want to say I am happy again. The tenor and the tone—those who were saying we are going do it were really a different group of people. They are going to have hearings. Where they have not had a single hearing in the House of Representatives on the issue of parity of coverage for American people, we have had numerous hearings here. They have had none. They pledge it. Once they have it, once their Members hear, once their Members are importuned by these citizens to do this, it will move.

So I say thanks to Senator WELLSTONE for all the support and help, and to all those in the Senate—there are many, over 65 on the bill. The pressure from that, the ambience from that, was strong. We will, indeed, next year, be moving ahead with a big strong wave, and it will happen.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Parliamentary inquiry, Mr. President: How much time remains on the conference report?

The PRESIDING OFFICER. The time remaining is 20 minutes to the Senator from Pennsylvania.

Mr. HARKIN. Again, I inquire, if there is a quorum call, then the time runs on both sides?

The PRESIDING OFFICER. It will all be charged to the Senator from Pennsylvania.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I ask if the Senator from Pennsylvania would give me 2 minutes of his time.

Mr. SPECTER. Mr. President, I am delighted to yield 2 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes.

Mr. NELSON of Florida. I thank the Senator.

TERRORISM INSURANCE

Mr. NELSON of Florida. Mr. President, we are coming down to the crunch time with the conclusion of this session. One of the issues to be decided this afternoon is whether or not we are going to have any protection on terrorism insurance—not only for large and small businesses but also for homes and cars, and for personal lives.

Since there are so many agendas going on with this topic, I urge, since this is the very last gasp, the Senate to come to an agreement for a fallback and a short period of time—say 6 months—and adopt legislation that would have the Federal Government assume the terrorism risk for that short period of time with a freeze on rates so the consumer is not paying the high rates now being jacked up; and a moratorium on the cancellations so the consumers, businesses, and individual home and car owners would have protection against a terrorist risk of loss.

We can do that. That is a fallback position. The alternative is to do nothing. That is unconscionable.

Rates are being jacked as we speak, and cancellations of terrorist coverage is now occurring in the 50 States.

I thank the President for letting me bring this to the attention of the Senate. I thank the Senator from Pennsylvania for yielding the time.

Mr. SPECTER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 13 minutes remaining.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

Is someone yielding time?

Mr. SPECTER. I yield 2 minutes of my time.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. GRAMM. Mr. President, I think we need to take the opportunity to do terrorism insurance. I don't think at this late date, having put together two different compromises, that we could start from scratch on a program which nobody fully understands. We are going to have a chance this afternoon to do it. We have a compromise that has been worked out by Senator DODD, Senator DASCHLE, Senator SARBANES, and members of the Banking and Commerce Committees. I think we need to take it.

THE STIMULUS PACKAGE

Mr. GRAMM. Mr. President, I hope we get an opportunity to vote on the stimulus package. I liken our situation to a situation we would face if in the cold of winter a storm came along and blew the roof off of an apartment house. It is clear unless something is not done that people would get pneumonia, frostbite, and suffer from exposure.

We have one group of Congressmen and Senators rushing in to say that we have to hire doctors. We have to buy penicillin. We need blankets.

We have another group that says: Why don't we rebuild the roof? Then it is suggested that rich people live on the upper floors and they would benefit more by putting the roof back on.

Then the President proposes the classic political compromise, which is: Why don't you rebuild some of the roof and buy some of the penicillin?

I hope we can go that route. At least we would benefit people. I hope we get a chance to vote on that package today.

I yield the floor. I thank the Senator for this and for many other things.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Florida). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we are about at the end of the time in this session. I just want to make a comment or two about the subject matter of the Domenici-Wellstone amendment to try to bring parity to mental health. I regret very much that the Appropriations Committee did not act on it.

That amendment passed the Senate floor. And it had support from some in the House, really divided along party lines. There are some assurances from the President and at least one of the authorizing committees in the House that there will be action to bring parity.

Mental illness is as much an illness as is physical illness, and that ought to be corrected. In the conference, I made the point that it was my hope that if action was not taken by the authorizers that the appropriators would proceed, again, next year at this time and act in our conference.

Mr. President, how much time remains?

The PRESIDING OFFICER. There are 8 minutes remaining for the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed for the remainder of that time—the 8 minutes—as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS ON THE CASES OF DR. WEN HO LEE AND DR. PETER LEE

Mr. SPECTER. Mr. President, before the first session of the 107th Congress ends, I want to put on the RECORD reports on the cases of Dr. Wen Ho Lee and Dr. Peter Lee, which were subject to oversight by the Judiciary Committee on the Department of Justice during the 106th Congress. The Subcommittee's work was controversial, partly because it included oversight of Attorney General Reno's handling of the investigations into campaign finance matters on President Clinton and Vice President Gore.

Without going into all the details, suffice it to say that bipartisan agreement could not be reached within the Subcommittee on a report or in the full Committee on issuance of subpoenas to obtain necessary testimony.

When a subpoena was sought for FBI Director Louis Freeh, the opposition of Senator HATCH, the Chairman of the Committee, proved decisive. In April 2000, the Subcommittee obtained a memorandum from Director Freeh dated December 1996 which recited a conversation between a ranking FBI official and a ranking Department of Justice official to the effect that the investigation of the Department of Justice would effect the Attorney General's tenure at a time before President Clinton had reappointed her. The Freeh memo further referenced a conversation between Attorney General Reno and Director Freeh. The Subcommittee's inability to subpoena and question Freeh was a significant hindrance to pursuing that important matter.

That memorandum and other files have been inaccessible since October with the closing of the Hart Building due to the anthrax mail. The terrorist attack of September 11 has further hindered the finishing of the Subcommittee's work because the FBI has, understandably, been occupied with investigating terrorists, which preempted other pending matters.

The Subcommittee's oversight was thwarted repeatedly by delays by the FBI and the intransigence of the Department of Energy. Once Wen Ho Lee was indicted, the FBI refused to provide additional information, claiming it would hamper the prosecution. Even after Dr. Wen Ho Lee entered a guilty plea and the prosecution was concluded, the FBI continued to refuse to provide information on the ground that it would impede their debriefing of Dr. Lee in obtaining the tapes which he took.

Congressional oversight is traditionally a difficult matter because the House and the Senate are so busy with legislative matters and it is like pulling teeth, at best, to get cooperation from the Executive branch. The Subcommittee's oversight efforts on Dr. Wen Ho Lee have been even tougher. In addition to the general difficulties, the Subcommittee's oversight efforts have been further complicated by the change in party control in May 2001, the terrorist attack on September 11 of this year, and the departure of the Subcommittee's key investigator Mr. Dobie McArthur. Mr. McArthur did an extraordinary job, virtually single-handedly conducting the oversight investigations and writing the reports.

With the new FBI Director Robert S. Mueller, III focusing on reorganization of the Bureau and the additional responsibilities of the FBI occasioned by the September 11 terrorist attack, and the shift of the Department of Justice in the focus of FBI activities, it is very difficult to pursue further the Subcommittee's inquiry on Dr. Wen Ho Lee, but it is my hope that at some date that might be done. Because of the serious dereliction of the FBI's handling of the Dr. Wen Ho Lee investigation, it will never be known beyond a reasonable doubt whether Dr. Wen Ho Lee was a spy, although there is substantial evidence to that effect in the McArthur reports. The publication of the reports on Dr. Wen Ho Lee and Dr. Peter Lee will enable readers to evaluate the seriousness of espionage in damaging our national security interests, the failure of the Executive branch in dealing with those investigations, the need for changes in procedures by the Department of Justice, including the FBI, and the Department of Energy. Some legislation, as noted in the McArthur reports, has already been enacted as a result of the Subcommittee's oversight and further legislative reforms are needed. Publication of these reports will promote those objectives.

Mr. President, I ask unanimous consent that the text of the two-page Freeh memorandum of December 1996 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 9, 1996.

To: MR. ESPOSITO.
From: DIRECTOR.
Subject: DEMOCRATIC NATIONAL CAMPAIGN MATTER

As I related to you this morning, I met with the Attorney General on Friday, 12/6/96, to discuss the above-captioned matter.

I stated that DOJ had not yet referred the matter to the FBI to conduct a full, criminal investigation. It was my recommendation that this referral take place as soon as possible.

I also told the Attorney General that since she had declined to refer the matter to an Independent Counsel it was my recommendation that she select a first rate DOJ legal team from outside Main Justice to conduct that inquiry. In fact, I said that these prosecutors should be "junk-yard dogs" and that in my view, PIS was not capable of conducting the thorough, aggressive kind of investigation which was required.

I also advised the Attorney General of Lee Radek's comment to you that there was a lot of "pressure" on him and PIS regarding this case because the "Attorney General's job might hang in the balance" (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.

I also stated that it didn't make sense for PIS to call the FBI the "lead agency" in this matter while operating a "task force" with DOC IGs who were conducting interviews of key witnesses without the knowledge or participation of the FBI.

I strongly recommended that the FBI and hand-picked DOJ attorneys from outside Main Justice run this case as we would any matter of such importance and complexity.

We left the conversation on Friday with arrangements to discuss the matter again on Monday. The Attorney General and I spoke today and she asked for a meeting to discuss the "investigative team" and hear our recommendations. The meeting is now scheduled for Wednesday, 12/11/96, which you and Bob Litt will also attend.

I intend to repeat my recommendations from Friday's meeting. We should present all of our recommendations for setting up the investigation—both AUSAs and other resources. You and I should also discuss and consider whether on the basis of all the facts and circumstances—including Huang's recently released letters to the President as well as Radek's comments—whether I should recommend that the Attorney General reconsider referral to an Independent Counsel.

It was unfortunate that DOJ declined to allow the FBI to play any role in the Independent Counsel referral deliberations. I agree with you that based on the DOJ's experience with the Cisneros matter—which was only referred to an Independent Counsel because the FBI and I intervened directly with the Attorny General—it was decided to exclude us from this decision-making process.

Nevertheless, based on information recently reviewed from PIS/DOC, we should determine whether or not an Independent Counsel referral should be made at this time. If so, I will make the recommendation to the Attorney General.

Mr. SPECTER. Mr. President, I am now going to commence with the reading of the report on Dr. Wen Ho Lee: My understanding, after consulting with the authorities, is that once I begin the reading of the report, the remainder may be incorporated in the RECORD as if read in full.

The PRESIDING OFFICER. And the Senator is advised he has 2½ minutes left.

Mr. SPECTER. I thank the Chair. I shall not use the full 2½ minutes.

This report augments and completes the interim report released on March 8, 2000, regarding the Government's investigation of espionage allegations against Dr. Wen Ho Lee who pleaded guilty on September 13, 2000 to one felony count of unlawful retention of national defense information.[1] The special Judiciary subcommittee on Department of Justice Oversight, which I chaired in the last Congress, began oversight on the Wen Ho Lee case and several other matters in September 1999, but suspended its review of this case at the request of FBI Director Louis Freeh after Dr. Lee was indicted and jailed on December 10, 1999.

I issued the interim report in March 2000 to demonstrate the need for reforms contained in the Counterintelligence Reform Act of 2000, which became law as Title VI of Public Law 106-567 on December 27, 2000. That bipartisan bill, which passed the Senate Judiciary and Select Intelligence committees without a single vote in opposition despite sometimes strong disagreements about certain aspects of the Wen Ho Lee case, corrected many of the flaws in the government's procedures for handling espionage investigations and prosecutions. This report, consisting of an executive summary accompanied by a detailed review of the case, completes the oversight record on the Wen Ho Lee matter.

HIGHLIGHTS OF THE REPORT

The government's investigation of Los Alamos National Laboratory (LANL) nuclear weapons scientist Dr. Wen Ho Lee was so inept that despite scrutiny spanning nearly two decades, both the FBI and the Department of Energy missed repeated opportunities to discover and stop his illegal computer activities. As a consequence of these numerous failures, magnetic computer tapes containing some of the nation's most sensitive nuclear secrets are now missing when they could have been recovered as late as December 1998 and possibly even later.

One great tragedy of the Wen Ho Lee case is that the entire truth will likely never be known. As a consequence of an inept investigation, the government has lost the credibility to claim that its version of events is the absolute truth. Dr. Lee also lacks the credibility to tell the definitive tale of this case: he repeatedly lied to investigators, created his own personal nuclear weapons design library without proper authority, copied nuclear secrets to an unclassified computer system accessible from the Internet, and passed up several opportunities to turn his tape collection over to the government. If the information Dr. Lee put at risk did not fall into the wrong hands, it is a matter of mere luck. When the nation's most sensitive nuclear secrets are at issue, it is unacceptable that we should have to rely on luck to keep them safe.

Among the many concerns arising from the investigation and prosecution of Dr. Lee, the following are most significant:

The government obtained highly credible information in 1994 that Dr. Lee had helped the Chinese with computer codes and software, but took no steps to examine his computer. Had Dr. Lee's computer been examined, his illegal downloads of some of the nation's most sensitive nuclear weapons data to an unclassified computer system accessible from the Internet could have been detected and stopped.

The manner in which the FBI relied almost completely on the Department of Energy's Administrative Inquiry (AI) throughout the investigation which began in 1996, rather than developing an independent investigative plan, caused an inappropriate focus on the alleged loss of W-88 warhead design information to the exclusion of all else. The FBI never questioned how the suspected loss of the W-88 information related to the codes and software help that Dr. Lee was suspected of having provided to the PRC. The ongoing debate over whether the AI's underlying assumptions—namely that rapid advances in the PRC weapons program in the early 1990s resulted from their acquisition of U.S. weapons design information, and that the loss most likely occurred from Los Alamos—is of secondary importance. The mere fact that the PRC had obtained classified nuclear weapons information should have been sufficient to trigger a thorough investigation, but the FBI's investigation was anything but thorough.

The Department of Justice was wrong to reject the 1997 request by the FBI for electronic surveillance under the Foreign Intelligence Surveillance Act. Had the request been permitted to go forward to the court, Dr. Lee's illegal downloading could have been detected and halted in 1997. The Department of Justice's own internal review, conducted by Assistant U.S. Attorney Randy Bellows, concluded that the request should have been approved.

The Department of Energy was wrong to allow Wackenhut contract polygraph examiners to administer a polygraph to Dr. Lee on December 23, 1998. The Wackenhut contractors incorrectly reported that Dr. Lee passed the polygraph, prompting the FBI to nearly shut down its investigation at a time when scrutiny of Dr. Lee should have been intensified. Dr. Lee has told investigators the computer tapes that are now missing were in his office on December 23. Had the FBI conducted its investigation consistent with the fact that Dr. Lee did not pass the polygraph, the tapes could have been recovered.

The nuclear secrets that Dr. Lee mishandled were correctly described by the government as extremely sensitive. Dr. Lee's actions in downloading these files onto an unclassified computer system accessible from the Internet, and later onto portable magnetic tapes, constituted a serious threat to the national security.

Allegations that Dr. Lee was targeted for investigation and prosecution as a result of "ethnic profiling" are unfounded. The repeated investigations of Dr. Lee resulted from reasonable suspicions raised by Dr. Lee's own conduct. Moreover, there is absolutely no evidence that Dr. Lee's ethnicity was a factor in the decision to prosecute Dr. Lee or to hold him in unusually strict pretrial confinement.

The government's harsh treatment of Dr. Lee after his arrest on December 10, 1999, including putting him in solitary confinement and requiring him to be manacled does, however, raise troubling questions. The government's claim that Dr. Lee was such a threat he had to be held in pretrial confinement under very strict conditions is inconsistent with the long delay from March to December 1999—when the government first learned of the downloaded secrets until he was arrested—and the acceptance of a plea agreement in September 2000 by which Dr. Lee was released with no monitoring whatsoever, and which is only marginally better than it could have had in December 1999, at least in terms of finding out what happened to the tapes. Taken together with the many missed opportunities to detect Dr. Lee's illegal computer activity and recover the tapes, the government's handling of the plea agreement raises questions as to whether the harsh tactics were intended to coerce a confession.

The government's claim that Dr. Lee presented such a danger that he had to be prohibited from communicating is severely undercut by its failure to even seek any type of electronic surveillance on him even after the existence of the tapes was known. If the government was truly concerned that Dr. Lee could potentially alter the global strategic balance through phrases as innocuous as "Uncle Wen says hello," or might send a signal to a foreign intelligence service to extract him, it should have sought to monitor his communications, but it did not.

Some of the most controversial and misguided steps in the case appear to have been motivated more by a desire to protect the affected agency's image than the national security. This is particularly true of the Department of Energy's decision to administer a polygraph to Dr. Lee in December 1998 when it seemed likely that the House's Cox Committee report[3] was going to expose the many missteps that had occurred up to that point.

The full report which follows addresses each of these matters in detail, as well as several other important aspects of the case.

Report on the Government's Handling of the Investigation and Prosecution of Dr. Wen Ho Lee

The government's conduct in this case is so filled with major breakdowns by every agency involved that it almost defies analysis and makes determining responsibility for the failures a very complicated matter. This report attempts to sort out what went wrong and why, and to determine how such mistakes can be avoided in future cases. It includes some new information which has not been publicly disclosed before, and provides a thorough review of the facts that are known. For ease of reading, it is organized in roughly chronological order, with the exception being a section in the beginning which describes the key elements of the government's case against Dr. Lee.

The case against Dr. Wen Ho Lee

Most Americans had never heard of Dr. Wen Ho Lee before he was fired from Los Alamos National Laboratory in New Mexico on March 8, 1999. The first vague hints of the story that would explode on the national scene in March 1999 had come in a January 7, 1999, Wall Street Journal article by Carla Anne Robbins, which alleged that "China received secret design information for the most modern U.S. nuclear warhead" and quoted unnamed U.S. officials as saying that the "top suspect is an American working at a U.S. Department of Energy laboratory."[4] The WSJ article went on say that the loss of information related to the W–88 warhead was the "most significant in a 20–year espionage effort by Beijing that targeted the U.S. nuclear weapons laboratories," and that "China was given general, but still highly secret, information about the warhead's weight, size and explosive power, and its state-of-the-art internal configuration, which allowed designers to minimize size and weight without losing power."[5] The article further noted that the investigation of the suspected loss of W–88 information was the "third major Chinese espionage effort uncovered at the U.S. labs over the last two decades," and was a key part of the work of the special House committee, known as the Cox Committee, that was reviewing American high-tech transfers to China.[6]

The story of suspected espionage at LANL remained dormant after the Robbins article until the New York Times published a March 5, 1999 piece by James Risen and Jeff Gerth, titled "Breach at Los Alamos: A Special Report." The article did not name Dr. Lee, but raised the profile of the case by quoting unnamed administration officials as saying that "working with nuclear secrets stolen from an American Government laboratory, China has made a leap in the development of nuclear weapons: the miniaturization of its bombs. . ."[7] The Risen and Gerth story put a political spin on the case, quoting "some American officials" as asserting that "the White House sought to minimize the espionage issue for policy reasons." The senior National Security Council official who handled the case, Gary Samore, denied the allegations, telling the NYT reporters that "The idea that we tried to cover up or downplay these allegations to limit the damage to U.S.-Chinese relations is absolutely wrong."[8]

Risen and Gerth then explained that their own investigation had revealed that "throughout the Government, the response to the nuclear theft was plagued by delays, inaction and skepticism—even though senior intelligence officials regarded it as one of the most damaging spy cases in recent history."[9] In support of their charges, they cited disagreements between former DOE intelligence chief Notra Trulock, who was the main proponent of the view that Chinese weapons advances were attributable to espionage, and other senior administration officials, including former Acting Energy Secretary Elizabeth Moler, who was said to have ordered Trulock not to brief the Cox Committee "for fear that the information would be used to attack the President's China policy."[10]

Ms. Moler denied the allegations that she had interfered with Mr. Trulock's congressional testimony, but the die had been cast so that as the story unfolded over the following months there was always an underlying hint that the Clinton Administration had ignored or downplayed an important espionage case to avoid criticism or complications with its China policy.

On March 8, 1999, Dr. Lee was publicly named for the first time in an Associated Press story by Josef Hebert. Quoting a statement from the Department of Energy (which did not name Dr. Lee), Hebert wrote that Dr. Lee had been fired for "'failing to properly safeguard classified material' and having contact with 'people from a sensitive country'".[11] Shortly thereafter, the New York Times ran another article by James Risen, who had interviewed Energy Secretary Bill Richardson. According to Risen, Richardson told him that Dr. Lee had been fired on March 8 "for security breaches after the FBI questioned him in connection with China's suspected theft of American nuclear secrets. . ."[12] Secretary Richardson also acknowledged that Dr. Lee had been questioned for three days, but had "stonewalled" during the questioning.[13]

Through the spring and summer, details of the case dribbled out as the press continued its investigation into the matter and several congressional committees conducted oversight on the case. Among the new details to emerge were allegations totally unrelated to the W–88 matter, including charges that Dr. Lee had transferred massive amounts of classified nuclear data to the unclassified portion of the LANL computer system and later onto portable magnetic tapes, which were thought to be missing.

The Cox Committee released its unclassified report on May 25, 1999, which did not mention Dr. Lee by name but clearly referred to his case. The President's Foreign Intelligence Advisory Board released its own review of security at the national labs in June, concluding that the labs did wonderful science but were lousy on security matters.[15] In August, Senators Thompson and Lieberman of the Governmental Affairs Committee released a special statement, saying:

"This is a story of investigatory missteps, institutional and personal miscommunications, and—we believe—legal and policy misunderstandings and mistakes at all levels of government. The DOE, FBI, and DOJ must all share the blame for our government's poor performance in handling this matter."[16]

By September 1999, the government had finally separated the W–88 matter from the issue of Dr. Lee's illegal file downloads, and had started a new investigation aimed at finding out how the PRC had obtained the W–88 information it was known to possess. It did so quietly, without publicly acknowledging that Dr. Lee was apparently no longer a suspect in the loss of the W–88 information.

Also in late September 1999, the Senate Judiciary subcommittee on Department of Justice Oversight was organized, with a mandate to examine: technology transfer to the PRC, including the Wen Ho Lee case, the Peter Lee case, and the Loral/Hughes matter; the facts surrounding the FBI's use of pyrotechnic tear gas rounds during the 1993 standoff at Waco, which had recently been confirmed in a special report of the Texas Rangers; and the Department of Justice's handling of campaign finance investigations and prosecutions from the 1996 presidential campaign.[17]

The subcommittee began an expeditious review of the Wen Ho Lee case and the other matters within its jurisdiction, and sent out letters to witnesses on December 7, 1999, for a hearing on December 14, which would examine two issues: 1) the details of a December 23, 1998 polygraph exam that had been administered to Dr. Lee, and 2) the relationship between the Lees and the government.

On December 10, 1999, Dr. Lee was arrested and charged in a 59-count indictment[18] of mishandling classified nuclear weapons data, prompting FBI Director Freeh to write to me, asking that I postpone hearings on the case. In view of the extraordinary circumstances of the case and Director Freeh's unprecedented request, which he reiterated to me and Senator Torricelli in a meeting on December 14, I agreed to postpone hearings on the case, but to continue a review of government documents unrelated to the criminal case, as well as documents that came into the public domain as a result of the government's prosecution of Dr. Lee.

The indictment of Dr. Lee referred to a series of tapes Dr. Lee made from 1993 through 1997, during which time he collected SECRET and CONFIDENTIAL Restricted Data[19] into a directory on the classified computer system at LANL, then transferred the information onto the unclassified portion of the LANL computer system and ultimately onto a series of portable magnetic computer tapes, each capable of holding 150 megabytes of information. All told, the information he collected and transferred to portable magnetic tapes was more than 800 megabytes, the equivalent of over 400,000 pages of data.[20]

At the bail hearing of Dr. Lee on Dec. 13, 1999, the key government witness, Dr. Stephen Younger, Associate Laboratory Director for Nuclear Weapons at Los Alamos, testified as follows about the nuclear secrets Dr. Lee was accused of mishandling:

"These codes, and their associated data bases, and the input file, combined with someone that knew how to use them, could, in my opinion, in the wrong hands, change the global strategic balance."[21]

It would be hard, realistically impossible, to pose a more severe risk than to "change the global strategic balance."

Dr. Younger further testified that:

"They enable the possessor to design the only objects that could result in the military defeat of America's conventional forces . . . . They represent the gravest possible security risk to . . . the supreme national interest."[22]

A "military defeat of America's conventional forces" and "the gravest possible security risk to . . . the supreme national interest" constitute threats of obvious enormous importance.

At this same bail hearing, when the judge seemed to be leaning toward a restrictive form of house arrest, Mr. Kelly warned that Dr. Lee could be "snatched and taken out of the country" by hostile intelligence services.[23] The lead FBI Agent then on the case, Robert Messemer, told the judge to expect "a marked increase in hostile intelligence service activities both here in New Mexico and throughout the United States in an effort to locate those tapes," and warned that "our surveillance personnel do not carry firearms, and they will be placed in harm's way if you require us to maintain this impossible task of protecting Dr. Lee."[24]

The government made these representations in a successful effort to deny Dr. Lee bail and he remained in pretrial confinement for more than nine months. By September 13, 2000, when Judge Parker approved the plea agreement under which Dr. Lee would plead guilty to one of the original fifty-nine felony counts and accept a sentence of "time-served" at 278 days, the government's case against Dr. Lee appeared to lie in tatters, as did its credibility.

Judge Parker's statements at the plea hearing were a stunning rebuke of the government when he said:

". . . I believe you were terribly wronged by being held in custody pretrial . . . under demeaning, unnecessarily punitive conditions. I am truly sorry that I was led by our Executive Branch of government to order your detention last December.

"Dr. Lee, I tell you with great sadness that I feel I was led astray last December by the Executive Branch of our government through its Department of Justice, by its Federal Bureau of Investigation and by its United States Attorney for the District of New Mexico. . ."[25]

After praising many of the lawyers on both sides of the case, Judge Parker made clear where he felt the responsibility for the government's mistakes should lay:

"It is only the top decision makers in the Executive Branch, especially the Department of Justice and the Department of Energy and locally, during December, who have caused embarrassment by the way this case began and was handled. They did not embarrass me alone. They have embarrassed our entire nation and each of us who is a citizen of it."[26]

When Dr. Lee walked free, convicted of a single felony count out of 59 and sentenced to time served, the nation was stunned by the government's rapid reversal. The government had argued even as late as September 1, 2000 that Dr. Lee was so serious a threat to the national security that he had to be held in solitary confinement under extraordinarily stringent conditions, yet less than two weeks later, he was allowed to walk out of jail a free man. Even President Clinton, who strangely acted as though it was some alien entity that had done such a sharp turnabout rather than an agency within his own administration, seemed stunned by the change of position. On the day after Dr. Lee was released, President Clinton told reporters at the White House:

"The whole thing was quite troubling to me, and I think it's very difficult to reconcile the two positions that one day he's a terrible risk to the national security and the next day they're making a plea agreement for an offense far more modest than what had been alleged."[27]

It may remain impossible to reconcile the two positions, but it is necessary to try, if for no other reason than to help Americans understand why the government acted as it did in the Wen Ho Lee case. Although it may not be sufficient to restore the public's confidence in the agencies involved in this case, a thorough examination of the facts such as that attempted here is a necessary step in that direction.

The Investigations of Dr. Wen Ho Lee

The purpose of counterintelligence is to identify suspicious conduct and then pursue an investigation to prevent or minimize access by foreign agents to our secrets. From a counterintelligence perspective, the government's handling of the Wen Ho Lee matter has been an unmitigated disaster. The investigation of Dr. Lee since 1982 has been characterized by a series of errors and omissions by the Department of Energy and the Department of Justice, including the FBI, which have permitted Dr. Lee to threaten U.S. supremacy by putting at risk information that could change the "global strategic balance."

While Dr. Lee, of course, must bear primary responsibility for any damage that might result to national security from his mishandling of our nuclear secrets, those officials in the DOE, the FBI and, to a lesser degree, the DOJ, who participated in the investigation of Dr. Lee must accept responsibility for their own failure to detect and put a stop to Dr. Lee's illegal computer activity. It would be one thing if an individual who had never shown up on the counterintelligence radar scope was later found out, but Dr. Lee was under active investigation during the very time he was engaged in illegal computer downloads, yet his activities were not detected.

In fact, Dr. Lee was investigated on multiple occasions over seventeen years, but none of these investigations—or the security measures in place at Los Alamos—came close to discovering and preventing Dr. Lee from putting the national security at risk by placing highly classified nuclear secrets on an unsecure system where they could easily be accessed by even unsophisticated hackers.[18] It is difficult to comprehend how officials entrusted with the responsibility for protecting our national security could have failed to discover what was really happening with Dr. Lee, given all the indicators that were present.

The 1982–1984 Investigation

Dr. Wen Ho Lee was born in Nantou, Taiwan, in 1939. After graduating from Texas A&M University with a Doctorate in 1969, he became a U.S. citizen in 1974, and began working at Los Alamos National Laboratory in applied mathematics and fluid dynamics in 1978.[20] The X-Division, where Dr. Lee worked from 1982 until 1998, has the highest level of security of any division at LANL. It is responsible for the design of thermonuclear weapons, and Dr. Lee was part of a team working on five Lagrangian mathematical codes, also known as "source codes", used in weapons development. Dr. Lee's wife, Sylvia, also worked at LANL from November 1980 until June 1995. The last position she held was "Computer Technician," and she held a Top Secret clearance from 1991 through 1995.[30]

The FBI first became concerned about Dr. Lee as a result of contacts he made with a suspected PRC intelligence agent in the early 1980s. On December 3, 1982, Dr. Lee called a former employee of Lawrence Livermore National Laboratory (LLNL) who was suspected of passing classified information to the Peoples Republic of China (PRC). This call was intercepted pursuant to a FISA court authorized wiretap in another FBI espionage investigation. After introducing himself, Dr. Lee stated that he had heard about the Lawrence Livermore scientist's "matter" and that Lee thought he could find out who had "squealed" on the employee.[31] Based on the intercepted phone call, the FBI opened an espionage investigation on Dr. Lee.

For the next several months the FBI investigated Dr. Lee, with much of the work being done under the guise of the periodic reinvestigation required for individuals with security clearances. On November 9, 1983, the FBI interviewed Dr. Lee. Before being informed that the FBI had intercepted his call to the Lawrence Livermore employee, Lee stated that he had never attempted to contact the employee, did not know the employee, and had not initiated any telephone calls to him. These representations were patently false.[32] Dr. Lee offered during the course of this interview to assist the FBI with its investigation of the other scientist.

On December 20, 1983 Dr. Lee was again interviewed by the FBI,[33] this time in California. During this interview, Lee explained that he had been in contact with Taiwanese nuclear researchers since 1977 or 1978, had done consulting work for them, and had sent some information that was not classified but that should have been cleared with DOE officials. He tried to explain that he had contacted the subject of the other investigation because he thought this other scientist was in trouble for doing the same thing that Lee had been doing for Taiwan.[34] After this interview, the FBI sent Dr. Lee to meet with the espionage suspect.

On January 24, 1984, Dr. Lee took an FBI polygraph examination which included questions about passing classified information to any foreign government, Lee's contacts with the Taiwanese Embassy, and his contacts with the LLNL scientist. Although the FBI has subsequently contended that Dr. Lee's answers on this polygraph were satisfactory, there remained important reasons to continue the investigation. His suspicious conduct in contacting the Lawrence Livermore scientist and then lying about it, the nature of the documents that he was sending to the Taiwanese Embassy, and the status of the person to whom he was sending those documents were potential danger signals. Although not classified, the documents Dr. Lee was passing to Taiwan's Coordination Council of North America were subject to Nuclear Regulatory Commission export controls. They were specifically stamped "no foreign dissemination." According to testimony of FBI Special Agent Robert Messemer at a special hearing on December 29, 1999, FBI files also contain evidence of other "misrepresentations" that Dr. Lee made to the FBI in 1983–1984 which have raised "grave and serious concerns" about Dr. Lee's truthfulness.[36] Notwithstanding these reasons for continuing the investigation, the FBI closed its initial investigation of Lee on March 12, 1984.[37]

Although the FBI's 1982–1984 investigation was generally well run, three areas of concern are worth noting. First, the FBI should have coordinated more closely with the Department of Energy. When initially contacted by the FBI in 1982, the DOE's Office of

Security recommended that Dr. Lee be removed from access due to the sensitivity of the area in which he worked. Had the DOE security official's instincts been followed, Dr. Lee would not have been able to put at risk, years later, the massive volume of nuclear data that he ultimately did.

The second area of concern is that the FBI closed the investigation despite several troubling indicators. As noted previously, FBI Special Agent Messemer mentioned several misrepresentations that Dr. Lee made to the FBI which were relevant to his truthfulness. Two of these misrepresentations stand out as particularly important. First, Dr. Lee learned about the LLNL scientist's situation from a mutual friend during an October 1982 visit to LLNL.[38] Second, and more importantly, upon learning of the LLNL scientist's predicament, Dr. Lee immediately attempted to call his point of contact at the Coordination Council of North America (the equivalent of the Taiwanese Embassy in Washington, DC).[39] That Dr. Lee would attempt to contact a foreign embassy seeking help for a fellow scientist should have raised serious questions about his trustworthiness.

Unfortunately, the FBI did not discover this until after they had already made a decision to use him in the investigation of the LLNL scientist. Had the FBI been more cautious in assessing Dr. Lee's trustworthiness in the first place, it would likely not have used him in the investigation of the other scientist, and would therefore have been in a better position to facilitate his termination from LANL or, at the very least, the removal of his security clearance. Director Freeh recently confirmed that the FBI had made no recommendation to the DOE regarding the removal of Dr. Lee's clearance following the 1982–1984 investigation.[40]

The second element of Dr. Lee's conduct in the 1982–1984 investigation that deserved greater attention from the FBI than it got is the status of the individual to whom Dr. Lee was sending the information at the CCNA. This individual was known to the FBI as an intelligence collector (although it remains unclear as to whether Dr. Lee had any reason to be aware of that). The FBI did take the necessary steps to learn how Dr. Lee came to know this individual, but it did not give sufficient weight to the individual's status as an intelligence collector.

The third and final area of concern about the FBI's handling of the 1982–1984 investigation relates to the FBI's reporting of Dr. Lee's assistance in the investigation of the LLNL scientist, which has been inconsistent. Some documents, apparently including information provided to Attorney General Reno in preparation for her June 8, 1999 appearance before the Judiciary Committee in closed session, indicate that the FBI did not use Dr. Lee in its investigation. The final draft of the 1997 request for FISA coverage on Dr. Lee, in recounting this episode, states flatly that while Dr. Lee offered to help the FBI in its investigation of the LLNL scientist, the FBI did not use him.[41] Contemporaneous FBI records of the 1982 investigation, however, indicate that not only did Dr. Lee assist the FBI with its investigation of the other scientist, but that the result was far better than had been anticipated.

The failure to mention the assistance provided by Dr. Lee in 1983 when requesting FISA coverage in 1997 is troubling because it has the effect of presenting an incomplete picture of the initial investigation of Dr. Lee. Judgements regarding whether an individual is acting as an agent of a foreign power should be made in consideration of the totality of the circumstances, and the FBI's decision to use Dr. Lee in the investigation of the LLNL scientist is an important element of the total circumstances. If the FBI trusted Dr. Lee enough to use him in the investigation of the LLNL scientist, that fact should have been included in the FISA request. The failure to mention that fact gives an incomplete impression, which is inappropriate in these matters.

It is likely that the FBI's incorrect characterization of Dr. Lee's 1982–1984 activities was merely an inadvertent oversight and was not an attempt to conceal the assistance he had provided. For example, the FBI did not make any effort to conceal or deny Mrs. Lee's assistance to the government.

While the FBI should have acknowledged Dr. Lee's assistance in the FISA request, the totality of Dr. Lee's conduct in 1982–1984 was suspicious and was directly relevant on a probable cause determination.

The 1982–1984 investigation of Dr. Lee represents a missed opportunity to protect the nation's secrets. Had the matter been handled properly, Dr. Lee's clearance and access would most likely have been removed long ago, before he was able to put the global strategic balance at risk.

The 1994–November 2, 1995, Investigation of Dr. Lee

This investigation of Dr. Lee was initiated based upon the discovery that he was well acquainted with a high-ranking Chinese nuclear scientist who visited Los Alamos as part of a delegation in 1994,[42] and that he was alleged to have helped Chinese scientists with codes and software. Dr. Lee had never reported meeting this scientist, which he was required to do by DOE regulations, so his relationship with this person aroused the FBI's concern. Unclassified sources have reported that Dr. Lee was greeted by "a leading scientist in China's nuclear weapons program who then made it clear to others in the meeting that Lee had been helpful to China's nuclear program."[43] In concert with the 1982–1984 investigation, Dr. Lee's undisclosed relationship with this top Chinese nuclear scientist should have alerted the FBI and the DOE of the imperative for intensified investigation and reconsideration of his access to classified information. Instead, this FBI investigation was deferred on November 2, 1995, because Dr. Lee was by then emerging as a central figure in the Department of Energy's Administrative Inquiry,[44] which was developed by a DOE counterintelligence expert in concert with a seasoned FBI agent who had been assigned to DOE for the purposes of the inquiry. (The DOE Administrative Inquiry was given the code name Kindred Spirit.[45]) The investigation of Dr. Lee was essentially dormant from November 1995 until May 1996, when the FBI received the results of the DOE Administrative Inquiry and opened a new investigation of Dr. Lee on May 30, 1996.

It is difficult to understand why the FBI would suspend the investigation in 1995, even to wait for the Kindred Spirit Administrative Inquiry, when the issues that gave rise to 1994–1995 investigation remained valid and unrelated to the Kindred Spirit investigation. The key elements of the 1994–1995 investigation are described in the 1997 Letterhead Memorandum (LHM) which was prepared to support the request for a FISA search warrant. Specifically, the LHM describes the unreported contact with the top nuclear scientist,[46] and it makes reference to the "PRC using certain computational codes . . . which were later identified as something that [Lee] had unique access to."[47] And, finally, the LHM states that "the Director subsequently learned that Lee Wen Ho had worked on legacy codes." Given these allegations, it was a serious error to allow the investigation to wait for several months while the DOE AI was being completed. This deferral needlessly delayed the investigation and left important issues unresolved.

In addition to information known to the FBI which required further intensified investigation and not a deferred investigation on November 2, 1995, the Department of Energy was incredibly lax in failing to understand and pursue obvious evidence that Dr. Lee was downloading large quantities of classified information to an unclassified system. The sheer volume of Dr. Lee's downloading showed up on a DOE report in 1993.[49] Cheryl Wampler, from the Los Alamos computer office, has testified that the NADIR system, short for Network Anomaly Detection and Intrusion Recording, flagged Dr. Lee's massive downloading in 1993.[50] This system is specifically designed to create profiles of scientists' daily computer usage so it can detect unusual behaviors. A DOE official with direct knowledge of this suspicious activity failed to act on it, or to tell DOE counterintelligence personnel or the FBI. Based on its design, the NADIR system would have continued to flag Dr. Lee's computer activities in 1994 as being unusual, but no one from DOE took any action to investigate what was going on.[51] And it wasn't mentioned to the FBI or DOE's counter-intelligence personnel.

In response to written questions after a September 27, 2000 hearing on the Wen Ho Lee matter, DOE officials provided information to put the NADIR alerts in perspective. According to DOE, an average of 180 users per week exceeded the thresholds established by the system, and were flagged just like Dr. Lee.[52] While 180 is a substantial number of individuals, it would not be impossible to devise a system by which counterintelligence personnel can review these records to determine whether or not any individuals who are already under investigation have been identified by the system.

In response to another question about what happened to the NADIR records for 1994 (which, according to testimony from Ms. Wampler are missing), DOE replied simply that:

". . . in 1993 NADIR was a new and developing technique and many other scientists in addition to Dr. Lee were transferring data due to a change in the computer environment at that time. During the 1993-1994 timeframe, Dr. Lee was not a suspect."[53]

Apart from the fact that the DOE's response is incorrect—Dr. Lee was a suspect beginning in 1994—the records should have been available for review when the FBI began its investigation. The fact that the DOE was able to confirm that Dr. Lee was flagged by NADIR in 1993 proves that point, but it does not explain the absence of the 1994 NADIR records. Had the FBI bothered to check with the DOE computer personnel, and there should have been no doubt that Dr. Lee had no expectation of privacy with regard to a system designed to identify abnormal system operations, Dr. Lee's illegal computer downloads could have been detected and halted.

The DOE computer and counterintelligence personnel could also have been more helpful in this situation.[54] Had DOE transmitted this information to the FBI, and had the FBI acted on it, Dr. Lee could have and should have been stopped in his tracks in 1994 on these indicators of downloading. The full extent of the importance of the information that Dr. Lee was putting at risk through his downloading was encapsulated in a document the Government filed in December 1999 as part of the criminal action against Dr. Lee:

"[I]n 1993 and 1994, Lee knowingly assembled 19 collections of files, called tape archive (TAR) files, containing Secret and Confidential Restricted Data relating to atomic weapon research, design, construction, and testing. Lee gathered and collected information from the secure, classified LANL computer system, moved it to an unsecure, "open" computer, and then later downloaded 17 of the 19 classified TAR files to nine portable computer tapes."[55]

These files, which amounted to more than 806 megabytes, contained information that could do vast damage to the national security.

The end result of these missteps and lack of communication was that, during some of the very time that the FBI had an espionage investigation open on Dr. Lee resulting from his unreported contacts with a top Chinese scientist and the realization that the Chinese were using codes to which Dr. Lee had unique access, DOE computer personnel were being warned by the NADIR system that Dr. Lee was moving suspiciously large amounts of information around, but were ignoring those warnings and were not passing them on to the FBI. At the same time, FBI personnel were taking no steps to investigate Dr. Lee's computer activities, even when one of the key allegations that prompted scrutiny of him in 1994 was that he had helped the Chinese with codes and software.

The near perfect correlation between the allegations which began the 1994–1995 investigation and Dr. Lee's computer activities is stunning. The codes the Chinese were known to be using were computer codes, yet FBI and DOE counterintelligence officials never managed to discover these massive file transfers. Where, if not on his computer, were they looking? And, as for the lab computer personnel who saw but ignored the NADIR reports, what possible explanation can there be for a failure to conduct even the most minimal investigation?

FBI and DOE failures in 1994–1995 represented the loss of a golden opportunity to detect and halt Dr. Lee's illegal computer activities. In the 1995–1996 period, another opportunity to find and fix the problem presented itself in the form of the DOE Administrative Inquiry (AI). Unfortunately, the opportunity represented by the AI was never fully realized.

The Investigation Renewed, May 30, 1996 to August 12, 1997

As noted previously, the investigation of Dr. Lee was dormant from November 2, 1995 until May 30, 1996. The investigation had been shut down to await the arrival of DOE's Administrative Inquiry, which was presented on May 28, 1996. With the DOE AI in hand, the FBI resumed its investigation of the Lees. To understand that investigation, however, it is first necessary to review the AI.

The Kindred Spirit Administrative Inquiry

The public perception of the government's actions in the Wen Ho Lee case, particularly with regard to charges of so-called "ethnic profiling", has been shaped by a misunderstanding of the Department of Energy's Administrative Inquiry (AI), code named "Kindred Spirit". Although he was not its author, former DOE intelligence chief Notra Trulock has been closely associated with this document, in large measure because he was instrumental in commissioning the DOE's Kindred Spirit Analytical Group (KSAG) which spawned the AI, and he later forcefully advocated the position that substantial espionage had occurred and that something needed to be done about it. The KSAG was formed in 1995 when scientists studying Chinese nuclear developments became concerned about certain developments in the level of sophistication of the PRC's weapons. During the summer of 1995, these concerns were fueled when an individual provided to the U.S. government a document, subsequently known as the "walk-in" document, which contained highly classified details of some of our most advanced nuclear warheads.

Recent attempts to re-examine the premise of the Kindred Spirit AI and to question its role in the FBI's subsequent investigation of the same name have fostered the perception that the DOE's AI was largely to blame for the FBI's misdirected investigation, which focused almost exclusively on Dr. and Mrs. Lee, the loss of the W–88 information, and the Los Alamos lab, when a much broader investigation was required.

The perception that DOE's AI was the weakest link in the FBI's Kindred Spirit investigation is unfortunate because it obscures a far more complex set of circumstances. This perception has also unfairly undermined the government's credibility on the ethnic/racial profiling question and seriously damaged Notra Trulock's reputation and career. A more complete public record on this matter may be helpful in repairing some of the damage.

In an October 29, 1999 letter, Energy Secretary Bill Richardson reacted to the FBI's attempts to lay the blame for its problems in the Kindred Spirit investigation on the Administrative Inquiry:

". . . I think there has been a tendency to overstate the adverse influence that DOE's technical analysis and preliminary investigative support had on the conduct of the KINDRED SPIRIT investigation. There also has been, in my opinion, an over-emphasis on the degree to which DOE input served to limit the FBI's investigative work. . . . [T]he fact is that all of the decisions to limit the scope of the investigation were clearly, mutually agreed-upon by DOE and the FBI, based on security and other concerns."[57]

In this regard, Secretary Richardson is correct. The FBI's failures in the Wen Ho Lee investigation should not be blamed on the AI. The DOE is, by law, limited in the scope of what it can do. The FBI could have and should have looked at the AI as a starting point. Instead, the FBI case agents seemed to think that the DOE investigators had done their job for them, and never seriously looked at the premise of the AI and its relationship to Dr. Lee's activities.

The facts of the AI and the controversy surrounding it can be stated in an unclassified fashion as follows:

(A) The U.S. government concluded in 1995 that the PRC had made remarkable progress in its nuclear weapons program in the early 1990s.

(B) The government also learned in 1995 that the PRC had obtained certain classified nuclear weapons design information on the W–88 warhead and other weapons.

There is widespread agreement that both A and B are true: the Chinese made rapid advancements in their nuclear weapons program in the early 1990s, and they obtained classified nuclear weapons design information sometime before 1995. The controversy arises over whether there is any causal relationship between the two facts. One school of thought—embodied in the Kindred Spirit AI—holds that the Chinese advances occurred because they obtained classified U.S. nuclear weapons design information, particularly that related to the W–88. The contrary school of thought holds that while both A and B may be true, there is no evidence that the Chinese nuclear advances resulted from their acquisition of U.S. nuclear weapons design information.

Investigations predicated upon these two schools of thought would take remarkably divergent paths. If one took as a starting point, as did the authors of the AI, the belief that the PRC's nuclear weapons design advances were in large part attributable to espionage against the United States, one would be looking for the wholesale transfer of W–88 design information. The alternative view—that the PRC's nuclear weapons advances could have occurred independently of the acknowledged acquisition of classified U.S. weapons data in the "walk-in" document—would lead to an investigation focused on the specific bits of classified information the Chinese were known to have obtained, not only about the W–88 but about other weapons systems as well. The former theory paints a picture consistent with a single act of espionage, conducted by a single individual transferring information from a specific place. The latter theory forces a broader review, implicitly acknowledging that the information could involve multiple transfers from multiple sources, quite possibly by numerous individuals.

While the debate over whether or not the PRC's nuclear weapons advances resulted from espionage is important from both a counterintelligence and an intelligence point of view, it should not have been the determinative factor in deciding how to conduct this espionage investigation. The threshold for required action by the FBI is met on the basis of fact B, irrespective of fact A and any relationship between the two elements. Section 811 of the Intelligence Authorization Act of 1995, enacted to improve interagency coordination on espionage investigations in the wake of the Aldrich Ames spy case, requires an agency to notify the FBI when it becomes aware that espionage may have occurred. Proof that the PRC had obtained classified U.S. nuclear weapons design information became available in the summer of 1995 in the form of the "walk-in" document, which was really a large cache of documents delivered to the U.S. government by a Chinese national. The information in the "walk-in" document was sufficient to trigger the requirements of section 811 and to prompt an investigation by the FBI.

The DOE could have satisfied its statutory obligations under section 811 simply by notifying the FBI of its view that certain information in the "walk-in" document was not in the public domain, had not been authorized for transfer to the PRC, and was therefore likely in the possession of the PRC as a result of espionage. In retrospect, it might have been better if they had done so. The conclusions of the AI, while accompanied by many caveats that the DOE had been limited in its ability to conduct the investigation and that further review was required, were adopted almost wholesale by the FBI and formed the basis of the FBI's own Kindred Spirit espionage investigation.

The Bellows Report is highly critical of the DOE AI, concluding essentially that the DOE overstated the degree of consensus that existed on the question of espionage as a causal factor in the PRC's nuclear weapons advances, thereby establishing a faulty predicate for the entire investigation. The fact that the DOE was already concerned that the

PRC had detonated what appeared to be an advanced nuclear weapon when the information in the "walk-in" document became available may have led some members of the DOE scientific review panel, called the Kindred Spirit Analytical Group (KSAG), to give undue weight to the possibility of a causal link between the PRC's weapons design advances and the information in the "walk-in" document. That is a question about which reasonable individuals may disagree—even among the members of the KSAG there was not unanimity on this point[58]—but there is no doubt that the AI which flowed from the KSAG was built upon the belief that the PRC's design advances were the result of espionage. There can also be no doubt that the AI cast strong suspicion on the Lees.

Any fair reading of the Administrative Inquiry makes clear that its authors (a DOE counterintelligence official and an FBI agent seconded to the DOE to assist with the AI) considered Wen Ho and Sylvia to be the prime suspects in the alleged loss to the PRC of certain W–88 nuclear warhead design information, and that the loss had most likely occurred at Los Alamos. The AI reaches a preliminary conclusion:

". . . it is the opinion of the writer that Wen Ho Lee is the only individual identified during this inquiry who had, opportunity, motivation and legitimate access to both W–88 weapons system information and the information reportedly received by [the PRC]."[59]

A fair reading of the document also shows that the authors explicitly recognized the limitations of their investigation and recommended that the Lees and Los Alamos be a starting place for an investigation into the loss of the W–88 information, an investigation that would necessarily extend well beyond the Lees and Los Alamos. For example, the report says:

"This by no means excludes any other DOE personnel as being possible suspects in this matter. However, based upon a review of all information gathered by this inquiry, Wen Ho Lee and his wife, Sylvia appear the most logical suspects. Wen Ho Lee had the direct access to the W–88 [information], motivation and opportunity to provide the PRC the W–88 weapons design [information]."[60]

The report concluded with the following recommendation:

"The writer believes the ECI [DOE Counterintelligence] has basically, exhausted all logical 'leads' regarding this inquiry which ECI is legally permitted to accomplish. Therefore, I strongly urge the FBI take the lead in this investigation."[61]

Thus, while the AI strongly points toward the Lees there are also enough qualifiers to make it clear that other suspects should also be investigated.

Had the AI arrived on the doorstep of the FBI's Albuquerque office under different circumstances, it might have been handled more appropriately. The AI came when the FBI had already been investigating Dr. Lee, albeit not very competently, on the basis of credible allegations from 1994 that he had helped the Chinese with codes and software. In this context, the AI served to reinforce the FBI's existing perceptions of Dr. Lee as a likely espionage suspect.

Instead of using the AI as a starting point for a comprehensive investigation, the FBI did little or no additional analysis and began focusing almost exclusively on the W–88 issue and the Lees. The reason for the FBI's action was made clear in an interview of the special agent who helped write the AI, who said that he assumed that the investigation of Dr. Lee and the Kindred Spirit investigation would eventually merge because it looked like Dr. Lee was the most likely suspect.[62]

Even when given an opportunity to take a fresh look at the case, the FBI did not do so. When the CIA expressed concern in the summer of 1996 that the individual who provided the "walk-in" document might be under the control of a hostile intelligence service, the FBI actually shut down its investigation for nearly three weeks in July and August. An August 20, 1996 teletype from FBIHQ to the Albuquerque division says:

"On August 19, 1996, DOEHQ provided FBIHQ with a letter stating it had conferred with CIAHQ and that DOE judged 'that a serious compromise of U.S. weapons-specific restricted data occurred most likely in the 1984–1988 timeframe.' In effect, DOE stands by their original conclusion."[63]

Thus, after the details were sorted out, it was clear that the investigation should go forward because the PRC had information they should not have, even if there were disagreements over what, exactly, had been compromised. A September 16, 1996 FBI 302 from an interview of a scientist puts this in perspective. It says, "There was no disagreement that 'Restricted Data' information had been acquired by the Chinese. The only disagreement was over how valuable the information was."[64]

Thus, the recent attempts to dissect the AI, outlined elsewhere in this report, miss the mark. The FBI had an opportunity when the CIA raised a red flag about the "walk-in" in 1996 to review the structure of their investigation. They knew, based on the review they conducted at the time, that there had been some disagreement within the KSAG, but that espionage had, in fact, occurred. Unfortunately, when the FBI restarted its investigation in August 1996, the case agents never questioned the underlying assumptions of the AI or the impact of these assumptions on the structure and course of the investigation.

By restarting the investigation where they left off, the FBI failed to take into consideration massive amounts of information in their own files indicating that the investigation should extend beyond the W–88 information, beyond Los Alamos, and beyond the Lees. More importantly, the FBI never seems to have made any effort to understand what, if any, relationship existed between the Kindred Spirit allegations and the investigation of Dr. Lee that was already under way related to computer codes and software. The FBI's failure to ask this basic question sent the investigation on a wild goose chase for more than three years while Dr. Lee's illegal computer activities, which were highly relevant to the 1994 allegations against him, continued unchecked and unimpeded.

The "walk-in" document

The "walk-in" document is central to the Kindred Spirit investigation, so it should be described in the greatest detail consistent with classification concerns. This document, dated 1988, is said to lay out China's nuclear modernization plan for Beijing's First Ministry of Machine Building, which is responsible for making missiles and nose cones.[65] The 74-page document contains dozens of facts about U.S. warheads, mostly in a two-page chart. On one side of the chart are various US Air Force and US Navy warheads, including some older bombs as well as the W–80 warhead (cruise missiles), the W–87 (Minuteman III); and the W–88 (Trident II).[66] Among the most important items of information in the "walk-in" document are details about the W–88 warhead.

The Cox Committee Report provides the following description and assessment of the "walk-in" document:

"In 1995, a "walk-in" approached the Central Intelligence Agency outside of the PRC and provided an official PRC document classified "Secret" that contained design information on the W–88 Trident D–5 warhead, the most modern in the U.S. arsenal, as well as technical information concerning other thermonuclear warheads.

"The CIA later determined that the "walk-in" was directed by the PRC intelligence services. Nonetheless, the CIA and other Intelligence Community analysts that reviewed the document concluded that it contained U.S. thermonuclear warhead design information.

"The "walk-in" document recognized that the U.S. nuclear warheads represented the state-of-the-art against which PRC thermonuclear warheads should be measured.

"Over the following months, an assessment of the information in the document was conducted by a multidisciplinary group from the U.S. government, including the Department of Energy and scientists from the U.S. national weapons laboratories."[67]

The Cox Committee's view that the Chinese had obtained sensitive design information about U.S. thermonuclear warheads is bolstered by the June 1999 report of the President's Foreign Intelligence Advisory Board, which states that the "walk-in" document:

"unquestionably contains some information that is still highly sensitive, including descriptions, in varying degrees of specificity, of the technical characteristics of seven U.S. thermonuclear warheads."[68]

The preceding analysis shows that while there can be a legitimate debate as to whether the conclusions of the AI were stated with inordinate confidence, which may have contributed to the FBI's decision to focus on the Lees and the loss of the W–88 information, there can be no doubt that: (1) the PRC obtained classified nuclear secrets through espionage, and (2) the FBI had ample reason to investigate Dr. Lee. The problem is that the FBI focused too narrowly on the Lees as suspects in the W–88 investigation without ascertaining whether their suspicions about Dr. Lee were logically related to the alleged loss of the W–88 information.

From 1996 until 1997 the DOE and FBI investigation was characterized by additional inexplicable lapses. For example, in November 1996, the FBI asked DOE counterintelligence team leader Terry Craig for access to Dr. Lee's computer. Although Mr. Craig apparently did not know it until 1999, Dr. Lee had signed a consent-to-monitor waiver[69] on April 19, 1995. The relevant portion of the waiver states:

"Warning: To protect the LAN [local area network] systems from unauthorized use and to ensure that the systems are functioning properly, activities on these systems are monitored and recorded and subject to audit. Use of these systems is expressed consent to such monitoring and recording. Any unauthorized access or use of this LAN is prohibited and could be subject to criminal and civil penalties."[70]

For reasons that have yet to be explained, this waiver was not in Dr. Lee's security file or his personnel file.[71]

The computer that Dr. Lee used apparently also had a banner, which had information that may have constituted sufficient notice to give the FBI access to its contents. And, finally, LANL computer use policy gave authorities the ability to search computers to prevent waste, fraud and abuse.[72] As noted in the press release accompanying the August 12, 1999, Department of Energy Inspector General's Report, Mr. Craig's "failure to conduct a diligent search deprived the FBI of relevant and potentially vital information."[73] Had the FBI National Security Law Unit (NSLU) been given the opportunity to review these facts, it may well have concluded that no FISA warrant was necessary to conduct a preliminary investigation of Dr. Lee's computer. More importantly, records from the DOE monitoring systems like NADIR could almost certainly have been reviewed without a FISA warrant. Had these records been searched, Dr. Lee's unauthorized downloading would have been found nearly three years earlier. Unfortunately, through the failures of both DOE and FBI personnel, this critical information never reached FBI Headquarters, and the NSLU decided that Dr. Lee's computer could not be searched without a FISA warrant.[74] Thus, a critical opportunity was lost to find and remove from an unsecure system, information that could alter the global strategic balance.

Nonetheless, the FBI developed an adequate factual basis for the issuance of a FISA warrant. The information developed by the FBI to support its FISA application in 1997 was cogently summarized in the August 5, 1999 special statement of Senators Thompson and Lieberman of the Senate Committee on Governmental Affairs[75]:

"DOE counterintelligence and weapons experts had concluded that there was a great probability that the W–88 information had been compromised between 1984 and 1988 at the nuclear weapons division of the Los Alamos laboratory. It was standard PRC intelligence tradecraft to focus particularly upon targeting and recruitment of ethnic Chinese living in foreign countries (e.g., Chinese-Americans).

"It is common in PRC intelligence tradecraft to use academic delegations—rather than traditional intelligence officers—to collect information on science-related topics. It was, in fact, standard PRC intelligence tradecraft to use scientific delegations to identify and target scientists working at restricted United States facilities such as LANL, since they "have better access than PRC intelligence personnel to scientists and other counterparts at the United States National Laboratories."

"Sylvia Lee, wife of Wen Ho Lee, had extremely close contacts with visiting Chinese scientific delegations. Sylvia Lee, in fact, had volunteered to act as hostess for visiting Chinese scientific delegations at LANL when such visits first began in 1980, and had apparently had more extensive contacts and closer relationships with these delegations than anyone else at the laboratory. On one occasion, moreover, Wen-Ho Lee had himself aggressively sought involvement with a visiting Chinese scientific delegation, insisting upon acting as an interpreter for the group despite his inability to perform this function very effectively.

"Sylvia Lee was involuntarily terminated at LANL during a reduction-in-force in 1995. Her personnel file indicated incidents of security violations and threats she allegedly made against coworkers.

"In 1986, Wen-Ho Lee and his wife traveled to China on LANL business to deliver a paper on hydrodynamics[76] to a symposium in Beijing. He visited the Chinese laboratory—the Institute for Applied Physics and Computational Mathematics (IAPCM)—that designs the PRC's nuclear weapons.

"The Lees visited the PRC—and IAPCM—on LANL business again in 1988.

"It was standard PRC intelligence tradecraft, when targeting ethnic Chinese living overseas, to encourage travel to the "homeland"—particularly where visits to ancestral villages and/or old family members could be arranged—as a way of trying to dilute loyalty to other countries and encouraging solidarity with the authorities in Beijing.

"The Lees took vacation time to travel elsewhere in China during their two trips to China in 1986 and 1988.

"The FBI also learned of the Lees' purchase of unknown goods or services from a travel agent in Hong Kong while on a trip to that colony and to Taiwan in 1992. On the basis of the record, the FBI determined that there was reason to believe that this payment might have been for tickets for an unreported side trip across the border into the PRC to Beijing.

"Though Wen-Ho Lee had visited IAPCM in both 1986 and 1988 and had filed "contact reports" claiming to recount all of the Chinese scientists he met there, he had failed to disclose his relationship with the PRC scientist who visited LANL in 1994.

"Wen-Ho Lee worked on specialized computer codes at Los Alamos—so-called "legacy codes" related to nuclear testing data—that were a particular target for Chinese intelligence.

"The FBI learned that during a visit to Los Alamos by scientists from IAPCM, Lee had discussed certain unclassified hydrodynamic computer codes with the Chinese delegation. It was reported that Lee had helped the Chinese scientists with their codes by providing software and calculations relating to hydrodynamics.

"In 1997, Lee had requested permission to hire a graduate student, a Chinese national, to help him with work on "Lagrangian codes" at LANL. When the FBI evaluated this request, investigators were told by laboratory officials that there was no such thing as an unclassified Lagrangian code, which describes certain hydrodynamic processes and are used to model some aspects of nuclear weapons testing. "In 1984, the FBI questioned Wen-Ho Lee about his 1982 contact with a U.S. scientist at another DOE nuclear weapons laboratory who was under investigation. "When questioned about this contact, Lee gave deceptive answers. After offering further explanations, Lee took a polygraph, claiming that he had been concerned only with this other scientist's alleged passing of unclassified information to a foreign government against DOE and Nuclear Regulatory Commission regulations—something that Lee himself admitted doing. (As previously noted, the FBI closed this investigation of Lee in 1984.) "The FBI, as noted above, had begun another investigation into Lee in the early 1990s, before the W–88 design information compromise came to light. This investigation was based upon an FBI investigative lead that Lee had provided significant assistance to the PRC. "The FBI obtained a copy of a note on IAPCM letterhead dated 1987 listing three LANL reports by their laboratory publication number. On this note, in English, was a handwritten comment to 'Linda' saying '[t]he Deputy Director of this Institute asked [for] these paper[s]. His name is Dr. Zheng Shaotang. Please check if they are unclassified and send to them. Thanks a lot. Sylvia Lee.' "

The FBI request was worked into a draft FISA application by Mr. David Ryan, a line attorney from the Department of Justice's Office of Intelligence Policy and Review (OIPR) with considerable experience in FISA matters. It was then reviewed by Mr. Allan Kornblum, as Deputy Counsel for Intelligence Operations, and finally, by Mr. Gerald Schroeder, Acting Counsel, OIPR.[77] As is well known by now, the OIPR did not agree to forward the FISA application, and yet another opportunity to discover what Dr. Lee was up to was lost.

The Department of Justice should have taken the FBI's request for a FISA warrant on Dr. Lee to the Court on August 12, 1997.

Attorney General Reno testified about this case before the Senate Judiciary Committee on June 8, 1999. A redacted version of her testimony was released on December 21, 1999. The transcript makes it clear that the Department of Justice should have agreed to go forward with the search warrant for surveillance of Dr. Wen Ho Lee under the Foreign Intelligence Surveillance Act when the FBI made the request in 1997.

The DOJ's internal review of the FISA request, conducted by Assistant U.S. Attorney Randy Bellows, confirms that the request should have gone forward. Mr. Bellows said:

"The final draft FISA application [deleted] on its face, established probable cause to believe that Wen Ho Lee was an agent of a foreign power, that is to say, a United States Person currently engaged in clandestine intelligence gathering activities for or on behalf of the PRC which activities might involve violations of the criminal laws of the United States and that his wife, Sylvia Lee, aided, abetted or conspired in such activities. Given what the FBI and OIPR knew at the time, it should have resulted in the submission of a FISA application and the issuance of a FISA order."[78]

In evaluating the sufficiency of the FBI's statement of probable cause, the Attorney General and the Department of Justice failed to follow the standards of the Supreme Court of the United States that the requirements for "domestic surveillance may be less precise than that directed against more conventional types of crime." In *United States v. U.S. District Court* 407 U.S. 297, 322–23 (1972) the Court held:

"We recognize that domestic security surveillance may involve different policy and practical considerations from the surveillance of "ordinary crime" . . . *the focus of domestic surveillance may be less precise than that directed against more conventional types of crime*. . . . Different standards may be compatible with the Fourth Amendment if they are reasonable both in relation to the legitimate need of government for intelligence information and the protected rights of our citizens. For the warrant application *may vary according to the governmental interest* to be enforced and the nature of citizen rights deserving protection." [emphasis added]

Even where domestic surveillance is not involved, the Supreme Court has held that the first focus is upon the governmental interest involved in determining whether constitutional standards are met. In *Camera v. Municipal Court of the City and County of San Francisco*, 387 U.S. 523, 534–539, (1967), the Supreme Court said:

"In cases in which the Fourth Amendment requires that a warrant to search be obtained, "probable cause" is the standard by which a particular decision to search is tested against the constitutional mandate of reasonableness. To apply this standard, it is obviously necessary *first to focus upon the governmental interest* which allegedly justifies official intrusion upon the constitutionally protected interests of the private citizen. . . . [emphasis added]

"Unfortunately, there can be no ready test for determining reasonableness other than by balancing the need to search against the invasion which the search entails. . . .

"The warrant procedure is designed to guarantee that a decision to search private property is justified by a reasonable governmental interest. But reasonableness is still the ultimate standard. If a valid public interest justifies the intrusion contemplated, then there is probable cause to issue a suitably restricted search warrant."

Where the Court allowed inspections in *Camera* without probable cause that a particular dwelling contained violations, it is obvious that even more latitude would be constitutionally permissible where national security is in issue and millions of American lives may be at stake. Even under the erroneous, unduly high standard applied by the Department of Justice, however, the FBI's statement of probable cause was sufficient to activate the FISA warrant.

FBI Director Freeh correctly concluded that probable cause existed for the issuance of the FISA warrant. At the June 8 hearing, Attorney General Reno stated her belief that there had not been a sufficient showing of probable cause but conceded that FBI Director Freeh, a former Federal judge, concluded that probable cause existed as a matter of law.[79]

The Department of Justice applied a clearly erroneous standard to determine whether probable cause existed. As noted in the transcript of Attorney General Reno's testimony:

"On 8-12-97 Mr. Allan Kornblum of OIPR advised that he could not send our (the FBI) application forward for those reasons. We had not shown that subjects were the ones who passed the W-88 [design information] to the PRC, and we had little to show that they were presently engaged in clandestine intelligence activities."[80]

It is obviously not necessary to have a showing that the subjects were the ones who passed W-88 design information to the PRC. That would be the standard for establishing guilt at a trial, which is a far higher standard than establishing probable cause for the issuance of a search warrant. Attorney General Reno contended that the remainder of the 12 individuals identified in the AI would have to be ruled out as the ones who passed W-88 design information to the PRC before probable cause would be established for issuance of the FISA warrant on Dr. Lee. That, again, is the standard for conviction at trial instead of establishing probable cause for the issuance of a search warrant. Thus, it is apparent from the Kornblum statement that the wrong standard was applied: "that subjects were the ones that passed the W-88 [design information] to the PRC."[81]

DOJ was also wrong when Mr. Kornblum concluded that: "We had little to show that they were presently engaged in clandestine intelligence activities."[82] There is substantial evidence that Dr. Lee's relevant activities continued from the 1980s to 1992, 1994 and 1997 as noted above.

When FBI Assistant Director John Lewis met with Attorney General Reno on August 20, 1997, to ask about the issuance of the FISA warrant, Attorney General Reno delegated the matter to Mr. Daniel Seikaly, former Director, DOJ Executive Office for National Security, and she had nothing more to do with the matter. Mr. Seikaly completed his review by late August or early September and communicated his results to the FBI through Mr. Kornblum. As Mr. Seikaly has testified, this was the first time he had ever worked on a FISA request and he was not "a FISA expert." It was not surprising then that Seikaly applied the wrong standard for a FISA application:

"We can't do it (a FISA wiretap) unless there was probable cause to believe that that facility, their home, is being used or about to be used by them as agents of a foreign power."[83]

Mr. Seikaly applied the standard from the typical criminal warrant as opposed to a FISA warrant. 18 U.S.C. 2518, governing criminal wiretaps, allows surveillance where there is:

"Probable cause for belief that the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted, are being used, or are about to be used *in connection with the commission of such offense.*" [emphasis added]

This criminal standard specifically requires that the facility be used in the "commission of such offense." FISA, however, contains no such requirement. 50 U.S.C. 1805 (Section 105 of FISA) states that a warrant shall be issued if there is probable cause to believe that:

"Each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power."

There is no requirement in this FISA language that the facility is being used in the commission of an offense. This incorrect application of the law was a serious mistake. As noted in the Bellows report, "This matter should not have been assigned to an attorney who did not already have a solid grounding in FISA law, FISA applications, and the FISA Court."[84]

Attorney General Reno demonstrated an unfamiliarity with technical requirements of Section 1802 versus Section 1804. She was questioned about the higher standard under 1802 than 1804: "It seems the statutory scheme is a lot tougher on 1802 on its face."[85]

Attorney General Reno replied: "Well I don't know. I've got to make a finding that under 1804, that it satisfies the requirement and criteria—and requirement of such application as set forth in the chapter, and it's fairly detailed."[86]

When further questioned about her interpretation on 1802 and 1804, Attorney General Reno indicated lack of familiarity with these provisions, saying:

"Since I did not address this, let me ask Ms. Townsend who heads the office of policy review to address it for you in this context and then I will. . . ."[87]

As noted in the record, the offer to let Ms. Townsend answer the question was rejected in the interest of getting the Attorney General's view on this important matter rather than that of a subordinate.

The lack of communication between the Attorney General and the Director of the FBI on a matter of such grave importance is troubling. As noted previously, Director Freeh sent John Lewis, Assistant FBI Director for National Security to discuss this matter with the Attorney General on August 20, 1996. However, when the request for a review of the matter did not lead to the forwarding of the FISA application to the court, Director Freeh did not further press the issue. And Attorney General Reno conceded that she did not follow up on the Wen Ho Lee matter. During the June 8 hearing, Senator Sessions asked, "Did your staff convey to you that they had once again denied this matter?"[88]

Attorney General Reno replied, "No, they had not."[89]

As the Bellows Report concludes, "The failure to advise the Attorney General of the resolution of this matter had an unfortunate consequence: It effectively denied the FBI the true appeal it had sought."[90]

The June 8, 1999 hearing also included a discussion as to whether FBI Director Freeh should have personally brought the matter again to Attorney General Reno. The Attorney General replied that she did not "complain" about FBI Director Freeh's not doing so and stated, "I hold myself responsible for it."[91]

Attorney General Reno conceded the seriousness of the case, stating, "I don't think the FBI had to convey to the attorneys the seriousness of it. I think anytime you are faced with facts like this it is extremely serious."[92]

In the context of this serious case, it would have been expected that Attorney General Reno would have agreed with FBI Director Freeh that the FISA warrant should have been issued. In her testimony, she conceded that if some 300 lives were at stake on a 747 she would take a chance, testifying: "My chance that I take if I illegally search somebody, if I save 300 lives on a 747, I'd take it."[93]

In that context, with the potential for the PRC obtaining U.S. secrets on nuclear warheads, putting at risk millions of Americans, it would have been expected that the Attorney General would find a balance in favor of moving forward with the FISA warrant. As demonstrated by her testimony, Attorney General Reno sought at every turn to minimize the FBI's statement of probable cause. On the issue of Dr. Lee's opportunity to have visited Beijing when he had been in Hong Kong and incurred additional travel costs of the approximate expense of traveling to Beijing, the Attorney General said that "an unexplained travel voucher in Hong Kong does not lead me to the conclusion that someone went to Beijing any more than they went to Taipei."[94]

It might well be reasonable for a fact-finder to conclude that Dr. Lee did not go to Beijing; but, certainly, his proximity to Beijing, the opportunity to visit there and his inclination for having done so in the past would at least provide some "weight" in assessing probable cause. But the Attorney General dismissed those factors as having no weight even on the issue of probable cause, testifying, "I don't find any weight when I don't know where the person went."[95] Of course it is not known "where the person went." If that fact had been established, it would have been beyond the realm of "probable cause." Such summary dismissal by the Attorney General on a matter involving national security is inappropriate given the circumstances. In other legal contexts, opportunity and inclination are sufficient to cause an inference of certain conduct as a matter of law.

The importance of DOJ's erroneous interpretation of the law in this case, which resulted in the FISA rejection, should not be underestimated. Had this application for a FISA warrant been submitted to the court, it doubtless would have been approved. DOJ officials reported that approximately 800 FISA warrants were issued each year with no one remembering any occasion when the court rejected an application.

Assistant U.S. Attorney Randy Bellows concurred on the damage done by OIPR's rejection of the FISA request:

"OIPR's erroneous judgment that [deleted] did not contain probable cause could not have been more consequential to the investigation of Wen Ho Lee. From the beginning of that investigation, the FBI's objective had been to obtain FISA coverage. It now faced the prospect of no FISA coverage, an eventuality for which it had never prepared. The other consequence, of course, is that such information as might have been acquired through FISA coverage was not acquired. It is impossible to say just what the FBI would have learned through FISA surveillance. That is, after all, the point of surveillance. What is clear is that [deleted] should have been approved, not rejected. For all the problems with the FBI's counterintelligence investigation of Wen Ho Lee, and they were considerable, the FBI had somehow managed to stitch together an application that established probable cause. That OIPR would disagree with the assessment would deal this investigation a blow from which it would not recover."[96]

Had the FBI obtained the FISA search warrant, it might have had a material effect on the investigation and criminal charging of Dr. Lee. Given the serious mistakes that had been made by the FBI prior to 1997, there is no guarantee that a FISA warrant would have led to a successful conclusion to the investigation, but the failure to issue a warrant clearly had an adverse impact on the case.

To put the 1997 FISA rejection in perspective, consider that the open network to which Dr. Lee had transferred the legacy codes was "linked to the Internet and e-mail, a system that had been attacked several times by hackers."[97] Although we do not know the exact figures for the number of times that it was accessed, it has been reported that between October 1997 and June 1998 alone, "there were more than 300 foreign attacks on the Energy Department's unclassified systems, where Mr. Lee had downloaded the secrets of the U.S. nuclear arsenal."[98]

Consider also the following from a December 23, 1999, Government filing in the criminal case against Dr. Lee:

". . . in 1997 Lee downloaded directly from the classified system to a tenth portable computer tape a current nuclear weapons design code and its auxiliary libraries and utility codes."[99]

This direct downloading had been made possible by Los Alamos computer managers who made Lee's file transfers "easier in the mid-1990s by putting a tape drive on Lee's classified computer."[100] As incomprehensible as it seems, despite the fact that Dr. Lee was the prime suspect in an ongoing espionage investigation, and despite plans to limit his access to classified information to limit any damage he might do, DOE computer personnel installed a tape drive on his computer that made it possible for him to directly download the nation's top nuclear secrets.

An important aim of surveillance under the FISA statute is to determine whether foreign intelligence services are getting access to our classified national security information. Although we do not know, and may never know, why Dr. Lee placed these classified files on an unsecure system, there should be no doubt that transferring classified information to an unclassified computer system and making unauthorized tape copies of that information created a substantial opportunity for foreign intelligence services to access that information. The breakdown of communication between the FBI and DOJ which resulted in the rejection of the FISA in 1997 resulted in yet another missed opportunity to find and protect the information Dr. Lee illegally put at risk.

Certain provisions of the Counterintelligence Reform Act of 2000, which became law as Title VI of Public Law 106-567 on December 27, 2000, will prevent the kinds of problems that plagued this FISA request. The law now requires that, upon written notification from the Director of the FBI (or of one of the few other officials who are authorized to make FISA requests), the Attorney General must explain in writing why the Department does not believe that probable cause has been established, and to make recommendations for improving the request. When given such recommendations in writing, the requesting official must personally supervise the implementation of any such recommendations. These procedures will ensure that disagreements over matters of probable cause are resolved rather than allowed to linger, as happened in the Wen Ho Lee case.

Investigation from August 12, 1997 to December 23, 1998

Notwithstanding the serious evidence against Dr. Lee on matters of great national security importance, the FBI investigation languished for 16 months, from August 1997 until December 1998, with the Department of Energy permitting Dr. Lee to continue on the job with access to classified information.

After OIPR's August 1997 decision not to forward the FISA application, FBI Director Louis Freeh met with Deputy Energy Secretary Elizabeth Moler to tell her that there was no longer any investigatory reason to keep Lee in place at LANL, and that DOE should feel free to remove him in order to protect against further disclosures of classified information. In October 1997, Director Freeh delivered the same message to Energy Secretary Federico Pena that he had given to Moler.[101] These warnings were not acted on, and Dr. Lee was left in place, as were the files he had downloaded to the unclassified system, accessible to any hacker on the Internet.

After the rejection of the FISA warrant request on August 12, it took the FBI three and one-half months to send a memo dated December 19, 1997, to the Albuquerque field office listing fifteen investigative steps that should be taken to move the investigation forward. The Albuquerque field office did not respond directly until November 10, 1998. The fifteen investigative steps were principally in response to the concerns raised by OIPR about the previous FISA request. To protect sources and methods, the specific investigative steps in the December 19, 1997 teletype cannot be disclosed, but have been summarized by the FBI as follows:

1. Conduct Additional Interviews

(a) Open preliminary inquiries on other individuals named in the DOE AI who met critical criteria;

(b) Develop information on associate's background, and interview the associate, and

(c) Interview co-workers, supervisors, and neighbors.

2. Conduct Physical Surveillance

3. Conduct Other Investigative Techniques

(a) Review information resulting from other investigative methods;

(b) Review other investigations for lead purposes; and

(c) Implement alternative investigative methods.[102]

Only two of the leads were seriously pursued. Most importantly, the FBI did not open investigations on the other individuals named in the DOE AI until much later.

The False Flag

One of the steps recommended in the December 1997 HQ investigative plan was carried out in August 1998. The results of this "False Flag" operation against Dr. Lee are partially described in a November 10, 1998 memorandum from Albuquerque to FBIHQ. The memorandum is identified as a request for electronic surveillance and lays out the basis for probable cause, including a description of a series of phone calls between Dr. Lee and an individual posing as an officer of the Ministry of Foreign Affairs and Ministry of State Security. According to the memo, this undercover agent (UCA) introduced himself to Dr. Lee "as a representative of the 'concerned Department,' from Beijing, PRC," and explained that the purpose of his visit to Sante Fe was to "meet with Wen Ho Lee to assure of Lee's well-being in the aftermath of the conviction of a Chinese-American scientist, Peter Lee in California."[103]

The Albuquerque memo describes Dr. Lee as being "skeptical of the entire situation and apprehensive about meeting face-to-face with [the UCA]" and relates how Dr. Lee mentioned that "departmental policy at LANL requires him to report to his superior if he meets with a representative of a foreign government, however, it does not mean that he is forbidden to meet such a person."[104] Dr. Lee stated a preference for discussing any matters with the representative of the PRC over the phone, but when told that there were other sensitive issues besides the Peter Lee case which must be discussed in person, Dr. Lee agreed to meet the UCA at the Hilton Hotel.[105]

About ten minutes after agreeing to travel to meet the UCA, Dr. Lee called back and said he had changed his mind, reiterating his concerns about registering with his superior when meeting with foreign government officials. Given that Dr. Lee would not agree to a face-to-face meeting, the UCA said that "although he was an official from the PRC government, he was traveling under civilian status on this trip so that he could avoid scrutiny by the United States government."[106] The UCA, then asked Dr. Lee if he had been interviewed by any U.S. authorities, including the FBI, and whether Dr. Lee had noticed anything unusual or was being treated differently by his employer or had any restrictions on his travel arrangements in the wake of the Peter Lee case. Dr. Lee responded negatively.[107]

The UCA then told Dr. Lee that one of the reasons he wanted to meet was to see if there was any material to take back to the PRC. After Dr. Lee said there was not any such material, the UCA said that "since the material he brought back to China and the speech he gave were so helpful, did Lee have any plans in going to the PRC in the near future."[108] Dr. Lee said that he would probably not be going to the PRC until after his retirement from LANL in one or two years. He did not, as one would expect, deny that he had previously sent material.

The next day (August 19), the UCA called Dr. Lee again, saying that he would be leaving Santa Fe in a few days and asking if Dr. Lee would like to have a number where he could contact the UCA in the future. Dr. Lee said he would like to have a number, and was provided a pager number and was told that it belonged to an American friend who had helped the UCA and his associates in the past, and who could be trusted.[109]

Dr. Lee did not immediately report this contact, but he told his wife who told a friend, who told DOE security. When Dr. Lee was questioned by DOE counterintelligence personnel about the phone call, he was vague, and failed to mention the beeper number or the hotel.

The FBI did not properly handle the information learned from the False Flag operation. First, it took more than three months for the transcript of the exchange between Dr. Lee and the UCA to get to FBI Headquarters where it could be fully analyzed. Unfortunately, the transcript (and the FISA request based on the results of the False Flag) arrived at FBI HQ just when the DOE was asserting control over the case. Had the transcript been analyzed in the full detail that it deserved, the FBI would have been able to tell the Office of Intelligence Policy and Review that prior concerns about whether Dr. Lee was "currently engaged" as an agent of a foreign power had been addressed by his dealings with the undercover agent. Among the key points that should have been worked into the renewed FISA application are the following:

That Dr. Lee agreed to meet with an individual purporting to be an agent of a foreign government, traveling in the U.S. in civilian clothes to avoid detection by U.S. authorities. Although Dr. Lee called back and canceled the face-to-face meeting, he never reported to lab security personnel that he had agreed to meet in the first place.

That Dr. Lee accepted the contact number of an individual claiming to be an agent of a foreign power, yet failed to disclose that fact to lab security officials about the incident when asked about this contact. Dr. Lee apparently admitted more of the details of the August phone conversations when he was interviewed by FBI agents in January 1999, but his failure to acknowledge this fact when he spoke to Los Alamos officials in August 1998 continued a pattern of incomplete disclosure from Dr. Lee.

That Dr. Lee asked questions during the conversation which indicated a knowledge of PRC intelligence and scientific organizations and the operational methods used by these agencies.

None of these new items of information was sufficient, on its own, to tip the balance of probable cause against Dr. Lee. However, in the context of the other evidence that had already been gathered by the FBI, these elements were certainly relevant to a probable cause determination and should have been relayed to OIPR for consideration. While the FBI informally told OIPR of Dr. Lee's failure to fully report the August contact, that conversation did not take place until three months after the incident occurred. A proper and timely interpretation of the False Flag operation would have set the investigation on a very different course in late 1998. The Bellows Report supports the judgement that the FBI's handling of the False Flag was inappropriate, and that the information gained through the False Flag would have added to a showing of probable cause necessary for a FISA warrant.

Surreptitious Communications

The December 19, 1997 directive from FBI Headquarters also revived an investigative issue that had come to the FBI's attention in 1995, prior to the start of the Kindred Spirit investigation. Among the 15 actions that FBI Headquarters directed the Albuquerque office to take was a reinvestigation of the possibility that Dr. Lee was engaging in clandestine communications, using either a satellite system or Short Range Agent Communications (SRAC).

As part of the 1994–1996 investigation of Dr. Lee, the FBI had learned that Dr. Lee was reported to have installed a satellite antenna near his home and was suspected of using it to communicate surreptitiously. The case agents requested assistance in investigating the possibility that Dr. Lee was engaged in some sort of satellite communications, but the request was summarily dismissed by the case manager at FBI Headquarters, Supervisory Special Agent Craig Schmidt, and the matter was not further pursued for nearly three years.

After the FISA request was rejected in 1997, in part because the FBI had not been able to convince OIPR that Dr. Lee was currently engaged in any clandestine activity, the case manager's interest in the communications issue picked up. In the December 19, 1997 communication to Albuquerque, he directed the agents in the field to renew their investigation of this matter, which they did with substantial vigor. For several months during the summer of 1998, the Albuquerque office collected information to determine whether or not Dr. Lee was, in fact, engaged in some sort of clandestine communication from his home.

The Albuquerque case agents, with the help of a technical adviser who was brought in specifically for the purpose of helping on this issue, formed a hypothesis that Dr. Lee was communicating by satellite. They included this information, and much of the supporting data, in the November 10, 1998 request for a FISA warrant. The agents did not assert conclusively that Dr. Lee was using SRAC or satellite communications, but they explained their reasons for believing that he might be doing so and requested help in making a final determination about the significance of the possible communications.

The FBI has subsequently concluded that the observed phenomenon which originally led the Albuquerque case agents to believe that Dr. Lee might be using SRAC was not linked to any communication from Dr. Lee's house. The FBI's technical analysis of this issue is thorough and convincing. On the current state of the record, the phenomenon which led the FBI to suspect that Dr. Lee was engaged in surreptitious communications, while still unexplained, cannot be conclusively linked to anything that was going on inside Dr. Lee's house or on his property.

What is disturbing, however, is that the FBI did not even begin this analysis until November 1999, shortly after the November 3, 1999 closed hearing which focused heavily on this issue. The case manager at FBI Headquarters who received the November 10, 1998 FISA request from Albuquerque rejected the new request, despite the fact that it contained new information beyond what the FBI had felt was sufficient, in 1997, to get a FISA warrant. Outside the Albuquerque field office, no one in the FBI made any real effort to understand the data in the November 10, 1998 FISA request.

Even when the dynamics of the case changed after the FBI concluded that Dr. Lee had not passed the December 23, 1998 polygraph, and changed again when Dr. Lee failed an FBI polygraph on February 10, 1999, no one in the FBI expressed any interest in examining the possibility that there might be something more to the SRAC issue than initially suspected. The FBI still did not revisit the clandestine communications issue after learning that Dr. Lee had been downloading computer files and putting them on portable tapes. The notion that there might be a link between the clandestine communications and the portable tapes apparently never occurred to the FBI, and no effort was made to investigate the meaning of the strange electromagnetic phenomenon that had led the FBI case agents to suspect that Dr. Lee was using SRAC.

Instead of taking action on the new information, the case manager sent back a cable on December 10, telling the case agents that FBIHQ had reviewed the new FISA request and determined that it did "not yet contain the justification necessary to successfully support a FISA Court application for electronic surveillance," and recommended that Albuquerque send copies of written reports from LANL's Counterintelligence officer, Terry Craig, regarding Dr. Lee's deception about the False Flag.[110]

On the merits, the failure to forward the FISA request to OIPR is inexplicable. The FBI had felt since 1997 that they had sufficient probable cause to get a FISA warrant. The 1998 investigative steps yielded new information that directly addressed the concerns OIPR had raised about the Lees being currently engaged in clandestine activity, yet the FBI case manager summarily dismissed the new request, failing to even forward it to OIPR for consideration. The failure to take action when the dynamics of the case changed in early 1999 is just incomprehensible.

When such serious national interests were involved in this case, it was simply unacceptable for the FBI to tarry from August 12, 1997 to December 19, 1997, to send the Albuquerque field office a memo. It was equally unacceptable for the Albuquerque field office to take from December 19, 1997 until November 10, 1998 to respond to the guidance from Headquarters, and then for the FBI not to renew the request for a FISA warrant based on the additional evidence. The FBI's handling of this issue is impossible to justify.

The December 23, 1998 Polygraph

When Dr. Lee returned to the United States from a three-week trip to Taiwan in December 1998, he was administered a polygraph examination on instructions from Mr. Ed Curran, Director of DOE's Office of Counterintelligence (OCI). Although Dr. Lee was initially thought to have passed the polygraph with very high scores, his access to the X-Division was temporarily suspended to give the FBI time to conclude its investigation. When the polygraph results were examined by the FBI in late January or early February 1999, it became clear that Dr. Lee had not passed, and the investigation was restarted, eventually leading to the dismissal of Dr. Lee from LANL and, several months later, his indictment and jailing.

The circumstances surrounding this December 1998 polygraph are among the most important but least understood aspects of the case. The June 1999 report of the President's Foreign Intelligence Advisory Board raised questions about this issue and recommended that the Attorney General determine, "why DOE, rather than the FBI, conducted the first polygraph in this case when the case was an open FBI investigation. . . ."[111] The subcommittee's investigation demonstrates that the handling of the December 23, 1998 polygraph, or more accurately the mishandling of this polygraph is one of the most consequential errors of the Wen Ho Lee matter. To understand the impact of the polygraph on the case, it is necessary to review: 1) the events leading up to and the reasons for the December 23, 1998 polygraph; 2) the results of that polygraph; and 3) the effect on the investigation of the erroneous polygraph reading by Wackenhut. The short answer is that: 1) DOE jumped into the case in a heavy handed way during late 1998 in an effort to avoid criticism related to the upcoming release of the Cox Committee report, 2) the Wackenhut examiners' incorrect conclusion that Dr. Lee passed the polygraph prompted the FBI to nearly shut down its investigation of Dr. Lee, 3) with the result that during the time he supposedly was denied access to the X-Division, Dr. Lee was able to return and recover the tapes that are now missing. Given the vast number of mistakes that had already been made prior to December 1998, and the number that were made thereafter, it would be wishful thinking to believe that a correct reading of the polygraph would have led to a successful conclusion in this case, but Wackenhut's erroneous initial interpretation of the results and the long delay in getting the charts passed to FBIHQ for review put the case on a downward spiral from which it almost never recovered. Because these issues are both highly important and widely misunderstood, each is examined in some detail.

The events leading up to the December 23, 1998 Polygraph

As noted previously, the FBI's investigation of Dr. Lee had been dealt a severe blow in August 1997 when DOJ's Office of Intelligence Policy and Review rejected the FISA request. The local case agents spent most of 1998 trying to get the investigation back on track, but were not notably successful. By November 1998, the newly appointed lead case agent was ready to move forward and sent a new request for FISA coverage to FBI HQ. Unfortunately, the request fell on deaf ears for reasons that will be explored more fully below.

At approximately the same time the case agents were seeking FISA coverage, Dr. Lee asked for permission to travel to Taiwan to visit a company called Asiatek. According to an FBI document describing this request, Dr. Lee said that "Asiatek invited him to visit Taiwan in December 1998 to give a presentation in exchange for his airfare." [112] When Dr. Lee submitted a request to travel under these terms, the LANL Internal Security section denied it, so Dr. Lee reportedly traveled at his own expense to visit an ailing sister.[113]

While the Internal Security section was correct to deny Dr. Lee's request to let Asiatek pay his travel expenses, the request should have set off alarm bells within both DOE and the FBI. The aforementioned FBI document says:

"Asiatek is a Taiwan-based company founded in 1985 which introduced state-of-the art information technology to both China and Taiwan. The company works with both private industry and Taiwan government research facilities such as the Chung Shan Institute of Science and Technology (administered by the Ministry of National Defense). Asiatek specializes in information technology, program planning and management, business process re-engineering, integrated logistic support, and continuous acquisition and life cycle support environmental planning and implementation. Asiatek also develops cannon and tank systems." [114]

The fact that the prime suspect in a major espionage investigation was asking to travel out of the country for the second time in less than nine months, with his travel to be paid for by a foreign company, should have been a call to action by someone in DOE or the FBI. The local case agent sent a message to FBIHQ asking that this information be considered "in conjunction with Albuquerque Division's request for FISA/MISUR coverage of Wen-Ho Lee," [115] but the case manager did not act on it.

If the travel alone was not sufficient to compel the FBI and/or DOE to take some positive steps to regain control over the case, the nature of the work performed by Asiatek and its relationship to the Chung Shan Institute of Science and Technology should have been because these matters related directly to concerns that had been raised about Dr. Lee during the course of the investigation. When asked why Dr. Lee was allowed to travel under these circumstances, Mr. Curran replied that "FBI personnel were running the investigation and were the ones that allowed Dr. Lee to travel to Taiwan. If it were my decision, I would not have allowed Mr. Lee to leave the country." [116]

Mr. Curran's statement on the travel issue reflects a larger problem that plagued the Kindred Spirit investigation from beginning to end, namely the systemic breakdown of effective communication between DOE and the FBI on matters of great importance.[117] If Mr. Curran was opposed to letting Dr. Lee go to Taiwan, he should have said something. As Director of DOE's OCI, his opinion clearly had weight. He did not act, so Dr. Lee went to Taiwan.

As another example of ineffective communication on important issues, consider Mr. Curran's statement that he first learned on December 15, 1998, that Director Freeh had recommended removing Dr. Lee from access more than a year before.[118] Mr. Curran assumed his position as Director of OCI in April 1998 and immediately conducted a 90-day review of the CI program at DOE as mandated by PDD–61. He received what he describes as a "summary briefing on the Kindred Spirit investigation." He was aware of the False Flag that was run in August and wanted to "get the case moving and to resolve the issues of the possible loss of sensitive information," but the fact that the FBI had recommended that Dr. Lee's access to classified information be pulled was apparently not shared with Mr. Curran until mid-December 1998, while Dr. Lee was in Taiwan.[119] It should be noted, however, that Mr. Curran told the DOE IG that he learned about Director Freeh's 1997 comments on moving Dr. Lee in October 1998, two months before he finally took action.[120] This is significant because it undermines Mr. Curran's assertion that the reason he acted in December 1998 was because he had just learned of Director Freeh's 1997 recommendations.

That the Director of DOE's Office of Counterintelligence was not informed (or did not make himself aware) of the FBI's view that Dr. Lee should be pulled from access reflects poorly on the DOE and the FBI. How could anyone brief this case to Mr. Curran in 1998 without mentioning that the Director of the FBI had twice told DOE's top leadership that Dr. Lee's access to classified information should be removed? What would one say, when briefing the new head of counterintelligence, that would not somehow convey the message that the FBI was concerned about the potential damage from keeping him in access? And how could the top counterintelligence officer in the DOE not inquire as to whether consideration had been given to reducing the risk posed by an individual who was the chief suspect in a major espionage investigation? This lack of communication defies comprehension.

The Counterintelligence Reform Act of 2000 will prevent such disasters in the future. The Act requires the Director of the FBI to notify appropriate officials, in writing, when a full field investigation is started in an espionage case, and to present to the head of the affected agency a written assessment of the potential impact of the actions of that agency or department on an FBI counterintelligence investigation. It will not be possible in future investigations for the head of counterintelligence in an agency to claim ignorance of an FBI recommendation regarding a suspect's access to classified information. And the FBI will have to ensure that its coordination with the affected agency is both close and continuous, so that when new officials come into decision-making roles, they will be fully informed as to the important aspects of pending cases. The FBI/DOE polygraph disaster in the Wen Ho Lee case should be the last such calamity.

The interim report issued in March 2000 touched briefly on the polygraph issue, prompting a letter from Mr. Curran,[121] who provided the following account of the events leading up to the polygraph:

"Every detail of this case was coordinated between DOE and the FBI. I personally wanted the FBI to do the interview rather than DOE, but they stated that they were not ready to interview him because they first wanted to interview some neighbors and associates of Mr. Lee. DOE had been asking the FBI to bring this case to a conclusion since the [false flag] in August. I did not believe I had the luxury of waiting any longer since the investigative activity in August and this was Mr. Lee's first opportunity to leave the U.S. I was very concerned as to what he would do and say on his trip to Taiwan and then what he would do upon his return. Since the FBI was not going to interview Mr. Lee and bring this case to a conclusion prior to his departure to Taiwan, I made the decision, with the Secretary's approval, to remove Mr. Lee from access upon his return from Taiwan and until the FBI could conclude their investigation through interview and polygraph.

"Mr. Lee returned from Taiwan on December 23, 1998. He was interviewed and removed from access and asked to take a polygraph. The FBI was aware that if Mr. Lee refused to take a DOE polygraph, his security clearance would have been removed and steps taken to terminate his employment; if Mr. Lee agreed to take the test and failed, his clearance would be removed and termination proceedings would be initiated. This activity was completely coordinated with the FBIAQ. On December 21, 1998, a memo was furnished to the Secretary of Energy from me setting forth the above scenario. Mr. Lee took the polygraph test and representatives from FBIAQ were present." [122]

In subsequent correspondence with the subcommittee, Mr. Curran elaborated on his reasons for removing Dr. Lee's access in December 1998. Responding to follow-up questions from a September 27, 2000 subcommittee hearing, Mr. Curran cited four reasons for his decision to remove Dr. Lee from access in December 1998: "(1) the fact that the FBI no longer required Lee be kept in access, (2) my discomfort at the extent of Dr. Lee's access, which was greater than I had originally thought, (3) the fact that the FBI's false flag operation had been unsuccessful, possibly alerting Lee to the investigation, and (4) the fact that Lee was then traveling in Taiwan, thus able to travel easily to Hong Kong or the People's Republic of China without our knowledge." [123]

While Mr. Curran's account explains what happened, it does not adequately explain why these events took place. It was simply inconsistent for DOE to allow Dr. Lee to travel to Taiwan, yet polygraph him and pull his access to classified information upon his return, even though he supposedly passed the polygraph. If Dr. Lee was such a threat that he needed to be polygraphed and removed from access, why was he allowed to go to Taiwan? And if he passed the polygraph after returning from Taiwan, including specific questions about espionage, why was there still a need to remove his access?

Mr. Curran's explanation for the series of events leading up to the December 1998 polygraph shows an investigation that was, at best, disjointed and poorly coordinated (despite Mr. Curran's assertions to the contrary). Consider, for example, that the FBI agent who took over the case on November 6, 1998, did not agree with the DOE decision to have Wackenhut[124] give Dr. Lee a polygraph examination, and has called it "irresponsible." According to FBI protocol, Dr. Lee would have been questioned as part of a post-travel interview. However, as Mr. Curran noted, the case agents were inexplicably unprepared to conduct such an interview and the Special Agent in Charge (SAC) in Albuquerque agreed to go ahead with the polygraph at Mr. Curran's request. The lead case agent requested a new FISA in November 1998, but Supervisory Special Agent Craig Schmidt the same FBI case manager at headquarters who had put together an action plan in December 1997 trying to get the investigation back on track had suddenly gotten cold feet on the matter, casually rejecting the FISA request without even showing OIPR a written product. DOE was exercised enough about Dr. Lee that Ed Curran wanted to give Dr. Lee a polygraph and pull his access to classified information (something the FBI had recommended 14 months prior), but was not willing to stop him from traveling to Taiwan. The case was a mess, and then it got worse.

The disagreement between FBI and DOE over how best to proceed in late 1998 only partially explains why the investigation lurched forward with FBI seemingly in charge one moment (letting Dr. Lee travel to Taiwan, contrary to Mr. Curran's preference) and Mr. Curran prevailing the next (getting the Albuquerque SAC to overrule the lead case agent on the polygraph question). Other testimony and documents provided to the subcommittee paint a more complete and markedly different picture of the events surrounding the polygraph of Dr. Lee on December 23, 1998. Unfortunately, the picture they paint is one of DOE trying desperately to protect its image from the revelations it expected to come with the release of the Cox Committee report, with the FBI going along, and neither agency focusing on the national security implications of their actions.

To understand the context in which these decisions were being made, consider that the Cox Committee was taking testimony in mid-December, and that key portions of the testimony centered on security at the national labs. The atmosphere leading up to the Cox Committee hearings has been described as follows:

"With impeachment as a backdrop, allegations that the Clinton administration was allowing China easy access to American secrets collided with charges that China's military had funneled money into Democratic coffers. The New York Times reported that the daughter of a senior Chinese military officer was giving money to Democrats while also working to acquire sensitive American technology.

"Republicans, opening a new front against a beleaguered president, created a House select committee, headed by Representative Cox, to investigate whether the government was compromising technology secrets by letting American companies work too closely with China's rocket industry. With its deadline approaching, the committee stumbled on the W–88 case.

"Mr. Trulock became a star witness, and committee members were riveted by his testimony. C.I.A. analysts who testified before the committee agreed there was espionage, people who heard the secret proceedings said, but were more equivocal about its value to China."[125]

The Mr. Trulock referenced above is Notra Trulock, former DOE intelligence chief. According to a DOE chronology, the Cox Committee was briefed by DOE on November 12, 1998 and again on December 7. On December 16, Mr. Curran, Mr. Trulock and the Director of the DOE's Office of Intelligence, Mr. Lawrence Sanchez, testified again before the Cox Committee.[126] Describing the impact of his testimony to the House panel, Mr. Trulock told the subcommittee on September 27, 2000 that "after our initial appearance and particularly our second appearance before the Cox Committee in December of 1998, there was a high level of agitation within the Office of Counterintelligence on the part of Mr. Sanchez and within the political appointees at the department."[127] Mr. Trulock further testified:

"it is certainly not a coincidence that after the FBI provided the information to the Cox Committee on Dr. Lee and other espionage cases within the Department of Energy that for the first time in almost two years, DOE management became energized about addressing the advice we had received from Director Freeh in August of 1997."[128]

Mr. Trulock's testimony is supported by documentary evidence and testimony from other witnesses. A December 18, 1998, memorandum from the FBI's Assistant Director for National Security, Neil Gallagher, says that Secretary Richardson would be calling Director Freeh about the Lee investigation on December 21, 1998. The memorandum explains that DOE counterintelligence personnel wanted to "neutralize their employee's access to classified information prior to the issuance of a final report by the Cox Committee." When questioned on this point Mr. Curran acknowledged that the conversation mentioned in the memo had taken place, but denied any connection between DOE's desire to polygraph Dr. Lee and the release of the Cox Committee report.[130]

Mr. Curran's account of these events is contradicted by testimony from other individuals who were also directly involved. When Director Freeh testified before the Senate Select Committee on Intelligence on May 19, 1999, he told the committee:

"DOE was seeking to establish grounds to terminate Mr. Lee in December of 1998, and they went forward with their polygraph and interview with that objective. We, at that point, wanted more time to prepare for a confrontational interview which in these kinds of cases is the most important interview."[131]

Other FBI files from this period support the contention that Secretary Richardson wanted Dr. Lee fired in early 1999. A January 21 memo from FBI Supervisory Special Agent C. H. Middleton to Deputy Assistant Director Horan said that "DOE is anxious to avoid criticism about the case. It removed the subject's access to classified information on 12/23/98. DOE wants to fire the subject, but may not have justification to do so at this time."[132]

None of the information the government had in its possession at that point would have justified a decision to fire Dr. Lee, but firing him would have allowed Secretary Richardson to avoid criticism that the DOE had not taken action on a major espionage case. Director Freeh's comments are further buttressed by statements that two security personnel made to the DOE Inspector General during an investigation of the decision-making process related to Dr. Lee's clearance and access. The former Director of LANL's Internal Security Division, Mr. Ken Schiffer, told the IG that he first heard Dr. Lee's name on December 21, 1998, in a conference call with two individuals from the Office of Counterintelligence, one of whom told him that "the Secretary wanted Mr. Lee to be fired."[133] Mr. Richard Schlimme, the Counterintelligence Program Manager in the Albuquerque office, told the DOE IG that he had been on annual leave on December 21, 1998, when he was called to come in to work to deal with the Wen Ho Lee situation. When he arrived, Mr. Schlimme was told that "Secretary Richardson wanted immediate action, so Mr. Curran decided to interview Mr. Lee immediately."[134] Further, according to Mr. Schlimme, "Mr. Curran wanted Mr. Lee removed from the laboratory regardless of how he did on the polygraph."[135]

In addition to the evidence described above, the subcommittee has a sworn deposition from the case manager at FBI Headquarters, Supervisory Agent Craig Schmidt, who said he had very little control over the investigation in December 1998 because the "Department of Energy was becoming more and more concerned about how they would appear and how they were appearing during the [Cox] committee meetings,"[136] In the context of all the evidence to the contrary, Mr. Curran's assertion that the decision to act with regard to Dr. Lee had nothing to do with the imminent release of the Cox Committee report is not persuasive.

Incorrect reading of the December 23, 1998 polygraph

The subcommittee focused very intently on the question of whether Dr. Lee passed or failed the December 23, 1998 polygraph for three reasons: (1) the erroneous reading changed the course of the investigation, prompting the FBI to nearly close down its investigation at a time when the scrutiny of Dr. Lee should have been increasing, (2) it took an inordinate amount of time to discover that the initial reading of the polygraph was wrong, and (3) the public perception that Dr. Lee really passed the test but the FBI somehow later reversed that finding is incorrect.

The consequences of the incorrect interpretation of the December 23, 1998 polygraph are the subject of the next section of this report. The remainder of this section will address the matter of the delay in getting the charts to the FBI and the question of whether Dr. Lee actually passed or failed this test.

The initial interpretation of the test was made by Wolfgang Vinskey, a Senior Polygraph Examiner with Wackenhut, a private firm that had a contract with DOE to conduct polygraphs. Mr. Vinskey wrote that he had administered "a DOE Counterintelligence Scope PDD Examination" to Dr. Lee, and concluded that "this person was not deceptive when answering the relevant questions pertaining to involvement in espionage, unauthorized disclosure of classified information and unauthorized foreign contacts."[137] Mr. John Mata, Manager of DOE's AAAP Test Center, reviewed the exam and concurred with Mr. Vinskey that "upon completion of testing, the Examinee was not deceptive when answering the relevant questions. . . ."[138] Mr. Mata followed up the initial report with a more detailed memorandum on December 28, 1998, in which he reiterated to Mr. Curran the information that had been in the December 23 polygraph report, namely that "data analysis of this examination disclosed sufficient physiological criteria to opine Mr. Lee was not deceptive when answering" the relevant questions.[139]

After the exam, the two FBI agents who were on hand were briefed on the results of the test. There is a December 21, 1999 memorandum for the record written by John Mata which describes how the test results were relayed to the FBI.[140] Mr. Mata says that he told the lead case agent that the charts did not show significant reaction on three of the questions, but that "a plus 3 on the fourth question (relating to having knowledge of anyone he knew who had committed espionage against the United States) was close."[141] Mr. Mata told the agent that Dr. Lee "had disclosed information during the examination that he had not previously reported regarding an approach that was made to him on his recent or a past trip," and gave her a sheet of paper containing the data analyses.[142] According to Mr. Mata, the agent wrote down the questions from the exam and asked "if further processing involved the charts being reviewed by their polygraph examiner (specific reference to Roger Black) . . ." to which he said no."[143] Mr. Mata's memo also says that at no time [on that date] was he asked to provide the charts or any allied data from the test to the FBI.

During the first week of January, Mr. Mata's memo continues, the entire polygraph package (charts, questions, data analysis sheets and video tape) were sent to OCI Polygraph Program Manager David Renzleman in Richland, Washington. In mid-January, Mr. Mata got a call from Mr. Renzleman instructing him to provide the local FBI with everything generated by the polygraph, which he did.

An undated Quality Assurance record of this examination, prepared by David Renzleman contains the following comments:

"This test was initially classified and consequently DOE OCI did not get to see the collected charts or video tape recording until late January 1999.

"When the charts were subjected to the OCI QC [Quality Control] process, the initial NDI [No Deception Indicated] opinion could not be duplicated or substantiated.

"The Test Center Manager was advised of these QC concerns and was requested to send the charts to the Department of Defense Polygraph Institute (DODPI) which he did.

"DODPI advised the Test Center Manager that they could not duplicate or support the NDI opinion of this test."[144]

In the "QC Opinion" section of the report, Mr. Renzleman said, "I am unable to render an opinion pertaining to the truthfulness of the examinee's answers to the relevant questions of this test. Additional testing is recommended."[145]

When the charts and videotape were subsequently analyzed by FBI polygraph experts in late January or early February, they concluded that Dr. Lee had failed relevant questions[146] or was, at best, inconclusive.[147] Based on these concerns, the FBI arranged for additional interviews and a new polygraph on February 10, 1999. In addition to learning on this date that Dr. Lee had reactivated his computer account simply by calling up the help desk and asking that it be restored,[148] the FBI concluded Dr. Lee failed the February polygraph and increased its investigative activity, but by then the chances of salvaging the investigation were slipping away.

There remains a serious question about the chain of events which led to the delayed discovery that Dr. Lee did not pass the December 1998 polygraph. A February 26, 1999 memorandum from William Lueckenhoff, Assistant Special Agent in Charge in Albuquerque, says:

"The FBI personnel present immediately requested the polygraph charts and documentation to the polygraph in order to have it reviewed by FBIHQ. DOE's initial response to this request, as per Ed Curran, DOE Counterintelligence Office, was not to allow the FBI access to the tapes and charts, only the numerical results of the polygraph."[149]

As is discussed elsewhere in this report, Dr. Lee did not pass the polygraph, and no one other than the initial reviewers have been able to interpret the charts to say that he did pass. Given that the charts clearly show that Dr. Lee did not pass, any effort to prevent their release to the FBI would be a serious matter. Where DOE was concerned about criticism because it was being accused before the Cox Committee of not taking action on the case, a failed polygraph would tend to prove the critic's point. However, a passed polygraph, followed by an investigation which cleared Dr. Lee of the W-88 allegations yet later resulted in his firing for unrelated security violations would show that DOE's critics were wrong about the W-88 investigation, but that DOE was serious about security anyway and ultimately removed Dr. Lee because he was a security risk. In these circumstances, any shenanigans with the polygraph charts would be extremely serious.

Mr. Curran strongly denies the allegation in Mr. Lueckenhoff's memo and DOE documents indicate that Mr. Curran was instrumental in getting the full record of the polygraph into the FBI's hands in January, 1999.[150]

When pressed for an explanation of the February 26, 1999 memo blaming Mr. Curran for the delay in getting the test results, the FBI took the position that the memo was only a blind memorandum not intended to capture official witness statements.[151] That does not explain why Assistant Special Agent in Charge William Lueckenhoff would attribute such remarks to Mr. Curran if he had no factual basis to do so.

Mr. Lueckenhoff's account is consistent with what actually happened, but the FBI is no longer willing to stand by the February 1999 memo. It is also possible that by February 26, 1999, after Dr. Lee had failed an FBI polygraph, Albuquerque realized that its failure to obtain the charts in a timely fashion (and the creation of the disastrous January 22 memo clearing Dr. Lee on the W-88 matter) would eventually be questioned. Saying that the FBI tried to get the charts but had been denied by Mr. Curran would provide an excuse for the Albuquerque division's abysmal performance in early 1999. Because the FBI will not stand by the version of events in the February 1999 memo, it is not possible to know what really happened. Instead, the FBI's position has the effect—intended or not—of making it next to impossible to assign responsibility for giving Dr. Lee more than a month to regain access to his computer and his office, enabling him to delete the incriminating evidence from his computer and destroy the now-missing tapes.

The FBI deserves substantial criticism for its handling of this investigation, but the record should be set straight on the result of the December 23, 1998 polygraph. On this matter, the FBI was correct—Dr. Lee did not pass the polygraph test.

One of the earliest and most sustained attacks on the FBI's reading of the December 1998 polygraph came from Dr. Lee's defense team. After Dr. Lee was held without bail at the end of 1999, defense attorney Mark Holscher claimed that Dr. Lee's scores on the 1998 test had been " 'off the charts" in indicating truthfulness."[152] It is a common defense tactic to take evidence that might be harmful to the defendant's position and deal with it up front, trying to put a positive spin on it. Mr. Holscher's comments that Dr. Lee's scores were off the charts in indicating truthfulness would certainly fit into that pattern—taking on an issue that might have to be dealt with if the case went to trial and getting a positive interpretation planted in the public's mind, to include the potential jury pool. As the negotiations between the defense and the government went forward, Mr. Holscher continued to press the polygraph issue, claiming that Dr. Lee had passed the only test that had been properly administered, and suggesting that the FBI was wrong to claim that Dr. Lee had failed either exam. Mr. Holscher's statements on the polygraph are exactly what one would expect a defense lawyer to do, but they have created the incorrect impression that the Wackenhut examiners were right and the FBI was wrong.

Mr. Holscher and Dr. Lee's supporters got help on this score from a story by CBS reporter Sharyl Attkisson. The February 2000 news report, titled "Wen Ho Lee's Problematic Polygraph," claimed that "three experts gave the nuclear scientist passing scores but the FBI later reversed the findings. CBS investigation fuels argument that he was a scapegoat."[153]

Ms. Attkisson asked precisely the right question, ". . . how could the exact same charts be legitimately interpreted as 'passing' and also 'failing?' "[154] To answer this question, CBS reached out to Richard Keifer, who was then the chairman of the American Polygraph Association. Mr. Keifer was also a former FBI agent who had run the FBI's polygraph program. The CBS report continues:

"Keifer says, "There are never enough variables to cause one person to say (a polygraph subject is) deceptive, and one to say he's non-deceptive : . . there should never be that kind of discrepancy on the evaluation of the same chart."

"As to how it happened in the Wen Ho Lee case, Keifer thinks, "then somebody is making an error."

"We asked Keifer to look at Lee's polygraph scores. He said the scores are "crystal clear." In fact, Keifer says, in all his years as a polygrapher, he had never been able to score anyone so high on the non-deceptive scale. He was at a loss to find any explanation for how the FBI could deem the polygraph scores as "failing."

. . . Since Lee was never charged with espionage (only computer security violations), the content of the polygraph may be unimportant to his case. But the fact that his scores apparently morphed from passing to failing fuels the argument of those who claim the government was looking for a scapegoat—someone to blame for the alleged theft of masses of American top secret nuclear weapons information by China—and that Lee conveniently filled that role."[155]

The CBS report gave the clear impression that the Wackenhut examiners were correct. Rather than take on the issue, the FBI simply told CBS "it would be 'bad' to talk about Lee's polygraph, and that the case [would] be handled in the courts."[156] The case never went to trial, and the FBI never got the chance to explain its interpretation of the exam. The result has been that there are lingering doubts as to whether the polygraph is a reliable tool, and whether it was misused by the FBI in the Wen Ho Lee case.

When the case of FBI Special Agent Robert Hanssen broke in February 2001, FBI Director Louis Freeh ordered, among other things, an expanded use of the polygraph within the FBI for counterintelligence purposes. The Judiciary Committee held a hearing on the utility of polygraphs in law enforcement and counterintelligence cases, and heard from a distinguished panel with witnesses offering opinions on both sides of the issue. With the matter of Wen Ho Lee's polygraph still unresolved, two of the witnesses were asked to review the results of the December 23, 1998 polygraph and answer a series of questions that would address the same concern that CBS had raised—how can the same charts be interpreted as both passing and failing?

Dr. Michael H. Capps, currently Deputy Director for Developmental Programs at the Defense Security Service and formerly head of DOD's Polygraph Institute, reviewed the polygraph data and said that he could “render no opinion regarding whether or not deception is indicated. . . .”[157] Mr. Capps went on to describe how he had evaluated the exam with and without the aid of the John Hopkins algorithm, which is designed to provide a statistical analysis using a mathematical model to render a probability of deception. He noted that “there are what I believe to be substantial differences in the scores my evaluation produced and those of the Wackenhut examiner. . . . I cannot account for the differences between my results and those of the Wackenhut examiners.”[158]

In response to a direct question about how different examiners could reach substantially different conclusions, Mr. Capps said, “One would expect two properly trained examiners evaluating the same data to draw a similar, but not necessarily identical conclusion. This was not the case when comparing my evaluation with that of the Wackenhut examiner. I cannot account for the differences.”[159]

One possible explanation for the differing opinions on the polygraph is that the questions were improperly structured, making the entire test invalid because the control questions and the relevant questions were not sufficiently distinct to permit an accurate differentiation of the responses to each. When Dr. Capps was asked about the appropriateness of the questions, he faulted two of the comparison questions used in the exam and said “these comparison questions were not sufficiently distinct from the relevant questions so as to generate a useful basis of comparison.”[160]

Mr. Richard Keifer was also asked to evaluate the December 23, 1998 exam in light of his comments to CBS. He provided a detailed analysis and critique of the test and reported:

“My review of the polygraph examination of Wen Ho Lee determined the results to be inconclusive. . . . It is my opinion this examination was not set up, conducted and reviewed using well-established procedures for counter-intelligence polygraph testing. This lack of experience in Foreign Counter-Intelligence polygraph testing contributed to an incorrect decision, an unacceptable delay in the decision making process, and negated the potential of fully uncovering the truth with a timely posttest interrogation.”[161]

Mr. Keifer further noted that “I have reviewed these charts at least a dozen times and have done so under every favorable assumption I could make and I have never found this examination to be non-deceptive.”[162]

When asked to evaluate the test itself, which was not a standard set of questions but one that was created specifically for the examination of Dr. Lee, Mr. Keifer said that “the fundamental problem with this examination was in question formulation.” He then took issue with both the relevant questions and the control questions.[163] This finding is consistent with the concerns raised by Dr. Capps, as well as by FBI examiners who noted that Dr. Lee appeared to be reacting to all the questions, control and relevant. The structure of the questions used in the test is important because a polygraph is designed to measure differences between a subject's responses to control questions, which should generate little or no reaction, and the relevant questions where a substantial response is meaningful. Control questions that produce a reaction have the effect of minimizing the differences between the reactions to control questions and relevant questions, thereby rendering the test less useful.

Mr. Keifer also commented on his CBS appearance:

“I was quoted out of context and I felt it was deliberate. I had numerous telephonic conversations with Attkisson prior to the taped interview. She was fully briefed regarding polygraph procedures. I clearly and fully explained to her several times that the “scores” of the examiners were high on the non-deceptive side, but that subsequent testing and admissions indicated Lee was in fact deceptive. During the course of our conversations she suggested cover up and misconduct of various officials in the matter. Unfortunately, during the taped interview she asked only about the “scores” and did not provide an opportunity for me to clarify. In my opinion this was deliberate, and the piece was manipulated to suggest wrongdoing by the government. Once I saw the piece, I called officials at the Energy Department and the FBI to clarify the matter.”[164]

The subcommittee's review of the matter shows that Dr. Lee definitely did not pass the December 23, 1998 exam. The best that anyone other than the initial examiners has been able to justify is an “inconclusive” or “no opinion” rating. It is important that no one has been able to substantiate the “no deception indicated” finding because any other result even a “no opinion”—would have put the investigation on a completely different track. Instead, the government quit looking at Dr. Lee at the precise moment when it should have been looking most intently at his activities.

The Consequences of DOE's Interference in the Investigation

Ordinarily, the decision to polygraph an individual or to remove his access to the classified X-Division spaces would have only limited ramifications. In the Wen Ho Lee case, however, the incorrect handling of the polygraph issue was one of the most consequential mistakes in the entire investigation, likely costing the government an opportunity to recover the tapes that ultimately led to Dr. Lee's indictment and conviction, and creating much angst about the fate of the nuclear secrets on those tapes. In a June 28, 2001 letter, Assistant Attorney General Daniel J. Bryant confirmed that “Dr. Lee has told the debriefing team that on December 23, 1998, the computer tapes at issue in the indictment were in his X-Division office at the Los Alamos National Laboratory.”[165]

In other words, the tapes containing the “crown jewels” of American's nuclear secrets, that could “change the global strategic balance,” were sitting in Dr. Lee's X-Division office and could have been recovered by the government if the DOE had not gone into the panic mode and put political considerations ahead of national security concerns when it became concerned about what the Cox Committee report would say. The FBI, especially the Albuquerque SAC, bear equal responsibility for this turn of events for allowing it to happen.

One of the most fundamental tenets of counterintelligence work is that when you spook a suspect, you watch him. The suspect's reaction to unexpected events, whether planned (as when the FBI decides to confront a suspect in a hostile interview) or driven by unanticipated events (like DOE's decision to interview, polygraph and change Dr. Lee's classified access for no reason that he would know about), is a critical element of any counterintelligence investigation. Success often depends on observing and correctly interpreting that reaction. Even if the suspect does not show any apparent reaction in the presence of investigators, it is imperative that he be watched to see what he does when he thinks he isn't being watched. People with problems react differently than people who don't have anything to worry about. Failure to maintain proper surveillance under these circumstances can lead to the loss of the best opportunity to find out what is really going on. In the Wen Ho Lee, it cost a lot more than that.

Dr. Lee was definitely spooked by the interview and polygraph on December 23. According to an FBI chronology, the polygraph was completed at 2:18 p.m. and he was told at about 5:00 p.m. that his access to secure areas of X-Division and to both his secure and open X-Division computer accounts had been suspended. At 9:36 p.m., Dr. Lee made four attempts to enter the secure area of X-Division through a stairwell. At 9:39 p.m., he tried again through the south elevator.[166] At 3:31 a.m. oh Christmas Eve, Dr. Lee again tried to gain access to the X-Division. Had the FBI maintained proper surveillance, they would have known that Dr. Lee was making these desperate attempts to get back into the X-Division. Surely that would have been a clue that further investigation was necessary. Had the case been handled properly, FBI or DOE personnel could have done what Dr. Lee eventually did—just walk into the X-Division and pick up the tapes. Instead of destroying them, as Dr. Lee says he did, government officials could have properly secured these tapes containing the crown jewels of America's nuclear secrets.

In a December 24 meeting, Dr. Lee was told “that he was being transferred from X-Division to T-Division for thirty days to allow time for the FBI to complete their inquiry.”[167] If there had ever been any doubt in his mind as to whether he was under an FBI investigation, this comment from DOE removed that doubt. His conduct over the next few days shows clearly that he was worried about the government's sudden interest in him and the fact that his access to the X-Division had been removed. All told, Dr. Lee tried to get back into his X-Division office almost twenty times between the December 23 polygraph and the February 10 exam. Had the FBI and DOE been watching, they might have wondered why Dr. Lee wanted to get back into the X-Division so desperately, and they might have gone there to look.

It should be noted that not all of the blame for the FBI's lack of interest in Dr. Lee's conduct after the polygraph can be placed on the incorrect interpretation of the polygraph results. Even if one takes the position that the FBI thought that Dr. Lee had passed the polygraph, there is no excuse for completely dropping an investigation solely on the basis of a passed polygraph, especially when DOE and the case agents were told that during the pre-polygraph interview Dr. Lee had admitted foreign contact that he had not previously reported. The FBI should have continued the investigation on the basis of that revelation, regardless of the polygraph exam. A review of the transcript from the March 7, 1999 interview of Dr. Lee shows that the FBI focused very heavily on that unreported contact. If it was worth investigating in March, it should have been worth investigating the previous December.

DOE's answer as to why it failed to monitor Dr. Lee after the December 23, 1998 polygraph is both baffling and informative. DOE's Ed Curran said that "since the FBI was conducting the investigation of Dr. Lee, it was responsible for determining the level of monitoring necessary."[168] All available evidence indicates that the impetus for the polygraph clearly came from within DOE, and that the FBI agreed to this at the insistence of DOE, yet DOE washed its hands of any responsibility for determining whether the polygraph provoked a response from Dr. Lee. Consider also that the catalog of Dr. Lee's attempts to get back into the X-Division was culled from information under DOE's control, information that the FBI did not have access to unless the DOE gave it to them. Under these circumstances, it is not surprising that Dr. Lee's attempts to get back into the X-Division almost immediately after his access was pulled went undetected until much later. The FBI says that it did not learn of Dr. Lee's attempts to reenter the X-Division until March 13, 2000.[169]

The almost complete breakdown in the surveillance of Dr. Lee had severe consequences. As the FBI later learned, "within one hour of reactivation [of his computer account], he immediately deleted three files, including one which was named after the graduate student who had worked for him in 1997."[170] In late January, he began erasing the classified files from the unsecure area of the computer. After he was interviewed by the FBI on January 17, Dr. Lee "began a sequence of massive file deletions . . ."[171] He even called the help desk at the Los Alamos computer center to get instructions for deleting files. After he was interviewed and polygraphed again on February 10, within two hours of the time he was told he had failed the exam, he deleted even more files. All told, Dr. Lee deleted files on January 20th, February 9th, 10th, 11th, 12th, and 17th. When he called the help desk on January 22nd, his question indicated that he did not know that the "delay" function of the computer he was using would keep deleted files in the directory for some period of time. He asked why, when he deleted files, were the ones in parentheses not going away, and asked how to make them go away immediately. He also asked, on February 16, how to replace an entire file on a tape.[172]

Thus, the report that Dr. Lee had passed the December 23 polygraph gave Dr. Lee precious time to delete and secrete information. The significance of Dr. Lee's file deletions and the unreasonable delays in carrying out the investigation that should have detected and prevented them should not be underestimated. As FBI Agent Robert Messemer has testified, the FBI came very close, "within literally days, of having lost that material."[173] The FBI was almost unable to prove that Dr. Lee downloaded classified files. If the material had been overwritten after it was deleted, "that deletion by Dr. Lee [would] have kept that forever from this investigation." In this context, the repeated delays, the lack of coordination between the FBI and the Department of Energy, and later between the FBI and the Department of Justice, are much more serious.

February 10, 1999 to March 8, 1999

On February 10, 1999, Wen Ho Lee was again given a polygraph examination, this time by the FBI. During this second test, which Lee failed, he was asked: "Have you ever given any of [a particular type of classified computer code related to nuclear weapons testing] to any unauthorized person?" and "Have you ever passed W–88 information to any unauthorized person?"[174] It should be noted that the 1997 FISA request mentioned that the PRC was using certain computational codes, which were later identified as something Lee had unique access to.[175] Moreover, the computer code information had been developed independently of the DOE Administrative Inquiry which was subsequently questioned by FBI and DOJ officials.

After this second failed polygraph, there should have been no doubt that Dr. Lee was aware he was a suspect in an espionage investigation, and it is inconceivable that neither the FBI nor DOE personnel took the rudimentary steps of checking to see if he was engaging in any unusual computer activity. Again, this is not hindsight. The classified information to which Dr. Lee had access, and which he had been asked about in the polygraph, was located on the Los Alamos computer system. The failure of DOE and FBI officials to promptly find out what was happening with Dr. Lee's computer after he was deceptive on the code-related polygraph question is inexplicable. As noted above, this failure afforded Dr. Lee yet another opportunity to erase files from both the unsecure system and the unauthorized tapes he had made.

As should have been expected, Dr. Lee used the time afforded him by the delays to delete the classified information he had placed on the unclassified system, and to retrieve and dispose of the now-missing tapes. According to press reports, Dr. Lee was allowed to return to the X-Division in January 1999 by an unwitting security office. On other occasions, he walked in behind division employees. In fact, he apparently managed to slip in though an open door just hours after he was barred from X-Division.[176] He also approached two other T-Division employees with a request to use their tape drive to delete classified data from two tapes (he no longer had access to the one that had been installed in his X-Division computer since he had been moved from that division in December 1998).

Nearly three weeks after the polygraph failure, the FBI finally asked for and received permission to search Lee's office and his office computer, whereupon they began to discover evidence of his unauthorized and unlawful computer activities. Even so, the FBI did not immediately move to request a search warrant. The three week delay, from February 10 until the first week of March, is inexplicable.

The long hiatus in moving the case forward seems to have been broken primarily by the impending release of a story on the W–88 case by the New York Times, after which the case was once again moved from the national security track onto the political track. Upon learning of the New York Times story, government officials asked that it be delayed for several weeks, "saying they were preparing to confront their suspect."[177] It is almost incomprehensible that the FBI was still not ready, in March 1999, to interview Dr. Lee. The same argument had been made in December 1998 when the DOE wanted to polygraph Dr. Lee, so there is absolutely no reason that the necessary preparations could not have been made in the interim.

The reporters did not know Dr. Lee's identity, but the FBI said they worried that he might recognize himself from details in the article as if he was not already aware that the FBI was investigating him after having been polygraphed and having his access to classified information suspended since December, having been interviewed by the FBI in January, having been asked to take another polygraph in February.

The FBI interviewed Dr. Lee on March 5, and the New York Times published its story the next day, "China Stole Nuclear secrets for Bombs, U.S. Aides Say." Prompted to move by the breaking story, the FBI interviewed Dr. Lee again on Sunday, March 7. It was during this interview that one of the case agents, at the suggestion of Albuquerque SAC Kitchen, asked Dr. Lee if he had heard of the Julius and Ethel Rosenberg, the couple who had been executed for providing nuclear secrets to the Soviet Union. The reference to the Rosenberg case, after threats that Dr. Lee would lose his job, be handcuffed and thrown in jail, was over the top, creating the inference that the FBI was trying to scare Dr. Lee into a confession. According to a transcript of the interview:

"Do you know who the Rosenbergs are?" [the agent] asked.

"I heard of them, yeah, I heard them mention," Dr. Lee said.

"The Rosenbergs are the only people that never cooperated with the federal government in an espionage case," she said. "You know what happened to them? They electrocuted them, Wen Ho."[178]

FBI Director Freeh later acknowledged that this reference to the Rosenbergs was inappropriate, but he denied that the FBI ever attempted to coerce a confession from Dr. Lee.[179]

One day after the FBI's confrontational interview, Dr. Lee was dismissed from Los Alamos. Former LANL Counterintelligence chief Robert Vrooman, has suggested that the leaking of Dr. Lee's name to the press had an adverse impact not only on Dr. Lee but also on the integrity of the investigation into how the Chinese obtained U.S. nuclear secrets,[180] but the investigation was already in deep trouble before Dr. Lee's name became public.

Reopening the W–88 Investigation

Before turning to the criminal case against Dr. Lee, it is appropriate to make a comment about the status of the investigation into the loss of the W–88 information, the matter at the heart of the DOE's AI and the FBI's investigation from 1996 to 1999. The September 1999 decision by the FBI and the DOJ to expand the investigation of suspected Chinese nuclear espionage[181] is puzzling, primarily because it should have happened long ago.

In an October 1, 1999 letter, Attorney General Reno and FBI Director Freeh explained the rationale for reopening the case:

"Our decision to take this action in regard to the investigation into the compromise of U.S. nuclear technology is the result of two separate inquiries. First, there were investigative concerns raised by the FBI Albuquerque field office that began to develop in November, 1998, regarding deficiencies in the DOE Administrative Inquiry. Second, after questions were raised by Senate Governmental Affairs Committee staff, we started to re-examine flawed analysis in the conclusions drawn in the DOE Administrative Inquiry."[182]

This letter is significant on several fronts. First, it represents the beginning of a top level assault within DOJ and FBI on the AI as an explanation for why the W–88 investigation had been bungled. The reference to concerns in the Albuquerque office in November 1998 is misleading all—of the documents coming out of Albuquerque in 1998 were focused on getting FISA coverage on Dr. Lee. The documents did contain acknowledgment that somewhere in the neighborhood of 250 personnel per year had access to the W–88 information, which was more than had been previously believed, but the case agent nevertheless pressed for a FISA. It is simply not accurate to portray the November 1998 documents as raising questions about the AI as a basis for investigating Dr. Lee.

Subsequent documents from Albuquerque did raise concerns about the AI. One of the worst in this regard is the January 22, 1999 memorandum which essentially clears Dr. Lee. It says:

"A review of the pertinent questions asked in the [December 23, 1998] polygraph exam showed that Lee did not pass classified information to a foreign intelligence service. The polygraph charts and other documentation relating to the examination were made available to FBI AQ by DOE on 01/22/1999 . . ."[183]

In a section titled "SAC ANALYSIS" David Kitchen wrote that "based on FBI AQ's investigation it does not appear that Lee is the individual responsible for passing the W–88 information." At that point, FBI–AQ had done remarkably little investigation. The lead case agent had requested a FISA in November 1998, but had been overruled. By December, the DOE jumped into the investigation in response to the Cox Committee hearings and gave Dr. Lee a polygraph. Based on nothing more than a supposedly passed polygraph—the results of which Albuquerque received on the same day it was writing the memo and could not have—analyzed and an interview on January 17 (during which, according to Director Freeh, Dr. Lee provided new information about his relationships with Chinese scientists), the SAC Kitchen was prepared to shut down the investigation. This is nothing short of outrageous.

Was it mere coincidence that in his "Dr. Lee's not guilty memo" Kitchen took aim at the AI, which contained the very allegations that were the subject of testimony before the Cox Committee? The January 22, 1999 memo does not even address the allegations, from 1994, that Dr. Lee had helped the Chinese with codes and software, yet Mr. Kitchen is prepared to shut down the investigation. Any comments from Mr. Kitchen regarding flaws in the Administrative Inquiry must be viewed in the context of the Albuquerque division's bungling of the Kindred Spirit investigation.

Another significant result of the decision to reopen the W–88 investigation, and to do so based on the supposedly faulty analysis in the AI, has been to put FBI Assistant Director Neil Gallagher on the spot based on his testimony to Congress. In a November 10, 1999 letter on the question of why the investigation was reopened, he acknowledged that when discussing the DOE's Administrative Inquiry (AI) during his June 9, 1999, testimony before the Governmental Affairs Committee,[185] he stated that he "had full credibility in the report," had "found nothing in DOE's AI, nor the conclusions drawn from it to be erroneous," and stated there is a "compelling case made in the AI to warrant focusing on Los Alamos."[186]

As a result of further inquiry, however, Mr. Gallagher now has reason to question the conclusions of the AI. He cites an August 20, 1999, interview by FBI officials of one of the scientists who participated in the technical portion of the AI, in which the scientist "stated that he had expressed a dissenting opinion with respect to the technical aspects of the AI," and points out that the statement of this scientist is "in direct conflict with the AI submitted to the FBI because the AI does not reflect any dissension by the 'DOE Nuclear Weapons Experts.'"[187]

A General Accounting Office investigation of Mr. Gallagher's comments regarding the AI later concluded that his testimony had been inaccurate and misleading because he had ample opportunity to know and should have known that documents created by the Albuquerque office of the FBI raised questions about the FBI in late 1998 and early 1999.[188]

In his November 1999 letter, Mr. Gallagher could also have mentioned the draft of the July 9, 1999 document prepared by the Albuquerque division, "Changed: FBI–DOE National Laboratory Assessment. . . ." Had he done so, he would have reported that:

"Albuquerque is of the firm opinion that the AI should have been used only for investigative assistance during the initial portion of the 'Kindred Spirit' inquiry, and that a more in-depth and comprehensive analysis of the relevant issues/facts should have been continued through the course of the investigation."[189]

A subsequent draft of the same document lists half a dozen reasons why the AI was flawed. The document says that the espionage could have been done by a network of sources, the travel analysis was incomplete, the strategic opinions were preliminary, there had been a disagreement over the extent of the W–88 information compromise, the Lees had been doing things at the behest of the Government, and finally, ". . . the AI was extremely confusing and self contradictory in reporting its conclusions . . ."[190]

This is a classic case of too little too late, and it raises questions as to whether the FBI's assault on the AI was intended to get an investigation back on track or to spread the blame for a bungled investigation.

The delay by DOJ and the FBI until September 1999 is perplexing since five governmental reports had concluded, with varying degrees of specificity, that the losses of classified information extended beyond W–88 design information and beyond Los Alamos:

(1) the classified version of the Cox Report (January 1999);

(2) the April 21, 1999 damage assessment by Mr. Robert Walpole, the National Intelligence Officer for Strategic and Nuclear Programs;[191]

(3) the unclassified version of the Cox Committee Report (May 25, 1999);

(4) the Special Report of the President's Foreign Intelligence Advisory Board (June 1999); and

(5) the Special Statement by Senators Thompson and Lieberman (August 5, 1999)

All of these reports gave FBI and DOJ ample evidence that further investigation was necessary. For example, the Cox Committee report states flatly that "the PRC stole classified information on every currently deployed U.S. inter-continental ballistic missile (ICBM) and submarine-launched ballistic missile (SLBM).[192] Tellingly, the Cox Committee notes that "a Department of Energy investigation of the loss of technical information about the other five U.S. thermonuclear warheads had not begun as of January 3, 1999 . . ." and that "the FBI had not yet initiated an investigation" as of that date.[193] Thus, the failure to reopen the investigation into the loss of W–88 design information much sooner, or to even initiate an investigation of the other losses, simply continued that pattern of errors.

The Prosecution of Dr. Lee

Two weeks[194] after Dr. Lee was fired from LANL, investigators discovered a notebook in his X–Division office containing a one-page computer-generated document showing the files in the "kf1" directory Dr. Lee had created on the unclassified portion of common file system.[195] When it was discovered that many of these files were highly classified, the FBI began a criminal investigation of Dr. Lee which led to his indictment, arrest and pretrial incarceration beginning on December 10, 1999.

Almost from the moment Dr. Lee was taken into custody, his attorneys protested the strict conditions of confinement and worked to secure his release under some combination of home detention and electronic monitoring. Judge James Parker, who presided over much of the case, repeatedly urged the government to relax the conditions of confinement, but the government steadfastly argued against releasing Dr. Lee, even under strict monitoring, until September 13, 2000. On that date, the government entered into a plea agreement with Dr. Lee under which he would plead guilty to a single felony count of mishandling government secrets and go free immediately in exchange for a promise to explain what happened to the missing tapes.

FBI Director Louis Freeh issued a statement on September 13, 2000, explaining the government's decision to reach the plea agreement. In relevant part, the statement said:

"In this case, as has often happened in the past, national security and criminal justice needs intersect. In some cases, prosecution must be foregone in favor of national security interests. In this case, both are served.

"As the government indicated previously, the indictment followed an extensive effort to locate any evidence that the missing tapes were in fact destroyed, and repeated requests to Dr. Lee for specific information and proof establishing what did or did not happen to the nuclear weapons data on these tapes. None was forthcoming. The indictment followed substantial evidence that the tapes were clandestinely made and removed from Los Alamos but no evidence or assistance that resolved the missing tape dilemma. . . .

"The obligation that rests on the government is first and foremost to determine where the classified nuclear weapons information went and if it was given to others or destroyed. This simple agreement, in the end, provides the opportunity of getting this information where otherwise none may exist."[196]

But the sudden reversal of the government's position flabbergasted Judge Parker. During the hearing to finalize the plea agreement, he commented from the bench:

"I would like to know why the government argued so vehemently that Dr. Lee's release earlier would have been an extreme danger to the government when at this time he, under the agreement, will be released without any restrictions."[197]

At a later point in the hearing, the judge continued:

"What I believe remains unanswered is the question: What was the government's motive in insisting on your being jailed pretrial under extraordinarily onerous conditions of confinement until today, when the Executive Branch agrees that you may be set free essentially unrestricted? This makes no sense to me."[198]

The judge was not alone in being puzzled by the government's handling of the criminal phase of the case. It is difficult to reconcile the lack of forceful action between the time the government discovered, in June 1999 at the latest, that the tapes had been created, with its December 1999 claims that the only way to safeguard the secrets on the tapes was to hold Dr. Lee virtually incommunicado. As will be discussed later in this report, the information on the tapes was extremely sensitive, but it does not necessarily follow that the pretrial confinement conditions the government demanded represent the only way to protect that information. If it was the government's judgement that protecting the information required extraordinary restrictions on Dr. Lee, then why not act as soon as the existence of the tapes was known?[199] Moreover, if the government was willing, in September 2000, to accept Dr. Lee's sworn statement as to the disposition of the tapes (to be verified by polygraph examination), why could it not have accepted a very similar offer from Mr. Holscher on December 10, 1999, the date of Dr. Lee's arrest?

The remainder of this report addresses the government's handling of: (1) the investigation of Dr. Lee from March–December 1999, (2) the pretrial confinement of Dr. Lee, and (3) the case against Dr. Lee. The subcommittee's investigation supports the following conclusions regarding these matters: (1) the information on the tapes was highly sensitive and, if anything, the government should have acted sooner than it did to find out what happened to them, (2) the government overreached in demanding such onerous conditions of confinement prior to trial, and (3) the plea agreement was an acceptable resolution to the case, one that very likely could have been had much sooner if the government had not backed itself into a corner with its aggressive tactics after December 1999.

The March–December 1999 Investigation[200]

One day after Dr. Lee was fired, the Albuquerque Division of the FBI (FBI–AQ) met with the U.S. Attorney for the District of New Mexico, Mr. John J. Kelly. The following day, Dr. Lee's lawyer, Mr. Mark Holscher, wrote to the government offering to surrender Dr. Lee's passport and asking whether Dr. Lee was a target or a subject of investigation. In this letter, Mr. Holscher also advised the government that his client intended to travel to Los Angeles for several days.[201]

On March 11, the FBI learned that another LANL employee had been asked by Dr. Lee to retrieve a box of documents from his X-Division office.[202]

After a telephone conversation between Mr. Kelly and Mr. Holscher on March 15, Mr. Holscher wrote on March 19 asking that the investigation of Dr. Lee be terminated, and requesting security clearances so that he could counsel Lee. In this letter, Mr. Holscher also noted that at least six newspapers had carried stories quoting unnamed FBI officials as saying that there was not enough information to indict, much less convict, Dr. Lee. Mr. Holscher described this information as Brady material, and said the government had no evidence that Dr. Lee had any intent to injure the United States, as would be required under the espionage statutes.[203]

On March 23, investigators discovered the "kfl" file listing, and reached a tentative conclusion that classified files had been maintained on the unclassified portion of the LANL computer system. That same day, Mr. Holscher wrote to Mr. Kelly protesting government leaks to the press about the case, including statements that Dr. Lee had failed to cooperate with the government and had failed a polygraph exam. Mr. Holscher pointed out that 28 CFR 50.2(b)(2) prohibits DOJ personnel from disclosing any information that "may reasonably be expected to influence the outcome of a pending or future trial."[205]

Mr. Holscher also sent a letter to FBI Director Louis Freeh on March 23, demanding an investigation into case-related leaks. In a clear reference to Dr. Lee's assistance to the government in the 1980s, Mr. Holscher told Director Freeh that he had "refrained from explaining to the press the true facts concerning the Lee's 1986 visit to China and follow-up activities that are known to the FBI," and requested that Director Freeh release a statement showing that Dr. Lee had cooperated with the government.[206]

On March 26, a LANL scientist assisting with the investigation told the FBI that the "kfl" directory had been in the open part of the common file system (CFS), that the file names in the directory suggested they were classified, and that the files had been deleted from the CFS on February 11, 1999. The scientist also told the FBI that Dr. Lee had typed up and stored in a CFS directory letters seeking employment overseas.

After a telephone conversation between the two men, Mark Holscher wrote to Robert Gorence on March 29, saying that he understood from the conversation that Dr. Lee was the subject of a grand jury investigation rather than a target.[207] The difference is significant because being the target of an investigation is more serious than merely being the subject of one.

On March 30, a draft rule 41 search warrant affidavit for Dr. Lee's home was presented to the U.S. Attorney's Office (USAO) in New Mexico. From April 1–8, personnel in Washington and the USAO worked on an affidavit for a search warrant.

During this time the FBI was pursuing a dual track, and a key meeting took place on April 7 between the FBI and representatives of the Office of Intelligence Policy and Review. Rather than moving quickly to discover the extent of the potential damage, FBI and DOJ officials continued to wrangle over whether the matter should be handled under FISA or was "way too criminal" for that.[208] OIPR attorneys raised their old concerns about the currency and sufficiency of the evidence against Lee, as well as new concerns about the appearance of improperly using FISA for criminal purposes and the prospect of conducting an unprecedented overt FISA search.[209] FBI officials indicated that FBI Director Freeh was "prepared formally to supply the necessary certifications that this search met the requirements of the FISA statute—that is, that it was being sought for purposes of intelligence collection (e.g., to learn about Lee's alleged contacts with Chinese intelligence)."[210] The draft FISA application the FBI prepared was never formally presented to OIPR, in large part because the criminal search warrant was issued.

On April 9, Attorney General Reno made the necessary certification for using FISA derived material[211] in a rule 41 search warrant, and Magistrate Judge William W. Deaton issued the warrant later that same day. The following day, April 10, Dr. Lee's home was searched, and he provided written consent to search his automobiles.

In a letter to Mark Holscher dated April 16, Mr. Kelly and Mr. Gorence made one demand and several requests. The two prosecutors demanded the return of any classified material in Dr. Lee's possession, and requested the names and addresses of the individuals with whom the Lees stayed during their March 9 to April 7 trip to Los Angeles. The prosecutors also told Mr. Holscher of their intent to issue a grand jury subpoena to Mrs. Lee regarding the 1986 and 1988 trips to the PRC, and any actions related to those trips.[212]

On April 18, LANL provided two computer reports, one which outlined the deletion of files by Dr. Lee from his open CFS directories in January and February, and another describing the earlier transfer of these files from the closed to open CFS. A week later, according to an FBI chronology, a technical expert assisting the FBI in the investigation said that the information Dr. Lee had downloaded would not be sufficient for a foreign power to build or duplicate U.S. weapons, but that "the files would significantly enhance their program and save them years of research and testing."[213]

On April 30, a LANL computer security expert informed the FBI of two incidents involving Dr. Lee which showed up in a review of the Network Anomaly Detection and Intrusion Recording system, one in 1993 and another in 1997.[214] That Dr. Lee was flagged by this system in 1997, while he was under investigation, but the FBI only learned about it in April 1999 is simply inexplicable.

On May 5, the FBI was informed by a LANL scientist that a notebook recovered during the search of Dr. Lee's residence contained directions for transferring classified files to a Sun Sparc computer workstation and from there onto portable DC6150 computer tape cartridges. On May 9, a LANL computer official provided a report on how the file transfers had been accomplished.

In response to suggestions from counsel for Mrs. Lee that she might claim marital communication privilege, spousal privilege or both, Mr. Kelly and another prosecutor, Ms. Paula Burnett, wrote to Mr. Brian Sun on May 5. The prosecutors laid out the areas of proposed questioning, to include: (1) biographical information on Mrs. Lee, her husband and their children; (2) contacts the Lees have with extended family, friends or business contacts in the PRC and Taiwan; (3) cooperation with the FBI in the 1986–1988 period; and (4) her knowledge of Dr. Lee's work and any job related activity that he did at home. Focusing on the Mrs. Lee's assistance to the FBI, the prosecutors explained that:

"Not only would we ask her the details of what she was asked to do and what she did during the time of cooperation with the FBI, but also the extent to which her husband was aware of those activities and participated in them."[215]

The next day, Mr. Sun responded in writing, saying that he had spoken to Mr. Holscher and felt it was appropriate for Mrs. Lee to assert the marital communications privilege and the spousal privilege. He said, however, that he might be willing to make an attorney proffer.[216]

On May 11, FBI–AQ prepared a Letterhead Memorandum on the Lee case, which was followed on May 16 by a written status report from USA Kelly to Deputy Attorney General Eric Holder and Attorney General Reno.

The next day, May 17, a LANL computer official provided a report on potential movement of files on Dr. Lee's CFS directories from LANL computers to outside computers.

The U.S. Attorney presented a prosecution memorandum on May 27, and requested guidance form DOJ because "the Atomic Energy Act violation had never been prosecuted before." He anticipated difficulty showing Lee intended to harm the U.S. as a necessary element of the crime.[217] The FBI, USAO, and Criminal Division met in Washington, DC, on the same day the prosecution memorandum was presented, to discuss the case, and two days later FBI-AQ provided a written prosecutive report to USAO.

Mr. Holscher wrote on June 9, complaining that the government had not yet advised him what it wanted to discuss with Lee and had not sought to schedule a meeting. Six days later, Mr. Kelly responded that the government was considering serious charges, but ruled out espionage charges under 18 USC 794 (the most serious espionage charge), and suggested a meeting for June 21. In the letter, Mr. Kelly said that he had postponed a previously scheduled meeting so the government could complete its investigation. He further explained to Mr. Holscher:

"I did so not to inconvenience your client, but rather to insure that the interview would take place toward the conclusion of the investigation at a time when I would be able to provide meaningful information about potential charges and, in turn, your client would be motivated to provide a more complete explanation for his potentially criminal conduct. As I stated in our telephone conversation last night, that time has now come.

"You should know that I will be making a charging decision in this matter before the end of June and that the offense conduct under consideration involves various actions by your client over the last decade that collectively have compromised some of our nation's most highly sensitive and closely guarded nuclear secrets."[218]

At the June 21 meeting, which was attended by USAO, FBI and Criminal Division representatives, Dr. Lee's counsel asserted that he had only downloaded unclassified data onto the unsecure computer and then on to tapes. (When later confronted with evidence that Dr. Lee had, in fact, downloaded classified data onto portable tapes, counsel claimed that if Dr. Lee had done so, any such tapes had been destroyed.) The meeting was followed by a written status report to the DAG and the AG the following day.

In the interim, on June 15, the FBI learned that Dr. Lee had asked a colleague to retrieve a box of materials that he had left in his X-Division office when he had been transferred to the T-Division. The FBI was told that the colleague had retrieved the box for Dr. Lee, but had taken the materials to LANL security, which had questions regarding some of the contents of the box.[219] The FBI chronology does not mention when the colleague had retrieved the box or what LANL security did about the contents. The absence of details raises the inference that the now-missing tapes could have been in the box, and LANL security may have passed them back to Dr. Lee without knowing what was on them. The FBI has not answered this question.

During the first week of July 1999, Dr. Lee's lawyers made written presentations to the Albuquerque USAO and the Criminal Division in Washington, each of which was designed to dissuade the government from taking action against Dr. Lee.

On July 15, a LANL scientist provided a report on the creation of Tape N, which was downloaded directly to tape in 1997. It was also during July that the government learned that one of the six tapes which had been recovered from Dr. Lee's T-Division office contained a classified file, and that two others contained deleted classified files. LANL computer officials advised the government that one tape had been cleansed of classified data in February 1999, on the unsecure computer workstation belonging to a T-Division colleague of Dr. Lee.

Three days after a meeting in Washington between the USAO and the Criminal Division, Mr. Holscher sent a letter to the government explaining that Dr. Lee had not violated the Atomic Energy Act of 1954. The letter was followed one day later, on July 27, by a meeting in Washington between counsel for Dr. Lee and the Criminal Division.

Mr. Holscher wrote again on August 2, offering to make additional factual submissions, which prompted a response from Mr. Kelly on August 4, saying the government would review anything Mr. Holscher submitted but wanted a complete explanation from Dr. Lee himself. At the same time, Mr. Kelly sent a letter to Eugene Habiger, Director of DOE's Office of Security and Emergency Operations, seeking to include in a proposed indictment of Dr. Lee information about Dr. Lee's downloading activity.

After an August 9 telephone conversation between counsel for Dr. Lee and Richard Rossman, Chief of Staff of the Criminal Division, Mr. Holscher wrote a letter on August 10 stating that Dr. Lee would not submit to any additional interviews and offering further arguments why Dr. Lee had not violated 18 USC 793.

On August 16, Criminal Division Chief of Staff Rossman wrote to counsel for Dr. Lee advising that the government had not yet made a decision whether to charge Dr. Lee, and asking for additional information (which had been discussed during the July meeting) by August 30.

Following a supplemental written presentation by Dr. Lee's counsel on August 30, Mr. Kelly wrote to Mr. Holscher on September 3 asking for information about the location and custody of the tapes from the time of their creation until the present.

On September 8, representatives of the Criminal Division, USAO, LANL and DOE met in Washington to discuss the handling of classified information in the prosecution of Dr. Lee. All of the DOE and LANL representatives concurred as to the significance of the data at issue. By October 4, DOE had prepared a draft classification guide governing issues related to Dr. Lee's illicit computer activity and the classified files involved.

On October 14, the Senate Judiciary Committee approved a resolution authorizing subpoenas relevant to the work of the Department of Justice Oversight subcommittee, including the Wen Ho Lee matter. (A second, broader resolution was authorized on November 17.[220])

On October 27, Assistant Attorney General James Robinson, Criminal Division, wrote a memo to USA Kelly recommending that Dr. Lee be prosecuted under the Atomic Energy Act of 1954.

On November 3, the Department of Justice Oversight subcommittee held its first hearing on the Wen Ho Lee case. Much of the testimony focused on the failure of the FBI to properly investigate, from 1995 to 1998, the information it had related to Dr. Lee potentially engaging in surreptitious electronic communications.

The Lee case was discussed at an National Security Council meeting on November 11, with DOE, DOJ and LANL representatives in attendance.

On November 15, a LANL scientist wrote a "Draft of Input to Damage Assessment" regarding the case, which was faxed to USA Kelly on November 15. At the request of the NSC, the CIA prepared a damage assessment regarding the material on the missing tapes on November 24.

The case was briefed at the White House on December 4. A September 24, 2000 Washington Post article by Walter Pincus and David A. Vise described the events leading up to and the discussion at the December 4 meeting as follows:

"The decision to prosecute Lee was made at a meeting in [Attorney General] Reno's conference room shortly before Thanksgiving. Despite lingering question's about Lee's motives, according to participants, there was unanimity among the federal prosecutors from New Mexico and their superiors in Washington that the government should bring a massive, 59-count indictment against Lee using the Atomic Energy Act. Indeed, officials in Washington had decided to charge Lee with intent to injure U.S. national security and (not "or") to aid a foreign adversary.

"Crossing a final hurdle, Reno called a meeting of senior national security officials in the White House Situation Room on Dec. 4, 1999, to explain how much classified information prosecutors were prepared to reveal in court. In addition to Reno, Kelly, Freeh, and Richardson, those present included national security adviser Samuel R. "Sandy" Berger, CIA Director George J. Tenet and deputy defense secretary John J. Hamre.

"Robert D. Walpole, the national intelligence officer for strategic and nuclear programs, began the meeting with a formal assessment that the loss of the data downloaded by Lee would be a serious blow to national security

"The meeting ended after Reno offered her assurance that prosecutors were prepared to drop the case immediately if the judge were to grant a motion, sure to come from the defense, that the data downloaded by Lee had to be introduced, in full, in open court."[221]

On December 7, the Department of Justice Oversight subcommittee sent letters requesting testimony in a closed hearing from nine FBI witnesses, including two of the case agents, FBI General Counsel Larry Parkinson, Albuquerque Special Agent in Charge David Kitchen, Assistant Director for National Security Neil Gallagher, and other case supervisors and managers. The hearing, scheduled for December 14, was to explore the circumstances of the December 23, 1998 polygraph and the relationship between the government and the Lees.

On December 8, as required by statute, the Attorney General sent letters to Energy Secretary Richardson and USA Kelly approving charges against Dr. Lee under the Atomic Energy Act of 1954. That same day, Mr. Kelly spoke to Mr. Holscher by phone, telling him that indictment was imminent and asking for information about the missing tapes. At some point in late 1999, prior to the indictment, Mr. Kelly told Mr. Holscher that the case might be resolved without an indictment and advised Mr. Holscher to look at the latter sections of 18 USC 793.

Although Mr. Holscher faxed a letter at 8:24 a.m. (Pacific Time) on December 10, offering to make Dr. Lee available for a polygraph by a mutually agreeable polygrapher to verify that Dr. Lee did not mishandle the tapes or provide them to a third party, Dr. Lee was indicted and arrested later that same day.

Also on December 10, FBI Director Freeh wrote to request that I "delay hearings on any aspect of this investigation until the conclusion of the current criminal proceedings resulting from the indictment handed down today."[223] In explaining why it was necessary to delay subcommittee hearings, Director Freeh said:

"In my view, the potential that your hearings could inadvertently interfere with the prosecution is substantial. Subcommittee hearings at this time risk impacting upon the Government's ability to successfully prosecute Mr. Lee by creating issues that may not presently exist. Moreover, it is critical for our national security that we have every opportunity to learn as much as we can from Wen Ho Lee in a carefully controllable setting. Given the gravity of the allegations and charges, and the potential opportunities that could be lost by hearings, I respectfully ask that you not go forward at this time. I hope you will agree that to do otherwise poses a substantial risk not only to the prosecution but to the Government's ultimate ability to discover the full extent of the damage done."[224]

When Director Freeh met with Senator Torricelli and me on December 14, he made the same arguments. The subcommittee agreed to withhold hearings until the case was resolved, which occurred on September 13, 2000, with the acceptance of the plea agreement.

With the inexplicable exception of never seeking electronic surveillance on Dr. Lee, the chronology presented here shows a thorough and methodical investigation. The discovery that Dr. Lee had created his own portable nuclear weapons data library must, in large measure, be credited to the extraordinary level of effort and skill on the part of the investigators from the FBI and the DOE. In Senate testimony, Director Freeh said that the investigation had required the "interview of over 1,000 witnesses, review of 20,000 pages of documents in English and Chinese, and the forensic examination of more than 1,000 gigabytes containing more than one million computer files . . ."[225] Any assessment of the investigation must acknowledge the vast amount of work involved in discovering Dr. Lee's illegal computer activity after he tried so diligently to erase any traces of what he had done. In this regard, the government personnel should be commended.

There are, however, two areas for concern[226] related to the conduct of the March–December 1999 investigation. The first is the delay from the time the existence of the tapes was known, which occurred at the latest in June, and the time Dr. Lee was indicted in December. The chronology provided by the Department of Justice shows continuing activity on the part of the government, and multiple contacts with Dr. Lee's attorneys seeking information about the fate of the tapes, but nothing commensurate with its subsequent declarations in court that the only way to keep the information from falling into the wrong hands, where it could change the global strategic balance, was to hold Dr. Lee in very strict pretrial confinement. In responding to a question about this delay, Director Freeh testified, "This was an extremely complex investigation and prosecutive process. It could not have been brought, in my view, fairly and accurately before it was."[227]

The second great concern is that the FBI did not seek electronic surveillance of Dr. Lee during this period.[228] In view of the government's later pleadings that Dr. Lee could, in effect, upset the global strategic balance merely by saying something as seemingly innocuous as "Uncle Wen says hello," it is difficult to comprehend why the government never sought electronic surveillance in an effort to discover the whereabouts of the missing tapes. In the December 1999 detention hearings, the U.S. Attorney, John Kelly, suggested that if Dr. Lee still had the tapes, he could send a signal to a foreign intelligence service to extract him. If he wasn't in custody "then we would be dealing with a situation in which an individual not in custody is going to be snatched and taken out of the country."[229] As early as April 30, 1999, the FBI had been told by a LANL scientist that if the files Dr. Lee downloaded were given to a foreign power, they would have the "whole farm," the "crown jewels" of the U.S. program which had been obtained through decades of effort by the U.S.[230]

If the government felt his communications were such a potential threat, why was there never an effort to ascertain with whom and about what he was communicating during the March–December 1999 period? This lapse severely undercuts the government's later arguments that the harsh conditions of confinement were only to protect the downloaded information.

The Pretrial Confinement of Dr. Lee

After his arrest on December 10, 1999, and a detention hearing before U.S. Magistrate Judge Don Svet on December 13, 1999, Dr. Lee was placed in pretrial confinement in the Santa Fe County Correctional Facility. The conditions of his incarceration, including the Special Administrative Measures (SAM) taken to prevent him from possibly communicating to others about the location of the tapes or the material thereon, have received a great deal of attention from Dr. Lee's attorneys, the press, and eventually, Congress.

The government's decision to hold Dr. Lee under such strict conditions raises a number of important points. Defendants are presumptively entitled to pretrial release except in certain circumstances specified in statute. Because none of the ordinary conditions for pretrial confinement—for example, when a violent criminal is captured after a killing spree—applied to Dr. Lee, Judge Parker explained in his order that:

"Only after a hearing and a finding that "no condition or combination of conditions will reasonably assure the appearance" of the defendant and the safety of the community, can a judge order a defendant's pretrial detention. 18 USC 3142(e). A finding against release must be "supported by clear and convincing evidence." 18 USC 3142(f)."[231]

In reaching a decision on pretrial detention, the judge was required to take into account the available information regarding: (1) the nature and circumstances of the offense charged, (2) the weight of the evidence against the person, and (3) the history and characteristics of the person.[232]

At a series of detention hearings from December 13 through December 29, before two different magistrates, the government painted a stark picture of Dr. Lee's conduct. A December 23, 1999 filing by Mr. Gorence summarized the government's position:

"Lee stole America's nuclear secrets sufficient to build a functional thermonuclear weapon. Lee absconded with that information on computer tapes, seven of which are still missing. Those missing tapes, in the hands of an unauthorized possessor, pose a mortal danger to every American. The government does not know what Lee did with the tapes after he surreptitiously created them. Despite previous denials, Lee now admits that he created the tapes—tapes which the government will establish contain an entire thermonuclear weapon design capability. The risk to U.S. national security is so great if Lee were to communicate the existence, whereabouts, or facilitate the use of the tapes that there is no condition or combination of conditions that will reasonably assure the safety of this country if Lee is released."[233]

The Atomic Energy counts with which Dr. Lee had been charged required that the conduct at issue be done with intent to injure the United states. On this score, the government argued that:

"Lee's secretive and surreptitious actions to gather the classified TAR files, to down-partition and download the files on to tapes, to lie to colleagues to facilitate his actions, and then his subsequent deletions to cover his tracks all evidence an intent to injure the United States. Lee's intent to injure the United States also can be inferred by the additional testimony that the government will present to this Court that Lee, in taking complete thermonuclear weapon design capability, stole information that was not in any way related to his duties as a hydrodynamicist. The United States also will offer additional testimony that there was no work related reason to ever move the classified information that Lee moved and downloaded on to computer tapes from the secure to the unsecure computing environment. These facts evidence an intent to injure the United States by depriving it of exclusive control of its most sensitive nuclear secrets."[234]

The government also argued that the only way to safeguard the information on the tapes Dr. Lee created was to hold him in detention, with special restrictions on his communications. As described in the government's motion on December 23, these measures included segregation from other prisoners; limiting his visitors to immediate family members and his attorneys, having an FBI agent monitor all family visitations, denial of access to a phone except to call his attorneys, and mail screening.[235]

After the required hearings, Judge Parker issued his order on December 30, 1999, in which he concluded that "at this time there is no condition or combination of conditions of pretrial release that will reasonably assure the appearance of Dr. Lee as required and the safety of any other person, the community, and the nation."[236] He then addressed the nature of the alleged crimes, the weight of the evidence, and the characteristics of the defendant. Judge Parker noted that while the offenses charged fell short of espionage, they were "quite serious and of grave concern to national security."[237] The judge also described the surreptitiousness with which the tapes had been created, citing the government's contention that Dr. Lee had misled a T-Division employee by claiming to want to download a resume to tape.[238] In addressing the weight of the evidence against Dr. Lee, Judge Parker noted that the government had presented direct evidence of the downloads, which was the relevant conduct at issue. With regard to the intent to injure, which was also an element of the charged offenses, he noted that:

"although the Government did not present any direct evidence regarding Dr. Lee's intent to harm the United States or to advantage a foreign nation . . . the Government did present circumstantial evidence of Dr. Lee's intent to violate these provisions of the Atomic Energy Act and the Espionage Act."[239]

With regard to the characteristics of the defendant, Judge Parker made points on both sides, noting that Dr. Lee had "lied to

LANL employees and to law enforcement agents and has consciously deceived them about the classified material that he had put on the tapes and about contacts with foreign scientists and officials."[240] On the other hand, the judge noted Dr. Lee's longstanding ties to the community, and said, "Aside from Dr. Lee's deceptive behavior regarding the issues raised in this case, his past conduct appears to have been lawful and without reproach."[241] And, finally, the judge concluded that the government had presented "credible evidence showing that the possession of information by other nations or by organizations or individuals could result in devastating consequences to the United States' nuclear weapon program and anti-ballistic nuclear defense system."[242]

In concluding, the judge stated:

"With a great deal of concern about the conditions under which Dr. Lee is presently being held in custody, which is in solitary confinement all but one hour a week when he is permitted to visit his family, the court finds, based on the record before it, that the Government has shown by clear and convincing evidence that there is no combination of conditions of release that would reasonably assure the safety of any person and the community or the nation. The danger is presented primarily by the seven missing tapes, the lack of an explanation by Dr. Lee or his counsel regarding how, when, where, and under what circumstances they were destroyed, and the potentially catastrophic harm that could result from Dr. Lee being able, while on pretrial release, to communicate with unauthorized persons about the location of the tapes or their contents if they are already possessed by others. Although Dr. Lee's motion to revoke Magistrate Judge Svet's detention order is denied at this time, changed circumstances might justify Dr. Lee renewing his request for release. If, for instance, Dr. Lee submits to a polygraph examination . . . and the results of the exam allay concerns about the seven missing tapes, Dr. Lee's request for pretrial release can be reconsidered in a significantly different light."[243]

The judge's final statement before denying Dr. Lee's motion for pretrial release was an admonishment to the government "to explore ways to loosen the severe restrictions currently imposed upon Dr. Lee while preserving the security of sensitive information."[244]

Having lost the initial fight for pretrial release, Dr. Lee returned to jail where the conditions of his confinement became a rallying point for his defenders. The following excerpt is taken from an Internet site established and maintained by Dr. Lee's supporters:

"He was arrested on December 10, 1999 and is now put in solitary confinement in a cell in a New Mexico jail 23 hours a day. He is allowed only one hour of visit a week from his immediate family. He is shackled any time he is out of his cell, at his waist, his ankle and his wrist except when he is meeting with his lawyers (and even then he must wear an ankle chain). A chain around his belly connecting to his handcuff prevents him from raising his hand above his head. We were told that two U.S. Marshals with machine guns accompanied him whenever he goes within the confine of the prison and a 'chase car' with armed Marshals follows Dr. Lee when he is moved from Santa Fe to Albuquerque and back. This is highly unusual and we questioned that other prisoners received the same treatment. The lawyer said Lee was kept separate from other prisoners during his hour-long exercise period. He is finally allowed to speak Mandarin with his family but with two FBI agents listening in. We were told by his families that Dr. Lee was always in shackles and chain even during their one hour weekly meeting. We were also told that the food provided by the prison system was inappropriate to Dr. Lee because he has long adopted to live on a non red meat diet after his colon cancer surgery several years ago."[245]

The government, however, portrayed Dr. Lee's conditions of confinement as a matter of necessity to protect the classified information he had downloaded to portable tapes. In a series of memoranda written by Lawrence Barreras, Senior Warden of the Santa Fe County Correctional Facility, on December 10 and 14, 1999, and January 4, 2000, the terms of Dr. Lee's confinement were outlined in detail. Specifically, Dr. Lee's confinement consisted of 24 hour supervision by a rotation of guards, permission to speak only with his attorneys and immediate family members (his wife, daughter and son) and in English only, non-contact visits from his immediate family members limited to one hour per week, no personal phone calls, and that he remain secured in his cell 24 hours a day.[246] Further, Dr. Lee was to remain in full restraints (leg and hand irons) anytime he was to be out of his cell being moved from one location to another.[247]

As previously noted, Dr. Lee's lawyers protested his conditions of confinement almost from the beginning. In a December 21, 1999 letter to Mr. Kelly and Mr. Gorence, lead defense attorney Mark Holscher said:

"Apparently at the request of the Department of Justice and the FBI, Dr. Lee's jailers have barred his family from visiting him for more than one hour a week. In addition, the agents have demanded that my client and his wife speak only English and do so in the presence of a federal agent.

"Please provide me immediately with a written description of the conditions that you have placed on Dr. Lee's imprisonment, and a statement of the legal authority for these draconian conditions."[248]

The legal authority to which Mr. Holscher referred was at that time still being assembled. Title 28 of the Code of Federal Regulations, section 501.2, provides that upon direction of the Attorney General, special administrative measures may be implemented that are reasonably necessary to prevent disclosure of classified information, upon written certification . . . by the head of a member agency of the United States intelligence community that the unauthorized disclosure of classified information would pose a threat to the national security and that there is a danger that the inmate will disclose such information. Energy Secretary Bill Richardson sent a letter to the Attorney General on December 27, 1999, in which he said:

"In my judgment, such a certification is warranted to enable the Department of Justice to take whatever steps are reasonably available to it to preclude Mr. Lee, during the period of his pretrial confinement, any opportunity to communicate, directly or through other means, the extremely sensitive nuclear weapons data that the indictment alleges Mr. Lee surreptitiously diverted to his own possession from Los Alamos National Laboratory (LANL). I make this certification at the request of the U.S. Attorney for the District of New Mexico, John Kelly, and upon the recommendations and evaluations of the Director of the Federal Bureau of Investigation and DOE's Director of Security and Emergency Operations, Eugene Habiger."[249]

By January 6, the Department of Justice had reviewed the administrative segregation procedures at the Santa Fe County Correctional Facility and determined with some additional measures, the standard segregation policy would adequately confine Dr. Lee. In a letter to Warden Lawrence Barreras, the local U.S. Marshal, John Sanchez described ten additional measures that were necessary:

1. Mr. Lee is to be kept in segregation until further notice (single cell).

2. Mr. Lee is not to have contact with other inmates at anytime.

3. All outgoing mail EXCEPT LEGAL MAIL will be screened by the FBI.

4. Mr. Lee will not be permitted personal telephone calls.

5. Mr. Lee will be allowed to place collect telephone calls to attorneys of record [Mr. John Cline and Mr. Mark Holscher].

6. Mr. Lee will be allowed contact visits with his attorneys only.

7. Mr. Lee will be allowed non-contact visits with immediate family members. . . . The FBI must be on site to monitor each visit. Visits will not be allowed unless an FBI agent is present.

8. Visitors are to be restricted to Attorneys of Record and immediate family.

9. Any changes to Mr. Lee's conditions of confinement will be authorized by USMS [U.S. Marshals Service] personnel only.

10. Mr. Lee is NOT TO BE REMOVED FROM THE FACILITY BY ANYONE UNLESS AUTHORIZED BY THE USMS.[250]

That same day, another of Dr. Lee's attorneys, Mr. John Cline, wrote to Mr. Gorence expressing the view that the conditions of confinement were unlawful. He requested three specific changes, including: (1) two hours outdoors every day, (2) permission for Dr. Lee to have a television, radio, and a CD player in his cell and to receive access to newspapers, and (3) a daily shower.[251]

A January 12, 2000 memorandum to the Attorney General from Principal Associate Deputy Attorney General Gary Grindler demonstrates that at least some of the concerns of Dr. Lee's lawyers were taken to the highest reaches of the Justice Department. The memo notes that the Attorney General had "advised that some individuals have expressed concern about Dr. Lee's access to exercise," and explains that the order for Special Administrative Measures that she was being asked to sign "does not limit Dr. Lee's access to exercise. According to the Santa Fe County Jail rules, Dr. Lee will be limited to one-hour per day of exercise, as are all administrative segregation prisoners."[252]

On January 13, 2000, the Attorney General formally authorized the special administrative measures for a period of 120 days in a memorandum to John W. Marshall, the Director of the Marshals Service. The conditions of confinement were as previously described. It should be noted, however, that from December 10, 1999 until the date the Attorney General signed the order on January 13, 2000, any special conditions of confinement imposed on Dr. Lee would have been without proper authority. If federal regulations require certifications from agency heads and the Attorney General, it can only be presumed that restrictions such as those imposed on Dr. Lee would not be properly authorized until all the certifications were in place. It is troubling that the government was not better prepared to make the necessary certifications in a timely fashion.

As the end of the initial 120 days approached, the Attorney General received a new letter from Secretary Richardson on

May 4, in which he expressed his support for continuing the SAM. However, he mentioned the conditions of Dr. Lee's pretrial confinement, saying:

"At the same time, I want to emphasize my concern, that to the extent consistent with protecting the sensitive weapons information to which the indictment of Dr. Lee pertains, Dr. Lee's civil rights as a pre-trial detainee should be honored. I understand that, in response to a request by Dr. Lee's counsel, the Department of Justice has arranged for a translator to be present when he speaks with his family so that he can speak Chinese. I further understand that arrangements have been made to permit him to visit with his family on weekends, to have access to Los Alamos National Laboratory with his lawyers under appropriate safeguards so that he can prepare his defense, and to have access to a radio and reading material of his choice, as well as a reasonable period of exercise every day. Finally, I understand that the conditions of his confinement are in no respect more restrictive than those of others in the segregation unit of the detention facility, where he is confined specifically to protect against further compromise of classified information. Based on this information, I am satisfied that his civil rights are being adequately protected."[254]

At about the same time the FBI SAC in Albuquerque, David Kitchen, wrote to the new U.S. Attorney in New Mexico, Norman Bay, and expressed his unequivocal support for maintaining the SAM in place. Agent Kitchen expressed his "firm conviction that any loosening of the SAM would enable Dr. Lee to communicate with an agent of a foreign power regarding the disposition or usage of the materials contained in the seven missing tapes."[255]

In July, the new lead prosecutor on the case, George Stamboulidis, arranged to have restraints removed from Dr. Lee during his scheduled recreation times,[256] but this did not occur without some difficulty.[257]

An August 1, 2000 letter from Warden Barreras to Mr. Stamboulidis describes the final state of Dr. Lee's confinement:

"In response to your letter date July 30th, 2000 inmate Wen Ho Lee began recreating without restraints on July 18th, 2000 at 8:30 a.m. As of August 5th, 2000 he is also allowed participation in the recreation yard 7-days a week for a period of 1-hour per day.

"In reply to inmate Wen Ho Lee's housing conditions: inmate Wen Ho Lee is permitted to have a radio in his cell, this gives him the ability to listen to news programs; he receives reading materials per the SAM guidelines.

"In addition, an exception to the rule was made to grant inmate Wen Ho Lee visits on Saturdays as opposed to the regular Friday schedule: this was done in order to accommodate his family. Supervisors are the only staff that are assigned to oversee his escort and visit. Inmate Wen Ho Lee also receives extra fruit at dinnertime, daily."[258]

On September 7, 2000, U.S. Attorney Norman Bay requested that the Attorney General continue the SAM, which had last been extended on May 12. In his letter, he outlined recent developments in the case, including Judge Parker's order granting Dr. Lee's renewed motion for pretrial release on August 24. Mr. Bay informed the Attorney General of the government's motion to stay the request of that order, and noted that the Tenth Circuit had stayed Judge Parker's order pending further review. Mr. Bay concluded his request to the Attorney General by noting that "nothing has changed since the special administrative measures were first imposed to reduce the risk of Lee disclosing highly sensitive classified information to an unauthorized possessor," and requested another 120 days of SAM.[259]

Before the Attorney General acted on the request, the government reached a plea agreement with Dr. Lee, which ended his confinement.

After the plea agreement, the conditions of Dr. Lee's confinement were widely discussed in a way that they had not been discussed before, with new allegations that a light had been left on his cell 24-hours a day, and that he had been kept in shackles an inordinate amount of time. During a series of three hearings in late September and early October 2000, Department of Justice witnesses were asked about the conditions of detention. Attorney General Reno made the point that Dr. Lee's lawyers had not previously complained about the leg-restraints and that no one had ever mentioned the light before.[260] Mr. Bay explained that the light in question was "a dull blue light, kind of like a night light, in Dr. Lee's room . . . [used] to make sure that if someone walked by and looked inside his cell that they could make sure that he was there and that he was doing okay."[261]

The Attorney General also read into the record a memorandum from Raymond L. Cisneros, the local sheriff in Santa Fe who served as the jail monitor. The memorandum, dated March 10, 2000, was to the county manager and explained that Mr. Cisneros had met with Dr. Lee after receiving phone calls from unknown persons claiming that Dr. Lee was not being treated well. According to the memo:

"Other than being incarcerated, he had no complaints. The staff was treating him very well. He singled out Warden Barreras and Deputy Warden Romero as treating him great. . . . His only request was for additional fruit at the evening meal, which I relayed to Warden Barreras.

"I gave him my business card and told him to contact me through his attorney if there was any mistreatment of other issues regarding his incarceration. . . . Because of the high profile nature of this case, I felt it was necessary to either confirm or disprove the allegations. Mr. Lee was very surprised about the calls and stated, 'I haven't complained to anyone about the jail because I am being treated very well.'"[262]

Realizing that the hearings had not provided all the necessary information on the confinement issue, the DOJ later provided several hundred pages of relevant documents. Much of the discussion above has been drawn from these documents. The Department also sent a letter, dated January 20, 2001, which provided additional detail on the matter. Assistant Attorney General Robert Raben explained that the manner in which Dr. Lee had been treated flowed "directly from a policy that sets bright line rules that apply to all prisoners under defined circumstances. These bright line rules are, in the Department's view, better than an alternative that would require detention facility personnel to make *ad hoc* decisions in each individual prisoner's case. A rule allowing such discretion would invite both favoritism and abuse."[263] Mr. Raben went on to explain that, because there is no federal detention facility in New Mexico, Dr. Lee had been housed at the Santa Fe County Detention Facility, under its administrative segregation policies, with the additional condition that he be allowed no unmonitored communications. According to Mr. Raben:

"While housed in the Santa Fe County Detention Facility, Dr. Lee was subject to all of that facility's other regulations for all prisoners in administrative segregation in addition to the ban on unmonitored communications. One of those requirements is that prisoners in administrative segregation must be in "full restraints" (handcuffs, waist chains, and leg irons) whenever they are outside of their cells within the facility, including during exercise periods. Dr. Lee was not in restraints while in his cell. In July 2000, after the issues was raised by Dr. Lee's attorneys, the restraints policy was modified uniquely for Dr. Lee so that he, unlike others in administrative segregation could exercise without restraints."[264]

Mr. Raben further explained that Dr. Lee was transported for all court appearances and meetings with his attorneys by the U.S. Marshals, under standard procedures, which included "full restraints" during transport, and at all times except when Dr. Lee was in a holding area cell administered by the Marshals Service and when he was meeting with his attorneys. During such meetings, the leg irons remained on, but Mr. Raben said that Dr. Lee's attorneys had never objected to that procedure.[265]

After reviewing the documents and testimony on the conditions of Dr. Lee's pretrial confinement, it is clear that the reasonableness of the government's actions turns on the question of whether or not it was really necessary to restrict his ability to communicate. The government was convinced that the only way to protect the national security was to prevent Dr. Lee from communicating. Having taken that position, the remainder of the government's actions were simply to further the objective of limiting Dr. Lee's ability to communicate. Although some of the government's responses were not as prompt as one might like—for example, taking more than a month to get the initial SAM guidelines signed by the Attorney General—the government seems to have been generally responsive to requests from Dr. Lee's attorneys.

That is not to say that the government's actions were appropriate, however, because the government has not made a showing as to why it was necessary to hold Dr. Lee under such strict terms of confinement in the first place. If he had not communicated the whereabouts of the tapes to a third party in the period prior to his arrest, what made the government believe he would do so from jail? None of the documents, testimony or other information available to the subcommittee provides a compelling answer to this question. While the government may have believed such harsh conditions were necessary, they have not made a convincing case. Judge Parker was not convinced by the government's arguments, and granted Dr. Lee's renewed motion for pretrial release on August 24, 2001. In his remarks at the plea hearing, Judge Parker expressed his sentiments, telling Dr. Lee that "since by the terms of the plea agreement that frees you today without conditions, it becomes clear that the Executive Branch now concedes, or should concede, that it was not necessary to confine you last December or at any time before your trial."[266]

The Case Against Dr. Lee

Had the government not reached a plea agreement with Dr. Lee, the case was scheduled for trial in late November 2000. When the government settled, many questioned the appropriateness of the plea agreement because it seemed to be in such stark contrast with what the government had argued all along. To ascertain whether the plea agreement was appropriate, it is first necessary to examine the government's case.

Although the government would likely have won a conviction because many elements of the charged conduct were not disputed Dr. Lee could not credibly deny that he had made the tapes containing vast quantities of classified nuclear weapons data this would not have been an easy case. The government faced a number of obstacles, including: (1) challenges to the government's claims about the importance of the material on the missing tapes, (2) threats by Dr. Lee's attorney to take the government on a "long, slow death march under CIPA," (3) claims that Dr. Lee was the victim of selective prosecution based on racial profiling, and (4) the issue of Dr. and Mrs. Lee's assistance to the government during the 1980s. None of these obstacles would have been unsurmountable. Each is discussed below.

The Importance of the Missing Tapes

As previously noted, government witnesses testified at Dr. Lee's bail hearing that the information on the tapes was the "crown jewels" of our nuclear secrets that could, in the wrong hands, change the global strategic balance. When Dr. Lee's lawyers renewed their motion for pretrial release in July 2000, they made a direct assault on this claim. The defense offered depositions from Dr. Harold Agnew, former Director of LANL, and Dr. Walter Goad, a Fellow Emeritus at LANL, both of whom took issue with the government's characterization of the material on the tapes. Dr. Lee's lawyers also noted that the information in question was not classified at the highest level—Top Secret—and had, in fact, been placed in a special category called "Protect as Restricted Data" or PARD when Dr. Lee downloaded it.

When Judge Parker held three days of hearings in August 2000 to consider Dr. Lee's renewed motion for pretrial release, he got testimony from Dr. John Richter that the information on the tapes was 99% unclassified.[267] The government was also forced to acknowledge that the information in question was classified as Secret Restricted Data (SRD) rather than Top Secret Restricted Data (TSRD), and could therefore be sent through certified or registered mail, as demonstrated in the following excerpt from the hearing on August 17:

> Mr. CLINE: SRD, unlike TSRD, can be, for example, double wrapped and sent by registered mail from one classified location to another, can it not?
>
> Dr. ROBINSON: That is true today, yes.
>
> Mr. CLINE: And TSRD can not be sent by mail?
>
> Dr. ROBINSON: That is correct.
>
> Mr. CLINE: . . . . the information that we are talking about here, which has been described as the crown jewels, could be double wrapped and sent by registered mail from Washington, D.C. to New Mexico, correct?
>
> Dr. ROBINSON: Correct.[268]

The defense team also noted that the material Dr. Lee had downloaded fell into a category called Protect As Restricted Data, or PARD, when he made the tapes. The definition of PARD, taken from the U.S. Department of Energy Office of Security Glossary of Terms, is as follows: A handling method for computer-generated numerical data or related information which is not readily recognized as classified or unclassified because of the high volume of output and low density of potentially classified data.[269]

As described in the judge's order for Dr. Lee's pretrial release, the effect of the expert opinions offered by Drs. Agnew, Goad and Richter, the defense's showing that the material was SRD as opposed to TSRD, and that the material was marked as PARD when it was downloaded was to "show that the information Dr. Lee took is less valuable than the government had led the Court to believe it was and less sensitive than previously described to the Court. . . ."[270]

Judge Parker also raised a question as to whether the missing tapes contained "all the information needed to build a functional thermonuclear weapon."[271] He went on to say, "In sum, I am confronted with radically divergent opinions expressed by several distinguished United States nuclear weapons scientists who are on opposite sides of the issue of the importance of the information Dr. Lee took.[272] The judge's findings on the sensitivity of the material on the tapes were a principal factor in his decision to order Dr. Lee's pretrial release, which he did on August 24, 2000.

When the government settled the case with a plea agreement less than three weeks later, it gave the impression that it was backing away from its claims about the importance of the material. This had the unfortunate effect of reinforcing the public perception that the government was persecuting, rather than prosecuting Dr. Lee. Like the judge, the subcommittee can only rely on the testimony of expert witnesses, but it seems that the government's witnesses made the stronger arguments in this regard.

The most concise description of the information Dr. Lee downloaded is found in the government's public filing in response to Dr. Lee's appeal of Judge Parker's initial denial of bail, the relevant portions of which are excerpted below:

> "The source codes model and simulate every aspect of the complex physics process involved in creating a thermonuclear explosion. The source codes are written to design specific portions of a nuclear weapon—either the primary or the secondary.
>
> "Although nuclear weapons source codes contain all of the physics involved in a thermonuclear weapon, the source codes themselves require "data files"—both classified and unclassified—to run actual simulations. Data files contain all of the physical and nuclear properties of materials required for a nuclear explosion. . . . Data files become classified as SRD [Secret Restricted Data] when the properties of the materials are most directly relevant to nuclear weapons, i.e., in environments involving very high pressures and temperatures. . . .
>
> "'Input decks' are mathematical descriptions of the actual geometry and materials within a nuclear device itself. In essence, an input deck is an 'electronic blueprint' of either a primary or a secondary within a nuclear weapon.
>
> ". . . [Dr.] Lee down-partitioned and downloaded all of LANL's significant nuclear weapon primary and secondary design codes in their entirety. . . . In addition, Lee down-partitioned and downloaded "all of the data files required to operate those codes," as well as multiple input decks representing actual nuclear bomb designs that ranged in sophistication from relatively simple to complex.
>
> ". . . . For a group or state that did not have the indigenous scientific capability to do it alone, the information would represent an immediate capability to design a credible nuclear explosive. A country that had some experience with nuclear explosives could use the information to optimize its nuclear bombs. An advanced nuclear state could use the information to augment their own knowledge of nuclear explosives and to uncover vulnerabilities in the American arsenal which would help them to defeat our weapons through anti-ballistic missile systems or other means."[273]

At the August detention hearings, government scientists elaborated on the significance of the material and, specifically the increased importance that came from the way the files had been put together on the tapes. Dr. Paul Robinson, president of Sandia National Laboratories, testified that the tapes "were very carefully designed to be loaded with the subroutines that would be needed for each design code to be placed right behind that design code. And so I believe they should not require a lot of additional instruction.[274] In other words, the collection of files was more than just a collection of files—it had been assembled so as to ensure that the data files called for in the codes were available at the right place, making it possible for the codes to actually run when executed.

The government also explained its rationale for claiming that the information on the tapes could change the global strategic balance. After a lengthy discussion of the technical aspects of ballistic missile defense and the challenges presented by Multiple Independently Targeted Reentry Vehicles (MIRVs), which are generally quite small, Dr. Robinson expressed his concern that the tapes Dr. Lee made could enable another nation to develop devices that would have reentry vehicles approximately the size of orange traffic cones.[275] Such small warheads would present an enormous challenge to U.S. ballistic missile defenses, even more difficult than that of defending against single warhead weapons which are larger (about the size of a minivan or small bus).

While it might be tempting to simply state that one group of scientist's arguments on this issue is most persuasive, it is not necessary to do so. One of the key witnesses who testified in support of Dr. Lee's position at the August 2000 hearings, Dr. John Richter, subsequently modified his position. The following exchange took place at an October 3, 2000 hearing before the Department of Justice Oversight subcommittee:

> Senator SPECTER: Dr. Richter, you have been quoted as testifying before Judge Parker that at least 99 percent of the nuclear secrets that Dr. Lee downloaded to tapes were unclassified. Is that an accurate statement?
>
> Dr. RICHTER: An accurate statement regarding the codes. I still maintain that. The materials properties, I do not think I was referring to that at that time. If I did say it that way then I did not mean it and I erred.[276]

Dr. Richter also acknowledged that the input decks contained important information,[277] but ultimately took the position that the loss of the information on the tapes would be "marginally harmful, at worst."[278]

In evaluating Dr. Richter's opinion on the value of the information on the tapes, it is helpful to consider that "in 1995, he was the first to suggest that the Chinese might have significant information about the W–88 warhead. Even though he eventually backed off that opinion, it helped start the investigation that led to the discovery of Dr. Lee's download and his jailing."[279] Dr. Richter later put his dual roles at the start and at the end of the Wen Ho Lee case in perspective for a reporter when he said, "If I had any influence in getting him out, I figured that's a payback."[280]

In sum, the information on the tapes was clearly important. It does not necessarily follow, however, that the government was right to hold Dr. Lee in harsh pretrial conditions on that basis. In fact, in the August hearings, the judge was only ruling on the question of whether not Dr. Lee should remain in pretrial confinement—under conditions that were considerably harsher than he would be subjected to if he had been convicted. If the case had gone to trial, the government would undoubtedly have prevailed on the matter of whether or not the material on the tapes was important. The government's error was not in claiming the material was important, but in claiming that the only way to protect it was to hold Dr. Lee under such harsh conditions.

The Classified Information Procedures Act (CIPA) issues

CIPA establishes a framework for handling trials involving classified information, with the objective of protecting both national security information and the rights of the defendant. One of the key concepts in CIPA is the provision permitting substitutions for classified information to prevent the government from having to expose that information at trial. Rather than show the actual material at trial, the government is permitted to offer a document that conveys the same information in unclassified form. The judge presiding over the case reviews the material in question and the government's proposed substitutions. If the judge finds that the substitutions are an adequate representation of the material in question, the case goes forward. If the judge finds the government's substitutions lacking, the government can make an interlocutory appeal of the judge's ruling, meaning that the appeal is decided before the case goes forward rather than after as is the usual fashion. If the government loses a CIPA ruling, it can also simply drop the case.

Although the prosecution of Dr. Lee ended before the CIPA issues were fully tested in court, the defense clearly intended to implement a classic graymail tactic of forcing the government to dismiss the case by claiming that secret information had to be revealed in open court to guarantee their client a fair trial. According to U.S. Attorney Norman Bay:

"In late May, we met with defense counsel in this case. . . . And the defense lawyer said that he would never take a plea to any count in the indictment—that is, 'he' being Dr. Lee—and that if the Government wasn't willing to accept, the defense was going to put the United States on a, quote, 'long, slow death march under CIPA.' "[281]

Senator Specter replied, "Mr. Bay, if somebody had told me when I was a prosecuting attorney they were going to put me on a long, slow death march, I would say let's start walking.[282]

One of Dr. Lee's attorneys, Mr. John Cline, was the lead attorney on CIPA issues. He told the judge that using classified information in the trial: would be necessary for proving four central defense arguments: that most of the downloaded material was already in the public domain; that some of the computer codes contained flaws that made them less useful; that the codes were related to Dr. Lee's work; and that they were difficult to use without user manuals, which were not on the tapes."[283]

The defense found a sympathetic ear with Judge Parker on these issues. In an order filed August 1, 2000, the judge gave the government two weeks to provide substitute language for specified classified information. He agreed with Dr. Lee (and opposed the government) as to the relevance of particular information to the defense. For example, Judge Parker said that:

"Although the parties dispute the existence or magnitude of any 'flaws' or imperfections in the various codes at issue, the Court nonetheless finds that evidence of those alleged flaws or imperfections is relevant to the Defendant's intent to secure an advantage to a foreign nation or to injure the United States. Evidence of these alleged flaws and imperfections is also relevant for use in the Defendant's cross-examination of witnesses and in the Defendant's rebuttal of Government witnesses' testimony on the issue of the sensitive nature of these codes."[284]

The Court delivered another blow to the Government when he ruled that:

"Evidence making a comparison of the input decks of Files 1 through 19 and Tape N to a nuclear weapons blueprint is relevant to the Defendant's intent. In addition, this evidentiary comparison is relevant to the cross-examination of witnesses and to the Defendant's rebuttal of Government witnesses' testimony on the Government's assertion that the input decks constitute an electronic blueprint of a nuclear weapon."[285]

Consonant with these determinations, the judge ordered the government to propose substitutions by August 14, with the defense to respond by August 21. Any issues that could not be agreed upon were to be resolved at a hearing on August 31.[286]

The government was perhaps most concerned that the argument about flaws in the codes could force an in-depth discussion of the codes in open court, something it was not prepared to do. There was also a very real concern about permitting Dr. Lee to make a comparison between an actual blueprint and the electronic version of a weapon contained in the input deck. These would have been challenges, but the government had not taken any of its appeals when it made the plea deal, and was a long way from having to cede the case on CIPA grounds.

Allegations of Selective Prosecution/Racial Profiling

Among the more sensational allegations of government misconduct in this case are charges that Dr. Lee was selected for investigation and prosecution based on his ethnicity. The terms "selective prosecution" and "racial profiling" have been used to describe how the government allegedly decided to focus on Dr. Lee. The subcommittee's review of these allegations shows that the evidence simply does not support charges that Dr. Lee's ethnic heritage was a decisive factor in the government's actions during any phase of this case.

In June 2000, Dr. Lee's defense team filed a motion "for discovery of materials relevant to establishing that the government has engaged in unconstitutional selective prosecution."[287] As grounds for this discovery request, the defense team claimed that Dr. Lee had "concrete proof that the government improperly targeted him for criminal prosecution because he is 'ethnic Chinese.' "[288] The defense's memorandum cited four examples as proof of such targeting:

"A sworn declaration from a LANL counterintelligence official who participated in the investigation of Dr. Lee that Dr. Lee was improperly targeted for prosecution because he was "ethnic Chinese."

"Videotaped statements of the FBI Deputy director who supervised counterintelligence investigations until last year admitting that the FBI engaged in racial profiling of Dr. Lee and other ethnic Chinese for criminal counterintelligence investigations.

"The sworn affidavit the U.S. Attorney's Office used to obtain the warrant to search Dr. Lee's home, in which the FBI affidavit incorrectly claimed that Dr. Lee was more likely to have committed espionage for the People's Republic of China (PRC) because he was "overseas ethnic Chinese."

"A posting to the Los Alamos Employees Forum by a LANL employee who assisted counterintelligence investigations and personally observed that the DOE engaged in racial profiling of Asian-Americans at Los Alamos during these investigations."[289]

The memorandum went on to explain that even if Dr. Lee did not have the direct evidence of bias, he had:

"satisfied the stringent requirements of *United States* v. *Armstrong*, 517 U.S. 456 (1996), which held that . . . a defendant is nevertheless entitled to discovery if he provides some evidence that similarly situated people have not been prosecuted and that his investigation and prosecution were caused by improper racial motivations."[290]

At the plea hearing in September 2000, Judge Parker noted from the bench that the government had made a deal with Dr. Lee only a short time before it would have been required to produce to the judge a substantial volume of material on the selective prosecution issue,[291] raising the inference that the government reached the plea agreement to avoid its discovery obligations on the selective prosecution issue. A Department of Energy review of ethnic bias within the department concluded that there was room for improvement on ethnic sensitivity,[292] but none of the survey's results supported the allegations that Dr. Lee had been targeted because of his ethnicity. An April 2001 review by DOE Inspector General Gregory Friedman was even more direct, concluding that "information reviewed by the Office of Inspector General did not support concerns regarding unfair treatment based on national origin in the security processes reviewed."[293]

Because these charges have not been rebutted, the public may have been left with the impression that Dr. Lee's allegations were correct, and that the government acted out of racial or ethnic prejudice. Any such impression is injurious to the public's trust in the institutions which are charged with enforcing the nation's laws and must be properly addressed.

In pleading the case that Dr. Lee was targeted for criminal investigation because he is ethnic Chinese, Dr. Lee's lawyers alleged that "the troubling chain of events that led to Dr. Lee's indictment began when the DOE's Chief Intelligence Officer, Notra Trulock, incorrectly concluded in 1995 that the PRC had obtained the design information for the W–88 warhead from someone at the Los Alamos National Laboratory."[294] The defense memorandum further alleges that the Administrative Inquiry which was issued by Mr. Trulock in May 1996 listed Dr. Lee as the main suspect, prompting the FBI to open a criminal investigation of Dr. Lee.[295]

There is legitimate debate about the scope and conclusions of the AI, and that subject is addressed elsewhere in this report, but the defense's allegations are inaccurate in two major ways. First, the memorandum overstates Mr. Trulock's role in the development of the AI, which was written by Dan Bruno and an FBI Special Agent who was assigned to the DOE for the purpose of helping to conduct the AI. Although Mr. Trulock was an aggressive advocate in the 1995–1996 period of the argument that the Chinese nuclear weapons program had successfully targeted the

U.S. labs for espionage, he had only a limited role in the investigation which resulted in the list of names upon which Dr. and Mrs. Lee appeared. Second, and more importantly, the defense memorandum fails to acknowledge that the FBI was predisposed to focus on Dr. Lee because he was already under investigation, albeit at a lower level than what happened after the AI was issued.

The cumulative effect of these errors has been to create the incorrect impression that somehow Mr. Trulock was directly or primarily responsible for the government's focus on Dr. Lee. The defense memorandum fails to even address the question of how Mr. Trulock supposedly played a role in the prosecution of Dr. Lee when Mr. Trulock left government service in August 1999, nearly four months before Dr. Lee was indicted.[296]

To bolster its case that Mr. Trulock was responsible for focusing on Dr. Lee, the defense memorandum cites Mr. Robert Vrooman, who was Chief Counterintelligence Officer at LANL from 1987 until 1998. The defense quoted Mr. Vrooman as saying that "Mr. Trulock's office chose to focus specifically on Dr. Lee because he is 'ethnic Chinese.' Caucasians with the same background and foreign contacts as Dr. Lee were ignored," and that "racial profiling was a crucial component in the FBI's identifying Dr. Lee as a suspect."[297]

The bevy of civil lawsuits that this case has spawned will have to sort out whether anyone has violated anyone else's rights or engaged in slander or defamation, but for the purposes of this report, several observations about Mr. Vrooman's allegations are appropriate. First, his statement that "Caucasians with the same background and foreign contacts as Dr. Lee were ignored" is factually incorrect. While any fair reading of the document would suggest that the authors of the AI were of the opinion that Dr. and Mrs. Lee were the prime suspects, the document also listed several other individuals, some of whom were Caucasian, and recommended that the others be investigated as well. Therefore, it is simply inaccurate to state that Mr. Trulock's office focused specifically on Dr. Lee, for any reason, let alone because he was ethnic Chinese.

Second, Mr. Vrooman raised questions in the late 1980s about Dr. Lee's contacts with Chinese officials and identified Dr. Lee to Energy Department officials as a potential suspect in the W-88 case.[298] He also formerly subscribed to the theory that the Chinese had obtained information about the W-88 through espionage, telling the FBI at one point of a "smoking gun" in the case.[299] Thus, although Mr. Vrooman has become critical of the conclusions of the AI and its focus on Dr. Lee, he was instrumental in relaying the DOE analysis regarding the extent of the PRC espionage to the FBI. Had Mr. Vrooman doubted the analysis of the DOE's review group, he could have raised those concerns then rather than saying that a smoking gun had been discovered. When challenged on this point during a hearing, Mr. Vrooman said that he had called Mr. Trulock's office in May 1996, but Mr. Trulock was not in. He said that he did not further pursue the matter because:

"My supervisor, who was the lab's director, told me he wanted me to improve my relationship with Mr. Trulock and what I was about to say would not have done that.

"So we decided, as a matter of course, to let the FBI have this case. We had worked with the FBI for years. They had always protected people's civil rights and did the case well and we thought they would quickly come to the same conclusion we had."[300]

Mr. Vrooman also said that he met weekly with FBI agents on the case and routinely expressed reservations, which came to a head in December 1998 when "we were basically thinking that Lee was not the right man."[301] Given that Mr. Vrooman retired from Los Alamos on March 13, 1998,[302] it remains unclear as to how he was sufficiently informed on the case in December of that year to make judgements of this sort.

And, finally, it should be noted that Mr. Vrooman was one of the three individuals disciplined for his role in failing to remove Dr. Lee from access after the Director of the FBI recommended twice in late 1997 that Dr. Lee's clearance be removed.[303] The subsequent discovery that Dr. Lee had been engaged in massive illegal downloading reflects poorly on Mr. Vrooman's conduct as the lab's counterintelligence chief and gives him a strong motive to minimize Dr. Lee's conduct and to allege government discrimination. Any assessment of Mr. Vrooman's opinion of the government's handling of the case against Dr. Lee must be made with these facts in mind.

Furthermore, when pressed for examples of supposed bias on the part of the government, Mr. Vrooman fell short. At an October 3, 2000 hearing of the Judiciary subcommittee on Department of Justice Oversight, Senator Grassley pursued this line of questioning. Senator Grassley asked for information to substantiate Mr. Vrooman's allegation that whenever Dr. Lee's motive [for the alleged espionage against the United States] was discussed, it came down to ethnicity. The following exchange occurred:

Mr. VROOMAN: Well, the Department of Justice representative asked the FBI what Lee's motive was because it was not clear to him and the response was an elaboration on how the Chinese focus their efforts on ethnic Chinese. That is one example. And there are others, conversations over the years since this investigation proceeded, that that was the only motive.

Senator GRASSLEY: Okay. Could you point to any documentation that would back up the point that was just made?

Mr. VROOMAN: No, sir, I cannot.

Senator GRASSLEY: Or the points that you are making about ethnicity being of prime concern?

Mr. VROOMAN: I do not believe there are any documents.[304]

In fact, there are documents which describe Dr. Lee's motives, but they run counter to what Mr. Vrooman alleges. In the November 10, 1998 request for electronic surveillance on Dr. Lee, the newly appointed FBI case agent describes several incidents from Dr. Lee's past and states their relevance to the issue of motive. One section of this November 1998 FISA request from the Albuquerque office describes how Dr. Lee sent numerous documents to Taiwan's Coordinating Council of North America (CCNA) in the late 1970s and early 1980s, and says that Dr. Lee told the FBI that:

"his motive for sending the publications was brought on out of a desire to help in scientific exchange. During the same interview, Dr. Lee stated that he helps other scientists routinely, and had no desire to receive any monetary or any other type of reward."[305]

The memo continues, saying the Albuquerque Division of the FBI believes that Dr. Lee's actions in sending these documents to a foreign government without proper authorization "shows that Wen Ho Lee has the propensity to commit and engage in the crime of espionage to include willingly providing documentation to foreign officials. . . ."[306]

This discussion of motive makes no mention of Dr. Lee's ethnicity. If documents or information provided to a foreign government could injure the United States or aid a foreign country, the crime of espionage has still been committed even if the transfer was motivated by a desire to promote scientific exchange and in the absence of a desire for monetary reward.

The November 10, 1998 memorandum also describes a meeting at Los Alamos in early 1994 during which it became apparent that Dr. Lee had a relationship with a top PRC nuclear weapons scientist. A reliable source quoted this top PRC nuclear scientist as saying of Dr. Lee, "We know him very well. He came to Beijing and helped us a lot."[307] The source further reported that Dr. Lee had helped the Chinese Academy of Engineering Physics "with various computational codes used in fluid dynamics which is a very important aspect of thermal nuclear [sic] weapons design work."[308] The Albuquerque memo cited these specific acts as showing "Wen Ho Lee's propensity to associate with foreign governments and provide information to foreign governments and therefore the propensity to aid in and commit acts of espionage."[309] These statements demonstrate clearly that the government's assertions about Dr. Lee's motives were based on specific acts he was known to have committed rather than on the fact that he is ethnic Chinese. These specific acts gave the government ample reason to investigate him and the allegations of Mr. Vrooman and others, that the government relied only on ethnic profiling, are simply incorrect.

In fact, all of the arguments put forward by Dr. Lee's lawyers on the racial profiling issue are a skewed interpretation of the same point—namely the U.S. government's recognition that the PRC intelligence services focus on Chinese-Americans. Consider the second and third examples cited in the discovery memorandum, where the defense claims that former FBI Deputy Director Paul Moore has confirmed that Dr. Lee was targeted by the FBI due to racial profiling, and that the affidavit in support of a search warrant for Dr. Lee's home claimed that Dr. Lee was more likely to have engaged in espionage for the PRC because he was ethnic Chinese. Neither of these claims stands up to even the most minimal level of scrutiny because both are misrepresentations of what was actually said.

The defense memorandum on selective prosecution quotes former FBI Deputy Director Paul Moore as saying in a televised interview with Jim Lehrer on December 14, 1999:

"There is racial profiling based on ethnic background. It's done by the People's Republic of China. . . . Now the FBI comes along and it applies a profile, so do the other agencies who do counter intelligence investigations they apply a profile, and the profile is based on People's Republic of China, PRC intelligence activities. So, the FBI is committed to following the PRC's intelligence program wherever it leads. If the PRC is greatly interested in the activities of Chinese-Americans, the FBI is greatly interested in the activities of the PRC as [regards] Chinese-Americans."[310]

To say that the United States government is cognizant of the fact that the PRC prefers to target individuals for elicitation based on their ethnicity is completely different from saying that an individual would be more likely to engage in espionage because he or she is a member of a particular ethnic group. The former statement about recruitment efforts of PRC intelligence services would be a logical, relevant and acceptable observation so long as it was based on fact. The latter statement, implying that an individual would be more likely to engage in espionage on the basis of his or her race, would be an outrageous, biased and unacceptable claim that would have no place in any law enforcement or counterintelligence investigation.

In the Wen Ho Lee case, the government's assertions were confined to acknowledging that the PRC focused on overseas ethnic Chinese, without making inferences that the targeted individuals would be more likely to respond positively because of their Chinese heritage. The defense memorandum cites FBI Special Agent Michael Lowe's April 9, 1999 affidavit in support of a search warrant, saying that it leaves no doubt that improper racial profiling was a substantial basis for the targeting of Dr. Lee. The defense's assertion on this point is incorrect. In relevant part, the affidavit says:

". . . PRC intelligence operations virtually always target overseas ethnic Chinese with access to intelligence information sought by the PRC. Travel to China is an integral element of the Chinese intelligence collection tradecraft, particularly when it involves overseas ethnic Chinese. FBI analysis of previous Chinese counterintelligence investigations indicates that the PRC uses travel to China as a means to assess closely and evaluate potential intelligence sources and agents, as a way to establish and reinforce cultural and ethnic bonds with China, and as a safehaven in which to recruit, task, and debrief established intelligence agents."[311]

This does not allege that Dr. Lee is likely to have engaged in espionage because he is ethnic Chinese, only that he is likely to have been targeted by the PRC intelligence services on that basis. All the defense memorandum shows is that if there is any ethnic profiling done, it is done by the PRC. Since the PRC had no role in the decision to investigate or prosecute Dr. Lee, any bias on their part would be irrelevant.

It should be noted that Dr. Lee's request for discovery related to selective prosecution contained several factual errors, including an incorrect claim that no one else had ever been prosecuted under the Atomic Energy Act, and an incorrect claim that the Department of Justice had never prosecuted anyone under the espionage statutes without evidence that classified material had been transferred to a third party. These claims were shown to be incorrect in the government's response to Dr. Lee's discovery request.[312]

The Relationship Between the Lees and the Government

Shortly after Dr. Lee was fired from LANL, he retained Mark Holscher as his counsel. On May 6, 1999, Mr Holscher released the following statement, which clearly indicated that any prosecution of Dr. Lee would have to deal with the Lees' cooperation with the government:

"Dr. Wen Ho Lee has dedicated himself to the defense of this country for the last 20 years. His work, much of which is classified, has led directly to the increased Safety and national security of all Americans, and he is responsible for helping this country safely simulate nuclear tests.

"In 1986 and 1988, Dr. Lee went to Mainland China to present papers at two technical conferences. Dr. Lee's participation in these conferences was pre-approved and encouraged by the Los Alamos Laboratory and the Department of Energy. These same entities also cleared the texts of the papers given at these conferences, which covered mathematics and physics topics.

"The press has incorrectly reported that Dr. Lee made "several" trips to Mainland China and also has failed to report that his two trips were approved in advance by the Los Alamos Laboratory and the Department of Energy. These two approved trips were the only times Dr. Lee has ever traveled to Mainland China. These false press reports do a disservice both to Dr. Lee and the Los Alamos Laboratory.

"The press reports also fail to include the fact that Dr. Lee presented similar papers at conferences in several countries throughout Western Europe and other parts of the world. The false insinuations that Dr. Lee went to Mainland China in the late 1980s with an improper purpose are unfair. Not only did Dr. Lee go to Mainland China to present a technical paper, his and his wife's attendance were with the full knowledge and approval of the Federal Bureau of Investigation.

"There have been inaccurate press reports regarding the circumstances surrounding Dr. and Mrs. Lee's cooperation with the government. Mrs. Lee agreed to the FBI's request that she assists it as a volunteer without pay in the FBI's efforts to monitor Chinese scientists. She agreed to help the FBI with the full knowledge and approval of Dr. Lee and continued to do so for a number of years.

"At the request of the FBI, Dr. Lee's wife attended the 1986 conference with him, where she voluntarily provided background information on Chinese scientists. Dr. and Mrs. Lee supported and agreed with the FBI's request that Mrs. Lee assist it in obtaining background information on Chinese scientists. It simply defies logic for critics to now allege that Dr. Lee was engaged in improper activities in Mainland China while he and his wife were there.

"At no time during or after the pre-approved 1986 or 1988 trips did Dr. Lee ever provide any classified information whatsoever to any representative of Mainland China, nor has he ever given any classified information to any unauthorized persons. As was anticipated and approved by the U.S. government, Dr. Lee and his wife socialized with Chinese scientists. It was fully understood by the Department of Energy and the Los Alamos Laboratory that the conferences included social events with the participants."[313]

Had the case gone to trial, the government would have had to confront the issue of its relationship with Dr. and Mrs. Lee over a long period of time. As previously noted, Dr. Lee assisted the FBI in a 1983–1984 investigation of a Lawrence Livermore scientist. Notwithstanding the FBI's denial of any assistance when the FISA request went forward in 1997, Dr. Lee had, in fact, helped the FBI. Mrs. Lee's relationship with the government would have been a substantially more difficult matter to contend with.

In one discovery request, Dr. Lee's defense team asked for, among other things, all information related to "Sylvia Lee's Cooperation with the FBI and CIA." Citing grand jury testimony of the FBI case agent on the Wen Ho Lee matter, the defense memorandum said that:

"Sylvia Lee served as an FBI "Information Asset" between 1985 and 1991 in connection with visits to LANL by PRC scientists. Her principal FBI contact was FBI Special Agent David Bibb. On at least two occasions, Dr. Lee attended meetings between Sylvia Lee and her FBI contact. Sylvia Lee also met with [name redacted] and representatives of the LANL internal security office to provide information concerning PRC scientists."[315]

In its response, the government claimed that it had produced all documents related to Lee's cooperation with the FBI. Further, the government argued that while Dr. Lee's purported assistance to the government might be relevant to a jury in considering his criminal intent pursuant to the Atomic Energy Act counts, Mrs. Lee's "affiliation with the FBI and/or the CIA has no bearing on Lee's criminal intent."[316]

In a July 13, 2000 order, Judge Parker said that he would address this issue by reviewing, in camera: (1) documents reflecting Sylvia Lee's cooperation with the Federal Bureau of Investigation (FBI), Central Intelligence Agency (CIA), and the Department of Energy (DOE), and (2) certain FBI memoranda regarding the propriety of prosecuting the Defendant.[317] After reviewing this information, the judge ruled that it contained information relevant to the defense in several categories of exculpatory information:

1. [redacted];
2. The Defendant's cooperation with and provision of information to Government agencies;
3. The Government agencies' assessments of cooperation by and reliability of Sylvia Lee and the Defendant;
4. The Defendant's actions that may be perceived to be inconsistent with an intent to secure an advantage for a foreign nation; and
5. The Government agencies' conclusions about the Defendant's motives.[318]

The relationship between the government and the Lees would not likely have been a major part of any trial, but it certainly had the potential to embarrass the government. The laws on intelligence oversight set out strict procedures for establishing a reporting relationship or an asset relationship with an American citizen. Press reports suggest, for example, that Mrs. Lee provided information to both the FBI and the CIA, including repeated contacts in the mid-1980s where a CIA agent was present for the meetings and paid for the hotel room where the meetings took place.[319] If the government had failed to conform to any of the laws or regulations in these matters, it could expect the defense to bring them up at trial.

The Plea Agreement

After Judge Parker ruled that Dr. Lee had to be released pending trial, the landscape shifted markedly. By September 13, the government reached the plea agreement which has been previously described. When the judge accepted the plea agreement, Dr. Lee was set free, subject only to the requirement that he undergo three weeks of intense debriefing, subject himself to a polygraph on questions related to the case, and remain available to cooperate with the FBI for a period of one year.

During the plea hearing, Judge Parker asked the government to explain why the government considered the agreement to be in the best interest of the nation. The government's lead prosecutor, Mr. Stamboulidis, answered that the plea provided the "best chance to find out with confidence precisely what happened to the classified material and data" on the missing tapes, which he said had been the government's "transcending concern."[320] He also explained that the cooperation agreement would allow the government to verify Dr. Lee's statements, and that Dr. Lee would be at great risk if he failed to fully cooperate or to be truthful. And, finally, Mr. Stamboulidis said, "this disposition avoids the public dissemination of certain nuclear secrets which would have necessarily occurred on the way towards proceeding towards conviction in this case at trial."[321]

The judge was not entirely convinced, asking "why the government argued so vehemently that Dr. Lee's release earlier would have been an extreme danger to the government at this time he, under the agreement, will be released without any restrictions?"[322]

Referring to two sworn statements Dr. Lee had provided on the morning of the plea hearing, Mr. Stamboulidis said that Dr. Lee had finally, "for the first time, given us these assurances that he never intended any harm to our nation by his mishandling these materials in an unlawful way and that he never allowed them to fall into harm's way and compromise national security."[323]

Again, the judge was not persuaded, saying, "Throughout this case, the government has repeatedly questioned the veracity of Dr. Lee. You're saying now, simply because he has given a statement under oath, the government no longer believes he is a threat to national security?"[324]

The judge appeared to be not so much concerned that the plea agreement was inappropriate, but that it could have been reached much sooner. He noted that the government had rejected a written offer from Dr. Lee's attorneys to have Dr. Lee explain the missing tapes under polygraph exam, which was essentially the same deal the government got in the end (minus the felony count). Judge Parker also reminded counsel for both sides that at the December detention hearing he had asked the parties to pursue the offer made by Mr. Holscher, but nothing came of it. Mr. Stamboulidis took issue with the judge, saying that after the indictment, the offer had been withdrawn, to which Judge Parker replied:

"Nothing came of it, and I was saddened by the fact that nothing came of it. I did read the letters that were sent and exchanged. I think I commented one time that I think both sides prepared their letters primarily for use by the media and not by me. Notwithstanding that, I thought my request was not taken seriously into consideration."[325]

The net effect of Judge Parker's questions and the government's apparent reversal on the matter of the threat posed by Dr. Lee created the impression that the case had collapsed. This led to some sharp questions to the Attorney General and FBI Director Freeh at the September 2000 hearing. Director Freeh explained that serious negotiations about a plea agreement had begun during the summer at the direction of Judge Parker, and reiterated that the over-arching reason for the government's decision to make the agreement was to find out what happened to the tapes.[326]

After noting that he and the Attorney General were in total agreement with the decision on the plea deal, Director Freeh outlined five other factors which figured into the government's decision which are summarized below:

1. Judge Parker's strong suggestion that the case was appropriate for mediation rather than trial;

2. Judge Parker's rulings in favor of the defendant in initial proceedings under CIPA, which made it appear that Dr. Lee might succeed in his attempt at graymail because the judge's reasoning left little room to expect that the government would prevail;

3. Judge Parker's August ruling (although stayed by the Tenth Circuit) that created the "very real prospect that Dr. Lee would soon be released in any event under conditions that we pointed out to the judge were inadequate to prevent Dr. Lee's communications with others."

4. The potential that the trial would become a "battle of the experts" with regard to the classification level and importance of the material on the tapes; and

5. The fact that "the FBI's lead case agent had had to correct erroneous testimony from the initial detention hearing," including the agent's misstatement about Dr. Lee telling another scientist he wanted to use his computer to download a resume (when Dr. Lee had actually said he wanted to download some files), and the agent's overstatement of evidence relating to whether Dr. Lee had sent letters to find outside employment.[327]

Director Freeh's statements provide a compelling rationale for the government's decision to accept the plea agreement. What has not been adequately explained, however, is the decision to keep Dr. Lee in such onerous conditions of pretrial confinement. After careful review, it becomes apparent that the government was right to reach a plea agreement with Dr. Lee, whose actions did constitute a serious threat to the national security, but was wrong to hold him virtually incommunicado in pretrial confinement for more than nine months.

ENDNOTES

1. "Plea and Disposition Agreement," United States vs. Wen Ho Lee, Criminal No. 99–1417 JP, 13 September 2000: 2.

2. Although the request that was rejected by the Department of Justice's Office of Intelligence Policy and Review did not ask for computer surveillance, both the FBI and the DoJ acknowledge that this would have become part of any approved surveillance plan.

3. House of Representatives, "Report of the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China," 105th Congress, 2d Session, Report 105–851, 25 May 1999. [Hereafter Cox Committee Report]

4. Carla Anne Robbins, "China Got Secret Data on U.S. Warhead," Wall Street Journal, January 7, 1999: 1.

5. Robbins, 1.

6. Robbins, 1.

7. James Risen and Jeff Gerth, "Breach at Los Alamos: A Special Report," New York Times, March 5, 1999: A1.

8. Risen and Gerth, 1.

9. Risen and Gerth, 1. It should be noted that the New York Times, generally, and Risen and Gerth specifically, came under fierce attack for their original article, which was said to have vastly overstated the case against Dr. Lee. Shortly after Dr. Lee was freed in September 2000, the NYT published a statement finding fault with its coverage of the case, and promising a thorough review of the matter, which was published in a two-article series in February 2001. See Matthew Purdy, "The Making of a Suspect: The Case of Wen Ho Lee," New York Times, February 4, 2001: 1, and Matthew Purdy and James Sterngold, "The Prosecution Unravels: The Case of Wen Ho Lee," New York Times, February 5, 2001: 1.

10. Risen and Gerth, 1.

11. Josef Hebert, "Government scientist involved in probe is fired," Associated Press, March 8, 1999: 1.

12. James Risen, "U.S. Fires Scientist Suspected of Giving China Bomb Data," New York Times, March 9, 1999: A1.

13. Risen, 1.

14. See Cox Committee Report, Volume I, 90–91.

15. See "Science at its Best, Security at its Worst: A Report on Security Problems at the U.S. Department of Energy," A Special Investigative Panel of the President's Foreign Intelligence Advisory Board, June 1999.

16. Senate Governmental Affairs Committee Chairman Fred Thompson (R–TN) and Ranking Minority Member Joseph Lieberman (D–CT), statement, "Department of Energy, FBI, and Department of Justice Handling of the Espionage Investigation into the Compromise of Design Information on the W–88 Warhead." August 5, 1999: 1.

17. The initial plan was to commission a Task Force, which I would chair. By October, Senator Hatch had prepared a resolution transferring me from the Constitution Subcommittee to the subcommittee on Administrative Oversight and the Courts, and spelling out the areas of inquiry and special procedures applicable to the investigation. In the end, the subcommittee's investigation was conducted pursuant to two subpoena resolutions which spelled out, in general terms, the investigative mandate. The first subpoena resolution, adopted by a vote of 18–0 on October 14, 1999, authorized the charirman, in consultation with the ranking member, to issue a subpoena requiring the Attorney General to produce certain documents if they were not delivered voluntarily. The second resolution, authorizing subpoenas in 38 categories for individuals and documents, was approved (not unanimously) on November 17, after a narrower proposal by Senator Leahy was rejected.

18. The indictment alleged violations of the following sections of the U.S. Code: 42 USC 2276, 42 USC, 2275, 18 USC 793(c), and 18 USC 793(e).

19. The term "Restricted Data" means all data concerning: (1) the design, manufacture or utilization of atomic weapons: (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy. 42 U.S.C. §2014(y).

20. United States Senate, "Joint Hearing on the Wen Ho Lee Case," before the United States Senate Select Committee on Intelligence and Committee on the Judiciary. 106th Congress, 2nd Session, September 26, 2000: 38. Testimony of FBI Director Louis Freeh. [Hereafter "Joint Hearing"]

21. Stephen Younger, "Transcript of Proceedings, Detention Hearing in the case of United States vs. Wen Ho Lee," December 13, 1999: 38. [Hereafter, Transcript of Proceedings, Detention Hearing, December 13, 1999]

22. Transcript of Proceedings, Detention Hearing, December 13, 1999, 38.

23. Transcript of an in camera proceeding held on December 29, 1999, United States v. Wen Ho Lee, 59.

24. Matthew Purdy and James Sterngold, "The Prosecution Unravels: The Case of Wen Ho Lee," New York Times, February 5, 2001, online edition.

25. Transcript of Proceedings before The Honorable James A. Parker, U.S. v. Wen Ho Lee, September 13, 2000: 55 [Hereafter Plea Hearing, September 13, 2000]

26. Plea Hearing, September 13, 2000: 58.

27. "President Clinton calls Lee case 'troubling'", CNN website September 14, 2000.

28. Transcript of Proceedings, Motion Hearing, December 27, 1999: 49. [Hereafter Motion Hearing].

29. This information was drawn from Dr. Lee's web site at http://wenholee.org/whois.htm.

30. Michael W. Lowe, "Application and Affidavit for Search Warrant," April 9, 1999: 1–2.

31. United States of America, "Response to Defendant Wen Ho Lee's Motion to Revoke Judge Svet's Order of Detention," December 23, 1999: 10. See also, United States Senate, Committee on the Judiciary, Redacted Transcript of Closed Hearing with Attorney General Janet Reno Regarding the FISA Process in the Wen Ho Lee Case, June 8, 1999: 14–16.

32. USA, "Response," 10. See also, United States Senate, Committee on the Judiciary. Redacted Transcript of Closed Hearing with Attorney General Janet Reno Regarding the FISA Process in the Wen Ho Lee Case, June 8, 1999: 15. [Hereafter, Redacted Transcript]

33. Redacted Transcript, 15.

34. Redacted Transcript, 15.

35. "Response to Defendant Wen Ho Lee's Motion to Revoke Judge Svet's Order of Detention," December 23, 1999: 13, footnote 4.

36. Ian Hoffman, "Agent: Lee Admitted Lying," Albuquerque Journal, January 18, 2000, online edition.

37. Redacted Transcript, 16.

38. The FBI could tell from the text of the intercepted call that Dr. Lee had heard of the other scientist through a mutual friend. What the FBI could not learn from that call, and what Dr. Lee did not fully explain until sometime later, was that he had learned about the other scientist when he visited LLNL in October, 1982. His actions upon learning about the other scientist's situation are of particular importance.

39. See declassified transcript of closed portion of detention hearing on December 29, 1999, during which FBI Special Agent Robert Messemer characterizes the fact that Dr. Lee called the Coordination Council of North America at the same time he was calling the LLNL scientist as more troubling then the fact that he lied to the FBI about having called the LLNL scientist.

40. United States Senate, Joint Hearing before the Senate Select Committee on Intelligence and the Senate Judiciary Committee, "Joint Hearing on the Wen Ho Lee Case," 106th Congress, 2nd Session, September 26, 2001: 72.

41. Draft #3 of the 1997 FISA request, 10.

42. Redacted Transcript, 16–17; Thompson and Lieberman Statement, 6, 16.

43. James Risen and David Johnston. "U.S. Will Broaden Investigation of China Nuclear Secrets Case," New York Times, September 23, 1999, Online Edition.

44. FBI Director Freeh testified at a joint hearing of the Senate Judiciary and Select Intelligence Committees on September 26, 2000 that "the FBI's investigation into this 1994 matter was still ongoing when Dr. Lee emerged as a potential subject in the 1996 administrative inquiry. . . . Being aware of the potential interest in Dr. Lee, and not wanting to take any steps that would interfere with the inquiry or expose the FBI's interest in him, FBI headquarters and FBI Albuquerque agreed to hold the investigation of the 1994 investigation in abeyance." See hearing transcript, 46–47. At another hearing the following week, Mr. Trulock testified, however, that "The DOE/FBI's team's first visit to the laboratory occurred in 1996. . . . DOE first learned of Dr. Wen Ho Lee when he was brought to our attention by Robert Vrooman in January of 1996. . . ." See Judiciary Committee hearing, October 3, 2000: 43.

45. Thompson and Lieberman Statement, 6, footnote 14.

46. Redacted Transcript, 108–109.

47. Redacted Transcript, 109.

48. Redacted Transcript, 109.

49. Ian Hoffman, "Lawyer: Lee's Intent in Question," Albuquerque Journal, January 5, 2000, at http://wenholee.org/ABQJournal010500.htm.

50. For a discussion of this issue, see Motion Hearing, 147–157.

51. Motion Hearing, 152–153.

52. DOE Assistant Secretary for Congressional and Intergovernmental Affairs John C. Angell, letter to Senator Charles Grassley of December 20, 2000, responding to written questions submitted by Senator Arlen Specter following a September 27, 2000, hearing of the Senate Judiciary Subcommittee on Administrative Oversight and the Courts: 21.

53. See John Angell's December 20, 2000 letter to Senator Grassley, 20.

54. Even if DOE computer personnel and counterintelligence were unaware that Dr. Lee was under investigation by the FBI, and that would have been possible in 1994, it would not have been inappropriate for DOE to share records of systems like NADIR with the FBI. This has the benefit of allowing the FBI to find out if any individuals are being flagged by security and monitoring systems, without alerting computer personnel to the investigation.

55. United States of America, "Response to Defendant Wen Ho Lee's Motion to Revoke Judge Svet's Order of Detention," December 23, 1999.

56. The "walk-in" document is so named because an individual provided this information to the United States without being solicited for it, in other words, he "walked-in" with the information. The documents he provided contained classified nuclear weapons information.

57. Energy Secretary William Richardson, letter to FBI Director Louis J. Freeh, of October 29, 1999L 1.

58. For example, a September 16, 1996 FBI 302 from an interview of a scientist says that in September 1995 the KSAG met and "there was no disagreement that 'Restricted Data' information had been acquired by the Chinese. The only disagreement was over how valuable the information was."

59. DOE Administrative Inquiry, 38.

60. DOE Administrative Inquiry, 36.

61. DOE Administrative Inquiry, 38.

62. See FBI 302 dated September 2, 1999, from an interview of the FBI agent who was detailed to assist with the AI, 4.

63. FBI teletype from FBIHQ to FBI–AQ, dated August 20, 1996: 3.

64. FBI 302 dated 9/16/96 (from an interview on 9/13/96) of a LANL scientist, 2.

65. William Broad, "Spies Versus Sweat: The Debate Over China's Nuclear Advance," New York Times, September 7, 1999, Online Edition.

66. Vernon Loeb and Walter Pincus. "China Prefers the Sand to the Moles," Washington Post, December 12, 1999, A02.

67. United States House of Representatives, Report of the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China, May 25, 1999: Volume 1, 83–84. [Hereinafter, Cox Report] A "walk-in" is an individual who voluntarily offers to conduct espionage.

68. President's Foreign Intelligence Advisory Board. Science at its Best; Security at its Worst, June 1999, 30–31.

69. Thompson and Lieberman Statement, 6–7.

70. X-Division Open LAN Rules of Use, Executed by Dr. Wen Ho Lee on April 19, 1995.

71. United States Senate, Senate Select Committee on Intelligence, testimony of FBI Director Louis J. Freeh at a "Closed Hearing," May 19, 1999: 34.

72. Thompson and Lieberman Statement, 9.

73. "Richardson Announces Results of Inquiries Related to Espionage Investigation," Department of Energy News Release, August 12, 1999.

74. Thompson and Lieberman Statement, 9.

75. This list has been extracted from the August 5, 1999, Statement by Senate Governmental Affairs Committee Chairman Fred Thompson and Ranking Minority Member Joseph Lieberman, Department of Energy, FBI, and Department of Justice Handling of Espionage Investigation into the Compromise of Design Information on the W–88 Warhead, 14–17.

76. Hydrodynamics is a science that is relevant to the development of nuclear weapons designs.

77. See Redacted Transcript, 35 and 88.

78. Bellows Report, 482.

79. Redacted Transcript, 118–119.

80. Redacted Transcript, 52. In a March 6, 2000 letter from Assistant Attorney General Robert Rabin to Senator Hatch, the Department of Justice takes issue with this statement, and quotes Senator Kyl's testimony on the subject: "So it would be your view that [the language quoted in the draft report] is a summary that probably overstates the Justice Department's requirements for the FBI? The Attorney General responded: "That is correct." Transcript of June 8, 1999 at 49." [sic] For the actual exchange, see page 53 of the June 8, 1999 transcript.

81. Redacted Transcript, 52.

82. Redacted Transcript, 52.

83. Unclassified excerpt of Mr. Seikaly's testimony before the Senate Select Committee on Intelligence, May 1999.

84. Bellows Report, 548.

85. Redacted Transcript, 49.

86. Redacted Transcript, 49.

87. Redacted Transcript, 24–25.

88. Redacted Transcript, 39.

89. Redacted Transcript, 39.

90. Bellows Report, 549.

91. Redacted Transcript, 40.

92. Redacted Transcript, 36.

93. Redacted Transcript, 56.

94. Redacted Transcript, 117.

95. Redacted Transcript, 117.

96. Bellows Report, 541.

97. Motion Hearing, 85. See also Pete Carey, "Los Alamos Suspect May Have Been Doing His Job: Rerouting Files Common at Lab," Florida Times-Union, June 20, 1999, G–8.

98. "With Intent to Injure the U.S." Washington Times, editorial, December 4 1999, A16.

99. United States of America, "Response to Defendant Wen Ho Lee's Motion to Revoke Judge Svet's Order of Detention," December 23, 1999, 3–4.

100. Hoffman.

101. Thompson and Lieberman Statement, 23–24.

102. Unclassified summary of the December 19, 1997, FBIHQ teletype to Albuquerque, provided by FBI Office of Public and Congressional Affairs, December 3, 1999.

103. FISA Request, November 10, 1998: 11.

104. FISA Request, November 10, 1998: 11.

105. FISA Request, November 10, 1998: 11.

106. FISA Request, November 10, 1998: 11.

107. FISA Request, November 10, 1998: 11.

108. FISA Request, November 10, 1998: 11–12.

109. FISA Request, November 10, 1998: 12.

110. FBI memorandum, [title redacted], from FBI National Security Division to FBI–AQ, dated December 10, 1998: 1–2.

111. PFIAB, 34.

112. See the undated, unsigned memorandum provided to the subcommittee by the FBI Office of Congressional Affairs in December 1999.

113. See the undated, unsigned memorandum provided to the subcommittee by the FBI Office of Congressional Affairs in December 1999.

114. See the undated, unsigned memorandum provided to the subcommittee by the FBI Office of Congressional Affairs in December 1999.

115. FBI EC from Albuquerque to FBIHQ, dated December 8, 1998: 1.

116. See the letter of DOE Assistant Secretary for Congressional and Intergovernmental Affairs John Angell to Senator Arlen Specter of December 20, 2000, which encloses answers prepared by Mr. Curran to follow-up questions from the September 27, 2000 hearings of the Judiciary Subcommittee on Administrative Oversight and the Courts.

117. It is troubling that the level of attention paid to Dr. Lee's activities in 1998 was so low, and the coordination between DOE and FBI was so poor, that counterintelligence personnel did not even learn of his previous trip to Taiwan, in March-April 1998, until after he was already out of the United States.

118. See the letter of DOE Assistant Secretary for Congressional and Intergovernmental Affairs John Angell to Senator Arlen Specter of December 20, 2000, which encloses answers prepared by Mr. Curran to follow-up questions from the September 27, 2000 hearing of the Judiciary Subcommittee on Administrative Oversight and the Courts.

119. See the letter of DOE Assistant Secretary for Congressional and Intergovernmental Affairs John Angell to Senator Arlen Specter of December 20, 2000, which encloses answers prepared by Mr. Curran to follow-up questions from the September 27, 2000 hearing of the Judiciary Subcommittee on Administrative Oversight and the Courts.

120. See 1999 Report of DOE Inspector General regarding Dr. Lee's clearance and access, 101.

121. At the December 14, 1999 meeting in which Director Freeh asked the subcommittee to suspend its oversight of the Wen Ho Lee case, Mr. Curran was asked about an FBI memo from February 1999 which claimed that Mr. Curran had instructed his personnel not to share the charts and videotape of the December 1998 polygraph with the FBI. After seeing an early draft of the interim report, Mr. Curran wrote a letter on January 31, 2000, denying the information in the FBI report. He also sent a copy of a letter he had received from FBI Assistant Director Neil Gallagher, which described the memo in question as a "blind memo", not intended to capture actual witness statements.

122. Ed Curran, Director, DOE Office of Counterintelligence, letter to Senator Arlen Specter, January 31, 2000: 2–3.

123. See the letter of 20 December 2000 from John C. Angell, Assistant Secretary of Congressional and Intergovernmental Affairs, Department of Energy to Senator Charles Grassley, which enclosed responses from Mr. Curran to 22 questions from Senator Specter.

Wackenhut is a private company that has a contract with DOE to perform security related polygraphs.

125. Matthew Purdy, "The Making of a Suspect: The Case of Wen Ho Lee," New York Times, February 4, 2001, online edition.

126. "Department of Energy Chronology," May 6, 1999: 7–8.

127. United States Senate, Subcommittee on Administrative Oversight and the Courts of the Committee on the Judiciary, "Continuation of Oversight of the Wen Ho Lee Case," 106th Congress, 2nd Session, 27 September 2000: 62. [Hereafter, 27 September 2000 hearing]

128. 27 September 2000 hearing: 62–63.

129. FBI Assistant Director for National Security Neil Gallagher, Memorandum of 18 December 1998: 1.

130. 27 September 2000 hearing: 32.

131. United States Senate, Senate Select Committee on Intelligence, "Closed , Hearing," 106th Congress, 2nd Session, May 19, 1999: 7.

132. FBI Supervisory Special Agent C.H. Middleton to Ms. Horan, dated January 21, 1999: 2.

133. DOE IG Gregory H. Friedman, letter to Senator Arlen Specter of October 2, 2000, enclosing a declassified segment of a 1999 Report by the IG. This information comes from page 113 of the full report.

134. DOE IG Gregory H. Friedman, letter to Senator Arlen Specter of October 2, 2000, enclosing a declassified segment of a 1999 Report by the IG. This information comes from page 115 of the full report.

135. DOE IG Gregory H. Friedman, letter to Senator Arlen Specter of October 2, 2000, enclosing a declassified segment of a 1999 Report by the IG. This information comes from page 116 of the full report.

136. Deposition of Supervisory Special Agent Craig Schmidt by Mr. Eric George of the Senate Committee on the Judiciary staff, 29 July 1999: 91.

137. U.S. Department of Energy Psychophysiological Detection of Deception (PDD) Examination Report, File #99–2A–003, December 23, 1998, statement of Wolfgang Vinskey.

138. U.S. Department of Energy Psychophysiological Detection of Deception (PDD) Examination Report, File #99–2A–003, December 23, 1998, statement of John P. Mata.

139. John P. Mata, memorandum "Psychophysiological Detection of Deception (PDD) Examination of Wen Ho Lee," for Edward Curran, December 28, 1998: 3–4.

140. This memo was undoubtedly after Mr. Mata received a call from Ed Curran who was told on December 14, 1999 of an FBI document which said that the FBI had not initially been able to get access to the charts, per instructions from Ed Curran.

141. John P. Mata, Memorandum for the Record, "Recollection of Events Regarding DOE Polygraph Examination of Wen Ho Lee, December 23, 1998," December 21, 1999: 2.

142. John P. Mata, Memorandum for the Record, "Recollection of Events Regarding DOE Polygraph Examination of Wen Ho Lee, December 23, 1998," December 21, 1999: 2.

143. John P. Mata, Memorandum for the Record, "Recollection of Events Regarding DOE Polygraph Examination of Wen Ho Lee, December 23, 1998," December 21, 1999: 2.

144. OCI Polygraph Program Manager David M. Renzleman, Polygraph Program Record of Quality Assurance, undated, 1.

145. OCI Polygraph Program Manager David M. Renzleman, Polygraph Program Record of Quality Assurance, undated, 2.

146. See FBI Headquarters internal memo dated February 2, 1999 and or February 6, 1999 on the same subject.

147. United States Senate, Committee on Governmental Affairs, Testimony from June 9, 1999 closed hearing: 145.

148. Undated FBI response to questions for the record submitted by Senator Arlen Specter following the Senate Judiciary Subcommittee on Department of Justice Oversight hearing, "Continuation of Oversight on the Wen Ho Lee Case," on September 27, 2000: 1.

149. FBI ASAC William Lueckenhoff, memorandum to DAD Sheila Horan, February 26, 1999: 1.

150. DOE IG Gregory H. Friedman, letter to Senator Arlen Specter of October 2, 2000, enclosing a declassified segment of a 1999 Report by the IG. This information comes from page 116 of the full report.

151. FBI Assistant Director Neil J. Gallagher, letter to Mr. Edward J. Curran of January 4, 2000: 1.

152. Ian Hoffman, "Lee Denied Bail; Court Cites Risk," Albuquerque Journal, December 30, 1999: A1.

153. Sharyl Attkisson, "Wen Ho Lee's Problematic Polygraph," February 4, 2000, accessed at http://www.cbsnews.com/now/story/0,1597,157220-412,00.shtml. [Hereafter, "Wen Ho Lee's Problematic Polygraph"]

154. "Wen Ho Lee's Problematic Polygraph."

155. "Wen Ho Lee's Problematic Polygraph."

156. "Wen Ho Lee's Problematic Polygraph."

157. Dr. Michael Capps, Deputy Director of Developmental Programs, Defense Security Service, letter to Senator Arlen Specter of June 25, 2001: 1. [Hereafter, Capps letter]

158. Capps letter, 2–3.

159. Capps letter, 3.

160. Capps letter, 4.

161. Richard W. Keifer, letter to Senator Arlen Specter of June 26, 2001, "Your letter of May 22, 2001 regarding the Dr. Wen Ho Lee polygraph Examination on December 23, 1998," 1. [Hereafter, Keifer letter.]

162. Keifer letter, 3.

163. Keifer letter, 3.

164. Keifer letter, 5.

165. Assistant Attorney General Daniel J. Bryant, letter to Senator Patrick Leahy and Senator Arlen Specter of June 28, 2001.

166. FBI "Chronology of Significant Events Between 12/23/98 and 2/10/99," prepared for use by FBI Director Louis Freeh at a joint hearing of the Senate Select Committee on Intelligence and the Senate Judiciary Committee on September 26, 2000: 1. [Hereafter, FBI Unclassified Chronology.]

167. DOE IG Gregory H. Friedman, letter to Senator Arlen Specter of October 2, 2000, enclosing a declassified segment of a 1999 Report by the IG. This information comes from page 116 of the full report.

168. Assistant Secretary of Energy for Congressional and Intergovernmental Affairs John Angell, letter to Senator Grassley responding to questions from Senator Arlen Specter after a hearing before the Judiciary Subcommittee on Administrative Oversight and the Courts on September 27, 2000: 17.

169. Undated FBI response to questions for the record from Senator Arlen Specter following a hearing of the Senate Judiciary Subcommittee on Department of Justice Oversight, "Continuation of Oversight on the Wen Ho Lee Case," of September 27, 2000: 1.

170. FBI Chronology of Wen Ho Lee Investigation 1999–2000: 12.

171. Transcript of Proceedings, 118.

172. For a detailed discussion of Dr. Lee's deletions and his call to the computer help line, see "Transcript of Proceedings, Motion Hearing, December 27, 1999," United States of America vs. Wen Ho Lee, pages 132–138.

173. Transcript of Proceedings, 146.

174. Thompson and Lieberman Statement, 26.

175. For a detailed discussion of the computer code issue, see the transcript of Attorney General Reno's testimony before the Senate Judiciary Committee on June 8, 1999, 108–109 (as numbered in the lower-right-hand corner).

176. Matthew Purdy and James Sterngold, "The Prosecution Unravels: The Case of Wen Ho Lee," New York Times, February 5, 2001, online edition.

177. Matthew Purdy, "The Making of a Suspect: The Case of Wen Ho Lee," New York Times, February 4, 2001, online edition. Unless otherwise noted, the description of the government's actions in the first week of March 1999 is taken from this article.

178. Matthew Purdy, "The Making of a Suspect: The Case of Wen Ho Lee," New York Times, February 4, 2001, online edition.

179. In his written statement to the Joint Hearing of the Senate Select Committee on Intelligence and the Judiciary Committee on September 26, 2000, Director Freeh said, "One approach that was taken during that interview was not consistent with the conduct expected of agents during an interview. Specifically, Dr. Lee was reminded of the fate of Julius and Ethel Rosenberg, who were executed for espionage. Confrontational interviews often call for tough statements by investigators, but that implication was inappropriate. Again, Dr. Lee ended the interview without providing any useful information and without giving any indication of the actions to which he has now pled guilty." When asked by Senator Specter at the September 26 hearing about the Rosenberg reference and the harsh conditions of confinement and the inference that these measures might be intended to coerce a confession, Director Freeh responded, "I would disagree very strongly with the suggestion or the notion that anything was done with respect to confinement, or anything else in this case, to improperly or unfairly treat Dr. Lee." See hearing transcript, 81.

180. For a discussion of the issue of how Dr. Lee's name was leaked to the press, see pages 53, 54, 64 and 65 of the transcript of the Senate Judiciary Subcommittee on Department of Justice Oversight hearing on October 3, 2000, during which Mr. Trulock says that NYT reporter James Risen told him that Energy Secretary Richardson leaked Dr. Lee's name to the media. Secretary Richardson vehemently denied being the source of the leak, both in a letter to Senator Hatch on October 3, 2000, in which he said he had received a letter from Senator Specter requesting a hearing on the basis of Mr. Trulock's statement. In reply, Secretary Richardson said, "Mr. Risen has denied that he made this statement to Mr. Trulock, and I categorically deny that I shared Mr. Lee's name with Mr. Risen." Secretary Richardson made the same denials to Senator Specter in a meeting on October 5, 2000, but a review of the articles in question shows that Secretary Richardson gave an on the record interview in which he named Dr. Lee and made several comments about his lack of cooperation. Although Dr. Lee's name had first appeared in the press in an AP article the day before, Secretary Richardson confirmed on the record that Dr. Lee was the individual who had been fired for security violations.

181. See, for example, the September 28, 1999 press release from the FBI National Press Office which states that Special Agent in Charge Steve Dillard "has been appointed as Inspector in Charge of a task force composed of FBI Special Agents and analysts that will investigate the possible theft or compromise of classified information from United States nuclear laboratories. . . ." The full text of the press release is available at http://www.fbi.gov/pressrm/pressrel/dillard.htm.

182. Attorney General Janet Reno and FBI Director Louis Freeh, letter to Senator Orrin Hatch, October 1, 1999: 1.

183. FBI Albuquerque EC to FBI HQ of January 22, 1999: 2.

184. FBI Albuquerque EC to FBI HQ of January 22, 1999: 3–4.

185. He made similar representations in other briefings provided to Senate staff.

186. Gallagher, letter of November 10, 1.

187. Gallagher, letter of November 10, 2.

188. Robert H. Hast, Managing Director of the General Accounting Office's Office of Special Investigations, letter to Senators Arlen Specter, Charles Grassley and Robert Torricelli, "Subject: FBI Official's Congressional Testimony Was Inaccurate Because He Failed to Present Certain Information That Had Been Made Available to Him About the Wen Ho Lee Investigation," of June 28, 2001: 1.

189. FBI Albuquerque, "Changed: FBI–DOE National Laboratory Assessment. . . ." July 9, 1999: 6.

190. FBI Albuquerque, "Changed: FBI–DOE National Laboratory Assessment. . . ." August 26, 1999: 6–7.

191. See "DCI Statement on Damage Assessment," at *http://www.cia.gov/cia/public* affairs/ press release/ps042199.html, and the "Key Findings" at *http://www.cia.gov/cia/public* affairs/ press release/0421kf.html.

192. Cox Committee Report, Vol 1, 68.

193. Cox Committee Report, Vol 1, 83–84.

194. According to a chronology prepared by the Justice Department, the discovery occurred on March 23, 1999. That it took more than two weeks after Dr. Lee had been dismissed from LANL (and nearly three weeks after he gave permission to search his office) to find this document is very troubling.

195. United States Senate, Joint Hearing of the Senate Select Committee on Intelligence and the Senate Judiciary Committee, "Joint Hearing on the Wen Ho Lee Case," 106th Congress, 2nd Session, September 26, 2000: 52.

196. FBI Director Louis J. Freeh, "STATEMENT BY FBI DIRECTOR LOUIS J. FREEH," September 13, 2000: 2.

197. Transcript of Proceedings, United States v. Wen Ho Lee, September 13, 2000: 34–37.

198. Transcript of Proceedings, United States v. Wen Ho Lee, September 13, 2000: 48–50.

199. Although the subcommittee has not had access to the files from the criminal case against Dr. Lee, it should be noted that none of the information otherwise available suggests that the government applied for a Title III wiretap between March and December 1999. If the government was concerned that he might somehow communicate the existence of the tapes to a third party, it should have requested a wiretap. It may be that the wiretap was requested and received, but the absence of any such request would strongly undermine the government's claim that restricting his communications was necessary to protect the tapes.

200. Unless otherwise noted, all the information in this section is drawn from a chronology prepared by the Department of Justice and forwarded to the Senate Judiciary Committee on June 22, 2001.

201. Mark Holscher, letter to Robert Gorence and John Hudenko, of March 10, 1999: 1. [DOJ–WHL–00001-00002]

202. FBI Chronology of Wen Ho Lee investigation from 1999–2000: 2.

203. Mark Holscher, letter to John Kelly, of March 19, 1999: 1–2. [DOJ–WHL–00005–00006]

204. The Chronology of Wen Ho Lee investigation from 1999–2000 says this is discovered on March 21, 1999. See Chronology, 2.

205. Mark Holscher, letter to John Kelly, of March 23, 1999: 1–2. [DOJ–WHL–00009–00010]

206. Mark Holscher, letter to FBI Director Louis J. Freeh, of March 23, 1999: 1–3. [DOJ–WHL–00011–00013]

207. Mark Holscher, letter to Robert Gorence, of March 29, 1999: 1. [DOJ–WHL–00014]

208. For a discussion of the debate between FBI and DOJ after Lee's computer was searched, see Thompson and Lieberman Statement, 27–29.

209. Thompson and Lieberman Statement, 28–29.

210. Thompson and Lieberman Statement, 28.

211. In view of DOJ's assertion that it never had any sort of wiretap on Dr. Lee, this likely refers to FISA material from the investigation of the other scientist to whom Dr. Lee spoke by telephone in December 1982.

212. John Kelly and Robert Gorence, letter to Mark Holscher of April 16, 1999: 1–2. [DOJ–WHL–00015–00016]

213. FBI Chronology of Wen Ho Lee investigation from 1999–2000: 5.

214. FBI Chronology of Wen Ho Lee Investigation from 1999–2000: 6.

215. John Kelly and Paula Burnett, letter to Brian Sun, of May 5, 1999: 1–2. [DOJ–WHL–0017–0018]

216. Brian Sun, letter to John Kelly and Paula Burnett, of May 6, 1999: 1–2. [DOJ–WHL–00021–00022]

217. FBI Chronology of Wen Ho Lee investigation from 1999–2000: 7.

218. John Kelly, letter to Mark Holscher, of June 15, 1999: 1–2. [DOJ–WHL–00030-00031]

219. FBI Chronology of Wen Ho Lee investigation from 1999–2000: 8–9.

220. No subpoenas were issued pursuant to these resolutions because the investigation into the Wen Ho Lee case was suspended in December at the request of Director Freeh and the Department of Justice. The resolutions were intended as temporary measures to ensure that the subcommittee could continue its work during the congressional recess. When the Senate returned the following January, several other individual subpoenas on matters under investigation by the subcommittee were, in fact, debated and voted on. No subpoena requested by the subcommittee was defeated in the full committee.

221. Walter Pincus and David A. Vise, "Blunders Undermined Lee Case," Washington Post, September 24, 2000: Al.

222. Senator Arlen Specter, letter to FBI Director Louis J. Freeh of December 7, 1999. 1–2.

223. FBI Director Louis J. Freeh, letter to Senator Arlen Specter of December 10, 1999: 1.

224. Director Freeh letter of December 10, 1999: 1–2.

225. United States Senate, Joint Hearing before the Senate Select Committee on Intelligence and the Senate Judiciary Committee, "Joint Hearing on the Wen Ho Lee Case," 106th Congress, 2nd Session, September 26, 2000: 63.

226. There are a number of other issues that raise questions as to whether the government fully pursued all the information it had available during the course of its investigation. These questions were identified in a June 27, 2001 letter from senators Patrick Leahy and Arlen Specter to Attorney General Ashcroft. With the exception of confirming that Dr. Lee has told investigators that the tapes were still in his office as of December 23, 1998, however, the Department continues to refuse to answer these questions on the ground that the case is still open.

227. United States Senate, Joint Hearing before the Senate Select Committee on Intelligence and the Senate Judiciary Committee, "Joint Hearing on the Wen Ho Lee Case," 106th Congress, 2nd Session, September 26, 2000: 83.

228. In response to a question from staff on July 5, 2001, Sheryl Walter of DOJ's Office of Legislative Affairs confirmed that Dr. Lee had never been the target of electronic surveillance.

229. Transcript of a closed Detention hearing on December 29, 1999, United States v. Wen Ho Lee, 59.

230. FBI Chronology of Investigation from 1999–2000: 6.

231. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 7.

232. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 7.

233. Robert J. Gorence, "RESPONSE TO DEFENDANT WEN HO LEE'S MOTION TO REVOKE JUDGE SVET'S ORDER OF DETENTION," United States v. Wen Ho Lee, December 23, 1999: 18.

234. Robert J. Gorence, "RESPONSE TO DEFENDANT WEN HO LEE'S MOTION TO REVOKE JUDGE SVET'S ORDER OF DETENTION," United States v. Wen Ho Lee, December 23, 1999: 7–8.

235. Robert J. Gorence, "RESPONSE TO DEFENDANT WEN HO LEE'S MOTION TO REVOKE JUDGE SVET'S ORDER OF DETENTION," United States v. Wen Ho Lee, December 23, 1999: 14.

236. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 1.

237. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 10.

238. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 10–11.

239. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 12–13.

240. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 13.

241. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 14.

242. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 14.

243. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 16.

244. Judge James A. Parker, "MEMORANDUM OPINION AND ORDER," United States v. Wen Ho Lee, December 30, 1999: 19.

245. Taken from the "Overview" section of the website, http://wenholee.org/

246. Memorandum from Lawrence Barreras, Senior Warden to Rick Ploof, Supervisor Deputy United States Marshal For Prisoner Operations dated December 14, 1999 re: High Security Supervision.

247. Memorandum from Lawrence Barreras, Senior Warden to Rick Ploof dated January 4, 2000 re: Segregation Inmates.

248. Mark Holscher, letter to John Kelly and Robert Gorence, "Re: Dr. Wen Ho Les," of December 21, 1999: 1.

249. Energy Secretary William Richardson, letter to Attorney General Janet Reno, "Re: United States v. Wen Ho Lee," of December 27, 1999: 1.

250. United States Marshal John S. Sanchez, letter to Warden Lawrence Barreras, "Re: Federal Inmate Wen Ho Lee," of January 6, 2000: 1–2.

251. Mr. John D. Cline, letter to Mr. Robert Gorence, "Re: United States v. Wen Ho Lee," of January 6, 2000: 1.

252. Principal Associate Deputy Attorney General Gary G. Grindler, "MEMORANDUM FOR THE ATTORNEY GENERAL and THE DEPUTY ATTORNEY GENERAL," January 12, 2000: 1.

253. See Attorney General Janet Reno, "MEMORANDUM FOR JOHN W. MARSHALL, SUBJECT: Origination of Special Administrative Measures of Confinement Conditions on Federal Government Pre-Trial Detainee Wen Ho Lee," of January 13, 2000: 1.

254. Energy Secretary Bill Richardson, letter to Attorney General Janet Reno of May 4, 2000: 1.

255. FBI Special Agent in Charge David V. Kitchen, letter to Norman C. Bay of May 2, 2000: 1.

256. See the letter of Warden Barreras to Mr. Stamboulidis of July 18, 2000, in which he notes that per their telephone conversation and the letter of July 17 from Mr. Stamboulidis, the Warden has removed Dr. Lee's restraints during exercise, but has declined to allow weekend recreation time as it will involve additional staff costs.

257. See, for example, the letter of Mr. John Cline to Mr. Stamboulidis of July 26, 2000, in which Mr. John Kline says that in the two weeks since Mr. Stamboulidis claimed in open court that Dr. Lee would be permitted to exercise without restraints, Dr. Lee had not, in fact been allowed to do so.

258. Warden Lawrence Barreras, letter to Mel George Stamboulidis of August 1, 2000.

259. United States Attorney Norman C. Bay, letter to Attorney General Janet Reno of September 7, 2000: 2.

260. United States Senate, Joint Hearing of the Senate Select Committee on Intelligence and the Senate Judiciary Committee, "Joint Hearing on the Wen Ho Lee Case," 106th Congress, 2nd Session, September 26, 2000: 75.

261. United States Senate, Judiciary Subcommittee on Department of Justice Oversight, "Continuation of Oversight on the Wen Ho Lee Case," 106th Congress, 2nd Session, October 3, 2000: 73.

See United States Senate, Joint Hearing of the Senate Select Committee on Intelligence and the Senate Judiciary Committee, "Joint Hearing of the Wen H. Lee Case," 106th Congress, 2nd Session, September 26, 2000: 79–80, where Attorney General Reno read Mr. Cisneros' letter into the record.

263. Assistant Attorney General Robert Raben, letter to Senators Leahy, Graham, Hatch And Shelby, of January 20, 2001: 1.

264. Assistant Attorney General Robert Ruben, letter to Senators Leahy, Graham, Hatch and Shelby, of January 20, 2001: 2.

265. Assistant Attorney General Robert Ruben, letter to Senators Leahy, Graham, Hatch and Shelby, of January 20, 2001: 2.

66. Plea Hearing transcript, September 13, 2000: 55.

267. Transcript of Proceedings, United States v. Wen Ho Lee, August 16, 2000: 13.

268. Transcript of Proceedings, United States v. Wen Ho Lee, August 17, 2000: 12.

269. Transcript of Proceedings, United States v. Wen Ho Lee, August 17, 2000: 92.

270. Judge James A. Parker, "MEMORANDUM OPINION," United States v. Wen Ho Lee, August 31, 2000: 3.

271. Judge James A. Parker, "MEMORANDUM OPINION," United States v. Wen Ho Lee, August 31, 2000: 10.

272. Judge James A. Parker, "MEMORANDUM OPINION," United States v. Wen Ho Lee, August 31, 2000: 14–15.

273. "STATEMENT OF THE FACTS," from the Government's public filing in response to the defense appeal of Judge Parker's initial denial of bail, undated, 3–6.

274. Transcript of Proceedings, United States v. Wen Ho Lee, August 16, 2000: 142.

275. Transcript of Proceedings, United States v. Wen Ho Lee, August 16, 2000: 150.

276. United States Senate, Hearing before the Senate Judiciary Subcommittee on Department of Justice Oversight, "Continuation of Oversight on the Wen Ho Lee Case," 106th Congress, 2nd Session, October 3, 2000: 17.

277. United States Senate, Hearing before the Senate Judiciary Subcommittee on Department of Justice Oversight, "Continuation of Oversight on the Wen Ho Lee Case," 106th Congress, 2nd Session, October 3, 2000: 24.

278. United States Senate, Hearing before the Senate Judiciary Subcommittee on Department of Justice Oversight, "Continuation of Oversight on the Wen Ho Lee Case," 106th Congress, 2nd Session, October 3, 2000: 26.

279. Matthew Purdy and James Sterngold, "The Prosecution Unravels: The Case of Wen Ho Lee," New York Times, February 4, 2001: online edition.

280. Matthew Purdy and James Sterngold, "The Prosecution Unravels: The Case of Wen Ho Lee," New York Times, February 4, 2001: online edition.

281. United States Senate, Hearing before the Judiciary Subcommittee on Department of Justice Oversight, "Continuation of Oversight on the Wen Ho Lee Case," 106th Congress, 2nd Session, September 27, 2000: 57.

282. United States Senate, Hearing before the Judiciary Subcommittee on Department of Justice Oversight, "Continuation of Oversight on the Wen Ho Lee Case," 106th Congress, 2nd Session, September 27, 2000: 58.

283. Matthew Purdy and James Sterngold, "The Prosecution Unravels: The Case of Wen Ho Lee," New York Times, February 5, 2001, online edition. See also, MEMORANDUM CONCERNING THE USE, RELEVANCE, AND ADMISSIBILITY OF THE INFORMATION LISTED IN DR. WEN HO LEE'S FIRST NOTICE UNDER SECTION 5 OF THE CLASSIFIED INFORMATION PROCEDURES ACT.

284 Judge James A. Parker, "COURT DETERMINATIONS AND ORDER ON FIRST NOTICE OF DR. WEN HO LEE UNDER SECTION 5 OF THE CLASSIFIED INFORMATION PROCEDURES ACT," August 1, 2000: 3.

285. Judge James A. Parker, "COURT DETERMINATIONS AND ORDER ON FIRST NOTICE OF DR. WEN HO LEE UNDER SECTION 5 OF THE CLASSIFIED INFORMATION PROCEDURES ACT," August 1, 2000: 4.

286. Judge James A. Parker, "COURT DETERMINATIONS AND ORDER ON FIRST NOTICE OF DR. WEN HO LEE UNDER SECTION 5 OF THE CLASSIFIED INFORMATION PROCEDURES ACT," AUGUST 1, 2000: 5.

287. MOTION FOR DISCOVERY OF MATERIALS RELATED TO SELECTIVE PROSECUTION, United States v. Wen Ho Lee, June 25, 2000: 1.

288. MEMORANDUM IN SUPPORT OF MOTION FOR DISCOVERY OF MATERIALS RELATED TO SELECTIVE PROSECUTION, United States v. Wen Ho Lee, June 25, 2000: 1. [Hereafter Selective Prosecution Memorandum]

289. Selective Prosecution Memorandum, 2.

290. Selective Prosecution Memorandum, 2–3.

291. Plea Hearing, September 13, 2000: 50.

292. See DOE press release, "Richardson Releases Task Force Against Racial Profiling Report and Announces 8 Immediate Actions," January 19, 2001. Richardson said that the Task Force had made several general observations, including "that some employees believed that counterintelligence efforts were targeting employees of Chinese ethnicity," but offered no direct proof of any such profiling.

293. Department of Energy Inspector General Gregory Friedman, Memorandum for the

Secretary, "Special Review of Profiling Concerns at the Department of Energy," April 3, 2001: 1.

294. Selective Prosecution Memorandum, 5.

295. Selective Prosecution Memorandum, 5.

296. For a discussion of the timing and reasons for Mr. Trulock's departure from DOE, see James Risen, "Official Who Led Inquiry Into China's Reputed Theft of Nuclear Secrets Quits," New York Times, August 24, 1999, online edition.

297. Selective Prosecution Memorandum, 6.

298. Matthew Purdy and James Sterngold, "The Prosecution Unravels: The Case of Wen Ho Lee," New York Times, February 5, 2001, online edition.

299. When questioned in an October 3, 2000 hearing about an August 1995 FBI document quoting Mr. Vrooman as saying that "a 'smoking gun' had been found," Mr. Vrooman testified that he did not know what the memo referred to. After the hearing, Mr. Vrooman refreshed his recollection and wrote to me that the "smoking gun" quote referred to the analytical team headed by Mr. Michael Henderson, otherwise known as the Kindred Spirit Analytical Group.

300. United States Senate, Hearing before the Senate Judiciary Subcommittee on Department of Justice Oversight, "Continuation of Oversight on the Wen Ho Lee Case," October 3, 2000: 65.

301. United States Senate, Hearing before the Senate Judiciary Subcommittee on Department of Justice Oversight, "Continuation of Oversight on the Wen Ho Lee Case," October 3, 2000: 66.

302. Mr. Vrooman furnished this retirement date in his written testimony to the subcommittee on October 3, 2000. He obviously stayed in touch with the lab and may have consulted on certain security issues, but his contact with the case would have been less than during his tenure at the lab.

303. See Department of Energy Press Release, "Richardson Announces Results of Inquiries Related to Espionage Investigation," August 12, 1999. The release says that a DOE counterintelligence official had been told in October 1997 that an espionage suspect [Dr. Lee] should be moved but decided to leave the suspect in place without consulting with senior management. The DOE press release does not name Mr. Vrooman or the others who were disciplined, but an August 13, 1999 story by Vernon Loeb in the Washington Post identifies the three officials as Sig Hecker, Robert Vrooman, and Terry Craig. See Vernon Loeb, "Richardson Recommends Discipline for 3 in Los Alamos Case," Washington Post, August 13, 1999: A9.

304. United States Senate, Subcommittee on Administrative Oversight and the Courts of the Committee on the Judiciary, "Continuation of Oversight on the Wen Ho Lee Case," October 3, 2000: 52–53.

305. FBI memorandum from Albuquerque Division to FBI HQ, "Request for: (1) FISA Court Order authorizing the interception of signals emanating from the residence of captioned subject; (2) Application for ELSUR (FISA and MISUR coverage) at subject's residence and business location," November 10, 1998: 4. [Hereafter, FISA Request, November 10, 1998]

306. FISA Request, November 10, 1998: 4.

307. FISA Request, November 10, 1998: 5.

308. FISA Request, November 10, 1998: 5.

309. FISA Request, November 10, 1998: 5.

310. Selective Prosecution Memorandum, 7.

311. FBI Special Agent Michael W. Lowe, "APPLICATION AND AFFADIVIT FOR SEARCH WARRANT," April 9, 1999: 1.

312. See RESPONSE TO DEFENDANT WEN HO LEE'S MOTION FOR DISCOVERY OF MATERIALS RELATED TO SELECTIVE PROSECUTION, United States v. Wen Ho Lee, July 21, 2000: 11–12.

313. "A Reply to Misleading Press Reports Concerning Dr. Wen Ho Lee," May 6, 2000.

314. This is item D. of the "Memorandum in Support of Motion to Compel Discovery on Issues other Than Selective Prosecution," filed May 10, 2000. Note that the declassified version of this document redacts must of Item D, including the header, but the Government's response spells out the materials in question.

315. "Memorandum in Support of Motion to Compel Discovery on Issues Other Than Selective Prosecution," United States v. Wen Ho Lee, May 10, 20001: 14.

316. "Response to Defendant Wen Ho Lee's Motion to Compel Discovery on Issues Other than Selective Prosecution, United States v. Wen Ho Lee, June 9, 2000: 6.

317. Judge James A. Parker, "ORDER," July 13, 2000: 3. [Docket number 107 on the case docket]

318. Judge James A. Parker, "ORDER," August 9, 2000: 1–2. [Docket number 130]

319. Matthew Purdy, "The Making of a Suspect: The Case of Wen Ho Lee," New York Times, February 4, 2001: online edition.

320. Transcript of Proceedings, Plea Hearing, United States v. Wen Ho Lee, September 13, 2000: 34.

321. Transcript of Proceedings, Plea Hearing, United States v. Wen Ho Lee, September 13, 2000: 34–36.

322. Transcript of Proceedings, Plea Hearing, United States v. Wen Ho Lee, September 13, 2000: 36.

323. Transcript of Proceedings, Plea Hearing, United States v. Wen Ho Lee, September 13, 2000: 37.

324. Transcript of Proceedings, Plea Hearing, United States v. Wen Ho Lee, September 13, 2000: 37.

325. Plea Hearing transcript, September 13, 2000: 56–57.

326. United States, Joint Hearing Before the Senate Select Committee on Intelligence and the Judiciary Committee, "Joint Hearing on the Wen Ho Lee Case," 106th Congress, 2nd Session, September 26, 2000: 41.

327. United States Senate, Joint Hearing Before the Senate Select Committee on Intelligence and the Judiciary Committee, "Joint Hearing on the Wen Ho Lee Case," 106th Congress, 2nd Session, September 26, 2000: 41–43.

Mr. SPECTER. Mr. President, I now turn to the report on the handling of the espionage case against Dr. Peter H. Lee: Again, I intend to read only a sentence or two, as I have been advised that a sentence or two would be sufficient to have the remainder of the report printed in the RECORD.

On October 7th and 8th, 1997, Dr. Peter Hoong-Yee Lee confessed to the FBI that he had provided classified nuclear weapons design and testing information to scientists of the People's Republic of China on two occasions in 1985 and had given classified antisubmarine information to the Chinese in May of 1997. The 1985 revelations, which occurred during discussions with, and lectures to, PRC scientists in Beijing hotel rooms, involved his work on hohlraums, devices used to simulate nuclear detonations in a process called Inertial Confinement Fusion, or ICF.[1] According to a 17 February 1998 "Impact Statement" prepared by experts from the Department of Energy,

"the ICF data provided by Dr. Lee was of significant material assistance to the PRC in their nuclear weapons development program. . . . For that reason, this analysis indicates that Dr. Lee's activities have directly enhanced the PRC nuclear weapons program to the detriment of U.S. national security."[2]

The "Impact Statement" further notes that "the ICF Program, when developed in conjunction with an already existing nuclear program, could assist in the design of more sophisticated nuclear weapons."[3]

Dr. Lee's 1997 disclosures came in two lectures to PRC scientists, again in China, where he discussed his work on the joint U.S./U.K. Radar Ocean Imaging (ROI) project. The objective of the project, which has been carried out over several years at the cost of more than $100 million, is to study the feasibility of using radars to detect submerged submarines. After viewing videotapes of Dr. Lee's confession, Dr. Richard Twogood, former Technical Program Leader for the ROI project, stated that Dr. Lee's disclosures contained classified information at the SECRET level which went right to the heart of the most significant technical achievement of the U.S./U.K. program up until 1995.[4] Although Dr. Lee was not charged for the 1997 disclosures of classified information, a 9 March 2000 review by the Department of Defense concluded that Dr. Lee's anti-submarine warfare revelations were classified at the CONFIDENTIAL level,[5] which, by definition, would damage U.S. national security.[6] According to the Cox Committee Report, "this research, if successfully completed, could enable the [Chinese military] to threaten previously invulnerable U.S. nuclear submarines."[7]

Dr. Lee's confessed crimes caused serious harm to U.S. national security, yet he was offered a plea bargain which resulted in a sentence amounting to one year in a halfway house, 3,000 hours of community service and a $20,000 fine. Considering the magnitude of Dr. Lee's offenses and his failure to adhere to the terms of the plea agreement which called for complete cooperation and truthfulness, the interests of the United States were not well served by this outcome.

During the 106th Congress, I chaired a special subcommittee of the Senate Judiciary Committee for the purposes of conducting oversight on the Department of Justice's handling of this case and several other matters. The Subcommittee's review of the Dr. Peter Lee case identified a number of shortcomings in existing procedures for handling espionage investigations and prosecutions, particularly in cases where highly technical classified information is revealed verbally rather than through the transfer of documents. Communications between and within the Department of Justice and other Executive Branch organizations appear to have broken down at critical points during the Peter Lee case, with the result that several key decisions were made on the basis of incomplete or incorrect information. Had this case been handled more formally and deliberately, with more of the critical information being communicated in writing, the opportunities for misunderstandings would have been greatly reduced, and the chances of Dr. Lee receiving a long prison sentence commensurate with his crimes would have been greatly increased. Specifically, the Subcommittee's investigation showed that:

The classified nuclear weapons design and anti-submarine warfare information that Dr. Lee revealed in 1985, 1997, and on other occasions may have merited prosecution under 18 USC 794, the most serious of the espionage statutes.

Senior DoJ officials, including the Attorney General and the Deputy Attorney General, were not sufficiently involved in or aware of the case. Principal Deputy Assistant Attorney General John Keeney, the official with final approval authority in the case, advised that he would not have approved the plea bargain had he known the trial prosecutor would ask for only a short period of incarceration and would charge only an attempt to transmit classified information.[8]

The Department of Justice's ability to seek a tougher plea agreement or to prosecute Dr. Lee under section 794 was hampered by its failure to fully understand the classification level of, and the damage to national security from, Dr. Lee's nuclear weapons design revelations prior to offering him a plea agreement.

DoJ failed to inform the court that Dr. Lee repeatedly confessed to disclosing classified information to the PRC in 1997, allowing the defense to convince the judge during sentencing that the only time Dr. Lee intentionally passed classified information was more than 13 years prior.

DoJ did not have the DoE's "Impact Statement," which stated that Dr. Lee had provided significant material assistance to the PRC nuclear weapons program, until February 1998, well after the plea agreement was concluded.

The reluctance of the Department of Defense, and the Navy in particular, to support the prosecution of Dr. Lee for his anti-submarine warfare revelations had an adverse impact on the case.

The ambiguity of the 14 November 1997 memorandum authored by Mr. J.G. Schuster, head of the Navy's Science and Technology Branch, seriously undermined DoJ efforts to prosecute Dr. Lee. This memorandum was based on incomplete information, without knowing the details of what Dr. Lee confessed to disclosing to PRC scientists.

DoJ prematurely determined that Dr. Lee could not be prosecuted for the 1997 revelations, and the explanation that the information Dr. Lee revealed was already in the public domain is contradicted by two classified memoranda from Lawrence Livermore National Laboratory which show that the disclosures extended beyond what was publicly available.

DoJ's failure to prosecute on the 1997 disclosures, or at least to add them as a separate count to the plea agreement, had a material adverse effect on the disposition of the case. Coupling the 1997 disclosures with the 1985 revelations would have demonstrated that Dr. Lee's classified disclosures were not limited to a single incident long ago, but were ongoing. Obtaining a conviction on the 1997 disclosures would not have been a foregone conclusion—pushing the matter risked disclosing certain information that the FBI and the prosecutor wanted very much to protect, and the Navy was reluctant to assist in the prosecution—but these were not insurmountable obstacles. At a minimum, an effort should have been made to add a separate count to the plea agreement to address these disclosures.

DoJ communications were confused on the critical question of what authority the trial prosecutor had with regard to a charge under Section 794. DoJ officials advised that the Internal Security Section would have reconsidered a prosecution under Section 794 if the plea agreement broke down,[9] which was unknown to the trial prosecutor who thought he could only take the watered-down plea bargain or get nothing at all.[10]

The fact that Dr. Lee was an espionage suspect while working on the Joint U.S./U.K. Radar Ocean Imaging project was not disclosed to the program's sponsors within the Office of the Assistant Secretary of Defense/Command, Control, Communications and Intelligence (OASD/C3I).[11]

Electronic surveillance under the Foreign Intelligence Surveillance Act was terminated at a critical juncture in September 1997, just when the FBI was stepping up its activity with regard to Dr. Lee and electronic surveillance could have yielded important counter-intelligence information. Although the listening device in Dr. Lee's home had been discovered in July, thereby decreasing the utility of that particular device, the FBI Field Office felt strongly enough about the need for continued surveillance to make a verbal renewal request to FBI Headquarters in August, but not strongly enough to ensure the request was granted.

The problems which affected this case were serious enough to require remedial steps. The Counterintelligence Reform Act of 2000 (S.2089), which became law on 27 December 2000 as Title VI of Public Law 106–567 (H.R. 5630), contained a provision that will address many of the shortcomings in the way the DoJ handled this case. That provision, Section 607, amended the Classified Information Procedures Act (CIPA) to require that the Assistant Attorney General for the Criminal Division and the appropriate United States attorney provide briefings to senior agency officials from the victim agency in cases involving classified information. The section further required that these briefings occur as soon as practicable after the Department of Justice and the United States attorney concerned determine that a prosecution could result and at such other times thereafter as are necessary to keep the affected agency fully and currently informed of the status of the prosecution.

The Subcommittee's investigation revealed other problems that have not yet been addressed through legislation, primarily because it was not possible to reach a consensus on how best to solve them. The Counterintelligence Reform Act moved through the Judiciary Committee and the Senate Select Committee on Intelligence without a single vote in opposition. The Judiciary Committee reported the measure favorably on 23 May 2000 and the Intelligence Committee did the same on 20 July 2000. As the bill's chief sponsor, I opted to work toward a consensus measure to ensure that the important reforms we had identified during oversight on this case and the Dr. Wen Ho Lee case could be implemented in a timely fashion. Rather than wait until we could work out acceptable language on other proposals arising from the Peter Lee case, I felt it more important to accomplish what could be done in the time available and address the more difficult matters later. I also withheld publication of this report during the last Congress so as not to inject it into the presidential election. Now that the election is over and the 107th Congress is well underway, it is appropriate to release this report and begin working on legislation to solve the other problems identified by our oversight but upon which we were unable to achieve consensus.

Specifically, I am introducing legislation to require victim agencies—the agencies whose classified information is lost—to produce a written "damage statement" which specifies the level of classification of the material alleged to have been revealed, and justifies the classification level by describing the potential harm to national security from such revelations. The legislation further requires the prosecution team to consider the "damage statement" before any final decision is made as to whether the case should be taken to trial or a plea bargain should be offered. I also strongly believe, but will not attempt to mandate through legislation, that key instructions from Main Justice (Internal Security Section, etc.) to the U.S. Attorney's Office with responsibility for prosecuting the case, including charging authority and plea bargain authority, should be in writing. These written instructions should be shared with the investigating agency or agencies and the victim agency so they have an opportunity for input before any final decisions are made.

The findings and recommendations included in this report are based on a review of more than 6,000 pages of documents from the FBI, the Department of Defense and its subcomponents, the Department of Justice and information submitted to the court during the sentencing process. The Subcommittee conducted three open hearings, three closed hearings, two "on-the-record" Senators' briefings, and numerous staff interviews, which resulted in hearing from more than 30 individuals who played key roles in the conduct of the case. The information presented here is derived from unclassified documents and testimony, or relies upon unclassified extracts from classified documents.

SUMMARY OF DR. PETER H. LEE'S ESPIONAGE ACTIVITIES

Dr. Peter Lee is a naturalized U.S. citizen who worked for TRW Inc., a contractor to Lawrence Livermore National Laboratory, from 1973 to 1976. Dr. Lee worked at Lawrence Livermore from 1976 to 1984, and at Los Alamos National Laboratory from 1984 to 1991. He returned to TRW from 1991 until December 1997, when he was dismissed in the wake of his plea agreement for passing classified information to the Chinese.[12]

According to his October 1997 confession to the FBI, Dr. Lee traveled to China from 22 December 1984 to 19 January 1985 (while he was employed by Los Alamos National Laboratory).[13] On 9 January 1985, Dr. Lee met with Chen Nengkuan, a PRC scientist employed by the China Academy of Engineering Physics (CAEP), in a hotel room in Beijing. Chen told Dr. Lee that he had classified questions to ask, and that Dr. Lee could answer just by nodding his head yes or no.[14] Chen drew a diagram of a hohlraum (a device in which lasers are fired at a glass globe to "create a small nuclear detonation which is then studied and used in the design of nuclear weapons),"[15] and asked the classified questions, which Dr. Lee, by his own admission, knew were classified but answered anyway.[16]

The following day, Dr. Lee accompanied Chen to a hotel in Beijing where another group of PRC scientists was waiting. These scientists were also from the China Academy of Engineering Physics, which is "responsible for all aspects of the PRC's nuclear weapons program."[17] Among the scientists Dr. Lee briefed was Yu Min, who has been called "the 'Edward Teller' of the PRC nuclear weapons program."[18] For two hours, Dr. Lee answered questions and drew diagrams, including several hohlraums. Dr. Lee also "discussed problems the U.S. was having in its nuclear weapons testing program."[19] Dr. Lee further admitted discussing with the Chinese scientists at least one portion of a classified document he authored in 1982. Although the document, titled "An Explanation for the Viewing Angle Dependence of

Temperature from Cairn Targets," was subsequently declassified in 1996,[20] revealing its contents in 1985 was an illegal act that could be expected to provide substantial assistance to the Chinese from 1985 to 1996 and to harm U.S. national security.

Dr. Lee again visited China, while he was employed by TRW, from 30 April to 22 May 1997.[21] Although Dr. Lee claimed on his travel request form, and in a 25 June 1997 interview with FBI Agent Gilbert Cordova, that the visit to China had been a pleasure trip for which he paid all his own expenses, the truth was that Dr. Lee traveled as a guest of the Chinese Institute of Applied Physics and Computational Mathematics (IAPCM), which is part of the China Academy of Engineering Physics.[22]

During this May 1997 trip, Dr. Lee gave a lecture at the PRC Institute of Applied Physics and Computational Mathematics in Beijing. The lecture covered his work for TRW in support of the Radar Ocean Imaging Project, and was attended by nearly 30 top PRC scientists.[23] When asked about the applicability of his work to anti-submarine warfare, Dr. Lee showed the scientists a surface ship wake image (which he had brought from the U.S. to show them), drew a graph, explained the physics underlying his work, and told the Chinese where to filter the data within the graph to enhance the ability to locate the ocean wake of a vessel.[24] A few days later, Dr. Lee gave the same lecture in another city, using the graphs that the Chinese had saved from his first lecture and had brought to the second lecture for his use.[25]

Upon his return from the PRC, Dr. Lee filled out a TRW Post-Travel Questionnaire in which he denied that there "were any requests from Foreign Nationals for technical information," and denied that there were any attempts to persuade him to reveal or discuss classified information.[26]

On 5 August and 14 August 1997, Peter Lee was interviewed by FBI agents at a Santa Barbara, California, hotel. During these interviews, Dr. Lee admitted that he had lied on his travel form about the purpose of his trip to China in May, and that he had lied about receiving requests for technical information. However, he continued to insist that he had paid for the trip to the PRC with his own money.[27]

After the two FBI interviews, Dr. Lee contacted a Chinese official named Gou Hong by e- mail on 25 August 1997, and requested that Gou provide Lee with receipts indicating that Lee had paid for the trip to the PRC, that the receipts contain the names of Lee and his wife in English, and that they show that Lee paid cash for the trip.[28] On 3 September 1997, Dr. Lee provided the FBI with copies of hotel and airline receipts for the May 1997 trip which stated that Lee had paid for the trip in cash. Based on a review of e-mail transmissions and telephone conversations between Lee and Gou, however, the FBI concluded that these receipts were false.[29]

On 7 October 1997, Dr. Lee was interviewed and polygraphed by the FBI. The polygraph examiner believed that Lee showed deception when he answered "no" to the following questions: (A) Have you ever deliberately been involved in espionage against the United States? (B) Have you ever provided classified information to persons unauthorized to receive it? (C) Have you deliberately withheld any contacts with any non-U.S. intelligence service from the FBI?[30] After being told that he had failed the polygraph on these questions, Dr. Lee made a videotaped confession in which he admitted "having passed classified national defense information to the PRC twice in 1985, and to lying on his post-travel questionnaire in 1997."[31]

During this same interview, Dr. Lee also repeatedly confessed that he intentionally revealed classified information during his 1997 anti-submarine lectures in China. Dr. Lee was not prosecuted for these revelations, and the judge was not adequately informed of these admissions at sentencing.

On 8 December 1997, Dr. Lee pleaded guilty to a two count information that he violated: (1) 18 USC 793(d)—Attempt to communicate national defense information to a person not entitled to receive it, and (2) 18 USC 1001—False statement to a government agency.[32] According to the press release from the office of U.S. Attorney Nora Manella, Dr. Lee "admitted that he knew the information was classified, and that by transmitting the information he intended to help the Chinese."[33] The offenses to which Lee pleaded guilty could have resulted in a maximum sentence of 15 years in federal prison and a fine of $250,000. Under the terms of the agreement, the Government asked for a "short period of incarceration," a formulation that was negotiated by the trial attorney and approved by Mr. John Dion in the Internal Security Section, but was not approved by Principal Deputy Assistant Attorney General Keeney, the DoJ official with final authority, who advised the Subcommittee that he would not have approved the plea agreement had he known that it would request only a short period of incarceration as an opening position.[34]

On 26 March 1998, Dr. Lee was sentenced by U.S. District Court Judge Terry Hatter to one year in a community corrections facility, three years of probation, 3,000 hours of community service, and a $20,000 fine. The sentence was based upon a sealed plea agreement from 8 December 1997.[35] The plea agreement and other key documents in the case were unsealed at the request of the Subcommittee in late 1999.[36]

Every DoJ official interviewed by the Subcommittee expected Dr. Lee to receive jail time, during which they planned to seek his further cooperation. When he received no jail time, all leverage was lost by the government.

Analysis of the Nuclear Weapons Design Revelations

The importance of Dr. Lee's 1985 disclosures is highlighted by the 17 February 1998 "Impact Statement" from the Department of Energy which concludes that:

"the [Inertial Confinement Fusion] data provided by Dr. Lee was of significant material assistance to the PRC in their nuclear weapons development program. . . . For that reason, this analysis indicates that Dr. Lee's activities have directly enhanced the PRC nuclear weapons program to the detriment of U.S. national security."[37]

The "Impact Statement" further notes that "the ICF Program, when developed in conjunction with an already existing nuclear program, could assist in the design of more sophisticated nuclear weapons."[38]

The trial attorney wanted to prosecute under Section 794 for the 1985 revelations, but was overruled by Main Justice as well as his supervising attorney.[39] In his 12 April 2000 written statement to the Subcommittee, the Internal Security Section (ISS) line attorney with primary responsibility for the Peter Lee case, explained why he did not feel it appropriate to pursue a 794 charge on the 1985 disclosures.

"In my estimation, both then and now, the sole weakness in the case was the questionable significance of the information Lee compromised, both in 1985 and in 1997. As to Lee's 1985 disclosure, I knew, for instance, that the Department had never prosecuted a case under 794 where the compromised information, as in the case of Lee's 1985 disclosure, had been declassified prior to the crime being discovered. Let me emphasize this: the information Lee admitted disclosing in 1985 had been declassified."[40]

This analysis may be correct as far as it goes, but there were other factors and issues that should have been considered. Dr. Lee's confession, though carefully crafted to limit his exposure, simply confirmed much, but not all, of what the FBI already knew about his espionage activities. The FBI knew well before they confronted Dr. Lee that he had likely been compromising anti-submarine information since the early 1990s,[41] and that in the early 1980s Dr. Lee had allegedly given the Chinese classified information that greatly assisted their nuclear weapons program.[42] One scientist the FBI consulted in trying to evaluate the extent of Dr. Lee's revelations said, "It seems likely that Peter Lee at least partially compromised every project, classified or unclassified, he was involved with at Livermore, [Los Alamos National Laboratory], and TRW."[43]

At a later stage of the proceeding, Dr. Lee admitted that he had given the PRC scientists additional information which had not been declassified. Had the Internal Security Section awaited fuller development of the facts, it might not have declined prosecution under 794 on grounds of subsequent declassification. The Government would have been able to corroborate Dr. Lee's confession and to prove that he had done more than he confessed to. As the prosecuting attorney noted during his 5 April 2000 appearance before the Subcommittee, ". . . in the many cases I had with a cooperating defendant or a defendant who pled guilty who was debriefed, I never had the kind of information to corroborate what was said as I did in this case."[44]

The ISS line attorney's statement regarding the "questionable significance of the information Lee compromised" in 1985 is flatly contradicted by the DoE "Impact Statement" of 17 February 1998 which states that Dr. Lee did serious harm to U.S. national security. Had the ISS line attorney waited for the experts to evaluate the case, he would have known that a 794 charge should be given much greater consideration than it got.

During testimony before the Subcommittee, the ISS line attorney who handled the case stated that it would have been impractical to wait for a damage assessment which, in his experience, normally takes more than a year. In fact, however, there were two assessments available within less than 90 days of the start of plea negotiations. Dr. Thomas Cook's "Declaration of Technical Damage to United States National Security Assessed in Support of United States v. Peter Hoong-Yee Lee" was available in February 1998, as was the Department of Energy "Impact Statement."

The Government had spent six years and considerable amounts of money investigating Dr. Lee's espionage activities, had obtained a confession that substantiated much of the information it already had from other sources, and had not charged Dr. Lee with a crime and therefore did not have a speedy trial issue to contend with. Consequently, there was no reason why the Government could not wait for a complete analysis by competent experts of Dr. Lee's espionage activities. The failure to obtain such an analysis prior to entering a plea agreement seriously undermined the Government's ability to prosecute Dr. Lee under section 794, and was a major factor in the unsatisfactory disposition of the case.

In his testimony before the Subcommittee on 12 April 2000, the ISS line attorney who handled the Lee case further argued that the Government would have had a hard time proving that the classified nuclear weapons design information that Dr. Lee provided to the Chinese was related to the national defense, an element of proof that would have been necessary to sustain a charge under 18 USC 794. In response to a question from Senator Sessions, the attorney said that the information Dr. Lee revealed in 1985 "was classified SECRET, but I'm not sure it would have been ultimately found to be national defense information at the time he compromised it."

When pressed by Senator Sessions to explain how nuclear weapons design information could be deemed not related to the national defense, the attorney referred to the Supreme Court's opinion in Gorin v. United States.[46] Any reliance on the Gorin decision in the context of the Peter Lee case is misplaced. The Gorin case was decided in January 1941, well before the advent of nuclear weapons. The Court's opinion, written by Justice Reed, makes clear that the information in the Lee case would have been found to be "national defense information." In the words of the Court:

"National defense, the Government maintains, "is a generic concept of broad connotations, referring to the military and naval establishments and the related activities of national preparedness." We agree that the words "national defense" in the Espionage Act carry that meaning."[47]

When the Supreme Court held, as it did in Gorin, that reports "as to the movements of fishing boats, suspected of espionage and as to the taking of photographs of American war vessels"[48] constituted national defense information, there can be no doubt that nuclear weapons design information would be encompassed by the term.

The DoJ attorney also cited the decision of the Second Circuit Court of Appeals in United States v. Heine.[49] That case has no applicability to this matter since all the information given to a German automobile corporation was publicly available at the time of disclosure.[50]

During the sentencing hearing, Dr. Lee's lawyer, Mr. James Henderson, tried to downplay the significance of the 1985 revelations through character witnesses who claimed that the disclosures were not related to nuclear weapons but to energy production.[51] These witnesses did not have access to the text or tape of Dr. Lee's confession which detailed the extent of his revelations.[52] Dr. Cook and the authors of the 17 February 1998 DoE "Impact Statement" had access to Dr. Lee's confession and were in a position to evaluate the extent of damage and of the espionage. In view of these facts it was surprising that the ISS attorney advanced the argument:

"that Lee could claim that he made the disclosures to encourage China not to conduct nuclear weapons tests in the field, and he would likely be supported by internal Government documents or even testimony of former U.S. Government or Livermore officials that that was actually one of the reasons the U.S. Government declassified the information beginning in 1990.

"In other words, Lee would have been able to credibly argue that his actions were in the national interest."[53]

Any claim by Dr. Lee that his actions were in the national interest would be totally unfounded. Individual scientists do not have the latitude to make determinations—during the course of lectures in Beijing hotel rooms—as to whether or not it is in the national interest to help the Chinese develop more sophisticated nuclear weapons.

The prosecuting attorney made this very point at the sentencing hearing when he said, "It is not up to the whim of an individual scientist to determine if something is classified. . . . This is one of the nation's top scientists from one of the nation's top research nuclear weapons facilities giving a two hour lecture regarding classified information to the top nuclear scientists of China."[54]

Dr. Lee very likely could have been prosecuted under 18 USC 794, the harshest of the espionage statutes, for his nuclear weapons design revelations. As Senator Sessions said at the Subcommittee's 5 April 2000 hearing:

"I don't think [the prosecuting attorney] would have had a problem getting a conviction on that. [Dr. Lee] confessed to it, number one. Number two, I uon't think any jury is going to believe that he was there for his health and a casual conversation to have two different meetings in Beijing hotel rooms with top Chinese scientists. There is no business for that, and anyone with common sense would understand it."[55]

In the context of the prosecuting attorney's efforts to proceed under 794 and Senator Sessions' strongly expressed views, there is a strong argument that a 794 prosecution should have been brought.

Internal DoJ Mis-communication and a Lack of High Level Supervision

Unfortunately, the case never went to trial. By late November 1997, the Internal Security Section attorney had completed his analysis of the case, concluding that Dr. Lee should be offered a plea under 18 USC 793 or section 224(b) of the Atomic Energy Act of 1954 for the 1985 compromise, in combination with a charge under section 1001 for the false statements on his travel form.[56] When it became apparent that "Lee was balking at a plea with a potential 10-year exposure for the 1985 incident," the attorney recommended to Mr. Dion that "although the section 794 case for that incident in 1985 had problems, it was sufficiently robust that we could ethically use it as leverage."[57] Mr. Dion testified that he called the prosecuting attorney and authorized him to:

"seek a plea of guilty by Lee to a violation of 18 USC Section 793(d) for his 1985 disclosures and to a violation of the false statement statute, 18 USC Section 1001. As such a plea would require Lee to waive the 10-year statute of limitations, [the prosecuting attorney] was authorized to advise counsel that no final decision had been made as to the prospect of charging Lee with a violation of Section 794."[58]

The prosecutor, who was emphatic in his testimony that his instructions were to accept a plea under 793 and 1001, or nothing,[59] obtained a plea on both counts, but had to concede to only a "short period of incarceration" to secure Dr. Lee's agreement.[60] Principal Deputy Assistant Attorney General John Keeney told the Subcommittee that, ". . . I was not aware, so far as I recall, that it would call for only a short period of incarceration or would charge only an attempted 793 charge. Had this been our opening position in plea negotiations, I doubt that I would have approved it, particularly, the 'short period of incarceration.'"[61] He then tried to justify DoJ's handling of the case by saying that "this was the best that could be hoped for given the sentencing practices of the courts in the Central District of California."[62]

Had Dr. Lee cooperated, as he was required to do under the plea agreement, it might have been possible to achieve an acceptable disposition in the case even with the weak plea agreement. Had Dr. Lee told the whole truth and provided whatever counter-intelligence information he knew, that would mitigate the need to punish him with a long sentence. It might have been acceptable to balance counterintelligence information gained from a cooperating defendant against the need to punish wrongdoing. However, there is no benefit in accepting a plea contingent upon the defendant's cooperation and then not getting that cooperation. Dr. Lee did not live up to his obligation to be truthful. The "Position with Respect to Sentencing Factors" that the Government submitted to the court acknowledged "concerns that defendant has still not been completely forthcoming about the nature, quality and extent of his improper contacts with scientists of the PRC."[63] Dr. Lee's lack of cooperation was further highlighted in the February 1998 DoE "Impact Statement" where the authors note that:

"[W]e do not believe that Dr. Lee has been fully cooperative in identifying or describing other classified information he may have compromised. We believe that Dr. Lee confessed to compromising selected classified information in the hope his other, more damaging activities would not be discovered or fully investigated."[64]

On 26 February 1998, Dr. Lee failed an FBI-administered polygraph where he was asked whether he had lied to the FBI since his last polygraph examination regarding passing classified information.[65] When interviewed by DoE scientists in March 1998, Dr. Lee again failed to cooperate fully. As Dr. Thomas Cook pointed out during his testimony before the Subcommittee on 29 March 2000, when asked questions about what he had done, Dr. Lee "repeatedly denied any knowledge or any interest in classified programs and publications. He was, however, the author and/or the technical editor of some of these publications which he denied knowledge of."[66] In view of these repeated lies and lack of cooperation, there should be no doubt that Dr. Lee did not comply with the terms of the plea agreement, and the Government could have successfully sought to breach it.

When asked by Senator Specter why he did not breach the plea agreement in view of this lack of cooperation, the prosecuting attorney explained that he could not abrogate the deal because he had nothing to fall back on,[67] and because doing so risked exposing extremely sensitive classified information he had been instructed to protect.[68] The prosecutor advised that he was told that if there was a risk of certain evidence coming out, he would have to drop the case. As the case unfolded, however, there was no risk of that evidence being disclosed. In the absence of any problem as to disclosure of the sensitive information, and had the prosecutor known he could have, or at least might have been able to proceed with the 794 prosecution, then the better course would have been to have abrogated the plea agreement on the basis of Peter Lee's failure to cooperate which could have been established without disclosing any classified information.

Due to the significance of the sensitive information about which the prosecutor was concerned, and the restrictions it placed on the prosecution of the case, it is troubling that at no time during the course of the Subcommittee's review of the case did Mr. Dion or anyone else from DoJ ever brief Congress about the information until after the prosecuting attorney raised the subject in the context of explaining why he had not sought to abrogate the plea agreement. The Classified Information Procedures Act (CIPA) specifically provides procedures whereby the Government can deal with the risks of exposing such information, even to the extent of permitting the Attorney General to decline prosecution if the risk of exposing classified information is too high. There is no evidence that the Department of Justice formally considered this sensitive information in the CIPA context.

The prosecutor's understanding of his limited authority was caused by a breakdown of communications. As he understood his authority, since Dr. Lee had waived the statute of limitations on the 793 count to accept the plea, breaching the plea would leave the Government with only the 1001 count, which was also in the plea. Therefore, the prosecutor felt he had to stick with the plea agreement because it was that or nothing.[69] Even though the prosecutor knew Dr. Lee was lying and was not cooperating, he felt he could not abrogate the plea agreement because he thought he could not charge Dr. Lee under Section 794 due to constraints imposed by the Internal Security Section at Main Justice.

Mr. Dion conceded at the Subcommittee's 12 April 2000 hearing that he did not recall discussing with the prosecuting attorney that he (Dion) might reconsider a 794 prosecution if the proposed plea agreement fell through:

> Senator SPECTER: You say no final decision had been made . . . as to whether he would be charged with 794?
>
> Mr. DION: That's correct, sir. . . .
>
> Senator SPECTER: . . . Mr. Dion, when you say no decision had been made and I interrupted you at that point as to what would happen if the plea bargain broke down, [the prosecuting attorney] testified very emphatically that he wanted to proceed with 794 but was told that all he could do was do the best he could under the authorized plea bargain, so that is why he proceeded as he did, asking for only a short period of incarceration and not taking action when Dr. Lee lied on his polygraph and did not give further answers. But are you suggesting, if that plea bargain had broken down, that you might have reconsidered and authorized a 794 prosecution?
>
> Mr. DION: We definitely would have reconsidered our course of action, sir.
>
> Senator SPECTER: Well, did you tell [the prosecutor] that?
>
> Mr. DION: I don't recall specifically if we discussed that or not. We did discuss that no final decision had been made on the 794 and that he should proceed with plea negotiations on that basis.[70]

In the face of the prosecuting attorney's testimony that he was authorized only to take the weak plea agreement or nothing, it seems clear that he was correct on what authority was communicated to him.

The prosecuting attorney was not the only one who did not understand the Internal Security Section's position with regard to a charge under Section 794. An FBI e-mail of 25 November 1997, from an attorney in the National Security Law Unit, to an FBI Supervisory Special Agent in the National Security Division, noted in relevant part that "According to [the FBI Supervisory Special Agent], ISS/Dion said that if [Dr. Lee] doesn't accept the plea proffer, then he gets charged with 18 USC 794, the heftier charge."

The Secretary of Defense was told the same thing. On 26 November 1997, Colonel Dan Baur prepared a memorandum for the Secretary of Defense and the Deputy Secretary of Defense, in which he relayed information on the case he had received from the FBI. Colonel Baur's memo stated that DoJ had granted the U.S. Attorney authority to offer to let Lee plead guilty under 18 USC 793 and 18 USC 1001 to avoid being charged under Section 794.[72] Furthermore, the memo noted that "should Lee decline the offer, the U.S. Attorney will seek an indictment against him for violation of Section 794." When read relevant portions of these communications at the Subcommittee's 12 April 2000 hearing, however, Mr. John Dion stated that they were incorrect.[73] Clearly there was a miscommunication on this very important issue, both within the Department of Justice and between DoJ and DoD.

It is surprising and disturbing that a critical piece of information in the case exactly what the Assistant U.S. Attorney was authorized to do and under what terms he was authorized to do it could be subject to such differing interpretations and understandings. In an effort to understand how such a fundamental point could be misunderstood, the Subcommittee traced the information that appeared in Colonel Baur's memo to Secretary Cohen back to its origins. It appears that Mr. Dion spoke to the prosecutor, who then spoke to the Los Angles case Agents. Sometime thereafter, the FBI Supervisory Special Agent in Los Angles was briefed by one of the two case agents, or by both. One of these agents relayed the information to the attorney in National Security Law Unit, who passed it on to the FBIHQ Supervisory Special Agent, for subsequent relay to Colonel Baur. Whatever the actual path of the information—and wherever the mis-communication was introduced—it is clear that the information did not pass, as one might expect, from the Internal Security Section to the Department of Defense. The ISS line attorney handling the case testified that he never spoke to anyone in DoD about the plea discussions. As a consequence of this failure to communicate, the victim agency and officials within the Department of Justice were acting without a clear understanding of the actual decisions that had been made.

It is obvious that the case would have benefitted from more direct supervision by high level Justice Department officials, which would have likely reduced the confusion within the Department of Justice and between DoJ and the Department of Defense. Attorney General Reno was provided with three "Urgent Reports" informing her of "(1) Peter Lee's admission on October 7, 1997, (2) his entry of a guilty plea on December 9, 1997, and (3) the court's imposition of sentence on March 26, 1998."[75] On 31 October 1997, as required by law, she also signed the document authorizing the use of FISA-derived information for law-enforcement purposes. She was not otherwise involved in the case, leaving the matter to subordinates. The Deputy Attorney General, Mr. Holder, was also uninvolved in the case.

Mr. John Dion was the supervisory attorney in the Internal Security Section, but one of his subordinates made the substantive decisions in this case. When questioned about allegations that Dr. Lee's revelations extended beyond what he confessed to, for example, Mr. Dion deferred, saying that one of his subordinate attorneys was "more directly familiar with that information than I am. . . ."[76] More direct supervision by key DoJ personnel may have ensured a better outcome in this important espionage case.

Analysis of the Anti-Submarine Warfare Revelations

It also appears that Dr. Lee should have been prosecuted in relation to the information he revealed in his May 11, 1997 briefing of Chinese scientists. Charges should have been filed under Section 794(a) which applies to "any other major weapons system or major element of defense strategy." The U.S. nuclear submarine fleet, which comprises one leg of the nation's strategic triad, would qualify as a major weapons system. The potential harm from Dr. Lee's 1997 revelations was described by the Cox Committee Report:

> "Lee admitted to the FBI that, in 1997, he passed to PRC weapons scientists classified research into the detection of enemy submarines under water. This research, if successfully completed, could enable the PLA to threaten previously invulnerable U.S. nuclear submarines."[77]

To determine whether or not the information Dr. Lee revealed would qualify for prosecution under section 794, the Government first needed to get an assessment of that information. On 14 October 1997, the Assistant U.S. Attorney handling the case in Los Angeles contacted a representative of the Defense Criminal Investigative Service. He was referred to Dr. Donna Kulla in the Intelligence Systems Support Office where she dealt with the Radar Ocean Imaging (ROI) project on which Peter Lee worked. Dr. Kulla informed the prosecuting attorney that the information that Dr. Lee had revealed was classified CONFIDENTIAL.[78]

In mid-October, the FBI also contacted Dr. Richard Twogood, of Lawrence Livermore National Laboratory (LLNL), and asked for his opinion on the level of classification of Dr. Lee's revelations. Dr. Twogood was the Deputy Associate Director for Electronics Engineering at LLNL, and from 1988 until 1996 had been the Program Leader for the Imaging and Detection Program at LLNL. The Joint U.S./U.K. Radar Ocean Imaging Program, for which Dr. Twogood was the Technical Program Leader from 1990 through 1995, was the single largest component of LLNL's Imaging and Detection Program, and it was the one where Dr. Peter Lee worked and where he would have had access at the DoD SECRET level to the important discoveries and significant advances in the development of methods to detect submarine signatures with remote sensing radars.[79]

Dr. Twogood is an authorized derivative classifier, which means that he can make appropriate judgements about classification based on guidance written by others. Although the Navy had primary jurisdiction over the anti-submarine warfare information that Dr. Lee revealed to the Chinese, Dr. Twogood had personally written some of the classification guidance being used in the Joint U.S./U.K. program, and was therefore familiar with the importance of the information. When he reviewed the videotaped confession on 15 October 1997, Dr. Twogood noted that Dr. Lee himself admitted that he had passed CONFIDENTIAL information. Furthermore, Dr. Twogood informed the FBI that the information was at least CONFIDENTIAL and likely DoD SECRET. More importantly, in Dr. Twogood's view, Dr. Lee's disclosures went right to the heart of the most significant technical achievement of the U.S./U.K. program up until 1995.[80]

The prosecuting attorney was concerned that Dr. Twogood's position could be said to have evolved, from saying it was CONFIDENTIAL when first asked, to the later position that the information was SECRET. The prosecutor was also aware that the defense would be able to find competent scientists who would take a different view about the level of classification due to the similarity of some of the information to what was already in the public domain. These are legitimate concerns, but are not outside the realm of what prosecutors contend with in all espionage cases. They are, by no means, sufficient to justify not going forward with the prosecution.

On 28 October 1997, the ISS attorney handling the case attended a meeting with DoD officials for the purpose of determining whether there was publicly available information that could undermine an espionage prosecution for the 1997 compromise.[81] At the meeting, the DoJ attorney provided DoD officials with the draft Cordova affidavit, and made them aware that the confession had been videotaped, but he did not provide copies of the tapes and no DoD officials asked for them.[82] When asked about why he had not provided copies of the tapes to DoD personnel, the ISS attorney replied:

"Because at that point, at the initial meeting, the purpose was not to get a final classification determination or even a preliminary classification determination on this information. It was only to find out one of two things: what publicly available information might be out there that could potentially compromise a Section 794 prosecution on the 1997 compromise, and what could we say about the program generally, as we have here today, in an open trial setting."[83]

By 3 November 1997, the Department of Defense had compiled an extensive list of publicly available information on the topic of radar ocean imaging and provided it to the Internal Security Section. Among the documents was a printout from a LLNL website titled "Radar Ocean Imaging," and prepared remarks that Dr. Twogood had presented in open session before the House Armed Services Committee in April 1994. Both of these documents contained general information about the use of radars to detect submarines.[84] Based on his assessment of these documents, the ISS attorney concluded that Dr. Lee could not be prosecuted under section 794 for the 1997 compromise. As he put it in his 12 April 2000 appearance before the Subcommittee:

"The Web site and Dr. Twogood's testimony, coupled with the fact that the underlying 1995 document was only classified under a mosaic theory, convinced me that there was no section 794 case on the 1997 compromise. In my opinion, Senators, it was not even a close call."[85]

The ISS line attorney was wrong in concluding that the information was already publicly available.[86] Subsequent analysis showed that Dr. Lee's anti-submarine warfare revelations extended beyond what was in the public domain and therefore remained classified.

On 10 November 1997, in response to a 30 October request from the prosecuting attorney, Lawrence Livermore employee Al Heiman provided an FBI Special Agent with a copy of the Security Plan covering the detection results in the U.K./U.S. Radar Ocean Imaging program. The enclosed memorandum from Dr. Twogood described the classification guidelines established for the program. Paragraph 3 of Appendix A of the classification guideline—indicating that "processing techniques which, when applied to unclassified or classified data, yield a significant enhancement in signature detectability which might apply to the submarine case" should be classified SECRET—was directly applicable to the information that Dr. Lee revealed to the Chinese.[87]

On 14 November 1997, Mr. John G. Schuster, Jr., wrote the following memorandum for Navy Captain Earl Dewispelaere:

"The signal analysis techniques briefed by the subject are UNCLASSIFIED when applied to environmental data and they have been presented and published in several unclassified forums. Any application of the technique to submarine wake signatures, however, would be classified at the SECRET level, as called out in current classification guides.

"The material that was briefed appears to have been extracted from a CONFIDENTIAL document. This classification was applied based on concern that the document, taken as a whole, might suggest a submarine application even though it was not explicitly stated. Given that the CONFIDENTIAL classification cannot be explicitly supported by the classification guides and that material similar to that briefed by the subject has been discussed in unclassified briefings and publications, it is difficult to make a case that significant damage has occurred. Further, bringing attention to our sensitivity concerning this subject in a public forum could cause more damage to national security than the original disclosure.

"Based on the above, it is recommended that the disclosure of this material should not be considered as the sole or primary basis for further legal action."[88]

On 19 November 1997, the Schuster memorandum was sent to Mr. Dion from Navy General Counsel Steven S. Honigman, who stated that he and the Vice Chief of Naval Operations concurred with Mr. Schuster's conclusions. The Schuster memo has been described by various DoJ officials as a "body blow" to the prosecution because of their view that it might be "Brady material" or in some way exculpatory as to Dr. Lee. At minimum, it seriously complicated DoJ's case.

The ambiguous Schuster memorandum was apparently designed to later enable the Navy to take virtually any position: the signal analysis techniques are unclassified; they could be classified SECRET; the material was extracted from a CONFIDENTIAL document; significant damage may not be provable; bringing the issue to a public forum could damage national security; avoid legal action. When Mr. Schuster was questioned by the Subcommittee, he was unable to explain why the memo was written as it was or what it meant. The most charitable view of the Schuster memo is that it was misleading and should never have been written.

The Schuster memo was based on incomplete information since neither Mr. Schuster nor any other Navy or DoD personnel reviewed the video or audio tapes of Dr. Lee's confession. When that confession was reviewed at the Subcommittee's request, Mr. Schuster, along with Dr. Donna Kulla and Wayne Wilson, signed a memorandum dated 9 March 2000 stating that Dr. Lee's disclosures should have been classified CONFIDENTIAL.

Two additional memoranda were made available to the Department of Justice regarding Dr. Lee's 1997 disclosures, but were apparently insufficient to change the view of the ISS line attorney handling the case. A classified 17 November 1997 memorandum, referencing a conversation with Dr. Twogood, stated that, contrary to Mr. Schuster's opinion, what Dr. Lee revealed to the Chinese in 1997 should be considered SECRET. The memo provides substantial technical detail to make the case that Mr. Schuster was incorrect in his analysis. Lawrence Livermore followed up with another classified memorandum on 21 November 1997, citing the opinions of both Dr. Twogood and Mr. Jim Brase, who was also knowledgeable of the Radar Ocean Imaging project. Most importantly, these memoranda explain, in considerable scientific detail, how the information Dr. Lee provided to the Chinese differed in ways that made it classified from what had been on the LLNL Web site, in Dr. Lee's 1995 article, and in Dr. Twogood's April 1994 House Armed Services Committee testimony.

When questioned at a Subcommittee hearing on 29 March 2000, Mr. Schuster conceded that Dr. Twogood was the person to accurately evaluate Dr. Lee's disclosures:

Senator SPECTER: Dr. Twogood testified that [Dr. Lee] gave away the heart, the core . . . of the information. Would you disagree with that?

Mr. SCHUSTER: He was talking about the information in the program. That is not my program and I don't know that I could speak to the heart or core of that program.

Senator SPECTER: So that is beyond the purview of your expertise or knowledge?

Mr. SCHUSTER: Yes, sir, relative to the program.

Senator SPECTER: So based on your knowledge, you wouldn't have a basis for disagreeing with what Dr. Twogood said?

Mr. SCHUSTER: Not in that sense. I couldn't comment.[89]

Mr. Schuster sought to explain his 14 November 1997 memo by saying that it was his intent to give his assessment to Captain Dewispeleare and not to the Department of Justice.[90]

Mr. Schuster testified that he never talked to anyone in the Department of Justice and had never been briefed as to how sensitive Navy and DoD information could be protected by the Classified Information Procedures Act.[91] This is in contrast to the prosecuting attorney, who testified, "We assured the Navy that we could very confidently protect any classified information primarily because it was my analysis that the stuff was less classified, less dangerous."[92]

On 21 May 1999, the Navy again weighed in on the subject, writing to the Cox Committee to assert that "the draft report mischaracterizes the substance and significance of the disclosure made by Lee during his trip to Beijing in 1997."[93] The letter further takes issue with the Cox Committee Report draft for creating the:

"erroneous impression that the technology Lee discussed during his 1997 Beijing trip was highly sensitive and previously unknown, and that his disclosure to the PRC caused grave harm to the national security, imperiling our submarine forces. In the considered judgement of the Navy, fortunately that is not the case."[94]

When questioned about this letter, Mr. Preston had no facts to support his disagreement with the conclusions of the Cox Committee Report. He conceded that none of the individuals who had been involved in responding to the Cox Committee Report had ever had access to the tapes or transcripts of Dr. Lee's confession, had made no effort to obtain them, and therefore did not know the full extent of what he revealed.[95]

FISA Issues

The loss of electronic surveillance on Dr. Lee occurred at a critical juncture that may have seriously hampered the Government's ability to collect important counter-intelligence information. When the Foreign Intelligence Surveillance Act (FISA) court order expired on 3 September 1997, it was not renewed. The FBI stated during testimony on 29 March 2000 that the FISA had not been renewed for several reasons, including concerns within the DoJ's Office of Intelligence Policy and Review (OIPR) that the information on Dr. Lee was "too stale,"[96] but OIPR disagrees with the FBI's characterization of what happened.[97] In view of the disagreement as to what actually happened with the FISA request, it is only possible to conclude that the FBI should have pursued the matter by making a formal written request. The Counterintelligence Reform Act, which became law at the end of the 106th Congress, will prevent future disputes over who is responsible for the loss of FISA coverage by providing a mechanism for the Director of the FBI to raise the matter directly with the Attorney General, who will be required to reply in writing. In this way, senior officials in both the FBI and the Department of Justice can be held accountable for their judgements on important espionage cases.

Additional issues

In addition to the disclosures of classified information for which Dr. Lee was charged, the Government knew that: (1) Dr. Lee asked for and received falsified travel documents from the Chinese, which he presented to the FBI on 3 September 1997,[98] (2) that his travel expenses in China were paid for by the Chinese,[99] (3) that he enlisted the assistance of Chinese officials associated with the CAEP in his attempt to deceive the FBI, and (4) that he confessed on videotape to intentionally passing classified information during his 1997 trip to China."[100] The only charge arising from the events of 1997, however, pertained to Dr. Lee's false statements on his Post-Travel Questionnaire submitted to TRW.[101]

It seems apparent that obtaining false documents from a Chinese official would have warranted a separate count under 18 USC 1001, and would have shown that Dr. Lee's 1997 transgressions extended beyond his lies to his employer. The Government's failure to highlight Dr. Lee's collusion with officials from the Chinese institutes where he visited resulted in an inaccurate portrait of his activities, one that was significantly less sinister than the reality of his conduct. Had this case enjoyed better communication within DoJ and better cooperation from the Navy, and a more aggressive approach by senior DoJ officials, Dr. Lee should have been charged or required to plead to at least four counts: (1) a 794 charge for the 1985 hohlraum revelations, (2) a 794 charge for the 1997 anti-submarine warfare revelations, (3) a false statements charge under 18 USC 1001 for his lies on the TRW Post-Travel questionnaire, and (4) a 1001 charge for submitting false travel documents that he got from the Chinese. Had these charges been filed, there is little doubt that the extent of Dr. Lee's espionage and attempted cover-up would have been made known. As it happened, the full range of Dr. Lee's felonious conduct was never presented to the Court.

It should be noted that Judge Hatter could have requested additional information to gain a better understanding of the case, but he did not. DoE witnesses were present and prepared to testify in camera at the sentencing hearing regarding Dr. Lee's 1985 revelations. Had the Judge heard from these expert witnesses, the harm done by Dr. Lee's significant material assistance to the PRC nuclear weapons program could have been made clear to the Court.

RECOMMENDATIONS

The single greatest problem the Government faced was its failure to come to terms with the significance of the information that Dr. Lee revealed to the PRC, both in 1985 and in 1997. Important were decisions were made without an adequate understanding of exactly what Dr. Lee had revealed and what were the consequences of those revelations. To prevent these problems from happening again, I am introducing legislation that would require victim agencies to produce a written "damage statement" which states the level of classification of the material alleged to have been revealed, and describes in detail the potential harm to national security from such revelations. The prosecution team should consider the "damage statement" before any decision is made as to whether the case should be taken to trial or a plea bargain should be offered.

The Department of Justice and the victim agency may wish to consult informally before the damage assessment is reduced to writing so that the victim agency will not unwittingly and incorrectly create Brady[102] problems and hamper any ultimate prosecution. The risks of creating potential Brady material—as might happen if an initial classification assessment were later reviewed and changed—are obvious, but the risks of proceeding to a plea without a clear written statement, made by competent officials, as to the level of classification of the material in question are even greater.

As noted previously, the Counterintelligence Reform Act, which became law in December 2000, contains a provision requiring that the Justice Department provide briefings to victim agency officials regarding the manner in which the Classified Information Procedures Act enables a prosecution to go forward without revealing additional secrets. Contemporaneous written records, particularly the Schuster memo, make it clear that the Navy was reluctant to proceed with a prosecution due to sensitivity about a public discussion of anti-submarine warfare, but the process established by CIPA could have ensured that no sensitive information was disclosed. In the absence of any risk of disclosing classified information, the Navy's general unwillingness to have anti-submarine warfare discussed in a public proceeding should have had no bearing on the Government's decision to proceed with a prosecution. The briefing process established by the Counterintelligence Reform Act will ensure that any legitimate concerns of the victim agency are addressed, and that the Justice Department will be able to distinguish between real security concerns and a general unwillingness to support a prosecution.

Although I do not intend to introduce legislation requiring it, I believe that key instructions from Main Justice (Internal Security Section, etc.) to the U.S. Attorney's Office with responsibility for prosecuting the case, including charging authority and plea bargain authority, should be in writing. These written instructions should be shared with the FBI and the victim agency so they have an opportunity for input before any final decisions are made. There can be no doubt that key officials in this case were operating under severe misunderstandings. The prosecuting attorney thought his instructions were that he had to accept a plea under Sections 793 and 1001 or nothing, while the Internal Security Section claimed that it was still open to a possible 794 prosecution. Key officials within the Department of Defense, up to and including the Secretary, were informed that if Dr. Lee refused the plea agreement, he would be prosecuted under Section 794. With so much misunderstanding, it is surprising that the prosecution did not suffer even more.

CONCLUSION

This was an important espionage case, yet remarkably little was documented during the key weeks leading up to the plea agreement in late 1997. Decision-makers within the Department of Justice and the Department of Defense clearly have discretion in executing their responsibilities, and should not be second-guessed at every turn. However, the need to strike a balance between protecting the national security—which can conceivably be achieved by not prosecuting in certain circumstances—and the equal application of the laws to ensure justice is done, requires that when judgements are made for which the reasons are not immediately apparent, the decision-makers must offer some explanation for their actions. In the absence of such a documented rationale for what may be necessary exceptions, the result is what appears to be arbitrary application of the laws, an outcome which protects neither the national security nor the law. The Government's handling of the Dr. Peter Lee case demonstrates clearly that ongoing, thorough congressional oversight is essential.

ENDNOTES

1. Gilbert Cordova, "Affidavit in Support of Complaint, Arrest Warrant and Search Warrants: United States v. Peter Hoong-Yee Lee," undated: 16.

2. Robin Staffin, Deputy Assistant Secretary for Research and Development, Office of Defense Programs, Department of Energy, Notra Trulock III, Senior Intelligence Officer, Office of Energy Intelligence; and Joseph S. Mahaley, Director, Office of Security Affairs, "Impact Statement", 17 February 1998: 2. [DoJ Bates number 00116]

3. Robin Staffin, Deputy Assistant Secretary for Research and Development, Office of Defense Programs, Department of Energy; Notra Trulock III, Senior Intelligence Officer, Office of Energy Intelligence; and Joseph S. Mahaley, Director, Office of Security Affairs, "Impact Statement", 17 February 1998: 2. [DoJ Bates number 00116]

4. Transcript of Proceedings (first draft), hearing before the Senate Judiciary Subcommittee on Administrative Oversight and the Courts regarding the Dr. Peter Lee Case, 29 March 2000: 52–53.

5. Wayne Wilson, John G. Schuster, and Donna Kulla, "MEMORANDUM FOR THE GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE," 9 March 2000: 1.

6. According to Section 1.3 of Executive Order 12958 (April 17, 1995, which superseded Executive Order 12356 of April 6, 1982), information is to be classified as "CONFIDENTIAL" if "the unauthorized disclosure of which reasonable could be expected to cause damage to the national security. . . ."

7. Cox Committee Report, Vol. 1, 88.

8. John C. Keeney, Principal Deputy Assistant Attorney General, Criminal Division, Department of Justice, prepared statement submitted to the Senate Judiciary Subcommittee on Administrative Oversight and the Courts Concerning the Peter Lee Espionage Case," 12 April 2000: 6.

9. See Transcript of Proceedings (first draft), Hearing before the Senate Judiciary Subcommittee on Administrative Oversight and the Courts regarding the Dr. Peter Lee Case, 12 April 2000: 14, 38–39 and 87–89.

10. Prosecuting Attorney, Transcript of Interview with Senator Arlen Specter in Los Angeles, CA, 15 February 2000: 73–74.

11. Donna Kulla, interviewed by Charlie Battaglia in Washington, DC on January 2000.

12. Bruce Lake, e-mail to Dobie McArthur of January 28, 2000. Lists the following as dates of Peter Lee was employed by TRW: Original hire date: 06/18/73 to 10/08/76 Rehire date: 04/29/91 to 12/08/97 Retired eff.: 12/30/97. See also House of Representatives, Report of the United States House of Representatives Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China, May 25, 1999, Vol. 1, 87–88. [Hereinafter, Cox Committee Report]

13. Gilbert Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 13. [DoJ Bates number 000085]

14. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 13–14 [DoJ Bates number 000085–000086]

15. Reporter's Transcript of Proceedings, United States of America, vs. Peter Lee, 26 March 1998: 20. [DoJ Bates number 000023]

16. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 13–14. [DoJ Bates number 000085–000086]

17. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 2. [DoJ Bates number 000074]

18. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 16. [DoJ Bates number 000088]

19. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 14. [DoJ Bates number 000086]

20. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 14–15. [DoJ Bates number 000086–000087]

21. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 7. [DoJ Bates number 000079]

22. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 7. [DoJ Bates number 000079]

23. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 16–17. [DoJ Bates number 000088–000089]

24. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 1. [DoJ Bates number 000089]

25. See Transcript of Proceedings (first draft), Hearing before the Senate Judiciary Subcommittee on Administrative Oversight and the Courts regarding the Dr. Peter Lee Case, 29 March 2000: 39.

26. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 10. [DoJ Bates number 000082]

27. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 10–11. [DoJ Bates number 000082–000083]

28. Cordova, Declaration in the Manner of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 11–12 [DoJ Bates number 000083–000084]

29. Cordova, Declaration in the Manner of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 11–12 [DoJ Bates number 000083–000084]

30. Cordova, Declaration in the Manner of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 12. [DoJ Bates number 000084]

31. Cordova, Declaration in the Manner of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 13. [DoJ Bates number 000085] See also Government's Response to Defendant's Position with respect to Sentencing Factors; Declarations of [Prosecuting Attorney], 23 March 1998: 5. [DoJ Bates number 000069]

32. INFORMATION, [18 USC 793 (d): Attempt to Communicate National Defense Information to A Person Not Entitled To Receive It; 18 USC 1001: False Statement to Government Agency], undated, 1–3 [DoJ Bates number 000001–000003]

33. Nora M. Manella, Physicist Pleads Guilty to Transmitting Classified Defense Information to Representatives of the People's Republic of China, News Release, 8 December 1997; 1. [DoJ Bates number 000096]

34. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 90.

35. Nora M. Manella, Nuclear Physicist Sentenced to One Year in Custody for Passing Classified Defense Information to Scientists of the People's Republic of China, News Release, 26 March 1998: 1. [DoJ Bates number 000098]

36. See, for example, GOVERNMENT'S EX PARTE APPLICATION FOR ORDER UNSEALING PLEA AGREEMENT, 22 October 1999 [DoJ Bates number 00235–00240], and GOVERNMENT'S EX PARTE APPLICATION FOR ORDERING UNSEALING GOVERNMENT'S SENTENCING POSITION AND GOVERNMENT'S FILING OF DEPARTMENT OF ENERGY "Impact Statement", 25 October 1999 [DoJ Bates numbers 00252–00260]

37. Robin Staffin, Deputy Assistant Secretary for Research and Development, Office of Defense Programs, Department of Energy; Notra Trulock III, Senior Intelligence Officer, Office of Energy Intelligence; and Joseph S. Mahaley, Director, Office of Security Affairs, "Impact Statement", 17 February 1998: 2. [DoJ Bates number 00116]

38. Robin Staffin, Deputy Assistant Secretary for Research and Development, Office of Defense Programs, Department of Energy; Notra Trulock III, Senior Intelligence Officer, Office of Energy Intelligence; and Joseph S. Mahaley, Director, Office of Security Affairs, "Impact Statement", 17 February 1998: 2. [DoJ Bates number 00116]

39. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Court Hearing regarding the Dr. Peter Lee Case, 5 April 2000: 53.

40. ISS Line Attorney, Prepared Statement submitted to the Senate Judiciary Subcommittee on Administrative Oversight and the Courts Concerning the Peter Lee Espionage Case, 12 April 2000: 7.

41. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearings regarding the Dr. Peter Lee Case, 29 March 2000: 37.

42. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 29 March 2000: 38.

43. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 29 March 2000: 39.

44. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 5 April 2000: 66.

45. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 67.

46. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 67–68.

47. See the opinion of Mr. Justice Reed, in Gorin v. United States, 312 U.S. 19; 61 S. Ct. 429, 1941 U.S. Lexis 1033; 85 L. Ed 488: at 14–15.

48. See the opinion of Mr. Justice Reed, in Gorin v. United States, 312 U.S. 19; 61 S. Ct. 429; 1941 U.S. Lexis 1033; 85 Ed. 488; at 5.

49. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 68.

50. See the opinion of Circuit Judge L. Hand, in United States v. Heine, 151 F.2nd 813; 1945 U.S. App. Lexis 3049: at 8.

51. Reporter's Transcript or Proceedings, United States of America, vs. Peter Lee, 26 March 1998: 14. [DOJ Bates number 000017]

52. Reporter's Transcript of Proceedings, United States of America, vs. Peter Lee, 26 March 1998: 25. [DOJ Bates number 000028]. See also Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97–1181–TJH, 27 February 1998: 18. [DOJ Bates number 000090]

53. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 29.

54. Reporters Transcript of Proceedings, United States of America, vs. Peter Lee, 26 March 1998: 21–22. [DOJ Bates number 000024–000025]

55. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 5 April 2000: 15. See also Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 73.

56. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 34–35.

57. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 36.

58. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 86.

59. Prosecuting Attorney Transcript of Interview with Senator Arlen Specter in Los Angeles, CA, 15 February 2000: 70–71. See also, Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 5 April 2000: 41,48.

60. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 90.

61. John C. Keeney, Principal Deputy Assistant Attorney General, Criminal Division, Department of Justice, prepared statement

submitted to the Senate Judiciary Subcommittee on Administrative Oversight and the Courts Concerning the Peter Lee Espionage Case," 12 April 2000: 6.

62. John C. Keeney, Principal Deputy Assistant Attorney General, Criminal Division, Department of Justice, prepared statement submitted to the Senate Judiciary Subcommittee on Administrative Oversight and the Courts Concerning the Peter Lee Espionage Case," 12 April 2000: 6.

63. Prosecuting Attorney, "Government's Position With Respect to Sentencing Factors: Declarations of [Prosecuting Attorney]," 27 February 1998: 7.

64. Department of Energy, "Impact Statement," 17 February 1998: 3: [DoJ Bates number 00117]

65. Gilbert Cordova, "Declaration of Gilbert R. Cordova," 23 March 1998; 2.

66. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 61.

67. Prosecuting Attorney, Transcript of Interview with Senator Arlen Specter in Los Angeles, CA, 15 February 2000: 72.

68. Prosecuting Attorney, Transcript of Interview with Senator Arlen Specter in Los Angeles, CA, 15 February 2000: 76.

69. Prosecuting Attorney, Transcript of Interview with Senator Arlen Specter in Los Angeles, CA, 15 February 2000: 72.

70. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 29 March 2000: 87–88.

71. SSA, National Security Law Unit, "Royal Tourist," e-mail to FBIHQ Supervisory Special Agent, 25 November 1997: 1.

72. Dan Bauer, Colonel, US Army, "Possible Espionage Arrest Update (U)—INFORMATION MEMORANDUM," MEMORANDUM FOR THE SECRETARY OF DEFENSE, DEPUTY SECRETARY OF DEFENSE, 26 November 1997: 1.

73. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 92–93.

74. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 40.

75. Jon P. Jennings, letter to Senator Orrin G. Hatch, 18 April 2000: 2.

76. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 93–94.

77. Cox Committee Report, Vol. 1, 88.

78. Defense Criminal Investigative Service, "Report of Investigation," 11 September 1998: 2. [DoD Bates number D001003]

79. Transcript of Proceedings (first draft), Hearing before the Senate Judiciary Subcommittee on Administrative Oversight and the Courts regarding the Dr. Peter Lee Case, 29 March 2000: 51.

80. Transcript of Proceedings (first draft), Hearing before the Senate Judiciary Subcommittee on Administrative Oversight and the Courts regarding the Dr. Peter Lee Case, 29 March 2000: 52–53.

81. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 31.

82. Transcript of Proceedings (first draft), Hearing before the Senate Judiciary Subcommittee on Administrative Oversight and the Courts regarding the Dr. Peter Lee Case, 12 April 2000: 58.

83. Transcript of Proceedings (first draft), Hearing before the Senate Judiciary Subcommittee on Administrative Oversight and the Courts regarding the Dr. Peter Lee Case, 12 April 2000: 58–59.

84. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 32–33.

85. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 34.

86. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 12 April 2000: 34.

87. See Al Heiman, fax cover sheet of November 10, 1997 to FBI Special Agent Dave LeSueur, and Dr. Richard Twogood, memorandum to Bill Cleveland and Al Heiman, "Classification Guidelines", November 10, 1997.

88. J.G. Schuster, Jr., "REQUEST FOR CLASSIFICATION GUIDANCE," 14 November 1997.

89. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 29 March 2000: 100.

90. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 29 March 2000: 105–107.

91. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 29 March 2000: 106–107.

92. Prosecuting Attorney, Transcript of Interview with Senator Arlen Specter in Los Angeles, CA, 15 February 2000: 63.

93 Stephen Preston, General Counsel of the Navy, letter to the Cox Committee, 21 May 1999: 1.

94 Stephen Preston, General Counsel of the Navy, letter to the Cox Committee, 21 May 1999: 2.

95. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 29 March 2000: 79.

96. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 29 March 2000: 24–25.

97. Transcript of Proceedings (first draft), "Senate Judiciary Subcommittee on Administrative Oversight and the Courts Hearing regarding the Dr. Peter Lee Case, 5 April 2000: 11.

98. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee CR No. 97 1181–TJH, 27 February 1998: 12. [DoJ Bates number 000084]

99. Cordova, Declaration in the Matter of United States vs. Peter Hoong-Yee Lee CR No. 97 1181–TJH, 27 February 1998: 7. [DoJ Bates number 000079]

101. INFORMATION, United States of America v. Peter Lee, filed 5 December 1997:3. [DoJ Bates number 000003]

102. See Brady v. Maryland 373 U.S. 83 (1963), in which the Supreme Court declared that, regardless of the good faith or bad faith of the prosecution, the suppression of evidence favorable to the accused violated due process where the evidence is material to either guilt or punishment. This court ruling imposes an obligation on the Government to provide to the defense any evidence or information in its possession which could be favorable to the accused.

Mr. SPECTER. Mr. President, I ask unanimous consent that two letters from the Justice Department be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, December 19, 2001.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: We have no objection on national security grounds to publication of your final report on the Wen Ho Lee investigation. We have not reviewed the report for the accuracy of the facts or conclusions reflected therein.

Sincerely,

JOHN E. COLLINGWOOD,
Assistant Director, Officer of Public and Congressional Affairs.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, December 20, 2001.

Hon ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: We have no objection on national security grounds to publication of your final report on the Peter lee investigation. We have not reviewed the report for the accuracy of the facts or conclusions reflected therein.

Sincerely,

JOHN E. COLLINGWOOD,
Assistant Director, Office of Public and Congressional Affairs.

Mr. SPECTER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute.

Mr. SPECTER. As promised, I yield back the remainder of my time.

VOTE ON CONFERENCE REPORT ACCOMPANYING H.R. 3061

The PRESIDING OFFICER. All time having expired, the question occurs on agreeing to the conference report to accompany H.R. 3061.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Nevada (Mr. ENSIGN) are necessarily absent.

The PRESIDING OFFICER (Mrs. CLINTON). Are there any other Sentors in the Chamber desiring to vote?

The result was announced—yeas 90, nays 7, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—90

Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feinstein
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—7

Allard
Feingold
Fitzgerald
McCain
Nickles
Smith (NH)
Voinovich

NOT VOTING—3

Akaka
Ensign
Helms

The conference report was agreed to.

Mr. DURBIN. Madam President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Madam President, I yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I congratulate all those who worked on this bill.

I have already extended my congratulations to my distinguished colleague, Senator HARKIN. I also thank Senator BYRD and Senator STEVENS. We have a very devoted staff. I would like to thank them. For the majority: Ellen Murray who is the majority clerk and an extraordinary worker; Jim Sourwine, Mark Laisch, Erik Fatemi, Lisa Bernhardt, Adrienne Hallett, Adam Gluck, and Carole Geagley. I did not know the majority had so many more than we do. On the minority staff, Bettilou Taylor—Senator Taylor—Mary Dietrich, Sudip Parikh, and Emma Ashburn.

This was an extraordinary bill, very complicated, $123 billion, lots of requests, lots of pages, lots of proofreading, and we are glad it is finished.

I yield the floor.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar Nos. 616 and 617; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I ask the leader, what nominees?

Mr. DASCHLE. I advise the Senator from Iowa that these nominees are for the First Vice President of the Export-Import Bank and for a member of the Board of Directors of the Export-Import Bank.

Mr. HARKIN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES

Eduardo Aguirre, Jr., of Texas, to be First Vice President of the Export-Import Bank of the United States for a term expiring January 20, 2005.

J. Joseph Grandmaison, of New Hampshire, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2005.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

Mr. DASCHLE. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 74, H.R. 1088.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1088) to amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DASCHLE. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1088) was read the third time and passed.

PROVIDING FOR SINE DIE ADJOURNMENT OF THE SENATE AND HOUSE OF REPRESENTATIVES

Mr. DASCHLE. Madam President, I now call up H. Con. Res. 295, the adjournment resolution. I ask that the Senate vote on adoption of the concurrent resolution, with no intervention action or debate.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 295) providing for the sine die adjournment of the first session of the One Hundred Seventh Congress.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DASCHLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the concurrent resolution.

The clerk will call the roll.

Mr. REID, I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

Mr. NICKLES, I announce that the Senator from North Carolina (Mr. HELMS), and the Senator from Nevada (Mr. ENSIGN), and the Senator from Kansas (Mr. ROBERTS) are necessarily absent.

The PRESIDING OFFICER (Mr. MILLER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 40, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS — 56

Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bunning
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Cochran
Corzine
Daschle
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Gramm
Hagel
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Shelby
Stabenow
Stevens
Torricelli
Wellstone
Wyden

NAYS — 40

Allard
Allen
Bayh
Bond
Brownback
Burns
Campbell
Clinton
Collins
Conrad
Craig
Crapo
Dayton
DeWine
Domenici
Enzi
Frist
Grassley
Gregg
Hatch
Hutchinson

Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Nickles
Santorum
Schumer
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—4

Akaka
Ensign
Helms
Roberts

The concurrent resolution (H. Con. Res. 295) was agreed to, as follows:

H. CON. RES. 295

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, December 20, 2001, or Friday, December 21, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns at the close of business on Thursday, December 20, 2001, or Friday, December 21, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, it was my hope that we could go immediately to the final vote on the conference report on the Defense appropriations bill. I make that recommendation. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ECONOMIC STIMULUS PACKAGE

Mr. BREAUX. Mr. President and colleagues, while we are waiting some other colleagues to return to this Chamber to negotiate, I would like to make just a short comment on the economic stimulus package.

I would imagine that right now the political pundits of Washington, and really the political pundits all around the country, are already sharpening their pencils, and the editorial writers are already banging away on their typewriters, as well as the political consultants and all the special-interest groups are preparing, already, their attack ads to blame someone for the failure of this Congress to complete and pass an economic stimulus package.

Over the next several days, and possibly even over the next several weeks, we are going to hear some say: Well, it is TOM DASCHLE'S fault that we do not have an economic stimulus package because he did not bring the package to the Senate floor. We will also hear that, no, it is the Republican leader's fault because they only supported a package that helped the rich special interests. Or perhaps we will hear that, no, it is the fault of the President of the United States for not providing the leadership to bring both sides together.

The blame game has now begun. I have noticed the papers already this morning.

The Wall Street Journal said: The White House and congressional leaders fail to reach a compromise and now turn their efforts instead to casting blame for its failure.

The front page of the Washington Post this morning said: Yesterday, as both sides began engaging in a furious legislative end game designed to assign blame to the other party for failure . . .

The front page of the New York Times said the same thing, in essence. They said: The Bush administration, along with others, turned instead to partisan finger pointing over who was to blame for the impasse.

So, my colleagues and folks around the country, the blame game has already begun.

But one thing is very certain, and that is Americans cannot go to the grocery store and buy bread and buy milk with blame. It does not work.

When Congress fails to act, it is not our political parties that are hurt but the people we represent are truly the ones who are hurt.

Unfortunately, our political parties sometimes believe that they are actually helped when nothing is done so that they can blame the other side for failure and perhaps pick up a few congressional seats or perhaps even take over the White House.

Perhaps we, as members of the centrist coalition, should have gotten involved sooner. Maybe we should have offered our congressional proposal, blending the best ideas from both sides, earlier than we did. It might have helped.

Perhaps the White House should have become engaged earlier than they did. Maybe they should have been stronger in telling both sides to work together for an agreement.

Perhaps, perhaps, maybe, maybe, might have, might have, but in the end our biggest enemy was time. There simply was not sufficient time remaining to take up an extremely complicated package, only passed late last night by the House of Representatives, and to try to explain it sufficiently to colleagues in the Senate in order for people to take a rational vote on that legislation.

To those who try to blame Leader TOM DASCHLE, I say, baloney. I was there. I worked hard for an agreement. But we did not in the end—and we do not now—have the votes to pass such a package in the Senate. I know that. We all know that. And it serves no one to bring up, in the last few hours, a very complicated package only for political purposes when we know the votes are not there.

The good news is that we came very close and can use the progress that we made in these negotiations to pass a package when we return in January. Both sides moved. We moved on taxes. We moved on health coverage. But only if we allow the outside forces to poison the wells so badly that we cannot negotiate will we not be able to reach an agreement.

Both sides must realize in a divided government we must compromise or nothing will get done. Businesses will get no relief or incentives to grow. Individuals will get no stimulus checks.

Unless we come together and reach an agreement, businesses will get no relief. They will get no incentives to grow. Individuals, on the other hand, will get no stimulus checks. They will get no extended unemployment compensation. They will get no Federal assistance to buy their health insurance.

For the first time in this country's history, we had the Federal Government paying for over one-half of an unemployed worker's health insurance. Now they must pay 100 percent. We came close.

The special interests in both our Democratic Party and our Republican Party must realize that in representing their constituents, they need to be flexible. They cannot insist that those of us who care about them be forced into a "we want it all or nothing" situation. In that case, the "all or nothing" situation produces nothing.

Is "nothing" what they want for the people they represent? Can they tell the workers, over the holidays, that not getting $14 billion in stimulus checks and not getting $18 billion in unemployment money and not getting $21 billion more in health assistance was the right thing for them because there were other provisions that would not directly help them that was also part of the package?

Can business lobbyists say they are better off with no accelerated depreciation because they wanted it for 3 years? Or are they really better off with no AMT relief because they wanted a permanent repeal instead of only a partial repeal?

Is it not better to reach an agreement that you can get 70 percent of what you want and then fight for the remainder in the future?

Neither Medicare nor Social Security started out providing everything they provide today. Government is a gradual thing, and that is not bad. It is what American Government does best. We evolve. We cannot be stagnant.

More and more Americans look at Washington and wonder why it does not work as it should. Why do grown men and women fight and argue when solutions need to be reached? Especially is this true as a feeling among younger voters.

Let me conclude by pointing out that in the height of the Presidential election squabble in Florida, the Gallup organization asked Americans at that time, in a national poll, about their political affiliation. Shockingly, for some Americans, the poll came back and said that 42 percent of Americans identified themselves as Independents. That was more than who identified themselves as either Democrats or Republicans.

There is a message there: Americans do not want blame as a theme song for their Government. They want results. They want results that help them, and they do not particularly care who produces it.

I hope we can all learn from this experience. The greater challenges ahead can be solved only by working for the greater good. We can only do that by working together in order to achieve it.

I yield the floor.

Mr. MILLER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. DASCHLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. DASCHLE. Mr. President, I appreciate very much the Senator from Georgia allowing me to make a unanimous consent request.

UNANIMOUS CONSENT AGREEMENT—H.R. 3338 CONFERENCE REPORT

Mr. DASCHLE. Mr. President, we have been negotiating with a number of our colleagues regarding the Defense appropriations conference report. I would like to propound a unanimous consent request, with an expectation that it may need further clarification.

I ask unanimous consent that the Senator from Arizona, Mr. McCAIN, be recognized; that the Senator from West Virginia, the chairman of the Appropriations Committee, be recognized; that the two subcommittee chairs, the Senator from Alaska and the Senator from Hawaii, also be recognized; and that the Senator from Michigan be recognized; that upon the recognition of those Senators and their remarks in regard to the Defense appropriations conference report, the Senate vote immediately on its final passage.

The ACTING PRESIDENT pro tempore. Is there objection?

Mrs. HUTCHISON. Reserving the right to object, I just ask the question, Will the subcommittee chairs be designating time from their time?

Mr. DASCHLE. The answer is yes. It is not necessarily in that order, I would clarify, Mr. President.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. I thank all of my colleagues.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. DODD). The clerk will report the conference report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, agree to the same with an amendment, and the Senate agree to the same, signed by all conferees on the part of the two Houses.

(The conference report is printed in the House proceedings of the RECORD of December 19, 2001.)

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to rise today to offer my unqualified support for the conference agreement that was just reported. I am pleased to present the recommendations to the Senate today as division A of this measure. The recommendations contain the result of lengthy negotiations between the House and Senate managers and countless hours of work by our staffs acting on behalf of all Members.

The agreement provides $317.2 billion, the same as the House and Senate levels, consistent with our 302(b) allocations.

In order to accommodate Members of the Senate, may I request that I be given the opportunity to now set aside my statement and yield to the Senator from Arizona for his statement. Upon his conclusion, I will resume my statement.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Chair recognizes the Senator from Arizona.

Mr. McCAIN. Mr. President, I am not ready to give my statement yet. I am still having my people come over with information. As a matter of fact, we haven't even gotten through the entire bill yet. I will be ready shortly.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, I join the distinguished chairman of the defense subcommittee, Senator INOUYE, in presenting the fiscal year 2002 Department of Defense conference report to the Senate.

This bill enjoys my total support, and I urge all my colleagues to support this conference report, and the funds provided herein that are vital to our national security.

In addition to the base funding for the current fiscal year, this bill also includes the allocation of $20 billion in emergency supplemental funding provided by Congress immediately after the September 11 attack.

These funds fulfill the commitment made by Congress to respond to the needs of the victims of the September 11 attack. I commend the Governor of New York, the Mayor of New York City, and the two Senators from New York, for their stalwart work to ensure these funds meet the needs of their constituents.

The enhanced funding provided in Division B of this bill for homeland defense will also have a significant effect on the security of this nation.

It is appropriate that the homeland defense funding be included in this bill—in the war against terrorism, there are no boundaries.

The money in this bill to secure our borders, our airports, our ports, to protect against bioterrorism and to assist first responders will send a strong signal to our citizens, and our potential adversaries, of our determination to win this war on terrorism on every front.

Turning more specifically to the underlying defense bill in Division A, there are two matters in particular I wish to address today: missile defense and the tanker leasing initiative.

The Senate version of the bill provided the full $8.3 billion requested by Secretary Rumsfeld for missile defense programs. The House bill provided approximately $7.8 billion.

During our conference, we were informed of two major program changes in missile defense.

The Undersecretary of Defense for acquisition, on behalf of Secretary Rumsfeld, reported that the department would terminate the Navy area defense system, and the SBIRS-low satellite program.

Funding for these two programs, totaling more than $700 million, was realigned to other defense priorities within and outside missile defense.

For example, of the Navy area program funds, $100 million was reserved for termination liabilities for the program and $75 million was transferred to the airborne laser program.

From the SBIRS-low termination, $250 million is reserved for satellite sensor technology development—which could all be used for further work under the existing SBIRS-low contracts, if the department so chooses.

Addressing the significance of protecting our deployed forces, the conference agreement provides an additional $60 million over the budget request to accelerate production of the Patriot PAC–3 missile.

In his statement, the chairman of the subcommittee articulated his support for the air refueling tanker initiative, and I appreciate his kind words on my role in that effort.

Contrary to some reports, this provision was not a last minute industry bailout, hidden from public view. In fact, this responds to military need, and unforeseen economic circumstances—and opportunities.

The effort to lease these aircraft reflects an extensive review of the Air Force's needs, and the crisis it faces in the air refueling fleet.

This lease provision, provides permissive authority for the Secretary of the Air Force to replace the 134 oldest KC–135E aircraft with new tankers.

These aircraft average 42 years of age, and have not received the comprehensive "R" model refurbishment.

All of these aircraft are operated by the Air National Guard, at bases throughout the Nation. The lease will provide the new tankers to the Air Force, and permit recently refurbished "R" models to cascade to the Guard.

This permits the National Guard to have a common fleet of aircraft, providing significant training and maintenance cost savings. They daily do the refueling operations for our Air Force planes nationally and throughout the world.

The KC–135E aircraft require extensive depot maintenance. Once every 5 years, we lose that aircraft for an average of 428 days, and many more than 600 days.

That means a squadron loses that aircraft for at least 15 months, up to 2 years.

At any one time, one third of the fleet is unavailable for service—redlined—putting that much more pressure on the rest of the force.

During peacetime, one might argue we can survive with an inadequate air refueling fleet. Now, in wartime, the price for that failure becomes clear.

Every sortie flown into Afghanistan requires at least two, and sometimes as many as four, aerial refuelings. This is the highest rate of sustained operations we have maintained since the gulf war.

In the 10 years since that conflict, we have not purchased one new tanker—we've watched the fleet age and deteriorate. I know the feeling of watching a fuel gauge determine the fate of an aircraft and crew. It is not a comfortable or pleasant one. I remember one time I ran out of fuel on landing and had to have the aircraft towed off the field.

This may sound like an arcane discussion, compared to the allure of new F–22's, or B–2 bombers, but let me give you an old transport pilot's perspective.

Our forces today have virtually no margin for error—an F–15 doesn't glide very long, and an F–18 that cannot make the carrier deck has little hope for survival.

We can buy the exciting, and needed, new weapons platforms but without the gas they'll never get home after the fight.

Some have suggested the leasing approach is not a good deal for the Government. That is simply wrong. This provision includes the most stringent requirements ever set for an aircraft leasing program.

The law states that the cost to the Air Force for the lease cannot exceed 90 percent of the fair market value of the aircraft. That means the Secretary cannot sign a contract if the lease cost would exceed that threshold.

The Secretary must report to the Congress all the details of any proposed contract in advance of signing any agreement. We will get to look at this contract before the deal is set.

Mr. President, nothing in the leasing authority provided in this bill is directive—the discretion rests solely with the Secretary of the Air Force.

I have had extensive discussions about this initiative with the Secretary, with the former Commander of the Transportation Command, Gen. Robertson, and other DOD officials.

All have endorsed this approach.

The language in this bill is the product of extensive discussions with CBO and OMB. No objection has been raised.

Secretary Rumsfeld's letter on the bill did not object to this initiative, nor did the Department's detailed appeals to the Appropriations Conference.

Since taking office, Secretary Rumsfeld has sought to chart a course to manage the Pentagon consistent with the best practices in the private sector.

This initiative seeks to do just that—give the Secretary all the tools we can to meet the Department's modernization needs, within the tight budget constraints he will face.

The airlines lease aircraft, private businesses lease aircraft, our ally Great Britain currently leases U.S. built C–17 aircraft.

In addition, Great Britain has issued a solicitation to lease air refueling tankers, and the Boeing 767 is the lead candidate.

We did not decide to choose the 767. The Air Force told us this is the right aircraft for the mission.

Gen. Jumper, the Air Force Chief, envisions moving the Air Force to a common wide body platform for a range of missions—he determined the 767 is the best platform.

Interestingly, two of our closest allies—Italy and Japan—have already signed contracts to purchase 767 tankers on a commercial basis.

Some have suggested that this provision should have opened the door to competition with Airbus.

The problem is that Airbus does not have a tanker on the world market. More telling, two of the Airbus founding partners—Britain and Italy—have both opted for the American-built tanker for their military.

Personally, I have complete confidence we can extend this authority to the Secretary of the Air Force, and he will only use it if he believes it is absolutely in the best interest of the Air Force.

I want to close by thanking again our Chairman, Senator INOUYE, for his leadership in moving this bill through committee, the floor and conference in only 15 days—an incredible achievement.

Also, our partners in the House, Chairman LEWIS and Mr. MURTHA, and the full committee chairman, Congressman BILL YOUNG and ranking member, DAVE OBEY, deserve tremendous credit for managing their bill in the House, and working out this package in conference.

Mr. President, I yield to the Senator from Texas, Mrs. HUTCHISON.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I thank Senator STEVENS and Senator INOUYE for the hard work they did on this bill. Since this bill was left to be the last appropriations bill passed this year, it had many difficulties. During this time, our Armed Forces were prosecuting a war on last year's budget. That is very serious and it is unacceptable. We must pass this bill today. It is a good bill.

Our armed services need the extra help that is in this bill. It provides $26 billion more in spending for the Department of Defense than was appropriated last year. That gives us the added equipment we need to be in Afghanistan and throughout the world, as we are today. It also reduces the military/civilian paygap by funding a pay raise of 5 percent across the board and up to 10 percent for targeted ranks with low-retention rates.

Thank goodness we are trying to address people who are leaving the armed services because we just can't compete with the private sector. Also, I want to mention the TRICARE For Life; $3.9 billion in this bill implements TRICARE For Life. This is something I worked on for a long time to make sure that those who have served in our military, who have done what we asked them to do for our country, will never be left without full medical care. That is something they deserve, it is something we promised, and it is a promise we must keep.

I am very pleased that, finally, Desert Storm veterans are getting the notice they deserve for the symptoms that one in seven of them have shown after returning to our country after serving in Desert Storm. One in seven of the people who served in the Desert Storm operation came back with symptoms and different stages of debilitation that they did not have when they went to serve our country.

But for years, the Department of Defense and the Department of Veterans Affairs have denied there was any kind of causal connection between these symptoms and their service. It just wasn't plausible.

I happened to learn about some research that was being done at the University of Texas, Southwestern Medical School, that did find a causal connection in a very small unit; it was the first research that really showed the causal connection between actual brain damage and service in the gulf war.

This last week, I am proud to say, the Secretary of Veterans Affairs, Secretary Principi, released a study indicating that gulf war vets are twice as likely to get ALS; that is, Lou Gehrig's disease. To his credit, Secretary Principi immediately widened the gulf war presumption to cover victims of Lou Gehrig's disease. I have also extended for 5 years—and the President has signed the bill—the presumption that the people with these symptoms would still be able to get the benefits to which they are entitled, even though it hasn't been settled exactly what Desert Storm disease is.

So the bill before us today does have $5 million to continue the research that shows that causal connection. That will not only help keep our promise to the people who served in Desert Storm, but it will also help us understand those whom we are sending today into places where there could be chemical warfare and what we might do to give them the best protection against that chemical warfare. It will also help us to inoculate and treat those who might be affected by chemical warfare in the future. This is something I worked on in the bill, and I appreciate so much Senator INOUYE and Senator STEVENS supporting this particular cause because I think these veterans have been ignored for too long. It is time we treated them the way they deserve to be treated, and that is to give them the medical care and the research to find the cause of the debilitating disease that we see in so many of the people.

Finally, I am very pleased that the bill provides for missile defense. Clearly, we now have a cause to go forward on missile defense. I have always thought it was better to err on the side of doing more for defense, even if we weren't sure what the threats were. Now we know there are people throughout the world who will attack Americans just because we are Americans. So we must defend against that. That is what the missile defense system will prepare our country to do.

This bill provides for that. I close by saying there may be small things in this bill that people don't like. I am sure there are some things in this bill that some people would not support. But the big things are done right. It would be inexcusable for us not to fully fund the war, while we have troops on the ground fighting for the very freedom that we have in this country and that we enjoy in this country.

As we are leaving Congress to go home for the holidays with our families, we must show our appreciation to those who are in the caves in Afghanistan, in Uzbekistan and Pakistan, and who are on missions in Saudi Arabia and Kuwait, who are ready to go at the call of our country, if need be. We want to remember them. I think the most important way we can say thank you to those people is to fully fund their training, their equipment, and the support they deserve as they are going forward in the name of freedom and representing our country in the best possible way.

I thank Senator INOUYE for being the great leader that he is and Senator STEVENS for working in a bipartisan way to assure our troops that we appreciate them and we are going to give them everything they need to do the job they are doing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. On behalf of Senator STEVENS and I, I express our gratitude to the Senator from Texas for her kind remarks.

UNANIMOUS CONSENT AGREEMENT—S. 1214

Mr. INOUYE. Mr. President, I ask unanimous consent that when the Senate considers Calendar No. 161, S. 1214, the port security bill, the only amendment in order be the Hollings-McCain-Graham substitute amendment, which is at the desk; that there be a time limitation for debate of 17 minutes to be divided as follows: 5 minutes each for Senators HOLLINGS, MCCAIN, and MURKOWSKI, and 2 minutes for Senator HUTCHISON; that upon the use or yielding back of time, the substitute amendment be agreed to, the bill, as amended, be read the third time and passed, and the motion to reconsider be laid upon the table, with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INOUYE. I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Ms. STABENOW. I thank the Chair.

Mr. President, I rise to applaud a provision in the supplemental portion of the Defense appropriations conference report. This conference report includes a bill authored by myself and Senator KYL that will help honor the victims of the September 11 attacks. It is called the Unity in the Spirit of America Act, or the USA Act.

We all witnessed a great national tragedy 3 months ago. While the deaths and damage occurred in New York, Washington, and in the fields of Pennsylvania, a piece of all of us died that day. Many people came up to me in Michigan after the attacks and asked: What can I do? I have given blood, I have donated to relief efforts, but I want to do more.

We all shared in the horror and now everyone wants to share in the healing, but how? Then a constituent of mine, Bob Van Oosterhout, wrote me with an idea: Why not have the Federal Government devise a program that will encourage communities throughout the Nation to create something that will honor the memory of one of the victims lost in the attack, one by one by one. Together these local memorials to honor individuals would dot our Nation and collectively honor all of those who were lost in the attacks. What could be simpler or more moving?

From that idea came the Unity in the Spirit of America Act. Here is how it works:

Communities—they can be as small as a neighborhood block or nonprofit organizations, houses of worship, businesses or local governments—are encouraged to choose some kind of project that will unite and help their communities. It is a way they can give back to their community.

Applications and the assigning of names for each project will be handled by the Points of Light Foundation. Basically, we will see a project in a local community dedicated to one of the victims of September 11. The Points of Light Foundation will set up a Web site, applications, and procedures for this. This is privately funded. It is an opportunity for our neighbors, coworkers, and communities across the United States to decide what will be a living legacy to those who died by helping each other.

The Points of Light Foundation will track each project's progress on their Web site. The only rule is that qualified projects should be started by September 11, 2002. Then on that day, as all over America we gather to grieve over the first anniversary of the attack that enraged the world, we will be able to look over thousands and thousands of selfless acts that made our country better.

In our sadness, we can create thousands of points of light across our Nation and show the world that our resolve was not fleeting and our memories are not short. They will see the unity in the spirit of America.

I have many Members to thank for making the USA Act happen. First and foremost, I thank my chief cosponsor, Senator JON KYL, for his commitment and hard work. I thank the chairman and ranking member of the Appropriations Subcommittee on Defense, Senators INOUYE and STEVENS, for their support. I also express my gratitude to Senators MIKULSKI and BOND for their guidance in moving this legislation through the process. Finally, I thank all the cosponsors, who include our Senators from New York and Virginia.

I am very pleased we have come together on our last day in a bipartisan way to put forward this important living legacy to the victims of September 11.

Mr. President, I now yield to my colleague and friend who has been my partner in the USA Act, and that is Senator JON KYL.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank the Senator from Michigan for her leadership in this effort. It has been a pleasure to work with her on this legislation. It demonstrates a couple of things: First, that all Americans care about the victims of the tragedy of September 11. Second, that the U.S. Government can be a facilitator but does not have to be the financier of good works on behalf of the people of the country.

At the conclusion of my remarks, I will ask to print in the RECORD a letter from Robert K. Goodwin who is the president of the Points of Light Foundation.

The president of the Points of Light Foundation points out that there are no Federal funds used in this project but, rather, that money has been raised by people from around the country to support these projects that literally will exist in every corner of this great country. Each one of these projects will be named for one of the victims of the September 11 tragedy.

What the Points of Light Foundation will do is help coordinate so there is a common listing of all the different projects, in which part of the country they are located, and coordinating with the names of the victims. This is a good project for the American people to demonstrate their support for the country, to do good works at the same time, and to memorialize the victims of the tragedy of September 11.

I compliment the cosponsor of the legislation and the chairman and ranking member of the committee for including this legislation in the Defense appropriations bill. I appreciate our colleagues' support for this important project.

Mr. President, I ask unanimous consent that the letter from the president of the Points of Light Foundation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

POINTS OF LIGHT FOUNDATION,
Washington, DC, December 20, 2001.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KYL: The Points of Light Foundation would like to take this opportunity to sincerely thank you for your support and leadership of the Unity in the Spirit of America (USA). We were informed last evening that it will indeed be a part of the FY 2002 Defense Appropriations Bill. We are excited and humbled by this opportunity to create living memorials through service and volunteering, to those who perished as a result of the September 11th terrorist attacks.

Please also let me extend my gratitude to your Legislative Director, Tom Alexander. His hard work in securing the necessary support was particularly appreciated as the bill made its way through several conference committees. His continued accessibility and hands-on approach were invaluable.

As the USA Act stipulates, no federal funds will be utilized in carrying out its provisions. We are extremely pleased to inform you that we have secured significant private and corporate donations to fulfill this most worthy project. In fact, The Walt Disney Company has made a substantial commitment, paving the way for countless community-based memorial service projects, as well as an expansive national media campaign. We look forward to continuing to work closely with yourself and Senator Stabenow in cultivating this important initiative.

In closing, please accept our gratitude and best wishes for a safe, happy and healthy holiday season.

Your very truly,

ROBERT K. GOODWIN
President & CEO.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask the distinguished Senator from Michigan if I may be a sponsor of the amendment. It is a very exciting amendment that we should be considering today.

Ms. STABENOW. It will be my honor, Mr. President, to add the distinguished Senator's name.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, pursuant to the agreement, will the Chair recognize the Senator from Arizona?

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I do not yet seek recognition.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, since no one is seeking time, I ask unanimous consent that the Senator from New Mexico be allowed to speak for 5 minutes on the economic stimulus package.

The PRESIDING OFFICER. Is there objection?

Mr. REID. What is the pending business? What is the request?

The PRESIDING OFFICER. The Senator from New Mexico has asked to speak for up to 5 minutes on the economic stimulus package.

Mr. REID. I reserve the right to object and ask the Senator to amend his request so that the Senator from Georgia, Mr. MILLER, and the Senator from Nebraska, Mr. NELSON, have 5 minutes to speak on the economic stimulus package.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. How much time?

Mr. REID. Two Senators, 5 minutes each: Senators NELSON and MILLER.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STIMULUS PACKAGE

Mr. DOMENICI. Mr. President, I rise to express my sincere disappointment with our seeming inability to consider a stimulus package; that is, a job-creating piece of legislation, for our people. Millions of Americans have lost their jobs over the last year. My fellow New Mexicans, as do all Americans, want and deserve action on this slowing economy.

Let me be very clear. While some would like a different stimulus package than the one the House passed in the early morning hours today, there are alternatives that were considered in this first session.

The House-passed bill will provide needed tax relief to millions of working Americans. It will provide tax relief to those individuals who make more than $28,000 and those who file joint returns making more than $46,000.

These are not rich people. These are hard-working Americans.

Along with provisions to encourage business investment with 30 percent depreciation and extending businesses net operating losses carry back for two years, and increasing expensing provisions for small businesses, the House-passed bill provides nearly $60 billion in tax relief to encourage growth in this weakened economy.

Further, addressing many of the concerns raised on the other side of the aisle, the House-passed bill is a significant improvement over an earlier bill in the area of providing needed help to the unemployed and dislocated workers.

The House-passed bill provides significant support for those who for reasons they do not control, find themselves without employment this holiday season—all totaled nearly $32 billion would be provided in the form of direct payments to low-income workers, extended unemployment benefits and health insurance assistance.

The House-passed bill provides cash payments for those who filed a tax return in 2000 but did not receive a rebate check earlier this year. These payments will be $300 for individuals and $600 for married couples.

The House-passed bill provides 13 weeks of extended unemployment insurance going back to those displaced from work from the beginning of this recession last March.

And including $8 billion in National Emergency Grants and Emergency

Medicaid funding to the states, over $21 billion would be assist individuals and families with their health care costs immediately.

The House-passed bill is not perfect. But it is a major improvement over an earlier version, largely because of the input of a group of Senators know as the Centrists here and because of President Bush's willingness to work with them in crafting this package.

I hope that we do not let "one man rule" prevent us from even having a vote on this bill.

We need to pass something. But if we don't assure you I will be the first to be back here in January asking that we consider the "payroll tax holiday" proposal.

I will take the remaining few minutes and talk to my fellow Senators. Whatever the case and whoever could not reach accord, I believe we have to tell our fellow Americans we did not do them right in the waning days of this session. While Christmas is upon us and good will is everywhere, it is quite obvious the House and Senate, even with the President nudging and participating, did not and will not produce a stimulus package that will get America going again.

I wish we would have considered something in the Senate. I believe there was time for us to consider amendments and even vote on a stimulus package. I think that could have been worked out, and we could have passed something. I regret we have not. I say to the leadership in the Senate, they could have done better.

While I have great respect and, in some cases, admiration for our leadership, I believe in this case one-man rule prevailed, the Democratic majority leader prevailed. He has what I would call a one-man rule because he can keep us from debating and considering the House-passed measure. He can do that all by himself. That is a very big undertaking by any one Senator, to say we are not going to consider a stimulus package this year in this Senate. That is one-man rule. That is a very big exercise of power.

While the Democratic majority leader has a very difficult job in the waning moments because of different ideas and different proposals and obviously some politics, I think we should have done better and he should have done better.

I close by saying I proposed, along with about 10 Senators, an idea for a holiday from the Social Security taxes imposed on both employee and employer, to do that for 1 month. Nobody suggested to me that is not a very good stimulus, to put before the American people a month that is picked in the near future to put $42 billion into the hands of every working man and woman and every employer across this land in a rather instant payment to them, or nonpayment to the Government, of Social Security withholding.

I believe if we start over with good will, and in a nonpartisan way, when we return because I do not believe the economy will improve and we will be back at this—I urge we consider it at a high enough level to let the country focus on this idea.

There is a lot of talk about the negative aspects of it, and most of them are untrue. If we have a chance to get this issue before a committee, or debate it in the Senate, we would have a great starting point to which we could add the social welfare aspects of the unemployment benefits, of some health care coverage, and all the other issues we are talking about. We would have as a basis a single powerful issue that would be building jobs and causing America to take a look and say we know how to do something very positive.

So I do not give up. If we are doing nothing, I assume this idea will come back and I assume, when we start thinking about it and analyze it well, it will be high on the agenda.

I say to all of my friends in the Senate, they worked very hard. I congratulate them. They worked either as a centrist member of the committee or member of the leadership, put in a lot of time, a lot of effort. I am hopeful even in the last moment it will work and somehow it will come out of the forest and be sitting there for us to look at.

If not, then I urge when we come back and consider how we stimulate, that we put this holiday back on the table with all the other things we have been considering.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I appreciate the opportunity to address the Chamber today and speak on a very important issue we have all been concerned about and we all have had comments about, continue to have thoughts about, and will continue to have them into the future. I speak of the stimulus package.

It is unfortunate we missed the opportunity to be able to conclude a package of the type the centrists put together based on what was supported by so many different individuals and groups. Unfortunately, the blame has already begun. So we are in a position where we are talking about would have, could have, should have. We will have an opportunity as time goes by over this holiday break to continue to talk and continue to look for solutions.

In January, something must in fact be done so we can move forward to protect the jobs of those who currently have them, help those individuals who have lost them, and help create new jobs. This is about three things: Jobs, jobs, jobs. And it is about the people who support them.

TERRORISM INSURANCE

Mr. NELSON of Nebraska. In addition to being concerned about the future of the stimulus package, there is an aspect of stimulus that is involved in another proposal that hopefully will be brought up today, and that is the terrorism insurance issue. It is not about insurers, it is about insureds. It is about the ability to be able to insure one's property, one's house, one's home, one's apartment, one's automobile. If one is a business owner, it is about insuring their storefront or their business. It is about having workers compensation insurance and liability insurance. It is about having insurance for the protection one needs.

There is a very important timeframe we must in fact look at, and that is January 1 of this coming year. I am hopeful we will be able to settle today on a bill and be able to pass something and send it on for reconciliation in conference, so we can match or in some way make it close enough to the House version that a reconciliation of the conference committee is possible, because if we fail to do that, there is a possibility, and perhaps even a strong likelihood, that on January 1 of this coming year 70 percent of the reinsurance that is currently available to direct writers will be affected. It may not provide for terrorism in the future.

I know for many people it seems sort of esoteric. It seems sort of complex and perhaps eyes-glazed-over thinking about insurance and reinsurance and whether there will be protection for terrorism or not, but it is a very real issue, a very real and present concern we must in fact have. It is not about simply insuring skyscrapers. It is about insuring small businesses. It is about apartment buildings, storefronts, and people's own personal residences, as well as their automobiles. It is about whether or not money will be available for lending or whether or not it will continue to be available for construction.

If we are concerned, as I think we are, about a worsening economy and at what point we will be able to see the economy turn around and be stimulated so it can be a robust economy, one of the things we must in fact be concerned about is anything that tips the scales against the economy we have today that can make it worse. In fact, failure to take action can make it worse by not taking the appropriate action to undergird and support it.

If we are unable to come together and make sure insurance continues to be available, as well as affordable, but certainly available to the public, if we fail to take that opportunity, then we might expect construction will be impeded, if not stopped, and that we may in fact see housing starts and other building starts stopped.

Unemployment can be affected. We could end up with more people unemployed, and the economic downturn could be accelerated. I say these things not to provide a scare tactic but simply to impress as to how important it is we solve this problem of availability of terrorism insurance in the near term so we can work for a longer term solution.

What has been offered to date is, in fact, a short-term solution, a backup, a compromise to work in the immediate term, the short term, with broad-based support. I hope we will take this up and move forward.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Georgia.

Mr. MILLER. Madam President, I, too, will have a few remarks on the economic stimulus bill. I think a decision not to have a straight up-or-down vote on it and let the majority of this Senate prevail, regardless of the makeup of the majority, is a mistake. I know it is a loss for the country and the folks who need our help and need it immediately.

Why do we always have to act as if we are in a football game where one side, one team, has to win and the other team has to lose? Why can't we have both parties the winners, along with the American people?

Myself, when it gets down to the block, I am kind of a half-a-loaf man. Whether it is 75 percent, 65 percent, or 50 percent, when you get right down to it, that is always better than zero percent. You can eat half a loaf. Having no loaf at all may make a political point, but in the end somebody goes hungry.

This is not the House bill. I could never have supported that bill. I would never have voted for it. This compromise package does not include everything either side wanted. Instead, it represents a reasonable compromise.

Some say speeding up the reduction of the tax rates from 27 percent to 25 percent is just helping the wealthy. Nothing could be further from the truth. The folks who benefit from this are folks who earn as little as $27,000 a year, going up to $67,000 a year. For married couples, this rate reduction would help those who earn between $47,000 to $120,000 a year. Those are not the wealthy or the rich. Those are middle-income Americans. Many are our friends and organized labor. This bill also includes a $300 rebate for those who did not get anything from the earlier tax cut.

On the health insurance area, we recognize the need to help the unemployed by providing health insurance for them. This is a very significant change. This is a dramatic change and should be welcomed by both Republicans and Democrats alike.

Some argue that the best way to give laid-off workers access to health care is to provide a 75-percent subsidy for COBRA premiums, as well as access to State Medicaid Programs. Others disagreed and preferred a broader tax credit for health insurance premiums. This package falls somewhere in between, providing a 60-percent advanceable, refundable tax credit for all health insurance.

It is not a whole loaf for anyone, but it represents a practical solution, and it is the best way to do what we all want; that is, to help the workers and help them before it is too late.

The package also includes help for State governments, something our Governors and legislators desperately need right now. It provides almost $5 billion in payments to State Medicaid Programs. This does not represent everything States or many of us wanted. I was hoping to get a fix for the upper payment limit but, again, it is half a loaf.

As it is, we have no loaf. We have no loaf at all. We do not even have a slice. Who was it who said, Let them eat cake?

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Arizona.

DEFENSE APPROPRIATIONS

Mr. McCAIN. Madam President, I rise, once again, to address the issue of wasteful spending in appropriations measures; in this case, the bill funding the Department of Defense for fiscal year 2002.

In provisions too numerous to mention in detail, this bill, time and again, chooses to fund porkbarrel projects with little, if any, relationship to national defense at a time of scarce resources, budget deficits, and underfunded urgent defense priorities.

The Web site of the Senate Committee on Appropriations, in its opening sentence, states the following:

> Authorization laws have two basic purposes. They establish, continue, or modify Federal programs, and they are a prerequisite under House and Senate rules . . . for the Congress to appropriate budget authority for programs.

I will not go through all of the unauthorized programs that are in this legislation. I only mention those that relate to the committee of which I am proud to serve and be the ranking member, formally the chairman, the Commerce Committee. I and Senator HOLLINGS and members of my committee take our responsibilities very seriously.

Now we have seen, despite what apparently is the mission or the obligation of the Appropriations Committee—and that is to not appropriate funds for programs that are not authorized—just in the Commerce Committee alone, we have for the 2002 Winter Olympics, $93.3 million; port security grants, $90 million; airport and airways trust fund, payment to air carriers, $50 million; DOT Office of the Inspector General, $1.3 million; FAA operations, taken from the aviation trust fund, without authorization, $200 million.

Just as the appropriators are now taking away highway money appropriated under a formula passed by the full Senate and House and violating TEA-21, we are now taking away from the aviation trust fund for pet projects $200 million worth, to pet projects of the appropriators.

We have FAA facilities and equipment, $108.5 million; Federal Highway Administration, proposed operations, $10 million was requested by the administration, $100 million; capital grants to the National Railroad Passenger Corporation, $100 million; Federal Transit Administration capital investment gains, $100 million; restoration of broadcasting facilities, $8.25 million; National Institutes of Standards and Technology, $30 million; Federal Trade Commission, $20 million; FAA grants and aid for airports, $175 million; Woodrow Wilson Bridge project, $29 million.

Why did they have to do that? Because they took the money out of the highway funds in the Transportation appropriations bill, thereby shorting the Woodrow Wilson Bridge, so they had to add another $30 million to make up for the shortfall. Unfortunately, that was about $500 million that they took, and every other State in America—by the way, not represented by a member of the Appropriations Committee—had highway funds taken away from them.

Provision relating to Alaska in the Transportation Equity Act for the 21st century—it will be interesting to see the impact that has on the rest of America. We have the U.S. 61 Woodville widening project in Mississippi, $300,000; Interstate Maintenance Program for the city of Trenton, $4 million; international sports competition, $15.8, million, emergency planning assistance for 2002 Winter Olympics.

I have to talk for a minute before I get into the major issue, and that is the Boeing lease, and discuss the Olympics issue. It is now up to well over $1.5 billion that the taxpayers have paid.

I refer my colleagues to an article that was in Sports Illustrated magazine, December 10, 2001. The title of it is, "Snow Job."

I will not read the whole article. It is very instructive to my colleagues in particular and to our citizens about what has happened in the Utah Olympics. The headline is "Snow Job."

> Thanks to Utah politicians and the 2002 Olympics, a blizzard of federal money—a stunning $1.5 billion—has fallen on the state, enriching some already wealthy businessessmen.
>
> Is this a great country or what? A millionaire developer wants a road built, the federal government supplies the cash to construct it. A billionaire ski-resort owner covets a choice piece of public land. No problem. The federal government arranges for him to have it. Some millionaire businessmen stand to profit nicely if the local highway network is vastly improved. Of course. The federal government provides the money.
>
> How can you get yours, you ask? Easy. Just help your hometown land the Olympics. Then, when no one's looking persuade the

> federal government to pay for a good chunk of the Games, including virtually any project to which the magic word Olympics can be attached.
>
> Total federal handouts. The $1.5 billion in taxpayer dollars that Congress is pouring into Utah is 1½ times the amount spent by lawmakers to support all seven Olympic Games held in the U.S. since 1904—combined. In inflation-adjusted dollars.
>
> Enrichment of private interests. For the first time, private enterprises—primarily ski resorts and real estate developments—stand to derive significant long-term benefits from Games-driven congressional giveaways.
>
> Most government entities tapped for cash. With all that skill, grace and precision of a hockey team on a power play, Utah's five-member congressional delegation has used the Olympics to drain money from an unprecedented number of federal departments, agencies and offices—some three dozen in all, from the Office of National Drug Control to the Agriculture Department.
>
> Most U.S. tax dollars per athlete. Federal spending for the Salt Lake City City Games will average $625,000 for each of the 2,400 athletes who will compete. (Not a penny of it will go to the athletes.) That's a 996% increase from the $57,000 average for the 1996 Olympics. It's a staggering 5,582% jump from the $11,000 average for the 1984 Summer Games in Los Angeles.
>
> Parking lots are costing you $30 million. Some $12 million of that is paying for two 80-acre fields to be graded and paved for use as two temporary lots, then returned to meadows after the flame is extinguished.
>
> Housing for the media and new sewers are each costing you $2 million.
>
> Repaved highways, new roads and bridges, enlarged interchanges and an electronic highway-information system are costing you $500 million.
>
> Buses, many brought in from others states, to carry spectators to venues are costing you $25 million.
>
> Fencing and other security measures at the Veterans Administration Medical Center in northeast Salt Lake City—to protect patients and staff from the Olympia hordes—are costing you $3 million.
>
> A light-rail transit system that will ferry Olympic visitors around Salt Lake City is costing you $326 million.
>
> Improvement at Salt Lake City-area airports are costing you $16 million.

The list goes on and on:

> Recycling and composting are costing you $1 million, and public education programs for air, water and waste management are costing you another $1 million.
>
> A weather-forecasting system being set up for SLOC is costing you $1 million. The money is going to the University of Utah to enable its Meterorology Department to provide data that will supplement forecasts provided to SLOC by the National Weather Service.
>
> New trees planted in Salt Lake City and other communities "impacted", as the funding legislation put it, by the Olympics are costing you $500,000. Said Utah Senator Robert Bennett, who arranged for the money. "We do the Olympics because it gets us together doing thinks like planting trees."

"We do the Olympics because it gets us together, doing things like planting trees."

Wow.

I want to repeat, I am all for whatever expenditure for security for the Salt Lake City Olympics. A good part of this $1.5 billion—and there is more in this appropriations bill—has nothing to do with security. It has to do with roadbuilding. It has to do with land swaps, worthless land for valuable land. It has to do with wealthy developers; it has to do with the enrichment of billionaires; and it really is quite a story. I hope every American will read that story that is in Sports Illustrated dated December 10 entitled "Snow Job"—aptly entitled "Snow Job."

As I pointed out before, our nation is at war, a war that has united Americans behind a common goal—to find the enemies who terrorized the United States on September 11 and bring them to justice. In pursuit of this goal, our service men and women are serving long hours, under extremely difficult conditions, far away from their families. Many other Americans also have been affected by this war and its economic impact, whether they have lost their jobs, their homes, or have had to drastically cut expenses this holiday season. The weapons we have given them, for all their impressive effects, are, in many cases, neither in quantity nor quality, the best that our government can provide.

For instance, stockpiles of the precision guided munitions that we have relied on so heavily to bring air power to bear so effectively on difficult, often moving targets, with the least collateral damage possible, are dangerously depleted after only 10 weeks of war in Afghanistan. This is just one area of critical importance to our success in this war that underscores just how carefully we should be allocating scarce resources to our national defense.

Yet, despite the realities of war, and the responsibilities they impose on Congress as much the President, the Senate Appropriations Committee has not seen fit to change in any degree its usual blatant use of defense dollars for projects that may or may not serve some worthy purpose, but that certainly impair our national defense by depriving legitimate defense needs of adequate funding.

Even in the middle of a war, a war of monumental consequences and with no end in sight, the Appropriations Committee, Mr. President, still is intent on using the Department of Defense as an agency for dispensing corporate welfare. It is a terrible shame that in a time of maximum emergency, the U.S. Senate would persist in spending money requested and authorized only for our Armed Forces to satisfy the needs or the desires of interests that are unrelated to defense needs.

The Investor's Business Daily, on December 18, 2001, had this to say in an article titled At the Trough: Welfare Checks to Big Business Make No Sense:

> Among the least justified outlays is corporate welfare. Budget analyst Stephen Slivinski estimates that business subsidies will run $87 billion this year, up a third since 1997. Although President Bush proposed $12 billion in cuts to corporate welfare this year, Congress has proved resistant. Indeed, many post-September 11 bailouts have gone to big business. Boeing is one of the biggest beneficiaries. Representative Norm Dicks, Democrat from Washington, is pushing a substantial increase in research and development support for Boeing and other defense contractors, the purchase of several retrofitted Boeing 767s and the leasing of as many as 100 767s for purposes ranging from surveillance to refueling. Boeing has been hurt by the storm that hit airlines, since many companies have slashed orders. Yet China recently agreed to buy 30 of the company's planes, and Boeing's problems predate the September 11 attack. It is one thing to compensate the airlines for forcibly shutting them down; it is quite another to toss money at big companies caught in a down demand cycle. Boeing, along with many other major exporters, enjoys its own federal lending facility, the Export-Import Bank. ExIm uses cheap loans, loan guarantees and loan insurance to subsidize purchases of U.S. products. The bulk of the money goes to big business that sell airplanes, machinery, nuclear power plants and the like. Last year alone, Boeing benefitted form $3.3 billion in credit subsidies. While corporate America gets the profits, taxpayers get the losses. . . .

As I mentioned last week when the Senate version of the Defense Appropriations bill was being debated—and now carried through the Conference Committee—is a sweet deal for the Boeing Company that I'm sure is the envy of corporate lobbyists from one end of K Street to the other. Attached is a legislative provision to the Fiscal Year 2002 Department of Defense Appropriations bill that would require the Air force to lease one hundred 767 aircraft for use as tankers for $26 million apiece each year for the next 10 years. Moreover, in Conference Committee the appropriators added four 737 aircraft for executive travel—mostly benefitting Members of Congress. We have been told that these aircraft will be assigned to the 89th Airlift Wing at Andrews Air Force Base.

Since the 10-year leases have yet to be signed, the cost of the planes cannot be calculated, but it costs roughly $85 million to buy one 737, and a lease costs significantly more over the long term.

The cost to taxpayers?

$2.6 billion per year for the aircraft plus $1.2 billion in military construction funds to modify KC-135 hangars to accommodate their larger replacements, with a total price tag of more than $30 billion over 10 years when the costs of the 737 leases are also included. This leasing plan is five times more expensive I repeat, five times more expensive to the taxpayer than an outright purchase, and it represents 30 percent of the Air Force's annual cost of its top 60 priorities. But the most amazing fact is that this program is not actually among the Air Force's top 60 priorities—it was not among their top 60 priorities—nor do new tankers appear in the 6-year defense procurement plan for the Service!

That's right, when the Air Force told Congress in clear terms what its top priorities were tankers and medical lift capability aircraft weren't included as critical programs. In fact, within its top 30 programs, the Air Force has asked for several essential items that would directly support our current war effort: wartime munitions, jet fighter engine replacement parts, combat support vehicles, bomber and fighter upgrades and self protection equipment, and combat search and rescue helicopters for downed pilots.

Let me say that again, within its top 30 programs, the Air Force has asked for several essential items that would directly support our current war effort: wartime munitions, jet fighter engine replacement parts, combat support vehicles, bomber and fighter upgrades and self protection equipment, and combat search and rescue helicopters for downed pilots.

This leasing program also will require $1.2 billion in military construction funding to build new hangars, since existing hangars are too small for the new 767 aircraft. The taxpayers also will be on the hook for another $30 million per aircraft on the front end to convert these aircraft from commercial configurations to military; and at the end of the lease, the taxpayers will have to foot the bill for $30 million more, to convert the aircraft back—pushing the total cost of the Boeing sweetheart deal to $30 billion over the ten-year lease. Mr. President, that is waste that borders on gross negligence.

I wrote a letter to the Director of OMB. Here is the answer I received:

DEAR SENATOR MCCAIN:

Thank you for your inquiry regarding the costs associated with the conversion of 767 aircraft tankers. According to the Air Force, the total cost for a program to lease 100 tankers is approximately $26 billion.

I ask unanimous consent that the letter from Mr. Mitchell Daniels, Director of OMB, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, December 18, 2001.

The Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Thank you for your inquiry regarding the costs associated with the conversion of 767 aircraft to tankers. According to the Air Force, the total cost for a program to lease 100 tankers is approximately $26 billion. I have attached a summary of assumptions and costs they have identified. Please let me know if you require any additional information.

Sincerely,

MITCHELL E. DANIELS, JR.,
Director.

Mr. MCCAIN. Mr. President, I want to read a letter that I received recently. This letter is from the Americans for Tax Reform, Council for Citizens Against Government Waste, Congressional Accountability Project, Ronnie Dugger, Ralph Nader, National Taxpayers Union, Project on Government Oversight, Public Citizen, and Taxpayers for Common Sense.

All of these organizations are on the right and the left of the political spectrum.

They wrote the following letter:

DECEMBER 19, 2001.

DEAR SENATOR: Even as veteran observers of the Congressional appropriations process, we are shocked, and outraged, by the provision in the Defense Appropriations bill that would have the Air Force lease Boeing 767s at a price dramatically higher than the cost of direct purchase. We are writing to urge you to take to the floor to speak and vote against this specific siphoning of taxpayer money to the Boeing company.

Leave aside the serious questions about whether the Air Force wants or needs the 767s, and simply consider the economics of this sugar-coated deal:

Under the Boeing lease provision, the Air Force will lease 100 Boeing 767s for use as tankers, at a pricetag of $20 million per plane per year, over a 10-year period. This $20 billion expenditure is far higher than the cost of direct purchase. The government will accrue extra expenses because it will be obligated not only to convert the commercial aircraft to military configurations; when the 10-year lease is over, it will be required to convert them back to commercial format, at an estimated cost of $30 million apiece. Senator John McCain says the cost of the lease plan is five times higher than an outright purchase would be. Senator Phil Gramm says, "I do not think, in the 22 years I have been here, I have ever seen anything to equal this."

"I don't think, in the 22 years I have been here, I have ever seen anything to equal this."

The letter goes on to say:

There is no conceivable rationale for such a waste of taxpayer resources. If some in Congress believe Boeing needs to be subsidized, then they should propose direct subsidies to the company, and let Congress fully debate and vote on the issue before the American people, following comprehensive public hearings on the proposal.

This is not a partisan issue. It is a basic test of whether Congress views itself as fundamentally accountable to the public interest, both procedurally and substantively.

There will obviously be a Defense Appropriations bill passed for the coming fiscal year. But it must not be one that includes such a gross exhibition of corporate welfare. We urge you to speak and vote against the bill; and to force consideration of a revised bill, stripped of this grotesquery.

Sincerely,

RALPH NADER,
GROVER NORQUIST,
President, Americans for Tax Reform.

I have never seen Ralph Nader and Grover Norquist on the same letter in all the years I have been in this town.

The letter is also signed by the following:

THOMAS A. SCHATZ,
President, Council for Citizens Against Government Waste.

GARY RUSKIN,
Director, Congressional Accountability Project.

RONNIE DUGGER,
Alliance for Democracy (organization listed for identification only).

PETE SEPP,
Vice President for Communications, National Taxpayers Union.

DANIELLE BRIAN,
Executive Director, Project on Government Oversight.

JOAN CLAYBROOK,
President, Public Citizen.

JOE THEISSEN,
Executive Director, Taxpayers for Common Sense.

Mr. President, I guess the obvious question that would then be asked is, How did this happen? On its face it is incredible.

Let me try to illuminate my colleagues on an article of December 12 in the New York Times entitled "Boeing's War Footing; Lobbyists Are Its Army, Washington Its Battlefield."

I will not read the entire article.

It says:

Staggered by the loss of the largest military contract in history and the collapse of the commercial airline market, Boeing has sharply intensified its efforts in Congress and the Pentagon to win an array of other big-ticket military contracts.

Mobilizing an armada of well-connected lobbyists, sympathetic lawmakers and Air Force generals, the company argues that by financing its contracts Congress would reduce the need for thousands of layoffs and help keep Boeing, the second-largest military contractor, healthy in a time of war:

It talks about losing the joint strike fighter to Lockheed Martin.

Those events sent Boeing reeling. But like battle-tested generals on the retreat, Boeing executives swiftly moved to recover their losses in a time-tested Washington way: wooing Congress and the Pentagon to support other contracts.

Few companies can rival Boeing influence in the capital. Its Washington office, headed by Rudy F. de Leon, the deputy secretary of defense in the final year of the Clinton administration, employs 34 in-house and more than 50 outside lobbyists.

One of the Boeing lobbyists' first moves after Sept. 11 was to prod the Air Force to reconsider the 767 lease deal, which had stalled months before. Though the Air Force has said it plans to replace its 40-year-old KC-135 tankers in the next decade or two, it has preferred to spend its money on elite fighter jets like the F-22.

But the war in Afghanistan has kept dozens of KC-135's in the air almost constantly, putting pressure on the Air Force to accelerate its replacement program. James Roche, the secretary of the Air Force, and Gen. John P. Jumper, the Air Force chief of staff, signed into the lease-purchase idea because it would spread the cost out into the future, Pentagon documents show.

Boeing next had to break down resistance to lease arrangements in Congress. According to one internal Pentagon study, a lease-purchase deal for 100 767's would cost 15 percent more than simply buying the planes. Moreover, federal rules discourage such deals by requiring that most of the entire contract cost be paid in the first year. To get around that, Boeing proposed having the Air Force simply lease the aircraft without a purchase option. But that would not cover the cost of adapting them for refueling and surveillance, or of ultimately buying them, as the Air Force is expected to do.

The company recruited the Congressional delegations from Washington and Missouri—the two states where it assembles most of its aircraft—to support the plan. And in the Senate, it found a powerful ally in Ted Stevens of Alaska, the ranking Republican on the Appropriations Committee, who is a fan of lease-purchase deals for the military.

Boeing lobbyists with Congressional experience—including Mr. de Leon, who also was a staff director for the House Armed Services Committee, and Denny Miller, a former chief of staff to the late Senator Henry M. Jackson of Washington—help negotiate the lease language.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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Mobilizing an armada of well-connected lobbyists, sympathetic lawmakers and Air Force generals, the company argues that by financing its contracts Congress would reduce the need for thousands of layoffs and help keep Boeing, the second-largest military contractor, healthy in a time of war. "You've got the nation's leading exporter, and one of its leading military contractors, who has been hit hard," said Representative Norm Dicks, a Washington State Democrat who has led the charge for Boeing on Capitol Hill. "We can really help them."

The push underscores a broader trend for Boeing, company officials and analysts say. The company, with most of its production in the Seattle area, has suffered a sharp downturn in commercial aircraft business, which last year generated two-thirds of its $51.3 billion in sales. Boeing is expected to announce this week that production of its 717 commercial airliners will be cut by half, to as little as one plane a month from two, company executives said. As recently as a month ago, analysis predicted that the company would end all 717 production, in part because the Sept. 11 attacks have slowed demand for commercial jets.

As a result, Boeing is looking more than ever to its military and space divisions to bolster sagging revenue.

Last week, it won a big lobbying battle when the Senate approved a sharply contested plan for Boeing to lease to the Air Force 100 new 767 wide-body jets for use as refueling tankers and reconnaissance planes. The proposal next goes before a House-Senate conference committee.

At an estimated cost of more than $20 billion over 10 years, that plan has been attacked as a costly corporate bailout by critics led by Senator John McCain, a Republican from Arizona. But supporters say that it would not only significantly offset Boeing's loss of orders from ailing commercial airlines but also help the Pentagon by accelerating the replacement of aging midair refueling tankers and reconnaissance aircraft that both have been worn down by heavy use in the war in Afghanistan.

"Near term, it's a very nice financial salve to an immediate wound," said Howard Rubel, a military industry analysis at Goldman Sachs.

The 767 plan is just one of several major Pentagon programs that Boeing is prodding Congress to sustain, expand or accelerate. The company is the lead contractor on more than a dozen major contracts accounting for well over $10 billion in the 2002 Pentagon budget alone. Those include the F/A-18 fighter jet for the Navy, the V-22 Osprey tiltrotor aircraft for the Marine Corps, the AH-64 Apache Longbow helicopter for the Army and the airborne laser for the Pentagon's Ballistic Missile Defense Organization.

In addition, Boeing has been trying for years to become the dominant player in an array of new businesses, including unpiloted aircraft, battlefield and cockpit communications, surveillance technology and precision-guided numitions. The war on terrorism has only underscored the Pentagon's need for more of those systems, Boeing and its allies assert.

"What we're about to see was the reason for the merger with McDonnell Douglas in the first place," said Gerald E. Daniels, president of Boeing's military aircraft and missile systems division. "With the cyclical nature of the commercial business, building strong military and space units serves to tamp down those gigantic swings."

In 1999, two years after the merger with McDonnell Douglas, Boeing delivered 620 commercial aircraft, for revenue of $38.5 billion. By next year, analysts estimate, deliveries are expected to tally only 367, with revenue down to $26 billion.

The collapse in the commercial market resulted, of course, from the suicide hijacking attacks of Sept. 11. Air travel plummeted and airlines canceled dozens of jet orders, prompting Boeing to announce plans to lay off 30,00 workers over the next two years.

Just when it seemed Boeing's fortunes could not be worse, in October the Pentagon awarded a $200 billion contract for the Joint Strike Fighter to Boeing's larger rival, Lockheed Martin. The stealthy jet is expected to become the mainstay fighter for the Navy, Air Force and Marine Corps in the next two decades, raising doubts about Boeing's future in the tactical fighter business.

Those events sent Boeing reeling. But like battle-tested generals on the retreat, Boeing executives swiftly moved to recover their losses in a time-tested Washington way: wooing Congress and the Pentagon to support other contracts.

Few companies can rival Boeing's influence in the capital. Its Washington office, headed by Rudy F. de Leon, the deputy secretary of defense in the final year of the Clinton administration, employs 34 in-house and more than 50 outside lobbyists.

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But the war in Afghanistan has kept dozens of KC-135's in the air almost constantly, putting pressure on the Air Force to accelerate its replacement program. James Roche, the secretary of the Air Force, and Gen. John P. Jumper, the Air Force chief of staff, signed onto the lease-purchase idea because it would spread the cost out into the future, Pentagon documents show.

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Boeing lobbyists with Congressional experience—including Mr. de Leon, who also was a staff director for the House Armed Services Committee, and Denny Miller, a former chief of staff to the late Senator Henry M. Jackson of Washington—helped negotiate the lease language.

With Senator Patty Murray, a Washington Democrat, the Boeing president, Philip A. Condit, has repeatedly met with senior lawmakers like Daniel Inouye, the chairman of the Senate Appropriations subcommittee on the military, and the Senate majority leader, Thomas Dashle. Last week, Mr. Condit returned to discuss the deal with several leading skeptics in the House, including the speaker, J. Dennis Hastert, and Representative Jerry Lewis of California, the influential chairman of the House subcommittee on defense appropriations.

A spokesman for Mr. Lewis, Jim Specht, said the Congressman remained undecided on the lease deal, but added: "There is the concern that because of the Joint Strike Fighter contract, something has to be done to make sure we support all of our industrial base."

All the work, however, did not win over Senator McCain, who last week accused Boeing of "playing victim, blaming its own job cuts, many of which occurred before Sept. 11, on the tragedy itself."

Boeing seems to have won Congressional support for accelerating purchases of C-17's, the all-purpose cargo planes it builds in Long Beach, Calif., at a former McDonnell Douglas plant. Last spring, Boeing formally asked that the Pentagon buy 60 more planes at a cost of about $150 million each. Without that increase, the Long Beach production line is scheduled to close later this decade.

Boeing has also tried to wiggle its way into the Strike Fighter deal. The company has quietly hinted that it could urge Congress to buy more unmanned aircraft or its F/A-18 to take the place of Navy and Air Force versions of the Joint Strike Fighter if Lockheed did not agree to give it a substantial piece of the work.

It has urged Senator Christopher S. Bond, a Missouri Republican, to continue promoting legislation requiring Lockheed to split the Strike Fighter work with Boeing. Senator Bond withdrew his bill for lack of support, but on Friday he won Senate funds for a study into whether the Pentagon should have two manufacturers of tactical fighter aircraft.

"I want to make sure we maintain that production line in St. Louis, because it's in the national interest," Mr. Bond said in an interview.

Lockheed, however, notes that it already has two major partners, the British military contractor BAE Systems and Northrop Grumman. "There is only so much work to go around," said Charles Thomas Burbage, director of the fighter project for Lockheed.

Boeing, with the help of Senator Bond and Representative Richard A. Gephardt, the House Democratic leader, who comes from the St. Louis area, is also pushing the Navy to replace its aging EA6–B Prowler radar-jamming planes with an electronic-warfare version of the F–18, a move that could help keep Boeing's St. Louis plant open longer.

Unmanned aircraft are another focus of Boeing lobbying. Last month, Boeing organized a new division headed by a senior executive from its Strike Fighter program, Mike Heinz, to help it expand into a market the company estimates will top $1 billion a year.

Boeing is already building a prototype unmanned fighter for the Air Force, a project that many industry officials say is Boeing's to lose. At a recent meeting of industry executives, Darleen A. Druyun, the principal deputy assistant secretary of the Air Force for acquisition and management, spoke glowingly about the future of unmanned aerial vehicles.

"I see a very bright future for Boeing when it comes to aviation," she said, "particularly in the areas of UAV's and in sales of C–17's."

Mr. McCAIN. Mr. President, when the Department of Defense appropriations bill was on the floor, Senator GRAMM of Texas, I, and others decided that we would do what we could to oppose this being included in the legislation.

We were prepared to engage in extended debate on this and many of the other provisions of the Defense appropriations bill. After conversations with Senator GRAMM and Senator STEVENS, I agreed to an amendment on my behalf along with Senator GRAMM that would give the President the authority not to spend the money if we found other more compelling needs for national defense, which seems like a reasonable solution to the dilemma in which we found ourselves.

(Mr. CLELAND assumed the Chair.)

Mr. McCAIN. I will admit to a certain degree of naivety. I believed that provision would be held in conference. Obviously, I was incredibly naive. That provision, I am told, was the first to go.

So now we have a situation—even though the Air Force in its top 60 priorities did not request additional tankers, but did have plans in the next 10 years or so to purchase aircraft with refueling capability—we now have a provision in law, which I obviously will not be able to reverse, without competition.

Maybe Airbus could have provided some tankers. Maybe some airlines with excess aircraft could have provided some tankers. But no competition is allowed. It directs that it be 767s.

Now, of course, to sweeten the pot, we have four 737s which will go out to Andrews Air Force Base and be part of the aircraft that are used for ferrying VIPs and Members of Congress around the world.

I think you could make an argument that Boeing needs to be bailed out, that they are in trouble. They are a major manufacturing company. They lost out on a new fighter aircraft competition. There may be some argument to that. I might even consider cutting them a check for some money. We cut checks for a lot of other interests around here.

But there was never a hearing in the Armed Services Committee—never a hearing in the Armed Services Committee—of a $30 billion purchase here. It was never considered by the Armed Services Committee—not once. Never did it come up. No. No, Mr. President. Again, it was stuck in an appropriations bill, stuck into an appropriations bill without a single hearing. Not even in the Appropriations Committee did they have a hearing on this.

What I am saying is, this system has run amok. This system has run amok. We are now in the situation where anyone who is not on the Appropriations Committee becomes irrelevant, particularly at the end of the year.

Where is the relevancy of the Commerce Committee when $310 million in appropriations is added on a Defense appropriations bill? Where is the relevancy when billions of dollars on a Defense appropriations bill are put in that have nothing to do with defense?

Where is the relevancy of the authorizing committees when billions and billions and billions of dollars are added without a hearing, without consideration, and without authorization?

I suggest that the Appropriations Committee change their Web site, the one I quoted earlier, that says that only authorized appropriations will be made. It says:

> Authorization laws have two basic purposes. They establish, continue, or modify federal programs, and they are a prerequisite under House and Senate rules . . . for the Congress to appropriate budget authority for programs.

I strongly recommend that the Appropriations Committee remove that from or at least add: However, in practice, that is not the case.

We now have disabled veterans who are not receiving the money that they need. It is an effort that I and the Presiding Officer have engaged in for several years now. They do not have a very big lobby around here. They do not have Rudy de Leon and Denny Miller, and a lot of high-priced lobbyists. So veterans who have disabilities are being deprived money they should rightly have, that any other person stricken with a similar disability, under any other circumstance, would receive.

We still have men and women in the military living in barracks that were built during World War II and the Korean war.

We still have a situation, at least up until the surge of patriotism as of September 11, where there has been enormous difficulty in maintaining our noncommissioned officers and our mid-level career officers.

A recent study by the U.S. Army showed the greatest exodus of Army captains in the history of the U.S. Army, which is quite interesting, to say the least.

We will not take care of these veterans, but we will put about $3 billion out of the Commerce Committee—under the Commerce Committee jurisdiction—into this Department of Defense appropriations bill. We will take care of the special interests. We will take care of the big campaign contributors.

I am sure Boeing will be extremely generous at the next fundraisers that both the Republican and Democrat Parties have. They have already been incredibly generous. And, by the way, they are very schizophrenic in their political outlook because they give pretty much the same amount of money to both parties, which shows how ideologically driven they are.

And we will get 767s. I am sure they are nice airplanes. But who is going to pay? Who is going to pay for it? The average taxpayer, because the cost to the taxpayer of this little backdoor, backroom maneuver is billions of dollars more than it should have been.

I remind you, the average lifespan of a tanker is around 35 to 40 years. That is the average lifespan because they are relatively simple airplanes. They are really flying gas stations. So they last a long time.

So what are we going to do? Pay 90 percent of the cost of the airplane and, after 10 years, pay to have it de-engineered as a tanker and give it back to Boeing, at a minimum of one-third of the life of the tanker. With a straight face, how can we possibly do this?

I had a lot of other concerns about the porkbarreling, but I want to say this. One of two things is going to happen around here in the Senate: Either the Appropriations Committee controls the entire agenda and does the things that we continue to see in ever increasing numbers—and I have been tracking it for many years; every year the Appropriations Committee adds more and more projects that are not authorized every year; and this year it is a big jump—or we are going to stop it; or we are going to have a change in the rules that comports with the Web site of the Appropriations Committee; that is, that no appropriation will be made that is unauthorized and no appropriation will exceed the authorized level either in an appropriations bill or in a conference report.

It is a pretty simple rule. And it would be subject to a point of order.

Now, there are times where appropriations have to be made, and that is where the point of order would come in. But unless we change the rules the way this body goes—I suggest to my colleagues that they understand we can have nice hearings.

We have some very interesting hearings in the Commerce Committee on a broad variety of subjects. It is great. It is the most intellectually stimulating experience I have ever had in my service on the Commerce Committee and on the Armed Services Committee, of which I have been a member since 1987.

I find it extremely enjoyable. The discussions are wonderful. I learn more about how our military is conducting their operations, how we are planning for the future. But do not think, as members of the authorizing committee, you will have the slightest effect on what is done in this body.

I am not going to take too much longer, but I will just make a reference. In 1997—since the Senator from Hawaii is here—there was a proposal put in an appropriations bill to build two ships in Mississippi. And certain waivers were made in those requirements. In return for that, those ships would operate from the State of Hawaii. About $1 billion worth of taxpayers' money was on the line.

I said, this is crazy. You can't do this. This is outrageous. Do you know what happened a few weeks ago? The company went bankrupt. There are two hulls sitting in the State of Mississippi. The taxpayers are already on the hook for $300-some million, and it will probably rise to $1 billion.

If that proposal had gone through the Commerce Committee, it never would have seen the light of day because, on its face, it was crazy. To give a 30-year or 20-year, or whatever it is, exclusivity to a cruise line in return for them being built with taxpayers' dollars, there was no way it was going to succeed. And I said so at the time.

So now the taxpayers are on the hook for $1 billion.

We are talking about real money. What is going on here? It is because we are violating the process and the rules for the way we should operate. Perhaps this Boeing deal would have gotten some consideration in a very different fashion. Probably what would have resulted is that we would have authorized the purchase of three or four 767s and then in the following year we would have authorized some more, depending on what the administration wanted. But now we are putting in 100 airplanes that weren't in the top 60 requirements the Air Force told the Congress and the American people they needed. After 10 years, one-third to one-fourth of their lifespan, we give them back. How does anybody justify this kind of procedure?

I suggest that the Senate look at itself. I can't speak for the House. The Senate ought to look at itself. What are we doing? What do we do here? I think I may be one of four or five Senators who has examined this bill. I may be one of four or five who has looked at this bill because I have about 10 staffers leafing through it trying to figure out what is in it. Everybody certainly wants to go home. I understand that. That is why I will not talk too much longer.

I said on the floor of the Senate that the Department of Defense appropriations bill would be the last bill we considered because it would have the most pork in it because everybody would want to go home and nobody would want to look at it. This is a bill that we received sometime this afternoon or late morning, this is the legislation, $343 billion. What is it full of? Does anybody know? I have had about 10 staffers trying to leaf through it and find out. We have already found billions of dollars of unauthorized projects.

This kind of behavior cannot go on. It can't go on. You will lose the confidence of the American people. You will lose their faith that you are representing them and their tax dollars and their priorities.

This is called war profiteering: On the 21st of December, the last bill, the last train loaded up, nobody has read it, and we vote for it. We all vote for it because, of course, we are in a war. We can't not do that. I won't. But the fact is, we better change the way we are doing business, and we ought to look at ourselves and see if we are proper stewards of the taxpayers' dollars.

More importantly, are we proper stewards of our Nation's defense? Are we placing our national priorities for our military and the men and women in the military and their needs first?

This is going to be a long war on terrorism. We can't afford to put all this stuff in a Defense appropriations bill that has nothing to do with defense. We can't load it up with all this pork for the Salt Lake City Olympics. We can't give sweetheart deals to cruise lines.

Early next year when we come back, I will propose a change in the rules of the Senate. I hope it will be considered by many of my colleagues. I know it probably won't be considered by those on the Appropriations Committee because now they have all the power. But I believe that this is a body of equals, of 100 equal Senators. Some are elected to our majority; some are chairmen and ranking members of committees and, obviously, have more power than others. But we are equals when it comes time to do what we should be able to do with the taxpayers' dollars.

The power is now in the hands of the Appropriations Committee and those members of the Appropriations Committees. You read these things. First you laugh, and then you cry. It is really unbelievable. I laughed when I saw $75,000 for the Reindeer Herders' Association. I cried when I saw $6 million for the airport in Juneau. We need to upgrade airports all over America.

I was very disturbed when I saw that for the byways program, last year 40 States got money for the Scenic Byways Program; this year it is 11. I was very disturbed when I saw the Transportation Appropriations Committee took $453 million out of the formula for highway fund distribution to the States and distributed it among the States of the appropriators. How do you justify that?

We debated for a week in the Senate on that formula. I didn't like the result because Arizona receives less money from Washington in our taxpayers' dollars than we send, but I accepted the verdict of the entire 100 Senators. Now hundreds of millions of dollars that should be fairly distributed under that formula were taken by the Transportation appropriators without a debate, without a hearing, and distributed to the States of the appropriators.

That kind of thing cannot continue. It cannot continue or it renders meaningless not only the nonappropriators but the debate we had. Why did we waste a week debating the TEA–21 formula. Because we thought it was important. We thought that was the way the money would be distributed. Then the Appropriations Committee takes that money and redistributes it, coincidentally, to the States of the members of the Appropriations Committee. We can't continue doing this.

I know the hour is late. I apologize to my colleagues if I have inconvenienced them. But I warned them weeks ago that the last train would be the Defense appropriations bill, and everybody would want to vote for it and leave.

I just hope that a document this big, with this much money, $343 billion in taxpayers' money, that before we vote on something such as this again, at least let's look at it and see what it contains.

I yield the floor.

Mr. HATCH. Mr. President, I want to take this opportunity to set the record straight with respect to a good deal of misinformation which has been circulating about Federal support for the 2002 Winter Olympic Games in Salt Lake City, Utah. In fact, earlier today, one of our colleagues took the floor to condemn the funding Congress has provided for the 2002 Olympics. I listened carefully to his remarks. I have to say that if his understanding of the situation were true, I could understand how he feels. Unfortunately, however, I believe he and others have relied on incomplete and distorted press accounts which are, simply, a disservice to the Olympic spirit that a majority of Americans have raced to embrace. Most of these distortions seem to have originated with an article in the December 10, 2001 edition of Sports Illustrated. The article, ironically entitled "Snow Job," is in fact a snow job itself.

The thrust of the criticisms to which I refer appears to be an incorrect assumption that, in seeking support for the Olympic Games, the State of Utah is somehow attempting to enrich itself unfairly at the expense of American taxpayers. Nonsense. Poppycock. Malarky. What those who race to criticize our Olympic games fail to consider is that these are the world's Olympic Games, a time-honored tradition which our nation is so fortunate to be hosting in February. I find these slams against the Olympic Games particularly discouraging given the fact that tomorrow the Olympic torch will arrive on Capitol Hill. And I cannot fail to note that it was this very body, only days ago, that unanimously authorized the torch to be carried to our Capitol, and some are here today questioning our support for that effort.

Enthusiasm has been building across the country as the torch makes its way from Athens to Atlanta, and now from Atlanta to Washington to Salt Lake. Hundreds of thousands of spectators have been lining the streets, cheering on the torch-bearers as they carry the Olympic flame throughout the country. We have all been so heartened to see citizens from all walks of life passing the torch, honoring everyday heroes. The message of the Salt Lake 2002 Olympic Torch Relay is "Light the Fire Within." The flame symbolizes the spirit and passion of individuals who inspire others. The young people who make great sacrifices to become Olympic champions are certainly heroes. The flame celebrates not only the Olympians, but people of all walks of life who have inspired others.

While the Torch Relay is only a part of the Olympics, it is symbolic of the fire and passion for excellence that the games are all about. it is ironic that a publication which has staked its reputation on America's passion for athleticism now just weeks before the opening ceremony seeks to diminish the glory of the games by sensationalizing an issue that has been scrutinized and laid to rest months ago. It is also personally discouraging to me that one of our colleagues would seize this one article, one story among a vast sea of positive journalism on the Olympics, as a populist club in a years-long crusade to curb unwise and unneeded Federal spending. Good motive. Wrong target.

Those of our colleagues who are interested in a fair and balanced analysis of Olympic spending should consult the November, 2001 General Accounting Office, GAO, report, "Olympic Games Costs to Plan and Stage the Games in the United States." And if you have any problem getting a copy of the report, let me know and I'll send it right over. The GAO study debunks many of the criticisms and draws an accurate picture which should put into proper perspective many of the misconceptions that are circulating. As any fair-minded reader can glean from the extensive GAO analysis, the Sports Illustrated article compares apples to oranges when calculating the costs of the various Olympic planning events that have taken place in this country. For example, critics of Olympic spending often compare transportation improvements in Utah to those in Lake Placid, a small rural community.

The article also fails to take into consideration the passage of time and the changing scope of the Olympics as the international communities' participation in the Olympics has grown. Most disappointing, the article to fails to demonstrate an understanding of federal funding of state highway projects and the costs associated with highway projects already in the planning stages for federal funding.

Earlier, our colleague decried that the Olympic Games will cost about $1.5 billion. Wrong again. Actually, it is over that amount. But as the GAO report makes perfectly clear, Federal support only accounts for 18 percent of that total. In truth, as the GAO analysis makes clear, the total projected cost, both public and private, of staging the 2002 Winter Olympic and Paralympic Games, excluding additional security requirements resulting from the September 11, 2001 terrorist attacks, is $1.9 billion. Of this total, GAO estimates that $342 million will be provided by the federal government, 18 percent. GAO also documents that the State of Utah will provide $150 million. That is eight percent, or almost half the Federal amount provided by the 50 States for this international effort.

Local governments alone are providing four percent, or $75 million. And the Salt Lake Organizing Committee has raised the vast majority of the funding, $1.3 billion. That is 70 percent. This represents the hard work of hundreds of people who have spent weeks and months raising private donations. This is a true public-private partnership, which shows America at its best. So why are we not racing to praise this effort, rather than condemn it? The GAO report levels the playing field by making more accurate funding comparisons with previous Olympic Games held in the United States. Rather than using a dollar to dollar comparison, a distorted calculation, the GAO report uses a percentage comparison, a better gauge to assess the true costs to the Federal government.

For the edification of my colleagues, I would like to point out that a second report will be published shortly that compares the 2002 Winter Salt Lake Winter Olympics with Olympic games in other countries. This report will be even more enlightening with regard to total cost growth for the Olympic games and to the extent other governments have subsidized the Olympics. The GAO report indicates that while the total costs for staging the U.S. Olympic games, particularly the winter games, have grown, the percentage of federal participation has remained fairly constant taking into consideration increasing security requirements due to the bomb incident in Atlanta and events since September 11, 2001.

In fact, the Sports Illustrated article attempts to throw a negative spin on security spending for the Olympics by stating that "Surprisingly, all but $40 million of the $240 million in security spending was approved before September 11." Authors of the article fail to appreciate that a great majority of the security money was dedicated before September 11 because the intelligence community had knowledge of the growing terrorist threat in the world.

After September 11, the fact that security required little revision is testimony to the thoroughness in Olympic security planning and preparation. For any of my colleagues who still remain unconvinced, I urge you to review the GAO report and obtain a true picture of federal support for the Olympic Games.

I also want to address specifically the issue of federal funding for an area that has received the most attention in the press and elsewhere, yet is perhaps the least understood. This concerns federal funding for Utah transportation projects over the last five years. It has been a popular parlor game to criticize funding for Olympic transportation costs. Many naysayers have rushed to judgment incorrect judgment I might add assuming that any construction project underway in Utah must be a direct result of the Olympic Games and that the funding must be coming from sources outside Utah.

Nothing could be further from the truth. The indiscriminate and arbitrary inclusion of all transportation costs in federal funding figures for the 2002 Olympics have dramatically skewed the numbers to incorrectly support the allegation that Utah has gotten more than its fair share of Federal transportation dollars because of the Olympics. In fact, the Sports Illustrated article is particularly guilty of this erroneous assumption.

The article's $1.5 billion price tag for the Salt Lake Olympics includes well over $800 million in transportation projects that were not designed specifically for the Olympics. Let me address the three largest projects that have attracted considerable attention and set the record straight.

First, let me address the North/South Light Rail in Salt Lake City. Since 1983, the Utah Transit Authority has planed a light rail system to handle the increased traffic in and around Salt

Lake City on a daily basis. The system design calls for two connected light rail lines one running north and south from downtown Salt Lake City south to Sandy City, and a second east/west line connecting downtown with Salt Lake International Airport and the University of Utah. The system is designed to be built in phases with the first phase winning approval by the Federal Transit Administration, FTA, through a rigorous competitive process, in 1996.

Under this process, FTA is required to rank proposed projects according to a number of objective criteria and to select those projects that are ranked highest. The criteria address such areas as ridership, mobility improvements, environmental benefits, operational efficiencies, and cost effectiveness. It is important to remember that the project must meet the FTA criteria before it is ever considered for federal funding and must compete with other projects. The first phase of the program, the North/South line, was found worthy and funded by both Federal and state transportation monies. This action was completely independent of the Olympics.

The North/South line was completed in December 1999 at a total project cost of $312.5 million, of which $241.3 million was paid by the federal government. The State of Utah paid $61.2 million which represents 20 percent of the bill. This is in keeping with the traditional split for state transportation projects, the state can fund as little as 20 percent and the federal as much as 80 percent of the project costs.

It is important to note that this light rail project benefits all Salt Lake City citizens. Not only does it help the poor who are unable to afford cars but it also draws commuters out of cars thus helping the environment. Everyone benefits from greater mobility and better air quality. From the opening of the line in 1999, ridership has far exceeded expectations and it has continued to rise. Again, this project was not built or funded as an Olympic project—it was approved by the Administration and Congress based on a detailed analysis of the merits of the project itself and the long-term transportation needs of the Salt Lake Valley.

The University Connector Light Rail is the second phase of the light rail program. It will run from downtown Salt Lake City to the University of Utah. In 2000, the Administration and Congress approved a full funding grant agreement, allowing the Utah Transit Authority to begin construction. The tremendous success of the North/South light rail line was a key factor in the decision by Congress and the Administration to approve construction. Like the first phase, this phase was approved by FTA pursuant to a rigorous evaluation process. However, once the project was deemed to qualify under the normal Federal guidelines, the Administration did choose to accelerate it based on a possibility that it could be completed before the Olympics. Nevertheless, everyone, including the Congress, recognized that there was a possibility that the segment would not be completed in time for the Olympic Games and, therefore, the agreement included provisions allowing for the temporary halt of construction with resumption following the Games.

Fortunately, UTA is on schedule to complete the project and therefore the extension will be operating during the Olympics. However, it is important to note that this project was never deemed necessary for the Olympic Games by the Salt Lake Organizing Committee; in fact, operations on the line will be suspended for opening and closing ceremonies at Rice-Eccles Olympic Stadium, which is served by the University Connector. The cost of the project will be $118.5 million with $84.0 million federally funded. Without a doubt, the most misunderstood of all the Utah transportation projects is the I–15 reconstruction. This $1.59 billion project has been characterized as an Olympic project funded by the Federal government. Not true.

It must be remembered that Utah is a crossroads of the West and the I–15 interstate highway is critical to regional shipping and other transportation needs. It benefits everyone in the region, including those in California, Nevada, Arizona, New Mexico, and Idaho. The project was planned long before the Games, in the mid-1980s in fact. The I–15 improvements address additional capacity needs resulting from normal growth in the Salt Lake Valley and correct some deplorable infrastructure problems such as cracks in roadbeds and crumbling bridges. Critics also fail to recognize that the I–15 project has been a bargain for the Federal government by any analysis. The Federal taxpayer is only funding $210 million out of a $1.59 billion project. While the Federal government has authorized another $243 million in spending for this project in Utah for advance construction authority, these additional Federal funds may not be used.

Based on current projections, the most the Federal government may contribute is 25–30 percent of the project cost well below the customary 80 percent Federal share. Instead of criticizing our State, we should be applauded. Some here today might ask, "Why did Utah pick up the lion's share of the I–15 reconstruction?"

Utah, though a relatively small state, is seriously committed to transportation improvements as demonstrated by the dedication of state funds for transportation projects. The Utah State Legislature, during the 1997 session, established an aggressive state funding program. The program, known as the Centennial Highway Fund, CHF, will provide for over $3 billion for transportation improvements across the entire state over a ten year period. The I–15 reconstruction project is the premier project funded under the CHF program. Clearly, the annual allocation of about $200 million per year in federal highway funds is insufficient to address all of the transportation needs of the state.

I want to point out that these three transportation projects, rather than a grab of federal money based on some loose association with the Olympics, are in fact long-planned and well thought-out projects to benefit the local community. The light rail system has been nationally noted as a shining example of urban/suburban Smart Growth. And interestingly, all three projects were considered and planned as a Joint Transportation Corridor which was one of the first in the country submitted for an environmental impact assessment. Today such joint corridors are common, but the Utah projects were first among this trend.

Finally, I take great exception with the Sports Illustrated article's sensational innuendos about some Utah businessmen. Did these businessmen benefit from road improvements due to the Olympic venues held on or near their property? Undoubtedly. However, we must remember that these are businessmen who have invested in property and infrastructure over the course of many years. They have taken risks by investing in the growth of the community.

As a result, many others have benefitted from their efforts. When federal money is spent on any state transportation project, the citizens of that state benefit. Some are richer; some are poorer than others. The Sports Illustrated article holds the rest of the United States to one standard and Utah to another. I do not consider this responsible journalism.

In closing, I want to express to my colleagues and the American people my appreciation for their overwhelming support of the Olympic Games. The Salt Lake Games promise to be a fantastic family event, one that I hope that the whole nation will enjoy. We should not let populist politics in Washington douse the Olympic flame in Utah.

PROCUREMENT OF SMOKELESS NITROCELLULOSE

Mr. TORRICELLI. I would like to take the opportunity to thank Senator INOUYE and Senator STEVENS and the Defense Appropriations Staff for their cooperation in securing $2 million for the procurement of smokeless nitrocellulose in this year's Department of Defense, DoD, Appropriations Bill. Indeed, the provision included in this legislation will help ensure that our nation will continue to have at least two domestic suppliers of smokeless nitrocellulose.

The $2 million direct procurement for this vital product will reestablish

Green Tree Chemical Technologies of Parlin, New Jersey as a viable competitor for the DoD industrial base. Furthermore, this purchase will enable Green Tree to be viable for the long term. It will continue to produce the qualified material for DoD programs and provide the only other production base in the United States for what is a volatile product.

Mr. CORZINE. I concur with my colleague with regard to the importance of the smokeless nitrocellulose provision included in this year's defense spending bill. In fact the importance of this provision cannot be overemphasized because Green Tree now produces the qualified nitrocellulose for the Trident II, LOSAT, TOW and HELLFIRE missile programs. Had the provision providing the $2 million procurement of nitrocellulose been omitted, these important missile programs could have been disrupted because re-qualifying DoD materials can be costly and time consuming.

Mr. CARPER. My two colleagues from New Jersey are correct in their assessment of the importance of this $2 million appropriation for smokeless nitrocellulose. Earlier this year, an anticompetitive joint venture, which would have centralized the production of this key ingredient in Defense Department programs, threatened Green Tree. Indeed, had the Federal Trade Commission not found the joint venture to be monopolistic, Green Tree would have been forced to close its New Jersey plant. The provision was inserted to the conference report to serve the same purpose as an amendment added to the Senate DoD appropriations bill to provide Green Tree with a $2 million production grant.

By including this vital provision, Congress will ensure the survival of Green Tree and enhance and sustain the competitive domestic production base for smokeless nitrocellulose which plays a key role in many DoD weapons programs.

Mr. BIDEN. I join my colleagues in thanking Senator INOUYE and Senator STEVENS for their assistance in keeping this funding in the final bill. As my colleagues have indicated, smokeless nitrocellulose is a critical precursor for the ammunition of a number of vital weapons systems. By ensuring that more than one company produces it here in the United States, we are being both fiscally responsible and prudent.

SOUTHEAST MICHIGAN HEALTH ASSOCIATION DEVELOPMENT OF A HAND HELD WATER QUALITY DETECTION DEVICE

Mr. LEVIN. Mr. President, as the Senate considers the Fiscal Year 2002 Appropriations Act for the Department of Defense, I would like to emphasize the importance of portable water quality detection equipment in homeland security. Such devices are a important tools for ensuring a safe water supply for all Americans.

In Michigan, like the rest of the country, there is a vital need to implement responsible water quality monitoring and tracking due to serious threats to public health through raw sewage discharges into its lakes and the industrial outfalls that pollute lakes such as Lake St. Clair. Since September 11, this need is even more important. We must protect sources of drinking and recreational water for our citizens by developing technologies that can identify and quantify hazardous water pollutants in near "real time".

Four county health departments, Wayne, Oakland, Macomb and St. Clair, together with the U.S. Army Tank Automotive Research and Development Center, TARDEC, and Wayne State University, along with the support of the Michigan Department of Environmental Quality, comprise a consortium that is proposing to prove/develop methodologies to develop field portable equipment to detect chemical and biological contaminants including warfare agents. These technologies will accomplish the objectives of protecting public health and the health of our military by providing a valuable tool that can determine water quality.

September 11 has placed a new urgency on the need to implement a field detection program to ensure safe potable drinking water supplies for civilians as well as military personnel. Funding provided in this bill is essential to the Southeast Michigan Health Association's research and I would urge the Environmental Protection Agency to make this project a priority when distributing the funds provided in this bill.

Mr. BYRD. The Senator from Michigan has a very important point. I hope that the people at the Environmental Protection Agency will take note of his remarks.

Mr. LEVIN. I thank my friend from West Virginia and the committee for their hard work in putting together this important legislation.

OFFICE OF JUSTICE PROGRAMS

Mr. LOTT. Mr. President, the supplemental spending portion of the Department of Defense Appropriations bill for fiscal year 2002, H.R. 3338, including funding for the Department of Justice Office of Justice Programs' Justice Assistance account. Among the authorized uses of these funds are research and development to support counterterrorism technologies, training for first responders, and grants for State and local domestic preparedness support. The scope of events for which our communities are attempting to prepare is broad, including release of radiological, chemical or biological agents, explosions, armed confrontations, and hostage-taking. While the details of how these situations would affect a community and the appropriate responses differ due to local circumstances, weather, and topography, similar methods for planning for, detecting, and monitoring these events may apply nationwide.

It has come to my attention that technology and supporting online services are available to communities to provide emergency responders with the information necessary to manage and mitigate damage from such terrorist acts that have the potential to endanger individuals and entire communities. These systems are capable of monitoring from a remote location the release of radiological, chemical, and biological agents over open terrain or urban environments. Taking into consideration real-time weather conditions from multiple meteorological sensors, these systems can assess the need for evacuations and the potential for human loss or harm and physical damage.

I appreciate that the Office of Justice Programs works hard, both within its research and development arm, the National Institute for Justice, and in coordination with other Departments and agencies, to develop new technologies and standardized equipment and training to assist State and local responders with their preparations for these type of events. It seems an appropriate use the funds provided by this bill to the Office of Justice Programs to assess the capabilities of such systems and their utility for State and local entities with domestic terrorism responsibilities, and to work with other departments and agencies to include such systems in standard equipment lists for domestic terrorism response. I ask the Senator from New Hampshire, who is the ranking member on the appropriations subcommittee overseeing the Department of Justice, whether he agrees with that assessment.

Mr. GREGG. I agree that new technologies of the type described by the Republican Leader may indeed prove useful to local responders. I encourage the Office of Justice Programs to consider such systems and work to include such systems in its standard equipment list for domestic terrorism response if such systems prove effective.

Mr. LOTT. I thank my distinguished colleague for his assistance in this matter.

BOEING 767 LEASING PROVISION

Mrs. MURRAY. I rise to engage the Chairman and Ranking Member of the Senate Defense Appropriations Subcommittee in a colloquy regarding the Boeing 767 leasing provision included in the fiscal year 2002 Defense Appropriations bill.

Ms. CANTWELL. I rise to join my colleague from the State of Washington to discuss this matter.

Mr. INOUYE. I would be pleased to discuss this matter with the Senators.

Mr. STEVENS. As would I.

Mr. ROBERTS. This is a matter that is important to the Nation, our national security, and the great State of

Kansas. I, too, would like to join with my colleagues to review the leasing issue.

Mrs. MURRAY. I agree with my colleague from Kansas. The aging of our military air refueling tanker fleet has become a critical military operations issue-one that requires a bold solution now. The Air Force's fleet of over 500 KC–135 air refueling tankers is, on average, more than 40 years old. In fact, the oldest of these tankers—100 KC–135E models—are close to 45 years in age. New 767 air refueling tankers are already under development and could begin replacing the KC–135 Es within 2 years. There would be no up-front development costs to the military.

Ms. CANTWELL. Of equal importance is the need to support our commercial and military industrial base in the wake of the September 11 terrorist attacks. The provision included in the fiscal year 2002 Defense Appropriations bill will allow the Air Force to meet a pressing military need and ensure continued, strong demand for the Boeing 767 aircraft. In this regard, it is my understanding that the provision included in the bill permits the leasing of up to 100 purpose Boeing 767 aircraft in a commercial configuration for up to 10 years. Is that correct?

Mr. INOUYE. That is correct. And contrary to some reports, this provision is permissive in nature. I believe this provision provides the right solution at the right time to address the Air Force's needs.

Mr. STEVENS. I agree with Senator INOUYE's remarks. Not only with this provisions allow for timely delivery of critical military assets, but it requires that the leasing costs be 10 percent less than the life cycle costs of the aircraft were they to be purchased outright.

Mr. ROBERTS. It is my understanding that Italy and Japan have selected the 767 tanker for their air forces and that 767s are being modified in Wichita already. Italy intends to buy four of the tankers and Japan intends to purchase at least one. I also know that this same tanker configuration is being offered commercially to other countries to meet their in-flight fueling requirements. Is that the Senator from Alaska's understanding as well?

Mr. STEVENS. It is. There are a number of other nations and at least one private company who have expressed an interest in procuring general purpose, commercially configured tanker aircraft.

Mrs. MURRAY. Then would you say that a commercial market exists for these aircraft?

Mr. STEVENS. I would.

Mrs. MURRAY. I ask the Senator from Hawaii, would you agree that a general purpose aircraft that will meet the general requirements of many customers; that can operate as a passenger aircraft, a freighter, a passenger/freighter "combination" aircraft, or as an aerial refueling tanker; and is available to either government or private customers meets the definition of a general purpose, commercially configured aircraft?

Mr. INOUYE. I believe that assessment makes sense.

Mrs. MURRAY. I thank the Senator.

Ms. CANTWELL. The opportunity has been presented to the Air Force and the Boeing company to come together to make this leasing provision work for the benefit of our national security and our industrial base. I urge them to do so quickly and cooperatively.

Mr. ROBERTS. I agree and pledge my support to making this effort a successful one.

Mr. STEVENS. I thank the Senators for their remarks and for their pledges of support.

Mr. INOUYE. I join with my friend, the Senator from Alaska, to thank you for your remarks and let you know that Senator STEVENS and I will closely follow the progress of this new program.

Mr. CONRAD. Mr. President, I rise to offer for the RECORD a preliminary scoring by the Budget Committee of the conference report to H.R. 3338, the Department of Defense Appropriations Act for fiscal year 2002. I will be submitting a final, official statement for the record after CBO completes its scoring of the conference report.

Preliminarily, the conference report provides $317.207 billion in nonemergency discretionary budget authority, almost all of which is for defense activities. That budget authority will result in new outlays in 2002 of $212.907 billion. When outlays from prior-year budget authority are taken into account, nonemergency discretionary outlays for the conference report total $309.256 billion in 2002. By comparison, the Senate-passed bill provided $317.206 billion in nonemergency budget authority, which would have resulted in $309.365 billion in outlays.

In addition, H.R. 3338 includes $20 billion in emergency-designated funding. That funding represents the second $20 billion previously authorized by and designated as emergency spending under Public Law 107–38, the Emergency Supplemental Appropriations Act for Recovery from and Response to Attacks on the United States. An estimate of the impact on outlays from the emergency funding is not available at this time.

The conference report to H.R. 3338 violates section 302(f) of the Congressional Budget Act of 1974 because it exceeds the subcommittee's Section 302(b) allocation for both budget authority and outlays. Similarly, because the committee's allocation is tied to the current law cap on discretionary spending, H.R. 3338 also violates section 312(b) of the Congressional Budget Act. The bill includes language that raises the cap on discretionary category spending to $681.441 billion in budget authority and $670.206 billion in outlays and the cap on conservation category outlays to $1.473 billion. However, because that language is not yet law, the budget committee cannot increase the appropriations committee's allocation by the amount of the pending cap increase at this time, putting it in violation of the two points of order.

In addition, by including language that increases the cap on discretionary spending, adjusts the balances on the pay-as-you-go scorecard for 2001 and 2002 to zero, and directs the scoring of a provision in the bill, H.R. 3338 also violates section 306 of the Congressional Budget Act. Finally, the bill violates section 311(a)(2)(A) of the Congressional Budget Act by exceeding the spending aggregates assumed in the 2002 budget resolution for fiscal year 2002.

The conference report to H.R. 3338 violates several budget act points of order; however, it is good bill that addresses the Nation's defense needs, including the defense of our homeland. The President and Congressional leaders from both parties agreed in the wake of the September 11 attack that more money was needed to respond to the terrorists and to protect our homeland. This report follows that bipartisan agreement and includes language that raises the cap on discretionary spending. I urge its adoption.

I ask unanimous consent that a table displaying the budget committee scoring of H.R. 3338 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 3338, CONFERENCE REPORT TO THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002 PRELIMINARY SCORING

[Spending comparisons—Conference Report, in millions of dollars]

	General purpose[2]	Mandatory	Total
Conference report:			
Budget Authority	317,207	282	317,489
Outlays	309,256	282	309,538
Senate 302(b) allocation:[1]			
Budget Authority	181,953	282	182,235
Outlays	181,616	282	181,898
President's request:			
Budget Authority	319,130	282	311,224
Outlays	310,942	282	311,224
House-passed:			
Budget Authority	317,207	282	317,489
Outlays	308,873	282	309,155
Senate-passed:			
Budget Authority	317,206	282	317,488
Outlays	309,365	282	309,647
CONFERENCE REPORT COMPARED TO			
Senate 302(b) allocation:[1]			
Budget Authority	135,254	0	135,254
Outlays	127,640	0	127,640
President's request:			
Budget Authority	(1,923)	0	(1,923)
Outlays	(1,686)	0	(1,686)
House-passed[2]			
Budget Authority	0	0	0
Outlays	383	0	383
Senate-passed[2]			
Budget Authority	1	0	1
Outlays	(109)	0	(109)

[1] For enforcement purposes, the budget committee compares the conference report to the Senate 302(b) allocation.

[2] All but $3 million of the nonemergency budget authority provided in the conference report is for defense activities.

Notes.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions. In addition, the conference report includes $20 billion in emergency funding related to the September 11th attacks. An estimate of the outlay impact from the emergency spending is not available at this time.

Mr. McCAIN. Mr. President, I rise once again to address the issue of wasteful spending in appropriations measures, in this case the bill funding the Department of Defense for fiscal year 2002. In provisions too numerous to mention in detail, this bill, time and again, chooses to fund pork barrel projects with little if any relationship to national defense at a time of scarce resources, budget deficits, and underfunded, urgent defense priorities.

As I pointed out previously to this body on December 7th, the massive Department of Defense Appropriations Bill Conference Report, totaling $343 billion, would be the last business in the Senate and so it is. Not because of its level of difficulty, but because it is so easy to hide the mother of all pork projects in a large massive bill or maybe it wasn't because we found it as well as many other groups. For example, let me read a few comments.

Our Nation is at war, a war that has united Americans behind a common goal—to find the enemies who terrorized the United States on September 11th and bring them to justice. In pursuit of this goal, our servicemen and women are serving long hours, under extremely difficult conditions, far away from their families. Many other Americans also have been affected by this war and its economic impact, whether they have lost their jobs, their homes, or have had to drastically cut expenses this holiday season. The weapons we have given them, for all their impressive effects, are, in many cases, neither in quantity nor quality, the best that our government can provide.

For instance, stockpiles of the precision guided munitions that we have relied on so heavily to bring air power to bear so effectively on difficult, often moving targets, with the least collateral damage possible, are dangerously depleted after only 10 weeks of war in Afghanistan. This is just one area of critical importance to our success in this war that underscores just how carefully we should be allocating scarce resources to our national defense.

Yet, despite the realities of war, and the responsibilities they impose on Congress as much the President, the Senate Appropriations Committee has not seen fit to change in any degree its usual blatant use of defense dollars for projects that may or may not serve some worthy purpose, but that certainly impair our national defense by depriving legitimate defense needs of adequate funding.

Even in the middle of a war, a war of monumental consequences, the Appropriations Committee is intent on using the Department of Defense as an agency for dispensing corporate welfare. It is a terrible shame that in a time of maximum emergency, the United States Senate would persist in spending money requested and authorized only for our Armed Forces to satisfy the needs or the desires of interests that are unrelated to defense needs.

The Investor's Business Daily, on December 18, 2001, had this to say in an article titled At the Trough: Welfare Checks To Big Business Make No Sense, "Among the least justified outlays is corporate welfare. Budget analyst Stephen Slivinski estimates that business subsidies will run $87 billion this year, up a third since 1997. Although President Bush proposed $12 billion in cuts to corporate welfare this year, Congress has proved resistant. Indeed, many post-September 11 bailouts have gone to big business. Boeing is one of the biggest beneficiaries. Representative NORM DICKS, Democrat from Washington, is pushing a substantial increase in research and development support for Boeing and other defense contractors, the purchase of several retrofitted Boeing 767s and the leasing of as many as 100 767s for purposes ranging from surveillance to refueling. Boeing has been hurt by the storm that hit airlines, since many companies have slashed orders. Yet China recently agreed to buy 30 of the company's planes, and Boeing's problems predate the September 11 attack. It is one thing to compensate the airlines for forcibly shutting them down; it is quite another to toss money at big companies caught in a down demand cycle: Boeing, along with many other major exporters, enjoys its own federal lending facility, the Export-Import Bank. ExIm uses cheap loans, loan guarantees and loan insurance to subsidize purchases of U.S. products. The bulk of the money goes to big business that sell airplanes, machinery, nuclear power plants and the like. Last year alone, Boeing benefitted from $3.3 billion in credit subsidies. While corporate America gets the profits, taxpayers get the losses. . . . The Constitution authorizes a Congress to promote the general welfare, not enrich Boeing and other corporate behemoths. There is no warrant to take from Peter so Paul can pay higher corporate dividends. In the aftermath of September 11, the American people can ill afford budget profligacy in Washington. If Congress is not willing to cut corporate welfare at a time of national crisis, what is it willing to cut?"

As I mentioned last week when the Senate version of the Defense Appropriations bill was being debated and—now carried through the Conference Committee there is a sweet deal for the Boeing Company that I'm sure is the envy of corporate lobbyists from one end of K Street to the other. Attached is a legislative provision to the Fiscal Year 2002 Department of Defense Appropriations bill that would require the Air Force to lease one hundred 767 aircraft for use as tankers for $26 million apiece each year for the next 10 years. Moreover, in Conference Committee the appropriators added four 737 aircraft for executive travel mostly benefitting Members of Congress. We have been told that these aircraft will be assigned to the 89th Airlift Wing at Andrews Air Force Base. Since the 10-year leases have yet to be signed, the cost of the planes cannot be calculated, but it costs roughly $85 million to buy one 737, and a lease costs significantly more over the long term.

The cost to taxpayers?

Two billion and six hundred million dollars per year for the aircraft plus another $1.2 billion in military construction funds to modify KC-135 hangars to accommodate their larger replacements, with a total price tag of more than $30 billion over 10 years when the costs of the 737 leases are also included. This leasing plan is five times more expensive to the taxpayer than an outright purchase, and it represents 30 percent of the Air Force's annual cost of its top 60 priorities. But the most amazing fact is that this program is not actually among the Air Force's top 60 priorities nor do new tankers appear in the 6-year defense procurement plan for the Service!

That is right, when the Air Force told Congress in clear terms what its top priorities were tankers and medical lift capability aircraft weren't included as critical programs. In fact, within its top 30 programs, the Air Force has asked for several essential items that would directly support our current war effort: wartime munitions, jet fighter engine replacement parts, combat support vehicles, bomber and fighter upgrades and self protection equipment, and combat search and rescue helicopters for downed pilots.

Let me say that again, within its top 30 programs, the Air Force has asked for several essential items that would directly support our current war effort: wartime munitions, jet fighter engine replacement parts, combat support vehicles, bomber and fighter upgrades and self protection equipment, and combat search and rescue helicopters for downed pilots.

This leasing program also will require $1.2 billion in military construction funding to build new hangars, since existing hangars are too small for the new 767 aircraft. The taxpayers also will be on the hook for another $30 million per aircraft on the front end to convert these aircraft from commercial configurations to military; and at the end of the lease, the taxpayers will have to foot the bill for $30 million more, to convert the aircraft back—pushing the total cost of the Boeing sweetheart deal to $30 billion over the ten-year lease. Mr. President, that is waste that borders on gross negligence.

But this is just another example of Congress' political meddling and of how outside special interest groups have obstructed the military's ability to channel resources where they are most needed. I will repeat what I've said many, many times before—the military needs less money spent on pork and more spent to redress the serious problems caused by a decade of declining defense budgets.

This bill includes many more examples where congressional appropriators show that they have no sense of priority when it comes to spending the taxpayers' money. The insatiable appetite in Congress for wasteful spending grows more and more as the total amount of pork added to appropriations bills this year—an amount totaling over $15 billion.

This defense appropriations bill also includes provisions to mandate domestic source restrictions; these "Buy America" provisions directly harm the United States and our allies. "Buy America" protectionist procurement policies, enacted by Congress to protect pork barrel projects in each Member's State or District, hurt military readiness, personnel funding, modernization of military equipment, and cost the taxpayer $5.5 billion annually. In many instances, we are driving the military to buy higher-priced, inferior products when we do not allow foreign competition. "Buy America" restrictions undermine DoD's ability to procure the best systems at the least cost and impede greater interoperability and armaments cooperation with our allies. They are not only less cost-effective, they also constitute bad policy, particularly at a time when our allies' support in the war on terrorism is so important.

Secretary Rumsfeld and his predecessor, Bill Cohen, oppose this protectionist and costly appropriation's policy. However, the appropriations' staff ignores this expert advice when preparing the legislative draft of the appropriations bills each year. In the defense appropriations bill are several examples of "Buy America" pork—prohibitions on procuring anchor and mooring chain components for Navy warships; main propulsion diesel engines and propellers for a new class of Navy dry-stores and ammunition supply ships; supercomputers; carbon, alloy, or armor steel plate; ball and roller bearings; construction or conversion of any naval vessel; and, other naval auxiliary equipment, including pumps for all shipboard services, propulsion system components such as engines, reduction gears, and propellers, shipboard cranes, and spreaders for shipboard cranes.

Also buried in the smoke and mirrors of the appropriations markup is what appears to be a small provision that has large implications on our warfighting ability in Afghanistan and around the world. Without debate or advice and counsel from the Committee on Armed Services, the appropriators changed the policy on military construction which would prohibit previous authority given to the President of the United States, the Secretary of Defense, and the Service Secretaries to shift military construction money within the MILCON account to more critical military construction projects in time of war or national emergency. The reason for this seemingly small change is to protect added pork in the form of military construction projects in key states, especially as such projects have historically been added by those Members who sit on the Military Construction Appropriations Subcommittee, at the expense, Mr. President, of projects the Commander-in-Chief believes are most needed to support our military overseas.

Does the appropriations committee have any respect for the authorizing committees in the Senate?

I look forward to the day when my appearances on the Senate floor for this purpose are no longer necessary. There is nearly $2.5 billion in unrequested defense programs in the defense appropriations bill and another $1.1 billion for additional supplemental appropriations not directly related to defense that have been added by the Chairman of the Committee. Consider what $3.6 billion when added to the savings gained through additional base closings and more cost-effective business practices could be used for. The problems of our armed forces, whether in terms of force structure or modernization, could be more assuredly addressed and our warfighting ability greatly enhanced. The public expects more of us.

But for now, unfortunately, they must witness us, blind to our responsibilities in war, going about our business as usual.

I ask unanimous consent that the list of earmarks from the fiscal year 2002 Department of Defense Appropriations Bill Conference Report be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FY 2002 Defense appropriations pork

[In millions]

DIVISION A	
Operation and Maintenance, Army:	
Fort Knox Distance Learning Program	2.1
Army Conservation and Ecosystem Management	4.3
Fort Richardson, Camp Denali Water Systems	0.6
Rock Island Bridge Repairs	2.0
Memorial Tunnel, Consequence Management	16.5
FIRES Programs Data	6.8
Skid Steer Loaders	7.5
USARPAC Transformation Planning	8.5
USARPAC Command, Control, and Communications Upgrades	3.2
Hunter UAV	2.5
Field Pack-up Systems	2.5
Unutilized Plant Capacity	17.5
SROTC—Air Battle Captain	1.0
Joint Assessment Neurological Examination Equipment	2.6
Repairs Ft. Baker	1.0
Fires Program Data Capt.	6.8
Mobility Enhancement Study	0.5
Classified Programs, Undistributed	0.35
Operation and Maintenance, Navy:	
Naval Sea Cadet Corps	1.0
Shipyard Apprentice Program	7.8
PHNSY SRM	12.8
Warfare Tactics PMRF	20.4
Hydrographic Center of Excellence	2.5
UNOLS	1.5
Center of Excellence for Disaster Management and Humanitarian Assistance	4.3
Biometrics Support	2.5
Operation and Maintenance, Air Force:	
Pacific Server Consolidation	8.5
Grand Forks AFB ramp refurbishment	5.0
Wind Energy Fund	0.5
University Partnership for Operational Support	3.4
Hickam AFB Alternative Fuel Program	1.0
SRM Eielson Utilidors	8.5
Civil Air Patrol Corporation	3.2
PACAF Strategic Airlift planning	1.7
Elmendorf AFB transportation infrastructure	10.2
MTAPP	2.8
Operation and Maintenance, Defense-Wide:	
Civil Military programs, Innovative Readiness Training	8.5
DoDEA, Math Teacher Leadership	1.0
DoDEA, Galena IDEA	3.4
DoDEA, SRM	5.0
OEA, Naval Security Group Activity, Winter Harbor	4.0
OEA, Fitzsimmons Army Hospital	3.8
OEA Barrow landfill relocation	3.4
OEA, Broadneck peninsula NIKE site	1.0
OSD, Clara Barton Center	1.0
OSD, Pacific Command Regional initiative	6.0
OEA, Adak airfield operations	1.0
OSD, Intelligence fusion study	5.0
Free Markets	1.4
Trustfund for demining and mine eviction	14.0
Impact aid	30.0
Legacy	12.9
Operation and Maintenance, Army National Guard:	
Distributed Learning Project	25.5
ECWCS	2.5
Camp McCain Simulator Center, trainer upgrades	3.2
Fort Harrison Communications Infrastructure	1.0
Communications Network Equipment	0.209
Multimedia classroom	0.85
Camp McCain Training Site, roads	2.2

FY 2002 Defense appropriations pork—Continued

Full Time Support, 487 additional technicians	11.2
Emergency Spill Response and Preparedness Program	0.79
Distance Learning	30.0
SRM reallocation	25.0
Army Guard Education Program at NPS	2.0
Operation and Maintenance, Air National Guard:	
Extended Cold Weather Clothing System	2.5
Defense Systems Evaluation	1.7
Eagle Vision (Air Guard)	8.5
Bangor International Airport repairs	5.0
Military Techniques Costing Model	6.3
Angel Gate Academy	1.5
GSA Leased Vehicle Program	1.75
Camp Gruber Regional Trade Center	2.4
Information Technology Management Training	1.0
Rural Access to Broadband Technology	3.4
National Guard State Partnership Program	1.0
Aircraft Procurement, Army:	
Oil debris detection and burn-off system	3.5
ATIRCM LRIP	7.0
Guardrail Mods	5.0
Procurement of Weapons and Tracked Combat Vehicles, Army: Bradley Reactive Armor Tiles	20.0
Other Procurement, Army:	
Automated Data Processing Equipment	14.0
Camouflage: ULCANS	4.0
Aluminum Mesh Tank Liner	3.5
AN/TTC Single Shelter Switches w/Associated Support	26.5
Blackjack Secure Facsimile	7.0
Trunked Radio System	1.4
Modular Command Post	2.5
Laundry Advance Systems (LADS)	3.0
Abrams & Bradley Interactive Skills Trainer	6.3
SIMNET	10.5
AFIST	8.3
Ft. Wainwright MOUT Instrumentation	6.5
Target Receiver Injection Module Threat Simulator	4.0
Tactical Fire Trucks	4.0
IFTE	15.0
Maintenance Automatic Identification Technology	3.0
National Guard Distance Learning Courseware	8.0
Smart Truck	3.4
ULCANS	4.0
Floating Crane	7.0
2KW Military Tactical Generator	2.5
Firefighting Training System	1.2
Lightweight Maintenance Enclosure	1.2
GUARDFIST	3.0
Army Live Fire Ranges	3.5
USARPAC C–4 suites	7.2
Aircraft Procurements, Navy:	
JPATS (16 aircraft)	44.6
ECP–583	24.0
PACT Trainer	6.0
Direct Support Squadron Readiness Training	4.5
UC–45	7.5
Other Procurement, Navy:	
JEDMICS	11.5
Pacific Missile Range Equipment	6.0
IPDE Enhancement	4.2
Pearl Harbor Pilot	4.3
AN/BPS–15H Navigation System	6.3
Tactical Communication On-Board Training	4.5
Air Traffic Control On-Board Trainer	2.8
WSN–7B	7.0
Naval Shore Communications	48.7
Missle Procurement, Air Force:	
NUDET Detection System	19.066
Other Procurement, Air Force:	
CAP COM and ELECT	7.0
Pacific AK Range Complex Mount Fairplay	6.3
UHF/VHF Radios for Mont Fairplay, Sustina	3.0
National Guard and Reserve Equipment:	
Navy Reserve Misc. Equipment	15.0
Marine Corps Misc. Equipment	10.0
Air Force Reserve Misc. Equipment	10.0
Army National Guard Misc. Equipment	10.0
Air Guard C–130	219.7
Lasermarksmenship Training Center	8.5
UH–60 Blackhawk	8.7
Engage Skills Training	4.2
Multirole Bridging Compound	15.7
Braley ODS	51.0
Heavy Equipment Training System	2.5
Reserve Composition System	15.5
P19 Truck Crash	3.5
Weapons Procurement, Navy:	
Drones and Decoys	14.9
Shipbuilding and Conversion, Navy:	
Minehunter Swath	1.0
Yard Boilers	3.0
Research, Development, Test, and Evaluation, Army:	
Environmental Quality Technology Dem/Val	10.36
End Item Industrial Preparedness Activities	20.6
Defense Research Sciences Cold Weather Sensor Performance	1.0
Advanced Materials Processing	3.0
FCS Composites Research	2.5
AAN Multifunctional Materials	1.5
HELSTF Solid State Heat Capacity	3.5
Photonics	2.5
Army COE Acoustics	3.5
Cooperative Energetics Initiatives	3.5
TOW ITAS Cylindrical Battery Replacement	1.5
Cylindrical Zinc Air Battery for LWS	1.8
Heat Actuated Coolers	1.0
Improved High Rate Alkaline Cells	1.0
Low Cost Reusable Alkaline (Manganese-Zinc) Cells	0.6
Rechargeable Cylindrical Cell System	1.5
Waste Minimization and Pollution Research	2.0
Molecular and Computational Risk Assessment (MACERAC)	1.4
Center for Geosciences	1.5
Cold Regions Military Engineering	1.0
University Partnership for Operational Support (UPOS)	3.4
Plasma Energy Pyrolysis System (PEPS)	3.0
DOD High Energy Laser Test Facility	15.0
Starstreak	16.0
Center for International Rehabilitation	1.4
Dermal Phase Meter	0.6
Minimally Invasive Surgery Simulator	1.4
Minimally Invasive Therapy	5.0
Anthropod-Borne Infectious Disease Control	2.5
VCT Lung Scan	3.2
Tissue Engineering Research	4.7
Monocional Anti-body based technology (Heteropolymer System)	3.0
Dye Targeted Laser Fusion	3.4
Joint Diabetes Program	5.0
Center for Prostate Disease Research	6.4
Spine Research	2.1
Brain Biology and Machine Initiative	1.8
Medical Simulation training initiative	0.75
TACOM Hybrid Vehicle	1.0
N–STEP	2.5
IMPACT	3.5
Composite Body Parts	1.4
Corrosion Prevention and Control Program	1.4
Mobile Parts Hospital	5.6
Vehicle Body Armor Support System	3.3
Casting Emission Reduction Program	5.8
Managing Army Tech. Environmental Enhancement	1.0
Visual Cockpit Optimization	4.2
JCALS	10.2
Electronic Commodity Pilot Program	1.0
Battle Lab at Ft. Knox	3.5
TIME	10.0
Force Provider Microwave Treatment	1.4
Mantech Program for Cylindrical Zinc Batteries	1.8
Continuous Manufacturing Process for Mental Matrix Composities	2.6
Modular Extendable Rigid Wall Shelter	2.6
Combat Vehicle and Automotive technology	14.0
Auto research center	2.0
Hydrogen DEM fuel cell vehicle demonstration	5.0
Electronic Display Research	9.0
Fuel Cell Power Systems	2.5
Polymer Extrusion/Multilaminate	2.6
DoD Fuel Cell Test and Evaluation Center	5.1
Ft. Meade Fuel Cell Demo	2.5
Biometrics	5.1
Diabetes Project, Pittsburgh	5.1
Osteoporois Research	2.8
Aluminum Reinforced Metal Matrix Composition	2.5
Combat Vehicle Res Weight Reduction	6.0
Ft. Ord Celanup Demonstration Project	2.0
Vanadium Tech Program	1.3
ERADS	2.0
Advanced Diagnostics and Therapeutic Digital Tech	1.3
Artifical Hip	3.5
Biosensor Research	2.5

FY 2002 Defense appropriations pork—Continued

Brain Biology and Machine Initiative	1.8
Cancer Center of Excellence (Notre Dame)	2.1
Center for Integration of Medicine and Innovative Technology	8.5
Center for Untethered Healthcare at Worcester Polytechnic Institute	1.0
Continuous Expert Care Network Telemedicine Program	1.5
Disaster Relief and Emergency Medical Services (DREAMS)	8.0
Hemoglobin Based Oxygen Carrier	1.0
Hepatitas C	3.4
Joslin Diabetes Research-eye Care	4.2
LSTAT	2.5
Secure Telemedicine Technology Program	2.0
Memorial Hermann Telemedicine Network	9.0
Monoclonal Antibodies	1.0
Emergency Telemedicine Response and Advanced Technology Program	1.5
National Medical Testbed	7.7
Neurofibromatosis Research Program	21.0
Neurology Gallo Center-alcoholism research	5.6
Neurotoxin Exposure Treatment Research Program	17.0
Polynitroxylated Hemogolbin	1.0
SEAtreat cervical cancer visualization and treatment	1.7
Smart Aortic Arch Catheter	1.0
National Tissue Engineering Center	2.0
Center for Prostate Disease Research at WRAMC	6.4
Research, Development, Test, and Evaluation, Navy:	
Southeast Atlantic Coastal Observing System (SEA–COOS)	4.0
Marine Mammal Low Frequency Sound Research	1.0
Maritime Fire Training/Barbers Point	2.6
3-D Printing Metalworking Project	2.5
Nanoscale Science and Technology Program	1.5
Nanoscale devices	1.0
Advanced wateriet-21 project	3.5
DDG–51 Composite twisted rudder	1.0
High Resolution Digital mammography	1.5
Military Dental Research	2.8
Vector Thrusted Ducted Propeller	3.4
Ship Service Fuel Cell Technology Verification & Training Program	2.0
Aluminum Mesh Tank Liner	1.5
AEGIS Operational Readiness Training System (ORTS)	4.0
Materials, Electronics and Computer Technology	19.3
Human Systems Technology	2.6
Undersea Warfare Weaponry Technology	1.7
Medical Development	59.0
Manpower, Personell and Training ADV Tech DEV	2.0
Environmental Quality and Logistics AD Tech	1.4
Research, Development, Test, and Evaluation, Defense-Wide:	
Bug to Drug Identification and CM	2.0
American Indian higher education consortium	3.5
Business/Tech manuals R&D	1.5
AGILE Port Demonstrations	8.5
Defense Health Program:	
Hawaii Federal healthcare network	15.3
Pacific island health care referral program	4.3
Alaska Federal healthcare Network	2.125
Brown Tree Snakes	1.0
Tri-Service Nursing Research Program	6.0
Graduate School of Nursing	2.0
Health Study at the Iowa Army Ammunition Plant	1.0
Coastal Cancer Control	5.0
Drug Interdiction and Counter-Drug Activities, Defense:	
Mississippi National Guard Counter Drug Program	1.8
West Virginia Air National Guard Counter Drug Program	3.0
Regional Counter Drug Training Academy, Meridian MS	1.4
Earmarks:	
Maritime Technology (MARITECH)	5.0
Metals Affordability Initiative	5.0
Magnetic Bearing cooling turbin	5.0
Roadway Simulator	13.5
Aviator's night vision imaging system	2.5
HGU-56/P Aircrew Integrated System	5.0
Fort Des Moines Memorial Park and Education Center	5.0
National D-Day Museum	5.0
Dwight D. Eisenhower Memorial Commission	3.0
Clean Radar Upgrade, Clean AFS, Alaska	8.0
Padgett Thomas Barracks, Charleston, SC	15.0
Broadway Armory, Chicago	3.0
Advancer Identification, Friend-or-Foe	35.0
Transportation Mult-Platform Gateway Integration for AWACS	20.0
Emergency Traffic-Management	20.7
Washington-Metro Area Transit Authority	39.1
Ft. Knox MOUT site upgrades	3.5
Civil Military Programs, Innovative	10.0
ASE INFRARED CM ATIRCM LRIP	10.0
Tooling and Test Equipment	35.0
Integrated Family of Test Equipment (IFIE)	15.0
T–AKE class ship (Buy America)	
Welded shipboard and anchor chain (Buy America)	
Dwight D. Eisenhower Memorial	
Gwitchyaa Zhee Corporation lands	
Air Forces's lease of Boeing 767s	
Enactment of S. 746	
2002 Winter Olympics in Salt Lake City, Utah	
Nutritional Program for Women, Infants and Children	39.0
International Sports Competition	15.8
Animal and Plant Health Inspection Survey	105.5
Food and Safety Inspection	15.0
Total Pork in Division A (FY 2002 Defense Approps): $2.5 Billion	
DIVISION B	
Commerce related earmarks:	
Port Security	93.3
Airports and Airways Trust Fund, payment to air carriers	50.0
DoT Office of the Inspector General	1.3
FAA Operations (from aviation Trust Fund)	200.0
FAA Facilities and Equipment	108.5
Passenger Bag Match Demonstration at Reagan National Airport	2.0
Federal Highway Administration misc. appropriations ($10 m requested)	100.0
Capital Grants to the National Railroad Passenger Corporation	100.0
Federal Transit Administration Capital Investment Grants	100.0
Restoration of Broadcasting Facilities	8.25
National Institute of Standards and Technology	30.0
Federal Trade Commission	20.0
FAA Grants-in-AID for Airports	175.0
Woodrow Wilson Bridge Project	29.542
Provision relating to Alaska in the Transportation Equity Act for the 21st Century	
US–61 Woodville widening project in Mississippi	0.3
Interstate Maintenance Program for the city of Trenton/Port Quendall, WA	4.0
Interstate Sports Competition Defense	15.8
Utah Olympics Public Safety Command	0.02
FEMA support of the 2002 Salt Lake Olympic Games	10.0
Relocation costs and other purposes for 2002 Winter Olympics	15.0
Chemical and Biological Weapons Preparedness for DC Fire Dept	0.205
Response and Communications Capability for DC Fire Dept	7.76
Search and Rescue and Other Emergency Equip. and Support for DC Fire	0.208
Office of the Chief Technology Officer of the DC Fire Dept	1.0
Training and Planning for the DC Fire Dept	4.4
Protective Clothing and Breathing Apparatus for DC Fire Dept	0.922
Specialized Hazardous Materials Equipment for the DC Fire Dept	1.032
Total Commerce Related Earmarks:	$1.1 Billion
Total Pork in FY 2002 Defense Appropriations Conference Report:	$3.6 Billion

Mrs. MURRAY. Mr. President. I rise to lend my strong support to the Department of Defense Appropriations Conference Report.

And I do so with great admiration and respect for the leadership demonstrated by Chairman DANIEL INOUYE and Senator TED STEVENS. They have done great work, and I encourage the Senate to embrace this appropriations conference report.

I do want to briefly address the issue of tanker replacement which has been hotly debated here on the floor. I support the tanker leasing provisions in the bill, and I am again grateful to Senator INOUYE and Senator STEVENS for their work on the Boeing 767 leasing provisions. Many Senators worked on this issue. There were many hurdles to address and overcome. And we worked through them all together in a bipartisan fashion.

I want to again quote the Secretary of the Air Force from a letter he wrote to me in early December. Secretary James Roche says and I quote,

> The KC-135 fleet is the backbone of our Nation's Global Reach. But with an average age of over 41 years, coupled with the increasing expense required to maintain them, it is readily apparent that we must start replacing these critical assets. I strong endorse beginning to upgrade this critical warfighting capability with new Boeing 767 tanker aircraft.

The record is clear. The Air Force has been a contributing partner and fully supports the tanker replacement program contained in this appropriations bill.

The existing tankers are old and require costly maintenance and upgrades. The K-135s were first delivered to the Air Force in 1957. On average, they are 41 years old. KC-135s spend about 400 days in major depot maintenance every 5 years.

The tanker replacement program contained in this bill will save taxpayers $5.9 billion in upgrade and maintenance costs.

The record is clear. We need to move forward on tanker replacement. Our aging tankers have flown more than 6000 sorties since September 11. Our ability to project force depends on our refueling capabilities. We can no longer ignore these old and expensive aircraft.

The record is also clear on my State of Washington. This will help the people of my state. Washington now has the highest unemployment rate of any state in the nation. I am here to do everything I can to help my constituents. Any Senator, including critics of the leasing provisions in this bill, would do the same thing.

But this is not just about my State. Every state involved in aircraft production will benefit.

In addition, it is in our national interest to keep our only commercial aircraft manufacturer healthy in tough times, to keep that capacity and to keep that skill set.

The Air Force has identified this as a critical need. We rely on refueling tankers. Now is the time to move forward with tanker replacement. I again commend Senator INOUYE, Senator STEVENS, Senator CANTWELL, Senator CONRAD, Senator ROBERTS and the many others who worked so hard to move this program forward.

Shortly, we are all going to go home for the holidays to be with our families. Senators can go home knowing that they have sent a very powerful message to the families of our service members. We have acted today with this bill to equip our personnel now and in the future with best equipment and the best technology available to our armed forces. I will proudly vote for this conference report.

Mr. BIDEN. Mr. President, I rise today to thank my Senate colleagues for their support of two important aviation needs and to express my disappointment that the House did not support those decisions. I know that it is always difficult to reconcile the decisions made in the Senate with those made in the House, but this case, I am very sorry to see that the Senate's wisdom was not sustained.

When the Defense Appropriations bill left the Senate, it included full-funding for two important aviation assets—C-5 avionics modernization and 10 additional Blackhawks for the Amy National Guard. Unfortunately, the bill that we have before us does not include those items. Instead, the C-5 avionics funding is cut by $70.50 million and there are only 4 Blackhawks going to the Army National Guard.

Let me first review the importance of the C-5 Avionics Modernization Program which was not only fully funded in the Senate's Defense Appropriations bill, but which both the House and Senate Armed Services Committees fully supported in their bills.

The C-5 is what the military uses when it needs to deploy quickly with as much equipment as possible. This was confirmed once again in Operation Enduring Freedom where the Air Force reports that C-5s have hauled forty-six percent of the cargo during the operation while only flying approximately twenty-eight percent of the sorties. This plane is a vital part of our military success. It is also a key player in our nation's humanitarian efforts, so critical to the long-term success of our national security strategy.

Taking $70.5 million from the President's funding request means that critical Secretary of Defense directed Flight and Navigation Safety modifications and Global Air Traffic Management modifications will be delayed by up to a year or more. Delays in installing the safety equipment continue to place aircrews at risk at a time when they are engaged around the world in the war on terrorism and humanitarian missions. Delays also prevent the C-5 from being fully employed in certain parts of the world as AMP modifications are necessary to comply with new GATM regulations.

At a time when we are asking our military to do so much, to deny our aircrews and military planners C-5s that have the safety upgrades and operational improvements that the AMP will provide does not make sense. Again, I am sorry that the House did not agree with the Senate. I hope we can reverse this problem next year by accelerating the program with increased funding. I will certainly fight to do that and I hope that other colleagues who have been supportive in the past will join me in that fight next year.

My other concern with this bill is that the Army National Guard's need for additional UH-60 Blackhawk helicopters has not been properly addressed. Today, the Army National Guard comprises fifty percent of the Army's total utility airlift capability. Unfortunately, only twenty-seven percent of the fleet is usually flyable. On a regular basis a full seventy-three percent of the utility helicopters in the Guard are grounded because of a lack of parts or safety of flight concerns! Virtually every state confronts significant shortages, and some states, like Delaware, have absolutely no modern helicopters, relying instead on one or two Vietnam-era helicopters.

This means that regular state missions cannot be executed. Pilots and maintenance personnel cannot remain proficient. These skilled personnel are not able to do their job, get frustrated, and decide not to stay in the military. Meanwhile, the Army is simply unready in this area. In normal times, these are unacceptable realities. Today, when the Guard has been asked to do so much more, it is unfathomable to me that we would not do more to fix these problems.

The Senate recognized the need to do more and provided a first installment of ten new Blackhawk helicopters for the Army Guard. Unfortunately, this bill only provides four. Today, many in utility aviation units do not have even the bare minimum they need to stay proficient, let alone do their missions. This is certainly true in Delaware and I know it also true for at least five other states. This bill does not even allow the Guard Bureau to put one new Blackhawk in each state that needs seven to ten!

The men and women who serve in the Guard every day, both in their states and overseas, deserve to have the equipment they need to perform their missions. I am sorry the House did not agree to do more to address their aviation needs this year and I will work with my colleagues again next year to try to improve this situation.

Mr. President, this bill includes a number of important items that will benefit our military and I support it. But, I want to put my colleagues on notice that next year I will be fighting to accelerate C-5 modernization and to get additional UH-60s for the Army National Guard. The Senate spoke wisely last week in fully funding both of these aviation needs and I am sorry that the House was unwilling to sustain that wisdom.

Mr. ALLARD. Mr. President, being that I was not able to discuss the Fiscal Year 2002 Defense Authorization

Act last Thursday, I wanted to take a few minutes to discuss a few aspects of this very important bill.

I strongly support the Fiscal Year 2002 Defense Authorization Act. I want to congratulate Chairman LEVIN and the Ranking Member WARNER for the good work and the way they have moved this important bill for our men and women in the military. I believe this is a balanced bill which provides a much needed and deserved increase for our military men and women. After years of declining budgets, this bill continues the increase in resources which started 2 years ago.

The bill provides $343.3 billion in budget authority, plus authorizes the $21.2 billion in emergency supplemental appropriations as requested by the President in order to respond to the terrorist attacks. The bill also adds over $779.4 million above the request for the Department of Energy's environmental cleanup programs and nuclear weapons activities.

When I became the Personnel Subcommittee Chairman in 1999, the subcommittee provided the first major pay raise for our troops in over 20 years and I am glad that this year's bill continues this trend. The bill provides a targeted pay raise effective January 1, 2002, ranging 5 to 10 percent, with the largest increase going to junior officers and non-commissioned officers.

While no member enjoys having bases closed in their State, or even the possibility of closure, it is that time that we recognize we do have excess capacity and that is time to consider another round of base closings as requested by the administration. After much negotiating, the conferees authorized a round of base closings in 2005, with established criteria based on actual and potential military value that the Secretary of Defense must use to determine which bases to recommend.

As the rulemaking member of the Strategic Subcommittee, I would like to congratulate my chairman, Senator REED, for his good work on this bill. He worked in a bipartisan and even handed manner. While we disagreed on the missile defense programs, Senator REED and I were in agreement on most of the remaining major issues before the subcommittee.

While many in Congress may disagree on funding levels of missile defense, no one can argue that ballistic missiles, armed with nuclear, biological, or chemical warheads, present a considerable threat to U.S. troops deployed abroad, allies, and the American homeland. The consequences of such an attack on the United States would be staggering; yet the United States currently has no system capable of effectively stopping even a single ballistic missile headed toward the American homeland or depolyed U.S. troops.

To end this vulnerability, the President requested a significant increase in funding for ballistic missile defense programs which was an important first step toward protecting all Americans against ballistic missile attack. The conference provided up to $8.3 billion, $3 billion more than the fiscal year 2001 level, for the continued development of ballistic missile defenses. In addition, the conferees provided flexibility for the President to use up to $1.3 billion of these funds for programs to combat terrorism.

In an effort to increase the efficiency and productivity of the missile defense programs, the administration requested to fundamentally restructure the nation's ballistic missile defense programs into six primary areas: Boost, Midcourse, Terminal Defenses, Systems Engineering, Sensor, and Technology Development. This new approach will provide the flexibility to allow programs that work to mature but the ability to cancel programs that do not. Plus, the program will provide enhanced testing and test infrastructure.

A major testing initiative included in the President's request is the 2004 Pacific missile defense test bed, the conferees supported the request, for $786 million for the including $273 million for construction primarily at fort Greely, Alaska and other Alaska locations. Beginning in 2004, the Pacific missile test bed will allow more challenging testing in a far wider range of engagement scenarios than can be accommodated today.

The conferees provided the following levels for the restructured programs: $780 million for BMD system activities including battle management, communications, targets, countermeasures, and system integration; $2.2 billion (matching the President's request) for terminal defense systems, including Patriot Advanced Capability-3 (PAC-3), Medium Extended Air Defense System (MEADS), Navy Area (which has now been cancelled by the Administration), Theater High Altitude Air Defense (THAAD), and international missile defense programs, including the Arrow program; $3.9 billion (matching the President's request) for mid-course defense systems, including ground-based (formerly known as national Missile Defense) and sea-based (formerly known as Navy Theater Wide Defense) missile defense programs; $685 million (matching the President's request) for boost phase systems, including the Airborne Laser (ABL) and Space-Based Laser (SBL); $496 million (matching the President's request) for the Space-Based Infrared System (SBIRS) and international sensor programs, including the Russian-American Observation Satellite project; $113 million (matching the President's request) for development of technology and innovative concepts necessary to keep pace with evolving missile threats;

However, the conferees did not support the President's request to transfer PAC-3, Medium Extended Air Defense System, and Navy Area programs from BMDO to the military services. The bill requires the Secretary of Defense to establish guidelines for future transfers, and to certify that transferred programs are adequately funded in the future year defense program.

Just as the President moves to reduce our nuclear forces the conferees repealed the statute that prohibits the U.S. from retiring or dismantling certain strategic nuclear forces until START II enters into force. As part of this effort, the conferees increased funding for the retirement of the Peacekeeper ICBM.

The Strategic Subcommittee also has oversight over two-thirds of the Department of Energy's budget as it relates to our nuclear forces and defense nuclear cleanup programs.

During the subcommittee's hearings, we heard from DOE that one of the major shortfalls of the Department is the conditions of the infrastructure of our DOE labs and plants, the need for a principal deputy administrator at the National Nuclear Security Administration, and an increase in DOE's environmental cleanup programs and nuclear weapons activities.

Therefore the conferees provided $6.2 billion for DOE environmental cleanup and management programs including: $3.3 billion for work at facilities with complex and extensive environmental problems that will be closed after 2006; $1.1 billion for the Defense Facilities Closure Project; $959.7 million for construction and site completion at facilities that will be closed by 2006; $216 million ($20 million more than the President's request) for the Defense Environmental Restoration and Waste Management Science and Technology programs; and $153.5 million ($12 million more than the President's request) for Defense Environmental Management Privatization.

In regards to the National Nuclear Security Administration conferees provided $7.1 billion for managing the nation's nuclear weapons, nonproliferation and naval reactor programs, including: $1 billion for stockpile life extension and evaluation programs; $2.1 billion for focused efforts to develop the tools and knowledge necessary to ensure the safety, reliability, and performance of the nuclear stockpile in the absence of underground nuclear weapons testing. Included in this, the conferees provided $219 million to fully fund plutonium pit manufacturing and certification; $200 million to begin to recapitalize the nation's nuclear weapons complex infrastructure, much of which dates to the post-World War II era; $688 million for the naval reactors program, which supports operation, maintenance and continuing development of Naval nuclear propulsion systems.

There is one issue that I am very proud to say is included in this bill and that is the creation of the Rocky Flats National Wildlife Refuge. This effort has been done in a bipartisan manner with Congressman UDALL and more than 2 years worth of work by local citizens, community leaders, and elected officials. Its passage has ensured that our children and grandchildren will continue to enjoy the wildlife and open space that currently exists at Rocky Flats. However, even with its passage, my primary goal remains the safe cleanup and closure of Rocky Flats.

I would like to mention a few of the following high points of the bill.

Rocky Flats will remain in permanent federal ownership through a transfer from the Department of Energy to the U.S. Fish and Wildlife Service after the cleanup and closure of the site is complete;

Secondly, we understand the importance of planning for the transportation needs of the future and have authorized the Secretary of Energy and the Secretary of the Interior the opportunity to grant a transportation right-of-way on the eastern boundary of the site for transportation improvements along Indiana Street;

The third point is one of the most important directives in this Act and it states that "nothing . . . shall reduce the level of cleanup and closure at Rocky Flats required under the RFCA or any Federal or State law." I believe it is important to reiterate that the cleanup levels for the site will be determined by the various laws and processes set forth in the Rock Flats Cleanup Agreement and State and Federal law; and

Fourth, we firmly believe that access rights and property rights must be preserved. Therefore, this legislation recognizes and preserves all mineral rights, water rights and utility rights-of-ways. This act does, however, provide the Secretary of Energy and the Secretary of Interior the authority to impose reasonable conditions on the access to private property rights for cleanup and refuge management purposes.

I would also like to highlight another section of the bill which encourages the implementation of the recommendations of the Space Commission, which concluded that the Department of Defense is not adequately organized or focused to meet U.S. national security space needs. There are four major sections of the provision.

The first provision requires the Secretary of Defense to submit a report on steps taken to improve management, organization and oversight of space programs, space activities, and funding and personnel resources.

The second provision requires the Secretary of Defense to take actions that ensure space development and acquisition programs are jointly carried out and, to the maximum extent practicable, ensure that offers of the Army, Navy, Marine Corps, and Air Force are assigned to and hold leadership positions in such joint program offices.

Third, the conferees request that the Comptroller General report back to Congress on the actions taken by the Secretary of Defense to implement the recommendations contained in the Commission report.

Fourth, due to the concerns of the "tripled hatted" nature of the Commander-in-Chief, U.S. Air Force Space Command, the bill states that the position should not serve concurrently as commander of the North American Air Defense Command and as Commander-in-Chief, U.S. Space Command. Plus, the bill provides the needed flexibility in general officer limits to ensure that the commander of Air Force Space Command will serve in the grade of general.

Finally, even though I strongly support the Fiscal Year 2002 Authorization Act, I am very disappointed that this bill ignored real shortcoming as it relates to our military's voting rights.

While my original bill went much further in implementing the Space Commission report, I believe this is a first good step and, if needed, I hope we can revisit this issue next year to ensure that space management and programs get the senior level support it deserves.

Finally, even though I strongly support this bill, I am very disappointed that this bill ignored a real shortcoming as it relates to our military voting rights.

When I introduce S. 381, my Military Voting Rights Bill, I sought to improve the voting rights of overseas military voters in six key ways. And this Senate agreed to include that bill in our version of the defense authorization. But I am severely dismayed that the conference report contained none of the most important provisions relating to military voting.

Considering the egregious acts of last November, with the memory of campaign lawyers standing ready with preprinted military absentee ballot challenge forms, we needed to respond. And yet the House of Representatives, led by the House Administration Committee, refused to accept the sections of the Senate passed bill that would most effectively ensure the voting rights of our military men and women and their families.

In September, the GAO released a 92-page report entitled "Voting Assistance to Military and Overseas Citizens Should Be Improved." I will not read the entire thing, but let me read one of the summary headers: "Military and Overseas Absentee Ballots in Small Countries Were Disqualified at a Higher Rate Than Other Absentee Ballots."

I also have an article from the Washington Post, page A17, November 22, 2000 that reads in part " . . . lawyers spent a contentious six hours trying to disqualify as many as possible of the absentee ballots sent in by overseas military personnel."

Let me also read from a Miami Herald article, November 19, 2000: "Forty percent of the more than 3,500 ballots in Florida were thrown out last week for technical reasons, and elections observers are wondering whether the State's election laws are fair, especially to military personnel."

Two main flaws in the military voter system—flaws that we have concrete proof were exploited—could have been fixed last week by sections of the Military Voting Rights bill that the House refuses to accept.

The first section prohibits a State from disqualifying a ballot based upon lack of postmark, address, witness signature, lack of proper postmark, or on the basis of comparison of envelope, ballot and registration signatures alone—these were the basis for most absentee ballot challenges.

There has been report after report of ballots mailed—for instance form deployed ships or other distant postings—without the benefit of postmarking facilities. Sometimes mail is bundled, and the whole group gets one postmark, which could invalidate them all under current law. Military "voting officers" are usually junior ranks, quickly trained, and facing numerous other responsibilities. We can not punish our service personnel for the good faith mistakes of others.

And military voters who are discharged and move before an election but after the residency deadline cannot vote through the military absentee ballot system, and sometimes are not able to fulfill deadlines to establish residency in a State. There are roughly 20,000 military personnel separated each month. Our section allowed them to use the proper discharge forms as a residency waiver and vote in person at their new polling site. This brings military voters into their new community quicker. But the House rejected this section as well.

The Senate moved to address these problems. The Houses refuses to do so. This is an issue I, and those who feel as strongly as I do, such as our nation's veteran and active duty service organizations, will continue to press.

Mr. BOND. Mr. President. I rise to raise some significant concerns about S. 1389, the Homestake Mine Conveyance Act of 2001, which has been attached to the Department of Defense-Supplemental conference report.

This legislation will have serious adverse implications for the Federal Government most notably, the National Science Foundation (NSF) and the Environmental Protection Agency (EPA)—due to its unprecedented legal protections provided to the State and the Homestake Mining Company and its potentially significant budgetary costs.

While some modifications to the original have been made to the bill to address many of the problematic legal and programmatic issues, these changes were modest at best and the bill as a whole still has significant legal, budgetary, and policy implications that could negatively impact NSF and EPA. This bill is an improvement over the original legislation introduced by the senators from South Dakota, but it is still problematic and troubling.

As the ranking member of the VA-HUD Appropriations Subcommittee, I believe in deferring to the scientific expertise and judgment of the NSF and its Science Board in determining which projects had scientific merit and deserved funding. The Congress should not be in the business of legislating what is scientifically meritorious. The Homestake legislation totally circumvents the merit review process long-established and followed by the agency.

The reality of this matter is that the South Dakota Senators are using NSF as a means to save jobs that will be lost from the closing of the mine. While I appreciate the effort to save people's jobs, it should not be done by undermining the scientific merit review process. This is simply the wrong approach and creates a new, dangerous precedent.

Further, the broad indemnification provisions in the bill, even with the proposed modifications, are sweeping. The Federal Government would also be required to provide broad indemnification to both the Homestake Mining Company and the State for PAST and FUTURE claims related to the site. The sweeping and unprecedented language is in conflict with, and greatly expands, the Federal Government's potential tort liability well beyond provided in the Federal Tort Claims Act. The Federal Government's liability with respect to environmental claims would also be potentially unlimited. It is unclear whether the bill affects Homestake's obligations under court-approved Consent Decrees (CD) that the Federal Government has already entered into. These CDs address certain remediation and natural resource damage claims. There are additional legal issues related to the Anti-Deficiency Act and tort law concerning compensation after the fact of injury.

Funding this costly project would also potentially sap funding for other current and new initiatives that have scientific merit and which the Congress and Administration fully support. Critically important scientific research initiatives such as nanotechnology, information technology, and biotechnology initiatives may be significantly impaired. Major research projects related to astronomy, engineering, and the environment could be cut back or not funded.

I hope my colleagues will be sensitized to the dangerous legal, budgetary, and policy implications of the Homestake legislation. I am extremely troubled by this legislation and hope that political pressure does not influence the ultimate outcome of the proposed project in the Homestake bill.

Mr. DASCHLE. Mr. President, I am delighted that the Congress has incorporated S. 1389, the Homestake Mine Conveyance Act of 2001, as amended, into the fiscal year 2002 Department of Defense Appropriations conference report.

This important legislation will enable the construction of a new, world-class scientific research facility deep in the Homestake Mine in Lead, SD. Not only will this facility create an opportunity for critical breakthroughs in physics and other fields, it will provide unprecedented new economic and educational opportunities for South Dakota.

Just over a year ago, the Homestake Mining Company announced that it intended to close its 125-year-old gold mine in Lead, SD, at the end of 2001. This historic mine has been a central part of the economy of the Black Hills for over a century, and the closure of the mine was expected to present a significant economic blow to the community.

In the wake of this announcement, you can imagine the surprise of South Dakotans to discover that a committee of prominent scientists viewed the closure of the mine as an unprecedented new opportunity to establish a National Underground Science Laboratory in the United States. Because of the extraordinary depth of the mine and its extensive existing infrastructure, they found that the mine would be an ideal location for research into neutrinos, tiny particles that can only be detected deep underground, where thousands of feet of rock block out other cosmic radiation.

Earlier this year, I met with several of these scientists to determine how they planned to move forward. They told me they intended to submit a proposal to the National Science Foundation for a grant to construct the laboratory. After a thorough peer review, the National Science Foundation would determine whether or not it would be in the best interests of science and the United States for such a laboratory to be built. The scientists also explained that since the National Science Foundation normally does not own research facilities, the mine would need to be conveyed from Homestake Mining Company to the State of South Dakota for construction to take place. For the company to be willing to donate the property, and for the state to be willing to accept it, both would require the Federal Government to assume some of the liability associated with the property.

The purpose of the Homestake Mine Conveyance Act of 2001 is to meet that need. It establishes a process to convey the mine to the State of South Dakota, and for the Federal Government to assume a portion of the company's liabilities. This Act will only take effect if the National Science Foundation selects Homestake as the site for an underground laboratory. Only property needed for the construction of the lab will be conveyed, and conveyance can only take place after appropriate environmental reviews and after the Environmental Protection Agency certifies the remediation of any environmental problems. If the mine is conveyed, the State of South Dakota will be required to purchase environmental insurance for the property and set up an environmental trust fund to protect the taxpayers against any environmental liability that may be incurred.

I believe this process is fair and equitable to all involved. It will enable the laboratory to be constructed and the environment to be protected.

I am not a scientist, and the decision to build this laboratory must be made by the scientific community. However, it is helpful to review some of the information I have received from the team of scientists supporting this project to better understand why we would take the unusual step of conveying a gold mine to a state with federal indemnification.

Dr. John Bahcall is a scientist at the Institute for Advanced Study in Princeton, NJ. He was awarded the National Medal of Science in 1998. He is a widely recognized expert in neutrino science and an authority on the scientific potential of an underground laboratory. Recently, I received a letter from him explaining the research opportunities created by an underground laboratory. In the letter, he explained, "There are pioneering experiments in the fields of physics, astronomy, biology, and geology that can only be carried out in an environment that is shielded from the many competing phenomena that occur on the surface of the earth. These experiments concern such fundamental and applied subjects as: How stable is ordinary matter? What is the dark matter of which most of our universe is composed? What new types of living organisms exist in deep underground environments from which sunlight is excluded? How are heat and water transported underground over long distances and long times?"

As Dr. Bahcall's letter makes clear, the laboratory would provide an opportunity for a wide variety of important research. For that reason, it is receiving strong support in the scientific community. For example, every six to seven years, the Nuclear Science Advisory Board and the Nuclear Physics Division of the American Physical Society develop a Long Range Plan that identifies that the major priorities of

American nuclear physicists for coming years. After a series of meetings, these scientists ranked the creation of a National Underground Science Laboratory as one of their top priorities in their Long Range Plan.

In a recent letter to the National Science Foundation, members of the Nuclear Science Advisory Committee explained their support for the creation of an underground laboratory at Homestake: "[T]here is presently an outstanding opportunity for the United States to assume world leadership at the frontier of underground science through the acquisition and development by the National Science Foundation of the Homestake mine in South Dakota to create a deep underground (7000 meter of water equivalent (m.w.e.)) laboratory. . . . In the last decade, fundamental progress has been made in underground experiments in such diverse areas as nucleon decay, atmospheric neutrino oscillations, solar neutrino oscillations, and searches for dark matter. These studies not only have increased our understanding of the fundamental properties of the universe, but have pointed to new and even more challenging frontiers of compelling scientific interest. To explore these frontiers, the next generation of experiments (e.g. solar neutrino, double beta decay, etc.) will require a deep underground laboratory to reduce cosmic ray-related backgrounds, which constitute the limiting factor for high sensitivity experiments. A National Underground Science Laboratory at a depth of 7000 m.w.e., at the Homestake Mine site would constitute a world class facility, with a dedicated infrastructure to insure [sic] U.S. leadership in underground studies well into the next century."

While there are two other locations under consideration in the United States for the construction of an underground laboratory, scientists have stated that the Homestake Mine, because of its unique characteristics, is the best location in the country to conduct this research. Dr. Wick Haxton of the Institute for Nuclear Theory put together the team's findings in a report entitled, "The U.S. National Underground Science Laboratory at Homestake: Status Report and Update."

I'd like to share some of their report: "The announcement on September 11, 2000, that the historic Homestake Gold Mine would soon close presented a remarkable opportunity for creating a dedicated multipurpose deep underground laboratory in the U.S. Among its attributes are:

Homestake has very favorable physical properties. It is the deepest mine in the U.S. The rock is hard and of high quality: even at depth there is an absence of rock bursts common at sites of comparable depth. Large cavities built at depths of 7400 and 8000 feet have been shown to be stable over periods of a decade or more. The mine is dry, producing only 500 gallons/minute of water throughout its 600 km of drifts.

Homestake has shafts that can be adapted to provide unprecedented horizontal access. The replacement cost of the Ross and Yates shafts and the No. 6 winze, which access the proposed laboratory site, is approximately $300 million. The shaft cross sections are unusually large, 15 x 28 feet, and the Yates hoist, powered by two 1250 hp Nordberg motors, can lift nearly 7 tons. This makes it possible to lower cargo containers directly to the underground site. Finally, there are several existing ventilation shafts as well as an extensive set of ramps that connect the levels, providing important secondary escape paths.

Homestake is a site with remarkable flexibility. There are drifts approximately every 150 feet in depth, allowing experiments to be conducted at multiple levels and opening up possibilities for an unusually broad range of science. Coupled with the extensive ventilation system—including a massive cooling plant with four York compressors and 2300 tons of refrigeration—this allows a wide range of experiments to be mounted, including those involving flammables, cryogens, or other substances best sequestered and separately vented.

The flexibility to accommodate a very wide range of science is important because significant advantages will accompany a single multipurpose national laboratory. There are economies of scale in infrastructure and safety, including the development of common specialized facilities (like a low-background counting facility). This reduces costs and saves human scientific capital. Concentration also produces a stronger scientific and technical environment. It allows synergisms between disciplines to grow.

The proposed principle site of the laboratory is the region at 7400 ft between the Ross and Yates shafts. The site is accessible now: extensive coring studies of the site will be performed to verify its suitability, prior to any expenditures for major construction.

The mine is fully permitted for safety and rock disposal on site, and is located in a state supportive of mining.

The mine includes surface buildings, extensive fiber optics and communications systems, a large inventory of tools and rolling stock that may be transferable to the laboratory, and skilled engineers, geologists, and miners who know every aspect of the mine."

This is not the first time that Homestake, or other mines, have been used to support this kind of research. In fact, underground scientific research at the Homestake mine dates back to 1965, when a neutrino detector was installed in the underground mine at the 4850-foot level. Research from that experiment is acknowledged as critical to the development of neutrino astrophysics. Similar experiments have continued in the Soudan mine in Minnesota, and in underground laboratories outside of the United States, leading to important discoveries and developments in particle physics and theory.

As I've stated, the purpose of the legislation passed by the Senate is to allow the conveyance of the property needed for the construction of the laboratory from Homestake Mining Company to the State of South Dakota. I'd like to take a moment to explain why it is necessary for the Federal Government to transfer the mine to the State, and to indemnify the company and the State in order for this conveyance to take place.

The National Science Foundation, which is reviewing a $281 million proposal to construct this laboratory, does not operate its own research facilities. Instead, it provides grants to other entities to operate facilities or to conduct experiments. In keeping with this tradition, the proposed laboratory would not be owned by the Federal Government, but instead would need to be operated by an entity other than the NSF. Since it is not practical for the company to retain ownership of the site as it is converted into a laboratory, Homestake expressed a willingness to donate the underground mine and infrastructure to the State of South Dakota, together with certain surface facilities, structures and equipment that are necessary to operate and support the underground mine, provided that it could be released from liabilities associated with the transfer and the future operation of its property as an underground laboratory.

Relief from liability is necessary because the construction of the lab will require the company to forgo certain reclamation actions that it would normally take to limit its liability in the mine. For example, in connection with closing the underground mine, Homestake planned to remove electric substations, decommission hoists and other equipment, turn off the pumps that dewater the mine, and seal all openings. Were the pumps to be turned off, the mine workings would slowly fill with water, rendering the mine unusable laboratory.

The Act establishes a specific procedure that will be followed in order for conveyance to take place and Homestake to be relieved of its liability. First, the Act does not become effective unless the National Science Foundation selects Homestake Mine as the site for a National Underground Science Laboratory. This means that conveyance procedures will not begin until it is clear that the NSF supports the construction of a laboratory. Second, a due diligence inspection of the property will be conducted by an independent entity to identify any condition that may pose an imminent and substantial endangerment to public health or the environment. Third, any condition of the mine that meets those criteria must be corrected before conveyance takes place. Homestake may choose to contribute toward any necessary response actions. However, Section 4 of this Act includes a provision that limits Homestake's contribution to this additional work, if necessary, to $75 million, reduced by the value of the property and equipment that Homestake is donating. In addition, the State, or another person, may also assist with that action. Only after the administration of the Environmental Protection Agency has certified that necessary steps have been taken to correct any problems that are identified can the conveyance proceed.

Since some of the steps required to convert the mine into a laboratory go above and beyond normal reclamation, the company is not obligated to deliver the property in a condition that is suitable for use as a laboratory. However, those portions of the mine that require the most significant reclamation, including the tailings pond and waste rock dumps, are specifically prohibited from being conveyed under this Act and will remain Homestake's responsibility to reclaim.

Under normal circumstances, the mine would close in March of 2002. Since it must be kept open beyond that date to leave open the option to construct the laboratory, Congress has already appropriated $10 million in the VA-HUD Appropriations bill to pay for expenses needed for that purpose.

It is important that all aspects of the conveyance process be completed in a timely fashion. To facilitate the construction of the laboratory, the inspections, reports and conveyance will need to proceed in phases, with the inspections being initiated after Homestake has completed the reclamation work that may otherwise have been required. While the Act sets no specific deadline for the completion of these procedures, it is important that the entire process be completed in no more than eight months from the date of passage of the Act. The timeframes in the Act for public comment on draft reports and on EPA's review of the report are intended to emphasize the need for timely action.

S. 1389 also contains important provisions to protect taxpayers from any potential liability once the transfer of the mine takes place. First, South Dakota must purchase property and liability insurance for the mine. It may also require individual experiments to purchase environmental insurance. Second, the bill requires that South Dakota establish an Environment and Project Trust Fund to finance any future clean-up actions that may be required. A portion of annual Operations and Maintenance funding must be deposited into the fund, and the state may also require individual projects to make a deposit into the fund. The insurance and trust fund provisions of this bill will help to provide a firewall between the taxpayers and any future environmental clean-up that may be required.

I want to thank all of those who have been involved in the development of this legislation. I particularly appreciate the hard work and support of Governor Bill Janklow of South Dakota. I also want to thank my colleague, Senator JOHNSON, a cosponsor of this bill, for all of his work, particularly to secure the $10 million in transition funds that will bridge the gap between Homestake's closure and the establishment of the laboratory. And, I would like to thank officials from Homestake and Barrick.

This legislation will provide an opportunity for the United States to conduct scientific research and will provide important new educational and economic opportunities for South Dakota. I thank my colleagues in Congress for their support of this bill.

I ask unanimous consent that both a letter from the Nuclear Science Advisory Committee to the National Science Foundation and a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Fiscal Year 2002 Department of Defense Appropriations Conference Report

DIVISION E—MISCELLANEOUS PROVISIONS

Title I—Homestake Mine Conveyance

Section-by-Section Analysis

Section 101. Short Title. Names bill as "Homestake Mine Conveyance Act of 2001."

Section 102. Findings. States that Homestake Mine has been selected by a committee of scientists as the preferred location for a National Underground Science Laboratory. While Homestake Mining Company is willing to transfer the mine to the State of South Dakota, both must be indemnified against future liability in order to do so.

Section 103. Definitions. Defines the following terms: Administrator, Affiliate, Conveyance, Fund, Homestake, Independent Entity, Laboratory, Mine, Person, Project Sponsor, Scientific Advisory Board and State.

The term "Mine" refers to the property to be conveyed from Homestake to South Dakota pursuant to the Act. This property consists of only a portion of Homestake's property in Lawrence County, South Dakota. The "Mine" is defined to include the underground workings and infrastructure at the Homestake Mine in Lawrence County, South Dakota and all real property, mineral and oil and gas rights, shafts, tunnels, structures, in-mine backfill, in-mine broken rock, fixtures, and personal property to be conveyed for establishment and operation of the laboratory, as agreed upon by Homestake and the State. "Mine" is also defined to include any water that flows into the Mine from any source. The real and personal property that is to be conveyed will be subject to further discussions among Homestake, the State and the laboratory. The laboratory has identified parts of the surface, real property, equipment, facilities and structures that will be necessary or useful in the operation of the laboratory. Homestake will determine if the identified property can be included in the conveyance. The definition of "Mine" excludes certain features, including the "Open Cut," the tailings storage facility and existing waste rock dumps. These are not part of the "Mine" and cannot be conveyed under the Act. Homestake remains responsible for reclamation and closure of all property that is not conveyed under this Act.

Section 104. Conveyance of Real Property. The bill establishes several requirements as conditions for conveyance. Once conveyance is approved, the mine is transferred to the state "as-is" via a quit-claim deed.

Inspection. Prior to the conveyance, the Act provides for a due diligence inspection to be conducted by an independent entity. The independent entity is to be selected jointly by the Administrator of the EPA, the South Dakota Department of Environment and Natural Resources and Homestake. In consultation with the State and Homestake, the Administrator of the EPA will determine the methodology and standards to be used in the inspection, including the conduct of the inspection, the scope of the inspection and the time and duration of the inspection. The purpose of the inspection is to determine whether there is any condition in the Mine that may pose an imminent and substantial endangerment to public health or the environment. The inspection will not attempt to document all environmental conditions at the Mine, and will not inspect or evaluate any environmental conditions on property that is not part of the conveyance.

Report. After conducting the inspection, the independent entity must prepare a draft report on its findings that describes the results of its inspection and identifies any condition of or in the mine that may pose an imminent and substantial endangerment to public health or the environment.

This draft report must be submitted to the EPA and made available to the public. A public notice must be issued requesting public comments on the draft within 45 days. During the 45-day comment period, the independent entity shall hold at least one public hearing in Lead, South Dakota. After these steps are taken, the independent entity must submit a final report that responds to public comments and incorporates necessary changes.

Review to Report. Not later than 60 days after receiving the report, the EPA shall review it and notify the state of its acceptance or rejection of the report. The Administrator may reject the report if one or more conditions are identified that may pose an imminent and substantial endangerment to public health or the environment and require response action before conveyance and assumption by the Federal Government of liability for the mine. The Administrator may also reject the report if the conveyance is determined to be against the public interest.

Response Action. If the independent entity's report identifies no conditions that may pose an imminent and substantial threat to human health or the environment, and EPA accepts the report, then the conveyance may proceed. If the report identifies a condition in the Mine that may pose an imminent and substantial endangerment to public health or the environment, then Homestake may, but is not obligated to, carry out or permit the State or other persons to carry out a response action to correct the condition. If the condition is one that requires a continuing response action, or a response action that may only be completed as part of the final closure of the laboratory, then Homestake, the State or other persons must make a deposit into the Environment and Project Trust Fund established in Section 7 that is sufficient to pay the costs of that response action. The amount of the deposit is to be determined by the independent entity, on a net present value basis and taking into account interest that may be earned on the deposit until the time that expenditure is expected to be made. Homestake may choose to contribute toward the response actions. However, Section 4 includes a provision that limits Homestake's contribution to this additional work, if necessary, to $75 million, reduced by the value of the property and equipment that Homestake is donating. Funds deposited into the Fund to meet this requirement may only be expended to address the needs identified in the inspection.

Once any necessary response actions have been completed, or necessary funds have been deposited, then the independent entity may certify to the EPA that the conditions identified in the report that may pose an imminent and substantial threat to human health or the environment have been corrected.

Final Review. Not later than 60 days after receiving the certification, the EPA must make a final decision to accept or reject the certification. Conveyance may proceed only if the EPA accepts the certification.

Section 105. Assessment of Property. Section 5 sets forth the process for valuing the donated property and services. For purposes of determining the amount of Homestake's potential contribution toward response actions identified in Section 4(b)(4)(C), the property being donated by Homestake is to be valued by the independent entity according to the Uniform Appraisal Standards for Federal Land Acquisition. To the extent that some property, such as underground tunnels, only has value for the purpose of constructing a laboratory, that entity is directed to include the estimated costs of replacing the facilities in the absence of Homestake's donation, and the cost of replacing any donated equipment. The valuation is to be submitted to the Administrator of the EPA, the state and Homestake in a separate report that is not subject to the procedures in Section 4(b). If it is determined that the conveyance can most efficiently be processed in several phases, then the valuation report is to accompany each of the due diligence reports.

Section 106. Liability

Assumption of liability. Upon conveyance, the United States shall assume liability for the mine and laboratory. This liability includes damages, reclamation, cleanup of hazardous substances under CERCLA, and closure of the facility. If property transfer takes place in steps, then the assumption of liability shall occur with each transfer for those properties.

Liability protection. Upon conveyance, neither Homestake nor the State of South Dakota shall be liable for the mine or laboratory. The United States shall waive sovereign immunity for claims by Homestake and the State, assume this liability and indemnify Homestake against it. However, in the case of any claim against the United States, it is only liable for response costs for environmental claims to the extent that response costs would be awarded in a civil action brought under the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or any other Federal environmental law. In addition, claims for damages must be made in accordance with the Federal Tort Claims Act.

Exceptions. Homestake is not relieved of liability for workers compensation or other employment-related claims, non-environmental claims that occur prior to conveyance, any criminal liability, or any liability for property not transferred, unless that property is affected by the operation of the lab.

Section 107. Insurance Coverage

Requirement to Purchase Insurance for mine. To the extent such insurance is available, the state shall purchase property and liability insurance for the mine and the operation of the laboratory to provide coverage against the liability assumed by the United States. The requirement to purchase insurance will terminate if the mine ceases to be used as a laboratory or Operations and Maintenance funding is not sufficient to operate the laboratory.

Terms of Insurance. The state must periodically consult with the EPA and the Scientific Advisory Board and consider the following factors to determine the coverage, type and policy limits of insurance: the nature of projects in the laboratory, the cost and availability of commercial insurance, and the amount of available funding. The insurance shall be secondary to insurance purchased by sponsors of individual projects, and in excess of amounts available in the Fund to pay any claim. The United States shall be an additional insured and will have the right to enforce the policy.

Funding of insurance purchase. The state may finance the purchase of insurance with funds from the Fund or other funds available to the state, but may not be compelled to use state funds for this purpose.

Project insurance. In consultation with the EPA and the Scientific Advisory Board, the State may require a project sponsor to purchase property and liability insurance for a project. The United States shall be an additional insured on the policy and have the right to enforce it.

State insurance. The State shall purchase unemployment compensation insurance and worker's compensation insurance required under state law. The State may not use funds from the Fund for this purpose.

Section 108. Environment and Project Trust Fund

Establishment of fund. On completion of conveyance, the State shall establish an environment and Project Trust Fund in an interest-bearing account within the state.

Capitalization of Fund. There are several streams of money that will capitalize the fund, some of which have restrictions on the way they may be spent.

Annual Portion of Operation and Maintenance Spending. A portion of annual O&M funding determined by the State in consultation with the EPA and the Scientific Advisory Board shall be deposited in the Fund. To determine the annual amount, the State must consider the nature of the projects in the facility, the available amounts in the Fund, any pending costs or claims, and the amount of funding required for future actions to close the facility.

Project Fee. The state, in consultation with NSF and EPA, shall require each project to pay an amount into the Fund. These funds may only be used to remove projects from the lab or to pay claims associated with those projects.

Interest. All interest earned by the Fund is retained within the Fund.

Other funds. Other funds may be received and deposited in the Fund at the discretion of the state.

Expenditures from Fund. Funds within the Trust Fund may only be spent for the following purposes: waste and hazardous substance removal or remediation, or other environmental cleanup; removal of equipment and material no longer used or necessary for use with a project or a claim association with that project; purchases of insurance by the State (except for employment related insurance; payments for other costs related to liability; and the closure of the mine.

Federal Authority. To the extent the United States is liable, it may direct that amounts in the Trust Fund be applied toward costs it incurs.

Section 109. Waste Rock Mixing. If the State, acting in its capacity overseeing the laboratory, determines to dispose of waste rock excavated for the construction of the laboratory on land owned by Homestake that is not conveyed under this legislation, then the State must first receive approval from the Administrator before disposing such rock.

Section 110. Requirements for Operation of Laboratory. The laboratory must comply with all federal laws, including environmental laws.

Section 111. Contingency. This Act shall be effective contingent upon the selection of the Mine by the National Science Foundation as the site for the laboratory.

Section 112. Obligation in the Event of Nonconveyance. If the conveyance does not occur, then Homestake's obligations to reclaim the mine are limited to the requirements of current law.

Section 113. Payment and Reimbursement of Costs. The United States may seek payment from the Fund or insurance as reimbursement for costs it incurs as the result of the liability it has undertaken.

Section 114. Consent Decrees. Nothing in this title affects the obligation of a party to two existing consent decrees.

Section 115. Offset. Offset for title.

Section 116. Authorization of appropriations. Such funds as are necessary to carry out the Act are authorized.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT—H.R. 2884

Mr. DASCHLE. Mr. President, there is a matter that has some urgency associated with it only because I know the House is waiting to receive the language. So in the interest of expediting consideration of this particular piece of legislation, I now ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 2884, that the Senate concur in the amendment of the House with a further amendment which is at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Reserving the right to object, what is 2884?

Mr. DASCHLE. Mr. President, 2884 is the Victims Relief Fund, the legislation dealing with victims of terrorism.

Mr. GRAMM. What is the amendment, Mr. President?

Mr. DASCHLE. I yield to the Senator from New Jersey.

Mr. TORRICELLI. I thank the majority leader for yielding. When the Senate unanimously passed this legislation previously, we included waiving income taxes and payroll taxes for families of the victims of September 11. The House of Representatives in their bill included only income taxes and not payroll taxes.

When the House repassed the bill and sent it to us, they included a provision that did not include payroll taxes but set a minimum of $10,000 so lower income people would receive some tax refund. The House wanted to retain the principle of not waiving payroll taxes but did want to give some refund to low-income families. This was seen as agreeable to both sides and fair.

Mr. GRAMM. Mr. President, further reserving the right to object, it is my understanding there were additional provisions such as extended unemployment, provisions of that nature. Are they in this bill?

Let me suggest the absence of a quorum so we could look at that.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I have a unanimous consent request that is pending.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BAUCUS. Reserving the right to object, is this the victims relief bill, I ask the majority leader?

Mr. DASCHLE. I answer to the Senator from Montana it is the victims relief bill.

Mr. BAUCUS. Reserving the right to object, and I shall not object, there is a disaster in the State of Montana and other higher plain States, which is a drought. I have been seeking agricultural disaster assistance. I see that is not going to happen. I ask my friend from South Dakota if he can assure me that at the first opportunity next year we will take up and consider the agricultural disaster assistance bill.

Mr. DASCHLE. Mr. President, I commend the Senator from Montana for his efforts over the course of the last several months. I have been impressing the Senate to act on disaster relief. Many farmers in South Dakota share this problem, and I have applauded the efforts made by the Senator from Montana. I appreciate his interest and his determination to see that it adequately responds to the Great Plains, the Midwest, and elsewhere.

I assure the Senator from Montana that at the first appropriate opportunity we will find a way to address the legislation and find a way in which to respond. As he recalls, we did some of that last summer. We had a good debate about how much was necessary. I think the Senator from Montana is correct in his observations that there is still a great deal more to be done. I will work with him to see that that happens.

Mr. BAUCUS. Mr. President, I thank my good friend from South Dakota. I add that this bill is very necessary to the victims relief bill, as it was reported to the Committee on Finance. I will not belabor it by going through the provisions. According to the rules, there is not time to do so. Suffice to say, this bill must pass in the next several hours because it will give much-needed relief. I thank my friend.

Mr. SCHUMER. Mr. President, reserving the right to object, and I will not object, I would like to just say that some of the provisions that are not in this bill—first, the victims relief part of the bill is very necessary. We did not want to stand in the way of that. Originally, when the victims relief bill came over to the House, it had provisions to benefit Lower Manhattan. We all know that Lower Manhattan is in real trouble because of what happened on September 11. The great fear is that businesses, large and small, will leave. The fear factor is enormous.

Over on the House side, the chairman of the Ways and Means Committee worked out a package that would help bring some relief. On this side, Senator CLINTON and I worked out a package that had tremendous support in our version of the stimulus bill from the majority leader, as well as the chairman of the Finance Committee. We had spent a great deal of time after it looked as though the stimulus bill was not going to happen, starting yesterday, and finishing about an hour and a half ago, trying to come to a compromise between the House version and the Senate version.

The chairman of the Ways and Means Committee in the other body and our staffs worked long and hard to come up with the compromise we have come up with. There are a few changes here and there that he might like, I might like, and Senator CLINTON might like, and others in New York might like, but we did come to an agreement. Unfortunately, the agreement we came to was not able to be reviewed by the Senators in this body. We just came up with it about an hour, hour and a half ago.

Unfortunately, because time is late and because the victims package has achieved that agreement, we will not stand in the way and object to removing the New York part from the bill and bringing up this other bill.

But I say this to my colleagues: We have a tremendous problem in downtown Manhattan. We are getting FEMA relief, and it is working well. The Senator from West Virginia has helped us in other areas. But tax relief to companies, big and small, to individuals, to nonprofits that don't have space right now, or that have space but are wondering whether they can stay in Lower Manhattan, is vital to New York's reblooming quickly.

I am hopeful that when we come back in January, the package that has been agreed to and worked on by the chairman of the Ways and Means Committee and many of his people, Senator BAUCUS, Senator GRASSLEY, Senator CLINTON, and myself will serve as a basis for bringing something up quickly then.

We had hoped to get something now. We have come really close—close but no cigar, they say. We are going to try to gain that cigar as soon as we come back. But make no mistake about it, we will be back. We very much need the help, and we appreciate everybody's cooperation to help us get there.

Mr. LOTT. Has the unanimous consent request been agreed to?

Mr. SCHUMER. I withdraw my objection.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I say to the Members, this final victims package is a good package. I earlier introduced a measure to make sure we included the provisions of S. 1433,which is supported by Senator WARNER, Senator CAMPBELL, and Senator CRAIG. I am glad these ideas have been recognized, that this war we are fighting is against terrorists who target defenseless men, women, and children. The areas in which these attacks occur are combat zones.

I am glad this package has been worked out, because the last thing the families of these victims need to be worrying about is paying taxes, whether income taxes or other types of taxes—this bill addresses those concerns.

While my colleague from New York may want to add some other items to this measure—but at this late hour will not—I commend to my colleagues the fact that the police officers and firefighters who first responded to the World Trade Center attacks, as well as the Pentagon, risked their lives in hazardous conditions, breathing toxic gases, to save the lives of their fellow citizens.

In my view, those who are serving in those terrorist attack zones ought to be looked upon as the same as those who work in combat zones, and the taxes of those first responders for that month ought not be subject to income taxes. I am going to work next year to get this proper recognition for our firefighters, law enforcement officers, and rescue personnel, but I do not want to hold up this good victims' relief package which means a good deal to a lot of families who feel a very big hole in their hearts during this holiday season.

I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, and I shall not object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague, Senator ALLEN, for his comments. I also thank my colleague, Senator TORRICELLI, for his work and the work we did in the Finance Committee. We also included the victims from the Oklahoma City bombing disaster 6 years ago in which 189 people lost their lives. Likewise, they should not have to pay taxes for that year or the preceding year. The amount of income is almost de minimis, but it is only fair.

I thank my colleagues from New York and New Jersey for their cooperation. My colleagues from New York had many additional, very interesting items—accelerated depreciation and other ideas to stimulate the economy. We are happy to work with them to try to make that happen in the near future.

I thank my colleagues for their support, and I shall not object.

The PRESIDING OFFICER. Is there objection?

If there is no objection, without objection, it is so ordered.

The majority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the vote on the conference report to accompany H.R. 3338 occur immediately following the remarks made by the senior Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. Will the majority leader yield?

The PRESIDING OFFICER. Is objection heard?

Mr. LOTT. Mr. President, I seek recognition, but in view of what we have just agreed to, I know the Senator from New Jersey wants to be heard. I yield the floor to him.

Mr. TORRICELLI. Mr. President, I thank the Republican leader for his courtesy. I want to say a word of thanks to all of my colleagues. I was proud to have offered this provision in the Finance Committee and again on the Senate floor.

The PRESIDING OFFICER. The Chair needs to ascertain if there is objection to the preceding unanimous consent request.

Mr. McCAIN. I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn. Without objection, it is so ordered.

The Chair laid before the Senate a message from the House, as follows:

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 2884) entitled "An Act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001", with the following House amendment to senate amendments:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Victims of Terrorism Tax Relief Act of 2001".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

Sec. 101. Income taxes of victims of terrorist attacks.
Sec. 102. Exclusion of certain death benefits.
Sec. 103. Estate tax reduction.
Sec. 104. Payments by charitable organizations treated as exempt payments.

TITLE II—OTHER RELIEF PROVISIONS

Sec. 201. Exclusion for disaster relief payments.
Sec. 202. Authority to postpone certain deadlines and required actions.
Sec. 203. Application of certain provisions to terroristic or military actions.
Sec. 204. Clarification of due date for airline excise tax deposits.
Sec. 205. Treatment of certain structured settlement payments.
Sec. 206. Personal exemption deduction for certain disability trusts.

TITLE III—TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001

Sec. 301. Tax benefits for area of New York City damaged in terrorist attacks on September 11, 2001.

TITLE IV—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

Sec. 401. Disclosure of tax information in terrorism and national security investigations.

TITLE V—NO IMPACT ON SOCIAL SECURITY TRUST FUNDS

Sec. 501. No impact on social security trust funds.

TITLE I—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

SEC. 101. INCOME TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) IN GENERAL.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

"(d) INDIVIDUALS DYING AS A RESULT OF CERTAIN ATTACKS.—

"(1) IN GENERAL.—In the case of a specified terrorist victim, any tax imposed by this chapter shall not apply—

"(A) with respect to the taxable year in which falls the date of death, and

"(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds, injury, or illness referred to in paragraph (2) were incurred.

"(2) SPECIFIED TERRORIST VICTIM.—For purposes of this subsection, the term 'specified terrorist victim' means any decedent—

"(A) who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or

"(B) who dies as a result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

Such term shall not include any individual identified by the Attorney General to have been a participant or conspirator in any such attack or a representative of such an individual.".

(b) CONFORMING AMENDMENTS.—

(1) Section 5(b)(1) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(2) Section 6013(f)(2)(B) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(c) CLERICAL AMENDMENTS.—

(1) The heading of section 692 is amended to read as follows:

"SEC. 692. INCOME TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH.".

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

"Sec. 692. Income taxes of members of Armed Forces and victims of certain terrorist attacks on death.".

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 102. EXCLUSION OF CERTAIN DEATH BENEFITS.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(i) CERTAIN EMPLOYEE DEATH BENEFITS PAYABLE BY REASON OF DEATH OF CERTAIN TERRORIST VICTIMS.—

"(1) IN GENERAL.—Gross income does not include amounts (whether in a single sum or otherwise) paid by an employer by reason of the death of an employee who is a specified terrorist victim (as defined in section 692(d)(2)).

"(2) LIMITATION.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to amounts which would have been payable if the individual had died other than as a specified terrorist victim (as so defined).

"(3) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of paragraph (1), the term 'employee' includes a self-employed individual (as defined in section 401(c)(1)).".

(b) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 103. ESTATE TAX REDUCTION.

(a) IN GENERAL.—Section 2201 is amended to read as follows:

"SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.

"(a) IN GENERAL.—Unless the executor elects not to have this section apply, in applying sections 2001 and 2101 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

"(b) QUALIFIED DECEDENT.—For purposes of this section, the term 'qualified decedent' means—

"(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

"(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

"(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, and

"(2) any specified terrorist victim (as defined in section 692(d)(2)).

"(c) RATE SCHEDULE.—

"If the amount with respect to which the tentative tax to be computed is:	**The tentative tax is:**
Not over $150,000	1 percent of the amount by which such amount exceeds $100,000.
Over $150,000 but not over $200,000.	$500 plus 2 percent of the excess over $150,000.
Over $200,000 but not over $300,000.	$1,500 plus 3 percent of the excess over $200,000.
Over $300,000 but not over $500,000.	$4,500 plus 4 percent of the excess over $300,000.
Over $500,000 but not over $700,000.	$12,500 plus 5 percent of the excess over $500,000.
Over $700,000 but not over $900,000.	$22,500 plus 6 percent of the excess over $700,000.
Over $900,000 but not over $1,100,000.	$34,500 plus 7 percent of the excess over $900,000.
Over $1,100,000 but not over $1,600,000.	$48,500 plus 8 percent of the excess over $1,100,000.
Over $1,600,000 but not over $2,100,000.	$88,500 plus 9 percent of the excess over $1,600,000.
Over $2,100,000 but not over $2,600,000.	$133,500 plus 10 percent of the excess over $2,100,000.
Over $2,600,000 but not over $3,100,000.	$183,500 plus 11 percent of the excess over $2,600,000.
Over $3,100,000 but not over $3,600,000.	$238,500 plus 12 percent of the excess over $3,100,000.
Over $3,600,000 but not over $4,100,000.	$298,500 plus 13 percent of the excess over $3,600,000.
Over $4,100,000 but not over $5,100,000.	$363,500 plus 14 percent of the excess over $4,100,000.
Over $5,100,000 but not over $6,100,000.	$503,500 plus 15 percent of the excess over $5,100,000.
Over $6,100,000 but not over $7,100,000.	$653,500 plus 16 percent of the excess over $6,100,000.
Over $7,100,000 but not over $8,100,000.	$813,500 plus 17 percent of the excess over $7,100,000.
Over $8,100,000 but not over $9,100,000.	$983,500 plus 18 percent of the excess over $8,100,000.
Over $9,100,000 but not over $10,100,000.	$1,163,500 plus 19 percent of the excess over $9,100,000.
Over $10,100,000	$1,353,500 plus 20 percent of the excess over $10,100,000.

"(d) DETERMINATION OF UNIFIED CREDIT.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2053(d)(3)(B) is amended by striking "section 2011(e)" and inserting "section 2011(d)".

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

"Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.".

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents—

(A) dying on or after September 11, 2001, and

(B) in the case of individuals dying as a result of the April 19, 1995, terrorist attack, dying on or after April 19, 1995.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 104. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made—

(A) in good faith using a reasonable and objective formula which is consistently applied, and

(B) in furtherance of public rather than private purposes, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

TITLE II—OTHER RELIEF PROVISIONS

SEC. 201. EXCLUSION FOR DISASTER RELIEF PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

"SEC. 139. DISASTER RELIEF PAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any amount received by an individual as a qualified disaster relief payment.

"(b) QUALIFIED DISASTER RELIEF PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster relief payment' means any amount paid to or for the benefit of an individual—

"(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

"(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

"(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

"(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

"(c) QUALIFIED DISASTER DEFINED.—For purposes of this section, the term 'qualified disaster' means—

"(1) a disaster which results from a terroristic or military action (as defined in section 692(c)(2)),

"(2) a Presidentially declared disaster (as defined in section 1033(h)(3)),

"(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

"(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

"(d) COORDINATION WITH EMPLOYMENT TAXES.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

"(e) NO RELIEF FOR CERTAIN INDIVIDUALS.—Subsections (a) and (f) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

"(f) EXCLUSION OF CERTAIN ADDITIONAL PAYMENTS.—Gross income shall not include any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act."

(b) CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

"Sec. 139. Disaster relief payments.

"Sec. 140. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 202. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) Expansion of Authority Relating to Disasters and Terroristic or Military Actions.—Section 7508A is amended to read as follows:

"SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

"(a) In General.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

"(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

"(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

"(3) the amount of any credit or refund.

"(b) Special Rules Regarding Pensions, Etc.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

"(c) Special Rules for Overpayments.—The rules of section 7508(b) shall apply for purposes of this section.".

(b) Clarification of Scope of Acts Secretary May Postpone.—Section 7508(a)(1)(K) (relating to time to be disregarded) is amended by striking "in regulations prescribed under this section".

(c) Conforming Amendments to ERISA.—

(1) Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

"SEC. 518. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

"In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.".

(2) Section 4002 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following new subsection:

"(i) Special Rules Regarding Disasters, Etc.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.".

(d) Additional Conforming Amendments.—

(1) Section 6404 is amended—

(A) by striking subsection (h),

(B) by redesignating subsection (i) as subsection (h), and

(C) by adding at the end the following new subsection:

"(i) Cross Reference.—

"For authority to suspend running of interest, etc. by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(2) Section 6081(c) is amended to read as follows:

"(c) Cross References.—

"For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

"(3) Postponement of Certain Acts.—

"For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(d) Clerical Amendments.—

(1) The item relating to section 7508A in the table of sections for chapter 77 is amended to read as follows:

"Sec. 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.".

(2) The table of contents for the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 517 the following new item:

"Sec. 518. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.".

(e) Effective Date.—The amendments made by this section shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

SEC. 203. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.

(a) Disability Income.—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking "a violent attack" and all that follows through the period and inserting "a terroristic or military action (as defined in section 692(c)(2)).".

(b) Exemption From Income Tax for Certain Military or Civilian Employees.—Section 692(c) is amended—

(1) by striking "outside the United States" in paragraph (1), and

(2) by striking "SUSTAINED OVERSEAS" in the heading.

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 204. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX DEPOSITS.

(a) In General.—Paragraph (3) of section 301(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42) is amended to read as follows:

"(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term 'airline-related deposit' means any deposit of taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air).".

(b) Effective Date.—The amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

SEC. 205. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS.

(a) In General.—Subtitle E is amended by adding at the end the following new chapter:

"CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

"Sec. 5891. Structured settlement factoring transactions.

"SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

"(a) Imposition of Tax.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

"(b) Exception for Certain Approved Transactions.—

"(1) In general.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

"(2) Qualified order.—For purposes of this section, the term 'qualified order' means a final order, judgment, or decree which—

"(A) finds that the transfer described in paragraph (1)—

"(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

"(ii) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

"(B) is issued—

"(i) under the authority of an applicable State statute by an applicable State court, or

"(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

"(3) Applicable state statute.—For purposes of this section, the term 'applicable State statute' means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

"(A) the State in which the payee of the structured settlement is domiciled, or

"(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

"(4) Applicable state court.—For purposes of this section—

"(A) In general.—The term 'applicable State court' means, with respect to any applicable State statute, a court of the State which enacted such statute.

"(B) SPECIAL RULE.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

"(5) QUALIFIED ORDER DISPOSITIVE.—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

"(c) DEFINITIONS.—For purposes of this section—

"(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

"(A) which is established by—

"(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

"(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

"(B) under which the periodic payments are—

"(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

"(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

"(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

"(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—

"(A) IN GENERAL.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

"(B) EXCEPTION.—Such term shall not include—

"(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

"(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

"(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

"(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

"(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

"(5) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term 'responsible administrative authority' means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

"(6) STATE.—The term 'State' includes the Commonwealth of Puerto Rico and any possession of the United States.

"(d) COORDINATION WITH OTHER PROVISIONS.—

"(1) IN GENERAL.—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

"(2) NO WITHHOLDING OF TAX.—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.".

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end the following new item:

"Chapter 55. Structured settlement factoring transactions.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

(2) CLARIFICATION OF EXISTING LAW.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after such 30th day.

(3) TRANSITION RULE.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(i) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority), and

(ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee, and

(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

SEC. 206. PERSONAL EXEMPTION DEDUCTION FOR CERTAIN DISABILITY TRUSTS.

(a) IN GENERAL.—Subsection (b) of section 642 (relating to deduction for personal exemption) is amended to read as follows:

"(b) DEDUCTION FOR PERSONAL EXEMPTION.—

"(1) ESTATES.—An estate shall be allowed a deduction of $600.

"(2) TRUSTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of $100.

"(B) TRUSTS DISTRIBUTING INCOME CURRENTLY.—A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of $300.

"(C) DISABILITY TRUSTS.—

"(i) IN GENERAL.—A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d), determined—

"(I) by treating such trust as an individual described in section 151(d)(3)(C)(iii), and

"(II) by applying section 67(e) (without the reference to section 642(b)) for purposes of determining the adjusted gross income of the trust.

"(ii) QUALIFIED DISABILITY TRUST.—For purposes of clause (i), the term 'qualified disability trust' means any trust if—

"(I) such trust is a disability trust described in subsection (c)(2)(B)(iv), (d)(4)(A), or (d)(4)(C) of section 1917 of the Social Security Act (42 U.S.C. 1396p), and

"(II) all of the beneficiaries of the trust as of the close of the taxable year are determined to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382c(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled."

"(3) DEDUCTIONS IN LIEU OF PERSONAL EXEMPTION.—The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after September 11, 2001.

TITLE III—TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001

SEC. 301. TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter Y—New York Liberty Zone Benefits

"Sec. 1400L. Tax benefits for New York Liberty Zone.

"SEC. 1400L. TAX BENEFITS FOR NEW YORK LIBERTY ZONE.

"(a) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified New York Liberty Zone property—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of such property, and

"(B) the adjusted basis of the qualified New York Liberty Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED NEW YORK LIBERTY ZONE PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified New York Liberty Zone property' means property—

"(i)(I) to which section 168 applies (other than railroad grading and tunnel bores), or

"(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

"(ii) substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

"(iii) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001, and

"(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after

September 10, 2001, and placed in service by the taxpayer on or before the termination date, but only if no written binding contract for the acquisition was in effect before September 11, 2001. The term 'termination date' means December 31, 2006 (December 31, 2009, in the case of nonresidential real property and residential rental property).

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified New York Liberty Zone property' shall not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(I) without regard to paragraph (7) of section 168(g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—Such term shall not include qualified leasehold improvement property.

"(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before the termination date.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(iii), if property—

"(I) is originally placed in service after September 10, 2001, by a person, and

"(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The deduction allowed by this subsection shall be allowed in determining alternative minimum taxable income under section 55.

"(b) 5-YEAR RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN LEASEHOLD IMPROVEMENTS.—

"(1) IN GENERAL.—For purposes of section 168, the term '5-year property' includes any qualified leasehold improvement property.

"(2) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

"(i) such building is located in the New York Liberty Zone,

"(ii) such improvement is made under or pursuant to a lease (as defined in section 168(h)(7))—

"(I) by the lessee (or any sublessee) of such portion, or

"(II) by the lessor of such portion,

"(iii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion,

"(iv) such improvement is placed in service—

"(I) after September 10, 2001, and more than 3 years after the date the building was first placed in service, and

"(II) before January 1, 2007, and

"(v) no written binding contract for such improvement was in effect before September 11, 2001.

"(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

"(i) the enlargement of the building,

"(ii) any elevator or escalator,

"(iii) any structural component benefiting a common area, and

"(iv) the internal structural framework of the building.

"(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) COMMITMENT TO LEASE TREATED AS LEASE.—A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

"(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

"(I) members of an affiliated group (as defined in section 1504), and

"(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.

"(D) IMPROVEMENTS MADE BY LESSOR.—

"(i) IN GENERAL.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.

"(ii) EXCEPTION FOR CHANGES IN FORM OF BUSINESS.—Property shall not cease to be qualified leasehold improvement property under clause (i) by reason of—

"(I) death,

"(II) a transaction to which section 381(a) applies, or

"(III) a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as qualified leasehold improvement property and the taxpayer retains a substantial interest in such trade or business.

"(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—The applicable depreciation method under section 168 shall be the straight line method in the case of qualified leasehold improvement property.

"(4) 9-YEAR RECOVERY PERIOD UNDER ALTERNATIVE SYSTEM.—For purposes of section 168(g), the class life of qualified leasehold improvement property shall be 9 years.

"(c) INCREASE IN EXPENSING UNDER SECTION 179.—

"(1) IN GENERAL.—For purposes of section 179—

"(A) the limitation under section 179(b)(1) shall be increased by the lesser of—

"(i) $35,000, or

"(ii) the cost of section 179 property which is qualified New York Liberty Zone property placed in service during the taxable year, and

"(B) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified New York Liberty Zone property shall be 50 percent of the cost thereof.

"(2) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified New York Liberty Zone property which ceases to be used in the New York Liberty Zone.

"(d) TAX-EXEMPT BOND FINANCING.—

"(1) IN GENERAL.—For purposes of this title, any qualified New York Liberty Bond shall be treated as an exempt facility bond.

"(2) QUALIFIED NEW YORK LIBERTY BOND.—For purposes of this subsection, the term 'qualified New York Liberty Bond' means any bond issued as part of an issue if—

"(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs,

"(B) such bond is issued by the State of New York or any political subdivision thereof,

"(C) the Governor of New York designates such bond for purposes of this section, and

"(D) such bond is issued during calendar year 2002, 2003, or 2004.

"(3) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed $15,000,000,000.

"(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified project costs' means the cost of acquisition, construction, reconstruction, and renovation of—

"(i) nonresidential real property and residential rental property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone, and

"(ii) public utility property located in the New York Liberty Zone.

"(B) COSTS FOR CERTAIN PROPERTY OUTSIDE ZONE INCLUDED.—Such term includes the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if such property is part of a project which consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings.

"(C) LIMITATIONS.—Such term shall not include—

"(i) costs for property located outside the New York Liberty Zone to the extent such costs exceed $7,000,000,000,

"(ii) costs with respect to residential rental property to the extent such costs exceed $3,000,000,000, and

"(iii) costs with respect to property used for retail sales of tangible property to the extent such costs exceed $1,500,000,000.

"(D) MOVABLE FIXTURES AND EQUIPMENT.—Such term shall not include costs with respect to movable fixtures and equipment.

"(5) SPECIAL RULES.—In applying this title to any qualified New York Liberty Bond, the following modifications shall apply:

"(A) Section 146 (relating to volume cap) shall not apply.

"(B) Section 147(c) (relating to limitation on use for land acquisition) shall be determined by reference to the aggregate authorized face amount of all qualified New York Liberty Bonds rather than the net proceeds of each issue.

"(C) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting '50 percent' for '15 percent' each place it appears.

"(D) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to construction proceeds of bonds issued under this section.

"(E) Financing provided by such a bond shall not be taken into account under section 168(g)(5)(A) with respect to property substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone.

"(F) Repayments of principal on financing provided by the issue—

"(i) may not be used to provide financing, and

"(ii) are used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

"(G) Section 57(a)(5) shall not apply.

"(6) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of the proceeds of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to subsection (a)), if the issuer elects to so treat such portion.

"(e) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

"(f) NEW YORK LIBERTY ZONE.—For purposes of this section, the term 'New York Liberty Zone' means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter Y. New York Liberty Zone Benefits."

TITLE IV—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

SEC. 401. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.

(a) DISCLOSURE WITHOUT A REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

"(C) TERRORIST ACTIVITIES, ETC.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

"(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

"(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(iv) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2003.".

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

"(A) DISCLOSURE TO LAW ENFORCEMENT AGENCIES.—

"(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

"(ii) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

"(iii) REQUIREMENTS.—A request meets the requirements of this clause if—

"(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of any terrorist incident, threat, or activity, and

"(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iv) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

"(B) DISCLOSURE TO INTELLIGENCE AGENCIES.—

"(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

"(ii) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request—

"(I) is made by an individual described in clause (iii), and

"(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iii) REQUESTING INDIVIDUALS.—An individual described in this subparagraph is an individual—

"(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

"(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity.

"(iv) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(C) DISCLOSURE UNDER EX PARTE ORDERS.—

"(i) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened to inspection or disclosure pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to such terrorist incident, threat, or activity.

"(ii) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

"(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

"(D) SPECIAL RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

"(ii) LIMITATION ON USE OF INFORMATION.—Information disclosed under clause (i)—

"(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

"(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

"(E) TERMINATION.—No disclosure may be made under this paragraph after December 31, 2003.".

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(a)(2) is amended by inserting "any local law enforcement agency receiving information under subsection (i)(7)(A)," after "State,".

(2) Section 6103(b) is amended by adding at the end the following new paragraph:

"(11) TERRORIST INCIDENT, THREAT, OR ACTIVITY.—The term 'terrorist incident, threat, or activity' means an incident, threat, or activity involving an act of domestic terrorism (as defined in section 2331(5) of title 18, United States Code) or international terrorism (as defined in section 2331(1) of such title).".

(3) The heading of section 6103(i)(3) is amended by inserting "OR TERRORIST" after "CRIMINAL".

(4) Paragraph (4) of section 6103(i) is amended—

(A) in subparagraph (A) by inserting "or (7)(C)" after "paragraph (1)", and

(B) in subparagraph (B) by striking "or (3)(A)" and inserting "(3)(A) or (C), or (7)".

(5) Paragraph (6) of section 6103(i) is amended—

(A) by striking "(3)(A)" and inserting "(3)(A) or (C)", and

(B) by striking "or (7)" and inserting "(7), or (8)".

(6) Section 6103(p)(3) is amended—

(A) in subparagraph (A) by striking "(7)(A)(ii)" and inserting "(8)(A)(ii)", and

(B) in subparagraph (C) by striking "(i)(3)(B)(i)" and inserting "(i)(3)(B)(i) or (7)(A)(ii)".

(7) Section 6103(p)(4) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking "or (5)," the first place it appears and inserting "(5), or (7),", and

(ii) by striking "(i)(3)(B)(i)," and inserting "(i)(3)(B)(i) or (7)(A)(ii),", and

(B) in subparagraph (F)(ii) by striking "or (5)," the first place it appears and inserting "(5) or (7),".

(8) Section 6103(p)(6)(B)(i) is amended by striking "(i)(7)(A)(ii)" and inserting "(i)(8)(A)(ii)".

(9) Section 6105(b) is amended—

(A) by striking "or" at the end of paragraph (2),

(B) by striking "paragraphs (1) or (2)" in paragraph (3) and inserting "paragraph (1), (2), or (3)",

(C) by redesignating paragraph (3) as paragraph (4), and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) to the disclosure of tax convention information on the same terms as return information may be disclosed under paragraph (3)(C) or (7) of section 6103(i), except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government, or".

(10) Section 7213(a)(2) is amended by striking "(i)(3)(B)(i)," and inserting "(i)(3)(B)(i) or (7)(A)(ii),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made on or after the date of the enactment of this Act.

TITLE V—NO IMPACT ON SOCIAL SECURITY TRUST FUNDS

SEC. 501. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

The amendment (No. 2689) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted and Proposed.")

Mr. TORRICELLI. I express my thanks to Senator DASCHLE, Senator LOTT, Senator BAUCUS, Senator GRASSLEY, Senator NICKLES, and so many Members of the Senate who made this possible. I know during this Christmas season that the plight and distress of the families of those who lost their lives in Virginia, New York, New Jersey, and Pennsylvania will be in all of our thoughts. That really is not enough.

Charities have raised an enormous amount of money, but it has not gotten to the victims' families. There is a victims' fund this Government has raised, but it has not yet gotten to these victims' families. This tax relief offers real and immediate benefits. It has the promise that as American citizens give funds to charities, the funds from those charities will not in turn be taxed as they get to the widows, the parents, or other relatives. It holds the promise that there will be a refund given to many of these families.

Offering financial relief is little solace given such enormous pain, but it is of some help. Families who have buried their loved ones are also paying mortgages, tuition, and buying groceries. This is real help.

I am grateful to the Members of the Senate who have helped pass this legislation. I am grateful to Chairman THOMAS of the House Ways and Means Committee who has been with us as an architect in its passage.

I express on behalf of all the families for whom this means so much in this holiday season their gratitude to all of you who have made this possible. I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The majority leader.

Mr. DASCHLE. Madam President, I thank both Senators from New Jersey for their extraordinary work in getting us to this point. This was not easy, and I am grateful to them for their persistence, their leadership, and their efforts. This would not have happened were it not for their direct involvement to this moment. I say the same to the Senators from New York for the tremendous work they have done assisting us in getting to this point as well.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, I will be brief because I know we want to finish up the debate on the Defense appropriations conference report and get a recorded vote. There are Senators who would like that to occur sooner rather than later, so I will not belabor the point.

I am glad we worked out the agreement on the victims' disaster of September 11. I appreciate the cooperation all the way around. One can tell by the discussion that one of the reasons some of these other meritorious items were not added is that once we had one, there would be two, three, four, and we could not get all those worked out in the short time we had, and we stood the chance of losing the victims' tax provisions. I am glad we did that.

Also, I understand many of these provisions, including the New York provision, are in the stimulus package that has been voted on by the House. We are going to eventually get a stimulus package, and I hope and expect that provision will be in the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. I thank the Chair.

Madam President, I, too, thank the Senate and the leadership of Senator DASCHLE, Senator LOTT, the chairman of the House Ways and Means Committee, Senator BAUCUS, and others who have worked with us to allow this victims' relief effort to come to pass.

Nothing can be more sincere and heartfelt during this holiday season than to respond with this legislation for families who have lost so much.

I thank the Senate for its efforts.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002—CONFERENCE REPORT—Continued

Mr. DASCHLE. Madam President, it is my understanding we now have agreement to go directly to the vote on the conference report to H.R. 3338. I appreciate everyone's cooperation in that regard and I ask that the Senate proceed. For the interest of all Senators, this will be the last vote of the day.

The PRESIDING OFFICER. Is there further debate?

The Senator from West Virginia.

Mr. BYRD. I will take 30 seconds. I had agreed, in the interest of letting Senators catch their planes, to having the vote and then have my statement concerning the homeland defense part appear in the RECORD as though spoken before the vote. That unanimous consent was not agreed to and others spoke. The Senator from Arizona spoke. It was my understanding we would all give up that privilege and we would vote without speaking. Others have spoken. I am not going to stand in the way of Senators going home on this occasion, so I want to make it clear I did not object in the beginning so everybody who had speeches could make them.

I am willing to give up my speech right now. It is a great speech, but I will make it after the vote. I wanted to call it to the attention of the Senate that I kind of begrudgingly agreed to that request.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. DASCHLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the concurrent resolution.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Nevada (Mr. ENSIGN), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—94

Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—2

Gramm
McCain

NOT VOTING—4

Akaka
Bond
Ensign
Helms

The conference report (H.R. 3338) was agreed to.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Madam President, if I may take just one moment. I see Senator DASCHLE is getting ready to propound some unanimous consent requests.

Let me take a moment to say to the managers of the legislation and the chairman and ranking member of the committee, I know this has not been easy. There have been a lot of great ideas on both sides of the aisle as to how we could improve it or change it. You have been tenacious, you stuck with it, and you produced a good piece of legislation that is important for our country, important for our men and women in uniform.

This very morning the President called and said he was pleased with the result and he appreciates the leadership the Senate gave in this area.

I commend all of you, Senator INOUYE, Senator STEVENS, and Senator BYRD, for the work that has been done here.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I concur in the comments made by the Republican leader. We should note that this completes our work on all 13 appropriations bills. I commend both the chair and the ranking member for their work in getting us to this point. This was not easy, especially this year. It would not have happened were it not for the tremendous effort made by each of the subcommittee chairs. I note especially the efforts of the Senator from Hawaii on the Defense appropriations bill, the largest of all bills with which we had to contend.

I congratulate them. I thank them. I note, again, the great work they have done in getting us to this point.

UNANIMOUS CONSENT REQUEST—H.R. 3210

Mr. DASCHLE. Madam President, I have a unanimous consent request to propound at this time. There will be many other unanimous consent requests made over the course of this afternoon. We will certainly notify Senators as they are propounded so that those who have an interest in a particular issue can be in the Chamber when we make them. Let me begin.

I ask unanimous consent the Senate proceed to Calendar No. 252, H.R. 3210, and the only amendment in order be a Dodd-Sarbanes-Schumer substitute amendment, that the substitute be considered and agreed to, the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Kentucky.

Mr. MCCONNELL. Madam President, reserving the right to object—I will object—I have a different approach in mind on this which I would like to propound.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. Madam President, the Republican leader and I have agreed that we would keep the remarks involving these unanimous consent requests to a minimum at this point to accommodate those Senators who are still waiting to speak on the Defense appropriations conference report. I would like to respect our earlier commitment to them that they would have the opportunity to make their remarks. But we will certainly entertain these unanimous consent requests without extended comments. I appreciate everyone's cooperation in that regard.

Mr. MCCONNELL. Madam President, will the leader yield for a question?

Mr. DASCHLE. Yes.

Mr. MCCONNELL. I was simply going to suggest that he modify his unanimous consent request. I was not going to make a speech.

Mr. DASCHLE. I would be happy to entertain the modification.

Mr. MCCONNELL. I was going to suggest the majority leader modify his unanimous consent request to adopt one amendment on each side with regard to liability only.

Mr. DASCHLE. Madam President, I appreciate the recommendation and proposal made by the Senator from Kentucky. I know this has been the subject of a good deal of discussion. There is no doubt the issue of liability will be a matter that will have to be addressed. But if we open it up to any amendment at this late hour, there is little likelihood we can complete our work in time for us to be able to go to conference before the holidays begin.

For that reason, I would have to object.

UNANIMOUS CONSENT REQUEST—H.R. 3529

Mr. LOTT. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3529, which is the stimulus package received from the House. I further ask unanimous consent that there be 60 minutes for debate equally divided in the usual form; further, I ask that at the expiration or yielding back of that time, the bill be read a third time and the Senate proceed to a vote on passage of the bill, with points of order waived.

Before the Chair rules on this unanimous consent request, I add that if there is any additional debate time—if 2 or 3 hours would be needed—I will certainly amend my unanimous consent request to accommodate more debate.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Madam President, I offer an alternative and make it a proposal that we amend the unanimous consent request made by the distinguished Republican leader as the following: That the amendment include a substitute amendment that I have at the desk which would extend unemployment insurance coverage for 13 weeks, and that the bill, as amended, be read a third time and passed.

Mr. LOTT. Madam President, reserving the right to object, I want to make sure I understand the proposal: That we would not have a vote on that addition but to just include it in the package. Is that correct?

Mr. DASCHLE. Madam President, we have already indicated, of course, to all of our colleagues that we would not have any additional rollcall votes today. We would have to accommodate this request with simply a voice vote on the substitute.

Basically, what we are suggesting is that since we cannot reach agreement on the overall economic stimulus, the one piece for which there is general agreement is the need to extend unemployment insurance. We did it three times in the early 1990s, recognizing that the limited regular benefit period of time was inadequate for a lot of those who are out of work.

Again, without getting into extended remarks, I would simply, by explanation, note that would be the intent of this unanimous consent request, which is to substitute economic stimulus with the 13-week extension.

Mr. LOTT. Madam President, under those conditions, I would have to object.

Let me just say that if we can set it up in a way to have a rollcall vote on that rather than a voice vote to make that very substantial change, I think we need to do both, and therefore I would have to object to that modification.

Mr. DASCHLE. Madam President, I yield the floor.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. Objection is heard.

The Senator from Hawaii.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

Mr. INOUYE. Madam President, pursuant to the unanimous consent agreement, I would like to proceed with my statements.

The PRESIDING OFFICER. The Senator is recognized.

Mr. INOUYE. Madam President, I am happy to rise today to offer my unqualified support for the conference agreement on H.R. 3338, the Department of Defense Appropriations Bill for Fiscal Year 2002.

I am pleased to present the recommendations to the Senate today, as division A of this bill.

The recommendations contained herein are the result of lengthy negotiations between the House and Senate managers and countless hours of work by our staffs acting on behalf of all members.

The agreement provides $317.2 billion, the same as the House and Senate levels, consistent with our 302b allocations.

As in all conference agreements, neither side, nor any individual member had every issue go his or her way. It represents a compromise.

It is one that protects the interests of both houses while clearly meeting our national defense reponsibilities.

For the information of all Senators, I should point out that the bill provides more funding for our men and women in uniform than was recommended by either body.

I want to note to all my collegues that this would not have been possible without the tremendous cooperation that I have received from Senator STEVENS and his able staff led by Steve Cortese with Ms. Margaret Ashworth, Kraig Siracuse, Alycia Farrell, and Mr. John Kem, on detail from DOD.

The Senate owes all of them a debt of gratitude. I want to also note the efforts of my staff, Charlie Houy, David Morrison, Gary Reese, Susan Hogan, Tom Hawkins, Bob Henke, Lesley Kalan, and Mazie Mattson who have devoted so much time to preparing the committee's recommendations for this bill.

The Defense appropriations bill as recommended by the conference committee provides a total of $317,623,747,000 in budget authority for mandatory and discretionary programs for the Department of Defense. This amount is $1,923,633,000 below the President's request.

The recommended funding is below the President's request by nearly $2 billion because the Congress has already acted to reallocate $500 million for military construction and $1.2 billion for nuclear energy programs under the jurisdiction of the Energy Water Subcommittee.

The total discretionary funding recommended in division A of this bill is $317.206,747,000. This is less than $2 million below the subcommittee's 302B allocation.

This measure is consistent with the objectives of this administration and the Defense Authorization Conference Report which passed the Senate.

In addition, we believe we have accommodated those issues identified by the Senate which would enhance our nation's defense while allowing us to stay within the limits of the budget resolution.

Our first priority in this bill is to provide for the quality of life of our men and women in uniform.

In that vein, we have fully funded a five percent pay raise for every military member as authorized.

We recommend additional funding for targeted pay raises for those grades and particular skills which are hard to fill.

We believe these increases will significantly aid our ability to recruit, and perhaps more importantly, retain much needed military personnel.

We have also provided $18.4 billion for health care costs. This is 46.3 billion more than appropriated in FY 2001 and nearly $500 million more than requested by the president.

This funding will ensure that tricare costs are fully covered.

It will also increase our military hospital funding to better provide for their patients and, by providing funding for "TRICARE FOR LIFE", we fulfill a commitment made to our retirees over 65.

This will ensure that those Americans who were willing to dedicate their lives to the military will have quality health care in their older years.

This is most importantly an issue of fairness.

It fulfills the guarantee our nation made to the men and women of our military when they were on active duty.

We also believe it will signal to those willing to serve today that we will keep our promises. In no small part we see this as another recruiting and retention program.

In title two, the bill provides $105 billion for readiness and related programs. This is $8.2 billion more than appropriated for fiscal year 2001. The bill reallocates funding from the Secretary of Defense to the military services for the costs of overseas deployments in the Balkans.

This is the way the Pentagon funds the Middle East deployments. The conferees have agreed to leave a small amount in the appropriation for unforeseen emergencies.

For our investment in weapons and other equipment, the recommendation includes $60.9 billion for procurement, nearly $500 million more than requested by the President. The funding here will continue our efforts to recapitalize our forces.

The agreement fully supports the Army's transformation goals and purchases much needed aircraft, missiles and space platforms for the Air Force.

For the Navy, the bill provides full funding for those programs that are on track and ready to move forward.

In the case of shipbuilding, the conferees strongly support the need to address our growing shortfalls in ship construction. The agreement provides more funding that in either House or Senate bill and $150 more than requested.

In some cases, contract delays have allowed the conferees to recommend reallocating funds for other critical requirements.

Included in that, the committee has recommended $700 million for procurement to support our national guard and reserve forces.

The conference funds 10 UH–60 helicopters for the National Guard and Army Reserve. It also provides four C–130's for our Air National Guard and Reserves.

The agreement adds funding for additional trainer aircraft for the Navy. It fully funds the requirements for the F-22, the JSF and the F/A-18.

In funding for future investment for research and development, the measure recommends $48.9 billion, nearly $1.5 billion more than the amounts appropriated for fiscal year 2001. Regarding missile defense, the bills is very close to the level requested by the President.

Last week, the Pentagon announced that it was terminating the Navy' area wide missile defense program. Additionally, we were informed that the Pentagon is restructuring its space based on infrared—low program. These two adjustments allowed the conferees to reduce funding for missile defense.

However, similar to the provision in the Senate and the authorization bill, the committee provides $478 million in additional funding that can be used for counter terrorism programs.

This is a balanced bill that supports the priorities of the administration and the Senate.

In order to cut spending by nearly $2 billion, some difficult decisions were required. The bill reduces funding for several programs that have been delayed or are being reconsidered because of the secretary's strategic review, the nuclear posture review, and the quadrennial defense review.

The bill also makes adjustments that are in line with the reforms championed by the administration:

A concerted effort was made at reducing reporting requirements in the bill;

The bill also reduces funding for consultants and other related support personnel as authorized by the Senate.

As requested, the bill provides $100 million for DOD to make additional progress in modernizing its financial management systems.

Finally, the bill places a cap on legislative liaison personnel which the Secretary of Defense has indicated are excessive.

I would like to take a few minutes to discuss an item that some have mischaracterized.

The bill provides discretionary authority to the Defense Department to lease tankers to replace the aging KC-135 fleet. This is a program that is strongly endorsed by the Air Force as the most cost effective way to replace our tankers.

Despite what has been claimed, the language in the bill requires that the lease can only be entered into if the Air Force can show that it will be 10 percent cheaper to lease the aircraft than to purchase them. In addition, it stipulates that the aircraft must be returned to the manufacturer at the end of the lease period.

No business sector has suffered more from the events of 9-11 than has our commercial aircraft manufacturers. The tragic events of that day have drastically reduced orders for commercial aircraft.

We have been informed that Boeing, for example, will have to lay off approximately 30,000 people as a direct consequence of the terrorist attack. We have provided funding to support the aircraft manufacturers as a result of that tragedy.

We are including funds elsewhere in this bill to help in the recovery in New York and the Pentagon. The leasing authority which we have included in Division A allows us to help assist commercial airline manufacturers while also solving a long-term problem for the Air Force.

I strongly endorse this initiative which was crafted by my good friend Senator STEVENS with the support of several other Members, including Senators CANTWELL, MURRAY, ROBERTS, and DURBIN. I believe it deserves the unanimous support of the Senate.

Today is December 20th. Nearly one quarter of the fiscal year has passed.

The Defense Department is operating under a continuing resolution which significantly limits its ability to efficiently manage its funding.

I don't need to remind any of my colleagues that we have men and women serving half way around the world defending us.

Less than one percent of Americans serve in today's military. These few are willing to sacrifice themselves for us. They deserve our support.

One hundred days ago our Nation was shocked and hurt by a surprise attack. This is the bill, Mr. President, that allows us to respond to that attack.

It is also the measure we need to show our military forces that we support them.

This bill is urgently needed to fight and win this war and to demonstrate to the world our resolve.

I urge all my colleagues to support this bill.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I add my congratulations to the chairman of the subcommittee and the ranking member for their hard work on a very important piece of legislation.

I also ask unanimous consent to have printed in the RECORD a letter by Air Force Chief of Staff John Jumper and Secretary of the Air Force James Roche basically explaining in detail their need for the 767 tanker fleet and why the activities and events after September 11 have accelerated the interest in the replacement options that were a part of this legislation.

DECEMBER 18, 2001.

EDITOR-IN-CHIEF,
The Washington Post,
Washington, DC.

There being no objection, the letter was ordered to be printed in RECORD, as follows:

DEAR EDITOR: Robert Novak's Dec 16, 2001 column, "Boeing Boondoggle," wrongly implies the Air Force doesn't have a position on leasing Boeing 767s for use as tanker aircraft. Our position, previously explained to Mr. Novak, is clear: we need to modernize our aging tanker fleet, and we owe it to our warfighters and taxpayers to consider all reasonable options, including leasing or buying 767s.

Air refueling enables America to project power anywhere in the world. Today, in the US-led global war on terrorism, that mission is mostly done with an aircraft designed and first built during the Eisenhower administration. We have flown more than 3500 refueling sorties in Operation Enduring Freedom and more than 2700 refueling sorties in support of air patrols over American cities since the September 11 attacks. These operations, along with a mission focus on homeland security, are forcing the Air Force to assess accelerating replacement options.

Incorporating new 767 aircraft into our fleet will dramatically enhance America's aerial refueling capability. Benefits include increased fuel offload, near-term aircraft availability, and mission realiability—all with far lower support costs. The 767 has also attracted the interest of Italy and Japan, allies with similar needs.

Should Congress approve a leasing option to put new tankers in service, we will analyze business conditions and determine the most cost-effect modernization path available. Leasing may enable the Air Force to avoid significant up-front acquisition cash outlays, and it could allow us to accelerate retirement of the oldest, least reliable tankers in the fleet, saving more than $3 billion in repair and maintenance costs. If a cost-benefit analysis favors another approach, we would pursue that alternative.

America's air refueling fleet is indispensable, and modernization is essential to future mission success. The 767 is the right platform to jumpstart tanker modernization, and we are committed to leveraging our resources to make the best overall arrangement for our citizens.

JOHN P. JUMPER,
General, USAF, Chief of Staff.
JAMES G. ROCHE,
Secretary of the Air Force.

Ms. CANTWELL. Mr. President, I also ask unanimous consent to have printed in the RECORD information about how the DOD process for reviewing the need for the 767 tanker replacement was started over 2 years ago, culminating in a report and analysis of, February 2001 that these tankers were in fact needed and not done behind closed doors but the process was followed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Planning for the Air Force replacement of its KC-135 tanker fleet has been ongoing for years. The DoD's Joint Requirements Oversight Committee (JROC) has validated a Mission Needs Statement for this replacement, culminating a two year DoD review process.

In response, Boeing in February of 2001 submitted a proposal to the Air Force for the purchase of new 767 tankers—this is neither a new, nor a "behind closed doors" issue.

The Air Force Secretary and Chief of Staff have been visible and vocal (letters, press statements) is their support for the need to begin to modernize the tanker fleet. More specifically, they have been clear on the desirability of leasing 767 tankers in order to get them deployed (and old high cost tankers retired) in operationally significant quantities and within projected budgets over the next decade.

Ms. CANTWELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I rise because we have passed the 13th conference report on the 13 appropriations bills.

As we prepare to return to our home States, everyone here in the Chamber and everyone in the Senate can find some aspect of the conference report on Defense to which to object.

In the end, what we have to do is consider the work as a whole—as a complete body of work—and make our judgments on it as not any one single item or issue but the whole notion of how we protect our Nation's interests across the globe. On that, this measure deserves my support, and has gotten my support, and obviously the support of a majority of our colleagues.

As we dispose of the conference report on the Defense appropriations bill, I regret that we leave behind other issues involving security for our country at home. I want to mention those today.

I hope before we adjourn at the end of this day, we will have had the opportunity to bring to this floor several measures that will be brought up by unanimous consent, and I hope with no objection. One of those deals with the security of our ports. As it turns out, for the hundreds of ports across and around our Nation where ships travel in and out of them every single week, the security we provide for those ports and for the people who live in the areas around those ports is inadequate.

The opportunity for someone to bring terrorist devices into our ports and into heavily populated areas possibly is very real. It is one that we currently do not address well, and we need to.

The Senate Commerce Committee, under the leadership of Senator HOLLINGS, has reported out legislation, I believe unanimously, on port security. It needs to come before this body and to be considered before we ultimately adjourn.

Secondly, on the issue of airport security, aircraft security has been debated and I think satisfactorily addressed by the House and Senate and by the President.

Many people in this part of the country, and around the country, travel by railroad. We leave undone, at least at this moment, issues that ought to be addressed with respect to rail security, the security of people who are traveling on railroads as passengers around our Nation.

Again, the Commerce Committee, under the leadership of Senator HOLLINGS, has reported out, I believe unanimously, legislation dealing with rail security. It is an important issue, and not just for those of us in the Northeast corridor; it is an important issue for our Nation. And we know, as the Presiding Officer does, there are hundreds of thousands of people who travel literally every day through tunnels that go in and out of New York, under Baltimore, and under this city that are not too secure, are not well ventilated or well lit, and are not well protected.

This measure would help to address that, along with better surveillance of our bridges, providing better and more adequate security aboard our trains. My hope is that before we leave this day, before the Senate sets this day, we will have taken up this measure by unanimous consent and approve it in the Senate.

There was objection a few moments ago to another unanimous consent request which was made with respect to antiterrorism reinsurance. Other nations around the globe have been the target of terrorist attacks, and damage has been suffered from those attacks for many years. For us, fortunately, the experience of September 11 had never visited this country before. We have not had to trouble ourselves with determining how we provide adequately for insurance in the event of a terrorist attack.

Other countries deal with this differently. In Israel and the United Kingdom, which have had terrorist attacks for many years, those countries have their own approach. In Israel, for example, the country provides the insurance for the terrorist attacks. The Banking Committee and the Commerce Committee both have sought to craft legislation to say there ought to be a backstop with respect to antiterrorism legislation, that initially the insurance companies themselves should put up money and absorb the losses, to the tune of $10 or $15 billion, but after that there should be a sharing of the costs that grow out of terrorist attacks. The Federal Government should share that. It is unfortunate we were not able to proceed with this legislation today, and it is imperative we take it up as soon as we return.

The last point is with respect to other unfinished business. When terrorists attacked us on September 11, they didn't just take people's lives in New York, the Pentagon, and in Pennsylvania; they struck a body blow to our economy. We are still reeling, to some extent, from that body blow. The work of the Federal Reserve on monetary policy helps us with respect to that body blow.

The fact that energy prices have fallen so much helps us with respect to that body blow. The fact that we are spending, frankly, a lot of money with deficit spending, in order to fight terrorism here and across the country and around the world, provides stimulus to the economy and helps to reduce the length of time under which we will likely have a recession.

There is one other thing we could have done, and ought to have done, besides the terrorism reinsurance proposal that has been objected to, and that was to pass an economic recovery plan. That, I think, had broad bipartisan support by Democrats and Republicans. It would have accelerated depreciation and gotten businesses back into the business of making capital investment. It would have provided a payroll tax holiday for businesses and employees as well. It would have provided extensions of unemployment insurance and helped folks on the health insurance side. It would have helped States that are reeling at this point in time. Unfortunately, we have not had the opportunity to debate that today and to pass a true bipartisan plan.

So we go home with half a loaf. We go home with half a loaf, but, as the Presiding Officer knows, we will come back next month. And as we come back next month, my hope is, if we have not dealt satisfactorily with railroad security and port security today, if we have not dealt with antiterrorism reinsurance today, as it appears we will not, that once we return we will take that up.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that when I complete my request for the unanimous consent, the Senator from West Virginia be recognized. He has time under the previous bill already, but I would like him to be recognized as soon as I finish.

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBACK. Reserving the right to object, I have one unanimous consent request I would like to make regarding an immigration bill before, if possible, the Senator from West Virginia speaks.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Reserving the right to object, the Senators may be unaware, but under the previous order, I was to be recognized after the vote; right?

Mr. REID. Right.

The PRESIDING OFFICER. It was the understanding of the Chair that Senators INOUYE and STEVENS were to be recognized after the vote. And the Senator agreed to delay his statement, but the time had not been allotted to him specifically.

Mr. BYRD. Mr. President, I know what my rights are, and I know what the order said. I just have not pressed my rights. But I have no objection to the Senator making his request. I will not, however, stand aside for the Senator's request, but I will be here when he makes his request.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Is my consent granted then, Mr. President?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—H.R. 3448

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to H.R. 3448, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3448) to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies.

The PRESIDING OFFICER. Is there objection to proceeding to the measure at this time?

The Senator from Oklahoma.

Mr. NICKLES. I shall not object. I thank my colleague from West Virginia for his patience and tolerance, and also my colleague from Nevada for his assistance in moving this forward, as well as Senator DASCHLE and Senator LOTT. And I congratulate Senator FRIST and Senator KENNEDY for the work they have done in putting together this bipartisan Bioterrorism Preparedness Act.

The PRESIDING OFFICER. Is there objection to proceeding to this measure at this time?

Without objection, the Senate will proceed to the measure.

The Senator from Nevada.

Mr. REID. Mr. President, I say also that the Senator from West Virginia and I worked very hard on homeland security, which featured a lot of these matters in this legislation that will quickly be approved. And it was real money. This is not; this is an authorization. I am glad we are going to get this, but it would have been better had we done Senator BYRD's bill and mine.

Mr. President, I understand Senators FRIST, KENNEDY, and GREGG have a substitute amendment at the desk, which is the text of S. 1765. I ask unanimous consent that the amendment be considered and agreed to, the motion to reconsider be laid upon the table, that the bill, as amended, be read three times and passed, and the motion to reconsider be laid upon the table.

Mr. BYRD. Mr. President, I reserve the right to object. I do not know what this bill is about.

Mr. REID. Did the Senator from West Virginia hear my statement I just made?

Mr. BYRD. I could hardly hear anything, as a matter of fact.

Mr. REID. What I did say, I say to Senator BYRD, is that this is the authorization on which Senators' KENNEDY and FRIST have worked. And I did say that the legislation you offered—with me being second in charge of that legislation—was real money, appropriated money, which would have done these things that this only authorizes. I am glad this is going to be authorized, but it is too bad we are not here celebrating real money for the people.

Mr. BYRD. I object to this bill. I object to this being considered at this time.

Mr. REID. Mr. President, I ask unanimous consent that my consent to lay this bill down be vitiated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will just state to my friend and colleague from West Virginia, he is very much my friend, and I know he has a Defense appropriations speech, and I look forward to hearing his comments on that, and then I look forward to working with him to kind of show him some of the provisions on which Senators FRIST, KENNEDY, and GREGG, and others have worked. I believe there are 75 or more cosponsors on this bill. I think it is a good bill, a bipartisan bill, strongly supported by both sides.

I will work with my colleague from West Virginia to acquaint him with that. I hope and expect we can pass it a little later this afternoon.

The PRESIDING OFFICER (Mr. DAYTON). Under the previous order, the Senator from West Virginia is recognized.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

Mr. BYRD. Mr. President, I have been more than patient. Under the majority leader's order earlier, I was to have spoken on this subject, the Defense Department appropriations bill. Under his order, I was to be recognized after the vote so as to accommodate Senators that they might catch their planes.

Now there were other consents offered which I heard. I didn't object to them, but I believe the record will show that I was to be recognized immediately after the vote for the statement which I wanted to make on the homeland defense section of the DOD appropriations bill. I have been very patient.

I understand the problems of the two leaders. I have been majority leader before I have been minority leader, and I have been majority whip. I understand all their problems. This is the end of the year. Everybody wants to get away for Christmas. I don't want to interject myself in between someone's wish to catch a plane. But I have been very patient. I have let other consent orders come up without objecting because my speech isn't all that important. But I wanted to make it.

Now we are hearing consents offered for bills. I don't know who is watching the place on this bill. The distinguished Senator from Kansas is going to make a request on a bill. I want to be here when he makes it. He is entitled to make his request. But time is fast fleeting when this Senator is going to stand aside and just continue to wait and let everybody else speak, let everybody else object to the order of speaking, and just stand aside and let it be done.

That is not a big thing. It won't change the history of the world one way or the other. But I just want to say this: Next year, the chairman of the Senate Appropriations Committee is not going to stand aside for every other Senator's convenience in times like this.

I shall proceed.

The Senate has considered the conference report for the fiscal year 2002 Defense Department appropriations bill. It is a good bill, but it could have been much better. As Senators are aware, included in this legislation is the final allocation of the $40 billion emergency supplemental funding approved by this Senate just 3 days after the tragic attacks on the World Trade Center Towers and on the Pentagon. Quite simply, we wanted to respond to the attacks that occurred on September 11 and take steps to prevent attacks from occurring in the future. We didn't just want to respond to the attacks that had already occurred, but we wanted to take steps that could prevent attacks from occurring in the future.

Just a few days ago, the Senate had before it a broader package, one that fulfilled the $20 billion commitment made by the President and the Congress to New York and the other attacked communities; one that provided the Defense Department with substantial funding for its mission overseas—we wanted to give the President every dollar he asked for, $21 billion—and one that met the many pressing needs for our homeland defense: Improved hospital capacity to respond to terrorist attacks, wide distribution of smallpox vaccine, more border agents, improved safety at airports and train stations, safer mail, better trained and equipped police and firefighters.

That package, which was supported by a majority of this Senate in direct response to the September 11 disaster, succumbed to partisan politics. It fell when Republicans in this Chamber raised a procedural 60-vote point of order against the provision because they believed it was too expensive. They were within their rights to object. They were within their rights to propose a 60-vote point of order. But I don't understand how we can place an arbitrary price tag on protecting the safety of our citizens.

Never in my memory can I recall a time when Congress became so partisan over a disaster response, whether it be from earthquakes, floods, tornados, fires, never before can I remember our lining up so rigidly along political party lines when it came to providing the American people with funds to recover from disaster.

Unfortunately, the Senate minority and the White House used the 60-vote point of order against the homeland defense package. As I say, they have a perfect right to make that point of order. That is within the rules.

We all recognize that you can't beat 60 votes when you only have 51 at most on this side. Our Republican friends didn't want to help us get the 60 votes. So it must be dismaying to the people who have heard so much about the pledges of bipartisanship, so much about a new tone in Washington, to see what should have been a united, bipartisan approach to defending our homeland dissolve into a partisan dispute.

That is truly a shame. Since that vote, however, we have stepped back and worked on the smaller compromise plan that is before the Senate this afternoon. While it is not as comprehensive as the plan first proposed earlier this month, the allocation of the $20 billion emergency supplemental funding in this legislation provides support and resources that are needed right now for homeland defense, for national security, and for the recovery of New York City and the other communities directly affected by the September 11 attacks.

For those communities, the supplemental provides $8.2 billion. This brings the total commitment to the recovery effort to $11.2 billion, when previously released funds are included. The bulk of this funding, $4.35 billion, will fund debris removal at the World Trade Center site, repair public infrastructure such as the damaged subways and commuter trains, and assist individuals with expenses for housing, burial, and relocation. Another $2 billion will work to restore the economic health of the area.

This funding, to be provided in the form of community development block grants, will give businesses a much needed hand as they attempt to recover from the terrorist attacks. Other funding will improve security at transportation hubs and reimburse hospitals in New York that provided critical care on September 11 and for many days after.

Some of the money will help children who continue to be haunted by the ghosts of the terrorist attacks. As do the businesses and the communities, these children need to be made whole again. This money will assist in that effort.

As part of this supplemental allocation, the Defense Department will receive an additional $3.5 billion. When included with the funding in the regular Defense Appropriations bill, the Pentagon will receive a $43 billion increase over last year. This is the single largest one-year increase in Defense spending in more than two decades. It gives the military the resources necessary to battle terrorism overseas. It makes sure that our brave men and women who put themselves in harm's way will not fall short because of fiscal constraints. This package also provides for $775 million for repairs and reconstruction efforts at the Pentagon. As we rebuild Lower Manhattan, we must also repair the Pentagon.

Finally, we have provided in this allocation $8.3 billion for defense efforts here at home. In the days and weeks that have followed the terrorist attacks, committees on both sides of this Capitol have heard from experts, from federal, state, and local officials, and from regular Americans who are concerned for their safety at home. We cannot ignore the gaps in our homeland defenses. We cannot put off until tomorrow investments that must be made today. The $8.3 billion for homeland defense that is included in this legislation takes immediate steps to bolster our local police and fire departments. It provides critical funding to expand hospital capacity and to train doctors and nurses on what to do in case of a biological, chemical, or nuclear attack. The funding closes some of the holes in our Northern Border and in our seaports. Under the leadership of the distinguished Senator from South Carolina, Mr. HOLDINGS, we had $50 billion for port security. These things were knocked out under that 60-vote point of order. We are not going to forget that. It provides funds for improved cockpit security, to hire additional sky marshals and to purchase explosives detection equipment. It provides funds for the Postal Service to protect postal workers and purchase equipment to make our mail safer. The funding that we have included in this package will help Americans to know that we are not standing idly by, ignoring what are such obvious needs in our homeland defenses. We will take steps today to protect Americans and to try to prevent the tragedy we witnessed in September from occurring again.

This package is a compromise. It is not a be-all and end-all package. This money will not fill all of the gaps that exist. But what this package will do is move us forward. It will fund those initiatives that we need to begin now, and lay the groundwork for priorities that every Senator knows await us in the spring.

I want to thank my good friend, Senator STEVENS, for his work on this package. We would not be standing here today if not for his steadfast efforts. I also want to thank our House counterparts, Chairman BILL YOUNG of Florida. My, what a fine Congressman he is and a fine chairman of the Appropriation Committee now. I am sure that BILL YOUNG wanted to do more, but under the constraints that were upon him, he could not do more.

I also thank Congressman DAVID OBEY of Wisconsin. He is always a stalwart. He stood up for homeland defense. He tried in the House to move it forward and increase it, but he didn't have the votes. They and their staffs, led by Jim Dyer and Scott Lilly, worked closely with us to develop this package, and I appreciate their commitment to this successful conclusion.

As I mentioned earlier, with the Senate's passage of this conference report, Congress will have completed work on each of the 13 individual appropriations bills. I congratulate Senator INOUYE and Senator STEVENS, and their staffs, Charlie Houy and Steve Cortese, for crafting what I believe is a good Defense bill. I also am pleased that we were able to pass the thirteen individual bills on a partisan basis, with an average vote in the Senate of 91-6. We did not have to resort to an omnibus bill as has been the case in some years past. And we worked to protect the prerogatives of Congress. We did not invite the White House to sit at the table and negotiate these bills. That is not the role of the executive branch, nor should it be. The Constitutional Framers vested the power of the purse in this legislative branch—the people's branch—and we have a firm grasp on the strings. I only hope that Congress never sees fit to loosen that hold and give away what is the greatest single power afforded to this branch of government by the Framers, in their great wisdom.

Mr. President, before closing, I want to thank the members of my committee staff who have been so earnest and dedicated in their efforts this year. My staff director, Terry Sauvain, and my deputy staff director, Charles Kieffer, have done a remarkable job on these bills. They stayed at night. They stayed into the wee hours of the morning. They worked on the nuts and bolts. They worked and they grappled with problems and answered questions from disgruntled Senators and people on the outside and people on the inside. I don't see how they have been able to maintain their sanity. I congratulate them for the good work they did. This is their first year in these positions, and they have certainly set a high standard for the years to come.

I also want to thank Edie Stanley and Kate Eltrich for their assistance, as well as the staffs of our 13 subcommittees. These appropriations bills are not written by magic. Rather they are the product of hard work, determination, and an understanding of the intricacies of each piece of legislation. The Senate is blessed to have such a fine group of men and women dedicated to the service of the nation.

I also want to thank members of my personal staff who have been invaluable to me. My Chief of Staff, Barbara

Videnieks, may Administrative Assistant, Ann Adler, my Legislative Director, Jane Mellow, my Press Secretary, Tom Gavin, my legislative assistant, David McMaster, and the entire Byrd team have done an outstanding job on these bills.

Mr. President, the fiscal year 2002 Department of Defense appropriations bill is a good bill. I urge all Senators to support it.

Mr. President, I ask unanimous consent to have printed in the RECORD a document entitled "Compromise on $20 Billion Defense/New York/Homeland Defense Funding."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPROMISE ON $20 BILLION DEFENSE/NEW YORK/HOMELAND DEFENSE FUNDING

The amendment allocates $20 billion as follows:

Defense: $3.5 billion ($3.8 billion below President).

New York/NJ/DC/MD/VA: 8.3 billion ($1.9 billion above the President).

Homeland Defense: 8.3 billion ($3.9 billion above the President).

UI/COBRA: 0.0 billion ($2 billion below President).

When combined with the $20 billion allocated by the President, the amendment results in the following allocation of the $40 billion approved in the September 18th supplemental (P.L. 107-38):

Defense: $17.5 billion ($3.5 billion below the President).

New York/NJ/DC/MD/VA: 11.2 billion ($1.8 billion above the President).

Homeland Defense: 9.8 billion ($4.0 billion above the President).

Foreign Aid allocated by President: 1.5 billion (same as the President).

UI/COBRA: 0.0 billion ($2 billion below the President—in stimulus).

Unallocated: 0.0 billion ($0.3 billion below the President).

Highlights of the $20 billion:

New York and other communities directly impacted by September 11th attacks ($8.2 billion): Examples follow:

FEMA Disaster Relief, which funds debris removal at the World Trade Center site, repair of public infrastructure such as the damaged subway, the damaged PATH commuter train, all government offices and provides assistance to individuals for housing, burial expenses, and relocation assistance, receives $4.35 billion.

Community Development Block Grants—$2 billion to help New York restore their economy.

Amtrak Security—$100 million for security in Amtrak tunnels.

Mass Transit Security—funding of $105 million for improving security in the New York and New Jersey subways.

New York/New Jersey Ferry Improvements—$100 million for critical expansion of interstate ferry service between New York and New Jersey. Prior to the September 11th attacks, 67,000 daily commuters used the PATH transit service that was destroyed.

Hospital Reimbursement—$140 million to reimburse the hospitals of New York that provided critical care on September 11th and the weeks and months that followed.

Workers Compensation/Job Training—$175 million that would help New York process workers compensation claims for the victims of the September 11th attacks. $59 million is provided for job training, environmental health and other programs.

Federal Facilities—$325 million for the costs of keeping Federal agencies operating that were in or near the World Trade Center, such as the Social Security Administration, the Occupational Safety and Health Administration, the Pension and Welfare Benefits Administration, the Commodity Futures and Trading Commission, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Securities and Exchange Commission, the Internal Revenue Service, the U.S. Marshals Service, the EEOC, the General Services Administration, the Food and Drug Administration, and the National Labor Relations Board.

Emergency Highway repairs—$85 million for damaged roads in New York City, including $10 million in FEMA for local roads.

Mental Health Service for Children—$10 million that would help New York schools provide mental health services to the children of the victims of the World Trade Center bombing.

Law enforcement reimbursements—$229 million for New York ($71.8 million), New Jersey ($50.7 million), Maryland ($39 million) and Virginia ($62.5 million) and Pennsylvania ($5 million) to improve counter terrorism capacity of law enforcement and fire personnel for States directly impacted by the attacks on September 11th. $68 million is provided for the Crime Victims Fund.

District of Columbia—$200 million for the District and for the Washington Metro for improved security.

Small Business Disaster Loans—$150 million.

National Monuments Security—$80 million for improved security at national parks and monuments such as the Statue of Liberty and the Washington Monument, the Smithsonian, the Kennedy Center and other facilities.

Department of Defense—$3.5 billion, including funding to repair the Pentagon.

Homeland Defense ($8.3 billion):

Examples follow:

Bioterrorism/Food Safety $3.0 billion, including $479 million for food security:

Provides $1.0 billion for upgrading our state and local public health and hospital infrastructure.

Provides $156 million for CDC capacity improvements and disaster response medical systems at HHS.

Provices $244 million for security improvements and research at the CDC and NIH and for mental health services.

Provides $593 million for the National Pharmaceutical Stockpile.

Provides $512 million to contract for smallpox vaccine to protect all Americans.

USDA Office of the Secretary: $81 million for enhanced facility security and operational security at USDA locations.

Agricultural Research Service: $40 million for enhanced facility security and for research in the areas of food safety and bioterrorism.

Agricultural Research Service Buildings and Facilities: $73 million for facility enhancements at Plum Island, NY, and Ames, IA, which includes funding necessary to complete construction on a bio-containment facility at the National Animal Disease Laboratory at Ames, IA.

Animal and Plant Health Inspection Service: $119 million for enhanced facility security, for support of border inspections, for pest detection activities, and for other areas related to bio-security and for relocation of a facility at the National Animal Disease Laboratory.

Food Safety Inspection Service: $15 million for enhanced operational security and for implementation of the Food Safety Bio-Terrorism Protection Program.

Food and Drug Administration: $151 million for food safety and counter-bioterrorism, including support of additional food safety inspections; expedited review of drugs, vaccines, and diagnostic tests; and enhanced physical and operational security.

State and Local Law Enforcement—$400 million.

FEMA firefighting—$210 million to improve State and local government capacity to respond to terrorist attacks.

Postal Service—$500 million to provide equipment to cope with biological and chemical threats such as anthrax and to improve security for Postal workers.

Federal Antiterrorism Law Enforcement (excluding amounts for New York)—$1.7 billion.

$745 million for the FBI.

$19 million for the U.S. Marshals.

$78 million for Cyber security.

$31 million for Federal Law Enforcement Training Center for training of new law enforcement personnel.

$16 million for the Bureau of Alcohol, Tobacco and Firearms.

$60 million for overtime and expanded aviation and border support for Customs.

$73 million for the Secret Service.

$209 million for increased Coast Guard surveillance.

$95 million for Federal courts security.

$70 million for Justice Department Legal Activities.

$109 million for EPA for anthrax cleanup costs and drinking water vulnerability assessments.

$66 million for EPA for bioterrorism response teams and EPA laboratory security.

$25 million for the FEMA Office of National Preparedness.

$30 million for the IRS.

$27 million for Olympic security.

Airport/Transit Security—$0.6 billion, including:

$175 million for Airport Improvement Grants.

$308 million for FAA for cockpit security, sky marshals and explosives detection equipment.

$50 million for FAA research to expedite deployment of new aviation security technologies.

$18 million for transit security.

$50 million for Essential Air Service.

Port Security improvements—$209 million, including $93 million for DOT and $116 million for Customs.

Nuclear Power Plant/Lab/Federal Facility Improvements—$0.8 billion.

$143 million for Energy for enhanced security at U.S. nuclear weapons plants and laboratories.

$139 million for the Corps of Engineers to provide enhanced security at over 300 critical dams, drinking water reservoirs and navigation facilities.

$30 million for the Bureau of Reclamation for similar purposes.

$36 million for the Nuclear Regulatory Commission to enhance security at commercial nuclear reactors.

$50 million for security at the White House.

$26 million for GSA and the Archives to improve federal building security.

$109 million for NASA for security upgrades at the Kennedy, Johnson and other space centers.

$256 million for improved security for the Legislative Branch.

Nuclear Non-proliferation—$226 million for the safeguarding and acquisition of Russian and former Soviet Union missile nuclear materials and to help transition and retrain Russian nuclear scientists.

Border Security—$0.7 billion.

$135 million for Customs for increased inspectors on the border and for construction of border facilities, with emphasis on the northern border.

$549 million for the Immigration and Naturalization Service.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. First, let me commend the Senator from West Virginia. Over the years, I have seen him accomplish many feats. None would be more outstanding than what he has done on homeland security for the City of New York. Like Horatio at the bridge, he stood there against all forces, particularly with respect to the executive branch, and otherwise, and made sure we at least got some semblance of homeland security started. It is on account of Senator BYRD of West Virginia.

Mr. BYRD. Mr. President, I thank the Senator for his kind words. I want to say this: If I were out in the streets of a big city and, for some reason, got into a street brawl, I would want Senator HOLLINGS with me. If that ever happened to me, I would say: Senator HOLLINGS, where is he? He is the man I want with me in a tough situation.

Mr. HOLLINGS. And if I were lost on a lonely, dusty road amongst the hills, I would want Senator BYRD with me.

PORT AND MARITIME SECURITY ACT OF 2001

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, under the unanimous consent agreement, can we turn to S. 1214 and ask the clerk to report?

The PRESIDING OFFICER. The clerk will state the bill by title.

A bill (S. 1214) to amend the Merchant Marine Act of 1936 to establish programs to ensure greater security for U.S. Seaports, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is recognized for 5 minutes.

Mr. HOLLINGS. In my 5 minutes, I thank the distinguished Senator from Arizona, my ranking member—this is really a bipartisan initiative—Senator GRAHAM of Florida who has been a leader in this regard and also Senator HUTCHISON of Texas.

I also thank the distinguished director of the Commerce, Science, and Transportation Committee, Mr. Kevin Kayes; Mr. Carl Bentzel, the expert on port security who has been working on this over the past several years; and Mr. Matthew Morrissey.

We actually reported the bill before September 11 of this year. We have been working diligently to take care of the concerns on both sides of the aisle and both sides of the Capitol. We think this measure can pass expeditiously, as soon as the House returns.

Following the terrorist attacks of Sept. 11, we have worked hard to improve the security of America's transportation system, starting with the airline security bill just signed into law. However, protecting America from terrorist threats is only as effective as the weakest line of defense. That means every mode of transportation must be secured, including maritime transportation.

The United States has more than 1,000 harbor channels and 25,000 miles of inland, intracoastal, and coastal waterways. Those waterways serve 361 ports and have more than 3,700 terminals handling passengers and cargo. The U.S. marine transportation system each year moves more than 2 billion tons of domestic and international freight, imports 3 billion tons of oil, transports 134 million passengers by ferry, and hosts more than 7 million cruise ship passengers. Of the more than 2 billion tons of freight, the majority of cargo is shipped in huge containers from ships directly onto trucks and railcars that immediately head onto our highways and rail systems. However less than 2 percent of those containers are ever checked by Customs or law enforcement officials. The volume of maritime trade is expected to more than double by the year 2020, making maritime security even more important for the future. This is a gaping hole in our national security that must be fixed—and it must be fixed before enemies of the United States try to exploit our weakness.

Before discussing the specifics of our bill, I want to read an excerpt from a chilling story published October 8 in the The Times of London:

> Intelligence agencies across the world are examining Osama bin Laden's multimillion [dollar] shipping interests. He maintains a secret fleet, under a variety of flags of convenience, allowing him to hide his ownership and transport goods, arms, drugs, and recruits with little official scrutiny.
>
> Three years ago, nobody paid much attention to a crew unloading cargo from a rusting freighter tied up on the quayside in Mombasa, Kenya. The freighter was part of Osama bin Laden's merchant fleet and the crew were delivering supplies for the team of suicide bombers who weeks later would blow up the U.S. embassies in Kenya and Tanzania. Bin Laden's covert shipping interests were revealed at the trial of the bombers, but until now security services have been slow to track down how many vessels he operates.

Lloyd's List International reported that a NATO country's intelligence service has identified more than 20 merchant vessels believed to be linked to Osama bin Laden. Those vessels are now subject to seizure in ports all over the world. Some of the vessels are thought to be owned outright by bin Laden's business interests, while others are on long-term charter.

Several weeks ago, a suspected member of the Al Qaeda terrorist network was arrested in Italy after he tried to stow-away in a shipping container heading to Toronto. The container was furnished with a bed, a toilet, and its own power source to operate the heater and recharge batteries. According to the Toronto Sun, the man also had a global satellite telephone, a laptop computer, an airline mechanics certificate, and security passes for airports in Canada, Thailand and Egypt.

These two stories really bring home this issue of seaport security. Except for those of us who live in port cities like Charleston, Americans often do not think about their ports—the ports that load industrial and consumer goods onto trucks and railroad cars heading directly to their hometowns. Therefore, security provided through our seaports ultimately affects landlocked communities in the heartland of the United States. Of the cargo imported and exported into the United States, 95 percent arrives through our seaports; the balance is shipped through land and air borders. The potential damage and destruction that can be accomplished through security holes at our seaports potentially exceeds any other mode of transportation. And yet we have failed to make seaport security a priority.

Many of our busiest seaports are not only near large cities, they are in the core of cities like Charleston, Boston, Miami, and Seattle. These seaports have been the historic hubs of economic growth, and, in some cases, they have existed for close to four centuries. By comparison, our rail infrastructure is 150 years old and most of our aviation infrastructure is less than 60 years old. The port areas in many cities have become increasingly attractive places to live because many people want a view of the water, and to live near the coast. So we are facing a major problem: the number of people who want to live close to the waterfront is growing rapidly, but the open nature of our seaports exposes them to risks associated with maritime trade, including the transport of hazardous materials.

Most Americans would be surprised to discover there is no unified federal plan for overseeing the security of the international borders at our seaports. And that's what seaports are: international borders that must be protected as well as our land borders with Canada and Mexico. Yet we have failed to make them secure. The U.S. Coast Guard and Customs Service are doing an outstanding job, but they are outgunned. In the year 2000, we imported 5.5 million trailer truckloads of cargo. Due to that volume, seaports, according to the Customs Service, are only able to inspect between 1 to 2 percent of containers. In other words, potential terrorists and drug smugglers have a 98 percent chance of randomly importing illegal and dangerous materials.

When traveling by airplane, we walk through metal detectors, our luggage is X-rayed, and Customs officials may interview us and check our bags. The inspection rate is 100 percent. At our land border crossings, every single car and truck driver is stopped and interviewed, or at least reviewed by the federal government. Again, the inspection rate is 100 percent. However, at a U.S. seaport, a person has a 98 percent chance of importing a 48-foot truckload of cargo with no inspection at all. One marine container can carry more heroin than is used in the United States in one year. Some of these containers can carry as much as 30 tons, or 60,000 pounds of cargo. A medium sized tanker can carry as much as 32 million gallons of petroleum or hazardous materials. Nearly one-quarter of all hazardous materials are moved via water, most of it in bulk form via huge tankers. These shipments of oil or hazardous materials—most of them carried by foreign vessels—are especially dangerous targets for terrorists. Following the terrorist attacks of September 11, we must take action to better secure our maritime borders.

The Congress recently approved a new law that spends $3.2 billion to improve security at our airports. The highway reauthorization bill—TEA-21 passed in 1998—directed $140 million a year for five years to improve roads and security infrastructure at our land borders. We annually fund the Border Patrol to guard against illegal entry at our land borders. At U.S. seaports, the federal government provides officers from the U.S. Coast Guard, U.S. Customs Service, and the Immigration and Naturalization Service—but the federal government invests nothing in security infrastructure at our seaports. We leave that up to the state-controlled port authorities and private marine terminal operators. Thus, we have essentially abrogated the federal responsibility of our international seaport borders to states and the private sector.

Like airline security, seaport and international border security is one of the prime responsibilities of the federal government. We must meet the challenge head-on with enough resources to address these serious issues of national security, and to help our partners at the state and local levels protect their own communities. While these security holes at our seaports may be less obvious to the public, they do exist. Because of the magnitudes of the cargoes, the proximity of cargo delivery to large populations, and the transportability that water confers to certain hazardous materials or oil, seaports lacking adequate security are more vulnerable to attack and sabotage than our airports or land borders.

A couple years ago, Senator BOB GRAHAM convinced President Clinton to appoint a commission to look at seaport security. At the time, the main focus of port security was stopping illegal drugs, the smuggling of people, and cargo theft. While those problems still exist, the new—and very real—threat of terrorism strikes right at the heart of our national defense.

The Interagency Commission on Crime and Security at U.S. Seaports issued a report in September 2000 that said security at U.S. seaports "ranges from poor to fair." Let me repeat that: 17 federal agencies reviewed our port security system and found that it is in poor shape.

According to the Commission:

> Control of access to the seaport or sensitive areas within the seaports is often lacking. Practices to restrict or control the access of vehicles to vessels, cargo receipt and delivery operations, and passenger processing operations at seaports are either not present or not consistently enforced, increasing the risk that violators could quickly remove cargo or contraband. Many ports do not have identification cards issued to personnel to restrict access to vehicles, cargo receipt and delivery operations, and passenger processing operations.
>
> At many seaports, the carrying of firearms is not restricted, and thus internal conspirators and other criminals are allowed armed access to cargo vessels and cruise line terminals. In addition, many seaports rely on private security personnel who lack the crime prevention and law enforcement training and capability of regular police officers.

The report also found that port-related businesses did not know where to report cargo theft and other crimes, and that federal, state and local law enforcement agencies responsible for a port's security rarely meet to coordinate their work.

That is what our legislation does—it creates mechanisms to integrate all these different security agencies and their security efforts at our seaports and the railways and highways that converge at our seaports. Our seaport security bill also directly funds more Customs officers, more screening equipment, and the building of important security infrastructure.

Each agency is good at what they do individually. But they will be even stronger working together, sharing information and tactics, and coordinating security coverage at our seaports. More teamwork between these federal, state and local agencies—along with our security partners in the private sector—will produce a more secure seaport environment that is stronger than the sum of each agency's individual efforts.

S. 1214, the Port and Maritime Security Act of 2001, requires the Secretary of Transportation to chair a National Maritime Security Advisory Committee. The Secretary is required to request participation of the U.S. Customs Service and invite the participation of other federal agencies with an interest in crime or threats of terrorism at U.S. seaports. The bill also authorizes the establishment of subcommittees, including a subcommittee comprised of Federal, State, and local government law enforcement agencies to address port security issues, and law enforcement-sensitive matters.

The Committee is required to advise on long-term solutions for maritime and port security; coordination of information-sharing and operations among federal, state and local governments, and area and local port and harbor security committees; conditions for maritime security loan guarantees and grants; and the development of a National Maritime Security Plan. Given the varied nature and geographical structure of our port system, it will be important to consider private sector input. A one-size-fits-all approach will not work because we are looking at a wide variety of waterside facilities and maritime transportation-related infrastructure.

The bill will mandate, for the first time ever, that all ports and waterfront facilities have a comprehensive security plan approved by the Secretary of Transportation. An element of port security often overlooked are the intermodal means for transporting cargo from the ships: railroads, highways, and barges. The bill requires that all the modes of transportation converging at the port be covered by a port's security plan. To make the entire waterfront environment more secure, any facility that might pose a threat to the public must tender security plans to the Coast Guard for review and approval.

However, we will do more than just mandate security plans. We will have security experts to assess waterfront and port security, and provide those assessments to the individuals in charge of making security plans. Assessment information will be invaluable in helping the industry use the best information in order to complete effective security plans. The bill requires the Secretary to incorporate existing programs and practices when reviewing and approving security plans. The Department of Transportation will have to take into account the different security practices of our different ports. The Department must recognize and harmonize existing security practices to avoid duplicating costs. However, recognition of existing practices should not require the Department to endorse or approve faulty security.

At the seaport level, the bill will establish local port security committees at each U.S. seaport. The section would require membership of these committees to include representatives of the port authority, labor organizations, the private sector, and Federal, State, and local governments and law enforcement. The Committees would be chaired by the Coast Guard Captain of the Port, and meet 4 times per year. The Committees would be responsible for coordinating planning and other port security activities; making recommendations for the port security evaluations; annually reviewing security plans; and conducting a field security exercise at least once every 3 years. These committees will play a vital role—day to day and month to month—coordinating the actions of law enforcement and the private sector in combating threats of terrorism and crime.

The bill requires the Secretary of Transportation, in coordination with the Director of the FBI, ensure that all area maritime counter-terrorism and incident contingency plans are reviewed, revised, and updated no less than once every three years. The Secretary shall ensure that local port security committees conduct annual simulation exercises for all such plans, and actual practice drills at least once every three years. The plans should be comprehensive and address terrorist threats to waterfront facilities and adjacent areas, and also cover elements of prevention and protection as well as response. I would hope that the Secretary would take steps to ensure that area maritime counter-terrorism and incident contingency plans are coordinated with security plans.

The bill creates standards and procedures for training and certifying maritime security professionals. The bill requires the Secretary of Transportation and the Federal Law Enforcement Training Center, "FLETC," to establish a Maritime Security Institute for training security personnel, in accordance with internationally recognized law enforcement standards. I look forward to working with the Department of Transportation and the FLETC to establish an Institute to strengthen and professionalize maritime law enforcement and security forces. I have worked with FLETC to establish a facility in Charleston, South Carolina to train Border Patrol personnel. I also look forward to working with the Secretary and FLETC to establish the Maritime Law Institute.

The legislation requires the Secretary of Agriculture, Secretary of the Treasury, Secretary of Transportation, and the Attorney General to work together to establish shared dockside inspection facilities at seaports for Federal and State agencies. At some U.S. ports, federal investigators and inspectors do not have any space available to conduct inspections, and they have to route the cargo to other places before inspection. In other words, it would be similar to Customs officials at JFK airport asking arriving international passengers to take a cab to the Customs headquarters downtown in order to have their bags inspected. That is just not right.

To improve seaport security tactics, the bill directs the Secretary of Transportation to immediately establish domestic maritime safety and security teams for the purpose of responding to terrorist activity, criminal activity, or other threats to U.S. ports, especially in strategically important ports. The units shall consist of personnel trained in anti-terrorism, drug interdiction, navigation assistance, and facilitating responses to security threats. I want to thank Senator EDWARDS for his work on this security team initiative. I was pleased that we were able to include in the bill two other amendments authored by Senator EDWARDS: one promotes research and development funds for non-intrusive scanning technology; the second establishes standards for locking marine containers. These amendments will contribute greatly to increasing security at our seaports.

Ports, terminals, waterfront facilities, and adjacent facilities will be required to immediately implement interim security measures, including securing their perimeters. The Secretary of Transportation will then prescribe regulations for the aforementioned parties to follow when designing the required maritime security plans. An important point is that the regulations will require ports to control and limit personnel access to security-sensitive areas. Ports also will be required to limit cars and trucks in security-sensitive areas, restrict firearms and other weapons, coordinate local and private law enforcement, and develop an evacuation plan. While the bill requires security programs to be individually tailored due to the varied nature of different ports, the Department of Transportation regulations will still require certain elements to be incorporated. In implementing new regulations, I would hope that the Department would review the feasibility of establishing a nationwide credentialing process. If we can harmonize identification procedures, we can eliminate duplication and reduce costs.

The Secretary of Transportation will write regulations to designate controlled access areas in the Maritime Facility Security Plan for each waterfront facility and other covered entities, and require ports to limit access to security-sensitive information, such as passenger and cargo manifests. The regulations may require physical searches of persons entering controlled access areas or exiting such areas, security escorts, and employment history and criminal background checks for individuals with unrestricted access to controlled areas or sensitive information. An individual will be eligible to work in such positions if they meet the criteria established by the Secretary, and a background check does not reveal a felony conviction within the previous 7 years, or release from prison during the previous 5 years. An individual that otherwise may have been disqualified from a security-sensitive position may still be hired if the employer establishes alternate security arrangements acceptable to the Secretary. The bill would allow the Secretary to access FBI, fingerprint, and other crime data bases to conduct the background investigations, and transmit the results to port authorities or other covered entities. The bill also would require the Secretary and the Attorney General to establish and collect reasonable fees to pay expenses incurred for the background checks.

The intent of conducting criminal background checks of port employees, employers and other maritime transportation-related employees or employers, is not to upset any of the existing work relationships or dynamics. Rather the background checks are intended to identify legitimate criminal and national security risks. The Secretary of Transportation will write regulations outlining how background checks should be conducted, and will be responsible for conducting the background checks. In the aviation security bill, we created a Deputy Secretary for Transportation Security. The person in that position should be responsible for implementing the national security check program.

The Secretary also will determine which areas are controlled-access areas. Clearly, not all areas in ports are security risks areas justifying designation as such. I would suggest that controlled access areas include areas where ships tie up carrying combustibles, or storage areas for combustibles or explosives, areas where security admit credentialed persons into the port or terminal areas, or areas in the port or terminal where containers are opened or exposed. However, the Secretary should determine where risk or threat resides, and create a way to check the backgrounds of individuals who pose a national security or criminal threat by virtue of their presence in areas requiring a greater degree of control. Individuals subject to potential disqualification from positions with access to ocean manifests or segregated controlled access areas must be given full and adequate due process, and collected information must be protected from disclosure and only revealed to the extent that it is pertinent to security considerations.

The bill would give the Secretary of Transportation additional authority to address security risks arising from foreign ports, such as enhanced enforcement against vessels arriving from such port, travel advisories for passengers, suspension of the right of a United States vessel to enter such port, and authority to assist foreign port authorities to maintain an appropriate level of security. The Secretary of Transportation would be authorized to work through the Secretary of State to notify foreign countries of security problems with their ports, and to publish a list of ports with insufficient security that would be posted prominently at U.S. ports, on passenger tickets, and as a travel advisory by the State Department. The Secretary of Transportation, after consultation with the Secretary of the Treasury, may prohibit or prescribe conditions of port entry into the U.S. for any vessel arriving from a port listed as not secure. In particular, I would like to commend both Senator KERRY, who chairs the Coast Guard Subcommittee, and Senator BREAUX, who chairs the Surface Transportation and Merchant Marine Subcommittee, for their efforts on this front.

Senators KERRY and BREAUX authored another critical section of this bill: the Sea Marshal program. The bill would authorize the Coast Guard to board vessels in order to deter, prevent, or respond to acts of terrorism or otherwise provide for the safety and security of the port and maritime environment. We would authorize $13 million over five years for this new Coast Guard enforcement. The provision in question also requires the Secretary to evaluate the potential of using licensed U.S. merchant marine personnel to supplement the law enforcement efforts of the U.S. Coast Guard.

The bill would authorize the President, without prior notice or a hearing, to suspend the right of any vessel or person of the United States to enter from a foreign port or depart to a foreign port in which a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to that port, or if a public interest requires the suspension of trade between the United States and that port. The bill would authorize the imposition of civil penalties of up to $50,000 for violating the law.

S. 1214 will require that we know more in advance about the cargo and crew members coming into the United States. The more we know about a ship's cargo, and where it originated, the better our Customs agents and other law enforcement officers can target the most suspicious containers and passengers. Even with more screening equipment, we are still going to have an inadequate number of inspections. So targeting the highest risk cargo will be crucial.

The bill requires ships to electronically send their cargo manifests to the port before gaining clearance to enter. While denying vessel clearance to land is within the authority of Customs, I would urge that it be used only in the most extreme cases, and that enforcement alternatives for handling offending cargo interests be pursued in order not to disrupt all the other legal cargoes on-board a vessel. Unloading cargo will be prohibited if it is not properly documented. Advanced import information is regularly transmitted by nearly 90 percent of the ocean shippers. But for the shippers who are not transmitting that information, we will require it. By giving Customs advance cargo information, we can better screen imported cargo.

Specifically, the legislation requires carriers, including non-vessel-owning common carriers, to provide by electronic transmission, cargo manifest information in advance of port entry or clearance. However, the Secretary of Treasury may exclude classes of vessels for which the Secretary concludes these manifest requirements are not necessary, and in some cases such as trucking, where the electronic transmission may not be possible. Customs should use its authority to require electronic transmission, but recognize, because of the nature of certain categories of transport, that it may not be possible to conduct electronic transmissions in every situation. The bill also outlines the cargo and route information that must be transmitted to Customs.

The bill prohibits the export of cargo unless properly documented, and no marine terminal operator may load, or cause to be loaded, any cargo that is not documented. The bill requires the U.S. Customs Service to be notified of improperly documented cargo that has remained in a marine terminal for more than 48 hours, and authorizes that cargo to be searched, seized, and forfeited. Undocumented cargo should not sit in port areas for extended periods of time. Specifically, shippers who file Shippers Export Declarations (SED) by paper shall be required to provide a copy of the SED to the carrier; shippers who file their SEDs electronically shall be required to provide the carrier with a complete master bill of lading or equivalent shipping instructions, including the Automated Export System number. While it is important that we obtain certain crucial pieces of information about cargo, Customs should recognize that certain elements of cargo information, such as weight discrepancies, may fluctuate and shippers should not be held responsible for 100 percent accuracy. The bill creates civil penalties for violating documentation requirements.

An important part of the legislation creates new requirements for the documentation and electronic transmission of passenger information in advance of entry or clearance into a port. It is imperative that the United States have advanced information on foreign passengers and crew members to ensure that we are not admitting security risks. Evidence indicates that materials used in terrorist attacks in Kenya and Tanzania were shipped by vessels owned and operated by Osama bin Laden. More information—and more credible information—about foreign entrants will be vital given the volume of vessels, cargo and crew members entering into U.S. waters. In establishing such regulations, Customs should work with all federal agencies to harmonize data reporting requirements to ensure that entrants into the United States only need to file one form. Policies such as INS pre-qualification of crew members between specific pre-approved train routes between the United States and Canada should be allowed to continue. Such policies ensure advance compliance, and stimulate regular cross-border operation, while not jeopardizing security.

I am also pleased that we were able to accept an amendment authored by Senator CLELAND to allow the Commissioner of Customs to develop a pilot program to pre-clear cargo coming into the United States if it is determined that such program would improve the security and safety of U.S. ports. However, before implementation of such a program, Customs must determine that it would not compromise existing procedures for ensuring the safety of these ports and the United States. The pilot program should be used to determine whether we can successfully shift the evaluation of cargo and cargo security to points outside the United States, and also ensure that the subsequent delivery of cargo is accomplished in a way that protects against tampering and maintains the integrity of the cargo seal.

The bill directs the Customs Service to improve reporting of imports, including consigned items and goods, of in-bond goods arriving at U.S. seaports. Current policies can sometimes allow goods to travel into the United States, and travel for, in some instances, up to 37 days, without recording formal entry. The bill will require the reporting of in-bond movements prior to arrival to ensure advance filing of information identifying the cosignor, consignee, country of origin, and the 6-digit harmonized tariff code. The new information must be electronically filed by the importer of record, or its agent. This information will better enable Customs to track cargo and to intercept any suspicious cargoes in a more timely fashion. This reporting is not intended to reflect formal entry, but will allow Customs to use their targeting system on in-bond cargoes, where current policies make it difficult to enter relevant targeting data.

Within 6 months of the bill's enactment, the bill would require a report that evaluates the feasibility of establishing a general database to collect information about the movements of vessels, cargo, and maritime passengers in order to identify criminal threats, national and economic security threats, and threats of terrorism. The Secretary would submit a report of the findings to Congress. Among several requirements, the report must estimate potential costs and benefits of using public and private databases to collect and analyze information, including the feasibility of establishing a Joint Inter-Agency Task Force on Maritime Intelligence. Additional information, and coordination of information will be crucial in allowing law enforcement to evaluate threats in advance of U.S. arrival, ultimately, policies allowing us to identify risks abroad will help us avoid being forced to rely on policies of deterrence and prevention on U.S. soil.

Perhaps most importantly, we need to give seaport authorities the resources to get the job done. It would be great if we could simply declare our ports to be more secure. However, it takes money to make sure the international borders at our seaports are fully staffed with Customs, law enforcement, and Immigration personnel. It takes money to make sure they have modern security equipment, including the latest scanners to check cargo for the most dangerous materials. And it takes money to build the physical infrastructure of a secure port.

Our bill will provide $219 million over four years directly to these important national security functions. Cargo ships currently pay a tax on the gross registered tonnage the ship can carry. That tax rate, in current law, is scheduled to decline beginning in 2003. Our bill will simply extend the existing tax rate—which has been imposed since 1986—until 2006. All those revenues will be directed to help beef up security. These tax revenues will have to be appropriated, but they can only be spent on the programs authorized by this seaport security bill.

However, the funds provided directly by the tonnage tax extension are insufficient to cover all of the port security needs. So the bill includes additional authorizations of $965.5 million that Congress can appropriate as our colleagues come to realize the important security needs that must be met in the defense of our nation. Absent the realization of these authorized funds, Congress will be imposing an unfunded mandate on states and the private sector to secure our nation's maritime border.

The money will help pay for many of the items previously mentioned, and additionally will be focused on building infrastructure at our seaports, including gates and fencing, security-related lighting systems, remote surveillance systems, concealed video systems, and other security equipment. The bill will directly fund and authorize $390 million in grants to local port security projects. Specifically, the bill amends the Merchant Marine Act of 1936 to provide grants for security projects, of which the federal government will pay up to 75 percent. Projects under $25,000 would not have a matching requirement, and the Secretary may approve federal contributions above 75 percent to a project the Secretary deems to have high merit.

The bill also will fund loan guarantees that, according to regular credit risk premiums for federal loans, could cover as much as $3.3 billion in long term loans to port authorities acting to improve their security infrastructure. The loans could not cover more than 87.5 percent of the actual cost of a security infrastructure project, and can extend for up to 25 years. The loan guarantee mechanism allows the federal government to leverage funds by extending credit to cover loans for security infrastructure, and can help port authorities reduce their capital costs for security infrastructure by amortizing it over time. Ultimately, this policy will help us build an infrastructure at our maritime borders in the most cost-effective way. The bill makes directly available and authorizes $166 million to cover the credit risks of loans extended under this provision.

U.S. Customs officers must be able to screen more than just 2 percent of the cargo coming into our seaports. Investing in new screening technologies will help human screeners inspect more cargo, and detect the most dangerous shipments. To increase the amount of cargo screened, the bill authorizes $145 million for FY02 for additional Customs personnel, and to help Customs update their computer systems consistent with the requirements of this bill. Especially important is that the bill directly funds and authorizes $168 million to purchase non-intrusive screening and detection equipment for the U.S. Customs Service.

While we cannot expect to screen every marine container entering into the United States, we need to provide some expectation of inspection, or create some level of deterrence to dissuade smugglers from using the intermodal system to smuggle cargo. We are so busy investing in a anti-ballistic missile defense system, we fail to see perhaps even a greater threat: a cargo container equipped with a digital global positioning system can be delivered anywhere in the United States for less than $5,000. Why would the enemies of America spend millions on a rocket launcher and go up against the U.S. Air Force and U.S. Navy when they could spend $5,000 to ship a container full of explosives or other dangerous materials that has only a two percent chance of being inspected?

The bill also will authorize $75 million to establish a grant program to fund the development, testing, and transfer of technology to enhance security at U.S. seaports. The screening technology would focus on finding explosives or firearms, weapons of mass destruction, chemical and biological weapons. The grants may not exceed 75 percent of the research program.

This bill is the product of bipartisan compromise. I want to thank the Administration for their efforts to produce this legislation. The Maritime Administration, Coast Guard and Office of the Secretary all played a vital role in helping draft the bill. I had intended to work to include legislation that would increase various maritime criminal statutes. Unfortunately, in the crush of time we were unable to clear these amendments. I think that both Senator MCCAIN and I agree that these amendments are really important to be included in final legislation on seaport security, and I will work with him, and Chairman LEAHY and Ranking Member HATCH of the Judiciary Committee to include provisions updating our maritime criminal laws.

The bill would require the Secretary of Transportation to prepare and publish a National Maritime Transportation Security Plan for prevention and response to maritime crime and terrorism. The plan would include an allocation of duties among federal departments and agencies and among state and local governments and agencies; procedures and techniques for preventing and responding to acts of crime or terrorism; and designation of the federal official who shall be the Federal Maritime Security Coordinator for each area for which an Area Maritime Security Plan is required and prepared. Additionally, the bill would also require the Secretary of Transportation to establish Area Maritime Security Committees comprised of members appointed by the Secretary. Each Area Maritime Security Committee would be required to prepare a maritime security plan, and work with state and local officials to enhance contingency planning. Each Area Maritime Security Plan must be submitted to the Secretary of Transportation. The plans are required to outline how to respond to an act of maritime crime or terrorism in or near the area, describe the area covered by the plan, and describe in detail how the plan is integrated with other security plans. This requirement is similar to the planning requirements that we mandated in the Oil Pollution Act for oil spill response, and will help ensure that we have local, regional and national level responses to maritime crime and terrorism. The bill would also authorize the Secretary of Transportation to issue regulations establishing requirements for vessel security plans and programs for vessels calling on United States ports, would also authorize the Secretary of Transportation, in consultation with the Attorney General, to require crewmembers aboard vessels calling on the United States ports to carry and present upon demand such identification as the Secretary determines.

The bill would require the Secretary of Transportation and the Secretary of Treasury to establish a joint task force to work with ocean shippers in the development of a system to track data for shipments, containers, and contents. The Secretaries also would work with the National Institute of Standards and Technology to develop enhanced performance standards for inbond seals and locks for use on or in containers used for water-borne cargo shipments.

The bill includes a number of reporting requirements to assess our progress on seaport security. I would like to thank Senator NELSON of Florida for his amendment asking for a Coast Guard and Navy study on the feasibility of creating a Center for Coastal and Maritime Security. We all look forward to the results of this important study.

We have made dramatic improvements to this bill since it was first approved by the Commerce Committee before the terrorist attacks. And I want to thank Senator MCCAIN for working with me to co-sponsor this manager's amendment to the previous version of our seaport security bill, S. 1214. Senator MCCAIN does not have many seaports in Arizona, but he understands that the cargo, materials and people who come through our seaports make their way quickly inland on trains and highways. So even if you are living in the desert, the security of our seaports affects all of us. I also would like to recognize and thank Rob Freeman of Senator MCCAIN's staff, who invested hours of time and effort to finalize this product.

I also must recognize the extraordinary efforts of Senator BOB GRAHAM, who began working to improve port security long ago and put this issue on our radar screen. Senator GRAHAM's home state of Florida has been wrestling with issues of crime, theft and drug smuggling at its seaports for many years. And while the federal government failed to address these problems, the state of Florida invested millions of dollars of its own resources to improve port security, which has helped the communities surrounding those ports. But they will still need much more. The states should not carry the entire burden of protecting the international boarders at our seaports. And yet, the problems had become so severe, that the state of Florida, led in part by BOB GRAHAM, decided it had to act on its own. Senator GRAHAM's leadership was vital as we developed this seaport security bill long before the terrorist attacks of September 11. I would also like to thank the fine work of Senator GRAHAM's staffer, Tandy Barrett, she also worked very hard on this legislation.

The initiatives in S. 1214 can help protect America and its citizens from potential terrorist threats against seaports and intermodal connections throughout the country. These initiatives will not make maritime transportation immune from attack. But this bill takes the necessary preventative steps to better protect the American public. I urge my colleagues to support this legislation that is vital to protecting our national security.

Mr. McCAIN. Mr. President, once again I thank Chairman HOLLINGS for his efforts to address identified safety and security problems at our Nation's seaports. The legislation before us today is designed to address port security lapses that have been under review by the Senate Committee on Commerce, Science, and Transportation for the past two years. After hearings earlier this year and last year, the Commerce Committee reported out S. 1214 in August. The bill is intended to provide both the guidance and funding needed to improve seaport security. I commend Chairman HOLLINGS' leadership on this very important issue to transportation safety and security.

It is widely reported that transportation systems are the target of 40 percent of terrorist attacks worldwide. Since September 11, we have been working on a bipartisan basis to address the nation's most pressing needs in the wake of the terrorist attacks. The Senate Commerce Committee has been conducting a series of hearings to gain the information we need to help us evaluate potential transportation security risks and determine how best to respond to those potential risks.

While it is impossible to precisely quantify, there is no question that an attack on any one of our nation's 361 seaports would have far-reaching effects. With 95 percent of our Nation's foreign trade moving through our seaports, the impact of such an attack would ripple through our Nation. Businesses nationwide would face problems getting supplies and exporting finished goods. Our entire economy would be impacted.

Both the Hart-Rudman Report on Homeland Security and the Interagency Commission on Crime and Seaport Security found our seaports to be vulnerable to crime and terrorism. While there is no way to make our Nation's seaports completely crime free and impenetrable to terrorist attacks, the bill before us today is a very strong first step in closing the gaps in national security that now exist at our seaports.

I want to point out to my colleagues that the Commerce Committee had acted on S. 1214 prior to the September 11 attacks. As a result of the attacks, members of the committee and others have worked together to further modify the legislation to provide direction and funding to the agencies involved to focus their efforts not only on decreasing crime in our seaports, but to also increase protection against terrorist attacks.

In our efforts to increase our nation's seaport security, we have worked to take into account not only the wide range of threats and crimes surrounding our seaports, but also the unique nature of our ports. As I have said before, a "one-size-fits-all" approach will not work. Our ports are complex and diverse in both geography and infrastructure. This is why we have worked to ensure this provides for direct local input into the development of security plans for their ports, as well as for response plans for local responders should an attack occur.

S. 1214 would help address a wide range of security shortcomings at our Nation's seaport that were identified in the Interagency Commission on Crime and Security in U.S. Seaports that was issued September 2000. According to the Commission's report, seaport crime encompasses a broad range of crimes, including the importation of illicit drugs, contraband, and prohibited or restricted merchandise; stowaways and alien smuggling; trade fraud and commercial smuggling; environmental crimes; cargo theft; and the unlawful exportation of controlled commodities and munitions, stolen property, and drug proceeds. These crimes are violations of federal law, and therefore, the primary responsibility for enforcement falls to Federal agencies. This bill would give those agencies the authority and funding needed to make up for these shortcomings.

Additionally, the bill would provide much needed improvements in preventing terrorist attacks at our Nation's seaports. While seaports represent an important component of the nation's transportation infrastructure, seaports' level of vulnerability to attack is high, and such an attack, as I just mentioned, has the potential to cause significant damage. The commission found little control over the access of vehicles and personnel to vessels, cargo receipt and delivery operations, and passenger processing operations. The main problem they were able to identify was the lack of a generally accepted standard for physical, procedural, and personnel security at seaports that left seaports wide open for attack. This bill will allow the Department of Transportation, along with Federal, state and local law enforcement to take actions to close the security holes at ports nationwide.

The bill would authorize $1.18 billion for seaport safety and security. The bill would require, for the first time ever, the Department of Transportation to assess the security status of U.S. seaports and require each port and related facility to submit security plans for review and approval. The bill would also improve advance reporting requirements for entry into the United States, provide more funding for screening equipment, facilitate law enforcement coordination at U.S. seaports, and authorize grants and loan guarantees to seaports and marine terminal operators to help finance the purchase of security equipment and defray the costs of security infrastructure.

I want to mention that while the Congress has already worked to approve aviation security legislation, and we are now moving forward on port security, both Chairman HOLLINGS and I remain committed to continuing our agenda during the next session to address transportation security issues in all modes of transportation, including railroads and buses.

I urge my colleagues swift approval of this critical legislation.

Mr. KERRY. Mr. President, allow me to congratulate our distinguished chairman of the Commerce Committee, Senator HOLLINGS, for his outstanding work in putting together S. 1214, The Maritime and Port Security Improvement Act. I also wish to congratulate Senators GRAHAM and MCCAIN for all of their hard work in moving this very important legislation that is crucial to homeland defense.

I also wish to recognize Carl Bentzel of the Commerce Committee for his years of hard work in putting this legislation together.

I thank Senator HOLLINGS for including several provisions from S. 1589, the Port Threat and Security Act of 2001, in the final version of his bill. If I may, I would like to discuss the provisions from S. 1589 that were included in the final version of S. 1214.

Senator BREAUX and I recently held oversight hearings before our respective Subcommittees on the Coast Guard and its role in improving maritime security after the terrible attacks of September 11. As Senators HOLLINGS and BREAUX well know, even before September 11 our maritime and port security was in sorry shape. However, the attacks on New York and Washington made it clear we need to go farther afield to guard against terrorism and other crimes.

We need to improve our base of information to identify bad actors throughout the maritime realm. A provision of the bill would help us identify those nations whose vessels and vessel registration procedures pose potential threats to our national security. It would require the Secretaries of Transportation and State to prepare an annual report for the Congress that would list those nations whose vessels the Coast Guard has found would pose a risk to our ports, or that have presented our government with false, partial, or fraudulent information concerning cargo manifests, crew identity, or registration of the vessel. In addition the report would identify nations that do not exercise adequate control over their vessel registration and ownership procedures, particularly with respect to security issues. We need hard information like this if we are to force "flag of convenience" nations from providing cover to criminals and terrorists.

This is very important as Osama bin Laden has used flags of convenience to hide his ownership in various international shipping interests. In 1998 one of bin Laden's cargo freighters unloaded supplies in Kenya for the suicide bombers who later destroyed the embassies in Kenya and Tanzania. To that end, the bill requires the Administration to report on actions they have taken, or would recommend, to close these loopholes and improve transparency and registration procedures, either through domestic or international action—including action at the International Maritime Organization.

This legislation would also establish a national Sea Marshal program to protect our ports from the potential use of vessels as weapons of terror. Sea Marshals have recently been used in San Francisco and Los Angeles, and is supported strongly by the maritime pilots who, like airline pilots, are on the front lines in bringing vessels into U.S. ports. Sea Marshals would be used in ports that handle materials that are hazardous or flammable in quantities that make them potential targets of attack. The Coast Guard has taken a number of steps including using armed Coast Guard personnel to escort a Liquid Natural Gas, LNG, tankers into Boston since September 11. Prior to September 11 these vessels were escorted by Coast Guard vessels into the port but no armed guards were present on the vessel. I strongly believe that having armed personnel, such as Sea Marshals, on these high interest vessels is very important and will considerably increase security in our nation's ports, including Boston. The ability of terrorists to board a vessel and cause a deliberate release of LNG or gasoline for that matter is very real. Sea Marshals will make it much more difficult for this to happen. The Secretary of Transportation would be responsible for evaluating the potential use of Federal, State, or local government personnel as well as documented United States Merchant Marine personnel to supplement Coast Guard personnel as Sea Marshals. In addition it is my hope that the Secretary will establish training centers around the country for the Sea Marshal program. I further believe that the U.S. Merchant Marine Academy or any of the State maritime academies would make excellent locations for such training centers.

Lastly, this legislation would allow the President to prohibit any vessel, U.S. flagged or foreign, from transporting passengers or cargo to and from a foreign port that does not have adequate security measures as determined by the Secretary of Transportation. I would like to remind my colleagues that a similar provision exists in the airline industry and I see no reason why the President should not have the power to suspend vessel traffic to and from ports with inadequate security, just like he can now do with international airports. The stakes are simply too high Mr. President, we cannot allow shipping containers to enter this country unless adequate security exists in foreign ports to prevent weapons of mass destruction from being loaded. In addition we should not allow cruise ships carrying U.S. passengers to visit foreign passenger ports that do not have adequate security.

I again wish to congratulate Senator HOLLINGS on this landmark legislation and to thank him for including several provisions from S. 1589. This legislation will ensure that the United States has the tools, the information, and the personnel to guard against waterborne threats to our Nation and our citizens.

Mr. BREAUX. Mr. President, as many of my colleagues might know, my State of Louisiana depends heavily on maritime trade and transportation. After all, Louisiana is darn near close to being underwater, so I always have had an affinity for things that float.

Louisiana is fortunate to have the Mississippi River, along which barges haul grain, wheat and corn from the heartland of America, and coal from Wyoming. Our fortune extends to the fisheries resources of the Gulf of Mexico and our oil and gas resources in the outer continental shelf. We have invested in maritime-related oil and gas technologies to make that exploration as safe as possible. The Port of New Orleans, Lake Charles, and South Louisiana—as well as the other Louisiana ports—are major seaports handling containerized bulk and breakbulk cargoes, as well as passengers. The shipbuilding and repair industries employ thousands, as does the marine construction and dredging industry.

My constituents live close to waterways and the the Gulf of Mexico, and in many cases earn their living from our marine transportation system and its associated industries. So, as the Chairman of the Surface Transportation and Merchant Subcommittee—and as a resident of a State that relies so much on the smooth operation of its waterways and ports—maritime security is one of my primary concerns.

The security of our commercial sea and river ports has rarely been the focus of our national security plans. We have invested millions of dollars to protect our airports and our land borders, but very little toward making sure that the goods and people arriving at our ports do not jeopardize our security. We know that Osama bin Laden controls a network of ships that hides his ownership. We have to assume that other terrorists and terrorist networks do, too. Therefore it is imperative that we take a more active Federal role in protecting the international boundaries of our seaports.

There is no unified Federal plan for overseeing security at the international borders of our sea ports. Right now the responsibility of building secure sea and river ports rests with states like Louisiana, its port authorities, and the private sector. That was a poor model for national security when we were fighting drugs and international smuggling—and it is totally inadequate after September 11 as we face the threat of terrorism.

That is why we must pass S. 1214, the Port and Maritime Security Act.

For the first time we will require Federal approval of port security programs. These plans will have to meet rigorous standards for security infrastructure, screening equipment, evacuation plans, access controls, and background checks for workers in security-sensitive areas.

We also will require more information about the cargo and passengers arriving at our ports. Right now we do not know enough about the ships and the cargo that call 24 hours a day. We need to change that immediately. We will require that ships electronically transmit their cargo manifests—and if the manifest does not match the cargo, it will not be unloaded. We also will check crew and passenger manifest information to identify people who could pose a security threat. My Subcommittee held a hearing on rail and maritime security in the aftermath of the events of September 11. At that hearing we heard testimony that the Republic of Panama had issued more than one thousand false documents that allow unauthorized personnel to operate on-board their vessels.

More information—and more reliable information—is the key to fighting crime and terrorism. The more we know about these ships, including who owns them and where they have been, the better we can target our law enforcement resources at our ports to check on the most suspicious loads. We need to know who is on these ships, and, eventually, be able to quickly check the names with a computer database of known terrorists or other associates of international criminal organizations.

This bill will require Federal, State and local law enforcement officials to better coordinate the sharing of that information. If a local police officer arrests someone for breaking into a secure area of the port, timely sharing of that information with State and Federal officials might help identify the person as part of a larger international network. It is critical that Customs agents work with the local police, that the State police work with Immigration officials, and that the FBI work with local port authorities. That type of cooperation will dramatically improve port security. Seaports have many different agencies and jurisdictions. So this bill attempts to harmonize their efforts, and will require the Coast Guard, in their role as Captain of the Port, to lead the coordination of law enforcement.

The businesses that operate in seaports also play a crucial security role. They must be brought into a cooperative environment in which a port's law enforcement information is communicated and shared confidentially with privately-hired security officers. In return, private security officers must have a direct line to share information with Federal, State, and local authorities.

To verify that the cargo loads match the manifests, we will need more Customs officials to check that cargo. Incredibly, only 2 percent of the cargo containers arriving at our ports are ever checked by Customs officials. That is a huge hole in our national security system that must be fixed. We seek to close this security hole by directly granting and authorizing more than $168 million for the purchase of non-intrusive screening and detection equipment to be used by U.S. Customs officers. These Customs officers are on the front lines of protecting our country from the importation of illegal and dangerous goods. We must give them the latest technology and the most modern cargo screening equipment available.

We also must help the private sector and the port authorities meet these national security challenges. This problem would be must more simple to solve it the United States had national seaports under the control of the Federal Government—or if the Federal Government directly funded seaport infrastructure. However, that is not the case. Maritime infrastructure is owned by States and by the private sector. But the Federal Government has a role to play here for homeland security. We cannot force States and the private sector to comply with security mandates, yet not provide funding. The legislation will directly fund and authorize $390 million in grants to local port security projects. The bill also will fund loan guarantees that could cover as much as $3.3 billion in long term loans to port authorities acting to improve their security infrastructure. Upgrading that infrastructure means installing modern gates and fencing, security-related lighting systems, remote surveillance systems, concealed video systems, and other security equipment that contributes to the overall level of security at our ports and waterfront facilities.

Some of our shipping companies may worry that these new procedures requiring more security and customs checks will slow the flow of international commerce. But as we did in the airline security bill, we can strike the balance between increased security and the convenience of our open country and economy. In Louisiana, our sea and river ports are a way of life, and an integral part of our economy. We have some of the largest seaports in America, and the Mississippi River runs through the heart of Louisiana. The river is a super-highway of commerce that helps drive our State's economy.

Security and the protection of our people from harm always will be our primary goal. However, we must do it in a way that does not dramatically slow the movement of goods that run our just-in-time-delivery economy. The answer to that problem is technology.

New scanners are now on the market that can x-ray and scan an entire 48-foot cargo container. Customs currently depends primarily on gamma-ray systems that are adequate for seeing through small vehicles or loosely-packed crates. But more powerful X-ray based machines—already used in Israel, the Netherlands, and Hong Kong—can pierce several inches of steel and peer through more densely packed boxes. These machines can see everything from false compartments down to the buttons on a remote control. And they can be programmed to spot "density signatures" that indicate explosive and nuclear materials. The more the Federal Government, ports and the private sector invest in using this new scanning technology, the fewer cargo containers and boxes will have to be opened and searched by hand. That will increase the efficiency of international commerce and trade—while at the same time making our nation more secure.

Investing in scanners is even more critical when you consider that the expanding global economy raises the volume of seaborne shipping by 7 to 10 percent each year. In other words, the amount of goods arriving and departing through our seaports is expected to double by 2020. While that increased trade will benefit our economy, it also poses a national security threat if we are unable to keep pace with the growing volume of goods and people passing through our ports.

That is why the private sector must get behind our efforts—and behind this bill. Before September 11, port security was something of an afterthought. We are now facing new threats. The more we invest in the infrastructure of making our ports secure, the less likely that your key products and supplies will be delayed at the ports due to increased security. As public officials, our primary duty is to protect public safety and national security. If the private sector engages and cooperates with our efforts, there will be less impact from that tightened security upon the free flow of goods and supplies through our major seaports. That is a public-private partnership that can work—and protect America at the same time.

We have made the investments at our airports and at our land borders to counter threats of terrorism and other international criminal organizations. It is now time to invest in the security of the international borders at our seaports, in order to protect our nation and our local seaport communities.

Mr. NELSON of Florida. Mr. President, I rise to thank Chairman HOLLINGS and ranking member McCAIN for agreeing to include in S. 1214, the Port and Maritime Security Act, a Coast Guard and Navy study to evaluate the merits of establishing a Center for Coastal and Maritime Security.

The events of September 11 cruelly illustrated the challenges we face in providing comprehensive and reliable security for our homeland. There is no challenge more daunting than the integration of our Federal, State and Local law enforcement agencies and their coordinated efforts with our Armed Forces to protect our vast and complex maritime and industrial areas.

My amendment directs the administration to seriously consider establishing an institution that can provide integrated and coordinated training for the organization, planning and execution of security systems necessary to protect our vulnerable ports and coasts from potential terrorist attacks.

I am grateful for the inclusion of language directing this study because the U.S. Navy's Coastal Systems Station in Panama City, Florida is uniquely staffed with coastal security experts to help the Coast Guard conduct this assessment. In analyzing the costs and benefits of a Coastal and Maritime Security Center, I urge the Coast Guard to work closely with the Coastal Systems Station to ensure the best possible recommendation for the Administration and Congress.

Mr. President, I am confident that the study directed by this language will conclude that an investment in interagency integrated education and training to improve the protection of our ports and harbors is in the very best interests of our national security.

Mr. GRAHAM. Mr. President, this bill would take a significant step toward securing our Nation against future terrorist actions.

Just as we have unanimously decided to bolster security at our airports, we must also improve the overall security and cargo processing operations at U.S. seaports.

If nothing else, September 11 has demonstrated the need to do more to secure our Nation from terror—whether it comes from land, sky or sea. Before discussing the specifics of this legislation, it is important to describe the circumstances that have caused the security crisis at our seaports.

Seaports represent an important component of the Nation's transportation infrastructure.

Each year, thousands of ships, and millions of passengers, enter and leave the United States through seaports.

It is estimated that 95 percent of the cargo that enters the country from noncontiguous countries does so through the Nation's 361 coastal and inland ports.

Alarmingly, less than 2 percent of this enormous number of cargo containers are actually inspected.

Over the next 20 years, the total volume of imported and exported goods at seaports is expected to increase threefold.

Waterborne cargo alone contributes more than $750 billion to the U.S. gross domestic product and creates employment for 13 million people.

Despite the massive volume of cargo that moves through our Nation's ports, there are no Federal security standards or guidelines protecting our citizens from potentially lethal cargo.

The Federal Government does not provide the resources for technology that an adequately screen cargo moving through our ports, leaving them vulnerable to criminal activity—from smuggling to cargo theft to terrorism.

Security at our maritime borders is given substantially less Federal consideration than airports or land borders.

At U.S. seaports, the Federal Government invests nothing in infrastructure, other than the human presence of the U.S. Coast Guard, U.S. Customs Service and the Immigration and Naturalization Service, and whatever equipment those agencies have on-hand to accomplish their mandates.

Physical infrastructure is provided by State or local controlled port authorities, or by private sector marine terminal operators.

There are no controls, or requirements in place, except for the minimal standards promulgated by the Coast Guard for the protection of cruise ship passenger terminals.

Essentially, where seaports are concerned, we have abrogated the Federal responsibility of border control to the State and private sector.

In the face of these new challenges, it appears that the U.S. port management system has fallen behind the rest of world.

We lack a comprehensive, nationwide strategy to address the security issues that face our seaport system.

In early 1998—in response to the almost daily reports of crime and narcotics trafficking at Florida seaports, and following the day I spent working with the Customs Service at Tampa's Port Manatee on October 14, 1997—I began an investigation of the security situation at seaports throughout the nation. At that time, and perhaps even more so today, I was very concerned that our seaports, unlike our airports, lacked the advanced security procedures and equipment that are necessary to prevent acts of terrorism, cargo theft and drug trafficking.

Based on this workday, and subsequent investigation, I asked President Clinton to establish a Federal commission to evaluate both the nature and extent of crime and the overall state of security in seaports and to develop recommendations for improvement.

In response to my request, President Clinton established the Interagency Commission on Crime and Security in U.S. Seaports on April 27, 1999.

In October 2000, the Commission issued its final report, which outlines many of the common security problems discovered in U.S. seaports. Among other conclusions, the Commission found that: one, intelligence and information sharing among law enforcement agencies needs to be improved at many ports; two, that many ports do not have any idea about the threats they face, because vulnerability assessments are not performed locally;

Three, that a lack of minimum security standards at ports and at terminals, warehouses, and trucking firms leaves many ports and port users vulnerable to theft, pilferage, and unauthorized access by criminals; and four, advanced equipment, such as small boats, cameras, vessel tracking devices, and large scale X-rays, are lacking at many high-risk ports.

Our legislation addresses the problems of our seaports by instructing the Attorney General to coordinate the reporting of seaport related crimes with State law enforcement officials, so as to harmonize the reporting of data on cargo theft.

The bill would also increase the criminal penalties for cargo theft.

To address the lack of minimum security standards at America's seaports, the bill would require security programs to be developed by each port or marine terminal.

Each security program will be submitted to the Security of Transportation for review and approval.

These security programs would require maintenance of both physical and procedure security for passengers, cargoes, crew members, and workers; provisions for establishing secure areas within a waterfront; creation of a credentialing process to limit access to restricted areas so only authorized individuals gain admittance; restriction of vehicular access; development of an evacuation process from port areas in the event of a terrorist attack or other such emergency; and establish security awareness for all employees.

Our bill requires the Coast Guard, in consultation with the appropriate public and private sector officials and officials and organizations, develop a system of providing port security-threat assessments for U.S. seaports. The bill would authorize $60 million over 4 years to carry out this provision.

The Seaport Commission report found that current inspection levels of containerized cargo are insufficient to counter potential security risks.

This bill will authorized $168 million over five yeas, for the Customs Service to purchase non-intrusive screening and detection equipment for use at U.S. seaports.

It would also authorize $145 million for 1,200 new customs inspector positions, and 300 new customs agent positions.

The bill would also create a research and development grant program to provide grants up to 75 percent of the cost of construction. acquisition or deployment of technology to help develop non-intrusive inspection technologies.

The bill would authorize $15 million annually for fiscal year 2002 to fiscal year 2006 for this purpose.

Implementing the provisions of the Port and Maritime Security Act of 2001 will produce concrete improvements in the efficiency, safety, and security of our Nation's seaports, and will result in a demonstrable benefit for those who are currently pay tonnage duties.

This legislation is long overdue—that became all too apparent the morning of September 11. Not only is it required to facilitate future technological advances and the anticipated increases in international trade, but it would ensure that we have the sort of security controls necessary to protect our borders from threats of illegal aliens, drug smuggling and terrorism.

As we work to lift our Nation's fear of travel in our skies, we must also move to guarantee their safety on our seas.

This bill does not affect just those states with ports.

Each day 16,000 containers arrive in the United States. A single container can hold 30 tons.

These containers are either transported by truck or by rail throughout the United States.

To illustrate my point, I have a chart here which depicts a normal route of a cargo container entering the Port of Los Angeles and arriving in New York.

These containers travel across America, often more than a dozen States before reaching their destination.

Our seaports are our first line of defense in preventing a potential tragedy.

Seaports play one of the most critical roles in expanding our international trade and protecting our borders from international threats.

The "Port and Maritime Security Act" recognizes the importance of our seaports and devotes the necessary resources to move ports into the 21st century.

I urge my colleagues to look towards the future by supporting this critical legislation—and by taking action to protect one of our most valuable tools for promoting economic growth.

Mr. CLELAND. Mr. President, I rise today to express my strong support for S. 1214, the Port Security and Improvement bill. This legislation is overdue and absolutely needed in broadening our response to the threat of terrorism.

The Report of the Interagency Commission on Crime and Security in U.S. Seaports, issued in the fall of 2000, indicates that "the state of security in U.S. seaports generally ranges from poor to fair, and in a few cases, good." Now that this country is acutely aware of the repercussions of overlooking transportation security weaknesses, Congress would be severely remiss if we did not act promptly to improve on the "poor to fair" rating at our ports.

I believe that technology can play an important role in ensuring the integrity, safety, and security of goods coming into this country via ship. To that end, my amendment that is included in S. 1214 establishes a pilot program run and defined by the Customs Service to examine different technologies and how they can be employed to verify that a container's contents are what they say they are and that they have not been tampered with during transport. Shippers and transporters using effective such technologies could then enter U.S. ports on an expedited basis. With 95 percent of foreign trade entering or leaving the U.S. via ship, allowing a quicker entrance by certain "trusted shippers" will allow a quicker conveyance to American consumers.

Already, I have seen outstanding demonstrations from people all over this country of their detection technologies and how they can be used to improve security. My amendment is a challenge to these innovators to develop such technologies for use in the shipping world.

Additionally, I have heard testimony from maritime experts that America needs to find ways to "push its borders back." By "pushing back" our borders the intention is to ensure the integrity and inspection of goods entering the country at points farther out from our physical borders. If this process can be taken care of in a foreign port, confidence in the integrity of the goods increases and time is saved by domestic inspectors who can use their resources elsewhere. My amendment would allow the securing of goods in the port of origin so that when these goods arrive in the U.S. we can be assured of their safety.

I thank Senator HOLLINGS for his help with my amendment, and I look forward to working with Customs to implement this program, which I believe will be helpful to get goods to market in safe but timely manner.

NUCLEAR DEVICES DETECTION

Mrs. FEINSTEIN. Mr. President, I am encouraged that the Senate is poised to pass legislation bolstering security at our Nation's 361 seaports. I thank the members of the Senate Commerce Committee for their hard work on this bill.

While often out of the public eye, ports and harbors across the United States are America's economic gateways. Every year, U.S. ports handle over 800 million tons of cargo, valued at approximately $600 billion. If you exclude border commerce with Mexico and Canada, our ports handle 95 percent of U.S. trade. Two of the busiest ports of the nation are in California, at Long Beach and Oakland.

Yet, just 1 or 2 percent of the 11 million shipping containers reaching our ports are inspected each year. The Federal Government has taken steps to beef up security along our northern and southern borders. And we are addressing aviation security. But just about everything that arrives by ship is waved through.

This bill will strengthen law enforcement at our ports by establishing a federal port security task force and providing more funding for local efforts to boost port security. It is crucial that we increase cargo surveillance and inspections. And it is crucial that we provide our Customs agents and other port security forces with the equipment needed to detect chemical, biological, and nuclear weapons of mass destruction, WMD.

Osama bin Laden has stated that he considers it his "religious duty" to obtain such weapons.

Earlier this month, the director general of the International Atomic Energy Agency warned, "The willingness of terrorists to commit suicide to achieve their evil aims makes the nuclear terrorism threat far more likely than it was before September 11th." According to the Agency, there have been 175 cases of trafficking in nuclear material since 1993 and 201 cases of trafficking in medical and industrial radioactive material. Sadly, it is no longer beyond the pale to imagine that bin Laden and his associates might try to smuggle a nuclear device or so-called "dirty bomb" onto a cargo ship entering one of our busy seaports and then detonate it.

I was prepared to offer an amendment to make it quite clear that references in the bill to chemical, biological, or other weapons of mass destruction include nuclear devices.

Mr. HOLLINGS. If the senior Senator from California will yield, I assure her that is our intent. Where was authorize activities or funding to step up survelliance, inspection, and detection of WMDs at our seaports, we would want to target any kind of nuclear devices as well as chemical and biological weapons.

So, for instance, any authorizations in the bill for the purchase of detection equipment could be used to buy radiation pagers for the Customs agents who inspect cargo, or for radiation detectors on cargo X-ray machines, or to retrofit existing X-ray machines with sensitive sodium iodide detectors.

Mrs. FEINSTEIN. I thank the chairman for his clarification. It is absolutely vital that we upgrade our detection technology. Oakland's Howard Marine Terminal, for instance, is less than once-half mile from Jack London Square, a major tourist attraction. Ships that travel into and out of the Port of Oakland terminal pass within 400 yards of the Square.

Immediately following the September 11th attacks, a 920-foot tanker carrying 33 million gallons of liquefied natural gas (LNG) was prevented from entering Boston Harbor. The tanker was kept 6 to 8 miles offshore while authorities figured out a way to safeguard the Harbor. It was not until November 4—with Coast Guard escorts—that the tanker was allowed into the harbor.

Mr. HOLLINGS. The Senator from California has raised good points. I appreciate her interest in the matter and her willingness to reach an accommodation with the Commerce Committee. We certainly want to interdict any nuclear devices as assuredly as we want to interdict other WMDs.

PORT AND MARITIME SECURITY ACT COLLOQUY

Mr. HOLLINGS. Mr. President, we worked hard with the Administration to incorporate many of their suggested changes in this bill to sharpen the policy and create a better legislative product. I had intended to work with Chairman LEAHY of the Judiciary Committee to modernize and update some of our maritime criminal laws to reflect the realities following the attacks of September 11th, and to strengthen our laws to protect against maritime terrorism. Unfortunately, the Administration did not consult or share with the Judiciary Committee the changes in criminal laws and other matters within the Judiciary Committee's jurisdiction that were provided to me. I would like to ask the Chairman of the Judiciary Committee, if he would be willing to work to work with me and Senator McCain next year to consider whether new criminal provisions are necessary to enhance seaport security?

Mr. LEAHY. Mr. President, I am also very concerned that we develop policies to more adequately protect our maritime vulnerabilities and protect the public from the threats emerging as a result of maritime trade. I would be happy to work with Chairman HOLLINGS and Ranking Member MCCAIN next year to evaluate whether any gaps in our criminal laws to protect our maritime safety and seaport security exist and the appropriate steps we should take to close those gaps and at the same time ensure that the rights of port employees are protected.

Mr. President, I have also expressed to Chairman HOLLINGS my concerns that we properly limit access to and use of sensitive law enforcement information relating to background checks which are provided for in this bill. Chairman HOLLINGS has assured me that the bill sets strict and appropriate limits as to both when such access will be required and how the information will be used once obtained. Additionally, the Chairman understands my continuing concern over the need for appropriate due process protections for employees of ports at all levels who may be subject to background checks. These would include a hearing that would consider mitigating and extenuating circumstances related to the individual in question. Am I correct that it is the intent of the Chairman to ensure that the Department of Transportation and the nation's ports carry out background checks with proper safeguards in place that ensure due process protections for employees. And will the Chairman commit to work with me to that end? I would like to ask Chairman HOLLINGS if he could explain these provisions?

Mr. HOLLINGS. Mr. President, we have included the important protections and limitations for such use in access in the bill. Background checks will be limited to those employees who have access to sensitive cargo information or unrestricted access to segregated "controlled access areas," that is defined areas within ports, terminals, or affiliated maritime infrastructure which present a critical security concern. Such controlled access areas could be: locations where containers will be opened, points where vessels containing combustible or hazardous materials are berthed and port security stations. In addition, under this bill the use of background information, once it is obtained, will be restricted to the minimum necessary to disqualify an ineligible employee. In other words, only the minimum amount of law enforcement information necessary to make eligibility decisions will be shared with port authorities or maritime terminal operators.

Moreover, this legislation ensures appropriate due process protections for port employees who may be subject to a background check. In the legislation the Secretary is required to establish an appeals process that includes notice and an opportunity for a hearing for individuals found to be ineligible for employment as prescribed in Section 106. I also agree that this process should evaluate any extenuating and mitigating circumstances. I will work to ensure that we accomplish these objectives as the port security legislation moves forward.

SECURITY OF INLAND WATERWAYS

Mr. WYDEN. Mr. President, I rise to engage the distinguished chairman of the Commerce Committee in a colloquy on very important legislation he has sponsored—the Port and Maritime Security Act of 2001. This legislation, which I am pleased to have cosponsored, would establish new Federal safeguards for the security of our ports and maritime commerce. I would appreciate the chairman clarifying whether the intent of this legislation is to cover not only the security of ports but also inland waterways such as the Columbia-Snake River system. This is an important issue for the Pacific Northwest region because dams on the Columbia and Snake Rivers are not only critical for maritime transportation in our region but also a major source of our region's energy. Barges pass through the locks on these dams every day carrying gasoline and other explosive cargoes that could disrupt our waterways or energy production and even put residents downstream at risk of flooding if these cargoes exploded while in transit through one of the navigation locks. So I would ask my Chairman whether the authority provided to the Coast Guard and S. 1214 includes evaluating not just security for ports but also inland waterways like the Columbia/Snake River system?

Mr. HOLLINGS. I appreciate the Senator helping to clarify this point. I know it is especially important for the Senator's home State of Oregon and the Pacific Northwest region. The answer to the Senator's question is yes, the intention is to cover all areas affected by maritime transportation and commerce. The legislation covers not only seaports but also "public or commercial structures located within or adjacent to the marine environment" including navigation locks.

Mr. WYDEN. I thank the Senator for his clarification. I also ask him whether under his legislation, the Coast Guard would have authority to oversee dangerous cargoes transported along the Columbia/Snake River system as well as cargoes in port?

Mr. HOLLINGS. Under the legislation, the Secretary of Transportation would issue regulations for security programs for cargo as well for protecting passengers, crew members and other workers. The authority for security of cargo is broad enough to cover not only cargoes in port but also dangerous cargoes anywhere in the maritime navigation system including those in transit through navigation locks.

Mr. WYDEN. I thank the chairman again for answer and commend him for his leadership on this important issue.

FREIGHT RAIL SECURITY

Mr. ROCKEFELLER. Mr. President, will my friend, the distinguished chairman of the Senate Commerce Committee, the Senator from South Carolina, yield for the purpose of engaging in a colloquy?

Mr. HOLLINGS. I will be happy to yield for the purpose.

Mr. ROCKEFELLER. I thank the distinguished chairman of the Commerce Committee.

Mr. President, I would like to ask the Senator from South Carolina if he would agree that in the aftermath of the terrorist attacks of September 11th, this nation came to a number of stark realizations about our vulnerabilities and the overall state of our security?

We have become aware that glaring security gaps exist throughout our nation's transportation system. The Senator from South Carolina has been a leader in focusing the Senate's attention on the need to improve the safety of our ports, and he has been steadfast in his support for additional protections for our nation's rail passengers. I hope that he will agree with me that as important as improving the security in those areas is, our job is not complete until we pay similar attention to the security of our freight rail system.

One of the most serious vulnerabilities in the nation's transportation system is possibility that terrorists may target hazardous materials being transported across this nation's vast and largely unsecured freight rail network. I am sure the Senator is aware that several studies conclude that the chemical industry is particularly vulnerable to terrorist attacks, and point to the shipment of hazardous materials by rail as one of the most serious threats to the industry. In fact, I believe that a study requested by the Senator's Appropriations Subcommittee and due to be published this month, will come to this very conclusion.

I do not mean to suggest that transportation of chemicals or other hazardous materials should be curtailed. While the transportation of hazardous materials poses risks to human health, the expeditious movement of certain products, like chlorine for municipal water systems, is absolutely essential for the protection of human health.

The railroad and chemical industries have acknowledged the risks, and have taken strides toward improving the security of their facilities, hazardous materials shipments, and rolling stock since the September 11th attacks. These security improvements, and additional security enhancements that are planned, will be inordinately costly, perhaps reaching as high as $150 million in this calendar year, and another $150 million in 2002. I hope the Senator will agree that the extraordinary and unforeseen nature of the costs being incurred by hazardous materials shippers, tank car owners, and railroads, combined with the benefit to human health and public safety that these security enhancements represent, justifies a program of short-term federal grants to reimburse or defray some of the post-September 11th security-related expenses these companies are incurring.

If the Senator from South Carolina does agree with the need to improve our nation's rail security, and understands the unprecedented outlays that railroads and shippers have made or will make in the near future, would he commit to this Senator to hold whatever hearings deemed necessary, and to schedule a prompt mark-up in the Commerce Committee early in 2002 for legislation of mine to require the Secretary of Transportation to conduct a comprehensive terrorism risk assessment, and to set up a Rail Security Fund to make the types of grants that we have discussed here today?

Mr. HOLLINGS. I thank the Senator for his comments on the state of our nation's transportation security, and I agree with his assertion that a complete treatment of our security needs would include legislation to improve the security of our rail network. I am aware that the need for the safe and expeditious rail transportation of chemicals and other hazardous materials is essential for our nation's economy, and that the movement of some chemicals, including chlorine, is necessary for the preservation of public health.

I am aware also of the security improvements that have been undertaken by railroads and hazardous materials shippers. I agree that the security-related expenses are extraordinary, and that in the interest of protecting the general public from the effects of a terrorist attack on hazardous materials shipped by rail, the federal government should help these companies on a short-term basis to defray their post-September 11th security-related expenses. I will promise the Senator from West Virginia that the Commerce Committee will take up the issue of rail security as early as possible during the next session of the Congress.

Mr. ROCKEFELLER. I thank the Senator from South Carolina, and I thank the Presiding Officer.

BUS SECURITY ACT

Mr. CLELAND. Mr. President, I appreciate the chairman's leadership in promoting safety in all modes of passenger and cargo transportation. In the Commerce Committee executive session on October 17, the committee addressed the important issue of passenger rail safety. The committee approved funding for the upgrading of Amtrak tunnels and bridges primarily along the much-used Northwest corridor. While I support and applaud the goal of increasing passenger rail safety and security—in fact I strongly support this legislation—at the same committee session I raised the issue of intercity bus security. Attention became acute on this issue after the October 3 incident on a Greyhound bus that resulted in the death of seven people. Since that event, there have been other attempts to cause mayhem on buses, but thankfully, none have resulted in deaths. With over 774 million intercity bus passengers annually with companies serving over 4,000 communities, we cannot wait to act on securing this important mode of transportation.

Mr. HOLLINGS. I appreciate the fact that the Senator from Georgia brought this matter to the committee's attention. Bus security is in fact an important issue which unfortunately cannot be appropriately addressed before the end of this year. I applaud the initiative of the Senator from Georgia and leadership on this issue and, in particular, his introduction of S. 1739, which establishes a competitive grant program to allocate funding to bus companies to increase security and safety and creates a research and development program for new technologies to increase bus security and safety. It is my intention to consider this legislation on the markup calendar of the Commerce Committee's first executive session of 2002.

Mr. CLELAND. I applaud the chairman's decision to advance the issue of bus safety. With bus terminals often sharing facilities with both airports and rail stations, omitting this critical component of the equation leaves a hole in the system. This mode of transportation is the largest domestic passenger service provider, and it has grown without the aid of federal support. Now that they need assistance to supplement their own efforts and protect our citizenry, it is time for Congress to act. This industry is made up of many small businesses, which may not be able to survive if assistance is not given to help boost security in order to bring passengers back to bus travel. Otherwise, these businesses may have to increase the cost to the customer to pay for the necessary security upgrades.

Mr. HOLLINGS. As chairman of the Commerce Committee, I am very aware of the need of the bus community. It is an important segment of our transportation infrastructure. I look forward to working with my colleague from Georgia on his legislation at the earliest opportunity in 2002.

Mr. CLELAND. I thank the Senator for his support and attention to this matter, and I look forward to working with you in the future on this issue of national importance.

Mr. SCHUMER. Mr. President, I seek unanimous consent to say a few words about the Port and Maritime Security Act of 2001 and the herculean efforts of the Senate Commerce Committee Chairman, Senator HOLLINGS, to get it passed.

In the aftermath of September 11, most of the legislation considered in this chamber has been reactive in nature. This bill, like Senator BYRD's homeland security package, is decidedly different.

This bill is designed to prevent a terrorist attack on one of our nation's most vulnerable pieces of infrastructure—our ports. This bill anticipates the possibility of an attack, and sets out to make that impossible. This is exactly the kind of legislation that we were sent to Congress to pass.

Yet it would not have passed without the dogged efforts of Senator HOLLINGS, who forced the issue as most members of Congress were leaving town.

Finally, I would just like to comment on Senator HOLLING's use of David Stockman's The Triumph of Politics, in his remarks today. I too remember those days in the early 1980's, when the Laffer Curve and trickle-down economics were coming into vogue. I was a young congressman then, and I didn't believe it would work.

I still don't. And I share the chairman's disbelief that even after September 11—when our Nation's vulnerabilities have been so explicitly exposed and the need for additional security resources has been made so evident— we would again travel down that path.

Mr. President, I thank the Chairman for his efforts on this vital piece of legislation.

PORT SECURITY, S. 1214

Mr. MURKOWSKI. Mr. President, I rise today to thank Chairman HOLLINGS and Senator MCCAIN for accepting my amendment to this important bill will promote security at our Nation's seaports.

America's ports provide invaluable links between American productivity and markets both here at home and abroad.

Ports are a critical cog in the wheels of our economy. But quite frankly, our ports are vulnerable.

History has taught us lessons in vulnerability before, whether it be the USS *Maine* in Havana Harbor, the attack on Pearl, or the USS *Cole* in Yemen, ships and shipping are always a risky proposition, especially in the confines of port.

These lessons have new meaning in today's reality of war.

A single attack, on a single ship, in a single U.S. port could render the entire facility immobile.

What does that mean? No exports of U.S. autos. No freighters carrying ore on the Great Lakes. No grain barges up or down the Mississippi Rover. Simply put, No trade.

And perhaps most troubling, no energy.

In my State the Port of Valdez, at the end of the Alaska Pipeline, is responsible for providing much of the West Coast and Hawaii with its oil. And in Kenai, the facility sees billions of cubic feet of Liquified Natural Gas transferred each year.

What would happen if these ports were closed by some horrific act? How could we move our Nation's domestically produced energy?

These facilities and others around the U.S. demand our best efforts to protect them.

But a large, and unfortunately growing, role for our ports is the importation of foreign-produced energy, crude oil, refined petroleum products and liquified natural gas.

As imported energy becomes a larger share of the U.S. energy supply, we become more vulnerable to terrorist attacks.

The energy trade itself creates new terrorist targets.

In the aftermath of September 11th, the Coast Guard was forced to suspend LNG shipments in to Boston Harbor for fear of those ships being used for terror.

What else is aboard those foreign flagged supertankers that enter our ports from the Middle East?

What is hidden in the holds? Biohazards? Chemical warfare?

What else has that crew been trained to do?

These situations take on a new sense of reality after September 11.

My colleagues are well aware of my efforts to reduce our dependence on foreign oil and foreign supertankers by using our own domestic resources.

The longer we wait, the more vulnerable we become.

The majority leader has used parliamentary tactics to subvert the will of the Senate and delay voting on our energy independence.

That is a debate that still lies before us.

But for today, as long as we remain dependent, we must do all we can to protect the safety of those ships and that energy.

My amendment which is now included in this bill makes certain that those who are the most knowledgeable in this most critically-important aspect of port operations are full participants in the effort to ensure port security.

It further ensures that when we talk port security, that we're talking about our Nation's energy security.

I greatly appreciate the willingness of the Chairman, Mr. HOLLINGS, and the Ranking Republican, Mr. MCCAIN, to accept this amendment.

This amendment will make a strong and much needed bill even stronger.

Mr. EDWARDS. Mr. President, I rise today to support the Port and Maritime Security Act of 2001 and to speak about the need to protect our seaports from terrorist attacks.

Our seaports are critically important to our national, and global, economy. Our seaports enable us to export our goods to the rest of the world and allow us to import the goods we do not produce domestically. Ninety-five percent of all U.S. overseas trade is conducted through our 361 public seaports. Roughly 45,000 cargo containers enter the U.S. every day.

Our seaports are also an important component of our national security. In the interest of promoting trade, we accept increasing traffic in and around our seaports as ships, crew and cargo move goods between our nation and others. Yet even as we do this, we must recognize that the very volume of cargo moving through our seaports makes it difficult to adequately guard against a potential terrorist attack.

Traditionally, our seaports are viewed as highly vulnerable targets for terrorist attacks. They are open spaces, full of traffic, and difficult to monitor. Yet an attack against one of our larger seaports could dramatically impact our domestic economy by destroying cargo, eliminating jobs, and shutting off trading routes to other shippers.

Unfortunately, we have let our guard down with respect to our seaports by failing to adequately address the potential for a terrorist attack. We know how important our seaports are to our national and global economy, yet at best, inspectors are able to examine only about two percent of the cargo that passes through our seaports. This means that the vast majority of cargo entering our seaports is not inspected before the containers are allowed to move throughout the country. We can, and must, do better.

We must improve the quality of and deployment of detection technology and we must make sure that those who guard our seaports are equipped to prevent an attack. We have technology that scans containers to look for suspicious materials and shipments. It is in place right now, but not at all our seaports and not even at all of the largest seaports. We need to expand the deployment of this type of technology, and make sure all our seaports are equipped with the best available scanning technology. We must also make sure that the Coast Guard has the manpower and equipment it needs to protect our coast and ports and to respond in the event of an attack.

I am so pleased that we are passing the Port Security Bill. This is an extremely important piece of legislation and an important component of our national defense.

I would like to take this moment to thank Chairman HOLLINGS for working with me on several amendments I had to this important bill.

When the Commerce Committee held hearings on port security back in July, I raised several issues with the witnesses about the security of our ports and the ability to protect against a possible terrorist threat. I have been working since then to develop legislation to address some of the concerns I had that were confirmed at the hearing.

When the Commerce Committee marked up its port security bill in early August, I received assurances from Chairman HOLLINGS that we would continue to work to make sure my concerns were addressed when the bill came to the Senate floor. At that time, we of course had no idea that our country was only a month away from such a horrendous terrorist attack.

But I am pleased that we are now taking up this bill. It will make our seaports and our nation safer. And I want to again thank the Chairman and Ranking Member for working with me on these amendments and for including them in the final bill.

Specifically, these amendments will: improve our ability to safely handle cargo entering our country; provide the Coast Guard with additional anti-terrorism resources to protect domestic ports; and provide for the most modern security technology to be deployed in seaports.

My first amendment is an anti-tampering amendment that will ensure that the cargo we accept in our country has not been altered or interfered with. The amendment improves port security by allowing Customs to work with ocean shippers to better coordinate the tracking of cargo in our ports and across our country. It will improve security by enabling Customs to better assist shippers in preventing cargo tampering and cargo theft. It will also improve security by enabling Customs to track containers as they move cross-country to ensure that they are not diverted for criminal or terrorist purposes.

My second amendment establishes Port and Maritime Security Teams, teams of Coast Guard personnel with training in anti-terrorism, drug interdiction, and navigation assistance. These units will operate high-speed boats that are equipped to patrol our coastal waters and respond immediately to terrorist or other criminal threats to our coast and seaports. Similar teams are already used to protect U.S. vessels in foreign ports, my amendment brings them to our domestic defense.

My final amendment will ensure that the best available technology is deployed in our seaports to improve security, identify threats, and prevent terrorist attacks. The grant program would cover technologies to deal with such security risks as: explosives, firearms, weapons of mass destruction, chemical and biological weapons, drug and illegal alien smuggling, and trade fraud. This amendment is so important, because the type of cargo and containers that move through seaports are entirely different than what moves through our airports, and we need to make sure we are developing technology that recognizes those differences. Only about 2 percent of the cargo entering our seaports is inspected, without better technology, we are leaving ourselves too vulnerable to those who would exploit our seaports for terrorist or criminal activity.

Again, I would like to express my thanks to Chairman Hollings and Senator McCain for helping make sure that these amendments were included in the final bill and for making sure that we take aggressive action to protect our seaports.

AMENDMENT NO. 2690

The PRESIDING OFFICER. Under the previous order, there is an amendment in order. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. Hollings], for himself, Mr. McCain, and Mr. Graham, proposes an amendment numbered 2690.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

Mr. HOLLINGS. Mr. President, I urge the adoption of the amendment. It is a managers' amendment agreed to by Senators McCain, Graham, Hutchison, and myself.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2690.

The amendment (No. 2690) was agreed to.

Mr. HOLLINGS. I urge passage of the bill, as amended.

The PRESIDING OFFICER. Does the Senator yield back all time?

Mr. HOLLINGS. I yield back all time.

The PRESIDING OFFICER. All time having been yielded back, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 1214) was passed.

Mr. HOLLINGS. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from South Carolina.

ECONOMIC STIMULUS

Mr. HOLLINGS. Mr. President, with respect to the stimulus bill, let's go right to the point. It really was not a stimulus at all. Over a month ago, Joseph Stiglitz wrote an article entitled "A Boost That Goes Nowhere." I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Nov. 11, 2001]

A Boost That Goes Nowhere

(By Joseph Stiglitz)

The United States is in the midst of a recession that may well turn out to be the worst in 20 years, and the Republican-backed stimulus package will do little to improve the economy-indeed it may make matters worse. In the short term, unemployment will continue to rise and output will fall. But the U.S. economy will eventually bounce back—perhaps in a year or two. More worrying is the threat a prolonged U.S. recession poses to the rest of the world.

Already we see inklings of the downward spiral that was part of the Great Depression of 1929: Recession in Japan and parts of East Asia and bare growth in Europe are contributing to and aggravating the U.S. downturn.

Emerging countries stand to lost the most. Globalization has been sold to people in the developing world as a promise of unbounded prosperity—or at least more prosperity than they have ever seen. Now the developing world, especially Latin America, will see the darker side of its links to the U.S. economy. It used to be said that when America sneezed, Mexico caught a cold. Now, when America sneezes, much of the world catches cold. And according to recent data, America is not just sneezing, it has a bad case of the flu.

October unemployment figures show the largest monthly increase in two decades. The gap between the United State's potential gross domestic product—what it would be if we had been able to maintain an unemployment rate of around 4 percent—and what is actually being produced is enormous. By my calculations, it is upwards of $350 billion a year! This is an enormous waste of resources, a waste we can ill afford.

It is widely held that every expansion has within it the seeds of its own destruction—and that the greater the excesses, the worse the downturn. The Great Boom of the 1990s had marked excesses. Irrational optimism has been followed by an almost equally irrational pessimism. Consumer confidence is at its lowest level in more than seven years. The low personal savings rate that marked the Great Boom may put even more pressure of consumers to cut back consumption now.

It seemed to me that we were headed for a recession even before Sept. 11. In the coming months we will have the numbers that make clear that we are squarely in one now. The economic cost of the attacks went well beyond the direct loss of property, or even the disruption to the airlines. Anxieties impede investment. The mood of the country discourages the consumption binge that would have been required to offset the reduction in investment.

In any case, monetary policy—the Federal Reserve's lowering of short-term interest rates to heat up the economy—has been vastly oversold. Monetary policy is far more effective in reining in the economy than in stimulating it in a downturn, a fact that is slowly becoming apparent as the economy continues to sink despite a massive number of rate cuts; Tuesday's was the 10th this year.

The Bush administration's tax cut, which was also oversold as a stimulus, is likely to haunt the economy for years. Now the consensus is that a new stimulus package is needed; the president has ordered Congress to have one on his desk by the end of the month. Much of the stimulus debate has focused on the size of the package, but that is largely beside the point. A lot of money was spent on the Bush tax cut. But the $300 and $600 checks sent to millions of Americans were put largely into savings accounts.

What worries me now is that the new proposals—particularly the one passed by the Republican-controlled House—are also likely to be ineffective. The House plan would rely heavily on tax cuts for corporations and upper-income individuals. The bill would put zero—yes, zero—into the hands of the typical family of four with an annual income of $50,000. Giving tax relief to corporations for past investments may pad their balance sheets but will not lead to more investment now when we need it. Bailouts for airlines didn't stop them from laying off workers and adding to the country's unemployment.

The Senate Republican bill, which the administration backs, in some ways would make things even worse by granting bigger benefits to very high earners. For instance, the $50,000 family would still get zero, but this plan would give $500,000 over four years to families making $5 million a year—and much of that after (one hopes) the economy has recovered. It directs very little money to those who would spend it and offers few incentives for investment now.

It would not be difficult to construct a program with a much bigger bang for the buck:

America's unemployment insurance system is among the worst in the advanced industrial countries; give money to people who have lost their jobs in this recession, and it would be quickly spent.

Temporary investment tax credits also would help the economy. They are like a sale—they induce firms to invest now, when the economy needs it.

In every downturn, states and localities have to cut back expenditures as their tax revenues fall, and these cutbacks exacerbate the downturn. A revenue-sharing program with the states could be put into place quickly and would prevent these cutbacks, thus preserving vitally needed public services. Many high-return public investments could be put into place quickly—such as renovating our dilapidated inner-city schools.

This may all sound like partisan (Democratic) economies, but it's not. It's just elementary economics. If you really don't think the economy needs a stimulus, either because you think the economy is not going into a tailspin or because you think monetary policy will do the trick, only then would you risk a minimal-stimulus package of the kind the Republicans have crafted in both the House and Senate.

But what matters is not just how I or other economists see this: It matters how markets, both here and abroad, see things. The fact that medium- and long-term bond rates (that is, bonds that reach maturity in five or 10 years or more) have not come down in tandem with short-term rates is not a good sign. Nor is the possibility that the interest rates some firms pay for borrowing for plant and equipment may actually have increased.

In 1993, a plan of tax increases and expenditure cuts that were phased in over time, providing, reassurances to the market that future deficits would be lower, led to lower long-term interest rates. It should come as no surprise, then, that the Bush package, with its tax decreases and expenditure increases, would do exactly the opposite. The Federal Reserve controls the short-term interest rates—not the medium- and long-term ones that firms pay when they borrow money to invest, or that consumers pay when they borrow to buy a house, which are still far higher than the short-term rate, which now stands at its lowest level in 40 years. Whatever monetary policy does in lowering short-term rates can be largely undone by an administration's misguided fiscal policy, which can increase that gap between short and long rates; that gap has widened considerably.

Worse still, America has become dependent on borrowing from abroad to finance our huge trade deficits; and the reduction in the surplus is likely to exacerbate this (on average, the two move together). If foreigners become even less confident in America, they will shift their portfolio balance, putting more of the money elsewhere. That adjustment process itself could put strain on the U.S. economy. Before the terrorist attacks, confidence abroad in America and the American economy had eroded, with the bursting of the stock and dot-com bubbles. The two remaining pillars of strength were the quality of our economic management and our seeming safety. Both of these have now been questioned—and the stimulus package likely to become law has nothing to allay foreigners' fears.

As a former White House and then World Bank official, I have had the good (or bad) fortune to watch downturns and recessions around the world. Two features are worth noting.

First, standard economic models perform particularly badly at such times, they almost always underestimate the magnitude of the downturn. One relies on these models only at one's peril. The International Monetary Fund and the U.S. Treasury badly underestimated the magnitude of the Asian downturns of 1997—and this mistake was at least partly responsible for the disastrous IMF policies prescribed in Indonesia, Thailand and elsewhere.

Second, there are long lags and irreversibilities: Once it is clear that the downturn is deep, and a stronger dose of medicine is administered, it takes six months to a year for the effects to be fully felt. Meanwhile, the consequences can be severe. The bankrupt firms do not become unbankrupt and start functioning again.

Downturns are likely to be particularly severe when the economy is hit by a series of adverse shocks. Market economies such as ours are remarkably robust. They can withstand a shock or two. But even before terrorism came ashore, America had been hit badly. The attacks added political uncertainty to the already great economic uncertainty.

So here we are, facing a major downward spiral. This is where eroding confidence in economic management comes into play. John Maynard Keynes, the founder of modern macroeconomics, (including the notion of the stimulus) emphasized the importance and vagaries of *investers'* "animal spirits"—that is, the unpredictability of their optimism and pessimism. But expectations, rational or irrational, about the future are of no less importance to consumers. Those who are worried about losing their jobs are more likely to cut back on their spending and to save the proceeds from any tax cuts.

It was great fun being part of the Great Expansion. Every week brought new records—the lowest unemployment rate in a quarter-century, the lowest inflation rate in two decades, the lowest misery index in three. The good news fed on itself, and the confidence helped fuel the expansion. We took credit where we could, but I knew that much of this was good luck—and the Clinton administration and Fed not messing things up.

Now, every week brings new records in the other direction—the largest increase in unemployment and decline in manufacturing in two decades, the first quarterly fall in consumer prices in nearly a half-century, the slowest growth in nominal GDP in any two consecutive years since the 1930's. Americans love records, but unfortunately, these new ones are contributing to the already pervasive sense of anxiety. The Bush administration will not try to claim credit for these new records; rather, it will blame Sept. 11. Osama bin Laden is a convenient excuse, but the data will show his murderous henchmen were aiding and abetting at best: The economy was already sliding toward recession.

I wish I could be more optimistic about our economy's prospect. I worry that all of this naysaying will simply contribute to the downturn. Perhaps I am wrong, and the economy will, on its own, recover quickly.

But perhaps I am right. Then, without an effective stimulus, the U.S. economy will sink deeper into recession, and the rest of the world with it. An ineffective stimulus could be even worse: It would harm budgetary prospects, raising medium- and long-term interest rates. And when we see the false claims for what they are, confidence in our economy and in our economic management will deteriorate further. We have had a first dose of this particular medicine. We hardly need another.

Mr. HOLLINGS. Mr. President, earlier this week USA Today had an editorial entitled "Shopping for 2002 Votes, Dems, GOP Raid Surplus."

I will read the last sentence:

> In Washington, putting on a great show of activity to demonstrate concern for anyone's economic hurt may seem to be smart politics. But sometimes the best thing the government can do is nothing. This is one such time.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the USA-Today, Dec. 17, 2001]

SHOPPING FOR 2002 VOTES, DEMS, GOP RAID SURPLUS

DESPITE SIGNS OF ECONOMIC RECOVERY, CONGRESS INSISTS ON 'STIMULUS'.

What's wrong with this picture?

Just two weeks ago, the White House announced that not only have last winter's predictions of massive budget surpluses evaporated, but major deficits are predicted for at least the next three years, as well.

State governors from both parties are warning that homeland-security needs are going unaddressed for lack of funding.

Yet, instead of recognizing these new realities, Congress and the White House are spending the last days before their holiday recess trying to enact a hugely expensive "economic stimulus" package that is packed with tax cuts and social spending. And they're doing so even as the economy is showing signs of recovering on its own.

Stimulus clearly is not more dangerous than the lack of one. yet, instead of spiking the idea, congressional Democrats and Republicans are seeking a compromise. Not because the economy needs a jolt, but because each party sees it as an opportunity to score some points in the 2002 congressional campaigns:

House Republicans, on a largely party-line vote, passed a $100-billion package of tax cuts targeted overwhelmingly at corporations and individuals with incomes in the top 5% of the nation, coincidentally among the biggest sources of political contributions. The biggest tax breaks for business weren't targeted at job creation but at refunding taxes already paid as long ago as 1986. Many of the cuts for individuals—questionable during a budget squeeze in any case—wouldn't take effect until 2003, when the recession is likely to be long over.

Senate Democrats are headlining a $600 tax rebate for working-poor families that didn't earn enough to benefit from last summer's income-tax rebates, as well as a one-month holiday from payroll taxes. It's a nice appeal to their blue-collar political base, but normally fractious economists almost all agree it's no stimulus: Repeated studies show one-shot cash windfalls are likely to go to reduce debt or bolster savings, not to spending that would stimulate the economy. Similarly, extending unemployment benefits and helping to pay for health insurance sound like noble objectives—but backdoor welfare, even if needed, is no kick-start for a troubled marketplace.

The Bush administration murmurs piously about compromise, but what the president and his aides are hinting at looks a lot like the old Washington game: doling out the political bonbons for both sides to claim victory, with little concern for economic justification.

Meanwhile, the money just isn't there. The return to red ink is so abrupt that the Treasury asked Tuesday for a hike in the government's borrowoing limit, to a whopping $6.7 trillion. The current ceiling, $5.95 trillion and just three months ago headed rapidly downward, may be reached as soon as February.

In Washington, putting on a great show of activity to demonstrate concern for anyone's economic hurt may seem to be smart politics. But sometimes the best thing the government can do is nothing. This is one such time.

Mr. HOLLINGS. Mr. President, the Wall Street Journal printed an article earlier this week on Monday entitled, "The Stimulus Fiasco." I ask unanimous consent this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 17, 2001]

THE STIMULUS FIASCO

In the not-so-epic battle over fiscal "stimulus," the shouting has all come down to this: The White House is demanding that the 27% income-tax rate, be cut to 25%, while Senate Majority Leader Tom Daschle is insisting on a mere 26%. Only in Washington would anyone believe that either one is going to make much economic difference.

If this is all that the politicians can come up with, we have a modest proposal: Pack it in. The economy will be better off if President Bush calls the whole thing off and instead focuses on abosrbing the lessons of this political fiasco.

Not that we expect this to happen. The point of this exercise long ago stopped being economic growth and became political advantage. Mr. Bush wants to be able to sign something—anything—he can call "stimulus" to show voters he isn't like his father and cares about more than foreign policy. Mr. Daschle knows this, so he wants to deny Mr. Bush any tax cuts that might actually stimulate in favor of loading up on tax rebates, jobless benefits, health-care subsidies and other things that will redistribute income to his political constituencies. And it looks as if he's going to prevail.

This is clear from Mr. Bush's latest counter-offer last week to Mr. Daschle dictating the terms of his own surrender. Gone was the across-the-board acceleration of individual income-tax rates that he originally wanted and that his own economists believe would be the best economic medicine. Mr. Bush is still requesting some corporate tax relief, such as a temporary speedup in depreciation and scaling back the corporate alternative minimum tax. But these will only pad business balance sheets for a while and do little to alter long-term incentives. Meanwhile, the President gave in to Mr. Daschle on tax rebates for low-in-come Americans who didn't get them last summer—that is, for people who pay little or no income tax anyway.

What really matters now is not whether a deal is struck this week but what lessons Mr. Bush learns from his looming defeat. We'd suggest at least two. The first is that only thing bipartisan abut Mr. Daschle is his smile. Like his mentor, George Mitchell, who destroyed Mr. Bush's father, Mr. Daschle wants to make Mr. Bush a one-term President. Rumors abound that the South Dakotan plans to run himself, but even if he doesn't he represents a Senate Caucus loaded with other potential candidates (John Kerry, Joe Lieberman, John Edwards, Hillary Clinton, Joe Biden).

All of them are pursuing the Daschle strategy of wrapping their arms around a popular President on the war. But on domestic policy they are competing against one another for advantage among the Democratic Party's liberal interest groups. This critical mass of Presidential ambition is inevitably pulling the entire Democratic Senate to the left. In the stimulus debate, it explains why Mr. Daschle established the absurd condition that any "bipartisan" compromise had to be supported by two-thirds of all Senate Democrats. That means any 17 Democrats can kill anything, and there are more than enough Caucus liberals to do that.

If Mr. Bush wants to know where Democrats will go next, all he had to do was watch Mrs. Clinton a week ago Sunday on NBC's "Meet the Press." While praising Mr. Bush to the skies on the war, she also came out for repealing the tax cuts that the Congress already passed this summer. By not fighting harder to accelerate all of his rate cuts now, the President has left himself open to a three-year defensive battle to keep what he's already won.

Mr. Bush might as well recognize this now and plan accordingly. The only way he will get anything done in the Senate between now and 2004 is to move public opinion on the issues or beat Democrats at the polls in 2002. The worst habit in this environment is to negotiate with yourself, which is what has happened to Mr. Bush on "stimulus." The President first gave Democrats $40 billion in new spending, but got no tax promises in return. Then he conceded on jobless benefits, but also got nothing, then on tax rebates, for which Mr. Daschle seems to have handed him only the token one-percentage point cut in the 27% rate.

The second lesson is that Mr. Bush's economic team failed him. Counselor Larry Lindsey gave him outdated Keynesian advice, assuring him against all evidence that tax rebates would spur growth. Treasury Secretary Paul O'Neill has provided no direction that we've noticed, offering only tentative counsel on policy and tripping over his own tongue on the politics. If this team were running the war in Afghanistan, the Marines would be the ones surrounded at Tora Bora.

The silver lining is that the economy may recover on its own without any fiscal stimulus. Ed Hymen of the ISI Group says he sees more signs of recovery by the week, oil prices are down and the Fed has provided ample liquidity (maybe too much if you look at the 10-year Treasury bond rate that hasn't fallen with Fed easing). This means Mr. Bush can afford to reject the phony stimulus that is now emerging from Congress. But in the long run he owes Americans coping with hard times a better domestic political strategy and a stronger economic team.

Mr. HOLLINGS. I will read the last sentence:

> But in the long run [Mr. Bush] owes Americans coping with hard times a better domestic political strategy and a stronger economic team.

That is the first time I heard the Wall Street Journal ask for a stronger economic team. The reason is because we are in deep trouble.

We ended up last fiscal year, which ended just 3 months ago, on September 30 with a deficit of $141 billion. That was not as a result of September 11.

I ask unanimous consent to print in the RECORD a Wall Street Journal editorial dated August 16.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 16, 2001]

NASDAQ COMPANIES' LOSSES ERASE 5 YEARS OF PROFIT

(By Steve Liesman)

Mounting losses have wiped out all the corporate profits from the technology-stock boom of the late 1990s, which could make the road back to the previous level of profitability longer and harder than previously estimated.

The massive losses reported over the most recent four quarters by companies listed on the Nasdaq Stock Market have erased five years' worth of profits, according to figures from investment-research company Multex.com that were analyzed by The Wall Street Journal.

Put another way, the companies currently listed on the market that symbolized the New Economy haven't made a collective dime since the fall of 1995, when Intel introduced the 200-megahertz computer chip, Bill Clinton was in his first term in office and the O.J. Simpson trial obsessed the nation. "What it means is that with the benefit of hindsight, the late '90s never happened," says Robert Barbera, chief economist at Hoenig & Co.

The Wall Street Journal analysis looked at earnings excluding extraordinary items going back to September 1995 for about 4,200 companies listed on Nasdaq, which is heavily weighted toward technology stocks but also includes hundreds of financial and other growth companies. For the most recently reported four quarters, those companies tallied $148.3 billion in losses. That roughly equaled the $145.3 billion in profit before extraordinary items these companies have reported since September 1995. Because companies have different quarter-ending dates, the analysis doesn't entirely correspond to calendar quarters.

Large charges that aren't considered extraordinary items were responsible for much of the red ink, including restructuring expenses and huge write-downs of inventories and assets acquired at high prices during the technology bubble.

Analysts, economists and accountants say these losses raise significant doubts about both the quality of past reported earnings and the potential future profit growth for these companies. Ed Yardeni, chief investment strategist at Deutsche Banc Alex. Brown, said the losses raise the question of "whether the Nasdaq is still too expensive. These companies aren't going to give us the kind of awesome performance they did in the '90s, because a lot of it wasn't really sustainable."

The Nasdaq Composite Index stood at around 1043 in September 1995, soared to 5048.62 in March 2000 and now stands at 1918:89. Because companies in the Nasdaq Composite Index now have a cumuluative loss, for the first time in memory the Nasdaq's value can't be gauged using the popular price-earnings ratio, which divides the price of stocks by their earnings. That means it is impossible to say whether the market is cheap or expensive in historical terms.

The extent of the losses surprised a senior Nasdaq official, who asked not to be named. "I wouldn't have thought they were that high," he said.

Nasdaq spokesman Andrew MacMillan, while not disputing the losses, pointed to the $1.5 trillion in revenue Nasdaq companies generated over the past year, saying that represented "a huge contribution to the economy, to productivity, and to people's lives . . . regardless of what's happening to the bottom line during a rough business cycle."

Satya Pradhuman, director of small-capitalization research at Merrill Lynch, says the recent massive losses tell a story of a market where investors became focused on revenue instead of earnings. With billions of dollars in financing chasing every glimmer of an Internet idea, Mr. Pradhuman says, a lot of companies came to market long before they were ready.

"The underwriting was very aggressive, so earlier-stage companies came to market than the kind of companies that came to market five or 10 years ago," he adds. He believes there is plenty of potential profitability out there in this crop of young companies, But, he notes, "only among those that survive."

The data show that the very companies whose technology products were supposed to boost productivity and help smooth out the business cycle by providing better information have been among the hardest-hit in this economic slowdown. "Management got caught up with how smart they were and completely forgot about the business cycle and competition," says Mr. Yardeni. "They were managed for only ongoing success."

To be sure, some of Nasdaq's largest star-powered companies earned substantial sums over the period. Intel led the pack with $37.6 billion in profit before extraordinary items since September 1995, followed closely by Microsoft's $34.6 billion in earnings. Together, the 20 most profitable companies earned $153.3 billion, compared with losses of $140.9 billion for the 20 least profitable. Included in the losses was a $44.8 billion write-down of acquisitions by JDS Uniphase and an $11.2 billion charge by VeriSign, also to reduce the value on its book of companies it had bought with its high-price stock.

These charges lead some analysts and economies to believe that including these losses overstates the magnitude of the decline. According to generally accepted accounting principles, these write-offs are treated as regular expenses. But corporate executives say they should be treated as one-time items. "It's an accounting entry rather than a true loss," maintains Bill Dudley, chief U.S. economist at Goldman Sachs Group.

Removing these unusual charges, the losses over the most recently reported four quarters shrink to $6.5 billion on a before-tax basis. By writing down the value of assets, companies have used the slowdown to clean up their balance sheets, a move that should allow them to move forward with a smaller expense base and could pump up future earnings.

"It sets the table for future dramatic growth," says independent accounting analyst Jack Ciesielski. Because of the write-downs, "when the natural cycle begins again, the returns on assets and returns on equity will look fantastic." But Mr. Ciesielski adds that this benefit will be short-lived.

Cicso Systems in the first quarter took a $2.25 billion pretax inventory charge. This quarter, it partly reversed that write-down taking a gain of $187 million from the revaluation of the previously written-down inventory. The reversal pushed Cisco into the black.

But Mr. Barbera warns that investors shouldn't be so quick to ignore the unusual charges. For example, during good times it wasn't unusual for companies to book large gains from investments in other companies. Now that the value of those investments are under water, companies are calling the losses unusual. "If they are going to exclude the unusual losses, then they should exclude the unusual gains," says Mr. Barbera.

Mr. HOLLINGS. I read from the article:

> The Wall Street Journal analysis looked at earnings excluding extraordinary items going back to September 1995 for about 4,200 companies listed on Nasdaq, which is heavily weighted toward technology stocks, but also includes hundreds of financial and other growth companies. For the most recently reported four quarters those companies tallied $148.3 billion in losses. That roughly equaled the $145.3 billion in profit before extraordinary items these companies have reported since September 1995.

It is as if the last 5 years never occurred. What did I have to listen to as a long-time member of the Budget Committee? Surpluses as far as the eye can see, they said in June when the President signed the $2.3 trillion tax cut. I want to say it right as a Senator saying we ought to be increasing revenues, paying our way.

I see the distinguished former Governor of Florida in the Chamber. We could not get by as Governors in our States unless we had a triple-A credit rating. None of these industries are going to expand and come to us at all.

What really hearkened this particular Senator because we never seem to learn. The same act, same scene 20 years ago: David Stockman, the head of President Reagan's economic team, the Director of his Office of Management and Budget, in his book, "The Triumph of Politics," talks about the Trojan horse, growth-growth, Kemp-Roth, and what we had entitled "voodoo No. 1." Now we have voodoo No. 2. Referring to voodoo No. 1 on page 342, at the end of the year in November after they passed the tax cuts, we immediately went into recession, which is exactly what has happened in the year 2001.

I quote:

> [President Reagan] had no choice but to repeal, or substantially dilute, the tax cut.

Can you imagine that?

> He had no choice but to repeal, or substantially dilute, the tax cut. That would have gone far toward restoring the stability of the strongest capitalist economy in the world. It would have been a great act of statesmanship to have admitted the error back then, but in the end it proved too mean a test. In November 1981, Ronald Reagan chose not to be a leader but a politician, and in so doing he showed why passion and imperfection, not reason and doctrine, rule the world. His obstinacy was destined to keep America's economy hostage to the errors of his advisers for a long time.

That is exactly our dilemma now. For those who regret the non-passage of the stimulus bill, go to Sunday school and thank the Good Lord because—as Stiglitz said and as the USA Today said and as the Wall Street Journal said and now as Dave Stockman said 20 years ago—we ought to be removing those tax cuts, repealing that $2.3 trillion.

It is not the confidence of consumers, it is the confidence of the market. The money boys who really govern the economic affairs of this country—the $2 trillion is still going to be lost.

How much are we up? I ask unanimous consent to print in the RECORD, the deficit to the penny as included by none other than the Secretary of Treasury.

It is entitled the Public Debt to the Penny. That is the Secretary of the Treasury. I ask unanimous consent that this document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DEBT, TO THE PENNY

	Amount
Current:	
12/19/2001	$5,883,339,152,814.48
Current Month:	
12/18/2001	5,881,570,635,636.22
12/17/2001	5,875,160,714,473.71
12/14/2001	5,875,869,812,211.80
12/13/2001	5,875,559,240,572.48
12/12/2001	5,877,463,679,105.98
12/11/2001	5,879,691,857,799.79
12/10/2001	5,877,125,427,843.37
12/07/2001	5,874,922,950,915.27
12/06/2001	5,877,883,213,016.24
12/05/2001	5,868,016,815,751.26
12/04/2001	5,867,886,281,057.86
12/03/2001	5,862,832,382,763.04
Prior months:	
11/30/2001	5,888,896,887,571.34
10/31/2001	5,815,983,290,402.24
Prior fiscal years:	
09/28/2001	5,807,463,412,200.06
09/29/2000	5,674,178,209,886.86
09/30/1999	5,656,270,901,615.43
09/30/1998	5,526,193,008,897.62
09/30/1997	5,413,146,011,397.34
09/30/1996	5,224,810,939,135.73
09/29/1995	4,973,982,900,709.39
09/30/1994	4,692,749,910,013.32
09/30/1993	4,411,488,883,139.38
09/30/1992	4,064,620,655,521.66
09/30/1991	3,665,303,351,697.03
09/28/1990	3,233,313,451,777.25
09/29/1989	2,857,430,960,187.32
09/30/1988	2,602,337,712,041.16
09/30/1987	2,350,276,890,953.00

Source: Bureau of the Public Debt.

THE DEBT TO THE PENNY AND WHO HOLDS IT

[Beginning 1/31/2001]

	Debt held by the public	Intragovernmental holdings	Total
Current:			
12/19/2001	3,410,253,888,547.10	2,473,085,264,267.38	5,883,339,152,814
Current month:			
12/18/2001	3,409,529,106,007.83	2,472,041,529,628.39	5,881,570,635,636
12/17/2001	3,409,404,133,952.59	2,465,756,580,521.12	5,875,160,714,473
12/14/2001	3,411,315,816,347.79	2,464,553,995,864.01	5,875,869,812,211

THE DEBT TO THE PENNY AND WHO HOLDS IT—Continued

[Beginning 1/31/2001]

	Debt held by the public	Intragovernmental holdings	Total
12/13/2001	3,411,300,511,893.02	2,464,258,728,679.46	5,875,559,240,572
12/12/2001	3,410,599,497,172.45	2,466,864,181,933.53	5,877,463,679,105
12/11/2001	3,410,412,991,136.99	2,469,278,866,662.80	5,879,691,857,799
12/10/2001	3,410,374,030,620.89	2,466,751,397,222.48	5,877,125,427,843
12/07/2001	3,410,332,012,889.24	2,464,590,938,026.03	5,874,922,950,915
12/06/2001	3,409,948,417,231.43	2,467,934,795,784.81	5,877,883,213,016
12/05/52001	3,399,263,255,412.91	2,468,753,560,338.35	5,868,016,815,751
12/04/2001	3,399,212,246,226.65	2,468,674,034,831.21	5,867,886,281,057
12/03/2001	3,399,094,184,616.49	2,463,738,198,146.55	5,862,832,382,763
Prior months:			
11/30/2001	3,404,026,838,038.17	2,484,870,049,533.17	5,888,896,887,571
10/31/2001	3,333,039,379,996.92	2,482,943,910,405.32	5,815,983,290,402
Prior fiscal years:			
09/28/2001	3,339,310,176,094.74	2,468,153,236,105.32	5,807,463,412,200

THE DEBT TO THE PENNY AND WHO HOLDS IT

[Thru 1/30/2001]

	Debt held by the public	Intragovernmental holdings	Total
Prior months:			
01/30/2001	3,369,903,111,703.32	2,370,388,014,843.13	5,740,291,126,546
12/29/2000	3,380,398,279,538.38	2,281,817,734,158.99	5,662,216,013,697
11/30/2000	3,417,401,544,006.82	2,292,297,737,420.18	5,709,699,281,427
10/31/2000	3,374,976,727,197.79	2,282,350,804,469.35	5,657,327,531,667
Prior fiscal years:			
09/29/2000	3,405,303,490,221.20	2,268,874,719,665.66	5,674,178,209,886
09/30/1999	3,636,104,594,501.81	2,020,166,307,131.62	5,656,270,901,633
09/30/1998	3,733,864,472,163.53	1,792,328,536,734.09	5,526,193,008,897
09/30/1997	3,789,667,546,849.60	1,623,478,464,547.74	5,413,146,011,397

Mr. HOLLINGS. We are already $76 billion in the red in addition to the $141 billion we ended up in the red this last fiscal year. We had to listen to Alan Greenspan say, "Oh, wait a minute; we might pay off the debt too quick."

We had $5.6 trillion and surpluses as far as the eye could see, and now what do they need to do? They need to increase the debt limit. They asked us the other day, let us increase the debt limit.

The debt limit, according to the budget and economic outlook for fiscal years at the beginning of the year, they said, and I quote: "Under those projections, the debt ceiling would be reached in 2009." That is what they told us 11 months ago, that in 2009 the debt limit was going to be reached. The first order of business when we come back in January and February is to increase the debt limit, all on account of a rosy scenario, all on account of—what do they call it?—voodoo number two.

We better sober up and start paying the bill in Washington.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

LACK OF ACTION ON STIMULUS BILL

Mr. GRASSLEY. Mr. President, I am happy to be able to have some time to comment on the fact the Senate is not bringing up the stimulus package. It is to my chagrin, after all the hard work Senator BAUCUS and I have put into these negotiations. Albeit what we have in front of us is not a product of a conference committee, it is still a White House bipartisan compromise, a White House Centrist compromise, that would get a majority vote of the Senate if we had actually had an opportunity to vote on it.

In normal circumstances, I would not be one to say we ought to pass a House bill. These are, however, not normal times and this is not a normal process. Some will say this is a House product that needs to be amended and debated. That assertion, while technically accurate, does not capture the essence of our situation today or right now that we are in a war on terrorism.

The House bill is really the product of an agreement between the White House and Senate Centrists so I am going to call the House bill what it really is. It is a White House Centrist agreement, if you are looking for a bipartisan, bicameral product the President will sign. The President said he would sign this. This agreement is the only game in town.

To anyone opposing this agreement, including the Democrat leadership, I ask them to show me where they are being bipartisan. All I have seen from the leadership throughout this process is an iron fist cloaked in a velvet glove.

Today, we did witness, with the objection to consideration of the stimulus package, the iron fist clothed in an eloquent velvet glove, displayed once again, similar to what we have done on other issues like insurance and like a stimulus package earlier on.

Today that iron fist smashed the White House Centrist agreement. The American people will not be well served by the destruction of the White House Centrist agreement. All it means is that after 3 months of long meetings, committee action, floor debates, we, the Senate, will not deliver to the American people.

The House has delivered. The President has delivered. One has to wonder, then, why are we stuck? If we can get a bipartisan majority in the Senate, action by the House and a signature by the President, why does a partisan minority of the majority party decide to thwart the will of the people? Why, especially now?

Our Nation is in a state of war on terrorism. Our President is necessarily occupied as Commander in Chief to run that war. Why, on a matter of economic stimulus and aid to dislocated workers, did the President have to come to the Hill yesterday to try and break a logjam? Why did the Democratic leadership give his effort the back of their hand? Why did the bipartisan objectives go by the wayside? I will take a few minutes to talk about how we got here.

Shortly after September 11, we started out with meetings with Chairman Greenspan and other economic policymakers. For the most part, they were called by the good chairman of the Senate Finance Committee, Senator BAUCUS. In that period, right after September 11, the President took first steps and took the risk by committing to a stimulus package, fully aware we might be going in the budget "red" if we did.

We should not discount this leadership by the President. Certainly it took courage, and it was the right thing to do. Chairman Greenspan also took the lead and gave the "Greenspan green light" to pursue a stimulus package. It seemed everyone realized our responsibility was to heed the President's directive and Greenspan's advice. Both of these men said Congress should address the economic slowdown. They told us the slowdown started over 1 year ago. Subsequently, the National Board of

Economic Research told us the economy might have recovered but for the September 11 attack.

The President took the lead in meeting needs of dislocated workers. He proposed extension of unemployment insurance benefits. He also proposed providing health care benefits through the National Emergency Grants.

In addition, the President proposed, as a concession to the other party, a new round of rebate collection to those who do not pay income tax.

Was there any reciprocation, any movement from the Democratic leadership? No.

President Bush, much to the consternation of many in the Republican Party, took capital gains tax off the table because it was not well received by Democrats. Was there any reciprocation on the part of the Democratic leadership? No.

This is not to say we did not agree on some things. Bonus depreciation, for instance, was agreed to by each side. Although we did not have it in our caucus position, Republicans agreed with Democrats on liberalizing the net operating loss rules and expensing for small business.

I do not also discount the ideologically based opposition to accelerating the reduction of the 27 percent bracket, but it is amazing to me that many on the other side see taxpayers in the 27 percent bracket as rich people.

A 2 percent rate cut for single folks earning between $27,000 and $65,000 is seen as a tax cut for the very wealthy by the Democrat leadership. Likewise, a married couple with incomes between $45,000 and $109,000 are considered rich. I recognize this tax cut proposal was difficult for the Democratic leadership to accept. After a series of bipartisan, bicameral talks, the House went its own way with a bill; too heavy for me on corporate AMT. It passed by just two votes.

The Senate Democratic leadership responded in kind. The result was a Democratic Caucus partisan position paper reduced to legislation they rammed through our Finance Committee on a party line vote. That bill dead ended in the Senate. The reason is the bill was designed for partisan point making. Its partisan design was its weakness in an institution like the Senate where one only gets things done on a bipartisan basis. That design guaranteed its failure.

We could have ended there, but the President forced us back into action. Frankly, the House also yielded on a very bad bill they first passed.

The result was a quasi-conference environment to work out differences. By virtue of this quasi-conference, my friends JAY ROCKEFELLER and MAX BAUCUS, our chairman, and I spent many long hours debating the merits of economic stimulus and aid to dislocated workers. In many ways, the discussions were vigorous exchanges of views with our House colleagues. A lot of that discussion was healthy, and some of it helped move the process along.

Little real progress was made. Once again, the President intervened and endorsed the Senate Centrist position. Eventually, the House leadership came toward the Centrist position because they wanted to find a way to get a bill through the Senate, and that can only be done if it is done on a bipartisan basis. Even with movement to the Centrist position, the quasi-conference was at an impasse. Senator DASCHLE's edict about 3 weeks ago that one-third of his caucus could veto a stimulus plan came into clear focus. The sentiments of the House or White House, let alone the sentiments of Joe Six-pack out there working every day to pay taxes, were less important than the opinion of a minority of the Democratic Senators, which would be as few as 18. The failure to obtain a super-majority in the Democratic caucus then imperiled this Centrist package, this Centrist bipartisan package.

In the end, the impasse came not from tax cuts. Republicans moved far off their priorities so that tax cuts were not the deal breaker. The impasse was not over unemployment benefits. Republicans had largely moved to the Democratic position. The impasse was not over the amount of the health care benefit package. Again, though the benefit came in the form of a tax credit, Republicans moved toward a Democratic position on the costs of health care benefits.

Bizarre as it may seem, the whole agreement broke down over some ideological position on the eligibility of people for health insurance for the unemployed through just COBRA. The impasse came down not over whether to help these workers. The White House Centrist agreement covered these workers with a tax credit. The Senate Democratic bill covers these workers with a new entitlement. Basically, a super-majority of Democrats would not agree to let laid-off workers have the choice of where they wanted to get their health care benefits. But they could still get their health care benefits with the same tax credit.

The bottom line is the White House-Centrist agreement does not meet the two-thirds litmus test set for the Democratic caucus by the leader.

One has to wonder, why leave all of these good things in the White House-Centrist agreement on the Senate cutting room floor, as just happened about an hour ago? We have before the Senate revolutionary social policies. For the first time, Members have sign-able legislation that guarantees health care benefits for laid-off workers—the biggest change in policy for dislocated workers since unemployment insurance was passed in the 1930s.

We have, in the bill that was objected to, extended unemployment benefits as we have done several times in the last 50 years. We have a robust stimulus package with 30 percent bonus depreciation. We have an extension of expiring tax provisions for 2 years. We have the victims of terrorism tax relief and tax incentives to build New York City once again.

All of these are good provisions which enjoy broad bipartisan support. They are the foundation of the White House-Centrist agreement. Yet because of this ideological fixation, all of these good things now go by the wayside until we return 1 month from now on January 23. While we are going to be enjoying Christmas, these dislocated workers who could have been guaranteed health benefits and further unemployment compensation are going to go away empty handed.

I will look at each key player in the process and see how much movement there has been. Common sense says those who want a deal will show movement. By the same token, those who do not want a deal will not move.

Start with the President. As I said, he made several key moves. He put the dollars on the table, knowing it would complicate the fiscal year 2002 budget. He took capital gains off the table. He put the payroll tax rebates on the table. He put the unemployment insurance and health care benefits on the table. Finally, he endorsed even a plan that went much further in the case of health care benefits, from $3 billion up to $19 billion. That is in the White House-Centrist agreement.

When you look at the record, it is clear to me that the President of the United States wanted a deal, an economic security package for dislocated workers and to help create jobs for those who do not have jobs.

At the House of Representatives, I agree that the first bill, as I said before, from that body was too heavy on the corporate alternative minimum tax. But the chairman of the Ways and Means Committee made many gestures to the other side. For instance, he did not pick and choose among extenders. He included the payroll tax rebate that many of his Members in the other body opposed. The chairman of the Ways and Means Committee increased the resources for unemployment compensation and health care benefits. If you doubt me on the seriousness of that movement, ask many in my caucus their opinion of those proposals. If you look at the record, the House Republicans moved and ultimately ended up as part of the White House-Centrist agreement.

Senate Republicans had a caucus position very close to the President's plan. Like the President, Senate Republicans, especially our leader, Senator LOTT, constantly worked to try to get a deal. As the President moved, so did the Senate Republican caucus position move. That is in the Record.

That brings us to the last and ultimate critical player. Obviously, that is the Senate Democratic leadership. I ask, where has the Senate Democratic leadership really moved? At every stage of the process, whether it is the Finance Committee action, whether the action on the floor, or even the quasi-conference, ultimately we find this leadership position always saying "no". Everyone else was saying "yes".

Now there is a good game being talked by the other side. They say they want an agreement. That is the elegant velvet glove they are noted for, but where is the action? The action today was "no" on unanimous consent request. But look at the whole last 3 months on this issue. Where have they moved? If you want an agreement, you have to see movement. There has been none.

One has to ask, with so many good provisions in this White House-Centrist agreement, why should the Democratic leadership want to kill it? The President has expressed that polling data, political consultants, and union officials had a big impact on the Senate Democratic leadership strategy.

I ask unanimous consent to have printed in the Record an editorial from the Wall Street Journal that states in depth what the consultants say.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Wall Street Journal]

President Daschle

One of the more amusing Washington themes of late has been the alleged revival of the Imperial Presidency, with George W. Bush said to be wielding vast, unprecedented powers. Too bad no one seems to have let Senate Majority Leader Tom Daschle in on this secret.

Because from where we sit Mr. Daschle is the politician wielding by far the most Beltway clout, and in spectacularly partisan fashion. The South Dakotan's political strategy is obvious if cynical: He's wrapping his arms tight around a popular President on the war and foreign policy, but on the domestic front he's conducting his own guerrilla war against Mr. Bush, blocking the President's agenda at every turn. And so far he's getting away with it.

Mr. Bush has asked Congress to pass three main items before it adjourns for the year: Trade promotion authority, and energy and economic stimulus bills. Mr. Daschle has so far refused to negotiate on any of them, and on two he won't even allow votes. Instead he is moving ahead with a farm bill (see below) the White House opposes, and a railroad retirement bill that is vital to no one but the AFL–CIO.

Just yesterday Mr. Daschle announced that "I don't know that we'll have the opportunity" to call up an energy bill until next year. One might think that after September 11 U.S. energy production would be a war priority. In September alone the U.S. imported 1.2 million barrels of oil a day from Iraq, which we soon may be fighting, the highest rate since just before Saddam Hussein invaded Kuwait in 1990.

But Mr. Daschle is blocking a vote precisely because he knows Alaskan oil drilling has the votes to pass; earlier this autumn he pulled the bill from Senator Jeff Bingaman's Energy Committee when he saw it had the votes. So much for the new spirit of Beltway cooperation.

We're not so naive as to think that war will, or should, end partisan disagreement. But what's striking now is that Mr. Daschle is letting his liberal Old Bulls break even the agreements they've already made with the White House. Mr. Bush shook hands weeks ago on an Oval Office education deal with Teddy Kennedy, but now we hear that Mr. Kennedy wants even more spending before he'll sign on. Mr. Daschle is letting Ted have his way.

The same goes for the $686 billion annual spending limit that Democrats struck with Mr. Bush after September 11. That's a 7% increase from a year earlier (since padded by a $40 billion bipartisan addition), and Democrats made a public fanfare that Mr. Bush had endorsed this for fear some Republicans might use it against them in next year's elections. But now Mr. Daschle is using the issue against Mr. Bush, refusing to even discuss an economic stimulus bill unless West Virginia Democrat Bob Byrd gets his demand for another $15 billion in domestic spending.

Mr. Byrd, a former majority leader who thinks of Mr. Daschle as his junior partner, may even attach his wish list to the Defense spending bill. That would force Mr. Bush to either veto and forfeit much-needed money for defense, or sign it and swallow Mr. Byrd's megapork for Amtrak and Alaskan airport subsidies.

All of this adds to the suspicion that Mr. Daschle is only too happy to see no stimulus bill at all. He knows the party holding the White House usually gets most of the blame for a bad economy, so his Democrats can pad their Senate majority next year by blaming Republicans. This is the same strategy that former Democratic leader George Mitchell pursued in blocking a tax cut during the early 1990s and then blaming George H.W. Bush for the recession. Mr. Mitchell's conigliere at the time? Tom Daschle.

It is certainly true that Republicans have often helped Mr. Daschle's guerrilla campaign. Alaska's Ted Stevens is Bob Byrd's bosom spending buddy; he's pounded White House budget director Mitch Daniels for daring to speak the truth about his pork. And GPO leader Trent Lott contributed to the airline-security rout by letting his Members run for cover.

The issue now is whether Mr. Bush will continue to let himself get pushed around. Mr. Daschle is behaving badly because he's assumed the President won't challenge him for fear of losing bipartisan support on the war. But this makes no political sense: As long as Mr. Bush's war management is popular, Mr. Daschle isn't about to challenge him on foreign affairs.

The greater risk to Mr. Bush's popularity and success isn't from clashing with the Daschle Democrats over tax cuts or oil drilling. It's from giving the impression that on everything about the war, Tom Daschle might as well be President.

Mr. GRASSLEY. Mr. President, I also ask unanimous consent to have printed in the Record a portion of a November 13 memo from Democracy Corps regarding the economic stimulus proposals.

There being no objection, the material was ordered to be printed in the Record, as follows:

Politics After the Attack—A Report on Democracy Corps' New National Survey and Focus Groups

* * * * *

THE ECONOMIC STIMULUS

Voters do not currently bring a strong partisan filter to the various economic proposals being considered. Nonetheless, a majority support every Democratic proposal; in fact, two-thirds favor every Democratic proposal but one (the tax rebate). Overall, the Democratic proposal does better than the Republican—particularly those features that have led the public debate, like the Alternative Minimum Tax.

Across the Democratic and Republican packages, the strongest support is for unemployment benefits for the newly unemployed; delaying tax cuts for the wealthiest one percent in order to fund rebuilding and Social Security; funding ready-to-go infrastructure to create jobs; accelerating already scheduled broad middle class tax cuts; Cobra health insurance for the newly unemployed; and tax incentives for business if clearly linked to new investment.

The public rallies to four elements of the Democratic plan. The starting point is the immediate construction program, including airport improvements and school modernization to create jobs. That has the broadest support (85 percent) and nearly the most intense—48 percent strongly supportive.

There is strong support for delaying the tax cuts for the top one percent (those earning more than $375,000 a year) in order to fund the rebuilding and security and to make sure we do not keep borrowing from the Social Security trust fund. Two-thirds of the electorate favors this proposal, but most important, more than half (51 percent) strongly favor it—the highest for any Democratic proposal. One person noted that they used to laugh about the "Social Security lock box," "Well, there it goes. . . . Well, that's all our money." That sentiment reverberated across the groups: "It's not their money anyhow"; "that's what we paid into for our own security, [and] that's not something they should say, well, we got this money here, we can use it however we want." And some said, "I mean don't delay, just eliminate that tax cut for these people."

Cobra coverage health care for the newly unemployed stands out, on its own, as a very important thing to do at this moment. People understand the rising cost of health care and how expensive coverage can be for anyone.

It is important to underscore that three-quarters of the public favors a Democratic proposal for business tax incentives to encourage investment in new plants and equipment. The public wants tax breaks, including for business, if the provision is linked to investment, not simply consumption. People are looking for initiatives, consistent with this new period. One of the participants observed, "The tax cut is tied to investment to encourage them to move forward, not just a blanket."

Unemployment benefits for the newly unemployed are immensely popular. When offered by the Republicans and targeted at those who have lost their jobs after September 11th, 85 percent favor the idea, including 53 percent who strongly favor it. Presented with an expansive Democratic proposal—extending benefits to 26 weeks, while raising weekly benefits and covering part-time employees—more than two-thirds support it, but less enthusiastically.

In the focus groups, many participants worried that such an expansive proposal might re-open the old welfare system. That is why the unemployment proposals should be part of a broad Democratic economic package.

On taxes, voters offer a fairly consistent posture, whether offered by Democrats or Republicans. They support business tax cuts, even a capital gains tax cut, when it includes the wording, "in order to encourage investment." Voters seem to support an accelerated schedule for tax cuts aimed at the middle class—such as the marriage penalty. But there is little enthusiasm for the tax rebate whether proposed by Democrats or by Republicans—just 56 percent. The weak reaction to the rebate reflects our earlier observations—a citizenry focused on addressing the community's crisis and long-term needs, rather than simply throwing money at individuals to consume now.

Cuts in corporate tax rates, with no immediate spur to investment, gets little support (46 percent). Repeal of the Alternative Minimum Tax, providing $25 billion in tax cuts for large businesses wins the support of only 28 percent. When presented specifically with tax cuts for IBM, GE and General Motors, voters are simply incredulous. Now the leading element of the House Republican package, this is likely to shape public perceptions of the Republicans' approach to the economy. This may become one of the substantive elements in the public's desire to balance the President's direction.

Mr. GRASSLEY. I was not in on the meetings with the Democratic consultant, so I do not know if it is was true or not, but Members can read it and make their own determination.

The theory from the articles is the political strategy of the Democratic leadership is to covertly thwart any stimulus and aid to dislocated workers. It is good to keep these issues as "issues" to beat up on the President next year and on Republicans, particularly if the economy does not recover. If the economy does recover, what is lost except stimulative tax relief and some worker aid? Better to keep the issue than to act now is the way it turns out.

So goes the theory, then. Apply the iron fist, but do it covertly, using the velvet glove so as to escape responsibility for your actions.

I hope this is a cynical political theory, but that it is not true. If it is, and only the Democratic leadership really knows if it is true. If it is true, it is sad and it is disappointing. If true, it is politics at its worst. I only hope the articles are not true. There is no better authority on this subject than the former distinguished majority leader, Senator George Mitchell, he said it best in an interview with John McLaughlin. Senator Mitchell said: Good policy results in good politics. Not the other way around. You don't get good policy because of good politics but good politics because of good policy.

I hope the Senate Democratic leadership heeds Senator Mitchell's advice here and doesn't get it backwards. I hope the press accounts and rumors around the Hill are not true. But we will have to wait and find out. Regrettably we are not taking up this consensus economic stimulus bill. That says to the workers dislocated because of September 11, at a time when we are in a war environment, that they can not have anything for Christmas. They do not have the 13 more weeks of unemployment compensation; they do not have the additional health insurance.

To reiterate, as most of you know, Senator DASCHLE has radically modified the economic stimulus proposal that the Democrats first tried to pass in the Senate.

Surprisingly, it looks a lot like our White House-Centrist stimulus package. It has adopted many measures initially promoted by Republicans. Perhaps some good has come from all these weeks of discussion.

I'd like to talk about some of the differences between the White House-Centrist package and the altered Democrat stimulus plan.

I want to explain why I believe our bipartisan package is better for America.

Let's start with the White House-Centrist plan's tremendous commitment to displaced workers.

Our unemployment insurance proposal represents an unprecedented commitment to American workers. We would provide up to 13 weeks of additional unemployment benefits to eligible workers who exhaust their regular benefits between March 15, 2001 and December 31, 2002.

An estimated 3 million unemployed workers would qualify for benefits averaging $230 a week. These benefits would be 100 percent federally funded at a cost of nearly $10 billion.

Our proposal would also transfer an additional $9 billion to state unemployment trust funds.

This transfer would provide the states with the flexibility to pay administrative costs, provide additional benefits, and avoid raising their unemployment taxes during the current recession.

The United States enjoyed a growing economy and declining unemployment for much of the previous decade. But, the economic slowdown that began last year—which was exacerbated by the terrorist acts on September 11—has resulted in substantial layoffs.

The unemployment rate has risen from 4.0 percent in November 2000 to 5.7 percent in November 2001.

By historical standards, the current unemployment rate is still substantially below the level at which Congress deemed it necessary to enact extended unemployment benefits.

Over the past 50 years, the federal government has provided temporary extended unemployment benefits only six other times. The average unemployment rate during those times was 7.3 percent.

Based on this historical record, the President originally suggested that extended unemployment benefits should be limited to those states that have a disaster declaration in effect as a result of September 11, or have a 30 percent increase in their unemployment rate.

However, a number of our colleagues on both sides of the aisle insisted that we provide immediate assistance to every state regardless of their unemployment rate. We have agreed to do exactly that in our proposal.

Unfortunately, some on the other side of the aisle continue to insist this is not enough. They insist we should go further by requiring every state to provide specific benefits and establish specific eligibility criteria as a condition of receiving federal assistance. We could not agree to these demands.

The Federal Government has always left decisions about benefit levels and eligibility criteria to the States.

The changes sought by those on the other side of the aisle would destroy this historic relationship and undermine the flexibility needed by the states to respond to their unique circumstances.

I would now like to discuss our bipartisan plan's commitment to providing health care for dislocated workers.

Now, Democrats have been saying since October that Republicans don't care about helping workers with health insurance. Senator DASCHLE himself said yesterday that his Republican colleagues, and I quote, "so far have refused to come to the table and negotiate seriously."

Mr. President, nothing could be farther from the truth. Since October when President Bush first called on Congress to pass a stimulus package, I have worked closely and seriously with both Democrats and Republicans to come up with a meaningful, bipartisan approach to helping people impacted by the events of September 11.

Compared to where we started on the issue of health care, we have come a very long way. Let me give you a little history first.

When this debate began, our proposal relied on the National Emergency Grant program to deliver health benefits to workers at a cost of about $3 billion. Over time, that number grew, and I said publicly that we could double, or even triple, that number.

I also invited the Democrats to modify the grant criteria to make the program more responsive to the needs of workers without health insurance.

They refused. But that didn't stop us from staying at the negotiating table.

Next, we proposed giving workers a refundable, advanceable tax credit towards the purchase of health insurance equal to 50 percent of the policy's cost.

And when Democrats objected to that, claiming that the credit was too small and that sicker people would have trouble buying policies in the individual market, we came back with yet another offer, which is reflected in this bill.

The new proposal, endorsed by the White House, the House of Representatives, and the centrists in this body, takes a three-pronged approach to getting health insurance assistance to people in need.

It goes farther and wider than any proposal on the table to date, and gets more help, to more people, more quickly than any other proposal to date.

What's more, it represents a giant leap in spending on health care. It includes over six times as much money for temporary health insurance assistance as our original Republican proposals.

And still the Democratic leadership tells us we are not negotiating seriously.

Mr. President, the White House/centrist proposal spends approximately $19 billion on temporary health insurance help in 2002. And it does it the right way, by using existing programs along with new ones designed to get people they help they need quickly.

Now let me take a minute to describe our three-pronged approach.

First, the White House/centrist proposal provides a refundable, advanceable tax credit to all displaced workers eligible for unemployment Insurance, not just those eligible for COBRA. The value of the credit is 60 percent of the premium, up from 50 percent in our original proposal. The credit has no cap, and is available to individuals for a total of 12 months between 2001 and 2003.

Individuals can stay in their employer COBRA coverage, or they can choose policies in the individual market that may better fit their family's needs. This only makes sense. Locking people into COBRA, as the Democratic leadership insists, forces people to stay with policies that may be too expensive for them to keep, even with a subsidy.

Our goal was to give dislocated workers access to all the health insurance choices available to them in the private marketplace, and we've done that in a responsible way.

This bill also includes a major, new insurance reforms to protect people who have had employer-sponsored coverage and go out into the private market for the first time after being laid off.

It makes the COBRA protections available to people who have had only 12 months of employer-sponsored coverage, rather than 18 months, as under current law. By doing this, we greatly expand the group of displaced workers who cannot be turned down for coverage or excluded because of a pre-existing condition.

The new 12 month standard is especially important for people with chronic conditions who have difficulty obtaining affordable coverage. It is a major step, and I'm surprised that the Democratic leadership doesn't want to take us up on these sweeping new reforms.

Let me turn to the mechanics of tax credit proposal. It is easier to implement than the direct subsidy approach of the Democratic leadership.

While their proposal requires employers to shoulder the burdens, our proposal relies on existing state unemployment insurance systems. So under this bill, workers will be able to access the credit, and begin applying it to their health insurance premiums in a timely way. Here's how it works:

Newly dislocated workers will receive vouchers from their state unemployment offices or "one stop" centers when they apply for unemployment insurance. Workers can then take those vouchers and submit them, along with their contribution to the premium, to their employer or insurer. Afterwards, insurers would submit the vouchers to the Treasury Department for reimbursement.

This approach works because it relies on existing systems to deliver the new benefits, and as a result delivers those benefits in a fast and reliable way.

I ask my colleagues: why would anyone insist on a mechanism that just won't work as well? I don't understand it.

The second prong of our proposal is $4 billion in enhanced National Emergency Grants for the States, which can be used to help all workers—not just those eligible for the tax credit—pay for health insurance. States have flexibility under our approach, and can use these grants to enroll their workers in high risk pools or other state-run plans, or even in Medicaid.

To address concerns raised by Democratic colleagues, our enhanced National Emergency Grant program requires all States to spend at least 30 percent of their grant funds on temporary health insurance assistance. In addition, we've included protection for states: a minimum grant level of $5 million for any state that meets the grant criteria.

Finally, the third prong of the proposal responds to Democratic requests by including $4.3 billion for a one-time temporary State health care assistance payment to the States to help bolster their Medicaid programs.

As we know, the Medicaid program is an important safety net program for low-income children and families and disabled individuals. Medicaid is a joint Federal and State program and accounts for a large part of State budgets.

So, in this time of budget constraints due to the recession, States are struggling to make ends meet.

As a result of the unique and extraordinary economic situation we now face, a number of states are considering scaling back Medicaid services, including my own state of Iowa. This provision provides a one-time, emergency cash injection that will help States avoid Medicaid cutbacks.

This feature was not part of our original plan, and I recognize that many of my colleagues have concerns about it. In fact, I share their reservations, and that is why I'm emphasizing that this is not simply a garden-variety increase in Medicaid funding, but a temporary, emergency payment.

The nation is calling for bipartisan compromise, and in that spirit, we've agreed to add this to our proposal.

Mr. President, we have made tremendous steps toward the Democratic position in order to find bipartisan compromise on health care. Those steps have not been reciprocated by the Democratic leadership.

Displaced workers deserve to be treated with respect by this body, and I believe those workers have earned a vote on this bill.

I would now like to discuss the individual income tax rate reductions in the White House-Centrist plan and the resuscitated Daschle plan.

The original House stimulus bill would have accelerated the reduction of the 27 percent rate to 25 percent which is scheduled to go into effect in 2007. The White House-Centrist package has adopted this approach.

Now, the revamped Democrat plan would reduce the 27 percent rate to 26 percent in 2002, and would not reduce the rate to 25 percent until 2006. Recall that the original Democrat plan did not provide one red cent of rate relief for working Americans.

Now think about this. The 1 percent higher rate under the Democrat plan will operate as a 4 percent rate increase until the 27 percent rate is finally lowered to 25 percent 4 years from now. That makes a huge difference to Americans who are struggling to make ends meet. Let's take a look at who will benefit from our plan's rate reduction.

The reduction of the 27 percent rate will benefit singles with taxable income over $27,000, heads of household with taxable income over $36,250, and married couples with taxable income over $45,000.

These are not wealthy individuals. These are middle class working Americans.

I have a chart which shows the median income of a four person family for every State in the Nation. Median income is the amount of income right in the middle, with half the incomes above it and half below it.

This chart shows that the average median income for a four person family in the United States is $62,098.

Now, reduction of the 27 percent rate will benefit married couples with taxable income over $45,000. So it will benefit working people who earn well below the national median income level.

This chart also lists those states that have a family median income that is higher than the national average. And look at where these people live.

Connecticut, New Jersey, Delaware, Michigan, Rhode Island, California, Washington State. These are the states where a family of four will benefit the most from our proposed tax cut.

The Democrat's revamped alternative would impose an additional 4 percent tax rate on these incomes over the next 4 years. That should concern representatives from those states.

For example, consider that an additional 4 percent tax on New Jersey's $78,000 median income results in more than $1.300 in additional taxes.

Michigan is the same: an additional $900 of tax. Washington State is hit with nearly $800 in additional tax.

These are significant numbers for a working family with two children. They would spend this money to meet their families' needs, which would stimulate the economy more than a bunch of liberal Democrat spending programs.

Mr. President, I ask unanimous consent that this chart be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 1.)

Mr. GRASSLEY. The more surprising figures are shown in the next chart, which shows States with median income below the national average.

Recall that I said reducing the 27 percent rate to 25 percent will benefit married couples with taxable income over $45,000. Now look at the median income distributions on this chart.

There is not one State on here that has a median family income of less than $45,000.

So you can see that our proposal will benefit everyone, not just an elite few, from a few selected states.

Mr. President, I ask unanimous consent that my second chart be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 2.)

Mr. GRASSLEY. The Treasury Department has estimated that White House-Centrist plan's acceleration of the 27 percent rate reduction will yield $17.9 billion of tax relief in 2002 for over 36 million taxpayers, or one-third of all income tax payers.

Business owners and entrepreneurs account for 10 million, or 30 percent, of those benefitting from the rate reduction.

When you refuse to accelerate the rate cuts you harm farmers and small business persons. This is because most small business owners and farmers operate their businesses as sole proprietorships, partnerships or "Sub S" corporations.

The income of these types of entities is reported directly on the individual tax returns of the owners. Therefore, a rate reduction for individuals reduces taxes for farms and small businesses.

That is why the additional rate reduction under the White House-Centrist plan is so important. In 2002 alone, it injects $17.9 billion of stimulus into our ailing economy and small businesses.

So what would a small business do with these tax savings? Well, considering that most of the recent job growth has come from small businesses, I believe they would hire more people and make more business investments.

We know that 80 percent of the 11.1 million new jobs created between 1994 and 1998 were from businesses with less than 20 employees.

And 80 percent of American businesses have fewer than 20 employees.

This is what I refer to as the "80-80 Rule" for supporting rate reductions.

In addition, lowering taxes now would increase a business' cash flow during the current economic slowdown. The higher cash flow would increase the demand for investment and labor.

But don't just take my word for it. Take it from an October 2000 report by the National Bureau of Economic Research, a very well-regarded non-partisan organization, entitled "Personal Income Taxes and the Growth of Small Firms."

This report reaches the unambiguous conclusion that when a sole proprietor's marginal tax rate goes up, the rate of growth of his or her business enterprise goes down.

Simply stated, high personal income tax rates discourage the growth of small businesses. And right now, that is the last thing we need.

That is why it is important to do rate reductions the right way, and fully accelerate the 27% rate reduction. We are simply accelerating a decision this Senate made last summer.

We should have confidence in our decision. We know that tax cuts are stimulative.

When working Americans have more of their own income, they feel more financially secure and are more comfortable with spending.

A full reduction of the 27 percent rate to 25 percent is much more stimulative than a reduction that is deferred to 2007, as called for under the Democrat plan.

In closing, let me say who really loses when the Senate loses its right to vote on the White House-Centrist bill. It is our displaced workers, it is our fellow Americans who still have a job and the security of our jobs base; and it is the soundness of our nation's economy.

The Senate Democrat Leadership will not allow an up or down vote on our bipartisan White House-Centrist stimulus package. Why? Because it would pass. We have a majority of Senators who support this package.

Instead, the Senate Democrat Leadership has created a "make-believe boogey-man" over the issue of how health care benefits should be delivered to unemployed. But the majority of this Senate does not agree with them.

But voting on this issue and helping the economy recover is not really what is on their minds. It is not their political objective.

The Senate Democratic leadership is playing political brinkmanship, hoping that the American public buys into their excuses for inaction.

The Senate Democratic Leadership keeps their fingers crossed, hoping that our economic difficulties will last until next fall so they can blame it on the President in their campaign ads.

But the blame doesn't go to the President. He has bent over backwards to accommodate their demands. And it still is not enough. The Senate Democratic leadership would rather move the goal post than agree to a solution.

This is not what we were elected by to do. This is not in service of our country. It is in no one's best interest.

We are at war. Our economy is in crisis. And the only impediment to recovery is the refusal of the Senate Democratic leadership to allow this Senate to pass this economic stimulus package. A majority of our members will vote for this bill.

I hope the Senate leadership hears the pleas of the American people and stops blocking this bill through procedural technicalities. The Senate should be allowed to do its job.

EXHIBIT 1

Median income for 4-person families, by state, 2001

United States	$62,098
Connecticut	78,170
New Jersey	78,088
Maryland	77.447
Massachusetts	74,220
Alaska	72,775
Minnesota	69.031
Hawaii	68,746
Illinois	68,698
New Hampshire	68,211
Delaware	67,899
Michigan	67,778
Rhode Island	66,895
Virginia	66,624
Wisconsin	65,675
California	65,327
Colorado	65,079
Washington	64,828
District of Columbia	64,480

EXHIBIT 2

New York	61,864
Pennsylvania	61,648
Nevada	61,579
Indiana	60,585
Iowa	60,125
Georgia	59,835
Vermont	59,750
Maine	59,567
Utah	59,272
Kansas	59,214
Missouri	58,674
Ohio	58,222
North Carolina	58,096
South Carolina	57,954
Nebraska	57,659

Wyoming	57,588
Florida	57,540
Oregon	55,812
Texas	55,172
Arizona	54,913
Alabama	54,255
Oklahoma	54,106
South Dakota	54,090
Kentucky	54,028
Tennessee	53,835
North Dakota	52,802
Montana	52,765
Louisiana	51,191
Mississippi	49,606
Idaho	49,387
Arkansas	48,318
West Virginia	46,798
New Mexico	46,534

Source: Census (inflated from 1999 date by GDP deflator).

The PRESIDING OFFICER. The Senator from Nevada.

TO EXTEND THE AVAILABILITY OF UNEMPLOYMENT ASSISTANCE IN THE CASE OF THE TERRORIST ATTACKS ON SEPTEMBER 11

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 274, S. 1622.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1622) to extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I alert the Senator from New York and the Senator from Virginia; we can get this unanimous consent if they save their speeches for much later.

I ask unanimous consent the bill be read the third time, passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1622) was read the third time and passed, as follows:

S. 1622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF UNEMPLOYMENT ASSISTANCE.

Notwithstanding section 410(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177(a)), in the case of any individual eligible to receive unemployment assistance under section 410(a) of that Act as a result of the terrorist attacks of September 11, 2001, the President shall make such assistance available for 52 weeks after the major disaster is declared.

TERRORIST VICTIMS' COURTROOM ACCESS ACT

Mr. REID. Mr. President, I ask unanimous consent the Judiciary Committee be discharged of further consideration of S. 1858, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1858) to permit closed circuit televising of the criminal trial of Zacarias Moussaoui for the victims of September 11th.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2691

Mr. REID. I ask consent the Senate now proceed to the consideration of the Allen amendment that is at the desk, the amendment be agreed to, the bill be read the third time, passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. ALLEN, proposes an amendment numbered 2691.

The amendment is as follows:

(Purpose: To clarify the requirements of the trial court)

On page 2, line 5, strike "including" and insert "in".

On page 2, line 6, after "San Francisco," insert: "and such other locations the trial court determines are reasonably necessary,".

The PRESIDING OFFICER. Is there objection to the various requests of the Senator from Nevada?

Without objection, it is so ordered.

The amendment (No. 2691) was agreed to.

The bill (S. 1858), as amended, was read the third time and passed, as follows:

S. 1858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Terrorist Victims' Courtroom Access Act".

SEC. 2. TELEVISING OF THE TRIAL OF ZACARIAS MOUSSAOUI FOR THE VICTIMS OF SEPTEMBER 11TH.

(a) IN GENERAL.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crimes associated with the terrorist acts of September 11, 2001 to watch criminal trial proceedings in the criminal case against Zacarias Moussaoui, the trial court in that case shall order closed circuit televising of the proceedings to convenient locations, in Northern Virginia, Los Angeles, New York City, Boston, Newark, and San Francisco, and such other locations the trial court determines are reasonably necessary, for viewing by those victims the court determines have a compelling interest in doing so and are otherwise unable to do so by reason of inconvenience and expense of traveling to the location of the trial.

(b) PROCEDURES.—Except as provided in subsection (a), the terms and restrictions of section 235 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 10608) shall apply to the televising of court proceedings under this section.

FOREIGN OPERATIONS EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

Mr. REID. Mr. President, I submit a report of the committee of conference on the bill (H.R. 2506) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2506), making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report can be found in the House proceedings of December 19, 2001.)

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, with American troops on the ground in Afghanistan, with an uneasy coalition of nations confronting an unprecedented war on terrorism, and with the possibility of all-out war looming over the Israelis and the Palestinians, the Foreign Operations Appropriations conference report before us today comes at a pivotal moment in our nation's history. Given the volatility of the situation in the Middle East in the midst of America's war on terrorism, it is vital that Congress and the Administration present a united foreign policy front to the rest of the world. For that reason, I will vote for the FY 2002 Foreign Operations conference report, I do so reluctantly and with reservation—and I do not often vote for Foreign Operations appropriations bills.

I believe it is time—I believe it is past time—to rethink our foreign aid policy and how relates to our national security priorities. September 11 was a wake up call on many fronts. As a result of the attack on America, we have made sweeping changes in our concept of national security. We have learned that national security also means homeland defense. We have learned that airplanes can be bombs and that letters in the mail can be lethal. We have learned that we must change our definition of defense to encompass defending our domestic infrastructure as well as defending against ballistic missile threats.

These changes reflect the realization that the September 11 terrorist attacks on U.S. soil may not be an isolated incident. At this moment, there may be people planning other terrorist acts against our homeland. We have already experienced three terrorism alerts in the U.S. since September 11. Almost daily, we hear grim predictions of what the future may bring. We are living in an age of global instability, disenfranchised and desperate peoples, and widespread proliferation of weapons of mass destruction. The volatility of the current world situation is without precedent.

And yet, in many ways, the major instrument of our foreign policy—the Foreign Operations Appropriations Act—reflects a distressing attitude of business-as-ususal. I do not fault the authors of this bill. Senator LEAHY and Senator McCONNELL have done an excellent job in balancing the priorities of the Administration with the concerns of Congress and the needs of our allies throughout the world. They have done so with care and skill, and they are to be commended for their work.

No, the fault, I believe, lies with our inability as a nation to relinquish long held conventional wisdom about foreign aid and recognize that the changing global environment requires a revamping of our foreign policy. We must move away from using dollars to symbolize the strength of our relations with other countries, and instead focus our energies—and our resources on promoting a new understanding of foreign policy that complements and enhances our global war on terrorism.

Nowhere is this more true than in the Middle East, where renewed violence and antipathy have brought Israel and the Palestinian Authority to the brink of open warfare. Since September 29, 2000, the Israeli-Palestinian conflict, fueled by generations of hatred, has claimed nearly 1,000 lives. For the past 15 months, the unending cycle of violence has pitted the home-made bombs and deadly suicide missions of the Palestinians against the heavy armor and missile attacks of the Israelis. Many, perhaps most, of the victims have been young people barely on the cusp of adulthood. The sad fact is that the next generation of leaders of the Israelis and the Palestinians are being sacrificed to the blood feud of their elders.

The United States, like the rest of the world, has looked on this ceaseless carnage in horror. We have expressed dismay, regret, sorrow, and anger. We have wrung our hands in despair. We have condemned the violence in the strongest terms. But we have not suited our words to any meaningful action. In this bill, our foreign assistance to the Middle East virtually ignores the spiraling violence in the region. This bill provides $5.1 billion dollars in foreign assistance to the Middle East, primarily Israel and Egypt, a level almost identical to last year's funding. It is as if nothing has changed. There are no strings on the money. There is no requirement that the bloodshed abate before the funding is released. There is no motivation for Egypt to step up its effort to mediate between the sides, and there is no incentive whatsoever for Israel and the Palestinians to make meaningful progress toward a peaceful settlement of their differences.

In short, we are doing little more than offering a tacit acknowledgment that the United States is powerless to stop the bloodshed. We are sending the wrong signal to the Middle East. By not using our foreign assistance dollars as an instrument to effect change in the Mideast, we are inadvertently helping to fuel the continued cycle of violence. And what has this hands-off policy produced? Empty promises, escalating violence, and the prospect of war instead of peace between Israel and the Palestinians.

Now what? Where does the so-called peace process go from here? Can we really expect the Israelis to exercise restraint following the most recent escalation of violence against their citizens? Is there any point in urging Yassar Arafat to seize and punish the terrorists within his control when he is obviously unable to live up to his promises? Is there any hope that the Israelis and Palestinians will be able to re-engage in meaningful discussions in the foreseeable future?

In the current poisonous environment, neither side has any incentive to resume peace talks. To give his expressions of dismay any credibility, Mr. Arafat will have to conduct a swift and sweeping crackdown on the leaders of the Palestinian terrorist cells—something he has never been able to accomplish in the past. And even if Mr. Arafat could deliver on his promises, it will take masterful leadership on the part of Israeli Prime Minister Ariel Sharon to restrain his military options and to place Israel's settlements in disputed areas on the negotiating table—two difficult but necessary prerequisites for peace.

The Israelis and the Palestinians, riven by generations of hatred, cannot hope to accomplish these goals on their own. It is time for Egypt—with the assistance of Saudi Arabia and Jordan—to exercise its considerable influence in the region and place long term security interests over short term internal political costs. Such leadership will not be easy. President Mubarak will have to make hard choices and steel himself and his government against the predictable political backlash from the more radical elements of his own country. But President Mubarak's leadership is necessary to temper the emotions of his fellow members of the Arab League.

The United States has a similarly difficult task before it. Despite our clear alliance with Israel, the U.S. must regain the role of honest broker. We must stop rewarding the status quo with an uninterrupted flow of foreign aid dollars and instead use foreign assistance as a tool to leverage peace.

We are certainly not doing so now. Just a few weeks ago, the State Department confirmed the intended sale of 53 advanced anti-ship missiles to Egypt. Egypt contends that these missiles are needed to protect its borders, but the fact is, these deadly accurate missiles have the range to threaten Israel's ports and shipping. Given the tinderbox that is the Middle East today, why is the United States contemplating sending these weapons into the region at this time?

Meanwhile, we routinely sell advanced aircraft and missiles to Israel as part of our foreign assistance package. Some of these U.S.-made high-tech weapons have been used to target and assassinate Palestinian terrorists. Just days ago, we again saw television images of Israeli-operated, American-made jets and helicopters launching missiles at buildings used by the Palestinian Authority. You can be sure those images were seen throughout the Arab world. How can we demand peace on one hand when we are providing instruments of destruction with the other?

Israel and the United States are the staunchest of allies. No one should question our support of Israel's right to exist. But support need not translate into enabling. The United States, the Middle East, and the world would be better served if we changed our policy in the Middle East to reflect reality, not rhetoric. The Palestinians must stop the cycle of violence. The Israelis must practice restraint. The United States must back up its words with action.

We have a road map to restart the Middle East peace process, the Mitchell Report. This blueprint, drawn up by former Senator George Mitchell and issued last April, is a step-by-step plan to end the violence and resume negotiations between the Israelis and the Palestinians. The Mitchell Report is often cited as a practical and workable solution. It has strong support in both the Administration and the Congress. But to date, it is doing little more in real terms than gathering dust on a shelf. To date, there has been no incentive on either side to make the hard decisions that are required to actually implement the steps of the Mitchell Report.

It is time for the United States to provide some incentive. It is time to try to implement the Mitchell Report. Just as we must hold the Palestinians responsible for increasing the violence, so must we hold the Israelis responsible for the inflammatory expansion of settlements in disputed areas. The Mitchell Report provides a clear and unbiased insight into the realities of the dispute between the Israelis and the Palestinians. It is remarkable in its fairness and even-handedness in holding both sides accountable for their transgressions. Our foreign assistance policy should do no less. I call on the Administration and this body to take a fresh look at how we apply our foreign assistance to the Middle East before we take up another foreign policy measure in the Senate.

And when we take that fresh look at our Middle East policy, we should look at all facets—all facets—of our relationship both with Israel and its Arab neighbors. For example, if we are quick to condemn Iran for the transfer of missile technology to North Korea, how can we stand silent in the face of Israel's sale of advanced weapons and components to China—weapons that are based on U.S. technology or developed in Israel with U.S. tax dollars? China may not be in the same category as North Korea, but it defies logic to think that the sale of advanced American weapons technology to China is in the security interests of the United States. Foreign policy decisions do not exist in a vacuum. Our support for Israel affects the Arab world's policies toward the U.S. The weapons systems that Israel sells to China could effect China's capability to inflict harm on the United States. With the new urgency to protect our homeland, these are significant issues that should be dealt with honestly and openly in future foreign assistance programs.

In light of September 11, the P-3 incident of April 1 has almost faded from many memories. That was 5 months before 9-11, and our service men and women were put in harm's way by a brutal regime, which summarily executes dissidents and independence-seeking nationalists in Tibet and other occupied lands. Have the recipients of our fungible foreign aid dollars and other friends and allies been arming this potential adversary of ours, which in turn provides chemical and biological weapon delivery systems to terrorist-sponsoring states? The answer is yes. China is a known proliferator of chemical weapons and ballistic missiles capable of delivering chemical and biological warheads, and Britain, France, Russia, and Israel have been selling weapons and transferring advanced military and dual-use technologies to China. Regrettably, our record is not clean either. Our excessively profit-motivated corporations have also transferred technologies to the PRC, sometimes as the price of doing business there and sometimes even voluntarily. China is known to have provided missiles capable of being equipped with chemical and biological warheads to Iraq. Iraq is a terrorist state, a manufacturer and user of chemical and biological weapons, and a sponsor of terrorist groups. China has provided ballistic missiles to Saudi Arabia, to Syria, to Iran, and to Libya. It provided chemical weapons to Syria. It provided them to Iran.

Could these weapons be used against our personnel and our allies in the event of a future confrontation? The answer is yes. Are these weapons sales to China in the interests of American national security? Of course not. I was one of the initiators of the enabling legislation of the U.S.-China Security Review Commission, a bipartisan Congressional commission. One of its specific mandates is to analyze the transfer of our advanced military and dual-use technology by trade, procurement, or other means to China. The Commission is looking into technology transfers to the PRC through third parties. Another specific mandate to

The Commission is to look at the proliferation of weapons of mass destruction. The basic purpose of the Commission is to assess the impact of these and other acts on the national security interests of the United States. The Commission is to report its findings and recommendations to Congress and the President in May. I look forward to the report today, the United States is embroiled in a war of its own in the Middle East. Until recently, the Israeli-Palestinian conflict had largely vanished from the headlines, displaced by the specter of hand-to-hand combat between American troops and Taliban forces in Afghanistan. But the importance of seeking a peaceful solution to the violence between the Palestinians and the Israelis is no less urgent than it has always been. The recent terrorist attacks against innocent Israeli citizens and the possibility that Israel will launch its own war against Palestinian terrorists is all the proof—all the proof—that we need.

If this cycle of violence continues unabated, if the Israelis and the Palestinians are unable to come to terms themselves, then the United States should intervene by conditioning future foreign assistance to the Middle East—to all the major players, including Egypt, including Israel, including Jordan and including the Palestinians—on implementation of the Mitchell Report or something very like it.

U.S. interests are not served by the perpetuation of violence between the Israelis and the Palestinians. No one should be more cognizant of this fact than the citizens of Israel, where precious lives have once again fallen victim to Arab extremists bent on wreaking havoc. No one should be more cognizant of this fact than Yassar Arafat, who time and again has failed to moderate the extremist Palestinians who are determined to sabotage any movement toward peace. No one should be more cognizant of this fact than the United States, which has spent billions upon billions of tax dollars and sponsored countless rounds of peace talks, to no apparent avail.

The path to peace in the Middle East is a two-way street, and like most roads in that ancient part of the world, the path is steep and the path is rocky and the path is difficult to traverse. But, with faith and perseverance, it need not be a dead end street. There is no ideal solution to the travail in the Middle East. There is no right answer, there is no fair solution, there is no justice for all those who have suffered. There is only accommodation and acceptance, giving ground and restraining hatred. But there is no other solution.

If the Palestinians and the Israelis continue to pursue hatred and revenge, the future of Israel will be written in blood, as the past pages are written in blood, and the dreams of a new Palestinian state will lie shattered in the dust. If the players in this tragedy cannot bring themselves to accept that fact, the United States should use its every tool—every tool—and I am including dollars, I am including the instrument of foreign assistance—to pressure the sides to negotiate a peace. To do otherwise makes us little more than an accessory to the violence.

Mr. President, these are strong words. They are intended to be. These are perilous times. This is not the time to mince words. As we saw on September 11, and as we all fear we may see again, allowing hatred to rage unfettered in the Middle East places our very homeland in jeopardy. The war that we are waging against terrorism is the first and most urgent step in protecting our homeland. But defeating the terrorists is only the first step. We must also work to eradicate terrorism, eradicate the causes, if we can. Abandoning conventional wisdom in these unconventional times and using our foreign assistance dollars to effect change instead of making a pro forma allotment of funds is the best, and perhaps the only, means that we have at hand to help shape a peaceful future for the Middle East.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CORZINE). The Republican leader.

Mr. LOTT. Mr. President, I see the Senator from Louisiana will be seeking recognition in a moment. I will be relatively brief.

Let me say to Senator BYRD from West Virginia, I stayed on the floor because even in all the tumult here this afternoon, as we were trying to get final agreement on a number of bills or establish disagreement, I learned that Senator BYRD was going to give a speech on foreign policy issues. I have heard him speak on this subject before and found it very interesting, thoughtful, and thought provoking. That is why I stayed and listened because I wanted to hear what the Senator from West Virginia had to say in this area.

As I suspected, I found it interesting and useful. I hope the administration will review these remarks, and I hope those in the Middle East who are involved in a very dangerous situation on all sides will take into consideration what has been said there.

For years I have been concerned that our policy didn't always make sense. We seemed to be giving money to all sides with no assurances and sometimes not even participation by those who received that aid. I have always thought it was almost contradictory, maybe even hypocritical. This is a volatile part of the world. It is a place where the pages of history do reflect conflict and bloodshed. We all hope and pray for a peaceful solution.

I do think it is going to take an extraordinary effort. First, the Palestinians have to be prepared to accept peace and security with Israel. Israel has to be prepared to seek a negotiated peace agreement. All have to be participants, including other Arab countries in the world receiving aid from America. And America has to be prepared to press these points on them.

I say to Senator BYRD, I appreciate his taking the time. More Senators should think about this subject and express themselves. We should take a look at our foreign operations appropriations process more closely, maybe consider making some changes next year.

We also need to take advantage of this time in which we find ourselves with support from countries that have not traditionally been our allies, a number of people who are working with us against whom we had been taking unilateral sanction actions. We should review all of that. The world is different now. It is an opportunity, as we move forward in fighting terrorism, completing the action in Afghanistan, and looking at where terrorism may be in other parts of the world. It is going to be an opportunity for this administration, under the leadership of President Bush and Secretary Powell and his other advisers, such as Condoleezza Rice, to change our thinking and to improve our position and our relationship with a number of countries around the world.

I thank Senator BYRD for his remarks this afternoon. I do commend them to all Senators when they have an opportunity.

Mr. BYRD. Will the distinguished Republican leader yield?

Mr. LOTT. I am glad to yield to Senator BYRD.

Mr. BYRD. I thank the leader for his comments and his observations. I thank him for remaining on the floor, and I thank him for what I accept to be an observation that we do need to use our foreign aid dollars as a tool to help bring about peace in the Middle East.

I am not attempting to take sides one way or the other. We give $3 billion to Israel every year. We give $2 billion to Egypt—$5 billion. And we seem to give this without asking the question. We ought to require both Israel and Egypt to work hard for peace and to be willing to give a little here and give a little there or else this money isn't going to be paid.

Could the leader imagine with me what we could do in this country for the American people with $5 billion more every year; what that would do for homeland security, $5 billion a year; what it would do for New York City? We give these dollars practically without asking a question. I think both those countries look upon this $5 billion—$3 billion in the case of Israel, $2 billion in the case of Egypt—I think they virtually look upon these $5 billion as entitlements. They put these figures into their budgets. They apparently have no doubts that the moneys are going to come. And the way we have been operating for several years, those moneys have come.

I think it is time to put some strings on those moneys: If you want this money to help, we want you to work for peace.

That is what I am saying today. I am not attempting to take any sides. But we hand this taxpayers' money out to the tune of $5 billion a year. That is $5 for every minute since Jesus Christ was born. We ought to make those dollars work for peace, and we can make them work for peace. That is what I am asking.

I thank the distinguished Republican leader.

Mr. CONRAD. Mr. President, I rise to offer for the RECORD the Budget Committee's official scoring for the conference report to H.R. 2506, the Foreign Operations, Export Financing, and Related Programs Appropriations Act for fiscal year 2002.

The conference report provides $15.346 billion in discretionary budget authority, which will result in new outlays in 2002 of $5.537 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the conference report total $15.106 billion in 2002. By comparison, the Senate-passed version of the bill provided $15.524 billion in discretionary budget authority, which would have resulted in $15.138 billion in total outlays. H.R. 2506 is within its Section 302(b) allocation for both budget authority and outlays. In addition, it does not include any emergency designations.

I ask unanimous consent that a table displaying the Budget Committee scoring of H.R. 2506 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2506, CONFERENCE REPORT TO THE FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2002

[Spending comparisons—Conference Report, in millions of dollars]

	General purpose	Mandatory	Total
Conference report:			
Budget Authority	15,346	45	15,391
Outlays	15,106	45	15,151
Senate 302(b) allocation:[1]			
Budget Authority	15,524	45	15,569
Outlays	15,149	45	15,194
President's request:			
Budget Authority	15,169	45	15,214
Outlays	15,081	45	15,126
House-passed:			
Budget Authority	15,167	45	15,212
Outlays	15,080	45	15,125
Senate-passed:			
Budget Authority	15,524	45	15,569
Outlays	15,138	45	15,183
CONFERENCE REPORT COMPARED TO:			
Senate 302(b) allocation:[1]			
Budget Authority	−178	0	−178
Outlays	−43	0	−43
President's request:			
Budget Authority	177	0	177
Outlays	25	0	25
House-passed:			
Budget Authority	179	0	179
Outlays	26	0	26
Senate-passed:			
Budget Authority	−178	0	−178
Outlays	−32	0	−32

[1] For enforcement purposes, the budget committee compares the conference report to the Senate 302(b) allocation.

Notes.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. BIDEN. Mr. President, the Foreign Operations appropriations bill is one of the most important appropriations related to national security that Congress makes during the course of the year. It is a little known fact to most Americans, but foreign assistance is among the first lines of defense in ensuring the safety and security of each and every American here and abroad.

Through this appropriation we fund anti-terrorism activities, we provide money to give jobs to Russian nuclear physicists who would otherwise be offering their services to whatever terrorist organizations were willing to pay them, we fund our antinarcotics efforts and provide money to combat the spread of deadly diseases before they reach our shores. Mr. President, we are in no way devoting the necessary resources to the front line.

I thank the Chairman and Ranking Member of the Foreign Operations Appropriation sub-Committee. They did the best they could with the allocation they were given. I know that if he had his druthers the chairman would have been working with a much bigger number. I do not intend to criticize the hard work that the subcommittee has done. And I will acknowledge that for its part, the Senate Budget Committee certainly exceeded the administration's grossly inadequate request when it made the initial allocation. I applaud that. And I applaud the fact that the conferees understood the importance of the Non-proliferation, AntiTerrorism, Demining and Related Programs, fully funding vitally important accounts such as those for Nonproliferation and Disarmament, the

Comprehensive Nuclear Test Ban Treaty Organization Preparatory Commission, Antiterrorism, Terrorist Interdiction and the International Science and technology Centers.

What I would say to my colleagues, however, is that the conference report, although it is slightly more than the administration's request, makes it clear that we need to do much, much more. We need to stop thinking about foreign assistance as a handout, as welfare for the developing world, and consider it a strategic investment in America's security.

The tragic events of September 11 were a wake-up call. The United States is not isolated from the rest of the world in a sea of invulnerable tranquility. As we stand here today, there are radicals preaching anti-American sentiments around the globe. They are saying that democracy breeds corruption, and that globalization is the reason for poverty. These radicals take advantage of the desperation of the poor and the hopeless.

Poverty and ignorance are one of the most fertile breeding grounds of terrorism. By now my colleagues are aware of the fact that many members of the Taliban, the same group of radical fiends that harbored Osama bin Laden, were refugees in Pakistan who were too poor to afford school. They were educated in radical seminaries that they attended free of charge. Where were we and the rest of the international community with an alternative for these children? We were absent. It did not concern us. It was not our problem.

On the other side of the world in Mali, a Washington Post article dated September 30 states that Muslim missionaries have taken "hundreds of recruits" abroad for religious training. The story states that radical Islamic religious movements are gaining popularity due to corruption and rising poverty. Are we going to ignore the warning signs in west Africa as well? Will we let Mali, an emerging democracy struggling to hold on by the skin of its teeth, become a source of turmoil, unrest and violence? The government there is trying to do the right things in terms of economic and market reform. We should be empowering the Agency for International Development and the State Department to provide the country with the ability to make the transition to democracy in such a way that all people benefit. This appropriation in no way provides enough money to adequately do so.

Those who are hopeless and disaffected swell the ranks of terrorist organizations. Autocratic politically repressive regimes, where discontent and disagreement cannot be expressed, are fertile grounds for terrorist recruitment. In countries that prohibit free speech, freedom of association and political choice, violence becomes the only means through which to affect political change. The United States foreign policy apparatus has the mandate to push for change in these countries. It lacks the means to do so to the extent necessary.

I say to my colleagues that we have got to take heed. The problems in other countries are our problems. We need to engage, and it is impossible to do so on the cheap. We cannot adequately engage the world with the monies allocated in this appropriation. The United States cannot hope to participate meaningfully in the reconstruction of Afghanistan out of these meager funds. The cost of that alone is projected to be as much as $18–20 billion over the next 5 years. A cost which we must be prepared to share among the donor community.

As we speak there are students in the very schools in Pakistan that I spoke of learning to hate America. As we speak there are anti-Western sentiments being preached to people in some mosques in west Africa. What are we doing to expose them to American values and ideals so that they will not be the perpetrators of violence against U.S. citizens in the future?

The United States cannot be all things to all people everywhere. We cannot cure the ills of the world. And I do not believe that eliminating poverty will be the silver bullet that eradicates terrorism. There is no silver bullet or magic potion that will achieve that aim. But let's consider the state of our efforts today. President Bush has declared a war on terrorism. He has stated that we must fight terrorism on all fronts. I submit that foreign assistance is one important tool in our arsenal. We have just been rudely and shockingly awakened to the fact that we need to take advantage of each of these tools.

There is nothing we can do which would 100 percent guarantee that America will not be attacked by terrorists again. What we can do is mitigate the threat. We can help the UN and the government of Pakistan provide alternatives to the madrassass that refugee children in Pakistan attend because there is no other form of education available. We can help eliminate poverty and corruption in developing countries that radical elements seize on as a reason to attack so called western values and democracy.

The United States is spending a billion dollars a month on the war in Afghanistan. I do not begrudge a penny of that money. We must do whatever it takes for however long it takes to wipe Al-Qaida from the face of the earth. However, I strongly believe that we must do all we can to prevent ever having to fight such a war again. One of the ways we can do this is to invest more in preventative measures. We must foster the spread of democracy, bolster the judicial and law enforcement capabilities of developing countries and help strengthen the economies where necessary. What we have done to date is clearly not enough.

Mr. GRAHAM. Mr. President, I rise today to speak in support of adoption of the conference report on the Fiscal Year 2002 appropriations bill for Foreign Operations H.R. 2506.

The annual Foreign Operations appropriations bill is the primary legislative vehicle through which Congress reviews the U.S. foreign aid budget and influences executive branch foreign policy making generally. It contains the largest share—over two-thirds—of total U.S. international affairs spending.

I regret that I was forced to vote against the original Senate version of this bill on October 24th, after the Senate rejected my attempts to restore funding for the Andean Regional Initiative to the level which the administration had requested.

The Andean Regional Initiative represents our best strategy for fighting terrorism in this hemisphere. President Andres Pastrana and his administration have been leading a valiant fight against the narcotraffickers who have been threatening the economy, the society, the very civilization of the Republic of Colombia for more than two decades now.

In 2000, Congress approved the first installment of our commitment to Plan Colombia. President Bush correctly requested $731 million for Fiscal Year 2002, which would have broadened our involvement beyond military support and expanded this assistance to Bolivia, Ecuador and Peru.

The Senate bill would have cut this important strategic initiative by 22 percent, from $731 million to $567 million, which would endanger the progress we have made.

The conferees have agreed to fund the initiative at $660 million, which represents a reduction of $71 million from the President's request, but that is $93 million above the Senate's level.

While I remain concerned about what the impact will be on the program at the level of funding, it is an improvement to the Senate's position, so I am willing to vote for this conference report.

I also want to emphasize my support for other important priorities that are funded by this conference report—priorities that I in no way intended to disavow when I voted against the Senate version of the bill.

They include $2.04 billion in military grants and $720 million in economic grants for Israel in Fiscal Year 2002.

We have no stronger ally in the global war on terrorism than the State of Israel, and this aid recognizes Israel's key role in helping us protect our interests in the Middle East and around the world. I am profoundly grateful for the support and assistance that our good friends have provided, and I have no doubt that their assistance will continue well into the future.

They include a 22 percent increase in disaster aid, to $235 million.

The Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis—a new initiative for Fiscal Year 2002—receives $435 million from the Child Survival and Health Programs Fund and $40 million in other accounts.

They include $3.5 billion for the Agency for International Development (AID). This is $350 million above the administration's request and $210 million above fiscal year 2001.

And finally, there are several terrorism-related issues addressed in the Foreign Operations bill, including direct funding for two counter-terrorism programs; increased resources to meet physical security needs at USAID's overseas missions; aid restrictions for countries engaged in terrorist activities, and aid allocations for nations helping combat terrorism.

I am pleased to support the conference report, and I encourage my colleagues to do so.

Mr. LEAHY. Mr. President, we are about to pass the foreign operations conference report for fiscal year 2002. I want to again thank Senator McCONNELL, Chairman BYRD, and Senator STEVENS for their support throughout this process.

I also want to recognize Chairman KOLBE, who worked extraordinarily hard to get this conference report passed in the House, and Congresswoman LOWEY, who was extremely helpful. This was a collaborative effort in every sense of the word.

Mr. President, the attacks of September 11th hold important lessons that are relevant to this conference report. They showed us how our security is directly and indirectly linked to events and conditions around the world.

With the exception of the cost of deploying our Armed Forces, the $15.3 billion in this conference report is what we have available to protect our security outside our borders.

These funds are used to combat poverty, which engulfs a third of the world's people who barely survive, and often succumb, on less than $2 per day. The misery, despair and ignorance that poverty breeds is unquestionably one of the reasons for the resentment felt by so many people toward the United States.

The funds in this conference report are used to protect the environment and endangered wildlife, to strengthen democracy and the rule of law, and to help prevent the proliferation of chemical, biological, and nuclear weapons.

We support agriculture research at American universities, and we promote exports through loans and guarantees for American companies competing in foreign markets.

Mr. President, we call these programs "foreign assistance." They are held up as proof of America's generosity. But anyone paying attention can see that is only part of the story. These funds directly, and indirectly, protect our economy, our democracy, our national security. It is in our self-interest, plain and simple.

This conference report contains 1 percent of the total federal budget. On a per capita basis that amounts to about $40 per American citizen per year—the cost of a pair of shoes.

To use another example, next year we plan to spend about $150 million on children's education in poor countries where many children, especially girls, receive only a few years of schooling. That is less than most American cities spend on children's education, yet that is all we have for the whole world.

A year ago, some might have asked what children's education in Afghanistan or other countries has to do with America's security. Today it should be obvious. People who are educated, who can earn money to feed and clothe their families, and participate meaningfully in the political process, are not training to be terrorists.

For years, organizations working on the front lines in poor countries have appealed to the Congress and the administration to significantly increase the amount of funding to address the inter-related problems of population growth, poverty, political and economic instability, corruption, environmental degradation, narco-trafficking, and terrorism. Year after year, the Congress and the administration have turned a deaf ear.

Is it any wonder that Afghanistan today is a destroyed country that became a haven for terrorists?

Part of the problem is misconceptions about the foreign operations budget. People think it's some kind of give-away, when in fact, we use it to protect our security.

Mr. President, since September 11th, a large majority of the American public, and a broad, bipartisan cross-section of Members of Congress—Democrats and Republicans, liberals and conservatives—have called for substantial increases in funding to address the causes of poverty and disillusionment that persists not only in many Muslin countries, but among a third of the world's population.

We can no longer pretend that spending 1 percent of our $2 trillion Federal budget is a serious response to these national security needs. The widening gap between rich and poor nations is the best evidence of that.

Many have made these points before. Today they are a common refrain. Senators FEINSTEIN, GORDON SMITH, and I have introduced a resolution calling for tripling the foreign assistance budget. Others have proposed similar legislation. There have been numerous speeches, editorials, and other commentary.

Yet we have yet to see any effective response from the political process. Our foreign assistance budget—I would prefer to call it our international security budget—has fallen in real terms since the 1980s. Rumor has it that the President's fiscal year 2003 budget request for International Affairs will be at about the fiscal year 2002 level—in other words, business as usual, despite the lessons of September 11.

That would be extraordinary short sighted. We cannot possibly deal a lasting blow to international terrorism without a multi-prong strategy—addressing the social and economic causes of terrorism and conflict with foreign assistance, diplomacy, and law enforcement, and when necessary, military force.

Mr. President, the security of an American citizen is worth a lot more than the price of a pair of shoes, yet that is how much we are spending on the prevention part of this strategy. It is, frankly, ludicrous.

We argue over a few million dollars to alleviate the suffering in refugee camps, which are fertile grounds for terrorist recruits. We debate about another $5 or $10 million to help the world's poorest families start businesses, to work their way out of poverty. We rob Peter to pay Paul to get a few more millions for children's education or programs to improve health care. We struggle, year after year, to increase funding for family planning and reproductive health to the level it was six years ago.

Have we so soon forgotten the lessons of September 11? We are the richest, most powerful nation in history, yet we continue to act as though the rest of the world barely matters to us.

We cannot put those lessons into effect without Presidential leadership. If President Bush, today, were to ask every American to support a tripling of our foreign operations budget, and he explained why it is important too our national security and to combating international terrorism, does anyone think the Congress would not respond or that the public would object? The polls show unequivocally that the public understands these issues.

This conference report is the best we could do with what we had, and we owe a debt of gratitude to Chairman BYRD and Senator STEVENS. But we need a multi-prong strategy if we are going to combat international terrorism and protect our other security around the world. I hope someone in the White House is listening, because this is what the President should be saying to America and the world.

Mr. President, I want to briefly mention a few of the important provisions in this conference report.

It provides sufficient funding for the Export Import Bank to support export financing well above the fiscal year 2000 level. This is of great importance to American companies who compete for markets in developing countries.

It provides increases for the Foreign Military Financing and International Military Education and Training programs.

It includes additional funding for international peacekeeping and for assistance for the former Yugoslavia, including Serbia, Montenegro, and Macedonia.

It includes $475 million for the prevention and treatment of HIV/AIDS, including $50 million for the Global Fund to combat AIDS, TB and malaria. This falls short of what our country should be providing, but it is a significant increase above last year's level.

The conference report also increases funding for other infectious disease and children's health programs. These programs are desperately needed to strengthen the capacity of developing countries to conduct surveillance and respond to diseases like polio and measles. But they are equally important for combating the spread of biological agents used in acts of terrorism, like anthrax.

It includes $625 million for the Andean Counterdrug Initiative. This is in addition to the $1.3 billion for Plan Colombia that we appropriated last year. We include several conditions on our assistance to the Colombian Armed Forces, and on the aerial spraying of chemical herbicides which are used to eradicate coca.

The conference report provides $34 million for the UN Population Fund, and $446.5 million for USAID's family planning and reproductive health programs. Although still less than what the United States was providing for these activities in the mid-1990's, it is an increase above the fiscal year 2001 level. With 100 million new births each year—95 percent of which are in developing countries many of which cannot feed their people today, these programs are of vital importance in combating poverty.

The conference report contains the usual earmarks for the Middle East countries. It also continues various limitations or restrictions on assistance to several governments beyond those I have already mentioned, where there is a history of corruption or human rights violations that have gone unpunished.

Mr. President, I want to again thank Senator McCONNELL for his invaluable help.

Mr. LEVIN. Mr. President, we have before us, the foreign operations, export financing, and related programs bill, H.R. 2506, for fiscal year 2002. This bill is the primary legislative means by which this body can review the U.S. foreign aid budget. That has always been an important task, but the events of September 11th have only enhanced the importance of examining our priorities and international commitments as we seek to stop international terrorism while continuing to promote democracy, the rule of law and free markets throughout the world.

The events of September 11th have caused the United States to re-examine its relations with many nations including Armenia and Azerbaijan. For nearly a decade, our relations with these two nations has been shaped by section 907 of the FREEDOM Support Act, 102-511. Section 907 has restricted aid to Azerbaijan until it ceases the blockade and use of force against Armenia and Nagorno-Karabagh. Section 907 has been seen as a vital tool in the efforts to encourage Armenia and Azerbaijan to resolve the dispute over Nagorno-Karabagh in a peaceful manner.

In spite of the vital role section 907 has played in trying to end the blockade of Nagorno-Karabagh, H.R. 2506 will allow the President to waive section 907 only with respect to our immediate crisis, the international was against terrorism. It is my hope that the President will not use this waiver given the important role section 907 plays in encouraging a cessation of this blockade that threatens the peace and stability of the entire Caucasus region.

I am heartened by the fact that Congress will review the waiver to section 907 in the FY 2003 Foreign Operations Appropriations bill and will be closely monitoring Azerbaijan's actions and progress in the Nagorno-Karabagh peace process.

In addition, I am particularly pleased that Armenia will receive significant military financing and training assistance and it is my hope that in the long run, this balanced approach will speed the Nagorno-Karabagh process.

I would like to express my gratitude to Senators LEAHY and McCONNELL for their hard work with regard to this bill. In addition, I would like to recognize the input of those individuals and organizations from the Armenian-American community who understand the importance of America's efforts to combat terrorism in the aftermath of September 11th.

Mr. McCONNELL. Mr. President, I thank my colleagues for their patience as the final negotiations on the FY 2002 foreign operations bill came to a conclusion only this week.

The conference report reflects a compromise between both sides of the aisle in the Senate, and with our House colleagues. Let me take a brief moment to underscore a few accomplishments in the bill:

Conferees accepted the Senate amendment—which was painstakingly reached with the help of Senator BROWNBACK—permitting counter terrorism assistance to Azerbaijan, while protecting the integrity of section 907 of the FREEDOM Support Act. This will ensure that America's war on terrorism can be waged effectively—but not at the expense of the ongoing negotiations between Armenia and Azerbaijan. I thank all the conferees for understanding the delicate balance struck on this important issue, and I want to recognize the unabashed patriotism of the Armenia-American community in supporting the Senate's language.

Conferees accepted, with modifications, the Senate amendment providing $10 million for programs and activities to promote democracy, human rights, the rule of law, women's development, and press freedoms in countries with a significant Muslim population, and where such programs would be important to America's war on terrorism. I strongly urge the administration to act quickly in supporting activities relating to the welfare and status of Afghan women, and to explore initiating women's development programs along border areas where Afghan refugees are located.

Conferees maintained, with modifications, House language requiring the President to report to Congress on whether the Palestinian Liberation Organization, PLO, has lived up to its 1993 commitments to renounce the use of violence against Israel. My colleagues may recall that the Senate did not offer a similar provision—at the request of Secretary of State Colin Powell—but inclusion of this provision in the conference report could not be more timely. I am disheartened and sickened by continued incidents of terrorism against the people of Israel. The stakes are high for Chairman Arafat, and his political life is on the line. Arafat needs to get a grip on the extremists he has given free reign on the West Bank and Gaza. As we say in Kentucky, you reap what you sow.

Finally, I want to express my continued frustrations with Egypt over its less than enthusiastic support for America's war against terrorism, lackluster performance to further the peace process between Palestinians and Israelis, and continued anti-American and anti-Semitic drivel in its government-controlled press. I have said it before, and I will say it again: the Egyptians need to be a better ally to the United States. It is not acceptable to purchase No-Dong missiles from North Korea. It is appalling to accuse the United States of fattening up the people of Afghanistan before slaughtering them. And it is beyond the realm of human decency that the song "I hate Israel" by Shaaban Abdel Rahim is a popular hit in Egypt. Each of these actions will be carefully considered during next year's appropriations process.

Let me close my remarks by thanking Chairman BYRD, Senator STEVENS, and all the members of the Foreign Operations Subcommittee for their support of this bill. My staff and I look forward to working with Senator LEAHY and his capable crew—Tim Rieser and Mark Lippert—on the Fiscal Year 2003 foreign aid bill early next year. Finally, I extend my heartfelt thanks to Jennifer Chartrand, Billy Piper, and Paul Grove for their hard work throughout this challenging year.

Mrs. FEINSTEIN. Mr. President, I rise to express my sincere disappointment that the foreign operations conference report before us includes a provision that will suspend the certification process worldwide. This goes far beyond what this Senate passed just weeks ago.

The certification process is this Nation's best—and in many cases, only—mechanism to persuade problem nations to work with us as we try to stem the flow of illegal narcotics across our borders and onto our streets.

The purpose of the certification profess is not to punish any one individual country, but rather to hold all countries to a minimum standard of cooperation in the war against illegal drugs. In that regard, I believe it is the most effective system we have available to us. There simply is no alternative.

Many have tried to turn the certification issue into a simplistic clash between the United States and Mexico. To be sure, in the past that relationship has received the most attention.

But in fact, there are more than 30 countries that undergo an annual certification review under current law—including countries like Afghanistan, Syria, Iran, Burma, and even China.

Afghanistan, for instance, has been decertified 10 out of 12 times they have faced review. As a result, U.S. aid has been withheld from the Nation.

Burma, also, has been decertified 10 out of the 12 times it has faced review.

It is interesting to note that Mexico has never once been decertified.

So this is not a U.S.-Mexico issue. This is an issue affecting our global efforts to reduce the supply of drugs to the United States. Suspending the certification process worldwide means that countries failing to cooperate in the drug war will face no penalty for that failure. And that is a step we should not be taking.

Now is not the time to be letting up on the war on drugs.

The connection between terrorist and narcotics traffickers is real, and closer than ever before.

In Colombia, in Afghanistan, and in other places around the world, drug money helps terrorist organizations carry out violent, destructive, and even deadly acts of terror against citizens of the United States and other countries.

The Drug Enforcement Administration estimates that last year, Afghanistan supplied 70 percent of the world's opium. Money from the drug trade in Afghanistan helped keep the Taliban in power, and some of that money undoubtedly made it to the al Qaeda organization.

In Colombia, the FARC narco-terrorists make millions every year in extortion and protection money from drug traffickers. This money helps them maintain control over an area within Colombia the size of Switzerland, and funds activities that include kidnaping and even murder.

Even beyond the drug-terror connection, the drug trade around the world is ever-developing. Supplies of many drugs are near or at all time highs. In the last few years alone, the drug known as Ecstasy has become a virtual phenomenon among young people in this country, and is smuggled into the United States from countries as diverse as Mexico and the Netherlands, Belgium and Israel.

If anything, this administration and this Congress should be taking the certification process even more seriously—not moving to abandon it wholesale.

If anything, the real threat of decertification should be used more often as a tool to modify the behavior of problem nations, not less often.

To do as this conference report does and completely stop the certification process for all nations will essentially remove the one good means we have of encouraging foreign nations to work with us in reducing the supply of illegal drugs to the United States.

This moratorium is a mistake, plain and simple.

I do want to again stress that a partial moratorium is warranted, particularly for the government of Mexico. I believe that Mexican President Vicente Fox has shown a clear willingness to work with the United States in the drug war, much like the government of Colombia has over the last few years in the battle against strong drug cartels.

That is why a temporary moratorium on the certification process in this hemisphere makes some sense. And that is why I did not object to such a moratorium when this issue first came up on the floor of the Senate.

But expanding the moratorium to countries that have shown far less cooperation, and continue to do little to keep drug traffickers from producing drugs or moving drugs through their territory, is a step backward in the war against drugs.

I feel very strongly about this issue, and it is my belief that this provision may very well be an attempt by the opponents of the certification process to begin the process of dismantling certification altogether.

Well, let's just say that while I am happy to work with my colleagues to consider reasonable ways to address the certification issue—especially, in cases like Mexico, where the record may warrant changes—I intend to make sure that next year's foreign operations legislation does not reflect such a poorly conceived approach to this issue.

BIOTERRORISM

Mr. BYRD. While the Republican leader is on the floor, if I may change the subject, Senator PAT ROBERTS of Kansas proposed to me earlier seeking unanimous consent to pass a bioterrorism bill.

Mr. LOTT. Yes, bioterrorism.

Mr. BYRD. At that point, I didn't know about the bill and didn't know anything about it. I objected. I thought he was going to remain around. But I want to say to the Senate Republican leader that I have no objection. I have had my staff look at it, and I am advised by the staff and on reading this measure and contemplating it and understanding it, I certainly have no objection if the leader wants to call it up. That is the bill in which PAT ROBERTS of Kansas is interested.

Mr. LOTT. That is the bioterrorism legislation, I might say to the Senator from West Virginia. It has been very laboriously worked through by Senator CRAIG, Senator KENNEDY, and Senator FRIST. This is an area where we need to do more. This is only authorization. It would still be subject to the appropriations process. But it does authorize a great deal more activity in very critical areas such as public health service. And, of course, Senator ROBERTS also worked to get a food aspect of that in agriculture. Agriculture terrorism is an area where we have to be concerned, too.

I think it is good legislation. I appreciate Senator BYRD's making that observation and agreeing that we could move it. Once Senator REID returns to the floor, we will renew our unanimous consent request at that time.

Mr. BYRD. PAT ROBERTS came to my office earlier this year and explained the need for this kind of program.

Mr. LOTT. We need to do it because he has been in my office several times explaining it. I would like to get it done because I have heard enough to be convinced.

Mr. BYRD. I remove my objection.

VICTIMS' TAX RELIEF

Mr. LOTT. Mr. President, I do want to say on other matters that we passed this afternoon and on which we didn't get to comment too much, I am glad we did what we did with regard to victims' tax relief, the spouses who lost loved ones in the Twin Towers and at the Pentagon. I met with a group of them, most of them women, but a man also.

It was one of the most cheerful things I have experienced. These are women, most of them young women with children, some of them pregnant, some of them with no income right now; some of them hadn't gotten much in terms of charitable assistance. I was floored to learn that we taxed charitable contributions or receipts to individuals who had been hit by a disaster such as this. I think we should say as to the funds they receive from charitable contributions, these spouses who have lost their loved ones, not only should they not have to pay taxes on the charity they receive but no American should.

I have gone back and checked on the history now and found out how that happened. At one point there was a budget need for $10 billion. So they said, we can just do a tax on charitable receipts for 5 years and that will take care of this $10 billion hole.

So I am glad we did that. I appreciate that there were Senators from all over the country on other issues, such as Senator BAUCUS and the Senator from New York, who were willing to put aside very important issues to them to make sure we didn't leave this issue on the table.

TERRORISM REINSURANCE

Mr. LOTT. Mr. President, another issue I was very sorry we couldn't work out was the terrorism reinsurance. We should have moved that today. We should have moved it a month ago.

What happened was Senator GRAMM, Senator DODD, and Senator SARBANES came to agreement on a bill in the committee of jurisdiction, the Banking and Financial Services Committee. It had some limits on liability. But then it was basically taken away from those Senators, and they were told we were not going to do it that way.

The bill that Senator DASCHLE asked consent to move this afternoon did not have any limits on attorney's fees or any prohibitions on punitive damages. And Senator MCCONNELL then said: We should move the bill, but we should have at least a vote on whether or not there should be any limits on liabilities. That is all we were asking, not that it just be included, which it should have been because that was what was in the committee, but that we have an opportunity to vote on that.

And, by the way, as an old whip, I had counted the votes, and the votes were here in the Senate to pass that bill with no punitive damages allowed and some limits on liability.

Otherwise, we would have lawsuits being settled and attorney fees and punitive damages coming out of the Federal Treasury if we had a terrorist attack that invoked this terrorism reinsurance.

So I hope we don't have a situation at the end of the year where buildings will not be able to be built because they won't get loans because there won't be terrorism insurance. Maybe too much won't happen between now and the end of January or early February, but we need to address this issue. When we do, it should have some reasonable tort reform included, as the Federal tort claims law now provides.

One other brief point, and I will yield so others may speak. Mr. President, in the 29 years I have been in Congress, the House and the Senate, we have worked through a lot of difficult issues. We have committee action, we pass things in the House and Senate, we have intense negotiations in conference, but at some point we bring it to a conclusion and we pass it.

I have never seen an issue that more work went into than this stimulus package with no result. The President was personally involved. The President personally made concessions. The House and the Senate were involved. We set up a system of negotiators involving Senator BAUCUS, Senator GRASSLEY, and Senator ROCKEFELLER. We finally had a bill before us this afternoon that would provide stimulus for the economy, tax incentives for businesses, big and small, and for individuals to be able to keep a little more of their taxes, lowering the 27 percent tax bracket down to 25, helping people who make as low as $28,000 for an individual, and $40,000 for a couple—not exactly wealthy people, and not even middle income, if you get down to it—and assistance for unemployed, increased benefits for them, and a new precedent of health insurance coverage.

We could not even get it up to a vote. I believe if we would have had a vote on that issue today, there would have been 60 votes to override a point of order. I would not want to have to go back to my State and explain how I voted against a bill that provided additional unemployment compensation, health insurance coverage for the unemployed, expensing for small business men and women, and rate cuts for middle-income individuals. I don't think I could have defended that. Therefore, I would have voted for it, and I believe 60 or more Senators would have voted for it. But it is here.

I hope the economy begins to show continued growth. There is good news for the third week in a row. Unemployment claims are down. We have a robust, dynamic economy in America. Maybe it won't be needed. But if we come back in late January and February and it is still stumbling along, and we are not seeing positive signs of real recovery, we are going to have to revisit this issue.

We should also revisit the issue Senator DOMENICI raised—the payroll tax holiday—and put that in place of some of the other provisions in this bill. This bill is pretty expensive already. I think we need to take some things out of this bill. That would provide a quick, immediate impact on the economy. If we didn't collect that 12.4 percent payroll tax for 1 month on individuals and employers, that would have an impact immediately. So that may be something to which we will have to return.

There will be a lot of accusations back and forth as to why we didn't get it done, but I will say I think for the American people, no matter how it happened, it is a shame we didn't complete work on that piece of legislation.

I hope next year we will start on a positive note and pass a national energy policy bill, and pass an agriculture bill that has better policy in it than the one we considered, and also pass trade legislation that would help the economy. I think we can do those things, a lot of other good things, and a stimulus bill if the economy calls for it.

I yield the floor.

Mr. REID. Mr. President, on behalf of Senator BYRD, I yield back the 17 minutes he has. It is my understanding that Senator Lott has the authority to yield back the time of Senator MCCONNELL on the foreign operations bill.

Mr. LOTT. Yes, and I do so.

The PRESIDING OFFICER. Under the previous order, the conference report to accompany H.R. 2506 is agreed to and the motion to reconsider is laid upon the table.

Under the previous order, the Senator from Virginia is recognized for up to 5 minutes.

Mr. ALLEN. Mr. President, I spoke to Senator BAUCUS, and I know he has a measure he wants to discuss and, without objection, I would actually defer to Senator BAUCUS for his remarks he wanted to make if I may follow right behind Senator BAUCUS.

Ms. LANDRIEU. Reserving the right to object, I inquire of the Senator from Virginia and the Senator from Montana about the timeframe they are speaking of because I wanted to address the Senate on a matter different from the subject about which they want to speak.

Mr. BAUCUS. Mr. President, if I might answer the question posed, it is my intention that the matter I intend to bring up will probably consume 4, 5 minutes maximum.

Mr. REID. Mr. President, if I may ask the courtesy of my friends, Senator LOTT and I have something we have been trying to do all day. It will take a short time, a unanimous consent request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Virginia?

Ms. LANDRIEU. I do object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Mr. President, I say to my friend from Montana, I would have liked to yield 5 minutes, but I had better take them.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

TERRORIST VICTIMS COURTROOM ACCESS ACT

Mr. ALLEN. Mr. President, I rise to discuss a bill we just passed, S. 1858. I thank my colleagues for their support:

Senator KERRY, Senator NICKLES, Senator KENNEDY, and Senators WARNER, HATCH, and CLINTON. Particularly, I thank Senator NICKLES for he was of great help in getting this measure passed.

S. 1858 deals with the upcoming trial of Zacarias Moussaoui. Moussaoui has been charged in a six-count indictment with undertaking "the same preparation for murder" as the perpetrators of the September 11 attacks, but his alleged participation had been thwarted by his arrest the previous month in Minnesota. Now this measure is one that is helpful to all of us in that he is the only suspect with any direct connection with the most vile and horrific terrorist attack in our history.

There will be substantial interest in the trial of Mr. Moussaoui on the part of those who have been left behind, especially the families and loved ones of thousands who were killed on that dreadful day. By some estimates, there are as many as 10,000 or 15,000 victims who may have an interest in viewing this historic legal proceeding that will take place in the U.S. District Court for the Eastern District of Virginia in Alexandria.

The current policy of the Federal Judicial Conference does not permit the televising of court proceedings. I am supporting legislation that would give Federal judges such discretion. But until that legislation passes, we will not be able to address the interests of victims' families to view the proceedings in the Moussaoui trial.

In the past, exceptions have been made through congressional action, most notably allowing the closed circuit transmission of the trials of Timothy McVeigh and Terry Nichols from Denver to Oklahoma City, so that families in Oklahoma could witness the proceedings. That is where Senator NICKLES was especially empathetic and knowledgeable about how much this means to the victims' families.

This legislation, S. 1858, is modeled on the law that allowed the Oklahoma City victims to witness the McVeigh and Nichols trials, and this bill will extend the same compassionate access or benefit to the numerous victims and families of September 11.

The legislation calls for the closed circuit broadcast of the court proceedings to convenient locations in Northern Virginia; Los Angeles and San Francisco, CA; New York City; Boston; and Newark, NJ. Also "with the amendment in such other locations as the court shall determine to be desirable," to use the exact language, and other locations the court may find desirable in their discretion.

The reason for the six places is that these are the sites of the terrorist attacks: the Pentagon and the World Trade Center, and the others are the sites where commandeered aircraft either departed or intended to arrive. Unfortunately, they did not. These locations obviously would have the greatest number of interested people and have victims in this attack.

The legislation allows those who the court determines to have a compelling interest but who are unable to attend because of expense and convenience or simply a lack of space in the courtroom to witness the trial.

The courtroom in Alexandria, VA, holds fewer than 100 people, and the sheer number of victims and others who meet the standard make it impossible for them to observe in person. While there is a great, deep wound for the larger society, the wound is deepest and most deeply and painfully felt by the survivors and families who lost loved ones.

I am glad we recognize in the Senate that we owe it to those victims' families to allow them to see this open proceeding which is directly related to the horrific event of September 11 that took the lives of their loved ones. In doing so, for those who want to watch the trials—others may not—for those who want to, it will begin to help them heal.

It is a right approach that a compassionate nation wants to provide to these victims' families. I thank the Senators for their support, not of this legislation but for their support of the families of these victims.

I yield back the remainder of my time. Thank you, Mr. President.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that following my unanimous consent requests the Senator from Montana be recognized for up to 5 minutes, the Senator from Louisiana for up to 5 minutes, and the Senator from Ohio for 10 minutes, as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC HEALTH SECURITY AND BIOTERRORISM RESPONSE ACT OF 2001

Mr. REID. Mr. President, with the attention of the Senator from Mississippi, Mr. LOTT, I ask unanimous consent that the Senate now proceed to H.R. 3448, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H. R. 3448) to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies.

There being no objection, the Senate proceeded to consider the bill.

Ms. LANDRIEU. I am very concerned about help for for-profit hospitals if they must deal with a bioterrorist attack. Their services are critical, and they face the same challenges as other hospitals. They should be eligible for Stafford Act assistance under certain circumstances.

Mr. KENNEDY. I understand the concerns of my colleague. In many places for-profit hospitals are the only providers. I will work with her to address these legitimate needs in conference.

FOOD SAFETY

Mr. DURBIN. Mr. President, I am pleased that the sponsors of the bill recognize the importance of strengthening our Nation's protections for food safety and of addressing potential bioterrorist threats against our food supply. Among the bill's provisions are new authorities for the Food and Drug Administration to require the maintenance of food records, to inspect such records, and to detain unsafe foods.

I would appreciate clarification regarding the standard of serious adverse health consequences or death, which applies to the authorities for inspection of records and administrative detention, among others. It is my understanding that some have suggested that foodborne pathogens such as salmonella, listeria monocytogenes, shigella dysenteriae, and cryptosporidium parvum, which in 1993 sickenened over 400,000 people in Wisconsin who drank contaminated water, may not pose a threat of serious adverse health consequences to healthy adults. Most of these pathogens have been identified by the CDC as possible biological agents that could be used in an attack against our citizens, and they could clearly pose a threat of serious adverse health consequences or death to vulnerable populations, such as children, pregnant women, the elderly, transplant recipients, persons with HIV/AIDS and other immunocompromised persons.

Do the sponsors intend for the standard in this bill, cited in the sections on inspection of records, administrative detention, debarment, and marking of refused articles, to enable the Food and Drug Administration to act when a foodborne pathogen presents a threat of serious adverse health consequences or death to such vulnerable populations mentioned above, even if healthy adults may not face the same risk? And do the sponsors agree that the pathogens I mentioned previously may present such a risk of serious adverse health consequences or death? I believe we must ensure that the law is fully protective of all American consumers. I hope that the sponsors share my concerns.

Mr. KENNEDY. Will the Senator from Illinois yield?

Mr. DURBIN. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. First, I commend my colleague for his longstanding advocacy for food safety. He has been a leader, both in the House of Representatives and here in the Senate, in seeking the resources, the authority and the public awareness which will reduce the yearly epidemic of foodborne illness. The CDC has estimated that foodborne diseases cause approximately 76 million illnesses, 325,000 hospitalizations, and 5,000 deaths in the United States each year.

I also point out that he has played an instrumental role, with our colleagues, Senator MIKULSKI, Senator COLLINS, and Senator CLINTON, in assuring that food safety is addressed in this legislation.

In response to my colleague's inquiry, I fully concur with his interpretation of the food safety provisions in our legislation. It is precisely our intent, with respect to the food safety sections of this bill, that the standard of serious adverse health consequences or death with respect to these provisions in this bill should be understood to enable the FDA to protect all Americans, including vulnerable populations such as children and the elderly.

I agree that there are instances where foodborne pathogens, such as those mentioned by my colleague, whether accidentally or deliberately introduced into food, may threaten some more vulnerable individuals but not the healthy adult population. For that reason, my colleague is correct that the agency would be able to exercise these food safety authorities to protect such vulnerable populations.

Mr. FRIST. Will my colleague yield?

Mr. KENNEDY. With pleasure.

Mr. FRIST. I concur with Senator KENNEDY's remarks regarding this standard as it applies to the food safety provisions in this bill. As 21 C.F.R. 7.41 regarding health hazard evaluation makes clear, the FDA evaluation will take into account a list of factors, one of which is "an assessment of hazard to various segments of the population, including children, livestock, etc. who are expected to be exposed to the product being considered with particular attention paid to the hazard to those individuals who may be at greatest risk."

I believe these provisions will help protect the safety and security of our food supply.

Mr. DURBIN. I appreciate my colleagues' willingness to clarify these important points, and join them in supporting this important legislation.

ANTITRUST EXEMPTION

Mr. WELLSTONE. Mr. President, I am a cosponsor of this legislation because it is extremely important, but as I noted when the bill was originally introduced, I am concerned about the scope of the antitrust exemption.

I have three concerns in particular: There is no opportunity for public comment prior to the granting of an exemption; the period of exemption is too long; and the criteria for granting the exemption are too broad with respect to competitive impact on areas not directly related to the agreement.

Mr. KENNEDY. I understand my colleague's concerns and commend him for his commitment to protecting consumers. His concerns are legitimate and I will work to improve these provisions in response to his concerns in the conference.

COMBATING BIOTERRORISM

Mr. JEFFORDS. Mr. President, and my distinguished colleagues, I am pleased that we are moving so quickly on legislation to combat bioterrorism—this is certainly a timely issue.

I would like to engage my colleagues in a colloquy to clarify our commitment to another important issue—the security of our Nation's water supply. At the end of October of this year, I was joined by the ranking member of the Environment and Public Works Committee in introducing S. 1593 and S. 1608. S. 1593 authorizes the Administrator of the Environmental Protection Agency to establish a grant program to support research projects on critical infrastructure protection for water supply systems. S. 1608 establishes a program to provide grants to drinking water and wastewater facilities to meet immediate security needs.

I understand that the gentleman from Tennessee, the gentleman from Massachusetts and the gentleman from New Hampshire support the modified provisions of these bills. Is that correct?

Mr. FRIST. That is correct.

Mr. KENNEDY. Yes, that is correct.

Mr. GREGG. Yes, that is correct because in the interest of time, we are unable to change the bill prior to conference.

Mr. SMITH. I too would like to thank Senator FRIST, Senator KENNEDY, and Senator GREGG for agreeing to work with us to ensure these two proposals are included in the bioterrorism proposal. I regret that with the end of session quickly approaching, there is no time to incorporate these provisions into the underlying bill. As we all recognized in our support for these proposals, since the September 11 attacks, Americans throughout the country have become concerned about the security of our Nation's water supply. While it is widely believed that our water supply is safe, there are a few vulnerabilities that must be addressed. Our bills would provide resources for research into security at facilities and assessment tools while also providing seed money to encourage additional spending on security measures.

Mr. JEFFORDS. Our colleagues on the House side also recognized this need by including water security provisions in the bioterrorism bill, H.R. 3448, that was passed by the House on December 12. I would like my colleagues' assurance that during conference they will press for adoption of the modified versions of S. 1593 and S. 1608.

Mr. KENNEDY. I intend to press for adoption of these provisions. The security of our Nation's water supply is crucial to the health and well-being of our citizens.

Mr. GREGG. I concur, and I intend to press for adoption of these provisions.

Mr. FRIST. I agree and you have my commitment to do the same.

Mr. SMITH. I again would like to thank my colleagues for agreeing to fight for these provisions during conference. It was with great reluctance that Senator JEFFORDS and I agreed to allow S. 1765 to be brought to the floor without our legislation included so that we can move forward on this important bill and conference it with the House. However, it is important that these immediate needs be addressed and that our proposals be included in the final legislation. I look forward to working with my colleagues to ensure that the provisions we agreed to that comprise the modified versions of S. 1593 and S. 1608 are included in the bioterrorism bill.

Mr. JEFFORDS. Finally, I want to commend Senators KENNEDY, FRIST, and GREGG and say that I am looking forward to working with them during the conference on these measures.

Mr. KENNEDY. Mr. President, I urge the Senate to approve this important bipartisan legislation to respond to one of the most severe dangers our country faces, the grave threat of bioterrorist attacks. I commend my colleagues Senator FRIST and Senator GREGG for their impressive continuing leadership on this vital issue.

We are all well aware of the emergency we face. In recent weeks, a handful of anthrax cases stretched our health care system to the breaking point. A larger attack could be a disaster, and the attack of the past weeks has clearly sounded the alarm. The clock is ticking on America's preparedness for a future attack. We've had the clearest possible warning, and we can't afford to ignore it. We know that lives are at stake, and we're not ready yet.

The Department of Health and Human Services has made anthrax vaccine available to workers at risk for exposure to the deadly spores, but there has been few plans to distribute the vaccine and inform workers about the risks and benefits of vaccination. In a major outbreak, our public health agencies and hospitals would be strained to the breaking point by the task of providing vaccinations against anthrax, smallpox, or other deadly plagues to thousands or even millions of Americans. Some cities have already developed plans and procedures for providing care to patients affected by bioterrorism, but too few communities are adequately prepared.

The needs are great. A summit meeting of experts on bioterrorism and public health concluded that $835 million was needed just to address the most pressing needs for public health at the State and local levels.

The National Governors Association has said that States need $2 billion to improve readiness for bioterrorism. John Hopkins Hospital is spending $7.5 million to improve its ability to serve as a regional bioterrorism resource for Baltimore. Equipping just one hospital to this level in each of 100 cities across America would cost $750 million.

The Appropriations Committee has recognized the importance of significant investments in bioterrorism preparedness. The Department of Defense conference bill provides as important down payment for the Nation's needs for bioterrorism preparedness. I commend Senator BYRD, Senator STEVENS, Senator INOUYE, Senator HARKIN, and Senator SPECTER for their impressive leadership in this area. In particular, they have begun to address the basic issue of State and local preparedness and the readiness of hospitals to deal with bioterrorism by providing $1 billion for these purposes.

The need for help at the State and local level is especially urgent. In the first 3 weeks of October alone, state health departments spent a quarter billion dollars responding to the anthrax attack. Many departments were forced to put aside other major public health responsibilities.

Massachusetts has suspended many public health activities other than bioterrorism, and has fielded over 2,000 calls from worried residents, each one taking half an hour of time for personnel. South Dakota has had to suspend an investigation of serious food poisoning outbreak to investigate rumors of anthrax attacks, even though no actual attack appears to have occurred. The Georgia Health Department has spent 3,000 person-hours just in 1 week on anthrax.

Hospitals across the country have immediate needs. According to the American Public Health Association, hospitals are hard-pressed even during a heavy flu season, and could not cope with a lethal contagious disease like smallpox.

The Bioterrorism Preparedness Act we are proposing will address these deficiencies. It provides new resources for bioterrorism preparedness to the States under a formula that guarantees help to each State. These resources will be available to improve hospital readiness, equip emergency personnel, enhance State planning, and strengthen the ability of public health agencies to detect and contain dangerous disease outbreaks.

The need is great at the State and local level, but gaps need to be addressed at the Federal level too.

So far, we have had only a handful of patients diagnosed with anthrax, but our resources have been stretched to the breaking point. We can't afford further delays in meeting these critical needs.

Ft. Detrick, one of our two national reference laboratories, processed over 19,000 samples after the attacks began, and they are already stretched to the limit.

The story was the same at CDC. Usually, a few dozen CDC experts respond to a disease outbreak. But CDC assigned nearly 500 specialists to the anthrax attacks. One out of eight employees at CDC headquarters in Atlanta is working on the current outbreak. Staffers worked round the clock and slept in hallways and only 18 cases of actual illness was known.

In a recent article, CDC Director Koplan summed up the situation this way:

> Right now, we are working flat out. I keep thinking, if you know you;re in a marathon, you pace yourself for a marathon; if you know you're in a sprint, ou pace yourself for a sprint. But our guys are sprinting, and the sprint distance is long over. We're sprinting a marathon.

The diversion of resources to anthrax has also led to the neglect of other important health priorities. According to a recent article in the Chicago Tribune, CDC has had to postpone programs to prevent meningitis among college students. They've delayed the development of vaccines urgently needed to combat diseases in the developing world. They've deferred activities to contain the spread of deadly infections resistant to antibiotics. Hawaii is facing a serious outbreak of dengue fever. When local health authorities asked CDC to analyze lab samples, they were told that no facilities were available due to the anthrax outbreak. Instead, the Hawaii doctors had to send their important samples to a lab in Puerto Rico for analysis.

Dr. David Satcher, the Surgeon General, recently said that the country "should be ashamed of the condition of the laboratories of the CDC." These vital national resources, he said, were without power for 15 hours during the early days of the anthrax outbreak. Computers are covered in plastic to protect them from leaky roofs, and termites have chewed holes through laboratory floors.

Dr. Satcher is right to call this problem a national disgrace. We cannot continue to expect the CDC to do a first class job, if we provide only third-rate facilities.

Clearly, our legislation is an important downpayment on preparedness. But we must make sure that our commitment to achieving full readiness is sustained in the weeks and months to come.

Since September 11, the American people have supported our commitment of billions of dollars and thousands of troops to battle terrorism abroad. But Americans also want to be safe at home. We have an obligation to every American that we will do no less to protect them against terrorism at home than we do to fight terrorism abroad.

Federal stockpiles of antibiotics, vaccines, and other medical supplies are an essential part of the national response. We have a strategic petroleum reserve to safeguard our energy supply in times of crisis. We need a strategic pharmaceutical reserve as well, to ensure that we have the medicines and vaccines stockpiled to respond to bioterrorist attacks. Our legislation establishes this reserve, and authorizes the development of sufficient smallpox and other vaccines to meet the needs of the entire U.S. population.

The legislation will also help protect the safety of the food supply, through increased research and surveillance of dangerous agricultural pathogens.

Our legislation draws on the work and suggestions of numerous colleagues on both sides of the aisle. One of the important areas addressed in the legislation is the threat of agricultural bioterrorism. Deliberate introduction of animal diseases could pose rave dangers to the safety of the food supply. Such acts of agricultural bioterrorism would also be economically devastating. The outbreaks of "mad cow" disease in Europe cost over $10 billion, and the foot and mouth outbreak cost billions more. We must guard against this danger.

Protecting the safety of the food supply is a central concern in addressing the problem of bioterrorism. Senator CLINTON, Senator MIKULSKI, Senator HARKIN, Senator COLLINS, and Senator DURBIN have all contributed thoughtful proposals about food safety. Our bill will enable FDA and USDA to protect the Nation's food supply more effectively.

We are grateful for the leadership of other Senators who have made significant contributions to this legislation. Senator BAYH and Senator EDWARDS contributed important proposals on providing block grants to States, so that each State will be able to increase its preparedness. Their proposals ensure that each state will receive at least a minimum level of funding.

We are also grateful for the contributions that many of our distinguished colleagues have made to meet the special needs of children. Senator DODD, Senator COLLINS, Senator CLINTON, Senator DEWINE and Senator MURRAY have emphasized the crucial needs of children in any plan to deal with bioterrorism. The legislation includes significant initiatives to provide for the special needs of children and other vulnerable populations.

The events of recent weeks have also shown the importance of effective communication with the public. Our legislation incorporates proposals offered by several of our colleagues on improving communication. Senator CARNAHAN has recognized the importance of the internet in providing information to the public. The legislation includes the provisions of her legislation to establish the official Federal internet site on bioterrorism, to help inform the public.

Senator MIKULSKI also contributed provisions on improving communication with the public. A high-level, blue-ribbon task force can provide vitally needed insights on how best to provide information to the public. Senator MIKULSKI also recommended ways to ensure that states have coordinated plans for communicating information about bioterrorism and other emergencies to the public.

The Centers for Disease Control and Prevention have a leading role in responding to bioterrorism. Senator CLELAND has been an effective and skillful advocate for the needs of the CDC. Our legislation today incorporates many of the proposals in his legislation on public health authorities.

Hospitals are also one of the keys to an effective response to bioterrorism. We must do more to strengthen the ability of the Nation's hospitals to cope with such attacks. Senator CORZINE has proposed to strengthen designated hospitals to serve as regional resources for bioterrorism preparedness. I commend him for his thoughtful proposals, which we have incorporated in the legislation.

We must also ensure that we monitor dangerous biological agents that can be used for bioterrorism. There is a serious loophole in current regulations, and we are grateful for the proposals offered by Senator DURBIN and Senator FEINSTEIN to achieve more effective control of these pathogens.

In a biological threat or attack, mental health care will be extremely important. We are indebted to Senator WELLSTONE for his skillful and compassionate advocacy for the needs of those with mental illnesses. In the event of a terrorist attack, thousands of persons would have mental health needs, and our legislation includes key proposals by Senator WELLSTONE to meet these needs.

Mobilizing the Nation's pharmaceutical and biotech companies so that they can fully contribute to this effort is also critical. Senator LEAHY, Senator HATCH, Senator DEWINE, and Senator KOHL made thoughtful contributions to the antitrust provisions of the bill, which will help encourage a helpful public-private partnership to combat bioterrorism.

This legislation is urgent because the need to prepare for a bioterrorist attack is urgent. I urge my colleagues to approve this legislation, so that the American people can have the protection they need.

Mr. FRIST. Mr. President, I am thankful to be able to come to the floor today, along with many of my colleagues, to announce the Senate passage of the Frist-Kennedy Bioterrorism Preparedness Act of 2001. Over the past several weeks, we have been working in a bipartisan manner to address this critical issue, and I am grateful for the work of Senators GREGG, KENNEDY, and others. Everyone has worked very hard to get us to this point, and I will continue to work with them in conference to ensure final passage of this crucial legislation.

I am also thankful for the work of my colleagues to ensure that there is an appropriate level of funding for bioterrorism preparedness and response activities that will be available immediately. I commend Senators STEVENS, BYRD, SPECTER, INOUYE, and ROBERTS and others for their strong support in securing the necessary funding. With the passage of the latest appropriations bills, we have secured well over $2.5 billion for bioterrorism activities in addition to those provided for agroterrorism. I am also pleased with the level of funding for State and local preparedness and response activities—at least $1 billion—which is one of my top priorities.

However, our efforts cannot end when the funding is secured. We must provide greater guidance and authorities through an authorization bill, which is why final passage of a bioterrorism authorization bill is equally important. Both the House and the Senate have signaled the need for increased authorization with the passage of the Tauzin-Dingell Public Health Security and Bioterrorism Response Act of 2001 and the Frist-Kennedy Bioterrorism Preparedness Act of 2001. We must work together in conference to ensure final passage.

A variety of increased authorizations are necessary to protect our food supply, prevent agroterrorism, develop appropriate countermeasures, and ensure appropriate State and local preparedness and response. For example, in the Frist-Kennedy Bioterrorism Preparedness Act of 2001, we have greatly expanded the ability to protect our Nation's food supply by increasing authorities for the Department of Agriculture and the Food and Drug Administration.

We need to ensure that our food supply is safe. With 57,000 establishments under its jurisdiction and only 700–800 food inspectors, including 175 import inspectors for more than 300 ports of entry, the Food and Drug Administration (FDA) needs increased resources for inspections of imported food.

Our legislation grants FDA needed authorities to ensure the safety of domestic and imported food. It allows FDA to use qualified employees from other agencies and departments to help conduct food inspections. Any domestic or foreign facility that manufactures or processes food for use in the U.S. must register with FDA. Importers must provide at least four hours notice of the food, the country of origin, and the amount of food to be imported. FDA's authority is made more explicit to prevent "port-shopping" by marking food shipments denied entry at one U.S. port to ensure such shipments do not reappear at another U.S. port.

This bill also gives additional tools to FDA to ensure proper records are maintained by those who manufacture, process, pack, transport, distribute, receive, hold or import food. The FDA's ability to inspect such records will strengthen their ability to trace the source and chain of distribution of food and to determine the scope and cause of the adulteration or misbranding that presents a threat of serious adverse health consequences or death to humans or animals. Importantly, the bill also enables FDA to detain food for a limited period of time while FDA seeks a seizure order if such food is believed to present a threat of serious adverse health consequences or death to humans or animals. The FDA may also debar a person who engages in a pattern of seeking to import such food.

This important legislation also includes several measures to help safeguard the nation's agriculture industry from the threats of bioterrorism. Toward this end, it contains a series of grants and incentives to help encourage the development of vaccines and antidotes to protect the nation's food supply, livestock, or crops, as well as preventing crop and livestock diseases form finding their way to our fields and feedlots.

It also authorizes emergency funding to update and modernize USDA research facilities at the Plum Island Animal Disease Laboratory in New York, the National Animal Disease Center in Iowa, the Southwest Poultry Research Laboratory in Georgia, and the Animal Disease Research Laboratory in Wyoming. Also, it funds training and implements a rapid response strategy through a consortium of universities, the USDA, and agricultural industry groups.

No one has worked harder on these agricultural provisions than my colleague Senator ROBERTS. I know he understands deeply the threat that we face in these areas and has helped provide real leadership in pointing the way to solutions.

Additionally, the Frist-Kennedy "Bioterrorism Preparedness Act of 2001" expands our nation's stockpile of smallpox vaccine and critical pharmaceuticals and devices. The bill also expands research on biological agents and toxins, as well as new treatments and vaccines for such agents and toxins.

Since the effectiveness of vaccines, drugs, and therapeutics for many biological agents and toxins often may not ethically be tested in humans, this crucial legislation ensures that the FDA will finalize by a date certain its rule regarding the approval of new priority countermeasures on the basis of animal data. Priority countermeasures will also be given expedited review by the FDA.

Because of the limitations on a market for vaccines for these agents and toxins, our legislation gives the Secretary of HHS authority to enter into long-term contracts with sponsors to "guarantee" that the government will purchase a certain quantity of a vaccine at a certain price.

This legislation also provides a limited antitrust exemption to allow potential sponsors to discuss and agree upon how to develop, manufacture, and produce new priority countermeasures, including vaccines, and drugs. Federal Trade Commission and the Department of Justice approval of such agreements is required to ensure such agreements are not anti-competitive. I appreciate the work of Senator HATCH and his advice in crafting the antitrust language.

These FDA authorities and market incentives—which can only be provided by additional authorizing legislation—are critical to the rapid development of vaccines and other countermeasures. I want to thank Senators HUTCHINSON and COLLINS for their important work with this portion of the bill.

Both the House and Senate bills also include protections, similar to those currently provided to those who join the National Guard, to help protect the employment rights of medication volunteers within the National Disaster Medical Response System (NDMS). The bills also extend necessary liability protections to those volunteers. Senator ENZI provided beneficial advice about how to craft this portion of the legislation.

Moreover, both bills contain additional measures to assist with the tracking and control of biological agents and toxins. With respect to the control of biological agents and toxins, the Secretary of Health and Human Services is required to review and update a list of biological agents and toxins that pose a severe threat to public health and safety and to enhance regulations regarding the possession, use and transfer to such agents or toxins.

Again, these needed protections will not go into effect until we pass authorizing language.

Although the "Public Health Threats and Emergencies Act of 2000" established basic grant programs to assist with strengthening the public health infrastructure, the language was based on the assumption that each year five more states would receive enough money to be prepared for a bioterrorist attack. Given the recent set of events, we cannot wait 10 more years for our public health infrastructure to be strengthened.

We must put in place a mechanism to ensure that every state has sufficient funding to improve their public health infrastructure so that they are able to respond to a potential biological attack.

I agree that we must provide resources necessary to develop smallpox and other needed vaccines, drugs, and biologics to counter potential biological agents. But it is even more important that we provide needed resources to those who will be on the front-lines in responding to a potential attack. Hospitals and other medical facilities must become better prepared to respond and to deal with the public health emergency after such an attack. And doctors, nurses, firefighters, police, and emergency medical response personnel need better training and equipment to combat biological threats and provide needed treatment.

Therefore, the two new grant programs included in the "Bioterrorism Preparedness Act"—the State Bioterrorism grant program and the Designated Bioterrorism Response Medical Center program—are essential.

Finally, our legislation would also ensure that we enhance coordination among local, state and federal agencies responsible for responding to a biological attack, and that this response appropriately deals with the special needs of children and other vulnerable populations.

Almost half of all public health departments serve jurisdictions whose emergency response plans do not address incidents of bioterrorism. Agencies have not determined a single list of biological agents likely to be used in a biological attack, several agencies have not been consulted in crafting the list or determining an overall emergency response plan, and agencies have developed programs to provide assistance to state and local governments that are similar and potentially duplicative.

The Bioterrorism Preparedness Act of 2001 establishes an Assistant Secretary for Emergency Preparedness at HHS to coordinate all functions with the Department relating to emergency preparedness, including preparing for and responding to biological threats or attacks. It also creates a federal interdepartmental Working Group on Bioterrorism that consolidates and streamlines the functions of two existing working groups first established under the "Public Health Threats and Emergencies Act of 2000."

Recent reports regarding the treatment of children during the anthrax scare, including the cutaneous anthrax case in a 7 month old boy, have highlighted the need to more fully address the special needs of children when responding to bioterrorism attacks. Within the Frist-Kennedy "Bioterrorism Preparedness Act of 2001," numerous provisions were added to specifically address this critical issue, with the emphasis on streamlining the language so that the children's health and welfare issues were considered in concert with the general provision of services. These provisions include a specific reference that the vaccines, therapies and medical supplies within the stockpile appropriately address the health needs of children and other vulnerable populations; requiring the Working Group to take into consideration the special needs of children and other vulnerable populations; establishing the National Task Force on Children and Terrorism—an advisory committee of child health experts on infectious disease, environmental health, toxicology, and other relevant professional disciplines—to offer advice to the Secretary; along with other crucial additions. I want to thank Senators DODD, DEWINE, COLLINS, and CLINTON for their assistance in crafting appropriate language to address the special needs of children and other vulnerable populations.

Along with my colleagues, I am appreciative of the steps we have taken thus far to ensure that we are prepared to respond to biological threats or attacks, and I look forward to continuing to work with them to ensure final passage of bioterrorism authorization legislation. I want to thank Senator JEFFORDS and Senator BOB SMITH for their input and advice regarding water safety and how we should more adequately protect our nation, Senators SESSIONS and SHELBY for their important input on the various training activities, and Senator LIEBERMAN for his crucial input regarding our disease surveillance and coordination infrastructure. I look forward to continuing to work with all of the Senators and their staff.

I must also commend Senator KENNEDY again for his efforts. He has been a true partner on this bill and the Frist-Kennedy "Public Health Threats and Emergencies Act of 2000," which we signed into law last year.

Finally, I want to thank my staff—Allen Moore, Dean Rosen, Helen Rhee, Craig Burton, Allison Winnike, and Shana Christrup—as well as the staff of other Senate offices for all of their efforts, including Vince Ventimiglin, Katy French and Steve Irizarry of Senator GREGG's staff; David Nixon, David Bowen, David Dorsey, and Paul Kim of Senator KENNEDY's staff; John Mashburn of Senator LOTT's staff; Stacey Hughes of Senator NICHLES' staff; Abby Kral of Senator DEWINE's staff; Claire Bernard and Priscilla Hanley of Senator COLLINS' office; Kate Hull of Senator HUTCHINSON's staff; Raissa Geary of Senator ENZI's staff; Laura O'Neill of Senator SESSION's office; Debra Barrett and Jim Fenton of Senator DODD's staff; and Bruce Artim and Patty DeLoatche of Senator HATCH's staff. Their tireless work has been essential in assisting us in getting this far.

Mr. LIEBERMAN. Mr. President, I rise to discuss the Senate's action this evening on bioterrorism. Today, the Senate has taken an important step toward improving the Nation's ability to prepare for, and respond to, the threat of bioterrorism by adopting legislation, authored by Senator KENNEDY and Senator FRIST, and of which I am a cosponsor. The Senate bill, S. 1765, recognizes that any meaningful improvement in this area must begin with improvements in the Nation's public health system, a fact underscored by a series of hearings conducted by the Committee on Governmental Affairs on bioterrorism earlier this year. As a result of those hearings, I believe that there are several areas in which the Senate bill could be further strengthened especially in terms of the way the Federal Government's efforts to combat bioterrorism are organized. In anticipation of Senate consideration, I prepared an amendment to the original Kennedy/Frist bioterrorism bill, S. 1715, to address these concerns. However, given Senate's interest in acting on this important measure before adjournment, I agreed to defer offering this amendment at this time. I do, however, believe that the underlying issues need to be addressed

Specifically, I would like to see additional attention given to bioterrorism within the Centers for Disease Control and Prevention, CDC. The underlying bill recognizes the need to strengthen CDC bioterrorism role. Currently, CDC's bioterrorism activities are currently coordinated by the Bioterrorism Preparedness and Response Program within the National Center for Infectious Diseases. While many of the agents of concern are infectious diseases, many are not, including toxins and chemical agents. Even more to the point, many of the elements of the CDC bioterrorism program actually reside in other Programs and Centers. The pharmaceutical stockpile program resides within the National Center of Environmental Health. The Health Alert Network is in the Public Health Practices Program. Surveillance and detection activities are in the Epidemiology Program Office. Coordination of these activities, competition for resources, and line authority is a major problem. The importance and unique nature of the bioterrorism mission also requires creation of a separate "intellectual" center.

The underlying bill also recognizes both the importance of expanding the role of HHS within the Government to provide leadership on bioterrorism preparedness and response. In addition, it recognizes the need to coordinate such activities within the many parts of HHS, including FDA, CDC, OEP, NIH, etc. The amendment would codify basic government management responsibilities and tools for the new Assistant Secretary position including agency performance measures, performance evaluation capability, technology verification.

Detection is key to responding to bioterrorism attacks. Although health agencies have surveillance systems, they do not rely upon standard methodologies or real-time data collection. Though some States and localities have also begun to incorporate "syndromic" indicators, this practice is not widespread or standardized and they are not integrated into other health data systems. CDC is working on development of a new internet-based system, the National Electronic Disease Surveillance System, NEDSS, but its deployment is many years in the future. The amendment establishes an accelerated deployment schedule, including the development of data collection and reporting protocols, in consultation with state and local health agencies.

CDC has initiated an internet-based Health Alert Network to provide real-time information to state and local health officials. Unfortunately, a number of States are not yet included in the network and very few county and municipal health departments are included. The amendment would establish an accelerated schedule for deployment.

Lack of interoperability of communication systems, and more recently in IT systems, is a long-standing problem in emergency response among federal agencies, much less between federal and state agencies. The underlying bill recognizes the need for better interagency coordination through the creation of an interagency working group. The amendment would specifically charge the group with addressing interoperability of IT and communication systems and give the Secretary of HHS authority to provide technical and financial support to resolve such problems.

The amendment would require the Secretary of HHS to contract with the Institute of Medicine to analyze the response of the public health system of the recent anthrax attacks and provide a "lessons-learned" report to help guide improvements at the federal, state, and local level.

Finally, I would note that the House bill also recognizes the need to improve our public health surveillance and communications systems. The House bill also seeks to incorporate performance measures as part of expanded bioterrorism program in a manner similar to what I propose. Now that Senate has acted, I look forward to working with the conferees to ensure that our Nation is prepared for meeting this new threat.

I ask unanimous consent that the amendment that I was prepared to submit, be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO.—

On page 11, between lines 19 and 20, insert the following:

"(d) NATIONAL CENTER FOR BIOTERRORISM.—There is established within the Centers for Disease Control and Prevention a National Center for Bioterrorism, to develop, manage, and provide scientific and medical capabilities to prepare for, and respond to, bioterrorism attacks, including—

"(1) analyzing and applying intelligence and threat assessment information to the preparation, development and stockpile of vaccines, antibiotics and other pharmaceuticals, medical training, and other preparation and response capabilities;

"(2) detecting biological and chemical agents, detecting and conducting surveillance, and making a diagnosis of related diseases;

"(3) disease investigation and mitigation; and

"(4) the provision of guidance to Federal, State, tribal, and local officials, concerning preparation for and response to bioterrorism attacks.".

On page 13, strike line 3.

On page 13, line 7, strike the period and insert a semicolon.

On page 13, between lines 7 and 8, insert the following:

"(3) coordinate the standards and interoperability of information technology and communications systems within the Department of Health and Human Services and among Federal, State, tribal, and local health officials and health service providers relevant to emergency preparedness and biological threats or attacks;

"(4) develop and maintain advanced health surveillance systems to provide early warning of natural disease outbreaks or bioterrorist attacks to Federal, State, tribal, and local health officials and to aid response management; and

"(5) develop and maintain a program to continuously evaluate the capabilities and vulnerabilities of the national health and emergency preparedness plans and systems to identify and respond to natural disease outbreaks or bioterrorist attacks, including the establishment of performance measures.

"(c) EVALUATION GROUP AND EXERCISES.—

"(1) IN GENERAL.—The Assistant Secretary for Emergency Preparedness shall establish an evaluation group, to be composed of at least 10 individuals who are experts on public health preparedness and bioterrorism from both within and without the federal government, to test and evaluate the capabilities and vulnerabilities of the national health and emergency preparedness plans and systems to identify and respond to natural disease outbreaks or bioterrorist attacks on a continuous basis, including the conduct of local, regional, and national-scale exercises.

"(2) ANNUAL REPORT.—At least annually, the evaluation group established under paragraph (1) shall prepare and submit to the Secretary and to the Committee on Health, Education, Labor and Pensions, the Committee on Governmental Affairs, and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce, Committee on Government Reform, and the Committee on Appropriations of the House of Representatives a report concerning the results of the tests and evaluations conducted under paragraph (1).

"(d) PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Assistant Secretary for Emergency Preparedness, in cooperation with the evaluation group established under subsection (c)(1), shall establish a system of performance measures to evaluate responses to bioterrorism threats and vulnerabilities. Such system shall establish benchmarks and evaluate the corresponding roles and performances of agencies with responsibilities for bioterrorism responses in Federal, State, tribal, and local governments.

"(2) Report.—Not later than 30 days after the date on which the system is established under paragraph (1), the Assistant Secretary for Emergency Preparedness shall prepare and submit to the Secretary, and to the appropriate committees of Congress, a report concerning the performance measures and evaluations developed as a part of the system.

"(3) Revisions.—The Assistant Secretary for Emergency Preparedness, in cooperation with the Evaluation Group, shall periodically review and revise the performance measures developed under paragraph (1) and promptly report any revisions to the Committee on Health, Education, Labor and Pensions, the Committee on Governmental Affairs, and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce, the Committee on Government Reform, and the Committee on Appropriations of the House of Representatives.

"(e) Technology Verification.—The Assistant Secretary for Emergency Preparedness shall establish a technology verification group from among relevant agencies of the Federal Government, including the Department of Defense, the Centers for Disease Control and Prevention, the Federal laboratories, and the National Institute for Standards and Technology. Such group, in consultation with appropriate representatives of the private sector, shall—

"(1) evaluate, test, and verify the performance of promising technologies for reducing and responding to bioterrorism threats;

"(2) make recommendations to relevant Federal, State, and local agencies for the acquisition of successful technologies that can significantly reduce bioterrorism threats; and

"(3) prepare and submit to the Committee on Health, Education, Labor and Pensions, the Committee on Governmental Affairs, and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce, the Committee on Government Reform, and the Committee on Appropriations of the House of Representatives, a report concerning the recommendations made under paragraph (2).

On page 17, between lines 8 and 9, insert the following:

"SEC. 2815. NATIONAL HEALTH SURVEILLANCE SYSTEM.

"(a) Establishment.—

"(1) In general.—The Secretary, acting through the Assistant Secretary for Emergency Preparedness, shall establish a National Health Surveillance System that utilizes computerized information systems and the Internet to provide early warning of natural disease outbreaks or bioterrorist attacks to Federal, State, tribal, and local health officials and assist such officials in response management.

"(2) Use of existing systems.—Such system, to the maximum extent feasible, shall utilize existing health care data systems of primary care providers, health insurance and reimbursement programs, and other sources of health information including those maintained by Federal, State, tribal and local health agencies.

"(b) Data and Information Standards.—Not later than 12 months after the date of enactment of this title, the Assistant Secretary for Emergency Preparedness, in cooperation with medical providers and State and local public health officials, shall identify the nature and manner of health surveillance data to be compiled for purposes of subsection (a) and shall establish standards and procedures to ensure the standardization and interoperability of such data.

"(c) Collection and Analysis Capability.—As soon as practicable, but not later than 36 months after the date of enactment of this title, the Assistant Secretary for Emergency Preparedness shall establish the mechanisms and information systems necessary for the collection and rapid real time evaluation of data transmitted for purposes of subsection (a) concerning public health and bioterrorist emergencies, and provide such evaluations on at least a daily basis to Federal, State, tribal, and local public health and emergency authorities.

"(d) Assistance to State and Local Health Agencies and Health Care Providers.—The Assistant Secretary for Emergency Preparedness may provide technical, material, and financial assistance to State, tribal, and local public health agencies, health providers, and other entities that the Assistant Secretary recommends participate in the surveillance system developed under this section.

"(e) Authorization of Appropriations.—There is authorized to be appropriated $120,000,000 for fiscal year 2002 to carry out this section.

"SEC. 2816. NATIONAL HEALTH ALERT NETWORK.

"(a) In General.—The Secretary, acting through the Assistant Secretary for Emergency Preparedness, shall establish and maintain a National Health Alert Network, that utilizes, to the maximum extent practical, advanced information and Internet technology.

"(b) Requirements.—The network established under subsection (a) shall—

"(1) be capable of the timely transmission of emergency medical information and information identifying potential and ongoing public health and bioterrorism emergencies to all appropriate Federal health authorities, to all State and local public health authorities, and to hospitals and other medical practitioners in affected areas; and

"(2) include data on the medical nature of the emergency, recognition of disease symptoms, the possible scope of infections, recommended treatments, the sources and availability of appropriate medicines, and such other data as may be recommended by the Secretary.

"(c) Implementation Objectives.—Not later than 180 days after the date of enactment of this title, the Secretary shall ensure that all State public health departments are connected to the network established under subsection (a). Not later than 1 year after such date of enactment, the Secretary shall ensure that all municipal public health agencies in municipalities with populations larger than 250,000 persons, as well as all county and tribal public health agencies, are included in the network.

"(d) Assistance to State and Local Health Agencies.—The Secretary may provide technical, material, and financial assistance to State and local public health agencies, health providers, and other entities that the Assistant Secretary for Emergency Preparedness recommends for participation in the network.

"(e) Reporting Requirement.—The Secretary shall prepare and submit to the appropriate committees of Congress reports describing the progress made by the Secretary in implementing the network described in subsection (a). Such reports shall be submitted—

"(1) not later than 1 year after the date of enactment of this title;

"(2) at such times as the Secretary determines to be appropriate after the completion of each phase of the implementation objectives described in subsection (c); and

"(3) annually thereafter as determined appropriate by Congress.

"(f) Authorization of Appropriations.—There is authorized to be appropriated $100,000,000 for fiscal year 2002 to carry out this section.".

On page 19, line 3, strike "Section" and insert "(a) In General.—Section".

On page 21, line 8, strike "and".

On page 21, line 11, strike the period and insert "; and".

On page 21, between lines 11 and 12, insert the following:

"(11) coordinate and standardize data and communication systems and requirements to ensure the interoperability and seamless data transmission necessary to prepare for, identify, assess, and respond to health emergencies and bioterrorist attacks, including the National Health Surveillance System and the National Health Alert Network.

On page 23, between lines 16 and 17, insert the following:

"(c) Technical Assistance and Grants to Ensure Interoperability.—

"(1) In general.—The Secretary, in consultation with the working group, may provide technical and financial assistance to a public or private entity to ensure the interoperability and seamless transmission of data and communications deemed necessary to prepare for, identify, assess, or respond to a health emergency or bioterrorism attack.

"(2) Authorization of appropriations.—There is authorized to be appropriated $25,000,000 for fiscal year 2002 to carry out this subsection.".

(b) Formal Inquiry into Anthrax Attacks and Bioterrorism Preparedness.—

(1) In general.—Not later than 45 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine of the National Academy of Sciences for the conduct of a formal independent inquiry into the response of the United States to anthrax attacks throughout the United States Postal System and the state of preparedness for other biological and chemical threats, including the recommendations described in paragraph (2).

(2) Completion and report.—The inquiry conducted under paragraph (1) shall be completed not later than 270 days after the date on which the contract under such paragraph is awarded. Not later than 30 days after the date on which such inquiry is completed, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a report concerning the results of such inquiry, including the recommendations of the Institute of Medicine concerning the preparedness of the United States for future bioterrorism attacks (including recommendations for both occupational and public safety).

Mr. BIDEN. Mr. President, the final day of a legislative session often brings a flurry of activity as bills get unjammed, compromises emerge, and the Senate produces progress on important issues. Depending upon one's perspective, these last-minute actions include both good things and bad things. Nevertheless, I think we all can agree that today's passage of the Bioterrorism Preparedness Act is a real accomplishment in improving America's homeland defense. This bill authorizes $3.25

billion for comprehensive measures to take the first step in improving our nation's capability, in the event of a biological weapons attack, to respond quickly, contain the attack, and treat the victims. I want to applaud Senators KENNEDY and FRIST for coming together in a bipartisan spirit and displaying real leadership in drafting this bill.

When Sam Nunn testified in early September before the Foreign Relations Committee on the threat posed by biological weapons, he was very clear—bioterrorism is a direct threat to the national security of the United States and we need to invest the necessary resources to counter this threat accordingly. As troubling as the recent spate of anthrax by mail attacks was, we were very fortunate that this was a comparatively small-scale attack. Eighteen Americans contracted inhalation or cutaneous anthrax; unfortunately, five individuals died. The next time a biological weapons attack occurs, we may not be so fortunate in dealing with a small number of victims who emerge over a period of weeks and months. Instead, we may face thousands of victims flooding local emergency rooms and overwhelming our hospitals in a matter of hours.

Let's be real here—the anthrax attacks, as small-scale as they may have been, have greatly stressed our national public health infrastructure. One out of eight Centers for Disease Control employees at their headquarters in Atlanta is working on the current anthrax outbreak, forcing the CDC to sideline other essential core activities for the time being. Folks, what we have just been through is small potatoes compared to what we potentially will face. Plain and simple, we can't afford to be so under-prepared in the future.

Among Sam Nunn's recommendations for countering biological terrorism, he declared, "We need to recognize the central role of public health and medicine in this effort and engage these professionals fully as partners on the national security team." There are many good things in this bill, ranging from the expansion of the National Pharmaceutical Stockpile to efforts to enhance food safety, but I am especially pleased that the Bioterrorism Preparedness Act provides direct grants to improve the public health infrastructure at the state and local level. Our doctors, nurses, emergency medical technicians, and other public health personnel are our eyes and ears on the ground for detecting a biological weapons attack. We can't afford not to do everything we can to make sure they have the necessary tools and resources in containing any BW attack. This bill goes a long way toward fulfilling that core commitment.

So I am very pleased the Senate today has passed the Bioterrorism Preparedness Act and I look forward to a quick reconciliation of this bill with counterpart House legislation early next year. When this bill was introduced, I had expressed my serious concern that it was ignoring the international aspects to any effective response to potential bioterrorism. As Chairman of the Foreign Relations Committee, I know that we cannot address the threat of bioterrorism within the borders of the United States alone. A biological weapon attack need not originate in the United States to pose a threat to our nation. A dangerous pathogen deliberately released anywhere in the world can quickly spread to the United States in a matter of days, if not hours. The scope and frequency of international trade, travel, and migration patterns offer unlimited opportunities for pathogens to spread across national borders and even to move from one continent to another. Therefore, I continue to believe we need to view all infectious disease epidemics, wherever they occur, as a potential threat to all nations.

It is for this reason that, when the Bioterrorism Preparedness Act was being drafted, Senator HELMS, the distinguished Ranking Member on the Foreign Relations Committee, and I had worked together in seeking to insert provisions in this bill to enhance global disease monitoring and surveillance. With Senator KENNEDY's strong backing, we had sought to ensure the full availability of information (i.e., disease characteristics, pathogen strains, transmission patterns) on infectious epidemics overseas that may provide clues indicating possible illegal biological weapons use or research. Even if an infectious disease outbreak occurs naturally, improved monitoring and surveillance can help contain the epidemic and tip off scientists and public health professionals to new disease that may be used as biological weapons in the future.

The World Health Organization (WHO) established a formal worldwide network last year, called the Global Alert and Response Network, to monitor and track infectious disease outbreaks in every region of the world. The WHO has done an impressive job so far working on a shoestring budget. But this global network is only as good as its components—individual nations. Many developing nations simply do not possess the personnel, laboratory equipment or public health infrastructure to track disease patterns and detect traditional and emerging pathogens. In fact, these nations often just seek to keep up in treating those who have already fallen ill.

Doctors and nurses in many developing countries only treat a small fraction of the patients who may be ill with a specific infectious disease—in effect, they are only witnessing the tip of a potentially much larger iceberg. According to the National Intelligence Council, governments in developing countries in Africa and Asia have established rudimentary or no systems at all for disease surveillance, response or prevention. For example, in 1994, an outbreak of plague occurred in India, resulting in 56 deaths and billions of dollars of economic damage as trade and travel with India ground to a halt. The plague outbreak was so severe because Indian authorities did not catch the epidemic in its early stages. Authorities had ignored or failed to respond to routine complaints a flea infestation, a sure warning signal for plague.

Owing to the lack of resources, developing nations are the weak spots in global disease monitoring and surveillance. Without shoring up these nations' capabilities to detect and contain disease outbreaks, we are leaving the entire world vulnerable to either a deliberate biological weapons attack or an especially virulent naturally occurring epidemic.

For all of these reasons, Senator HELMS and I had worked together in proposing language to authorize $150 million in FY 1001 and FY 2003 to strengthen the capabilities of individual nations in the developing world to detect, diagnose, and contain infectious disease epidemics. The proposed title would have helped train entry-level public health professionals from developing countries and provide grants for the acquisition of modern laboratory and communications equipment essential to any effective disease surveillance network. Upon first glance, $150 million is chump change in a bill that authorizes more than $3 billion. But I have been assured by public health experts that $150 million alone can go a long ways in making sure that developing countries the basic disease surveillance and monitoring capabilities to effectively contribute to the WHO's global network. The bottom line is that these provisions would have offered an inexpensive, common-sense solution to a problem of global proportions.

I was greatly disappointed, therefore, when the White House expressed resistance to the language Senator HELMS and I had worked out and sought to drop it from the final bill. While voicing support for our ideas, the White House believed that the Bioterrorism Preparedness Act should only focus on domestic defenses against bioterrorism and was not the appropriate vehicle for the international programs we proposed.

I strongly disagreed. It doesn't make sense to draw artificial boundaries between "domestic" and "international" responses to bioterrorism. I have already pointed out that pathogens deliberately released in an attack anywhere in the world can quickly spread to the United States if we are unable to contain the epidemic at its source. The

National Intelligence Council has concluded that infectious diseases are a real threat to U.S. national security. To ignore the international arena in favor of domestic solutions alone just doesn't make any sense.

Therefore, when the Bioterrorism Preparedness Act was introduced in November without any provisions to enhance global disease surveillance, I announced my intention to introduce an amendment to ensure this bill would enhance the capabilities of developing nations to track, diagnose, and contain disease outbreaks resulting from both BW attacks and naturally occurring epidemics. This week, the Senate leadership chose to move this bill under an unanimous consent procedure. I initially objected because I strongly believed the Senate should have an opportunity, at the very least, to vote on an amendment to incorporate global disease surveillance activities in the Bioterrorism Preparedness Act. But I understand the urgency of the moment. There is no greater vulnerability in our nation's defenses than against the threat of bioterrorism and it is the responsibility of Congress to act quickly to correct this deficiency.

Therefore, I have chosen, for now, to cease my effort to include this amendment in this bill. Office of Management and Budget Director Mitch Daniels today sent me a letter where he expresses appreciation for the proposals contained in this amendment and recognizes that "International public health has a critical role to play in protecting the United States and our global partners". Furthermore, Daniels highlights the Administration's intention to engage in discussions with myself and other interested colleagues on these proposals when the Congress reconvenes in January. I ask for unanimous consent that the full text of this letter be included at the end of this statement in the CONGRESSIONAL RECORD.

I expect the Administration to follow up on this letter by planning and budgeting for improved global pathogen surveillance in Fiscal Year 2003. The need is urgent and our ability to lessen the threat posed by bioterrorism is real. The steps we take to combat bioterrorism overseas can keep diseases from reaching our shores and will give us vital early warning of new diseases and strains for which we must prepare.

Let me again salute today's passage by the Senate of the Bioterrorism Preparedness Act. While it does not include every essential proposal in enhancing our nation's bioterrorism defenses, it still accomplishes a great deal. If this bill becomes law, which I have no reason to doubt, it is my hope that the Congress will follow up next year with the necessary appropriations to carry out the programs authorized in this bill.

Let me close with an excerpt of testimony from the Foreign Relations Committee hearing on bioterrorism in September from Dr. D.A. Henderson, the man who spearheaded the international campaign to eradicate smallpox in the 1970's. Today, he is the director of the newly-formed Office of Emergency Preparedness in the Department of Health and Human Services, which has the mandate to help organize the federal government's response to future bioterrorist attacks. Dr. Henderson was very clear on the value of global disease surveillance: "In cooperation with the WHO and other countries, we need to strengthen greatly our intelligence gathering capability. A focus on international surveillance and on scientist-to-scientist communication will be necessary . . ."

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC., December 20, 2001.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: I very much appreciate the important proposals contained within Title VI of the Kennedy-Frist bioterrorism bill. International public health has a critical role to play in protecting the United States and our global partners from the threat of infectious disease.

As you are aware, the Administration supports the version of the Kennedy bill that does not include Title VI. These issues are critical, however, and I would very much like to resolve them outside the context of the current bioterrorism bill. Your willingness to discuss these matters in the future is critical to the movement of this important piece of legislation and I would welcome the opportunity to engage in these discussions at the beginning of the next session.

Thank you very much for your consideration of this request.

Sincerely,
MITCHELL E. DANIELS, Jr.,
Director.

ADDITIONAL BIOTERRORISM PREPAREDNESS ISSUES

Mr. HATCH. I would like to commend my colleagues, Senators FIRST, KENNEDY, and GREGG for their work in crafting the bipartisan Bioterrorism Preparedness Act. The Act takes a significant step forward in providing the necessary tools to combat future acts of bioterrorism.

Mr. FRIST. I thank the gentleman from Utah for his comments. On behalf of myself, Senator KENNEDY, and Senator GREGG, I also want to thank him for his significant contributions to the legislation, and for his support for this measure.

Mr. HATCH. I understand that there are efforts currently underway to pass this legislation by unanimous consent before the Senate adjourns for the year, and I strongly support those efforts. Because we are trying to clear this measure under a tight time frame, I also understand that there will not be an opportunity to make modifications to the text of the legislation prior to final Senate passage.

Mr. KENNEDY. That is correct.

Mr. FRIST. My friend from Utah is correct.

Mr. HATCH. Before Congress passes a final anti-bioterrorism law, I believe there are several important issues that must be addressed. Because there will not be an opportunity to address these matters before the Senate passes anti-bioterrorism legislation, I strongly believe that the House-Senate conference committee should: (1) permit the approval of priority countermeasures solely based on data from animal studies; (2) clarify the Health and Human Service Secretary's role and authority in distribution, and use of, priority countermeasures and other medical responses to bioterrorist attacks; and (3) provide additional enforcement provisions with respect to prohibiting the unlawful shipment, transportation, and possession of biological agents and toxins.

These issues have not been sufficiently addressed in the legislation before us. We must all recognize that this language the Senate is about to adopt has not been the subject of any congressional committee mark-up. While the extraordinary situation confronting our nation regarding biological attacks requires expeditious action, we also must ensure that there is flexibility in the conference committee to guarantee that novel and, frankly, evolving issues, concerning bioterrorism are adequately addressed. This is what happened during the House-Senate conference of the U.S.A. Patriot Act and, with diligence, we can duplicate that success again.

Mr. GREGG. I agree that the conference committee should address each of the issues that you have raised. I will actively work to ensure that these provisions are included.

Mr. KENNEDY. I concur with my colleague from New Hampshire.

Mr. FRIST. I also agree that these important issues should be addressed during a conference with the House of Representatives and we will call on the Senator from Utah to participate in discussions concerning these issues.

Mr. GREGG. I agree with my colleague from Utah that additional specificity with respect to the language on animal trials would be desirable, particularly with respect to clarifying that the FDA has the authority to promptly promulgate a final rule in this area. I also believe that the Secretary of Health and Human Services should have clear authority to prioritize the distribution of scarce countermeasures under certain circumstances. Finally, I believe there is great value in considering the inclusion in a final bill of intermediate enforcement authority with respect to the unlawful shipment, transport, possession, or other use of biological agents or toxins.

Mr. FRIST. I agree with Senator GREGG. The Senator from Utah can be assured that these issues will receive my active support during conference consideration of this measure.

Mr. KENNEDY. I also agree with Senator GREGG. I thank the Senator from Utah for bringing these important issues to the attention of the Senate. I will look forward to working with him in resolving these issues during the conference.

Mr. HATCH. I also request that my colleagues support the inclusion of provisions to establish an animal terrorism incident clearinghouse.

Mr. GREGG. I will actively support this provision.

Mr. FRIST. I concur with my colleague from New Hampshire.

Mr. KENNEDY. I also believe that this issue should be given serious consideration.

Mr. HATCH. I thank my colleagues for their comments. I look forward to working with them during the conference to ensure that this important legislation is passed by Congress so that our nation can be better prepared to meet the threat of bioterrorism and public health emergencies.

WATER SUPPLY SECURITY

Mr. JEFFORDS. Mr. President, and my distinguished colleagues, I am pleased that we are moving so quickly on legislation to combat bioterrorism—this is certainly a timely issue.

I would like to engage my colleagues in a colloquy to clarify our commitment to another important issue—the security of our Nation's water supply. At the end of October of this year, I was joined by the Ranking Member of the Environment and Public Works Committee in introducing S. 1593 and S. 1608. S. 1593 authorizes the Administrator of the Environmental Protection Agency to establish a grant program to support research projects on critical infrastructure protection for water supply systems. S. 1608 establishes a program to provide grants to drinking water and wastewater facilities to meet immediate security needs.

I understand that the Senator from Tennessee, the Senator from Massachusetts and the Senator from New Hampshire support the modified provisions of these bills. Is that correct?

Mr. FRIST. That is correct.

Mr. KENNEDY. Yes, that is correct.

Mr. GREGG. Yes, that is correct because in the interest of time, we re unable to change the bill prior to conference.

Mr. SMITH of New Hampshire. I too would like to thank Senator FRIST, Senator KENNEDY and Senator GREGG for agreeing to work with us to ensure these two proposals are included in the bioterrorism proposal. I regret that with the end of session quickly approaching, there is not time to incorporate these provisions into the underlying bill. As we all recognized in our support for these proposals, since the September 11th attacks, Americans throughout the country have become concerned about the security of our nation's water supply. While it is widely believed that our water supply is safe, there are a few vulnerabilities that must be addressed. Our bills would provide resources for research into security at facilities and assessment tools while also providing seed money to encourage additional spending on security measures.

Mr. JEFFORDS. Our colleagues on the House side also recognized this need by including water security provisions in the bioterrorism bill, H.R. 3448, that was passed by the House on December 12th. I would like my colleagues' assurance that during conference they will press for adoption of the modified versions of S. 1593 and S. 1608.

Mr. KENNEDY. I intend to press for adoption of these provisions. the security of our nation's water supply is crucial to the health and well-being of our citizens.

Mr. GREGG. I concur, and I intend to press for adoption of these provisions.

Mr. FRIST. I agree and you have my commitment to do the same.

Mr. SMITH of New Hampshire. I again would like to thank my colleagues for agreeing to fight for these provisions during conference. It was with great reluctance that Senator JEFFORDS and I agreed to allow S. 1765 to be brought to the floor without our legislation included so that we can move forward on this important bill and conference it with the House. However, it is important that these immediate needs be addresed and that our proposals be included in the the final legislation. I look forward to working with my colleagues to ensure that the provisions we agreed to that comprise the modified versions of S. 1593 and S. 1608 are included in the bioterrorism bill.

Mr. JEFFORDS. Finally, I want to commend Senators KENNEDY, FRIST, and GREGG and say that I am looking forward to working with them during the conference on these measures.

AMENDMENT NO. 2692

Mr. REID. Mr. President, I understand Senators FRIST, KENNEDY, and GREGG have a substitute amendment at the desk which is the text of S. 1765. I ask unanimous consent that the amendment be considered and agreed to and the motion to reconsider be laid upon the table; that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2692) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted and Proposed.")

Mr. LOTT. Mr. President, I thank Senator REID for moving this very important Bioterrorism Preparedness Act forward. I commend Senators FRIST, KENNEDY, and GREGG for their work. We intend to work with the House and get this passed quickly when we return. I thank Senator REID.

Mr. REID. I appreciate everyone's cooperation.

The Presiding Officer (Mr. CORZINE) appointed Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. JEFFORDS, Mr. GREGG, Mr. Frist, Mr. ENZI, and Mr. HUTCHINSON conferees on the part of the Senate.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRORISM INSURANCE

Mr. DASCHLE. Mr. President, it was regrettable today that we were unable to gain unanimous consent to take up H.R. 3210, the House terrorism insurance bill, and amend it with a substitute offered by the Senator from Connecticut, Mr. DODD. We made a good-faith effort to address a pressing need, but we found that some of our colleagues insisted on the consideration of amendments that would make it impossible to complete work on this issue in the short time this session of Congress had remaining.

In the wake of September 11th, a number of insurance companies are declining to provide coverage from losses that would result from a terrorist attack. Those policies that are available are often priced so high that they are unaffordable. Senator DODD's proposal would have given them the safety net they need to keep insuring against terrorist risks. In turn, that coverage would allow builders to keep building, businesses to keep growing, and, hopefully, prevent against further economic setbacks.

Our amendment was the product of extensive bipartisan negotiations. It was developed with extensive consultation with a number of Senate Democrats and Republicans—including Senator GRAMM—as well as the White House and the Treasury Department. I am especially appreciative of the enormous commitment of time and energy by the Senator from Connecticut, Mr. DODD, the Chairman of the Banking Committee, Mr. SARBANES, the Chairman of the Commerce Committee, Mr.

HOLLINGS, the senior Senator from New York, Mr. SCHUMER, the junior Senator from New Jersey, Mr. CORZINE, and many others from both sides of the aisle.

While we were unable to reach agreement on every point, the proposal incorporated line-by-line suggestions by our colleagues from both sides of the aisle and the Administration. It represented a compromise.

It requires substantial payments by insurance companies before the federal government provides a backstop. The proposal would require the insurance industry to retain the responsibility to pay for up to $10 billion in losses in the first year, and up to $15 billion in losses in the second year or around 7 percent and 10 percent of their annual premiums for each affected company. This legislation would ensure stability in the insurance market so that businesses can afford to purchase insurance.

As this session of Congress drew to a close, and we were forced to operate in an environment that required unanimous consent agreements to do our business, I regret that we were unable to complete our work on this legislation.

Accordingly, the Senate will keep a watchful eye on the insurance market in the coming weeks, and we will take the appropriate action to respond to any problems that arise from the failure to gain approval for the measure we sought to pass today.

Mr. DODD. Mr. President, 3 months ago, our nation suffered devastating terrorist attacks. We are now confronted with one of the many aftereffects of the terrible events of September 11th on our nation. We are faced with the prospect that insurance protecting America's buildings, businesses, homes and workers from terrorist acts will no longer be available.

It is generally accepted that roughly 70 percent of insurance contracts are scheduled to be renewed by year's end. Already, many insurers have announced their intention to withdraw terrorism coverage from new insurance policies.

This is simply because primary insurers, who deal directly with policyholders, have been unable to, in the short term, purchase reinsurance from an unstable reinsurance market. Reinsurers are currently unwilling to write coverage in the face of future catastrophic losses equal in magnitude to those suffered at the World Trade Center.

Without the ability to purchase reinsurance, primary insurers cannot actuarially price policies that incorporate the assumption of catastrophic terrorist losses.

They are faced with two choices. They can seek permission from state regulators to exclude terrorist acts from all of their policies. Or they can charge incredibly high premiums—rates are nearly certain to go up 500 to 1000 percent of what is presently required. No shareholder could be reasonably expected to allow their insurance company to underwrite the seemingly immeasurable exposure of a terrorist act without drastically raising rates.

Without federal action, we risk either the possibility that our Nation's economy will remain defenseless from a terrorist attack or the possibility that insurance companies will charge unaffordable rates to every American insurance consumer.

Several of us endeavored to draft legislation to provide a short-term remedy aimed to bring stability to the insurance market, to protect taxpayers, and to ensure that bank lending, construction, and other activities vital to our economic health would not be jeopardized.

It is deeply regrettable that this legislation will not be considered by the Senate prior to the end of this session. It is particularly regrettable because the reason that this legislation was not considered had nothing to due with the core issue of terrorism insurance; it had to do with liability reform. Deep-seated differences on the issue created an impasse. That is most unfortunate.

The legislation that Senator SARBANES, Senator SCHUMER and I offered was a modest proposal. It is based on three principles that must be included in any bill on this subject matter.

First, it makes the American taxpayer the insurer of last resort. The insurance industry maintains front-line responsibility to do what it does best: calculate risk, assess premiums, and pay claims to policyholders.

Second, it promotes competition in the current insurance marketplace. Competition is the best way to ensure that the private market assumes the entire responsibility for insuring against the risk of terrorism, without any direct government role, as soon as possible. This bill is a temporary measure only, lasting for 24 months at most.

Third, it ensures that all consumers and businesses can continue to purchase affordable coverage for terrorist acts. Without action, consumers may be unable to get insurance or the insurance available will be unaffordable.

I intend to watch the markets and the economy closely in the coming days and I am prepared to revisit this issue early next year if the need arises.

Mr. LIEBERMAN. Mr. President, I have one simple message regarding the terror insurance legislation. We need to act now, before we adjourn, and we need to get this right. I fear that if we don't act, or don't get this right, we will need to return early in January to address this problem. Unfortunately, it is now obvious that we won't enact this critical legislation. This is irresponsible.

Let me say clearly, my colleague from Connecticut, Senator DODD, should be commended for his valiant effort to secure an agreement. It is not his fault that this did not get done. He has had his eyes focused clearly on the goal line every day on this bill. He has been practical, energetic, tough, and patient. We are not able to act before we leave, but I want to congratulate Senator DODD for his valiant effort.

Let me explain why this issue is so important.

As part of their property and casualty insurance, many businesses have insurance against the costs that arise if their business is interrupted.

If we don't pass an effective terror insurance bill, the government will, in effect, cause massive interruption in the business community. We will create the interruption.

We could have avoided this result by passing this legislation.

Property and casualty insurance is not optional for most businesses.

Not every business owner buys life insurance, but nearly every business buys property and casualty insurance, to protect its property, to protect it against being sued, and to protect its employees under the state workers compensation laws.

Property and casualty insurance is required by investors and shareholders.

It is required by banks that lend for construction and other projects. We all know that home mortgage companies require the homeowners to maintain homeowners property insurance, and it's the same with business lending.

Maintaining property and casualty insurance is mandated as part of the fiduciary obligation to the business.

And if property and casualty insurance for major causes of loss is not available, businesses face a difficult choice about going forward with construction projects, and other ventures.

If no insurance is available, banks won't lend and the business activity that is depending on the loans will stop.

The impact on the real estate, energy, construction, and transportation sectors will be severe.

Insurance companies must be able to "underwrite" their policies. This means that they need to be able to assess their exposure or risk of a claim. They need to know if their exposure to claims is acceptable, excessive, or indeterminate.

In the case of claims for damages caused by terrorist strikes, there is no way to assess their risk and no way to underwrite the policy. There are too many uncertainties.

There is only one experience and the experience could not be more troubling.

One thing that is certain, as it was not before September 11, is that losses from terrorist acts can cost tens of billions of dollars. In fact, under worst-case scenarios, losses could easily reach hundreds of billions of dollars.

I recently introduced legislation focusing on the need to develop medicines to treat the victims of a bioterror attack. The Dark Winter exercise simulated a smallpox bioterror attack and it found that 15,000 Americans could die and 80 million could die worldwide. This is why it is so important to develop medicines we can use to contain the infections and deaths. My point here is that we could well have claims much larger than we had with the World Trade Center attack.

There are hundreds of insurers in any given market. It is a highly competitive industry.

But when reinsurers are not renewing their contracts without terrorism exclusions, many if not most of these companies will not be able to provide terrorism coverage—at any cost.

At the business decision level, each individual insurance company considering whether to issue policies that cover terrorism must assess the costs that might result if the terrorists succeed in massive and horrific attacks, perhaps in many areas at which the insurance company may insure various businesses.

Because no one knows where the terrorists might strike, insurers must ask questions like:

How much insured property value are we covering in a given location?

How many workers are we covering under workers' compensation laws, keeping in mind that workers' compensation death claims vary by state but are as high as $1 to 2 million dollars per claim in some jurisdictions, including here in the District.

What would we lose on business interruption claims if damage in a metropolitan area causes a large number of businesses to be shut down by the civil authorities?

What about multiple attacks in different locations?—keeping in mind the coordinated events on September 11.

Unfortunately, at the individual insurer level, capital is finite, and the companies that insure commercial businesses have already taken a major hit due to the September 11 losses, as well as having lost their reinsurance for terrorist acts.

Even a hypothetical good-sized company, one that would be in the top half dozen or so commercial insurers in the U.S., with perhaps 5 percent of the commercial lines market and capital of $7 or $8 billion, would have to ask, do we want to roll the dice on our very survival by writing terrorism coverage?

Because that is what they would be doing absent this legislation, particularly if they incurred a disproportionate share of the losses.

For example, if one or more events caused even $100 billion in insured losses, not that much more than the WTC, and they were lucky enough to have only 3–5 percent of the losses, they'd be severely crippled but might survive. But if their share of the losses was 8–9 percent, they'd be out of business.

That is not a risk that an insurance company can reasonably take. If we do not pass this legislation, therefore, insurers will be forced to take whatever steps they consider necessary to ensure they do not drive themselves into bankruptcy.

Make no mistake about it. The insurance industry can protect itself by reducing its exposure to terrorism going forward.

There is nothing we can do in the Congress, within the limits of our Constitution, to require insurance companies to write policies.

They don't have to write policies.

If they don't write policies, the companies may not be as profitable in the short run, but they will at least be protecting themselves against insolvency, as any business has to do.

State regulators are already considering terrorism exclusions, as they must do, consistent with their responsibilities to oversee the solvency of the insurance industry.

And absent exclusions, in states where they might not be approved for one reason or another, the insurers will have no choice but to limit their business.

If insurance companies are permitted to write policies with no coverage for claims connected to terrorism, then businesses will have to decide if they will self-insure against these losses. Many of them will conclude that they cannot accept this exposure.

It is clear, therefore, that when we fail to pass this legislation, it will be both the insurance industry and everyone they insure that loses. Insurance companies can protect themselves by not writing policies, or writing only policies without any coverage for acts of terror. But companies that need insurance coverage may have even harsher options.

What will be the effect on individual businesses and ultimately the economic recovery if we do not pass this legislation?

At the individual company level, if a business in what appears to be a potential target area can only buy insurance with a terrorism exclusion, the owners would have to consider whether they want to commit new capital or even sell their current equity interests.

Banks would have to ask whether they could make new loans or perhaps even default existing loans and mortgages, based on their determinations that insurance without coverage for terrorism was unsatisfactory.

If insurers could not exclude terrorism and were forced to reduce their writing generally, the problem could be even worse, at least in whatever areas or for whatever types of business were considered most at risk.

Companies would find that they could not get coverage for their properties or their liability exposure or their workers' compensation liabilities, because insurers were no longer able to provide it.

This is why the real estate industry and a cross section of the business community have been pushing for this legislation.

So, the issue is how we enable insurance companies to determine that the risk of terrorist claims is a risk that they can assume.

That is what this legislation is all about, defining the risk so that insurers can assess and put a price on it.

This legislation is about facilitating insurance companies' ability to continue to write property and casualty insurance policies.

It is about providing business owners with the opportunity to buy insurance against terror claims and doing so in the private market to the extent that is possible.

This is, of course, not the first time we have faced this kind of an issue. The Federal Government has a history of partnering with the insurance industry to provide coverages for risks that are too big, too uninsurable, for the industry alone.

Current examples are the flood, crop, and nuclear liability programs, and in the past we've seen partnerships on vaccine liability and riot reinsurance. From an insurability standpoint, it is beyond dispute that these risks are far more insurable than terrorism, yet we continue to struggle on this bill.

First, the existing programs cover fortuitous or accidental events, unlike terrorism, in which the risk is man-made, with the perpetrators measuring success by how much damage they can cause and how many people they can kill. Second, the dollar exposures are far less under the existing programs. Average annual losses on these programs, flood, crop, and nuclear liability, are probably only about $5 billion combined, a full order of magnitude lower than the losses on September 11 alone.

Some might debate whether we should have passed the existing programs, or whether they are operated efficiently. But there should be no debate about the need for a terrorism program, and we have structured this one the right way, with retentions and loss sharing by the industry so the incentives are there for efficient operations.

This legislative effort has failed in part because there are some who would use this legislation as an opportunity to enact wide-ranging reform of the tort claims system. While I have supported tort reform in the past, it is clear that these reforms are not possible now. If these reforms are attached to the bill, as was the case in the House-passed bill and as proposed in the Senate, the bill will die. This is what has happened.

This legislative effort has failed in part because there are some who would use this legislation as an opportunity to use this legislation as an excuse to enact a wide-ranging and unprecedented venture in Federal regulation of the insurance industry. Some would, for example, seek to impose Federal Government price controls on the property and casualty insurance policies.

If such controls are added to this bill, it is clear that the bill will die. Price controls are obviously unacceptable to many in the Senate and clearly unacceptable to the other body.

A vote for price controls is a vote to collapse the property and casualty insurance market.

Price controls in this sector would distort markets, create incentives to vacate the marketplace, and stifle competition.

We do know that the cost of property and casualty insurance will rise.

The current rates do not contemplate claims for acts of terror. Like it or not, there will have to be price increases to cover the risk of terrorism. The World Trade Center attack was the biggest manmade casualty loss in history. It was the biggest by a multiple of 40 or 50.

The previous biggest manmade loss was the LA riots, which cost less than a billion dollars. The current estimates are that WTC will cost $40 to $50 billion or more.

The WTC losses exceeded the insurance industry's total losses for commercial property & liability coverage, general liability, and workers' compensation combined for the entire 2000 year.

Insurance companies cannot now cover this loss, and restore reserves, without price increases.

Insurance industry is one of the most competitive industries in the U.S.

If rates are rising too high, companies will be falling all over themselves to enter or re-enter the market.

But so far, all signs point in the opposite direction, with insurers and reinsurers running as fast as they can from this—hardly an indication that they're gouging and planning on realizing egregious profits.

There's a state regulatory system in place that can clamp down on rates if insurers overreach—and the bill leaves the state regulators with the full authority to disapprove rates that are excessive.

I can't think of a better way to do the opposite of what we want to do, to prevent the return of a terrorism insurance marketplace, than to impose price controls.

It is clear that the price of terror insurance will be less because of the Federal guarantee. If insurance companies were forced to write terror insurance without this guarantee, they would have to set a worst-case-scenario price. They would have to protect the company from insolvency. It is clear that these rates would make the insurance unaffordable.

Again, however, the problem is that companies would not be able to set a price because of the indeterminate nature of the risk.

This legislative effort has failed in part because there are some who would use this legislation as an opportunity to require the insurance companies to repay the government for its expenditures. This is the case in the House-passed bill.

While requiring payment is intuitively attractive, the financial assistance and payback mechanism in their bill would discourage the return of a healthy private marketplace.

One of our most important objectives is to encourage the return to the marketplace of insurers and reinsurers. The problem with the House bill's financial assistance and payback approach is that it mutualizes the losses within the program itself, reducing incentives for private innovation in the development of pooling and reinsurance mechanisms. If we're going to sunset this program, we can't provide for mutualization of losses throughout its duration and then expect that there will be a healthy reinsurance market to the day after it terminates.

Even if we did not adopt the other body's first dollar mutualization concept, our objective of building a healthy marketplace, real work practicality considerations, and public policy all argue for not requiring industry payback.

First, a payback requirement would be contrary to our objective of developing a healthy marketplace. A payback requirement would, from day one, raise the specter that in the event of substantial terrorism losses, insurers would not only have to pay their share of the losses but would also have to go to their regulators for substantial rate increases to repay the government—with no guarantees that such rate increases would be allowed. That is not the way to facilitate a healthy marketplace.

Second, from a practical standpoint, let's also recognize that under our bill any government payments would not really go to insurers, that any repayments would not really come from insurers, and that it is the public in either event that will bear the cost of this program.

The government payments are all keyed to amounts paid to claimants, and any repayments would or at least should be funded by policyholders, either indirectly through subsequent rate increases or directly through policyholder surcharges.

Therefore, as long as an insurer's rates for terrorism coverage are based only on its deductible and quota share, government payments would not give a windfall to the insurers. That is of course how rates should be determined, since the state insurance commissioners will have the authority to disapprove excessive or unfairly discriminatory rates.

It is of course the public that will also bear the cost of this program whether or not we require insurers to pay back the government. The costs of any such repayments would ultimately be paid by commercial businesses, which would in turn pass the costs back to the customers, employees, and shareholders, which is to say back to the public.

Finally, from a public policy standpoint, I would refer you to the very simple fact that it is losses caused by terrorist attacks on our country that we are talking about here. It is the responsibility of the government to protect the people against attacks from without and within, and to the extent that terrorists succeed in causing losses that exceed our bill's insurance industry retentions, it is because the government has failed in this most fundamental responsibility. Of all the various programs through which the government and the insurance partner together to provide coverage for risks thought to be uninsurable, this one stands out as presenting the best case for a taxpayer role.

In terms of price, we know that every cent of any funds the Federal government contributes to pay claims will go to the insured, not to the insurance companies.

There is no Federal payment to any insurance company that does not go through to the victims.

This makes it very hard to understand the arguments some have made in the other body about the insurance companies repaying the amounts that the Federal government might contribute.

If the government contributions are passed through to the victims, what is the benefit to the insurance companies that needs to be paid?

Do the companies then increase their rates to cover the cost of the repayment?

If repayment is required, it would have to come, directly or indirectly, from the victims, not the insurance companies.

There are some who would seek to add provisions to the legislation focused on "cherry-picking," that is seeking to reduce the risk of the portfolio of clients and load it with lower risk clients.

Insurance, like other financial services, is a very competitive business—and there are a variety of opportunities for large and small businesses to get coverage, with hundreds of insurers operating in any given market.

For the largest businesses, which are probably most at risk due to the staggering workers' compensation exposures they present, in addition to traditional insurers, there are sophisticated offshore, excess and non-admitted markets they can tap into, as well as other risk-spreading devices.

For the smaller companies, if coverage isn't available from standard private market insurers, most states have legislatively mandated market plans to provide workers' compensation and property insurance.

The insurance industry also has a long history of working together to form pools and reinsurance arrangements so risks that are too difficult for one company can be handled as they've done for aircraft, including those that were hijacked on September 11.

They can do this if we pass this bill to provide them the financial backstop they need.

The fact is that we do not have the expertise to step into this complex arena and set the controls to determine how coverage should be provided and to whom.

Since insurance regulation began, it's been the states that have done the job, and until such time as we're ready to change that and enact a federal regulatory scheme, we should be very careful about our involvement.

At the state level, insurance departments in each state are much closer to their markets, and they have the expertise and the leverage to assess the availability of insurance and to take appropriate steps if there are problems.

I am very disappointed in the failure to enact this legislation. I have supported my Connecticut colleague, Senator DODD, and will continue to work with him to enact this legislation as soon as possible in January. That we have failed to act in this session and may well see unfortunate consequences.

NEXTWAVE SETTLEMENT

Mr. HATCH. Mr. President, I rise to address the issue of wireless spectrum and the importance of its availability and utilization in a struggling economy. On November 28, 2001, the Administration forwarded proposed legislation to Congress to codify a proposed settlement in the NextWave wireless spectrum bankruptcy litigation. We needed to pass this legislation before December 31st in order to avoid nullifying the agreement. Unfortunately, it appears we will not be able to address this settlement before the end of the year because members of this body have expressed their intention to block its consideration on the floor. It is not certain that a similar settlement can be arranged next year—which leaves a significant financial return to the U.S. Treasury in doubt and denies viable industry actors access to essential wireless spectrum which could be a vital tool in jumpstarting the economy.

This is not the first time I have voiced my concerns about the NextWave spectrum controversy. In a letter to then Chairman Kennard of the Federal Communications Commission in October of 2000, I warned him that a premature re-auction of the NextWave licenses would be imprudent while litigation was still pending in the D.C. Circuit. The legal questions went directly to the possessory interests of the spectrum and the validity of the FCC's action to automatically cancel NextWave's licenses upon filing for bankruptcy. The FCC ignored my warning and, in so doing, created untold practical problems and a myriad of legal liability issues.

On June 22 of this year, the D.C. Circuit ruled in favor of NextWave, holding that the FCC violated Section 525 of the Bankruptcy Code. This order essentially nullified Auction 35 in which the FCC preemptively re-auctioned the spectrum licensed to NextWave. Presently, both sides have filed for certiorari with the Supreme Court to ask for the final disposition of this case. However, there is no certainty that the Supreme Court will agree to review the case; or if it does, when or to whom it will ultimately award the licensing rights to the spectrum. In fact, given the D.C. Circuit's opinion and legal reasoning, there is a substantial likelihood that the FCC will not prevail, which may be why they were able to reach the settlement of this issue.

After extensive negotiations, the interested parties, including the Office of Management and Budget, the U.S. Department of Justice, and the FCC, reached a comprehensive Settlement Agreement to govern the disposition of the licenses in question and provide for their release into the marketplace and financial return to the Treasury.

This proposal is a chance to bring closure to litigation that has dragged on, and which, in all likelihood, could result in a net loss to the government if it were to continue. We have an opportunity to finalize this settlement, return money to the Treasury and release valuable spectrum for commercial use—something that is essential to help this struggling economy.

The current litigation has been prolonged unnecessarily. To continue it now, in my view would be a mistake, and the American taxpayer could be the loser. I certainly hope that the American taxpayer ultimately is not the victim of Congressional inaction.

FARM BILL

Mr. BAUCUS. Mr. President, I rise today to share my dissappointment about the farm bill with you. It is vital that we get a strong bill passed before we adjourn this year and, unfortunately, that isn't going to happen. To put it simply: Our farmers and ranchers deserve more from their representatives.

As long as I have been in the Senate, I have never seen the agricultural community more united than they were yesterday in invoking cloture and getting the Senate farm bill passed the floor this year.

The farm bill we passed out of committee is a good bill. It is not a great bill. But it's a good step in the right direction. We had the opportunity to work together to make this bill as comprehensive, full of common sense, and strong as possible. My sleeves were rolled up and I was dedicated to passing the farm bill this year. And I'm still dedicated to passing a bill when we get back next month.

We need to support our Nation's agricultural producers. Now. We can't wait until the current bill expires. We rely on our producers for a safe and affordable food supply. Now they are relying on us for survival.

Our agricultural producers are suffering. Years of low prices and drought have made it nearly impossible for farmers and ranchers to break even.

Low prices and drought have been disastrous not only to agricultural producers, but also to the surrounding rural communities. When producers are hurting, they can't invest in our economy. Agriculture is the backbone of Montana's economy. And the backbone of rural America's economy. The ripple effect is being felt throughout the country.

To help with the ongoing drought, it is important that we provide our farmers and ranchers with natural disaster assistance. I included more than $2 billion towards disaster assistance in my economic stimulus bill, but that bill has fallen to the same fate as the farm bill—it's at a stalemate this year. I'm dedicated to including disaster assistance in the farm bill, in another economic stimulus bill, or any other vehicle I see available. The assistance isn't something our ag community can wait for and I'll keep working to see that they don't have to.

The Senate's failure to pass a farm bill this year not only hurts our producers, it hurts our lenders and our rural businesses as well. The bill that we passed by the Senate Agriculture Committee includes a Rural Development Title that would have provided rural economies with much needed support. It's long overdue that we provide stability for our agricultural producers and our rural economies.

Lenders in Montana and across the country are getting nervous as the lean years of production are starting to add up. Their nervousness is compounded now that we failed to act this year.

The time has come. We can no longer wait to repair the current farm bill. The health and stability of our producers, of our rural communities, and of America is up to us. Our Nation depends upon our agricultural producers for a safe, affordable, and abundant food supply. Now our producers are depending on us to provide them with a safety net they can rely upon. The time is now. We must all dedicate ourselves to getting back to work on the farm bill in January. We must work together to pass a strong, stable, and comprehensive farm bill quickly.

Mr. VOINOVICH. Mr. President, over the past 2 weeks, the Senate has engaged in what is probably a first in the history of this body: it has worked to complete a task before a deadline. Even as appropriations bills remained unfinished 3 months into the fiscal year, we have, for the past couple of weeks, debated a farm bill a full 9 months before the current authorization lapses.

As admirable as it is to work ahead of schedule, this has been an unnecessary exercise. There is no reason that the Senate has had to debate the farm bill when these programs don't expire until the end of the fiscal year.

I joined in the successful effort here in the Senate to postpone debate on the farm bill until next year. It is my hope that we will do a better job at writing a bill that will address the needs of our farmers in a fiscally responsible way, rather than rushing a bill through Congress for the sake of passing a bill.

The only reason we have debated this bill a year ahead of schedule is because some fear that the fiscal year 2003 budget resolution won't have enough room in it to load up whatever farm bill the Senate considers with all the spending the majority desires.

Indeed, according to an article in the December 8th edition of Congressional Quarterly, "lobbyists fear that if Congress waits until 2002, when the current authorization bill expires, then the $73.5 billion in new spending for agriculture programs over the next 10 years that was set aside by this year's budget resolution might vanish."

Senator KENT CONRAD, the Chairman of the Senate Budget Committee, who clearly must understand our country's financial condition, has said, "the money is in the budget now. If we do not use the money . . . it is very likely not going to be available next year."

That does not sound like "need" to me, it sounds like opportunism, and opportunism is not sufficient reason for the majority to rush through a bill this important and this expensive.

I agree with the analysis of Senator LUGAR, the Agriculture Committee's Ranking Member, who correctly stated on the Senate floor last Tuesday, December 11, that, "Proponents of the bill, S. 1731, fastening on to a budget resolution adopted earlier this year, said we have pinned down $172 billion over 10 years, $73.5 billion over baseline, over the normal expenditures that have been occurring year by year in the agriculture bills . . . I and others have pointed out that [the money] really is not there."

Now, I take a back seat to no one in terms of my concern for the American farmer. When I was governor of Ohio, agribusiness was my number one economic development initiative.

Many people, even Ohioans, don't realize that food and agribusiness means more than $73 billion to Ohio's economy each year. In fact, one in six Ohioans is employed in one aspect of agriculture or another.

I gave agriculture more attention and priority than any governor in memory, and I continue my close relationship with Ohio's agribusiness community.

Nevertheless, I could not support the majority's farm bill as written, and honestly, I am disappointed at the apparent lack of respect some of my colleagues seem to have for the American farmer.

Every farmer worth his salt knows that if he or she wants to stay in business, they have to be fiscally responsible and make tough choices. They know that the United States has to do so as well. They understand that the majority's farm bill did not focus on proper planning and making the right choices, but rather "getting while the getting is good."

Some here in Washington think that viewpoint epitomizes the American farmer, but for anyone in this body to think that the American farmer is only concerned about "what's in it for him," is an insult to their patriotism and their own understanding of fiscal responsibility.

Let me make it abundantly clear, this bill was written and has been debated without any regard for the other obligations our nation now faces. It is heedless of America's national security needs and it does nothing to acknowledge the long-term fiscal responsibilities of our Nation. Instead, the Majority's Farm Bill really just helps the nation's agricultural conglomerates.

When Congress passed the last farm bill in 1996, it did so with the intention that it would gradually phase out the heavy reliance on subsidies characteristic of previous farm bills and move towards a more market-oriented approach. That bill was named Freedom to Farm.

However, had S. 1731 passed, it would have increased federal spending by over $70 billion over ten years, putting us back to where we were prior to Freedom to Farm, when farmers were more dependent on the federal government.

I remain supportive of market-based farm policies, but I believe important improvements must be made to the current system that will allow our farmers to adapt to a global marketplace. Unfortunately, that same marketplace has kept U.S. prices and income low for the past three to four years due to ever increasing world supplies coupled with low export demand.

The cost has been outrageous, with Congress appropriating more than $32 billion in emergency spending since Fiscal Year 1999 to offset low prices and assist farmers who suffered losses due to natural disasters. I have to ask: What happened to Freedom to Farm?

I have opposed these emergency measures, not only because they were not offset, which has added to our current budget crisis, but also because "stop gap" emergency measures only meet a temporary need, and do nothing to help the long-term outlook for the American farmer.

Unfortunately, the majority, in their bill, attempted to rectify this situation by making these emergency payments essentially permanent.

In a December 14 editorial titled "A Piggy Farm Bill," the Washington Post labeled S. 1731 "obscene," and pointed out that billions indeed have been made available in the past few years in "emergency" payments, however, the Post goes on to say "the effect of the new bill would be to regularize those [payments], thereby abandoning the five-year experiment in supposed market reform."

Another contention that I have with the majority's bill, is that passage of S. 1731 as written could very well have put the U.S. in violation of our obligations under the World Trade Organization and weakened our demands that Europe and other countries cut subsidy payments to their agricultural producers.

In an article that appeared in the December 18 edition of the Financial Times, former U.S. Secretary of Agriculture Mike Espy, noting Congress' apparent willingness to abandon a market-based approach to agriculture, stated "It's very awkward. Here we are involved in a global effort to reduce subsidies, and this [bill] flies in the face of that effort."

Current Agriculture Secretary, Ann Veneman, said in the same article that the legislation would "exacerbate overproduction and perpetuate low commodity prices," which would undermine our ability to expand into new foreign markets.

That's because the majority's farm bill would put in place counter-cyclical payments, which pay farmers a subsidy as the price of their commodity falls. This approach most assuredly would run afoul of the WTO treaty.

What's more, the subsidies under the majority's proposal would go to millions of farmers and quite a few wealthy individuals and even some Fortune 500 corporations.

Again, the Financial Times article references an organization known as The Environmental Working Group, which has on its web-site a compilation of more than 2.5 million farmers who receive subsidies. Of that total, the largest farms get the most amount.

To quote the news article, "just 1,290 farms have each received more than $1 million in the past five years; Tyler Farms of Arkansas, which grows cotton, rice and soybeans, led the list at more than $23 million. In addition, 11 Fortune 500 companies, including Chevron and International Paper, also received farm subsidies. In contrast, the average farm in the bottom 80 percent got just $5,830."

While I would have voted against the bill proposed by the majority, the Cochran-Roberts Amendment that was considered on Tuesday provided a workable alternative.

Instead of creating a counter-cyclical program, the Cochran-Roberts Amendment would have created farm savings accounts for producers to participate in on a voluntary basis, with matching funds provided by the USDA. This money would help farmers make ends meet during the lean years and would be a great improvement over the current practice of relying on touch-and-go so-called "emergency" supplemental farm spending bills.

While I am still concerned with the expense of the Cochran-Roberts Amendment, it evenly divides its spending over the first and last five years, and is thus more fiscally responsible than the Majority's proposal which frontloads $45.3 billion of their $73.5 billion bill in the first five years. Unfortunately, the Cochran-Roberts amendment was defeated along party lines.

So we were left with the bill pushed by the majority with a price tag we cannot afford. It will most assuredly exceed the $73.5 billion, 10-year spending increase allowed by the fiscal year 2002 Budget Resolution.

As we near the end of this year, we find ourselves facing challenges that could never have been predicted a year ago. An economic slowdown that began in the spring of 2001 has now been deemed a full-fledged recession; a recession that was exacerbated by the events of September 11.

As Americans have responded generously to the needs of the victims and their families, the federal government has acted quickly and significantly as well. We've passed a $40 billion emergency supplemental bill, as well as $5 billion in grant funding to help prevent the collapse of the airline industry. In addition, we could spend another $100 billion for an economic stimulus package soon after we return from recess.

Add all that to the $25 billion that Appropriators and the White House agreed this summer to spend over and above the fiscal year 2002 budget resolution that Congress passed, and we could spend some $170 billion over the budget resolution.

To put that in perspective, $170 billion represents 30 percent of all the regular discretionary spending Congress enacted in fiscal year 2001.

Given this amount of spending, the Senate is poised to spend every last tax dollar, all of the Medicare surplus and the entire $174 billion projected Social Security surplus. Even that won't be enough.

To cover all of this spending, including the spending in the majority's farm bill if it passed, the federal government would have to issue tens of billions of dollars in new debt this fiscal year depending on the size of the stimulus bill, any additional defense spending we pursue, plus the inevitable emergency supplementals Congress will pass between now and the end of the fiscal year.

It's amazing that a few months ago, people here were worried we would run out of debt to repay. Now, we are in a far different situation.

In fact, Treasury Secretary O'Neill sent a letter to the Majority Leader last week requesting that the government's debt ceiling be raised. The Secretary indicated that the current borrowing limit of $5.95 trillion will be reached by February and that the administration requests that the national debt ceiling be raised to $6.7 trillion.

As recently as August, the administration projected that the current borrowing limit would not be reached until September 2003. This is disturbing.

I am pleased we are not going forward with a farm bill that we cannot afford at a time of fiscal crisis, and that we are not going forward with a bill that is frankly not in the best interest of our farmers and definitely not in the best interest of the American people. It is unfortunate, though, that we spent two weeks debating the majority's farm bill, when there are three other pieces of legislation that I believe we should have been considering instead.

Our number one priority should be an economic stimulus bill, or "jobs bill" as it should be called.

Just last week, I was part of a six-member bipartisan group of senators who were invited to the White House by the President to discuss the stimulus bill and the package that the Centrist Coalition has been working on for the past seven weeks. After the meeting, President Bush announced his support for our stimulus package; a package that responds to the needs of those who are currently unemployed by extending benefits and health care coverage.

It also provides rebate checks to those Americans who pay Social Security taxes but who did not qualify for rebate checks earlier this year. It would truly be a wonderful holiday present for the working men and women of America as well as the nation itself since people would receive extra cash to help pay their holiday bills, and their spending would help spur the U.S. economy.

The bill also contains other stimulus functions, including 30 percent depreciation bonuses to encourage investment; a reduction in the 27 percent tax rate to 25 percent; and tax incentives to encourage small business owners to increase investment.

I won't sugarcoat the fact that it will take a lot of money to jumpstart our $10 trillion economy, and our approach may cost up to $100 billion. However, I believe that it is necessary to get our nation out of the recession we're in.

That's why I am somewhat dismayed that the Majority Leader did not bring the stimulus bill to the floor for consideration during these past couple of weeks. Early this morning the House passed a responsible bill based on the Centrist package which the President has agreed. It's a compromise package that reflects much of what the Majority Leader has said he wanted. However, that wish list seemed to shift when it became clear that a genuine willingness to compromise existed. The American public have expected us to pass such a bill, and I am disappointed that we have not yet done so.

The second bill we should consider is a terrorism reinsurance bill. This legislation would provide government backing to help cover the costs of damages incurred in the event of an act of terrorism. Without it, we are going to see many businesses with enormous increases in their insurance costs. And that's for companies that can get insurance.

As a result, projects that are on the table or in the planning process will not go forward and the economy will suffer.

There is a bipartisan proposal that is being worked on, and I can see no reason why we should not have pushed to get this bill onto the floor of the Senate before the end of the year.

The third bill is a comprehensive energy bill, one that will help our economy and harmonize our energy needs with our environmental needs.

While national energy policy is being held hostage to the demands of environmental groups, the United States must continue to rely on energy sources in the Middle East. Surely I don't have to remind my colleagues of the political instability that exists in this area of the world.

The most glaring example of how the lack of an energy policy is affecting us is the fact that we currently rely on Iraq for more than 750,000 barrels of oil per day. As my colleagues know, Iraq is a hotbed of terrorism, and I have no doubt the manufacturer of weapons of mass destruction, run by a man who would dearly like to inflict pain upon the United States if given the ability.

We have to put the interests of the American people in front of politics and special interest groups. I say to my colleagues that it is better to be able to know that we can rely upon ourselves to meet our energy needs than to rely on Saddam Hussein. We need to stand up and do the right thing and pass a comprehensive energy policy now, and to me, it is incredible that the Majority Leader placed it on the back-burner in favor of a farm bill that we can consider later this fiscal year.

Our farmers understand the need to enact these three bills because they use energy, because they feel the pinch of a soft economy, and, because farmers know the right thing to do.

It is my hope that we will be able to address these three issues quickly when we return next year and that we will do a better job of prioritizing all of the necessary work this body undertakes.

There was no compelling reason why we needed to consider the Farm Bill one week before Christmas. In fact, with one year left on the authorization of the Freedom to Farm Act, we will have almost all of 2002 to work on this legislation.

When we return next year, and after we take up the critical issues like energy, stimulus and terrorism insurance, we should follow the President's suggestion and sit down with real numbers and put together a farm bill that is fair to America's farmers, the men and women who really need help; fair to the American taxpayer; and fiscally responsible. I also would encourage my colleagues to take a look at other farm bill alternatives, such as Senator LUGAR's proposal, and the proposal put forth by Senators COCHRAN and ROBERTS. I believe they are on the right track.

Right now, we are facing tough times that affect all Americans, including farmers, and the Senate needs to make tough choices because that is what our constituents have elected us to do.

The majority's farm bill, S. 1731, was the wrong bill at the wrong time. We shouldn't have wasted precious time on flawed legislation. Our farmers deserve a bill that has been fully vetted, following a thoughtful and comprehensive debate. Sadly, S. 1731 offered our farmers precious little in that regard as the majority focused more on getting a bill done than getting the right bill done.

It is my hope that in the months ahead, we will craft a Farm Bill that will help farmers succeed while reflecting the other pressing fiscal needs that also face our nation. I look forward to working with my colleagues to enact such legislation.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Financial Times, Dec. 18, 2001]

US AGRICULTURAL BILL WILL GO AGAINST THE GRAIN WORLDWIDE

PROPOSALS TO INCREASE SUBSIDIES FOR FARMERS COULD VIOLATE WTO RULES

(By Edward Allen)

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U.S. AGRICULTURAL BILL WILL GO AGAINST THE GRAIN WORLDWIDE: PROPOSALS TO INCREASE SUBSIDIES FOR FARMERS COULD VIOLATE WTO RULES

(By Edward Alden)

Five years ago, when the US Congress last passed a major bill to reform its farm policy, it pledged to wean farmers from two generations of government subsidies and reintroduce market pressures into US agriculture.

This week, the Senate is set to follow the House of Representatives in declaring that experiment a failure. Instead, Congress is close to approving legislation that will increase federal subsidies to farmers by more than $70bn over the next decade.

The sharp turnround has undermined the Bush administration's preparations for the launch of a new round of world trade talks that is supposed to cut sharply government supports for agriculture. The increase in subsidy payments to farmers could put the US in violation of World Trade Organisation rules, and will seriously weaken the credibility of US demands that Europe cut its farm subsidies.

"It's very awkward," said Mike Espy, a former secretary of agriculture. "Here we are involved in a global effort to reduce subsidies, and this flies in the face of that effort."

Over the past decade, the US government has tried to persuade farmers that their future lies in opening up markets for farm products abroad.

But instead, US exports fell sharply following the 1998 Asian financial crisis and commodity prices plummeted. This led Congress to approve billions of dollars in emergency payments to US farmers over the past three years. "We have seen that export markets do not serve as a reliable safety net in and of themselves," said Tom Harkin, the Iowa senator who is the chief sponsor of the Senate bill. The new farm bill will entrench that philosophy by institutionalising so-called counter-cyclical payments—subsidies that rise as crop prices fall.

Such subsidies, which have the perverse effect of encouraging increased production when prices are falling, run directly counter to what the US has tried to achieve in the WTO. The Bush administration admitted earlier this year these counter-cyclical payments fall into the so-called amber box of subsidies that must be reduced under WTO rules.

If crop prices continue to fall, automatically increasing government payments to farmers, the US could run up against the Dollar 19.1bn per year that is the maximum allowed under these restrictions.

The administration and some critics in Congress have tried to fight back.

Ann Veneman, agriculture secretary, said earlier this month the new farm bill would "exacerbate overproduction and perpetuate low commodity prices", and would compromise US efforts to open new markets abroad. Pat Roberts, the Kansas senator who was the chief author of the 1996 farm reform, was blunter.

He charged last week that the powerful farmers who will reap a windfall in new subsidies "view the farm bill as an ATM machine", the American term for automatic cash dispensers. The administration and its outmanned supporters in Congress are hoping to delay final passage of the bill until next year when the government will produce new budget numbers. Those figures, which will show the federal surplus vanishing as a result of recession, tax cuts and the war on terror, could create pressure to curb farm spending.

The bloated farm bill legislation has indeed cast an embarrassing new light on rural America's dependency on the federal government.

The Environmental Working Group, a non-profit organisation, last month posted on its website a comprehensive list of the subsidies received by more than 2.5m American farmers.

The data, obtained under US freedom of information laws, shows that a small number of large farmers gets the vast majority of federal payments. Just 1,290 farms have each received more than Dollars 1m in the past five years; Tyler Farms of Arkansas, which grows cotton, rice and soybeans, led the list at more than Dollars 23m.

In addition, 11 Fortune 500 companies, including Chevron and International Paper, also received farms subsidies. In contrast, the average farm in the bottom 80 per cent got just Dollars 5,830.

The new bill would only increase that trend by linking payments firmly to production, thereby rewarding the country's largest farmers.

Other agricultural exporting countries like Australia and many Latin American nations are dismayed by the direction of US farm policy. Warren Truss, Australia's agriculture minister, said during a visit to Washington last week that the new bill would "entrench a mentality of farm subsidies in the US.

"It is obvious that the US which once proudly boasted it had the most efficient farmers in the world, has now degenerated to a situation where US farmers are dependent upon the taxpayers for around half their income."

The European Union, however, has been noticeably quiet on the farm bill debate. As the world's largest provider of agricultural subsidies—at least for the moment—the EU has the most to gain from a bill that will do much to erase any US claims to free market virtue.

Said one EU agricultural official: "It has certainly taken the heat off us."

FAITH-BASED INITIATIVE

Mr. DASCHLE. Mr. President, unfortunately, during this holiday season there has been a decline in charitable donations. In the land of plenty, having children going hungry during the holiday season is simply heartbreaking. But today too many charitable organizations are facing new funding constraints and cutting back on items like food vouchers. Many of us in Congress have been interested in looking for ways to resolve these problems and strengthen the partnership between charities and the Federal Government.

Senators LIEBERMAN and SANTORUM have been working throughout the year to develop just such a solution. Throughout their process they have consulted with my staff and the White House to ensure that the final product would be a consensus bill that would enjoy bipartisan support. I am pleased that the outlines to an agreement are now within reach. Had the Senate had more time, I would be very interested in seeing the package that has emerged introduced and debated by the full Senate.

The Lieberman-Santorum package is comprised of two limited components: one, a tax and technical assistance section; and two, a social services section that includes a title on equal treatment for non-governmental providers, authorization for a capital compassion fund, a program on mentoring for children of prisoners, and appropriations for funding Social Services Block Grants and Maternity Homes.

I am pleased that Senators LIEBERMAN and SANTORUM were able to resolve most of the problems that caused many to oppose H.R. 7. Their compromise package eliminated privatization and the voucherization of federal social service programs, as well as preemption of state and local civil rights laws. Their package also remained silent on Federal funding of pervasively sectarian organizations and expansion of the Title VII exemption.

I also support many of the tax and spending provisions that have been proposed. In particular, research shows that provisions like the IRA-rollovers and food and book donation provisions are effective in inducing new charitable giving. Additionally, increased funding for the Social Services Block Grant is an important provision to ensure that at long last we fulfill our commitment to providing adequate resources for community programs.

While much hard work has already been done on all sides to get a bill that can pass, some concerns remain with provisions of this package. Given the slowing economy and OMB Director Daniels' statement that the budget will be in deficit this year and for several years to come, the Senate must be careful about any new tax and spending measures that are unpaid for.

Therefore, while I strongly support increasing funding to charities, the changing economic outlook demands that fiscal responsibility be adhered to when enacting new tax cuts. As we move into the fiscal year 2003 budget cycle, I look forward to working with Senators LIEBERMAN and SANTORUM, as well as the White House, to identify workable offsets.

It is my hope that the work that Senators LIEBERMAN and SANTORUM have done will not go to waste. I believe that next year we can build on the bipartisan process that Senators LIEBERMAN and SANTORUM have created to resolve these outstanding issues. Once we do that I am confident the Senate will be able to quickly move a consensus bill. Finally, let me applaud Senators LIEBERMAN and SANTORUM for their work and dedication to this important issue.

JUDICIAL NOMINATIONS

Mr. BIDEN. Mr. President, as a former Chairman of the Senate Judiciary Committee, I would like to shed a bit of the light of history on the Committee's record this year with regard to judicial nominations. The first year of an Administration is always difficult, with a new Administration settling in and the need in the Senate to confirm a host of non-judicial officials to serve in that new Administration. As a result, the Senate's duty to "advise and consent" in judicial nominations is all the more difficult to fulfill. I was privileged to serve as Chairman of the Judiciary Committee the last two times a new Administration came into the White House. In 1993, when President Clinton arrived, we worked hard and confirmed 28 judges that first year, with the White House and the Senate controlled by the same party. In 1989, when the first President Bush took office, with an opposing Senate, we managed only 15 judicial confirmations in the first year.

This year, the White House got a late start on its executive branch nominees, due to the election battle. For this and other reasons, no judges were confirmed while the Republicans held the Senate this year. Since June, when the Democrats took control of the Senate, the White House and the Senate have been controlled by different parties, normally a recipe for stagnation on judicial confirmations. Still, by the end of this year, if all goes as expected, we will have confirmed more judges—more than twice the number confirmed in 1989, and even more than we accomplished in 1993, when the White House and the Senate were held by the same party. And as the guy who was running the Judiciary Committee in 1989 and 1993, I can tell you that we were not sitting on our hands back then. And clearly the Committee has not been dawdling this year.

Now, some people would come back and say "well, what about appeals courts? Appellate judges are far more important than district court judges." As a matter of fact, we have confirmed more nominees to the appeals courts since June than were confirmed in all of 1993 or 1989.

Some people will come back and say "but Joe, you know what really matters is whether the number of vacancies is growing or shrinking. Are we filling the slots?" That's true—what really matters is not the whole number of judges confirmed, but whether we are making progress on filling the vacancies that have opened up on the federal bench. Again, let's look at the numbers. In 1993, with the White House and Senate in the same hands, we barely managed to reduce the number of vacancies, by 3 slots. In 1989, with the White House and the Senate split between the Republicans and the Democrats, the number of vacancies grew over the course of the year by 14 slots—the Senate could not keep pace with the retirements and resignations of federal judges. (It's worth noting as well that, during the entire recent period when the Committee was chaired by the Republicans, judicial vacancies grew by 65 percent). By contrast, this year, we will have reduced the number of vacancies by 20, or 18 percent. And that's only since June. With the White House and the Senate controlled by different parties. And with the September 11 attacks happening right smack in the middle of that period!

I should point out that another hurdle was thrown into the Senate confirmation process this year, which was not there in previous years. The White House announced that it would no longer vet potential nominees with the American Bar Association's Standing Committee on the Judiciary. As a result, now the ABA's evaluation of nominees must happen as part of the Senate confirmation process, after the candidate has been nominated by the White House. This step adds weeks to any confirmation.

I should also point out that, not only did September 11 disrupt just about everything that was happening in this country, but it particularly affected the Senate; we had to turn immediately to legislation necessary to authorize the war on terrorism. Moreover, the arrival of anthrax on Capitol Hill displaced many Senators and staff, including Judiciary Committee staff. My own Judiciary Committee staff has not had access to their judicial nominations files—not to mention their office—for the past two months.

Despite all of these disruptions and delays, which I did not face when I chaired the Committee, and which the Republicans did not face during the past 6 years when they controlled the Committee, we will have confirmed more judges by the end of this year than in the first year of the Clinton Administration, and more than twice as many as in the first year of the first Bush Administration. And we will have significantly reduced the number of judicial vacancies from in just 6 months. So, let my friends on the other side of the aisle tone down their rhetoric, and consult their history books.

TECHNOLOGY AND TERRORISM

Mr. HATCH. Mr. President, it is becoming increasingly clear that American technological supremacy will be an invaluable asset in our efforts to combat international terrorism and protect our citizens from further attack. The technological advantages we now enjoy—in weapons, in communications infrastructure, and in detection systems—must be both aggressively pursued and zealously guarded.

For example, the recent anthrax attacks in this country highlight the need for the prompt deployment of effective technology to track the origins of the dangerous biochemical substances that threaten our security.

This lack of important information hampers our ability to track down, capture, and punish terrorists and their supporters. The technology to accomplish this goal exists, and can be quickly and inexpensively modified to law enforcement and public safety requirements. However, the government needs to make this a priority.

Although we have long held concern for the impact of hazardous materials on the public, the terrorist attack of September 11 and subsequent attacks require a heightened response. The weaponization of Chemical, Biological, Radiological and Nuclear ("CBRN") materials demands an accounting of these high-risk materials, particularly as they accumulate at seemingly innocent locations. Tracking CBRN materials is an important step in anticipating and preventing their misuse and thereby thwarting terrorist activity.

We currently have the capability for sophisticated materials management that connects people, places, processes, and products in a manner critical to security. The federal and local governments should work to put in service high-risk material tracking systems that provide the basis for powerful, instantaneous decision making. The government control centers can observe the global position of hazardous materials provided by producers and users in all our allied nations. In less accessible locations, the information could be collected through satellite technology.

Such a hazardous materials management system should: provide for data collection and for authorization at customs operations and border controls; use sophisticated bar code and embedded chip data transmitting devices; employ handheld capabilities to manage field operations and material logistics; have multi-language capability and global reach; integrate with e-solutions and Defense Department Enterprise Resource Planning systems; and make use of data mining and knowledge management principles.

Our Nation should immediately move to identify and track the movement or accumulation of CBRN materials. We must monitor CBRN materials at all global locations, including where they are produced, transported, used, staged and/or stored. And we must track, consolidate and analyze the CBRN material movements as the basis for a legitimate solution to the threats posed to Americans and our citizens abroad.

At the same time that we use technology to better protect Americans, we must make certain that our technological infrastructure is protected from attack. To that end, critical infrastructure should undergo automated electronic testing of their internal and external network assets on a frequent and recurring basis. This testing should include written or electronic reports detailing the methods of testing used and the results of all tests performed, so that trend-line analysis of network security posture can be conducted.

The Policy on Critical Infrastructure Protection: Presidential Decision Directive 63 ("PDD–63") provided a starting point for addressing cyber risks against our Nation. This directive identified the critical sectors of our economy and assigned lead agencies to coordinate sector cyber security efforts. This directive presents the vision that "the United States will take all necessary measures to eliminate swiftly any significant vulnerability to both physical and cyber attacks on our critical infrastructures, including especially our cyber systems."

I believe that we can prepare a defense for our critical infrastructure much like we prepared for problems associated with the year 2000 computer bug. First, we need, as the President recently appointed, an executive agent for cyberspace security, who has the power necessary to cause mandatory private and public interaction and coordination. Second, we must consider empowering and funding each PDD–63 lead agency to establish quantitative baselines of the external and internal network security posture of their portion of critical industries. This can be done through automated electronic testing. Third, we must identify vulnerable critical systems within the critical infrastructures and secure them to the extent possible through software updates, patches, and other correcting configuration issues. Fourth, we should mandate continued automated electronic reassessment of systems, especially after upgrades or patches are applied. This will provide quantitative views of security over time. We must also enforce electronic documentation of reassessments and hold businesses and vendors accountable for failure to adhere to security mandates. Finally, we must expand our domestic partnerships to global public/private partnerships, including both coalition governments and multinational corporations. I would also think that the broadening of mandates in these partnerships should consider standards for layered security, penetration testing, and demonstrate a commitment to the development and installation of wireless equivalency protocols.

We must make use of every tool at our disposal in our fight against terrorism. We must take advantage of American ingenuity and our technological supremacy as we work to rid the world of terrorism. In addition, it is critical that we protect our critical technological infrastructure from those who would use our technology against us.

CHANGES TO THE 2002 APPROPRIATIONS COMMITTEE ALLOCATION AND BUDGETARY AGGREGATES

Mr. **CONRAD**. Mr. President, section 314 of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to adjust the budgetary aggregates and the allocation for the Appropriations Committee by the amount of appropriations designated as emergency spending pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. The 2001 Emergency Supplemental Recovery and Response to Terrorist Attacks (Public Law 107–38) contains funding that will result in $13.397 billion in outlays in fiscal year 2002. Because all budget authority in this measure was appropriated in fiscal year 2001, the adjustment made here is for outlays only.

Pursuant to section 302 of the Congressional Budget Act, I hereby revise the 2002 allocation provided to the Senate Appropriations Committee in the concurrent budget resolution in the following amounts.

Pursuant to section 311 of the Congressional Budget Act, I hereby revise the 2002 budget aggregates included in the concurrent budget resolution in the following amounts.

I ask unanimous consent to print tables 1 and 2 in the RECORD, which reflect the changes made to the committee's allocation and to the budget aggregates.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—REVISED ALLOCATION FOR APPROPRIATIONS COMMITTEE, 2002

[In millions of dollars]

	Budget authority	Outlays
Current Allocation:		
General Purpose Discretionary	549,444	537,907
Highways	0	28.489
Mass Transit	0	5,275
Conservation	1,760	1,232
Mandatory	358,567	350.837
Total	909,771	923,740
Adjustments:		
General Purpose Discretionary	0	13,397
Highways	0	0
Mass Transit	0	0
Conservation	0	0
Mandatory	0	0
Total	0	13,397
Revised Allocation:		
General Purpose Discretionary	549,444	551,304
Highways	0	28,489
Mass Transit	0	5,275
Conservation	1.760	1.232
Mandatory	356.567	350,837
Total	358.567	937,137

TABLE 2.—REVISED BUDGET AGGREGATES, 2002

[In millions of dollars]

	Budget authority	Outlays
Current allocation: Budget Resolution	1,519,719	1,485.128
Adjustments: Emergency funds, Sept. 11	0	13,397

TABLE 2.—REVISED BUDGET AGGREGATES, 2002—Continued

[In millions of dollars]

	Budget authority	Outlays
Revised allocation: Budget Resolution	1,519,719	1,498,525

Mr. CONRAD. Pursuant to section 311 of the Congressional Budget Act, I hereby revise the 2002 budget aggregates included in the concurrent budget resolution in the following amounts.

TABLE 2.—REVISED BUDGET AGGREGATES, 2002

[In millions of dollars]

	Budget authority	Outlays
Current allocation: Budget Resolution	1,519,719	1,498,525
Adjustments: Emergency funds.	300	75
Revised allocation: Budget Resolution	1,520,019	1,498,600

ZIMBABWE

Mr. LEAHY. Mr. President, I want to take a few moments to discuss the deteriorating situation in Zimbabwe. Over the past several months, we have all watched with alarm as President Mugabe has placed his desire to remain in power above the best interests of his own people. In the process, Mr. Mugabe's government has destroyed the rule of law, contributed to food shortages, committed violations of human rights, and wrecked the economy—causing unemployment to rise to more than 60 percent.

The issue has received most of the attention is land reform. There is no question that land reform is badly needed to ensure long-term prosperity in Zimbabwe. As late as 1999, the process appeared to be moving in the right direction: Zimbabwe had presented a detailed plan for the inception phase of a land reform effort, the World Bank had made a $5 million pledge to assist with the resettlement of poor farmers, and several bilateral donors, including the United States, made pledges of assistance.

However, in an attempt to deflect attention from a failing economy, a misguided military intervention in the Congo, widespread government corruption, and a host of other domestic problems, President Mugabe decided to support the sudden occupation of large farms. In the wake of this ill-conceived policy, several farmers have been killed, the independence of the judicial system has been seriously undermined, and agricultural production has been sharply reduced, contributing to widespread food shortages throughout the country.

As the land seizure crisis continues, other forms of harassment and political violence in Zimbabwe—carried out primarily by members of the ZANU-PF party against members of the Movement for Democratic Change (MDC), journalists, and other critics of the government—have steadily escalated. A number of recent events clearly indicate that the situation is a risk of spiraling out of control: the MDC office in Bulawayo was invaded and burnt down with a petrol bomb, as the police stood by and watched; there are reports that MDC members have been illegally taken into custody and tortured; the government announced the humanitarian organizations will not be permitted to distribute food aid in rural areas where it is acutely needed; and after two journalists were arrested, the minister of information compared the international media to terrorists and began notifying foreign journalists that they would not be allowed to work in the country for the foreseeable future.

There are also serious concerns about the upcoming Presidential election scheduled for early next year. As a Gallup poll shows President Mugabe running behind MDC candidate Morgan Tsvangirai, many outside observers believe that Mr. Mugabe and ZANU-PF will stop at nothing to remain in power, and are engaged in activities to undermine the democratic process and illegally alter the outcome of the election. In addition to the campaign of harassment and violence against MDC supporters, the government has prevented non-governmental organizations from carrying out voter education campaigns and has refused to allow observers from international organizations, including the European Union, to monitor the elections. Moreover, the government is pushing through electoral reforms that will effectively withhold absentee ballots from Zimbabweans living abroad, with the exception of diplomats and soldiers, and require voters to present proof of residency. These are measures that could eliminate thousands from the voter rolls.

Because of the serious situation in Zimbabwe, I have joined with Senator FEINGOLD and sponsored a provision which was included in FY 2002 Foreign Operations Appropriations Conference Report that requires U.S. executive directors to international financial institutions to vote against loans, except those for basic human needs or democracy-building purposes, to the Government of Zimbabwe, unless the Secretary of State determines and reports that the rule of law has been restored.

I would also like to point out that earlier this session the House and Senate passed S. 494, the Zimbabwe Democracy and Economic Recovery Act of 2001, and I look forward to President Bush signing it into law, as soon as possible. S. 494 contains several provisions similar to section 560 in the Foreign Operations Conference Report, although section 560 does not provide waiver authority.

Mr. President, I continue to strongly support the Administration's request for assistance to Zimbabwe for health care programs, strengthening civil society that is not affiliated with the ruling party, peace corps activities, and humanitarian purposes. However, the request for funds to restart the International Military Education and Training is premature, and would send the wrong message at this critical juncture.

BANKRUPTCY OF AMERICAN CLASSIC VOYAGES AND THE FAILURE OF "PROJECT AMERICA"

Mr. MCCAIN. Mr. President I want to bring to the attention of may colleagues a short article that appeared in Sunday's New York Times that points out just how awry a project based on pork barrel politics can go. The article, title "A Venture in Ships Is a Rare Zell Flop," gives a short chronicle of the rise and fall of American Classic Voyages (AMCV), its largest shareholder, and the government support for American Classic Voyages that has now left the taxpayers holding the proverbial bag for a whopping $366.9 million in defaults on title XI maritime loan guarantees.

On October 19, 2001, American Classic Voyages (AMCV) voluntarily filed a petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code. The petition lists total assets of $37.4 million and total liabilities of $452.8 million. The cruise line's reorganization petition indicated it has more than 1,000 creditors, including the Department of Transportation. The Department of Transportation in this case, means the American taxpayer whose exposure on a total of six title XI maritime loan guarantees made to AMCV totals $366,897,000. The loans cover five vessels that were in service in Hawaii, the East Coast, and the Northwest Coast and the partially completed "Project America" vessel at Northrup Grumman's Ingalls Shipbuildings in Pascagoula, Mississippi.

In order for my colleagues to fully understand what this article in the business section of the New York Times represents, we really need to look back at the brief history of the American Classic Voyages rise and the political push for AMCV's "Project America." The "Project America" initiative included building two 1,900 passenger cruise ships that were to enter service in Hawaii in 2004 and 2005. These were to be the largest cruise ships ever built in the United States. To help push the program, the U.S. Maritime Administration (MARAD), in the face of strong political support for the project, approved a $1.1 billion title XI loan guarantee for the construction of these two vessels on April 8, 1999.

The New York Times article reports just how that political pressure was felt at MARAD when it quotes a former top MARAD official who insisted on anonymity saying. "We were supported to be promoting shipbuilding." "The maritime trade unions wanted jobs. So there was a lot of political support."

"Project America" did indeed receive considerable political support over the last several years as noted further in the New York Times article: "In 1996 and 1997, American Classic executives met with members of Congress, labor leaders and shipyard owners in an all our effort to promote the project in Washington." My colleagues may recall that this promotion paid off in the form of political support which translated into language being included in the Fiscal Year 1998 Department of Defense Appropriation Bill granting a legal monopoly for American Classic Voyages to operate as the only U.S.-flagged operator among the Hawaiian islands.

My colleagues may recall that I questioned the merits of the "Project America" at the time the special legislation was considered and went as far as to introduce an amendment to the fiscal year 1998 Department of Defense appropriations bill to remove the monopoly language. Based on the information available at the time, I believed then that the project was more likely to fail than to succeed and I called the monopoly language, and I quote an "egregious example of porkbarrel spending," and asked "How many times has the U.S. Senate so blatantly set up a monopoly set-aside for any individual or business?" I would ask now, how many times will we do this in the future?

There were early warnings signs that something was going seriously wrong with the project. During the first year of construction, "Project America" fell a year to a year-and-one-half behind schedule. Both American Classic Voyages and Ingalls Shipbuilding were crying foul over construction problems and months of non-binding mediation over contract disputes led to no resolution. Accusations of default came from both sides. However, on September 21 of this year a resolution was announced. Yet, here we are three months later and it is still unclear who was at fault as both sides have refused to discuss the dispute. This is important since, the settlement agreement between Ingalls and AMCV, which was reviewed and agreed to by the U.S. Maritime Administration, kept the American taxpayer holding all the risk.

To highlight just how critical the problems with Project America were at the time this agreement was reached, I want to read from a two-page summary on the status of the project at that time that a lobbyist representing American Classic Voyages inadvertently faxed to my office. It highlights the lagging construction schedule, the claims for additional payments by Ingalls, and the problems of dealing with a yard used to doing work under the typically higher-cost DOD procurement standards.

One statement in the summary hints at AMCV's recognition that a shipyard accustomed to dealing with the U.S. Navy was ill-prepared for the commercial project, is very telling of how the customer views the shipyard's ability to meet the demands of commercial work. The faxed summary reads, "For U.S. shipyards to succeed in commercial construction, they must use commercial procedures to maintain costs and ensure timely delivery schedules. Cost increases and schedule delays have significant impact on commercial customers—increased capital costs, higher marketing costs, lost revenue from employment of the vessel, and market uncertainties."

In March 1999, the contract for Project America was signed with great fanfare in the rotunda of this very building and now we have one of the signatories calling into question the shipyard's ability to succeed at commercial ship construction. If a customer of the shipyard is questioning Ingalls Shipbuilding's ability to meet its obligations, shouldn't MARAD also have raised this question before it approved the settlement agreement that allowed for the continuation of the project?

We all know the answer now.

In signing off on the Settlement Agreement between AMCV and Northrop Grumman's Ingalls Shipbuilding, MARAD, on behalf of the taxpayer, agreed to assume the outstanding Title XI debt of $185 million on the first of the two cruise ships under construction at Ingalls in the event of an AMCV bankruptcy and complete the vessel, after the issue of the remaining Title XI debt of $350 million. Fortunately, AMCV filed bankruptcy before the remaining debt was issued. Otherwise, MARAD would have been legally obligated to complete the vessel at an additional loss to the taxpayers.

On October 29, MARAD formally announced that it was not legally required to fully fund the construction of the first ship at Ingalls Shipbuilding. However, in a sign of just how deep the political support of AMCV is, and despite the overwhelming evidence that the project was in serious trouble and was unlikely ever to be completed, 14 members of Congress signed a letter urging Secretary Mineta to reconsider and move to complete construction of the Project America vessel. This would involve an additional $350 million in Title XI loan guarantees and the vessel, upon completion, would be sold by MARAD.

It is important to note, that with more than 80,000 new cruise ship berths coming on line in the next four years, MARAD expects that the vessel would sell for $150 to $200 million less than it would cost the American taxpayer to build.

This week, MARAD will pay out $267.4 million in the first of several payments to be made to American Classic Voyages' creditors. The remaining $105.7 million will be paid off in the next 30 days as required waiting periods expire. I note for my colleagues this totals $366.7 million of the American taxpayers' money. And what do we have to show them for these expenditures? A growing U.S.-flagged cruise ship fleet? NO. A growing and competitive U.S. shipbuilding industry? NO. More U.S. mariner jobs at sea? NO.

As a matter of act we have just the opposite. We have a smaller U.S.-flagged cruise ship fleet, struggling shipyards, and fewer mariners at sea than ever before. As I have said many times before, we owe it to the taxpayer to do better and make wiser decisions.

AMCV is but one example to Title XI loan guarantee defaults. The Title XI maritime loan guarantee program has experienced many problems and suffered financial difficulties throughout its history. Since the beginning of this year, the program has cost taxpayers more than $339.1 million due to defaults.

Let me provide some background for the record: Title XI of the Merchant Marine Act of 1936 authorizes the Secretary of Transportation to make loan guarantees to finance the construction, reconstruction, or reconditioning of eligible export vessels and the modernization and improvement of shipyards. Under regulations governing the Title XI loan guarantee process, applicants must meet certain economic soundness criteria before receiving a commitment from MARAD. Even with controls in place, loan defaults during the 1980's reached into the billions of dollars and the program was halted. In 1986, the worst year on record, defaults in pay-outs of $1.2 billion.

The title XI program was revived in 1993 following the enactment of the Federal Credit Reform Act and the National Shipbuilding and Shipyard Conversion Act. According to figures recently provided by MARAD, the title XI program has cost taxpayers $400 million in default payments since 1993. Of that cost, MARAD has been able to recover roughly 10 percent or $40 million through the disposition of assets.

Currently, the title XI program has an outstanding loan guarantee portfolio of approximately $4.7 billion consisting of 86 projects covering more than 100 vessels, several hundred barges, and 7 shipyard modernization projects. What that means is the American taxpayer could, as happened in the 1980's, be burdened with billions of dollars in debt if an industry downturn occurs. With that much at risk, I think we owe it to the American taxpayers to do all we can to ensure that adequate protections are in place.

Our Nation has had a strong and proud maritime history. I fear our maritime future, in the U.S. however, is jeopardized due to a dependence on government programs that do not foster a progressive and competitive attitude in what has clearly become a global market. This is especially true of our larger shipyards.

According to MARAD, the purpose of the title XI program is to promote the growth and modernization of the U.S. merchant marine and U.S. shipyards. Yet, there is little if any evidence that either has occurred. Since 1993, when the title XI program was resurrected following the heavy loan losses in the 1980s, the program has cost taxpayers $400 million in default pay-outs and an additional $296.4 million in appropriated funds as required by the Federal Credit Reform Act.

Over the same period, the number of vessels in our oceangoing fleet shrank considerably. The number of bulk carriers in the U.S. merchant fleet dropped from 81 to 71, the number of container ships dropped from 85 to 75, and the number of tankers dropped from 205 to 154.

If the tale of AMCV's losses is not enough to stop pork barrel spending on pet projects that unfairly put taxpayers' dollars at risk, the figures on the U.S. fleet size should clearly show us that a program that artifically props up a U.S. shipbuilding industry that is struggling to find its way in a tough world market is not working.

I am sure my colleagues know I oppose any program that unnecessarily burdens American taxpayers and subsidizes industry. But, I am not alone in this view. I encourage my colleagues to look at the Administrations' FY 2002 budget request and its "Explanation of Program Changes" for Title XI Loan Guarantee Program. It states, "In an effort to trim corporate subsidies, the President's Budget seeks no new funding for the Maritime Guaranteed Loan Subsidy Program."

I wrote to President Bush in June to express my support for his proposal to zero-out the title XI program. In a response to my letter prepared for the President by Mitchell Daniels, Director of the Office of Management and Budget, Mr. Daniels stated: "The Administration concurs with your view that the Maritime Administration's Maritime Guaranteed Loan Program constitutes an unwarranted corporate subsidy."

The problems with AMCV's loan guarantees raise serious questions that should be answered before we allow additional taxpayer funding to be committed in the form of loan guarantees. I have written to the Department of Transportation Inspector General (IG), Kenneth Mead, twice this year requesting his office look into Title XI loan guarantee defaults, including American Classic Voyages, and MARAD's oversight of the title XI program.

I understand that the Inspector General has directed such investigations to get underway. I hope he will be able to determine if MARAD has acted appropriately to protect the taxpayer in these matters. We need to learn if Ingalls, Northrop Grumman, and American Classic voyages fully and accurately presented the difficulties they faced in building Project America to MARAD while seeking to both secure and restructure the title XI loan guarantee for this project.

I want to close by making one last point on the New York Times article. It quotes AMCV's largest investor saying, "Everyone talks about taxpayers' losses. But they never mention the fact that others lost significant amounts of money as well." That may be true; however, unlike investors who chose to put their money at risk on American Classic Voyages, the American taxpayer did not have a choice. They depend on us to do the right thing, but instead they have been saddled with an expenditure $366.7 million. I don't personally know all of AMCV's investors, but I would be willing to bet they won't make this same mistake again. The question then becomes "will we?"

I ask unanimous consent to print the New York Times article in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 16, 2001]

A VENTURE IN SHIPS IS A RARE ZELL FLOP

(By Leslie Wayne)

Sam Zell may have the Midas touch when it comes to investing in real estate. But his efforts on the high seas—with cruise ships—have ended in a debacle that has cost him over $100 million and taxpayers at least three times that.

Mr. Zell is the chairman and largest shareholder of American Classic Voyages, which filed for bankruptcy protection in October. This came after the failure of an ambitious project by Mr. Zell to build two 1,900-passenger cruise ships, the first that were to be constructed in this country in 40 years. It also came despite a boatload of government aid to Mr. Zell, including $1.08 billion in federal loan guarantees. When it came to playing the Washington game, Mr. Zell walked away a big winner in the mid-1990's. His cruise ship plan—called Project America—wrapped up patriotism and politics and allowed him to construct his two huge ships by putting government money, not his, at risk. He also secured a 30-year monopoly on all cruise-ship traffic within the Hawaiian islands.

Helping him get this sweet deal were Senator Trent Lott, the Republican minority leader, who wanted to land a big project for the Ingalls shipyard in his home state of Mississippi, and Senator Daniel K. Inouye, the Hawaii Democrat, who engineered the exclusivity pact. Mr. Zell's ships, American-made and with American crews, would be the only ones allowed to sail port-to-port within Hawaii; others must stop at foreign ports first, eating up time.

"Obviously, I lost a lot of money," Mr. Zell said. "Everyone talks about the taxpayer losses. But they never mention the fact that others lost significant amounts of money as well. Shareholders lost a lot of money, and that's very unfortunate."

Last year, with American Classic shares trading at $36, Mr. Zell's 3.8 million shares were worth $137 million. This fall, the shores were delisted from Nasdaq when they were trading at 45 cents, chopping Mr. Zell's stake to $1.7 million. The government, meanwhile, is looking at losses of $367 million from American Classic, which also operates four paddlewheel steamboats through its Delta Queen Steamboat subsidiary.

The failure has incurred the wrath of Senator John McCain, Republican of Arizona, who called for an investigation, which the inspector general of the Transportation Department has undertaken.

Rob Freeman, a staff member of the Senate Commerce Committee, where Mr. McCain is the ranking Republican, said: "It was a bad idea. The taxpayer took all the risk."

Mr. Zell got such government largess by being the right person in the right place when the United States Maritime Administration wanted to revive the domestic shipbuilding industry, which had been beaten down by lower-cost foreign competitors. Without aid, American Classic executives say, their project would never have gotten off the ground.

"We were supposed to be promoting shipbuilding," said a former top Maritime Administration official, who insisted on anonymity. "Inouye and the whole state wanted to grow the cruise business. The maritime trade unions wanted jobs. So there was a lot of political support."

Mr. Zell never lobbied the administration directly; his top executives did. In 1996 and 1997, American Classic executives met with members of Congress, labor leaders and shipyard owners in an all-out effort to promote the project in Washington. That effort was backed by campaign contributions from Mr. Zell and American Classic to Mr. Lott, Mr. Inouye and other crucial members of Congress.

It paid off. The $1.08 billion loan guarantee was the largest the Maritime Administration had ever approved, and it allowed American Classic to enter debt markets that would otherwise be closed to it—and at rates comparable to government debt. American Classic was also allowed to buy an old foreign-made ship and use it for Hawaii cruises while the two new ship were under construction, giving the company an exemption from a law prohibiting foreign carriers from that route.

But the souring economic picture of 2001 halted these ambitions. By last summer, the company had cash-flow problems, and the downturn in tourism after the terrorist attacks pushed it over the edge. "Sept. 11 just put it away," Mr. Zell said. http://www.nytimes.com

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THE JUSTICE DEPARTMENT'S DETENTION OF OVER 1,100 INDIVIDUALS IN CONNECTION WITH THE SEPTEMBER 11 INVESTIGATION

Mr. FEINGOLD. Mr. President, I was pleased to hear the Attorney General's announcement of the first indictment of a co-conspirator to the terrorist attacks on our Nation on September 11. Zacarias Moussaoui, who was detained by the FBI for carrying a false passport before September 11 and has been in custody since that time, has been indicted by a federal grand jury in Virginia. I commend the Justice Department, the FBI, and our intelligence services, for their tireless work in seeking to bring Moussaoui and other terrorists to justice.

We have known about Mr. Moussaoui since a few short days after September 11, but we still do not know the identities of hundreds of other individuals still held in detention, the vast majority of whom have no link to September 11 or al-Qaida.

And so I rise today to speak about the Justice Department's detention of these individuals in connection with its investigation of the September 11 attacks and the administration's continued refusal to provide a full accounting of who these people are and why they have been detained.

On October 31, along with Senator LEAHY, Senator KENNEDY, Representative CONYERS, Representative NADLER, Representative SCOTT, and Representative JACKSON-LEE, I sent a letter to Attorney General Ashcroft requesting basic information about the detention of over 1,100 individuals in connection with the investigation of the September 11 attacks. We wanted to know who is being detained and why; the basis for continuing to hold individuals who have been cleared of any connection to terrorism; and the identity and contact information for lawyers representing detainees. We also wanted information regarding the government's efforts to seal or close proceedings and its legal justification for doing so.

I thank and commend Senator LEAHY, the distinguished Chairman of the Judiciary Committee, for his efforts and leadership. Chairman LEAHY held four oversight hearings on the Justice Department's actions, including one hearing that I chaired focusing on the Department's detention of individuals. Those hearings culminated with the testimony of the Attorney General himself before the Committee.

I come to the floor today because I remain dissatisfied with the Administration's response to our request for information about the detainees. Seven weeks after our letter, the Department of Justice has given flimsy and contradictory excuses but no convincing legal justification for keeping secret the identities of the over 550 people it now holds in custody for minor immigration violations.

In addition, the Department has not yet provided any information on perhaps hundreds of additional people who have been detained. These people might still be being held on state or local charges, or without charges, or they might have been released. Nor has the Department given definite information on the number of individuals held as material witnesses.

After our hearings last week, I am more convinced than ever that Congress and the American people are entitled to this information to assess the Justice Department's assertions that everyone in custody has access to legal counsel and is being treated fairly.

In the days and weeks after the attacks, the Department made announcements about the status of the investigation, including tallies of the number of individuals detained. In fact, on October 25, the Attorney General announced that "[t]o date, our anti-terrorism offensive has arrested or detained nearly 1,000 individuals as part of the September 11 investigation."

In early November, however, the Department reversed course and decided it would no longer publicly release comprehensive tallies of the number of individuals detained in connection with the September 11 investigation and that it would limit its counts to those held on federal criminal or immigration violations. Thus, it would no longer keep track of those held on state or local charges, nor would it indicate how many people have been released after being detained or have been held without charges being filed.

According to some recent news reports relying on sources in the Justice Department, other than Zacarias Moussaoui, none of the over 1,100 individuals who have been detained are believed to be involved with the September 11 attacks. It now appears that the Department believes that at least Mr. Moussaoui is connected to September 11. And only 10–15 of the detainees are believed to have any links to the al-Qaida organization. Furthermore, according to senior Justice Department officials quoted in the press, apart from Moussaoui, not a single one of the over 550 people detained on immigration charges is linked to al-Qaida. This leads us to a simple, critical question: Who are the remaining hundreds of people and why have they been detained?

The Attorney General undoubtedly faces an enormous challenge: He must work to find the perpetrators of the September 11 attacks and bring them to justice, while, at the same time, protect Americans from future attacks. I fully support our law enforcement officials in their tireless efforts to leave no stone unturned as they investigate the September 11 attacks and strive to protect our nation from future attacks.

But, as the Attorney General moves forward in our fight against terrorism, he has a responsibility to ensure that the constitutional foundations of our nation are not eroded. The torch of Lady Liberty must continue to shine on our Nation.

This is not just an abstract or theoretical concern. Our Constitution protects the people of this country from the arbitrary or unfair deployment of the awesome power of the Federal Government. The Federal Government has the power to ruin the lives of innocent people. The checks and balances of our Constitution are crucial in protecting the governed from an unfair government.

While the Justice Department recently began releasing some information about the people who have been detained on federal criminal charges or immigration violations, we still do not have a full picture of who is being detained and why. And there are reports that detainees have been denied their fundamental right to due process of law, including access to counsel, and have suffered serious bodily injury. We simply cannot tell if those cases are aberrations or an indication of systemic problems, if the Justice Department will not release further information about those being held in custody.

The Attorney General has repeatedly and emphatically asserted that he is acting with constitutional restraint. He even went so far as to suggest last week that those who question his actions are giving aid and comfort to the terrorists. I reject that charge in the strongest terms. And I further believe that the Department of Justice has a responsibility to release sufficient information about the investigation and the detainees to allow Congress and the American people to decide whether the Department has acted appropriately and consistent with the Constitution. It is not disloyal to view the government's assertions with skepticism. It is the American way.

Just before Thanksgiving, in response to our October 31 letter, the Department provided copies of the complaints or indictments for about 46 people held on federal criminal charges. It also provided similar information on about 49 people held on immigration violations, but edited out their identities. Then, three weeks ago, the Attorney General announced the number and identities of all persons held on federal criminal charges and the number, but not the identities, of persons held on immigration charges. The total number of detainees is roughly 600 individuals. But the Department continues to refuse to identify the over 550 persons held for immigration violations, or provide the number and identity of persons held without charge, the number and identities of persons held on state or local charges, or even the number of material witnesses.

In statements to the press and in the Attorney General's and his associates' testimony before Congress, the Justice Department has cited a number of reasons for its refusal to provide additional information.

Very troubling is the Department's assertion that those being held for immigration violations have violated the law and therefore "do not belong in the country." Without full information about who is being detained and why, we cannot accept blindly this suggestion that each and every immigration detainee does not deserve to be in the country. Do all of these immigration violations merit detention without bond and deportation? I doubt it, as the hearing on detainees the Judiciary Committee held showed that some are very minor violations, which under normal circumstances can be cleared up with a phone call or by completing some additional paperwork.

Another reason the Attorney General has cited for refusing to disclose information about detainees is that he does not want to aid Osama bin Laden in determining which of his associates we have in custody. Yet, the Attorney General and Assistant Attorney General Michael Chertoff have said nothing prevents the detainees from "self-identifying." This, it strikes me, entirely undercuts the argument that giving out this information will help bin Laden. If the Justice Department really thought it would, it would never permit self-identification and would not have released the names of those 93 individuals who have been charged with Federal crimes.

Nor would the Department have released the name of Zacarias Moussaoui and the basis for his detention. The public has known about Moussaoui and his alleged role in September 11 and al-Qaida since shortly after the attacks. The Department never tried to keep his identity or why he was being detained a secret or try to prevent its disclosure.

Moreover, the claim that detainees can self-identify rings somewhat hollow, since we heard during the hearing on detainees that some of these individuals have been denied access to lawyers or family, for days or weeks at a time. Ali Al-Maqtari, a Yemeni national married to a U.S. citizen, testified that for most of the nearly two months he was detained, he was allowed only one phone call, of no more than 15 minutes, per week. He was never charged with perpetrating, aiding or abetting terrorism or with any crime whatsoever, and was eventually released on bond.

Dr. Al Bader Al-Hazmi was held incommunicado—denied access to his lawyer or family—for seven days. After nearly two weeks in detention, Dr. Al-Hazmi was released with no charges filed against him.

Tarek Mohamed Fayad is an Egyptian national and dentist residing in California. He was picked up by the FBI on September 13 and then transferred to the Brooklyn Detention Center in New York City, where he remains to this day. According to the Wall Street Journal, it took his lawyer one month before she was able to locate and talk to him.

Unfortunately, there could be many more cases like these three I have mentioned. But if the Justice Department will not tell the public who is in detention, we can never know the circumstances of their cases.

It is apparent that the option of 'self-identification' is not a real option. Indeed, it borders on the fanciful to suggest that all the detainees are in a position to self-identify. Rather, there are serious questions about whether the Department has denied those detained their due process rights, including access to counsel.

The Department has also said that it is prohibited by law from disclosing the information. But when I questioned both Assistant Attorney General Chertoff and later the Attorney General himself, they admitted that there is no law that provides for a blanket prohibition on the disclosure of information about individuals who have been detained.

The Attorney General cited a section of the Privacy Act, as justification for not providing this information. The Privacy Act, however, only applies to citizens and legal permanent residents. It does not apply to aliens who are not legal permanent residents. From the information provided by the Department thus far, we know the vast majority of the detainees are not permanent residents.

Furthermore, case law under the Freedom of Information Act explicitly allows the government to release private information about even citizens and legal permanent residents where that information reflects on the performance of the agency.

And that's exactly why this information has been requested. There are serious questions about whether individuals who have been detained have been denied their constitutional right to due process of law. And the kind of information we have requested will help Congress evaluate whether the Justice Department has deprived any detainee of his or her constitutional rights. We seek this information not to embarrass or harass the detainees but to provide oversight of the Justice Department's treatment of them.

To make matters worse and further thwart public or congressional scrutiny of the Department's actions, we also learned during the oversight hearings that the Attorney General has taken the extraordinary step of closing all immigration proceedings involving about 550 of the 1,100 or more individuals who have been detained. This means no visitors, no family and no press are allowed. As Mr. Al-Maqtari's attorney Michael Boyle has said, this secrecy taints the proceedings, even when, in cases like Mr. Al-Maqtari's, the FBI has cleared the immigrant of any link to terrorism whatsoever. This should give us all pause. People innocent of any connection to terrorism are being branded terrorists and being evaluated in secret proceedings. This is not right.

In sum, the various reasons cited by the Department for not disclosing information about the detainees are contradictory and lack legal justification. I once again urge the Administration to release basic information about the people now held in federal custody, except for the identities of material witnesses. And the Administration should also give us whatever help it can in identifying people who may be held in state custody. Rather than expending its resources trying to keep these detentions secret, the Administration should show that it has confidence in what it is doing by opening up its actions to public scrutiny.

This is not simply a question of constitutional rights, it is a question of effective law enforcement. It became clear during our hearing on the detainees that the roadblocks to individuals consulting with counsel not only cause great hardship to the detainees and violate their rights, but also hinder the investigation and waste the resources of law enforcement on people who have no connection with terrorism. As Mr. Goldstein, an attorney for Dr. Al-Hazmi, testified:

> Dr. Al Hazmi's attorneys had notified the appropriate law enforcement agencies and the Department of Justice in writing, requesting the whereabouts of their client and expressing their desire to communicate with him. Despite these efforts—and despite Dr. Al Hazmi's repeated requests to consult with his counsel—Federal authorities stonewalled and continued to interrogate Dr. Al Hazmi in the absence of his counsel.

Mr. Goldstein added:

> By denying Dr. Al-Hazmi access to his retained counsel, Federal law enforcement officials not only violated my clients rights, they deprived themselves of valuable information and documentation that would have eliminated many of their concerns. Their obstructionism prolonged the investigative process, wasting valuable time and precious resources.

I was gratified that a number of my colleagues expressed concern about the treatment of Mr. Al Maqtari and Mr. Al-Hazmi, and particularly about the difficulties they had in communicating with counsel. I have focused in recent weeks on the issue of access to counsel because I believe this issue is at the center of how our justice system is treating these detainees. This is the issue that takes the concern over the fate of the detainees from an abstract debate over civil liberties versus security to a very specific and very important inquiry about how our government actions affect the lives of hundreds of people.

What happened to Mr. Al Maqtari and his wife Tiffany had a severe impact on their well being. What has happened to hundreds of other detainees has similarly affected them. We are not just engaged in a hypothetical law school exam question or a mock crisis where we each play a role. We are talking about taking the liberty of real people, with real families and real lives. It is not enough to say that some liberties have to be sacrificed in these difficult times. Rather, we must be able to determine whether the actions of the Department have been reasonable, and whether the sacrifices that are being requested are justified.

That is where lawyers come in. With a lawyer, a detainee can much more readily answer concerns about his behavior, provide documents to show his whereabouts during crucial periods, and generally provide information to show that he is not a terrorist. Lawyers can help determine whether the extreme step of detention without bond is warranted. And they can explain what is going on to the detainee and the public. I asked the Attorney General at our hearing to take steps to ensure that everyone under detention who wants a lawyer can obtain one. And I asked him to determine how many of the detainees are not represented by counsel. I hope he will follow through on our discussion. It is essential that anyone who is being held have counsel and be able to communicate with counsel.

The Attorney General has said reasoned discourse should prevail. I agree. But in order to have that reasoned discourse, the Justice Department should provide Congress and the American people with enough information to promote a fair and open dialogue and make our oversight meaningful. Our hearings showed that not all the detainees have adequate access to counsel. They showed, at least, that the Congress has reason to test and examine the Administration's assertions that everyone's constitutional rights are being respected in this investigation. By continually saying in the face of this evidence that we should take its assertions about the treatment of the detainees on faith, the Administration furthers the appearance that it has something to hide.

I hope that we are not in some sense following those who rounded up over 120,000 Japanese Americans and thousands of German and Italian Americans during World War II. The rhetoric we hear today rings awfully familiar. We must not return to the time when immigrants who provided so much to our nation were suddenly branded "enemy aliens" and deprived of their liberty and other fundamental rights.

Let us not repeat these mistakes of history. I again call on the Administration to fulfill its responsibility to protect the Constitution in its pursuit of liberty and justice for all. It can begin by identifying those now held in Federal Custody and providing the other information requested in our October 31 letter.

INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

Mr. SARBANES. Mr. President, I rise to address an issue which I believe may merit the attention of the Securities and Exchange Commission following enactment of H.R. 1088, the Investor and Capital Markets Fee Relief Act.

That bill has two main impacts. It authorizes the commission to raise the salaries of its staff to levels that are on a par with the compensation paid by other Federal financial regulators. Our securities markets are the envy of the world. It is important that the regulator of those markets be in a favorable position to attract and retain qualified employees. Enacting pay parity contributes towards this goal and will result in enhanced supervision of the securities markets.

In addition, the bill reduces certain fees charged to investors and issuers. Section 11 of the bill provides an effective date for reduction of transaction fees on the later of, one, the first day of fiscal year 2002; or two, 30 days after the date on which a regular appropriation to the Commission for such fiscal year is enacted. Because the regular appropriation to the Commission (H.R. 2500) was signed into law on November 28, 2001, Public Law 107–77, the effect of Section 11 is to provide an effective date for transaction fee reduction of December 28, 2001, regardless of when the bill is enacted.

The legislation was passed by the Senate on December 20, 2001, and still must be signed by the President. Thus, the industry will have at most only a few days to comply with the law. I have been informed by some market participants that this may not allow them adequate time to re-program and test their computers to make certain that the transition to the new fee structure goes smoothly and without flaws.

I believe it would be appropriate, and consistent with the intent of this legislation, for the commission to review this situation and determine whether it is necessary or appropriate in the public interest, and consistent with the protection of investors, to use the commission's general exemptive authority to extend the effective date for the reduction of transaction fees for a brief period as may be reasonably necessary in order for market participants to comply with the new law fully and without disruption.

Mr. GRAMM. I believe that the commission can and should alleviate this problem. When the Senate passed its version of fee reduction legislation in March, the bill, S. 143, provided for a delay of 30 days in the effective date for transaction fee reduction in order to provide securities firms and markets the necessary time to adjust their computer systems to accommodate the rate change. This language was changed when the bill was passed by the House in June, in order to comply with budget-scoring requirements. At that time, it was envisioned that congressional action on the bill would be completed well before the start of the new fiscal year in October, and that the effective date provision would not cause administrative problems for the securities industry.

It is not our intention to impose an administrative requirement that would be impossible for industry to meet. In order to comply with congressional intent and to make this provision workable, I hope that the commission will consider using its general exemptive authority under Section 36 of the Securities Exchange Act of 1934 to extend the effective date for reduction of transaction fees.

Mr. KERRY. Mr. President, I speak today on S. 1499, the American Small Business Emergency Relief and Recovery Act of 2001. This legislation provides help to small businesses hurt by the events of September 11th and to small businesses suffering in the weakened economy. Senator BOND and I have spent months trying to uncover who is behind the serial holds that have been placed on this emergency legislation and work out disagreements.

This bill hasn't been "hustled through," as some contend. It was drafted with the input of small business organizations, trade associations and SBA's lending and counseling partners through more than 30 meetings and conference calls—conference calls because we couldn't ask folks to fly in the immediate weeks after the attacks. It is cosponsored by 18 of the Small Business Committee's 19 members. And overall 62, senators, including 20 Republicans, have joined me in cosponsoring S. 1499.

On the House side, the Committee on Small Business passed the companion to S. 1499. We attempted to move this bill quickly because it is emergency legislation. It is a good bill because it can do a lot for a lot of people. It is being held because of shameful politics. I say let's bring this bill up for a vote. Small businesses have a right to know exactly who is working against them and who is working for them.

So what happened? On October 15th, when this legislation had cleared both cloakrooms for passage, the Administration had the Republican cloakroom put a last-minute hold on the bill so the Administration could announce its approach the next day. The next morning, the Administration lifted its hold, but a new hold was immediately placed by the junior Senator from Arizona, which he stated in the press was on behalf of the Administration. Last week, the Senator from Arizona lifted his hold, and I thank him for that, but unfortunately, we then learned that there was one or more anonymous Republican holds on the bill. This approach makes it very difficult to try to work out objections. Two other Republican senators told me that their objections were solely based on the Administration's problems with the bill. Therefore, I directed my staff to meet with the Administration, learn their concerns and try to reach a compromise so that this bill could pass before the recess.

Last night, Senator BOND and I joined our staffs as they met with representatives of the Administration for the eighth time. I am very disappointed to report that the Administration came to the table and said that, although we had made some progress, it would not negotiate further. The ultimatum was for us to strike entire sections and provisions critical to the relief provisions of our bill.

Specifically the Administration's representatives said:

"We cannot work with you on Section 6." That is the entire stimulus portion of S. 1499. As such, we were asked to eliminate the provision that would make it less expensive for small businesses to get loans and provide incentives to lenders to make these loans. We were told that, in their view, there is no credit crunch for small businesses.

"We cannot work with you on Section 10." Section 10 establishes a fund to help small businesses that were shut out of their Federal work sites or have suffered delays in accessing those sites because of national security measures. We offered to set it up in any way they thought it could work and to reduce its $100 million authorization level, but the Administration refused to work with us on that section.

"We cannot work with you on refinancing non-SBA business debt." This was an important part of the disaster relief that S. 1499 targets to those at ground zero in NY and VA, those located in airports and those adversely affected by Federal security actions. The Administration was unwilling to make this help available to these disaster victims.

The administration can not go further in providing an incentive to small business lenders by reducing the lenders' loan fee by more than one-tenth of one percent. Despite numerous articles in reputable newspapers such as the New York Times, it is the Administration's view that lenders do not need incentives to make small business loans in this economic downturn. Senator Bond and I, as well as the 61 other cosponsors of S. 1499 believe that both lenders and small business borrowers need a break to encourage these loans to be made. With this capital, small businesses will stay in business and continue to employ people. Without it, we can expect greater business failures and bankruptcies.

Senator BOND and I asked them to meet us halfway, and they said no. We asked them to give us alternative language, and they didn't give us any. We spent more than 20 hours negotiating on this bill and it appears as if the Administration never had any intention of finding common ground. It appears as if it was an exercise in delay.

Let me describe briefly where I disagree with the administration about how to help small businesses battling bankruptcy and employee layoffs triggered by the terrorist attacks and economic downturn. The administration believes that all assistance should be delivered through the SBA's disaster loans, which are administered through only four regional offices. From talking to small businesses and SBA lenders, Senator BOND and I have concluded that small businesses would be better served through a combination of disaster loans and government guaranteed loans. Government guaranteed loans are almost five times cheaper than what the administration has proposed, have less exposure for the taxpayer, and can reach more small business owners because they are delivered through more than 5,000 private sector lenders who know their communities and have experience making SBA loans. Our proposal combines public and private sector approaches to ensure small businesses receive the maximum amount of assistance.

We will never agree on each other's approach, mostly because the administration has told us in meeting after meeting that it does not believe there's a credit crunch and that small businesses are not having difficulty in accessing credit. They don't acknowledge articles, surveys and testimonials that state it has become harder and more expensive for small businesses, particularly minority and women-owned small businesses, to get loans over the past year.

They ignore the surveys by the Federal Reserve that say, "40 percent of domestic banks reported tighter standards [when lending to small businesses] over the past three months, up from 32 percent in August." Please keep in mind that this survey was released in October and doesn't even capture the affects of September 11.

They ignore articles from economic authorities such as the Wall Street Journal. I read this last week on the floor but think it is absolutely worth repeating. Wall Street Journal, Tuesday, November 6th, 2001. Here are the words of Mr. John Rutledge, Chairman of Rutledge Capital in New Canaan, CT, and a former economic advisor to the Reagan administration:

> Interest rate reductions alone are not enough to jump-start this economy. We need to make sure cheaper credit reaches the companies that need it. . . . The Fed is cutting interest rates—but the money isn't reaching capital-starved small businesses because Treasury regulators are cracking down on bank loans. Credit rationing, not interest rates, is the real problem with the economy. . . . This problem didn't start on September 11th. For more than a year U.S. banks have been closed for business lending. Unless the current Bush administration takes steps to restore bank lending to small businesses and heal the asset markets now, the economy will stay weak.

They ignore surveys published in the American Banker. On October 31, a survey of 80 lenders of all sizes by Phoenix Management Services found that 42 percent "would be less likely to lend to small businesses, which they view as more risky because they foresee no improvement in the economy until late 2002 at the earliest." The article from November validated what before was characterized as "less likely to lend to small businesses," by reporting lenders had actually "tightened their standards" to small firms by more than 40 percent.

Still, the administration maintains there's no credit crunch and that provisions in S. 1499 to provide improved access to credit are too expensive and unnecessary.

The administration has also raised concerns about the cost of the legislation, which has been unofficially scored by Congressional Budget Office at $860 million. Let me be clear, that's million, not billion. $860 million to help all of our Nation's small businesses. Yet the administration objects to this, when they have sent up requests for billions in tax cuts for a select few large corporations, and when the administration's approach costs almost five times as much to help fewer small businesses. The bill's $860 million cost is too much to invest in the nation's small businesses, according to the administration's position.

I regret very much for small businesses and their employees that their needs are being trivialized. I admire Senator BOND and the Chairman of the House Committee on Small Business for showing leadership in their party to help small businesses. I am very glad that we can work in such a strong bipartisan fashion to fight for small businesses. I thank the 62 members of this body who have come together in a bipartisan fashion to support this legislation and our nation's small businesses.

Let me note here that the White House said in our meetings that 62 cosponsors "means nothing—that it happens all the time up here." I find that cavalier considering that, according to the Congressional Research Service, only 13 out of 1,839 bills introduced in the 107th Congress have more than 60 cosponsors.

The support for this bill is strong and bipartisan. I am very sorry that those Senators supporting S. 1499 have not had the chance to cast a vote in favor of this emergency legislation before they go home for the holidays and visit with the small businesses in their states. Small businesses deserve some good news. As for right now, we can only tell them what I told the administration in our meetings last night: When we come back in January, we intend to file cloture on this bill and take a vote.

In closing, let me thank the many groups who have fought so hard on behalf of their members to get this legislation enacted. They have demonstrated all that is great about grassroots action and active involvement in the political and legislative process.

In addition to including for the record the list of these groups, I also ask unanimous consent to have printed articles and letters from small business groups regarding the current credit crunch, the need for equitable adjustment provisions for our small business contractors and other provisions of S. 1499 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1499 Supporters

Airport Ground Transportation Association, American Bus Association, American Subcontractors Association, Associated General Contractors of America, Association of Women's Business Centers, CDC Small Business Finance, Chicago Association of Neighborhood Development Organizations, Citizens Financial Group, RI, Clovis Community Bank, CA, Coastal Enterprises, ME.

County of San Diego, Delaware Community Reinvestment Act Council, Fairness in Rural Lending, Florida Atlantic University Small Business Development Center, Helicopter Association, HUBZone Contractors National Council, National Association of Government Guaranteed Lenders, National Community Reinvestment Coalition, National League of Cities, National Limousine Association.

National Restaurant Association, National Small Business United, National Tour Association, New Jersey Citizen Action, Rural Housing Institute, Rural Opportunities, Self Help Credit Union, Small Business Legislative Council.

U.S. Conference of Mayors, United Motorcoach Association, United States Air Tour Association, United States Chamber of Commerce, United States Tour Operator Association, Women's Business Development Center.

[From the Wall Street Journal, Tues., Nov. 6, 2001]

A Credit Crunch Imperils the Economy

(By John Rutledge)

When the Federal Open Market Committee meets today it won't be arguing over whether we are in recession. The economy is weaker today than at any time since 1982. It will almost certainly end the meeting by voting to reduce interest rates again. This will bear the same results as all the previous rate cuts this year: none.

Interest rate reductions alone are not enough to jump-start this economy. We need to make sure cheaper credit reaches the companies that need it. Credit rationing, not interest rates, is the real problem with the economy.

The Fed's monetary stimulus has been hijacked by the bank regulators. these credit highwaymen aren't bad guys, they are just doing their jobs. The Treasury Department's Office of the Comptroller of the Currency (OCC), which is charged with regulating federally chartered banks, has a different agenda from the Fed. Its job is to protect bank capital, period. It does so with an army of bank examiners, who wield the blunt instrument of credit rationing inside banks. For more than a year, these regulators have been diverting bank reserves into Treasury securities instead of business loans, in hopes of restoring bank capital that was damaged by technology lending. Companies that rely on banks for working capital have been sucking air.

To restore growth we need a functioning banking system. This will require a level of coordination the Treasury and the Fed have seldom achieved. But the current consensus for growth could give President Bush the political Roto-Rooter he needs to clear out the conduit.

This problem didn't start on Sept. 11. For more than a year U.S. Banks have been closed for business lending. The story reads a lot like the real-estate blowout of the early 1990s that ended with Resolution Trust Corp. auctions, except this time it was undisciplined technology investments that did us in. In the three years leading up to 2000, commercial banks loaned enormous sums of money to telecom, cable and technology companies to finance, capital-spending programs. These loans weren't backed by assets, but were based on projections that all three sectors would have sales growth rates several times that of the economy for many years to come.

Last summer it became clear that sales growth would not meet those heady projections. Instead of the 14% growth projected by analysts for telecoms this year, for example, actual sales will shrink. Companies without revenues don't make interest payments. And so by the fall of 2000, OCC teams were forcing regional banks to downgrade loans and reduce business lending.

The Fed is cutting interest rates—but the money isn't reaching capital-starved small businesses because Treasury regulators are cracking down on bank loans.

Here's the catch. The loans to technology companies were generally unrecoverable. The tech firms had spent the funds on current operating expenses or to purchase assets with lots of goodwill but little resale value. So the banks turned to the one place they could get money back: reducing the revolving credit facilities of their small business customers.

I got a personal glimpse of all this last October, when a team of bankers visited our office to inform us their bank had decided to reduce the credit rating of, as well as cash-flow loans to, one of the private companies we own, in preparation for a bank examiner audit the following week. Our loan went from a "five" to a "six" on their 10-point internal risk management system, which meant the company could no longer use its acquisition credit line. This caused the company to halt discussions with an acquisition target and to book the costs incurred up to that point as current expenses.

Other companies had it worse, with reduced revolving credit facilities and increased fees. Some companies, under pressure from their banks to raise equity capital, have been forced to sell control in an illiquid equity market. Others have been forced into filing for bankruptcy protection or liquidation.

Deprived of working capital, U.S. companies have been trying to shrink their way to solvency, by reducing inventory, stretching vendors and laying off workers. This has created the sharpest drop in industrial output in 20 years.

Ironically, when the Fed became alarmed at the shrinking economy and began to cut interest rate sin January, the bank examiners, who report to a different master, tightened further. The business loan market is far tighter today than it was then. Two years ago banks were willing to lend a good company four to five times Ebitda, or earnings before interest, taxes, depreciation and amortization. Today banks quote a market of just over two times Ebitda but money is not, in fact available even at that level.

A further irony is that although banks have refused to lend to businesses, they have been throwing money at the consumer through mortgage and equity credit lines. This has produced a two-speed economy that has left many companies unable to produce products or to ship orders for lack of working capital. Stimulating consumer spending won't solve this problem; we need a functioning bank market.

The last period of nonprice credit rationing was the 1990–92 credit crunch. It caused tremendous damage to the economy and cost the first President Bush his re-election bid. It ended only after the RTC had finished its auctions and the property and banking markets had stabilized.

The lesson of that experience—that the economy is only as healthy as its balance sheets—is as true today as it was a decade ago. Unless the current Bush administration takes steps to restore bank lending to small businesses and heal the asset markets now, the economy will stay weak.

The White House can do three things to put the economy back on sound footing.

First, it should bring the Fed and the Comptroller of the Currency together to coordinate efforts to restore bank lending. This can be done very quickly and would not require new legislation.

Second, it should introduce legislation to transfer the regulation of federally chartered banks from the Treasury to the Fed, which would make monetary policy function more smoothly and prevent future credit-crunch situations.

Third, the White House should make it, clear to Congressional Democrats that the price for support of their huge spending projects is fast action on a lower capital-gains tax rate and further action to lower marginal income tax rates, both of which would increase asset market values and improve bank capital.

Forceful action to Roto-Rooter the business loan pipeline is one thing we can do to make the economy grow again.

[From The American Banker, Wed., Nov. 14, 2001]

(By Rob Garver)

The slowdown in lending activity, evident through much of the year, sharpened in recent months through diminished demand and tighter lending standards even as banks addressed a new round of credit quality problems in their loan portfolios.

According to the Federal Reserve Board's latest survey of senior loan officers, which was released Tuesday, nearly half the banks had lowered internal ratings on at least 5% of their commercial lending portfolios.

Internal loan ratings reflect a bank's assessment of the risk that the borrower will default. The most likely borrowers to be downgraded in the three-month period through October were commercial airlines and nondefense aerospace firms, followed closely by travel and leisure-related businesses such as hotels and restaurants. The survey of the chief credit officers of 57 domestic banks and 22 U.S. branches of foreign institutions also found that most U.S. banks tightened their underwriting standards for commercial loans, and that commercial borrowers, for their part, were less willing to go into debt. Terms and conditions for consumer loans tightened slightly, the survey found, and demand for consumer loans fell.

The survey, taken four to six times a year, typically contains a number of "special questions" in addition to standard queries about loan terms, conditions, and demand. The special questions, which usually address typical issues, focused on the recent downgrading of commercial credits and the changes in the loan market as a result of the Sept. 11 terrorist attacks on New York and Washington.

After noting that debt rating agencies "have revised their ratings for a substantial number of firms" recently, the survey asked banks what portion of their commercial loan portfolios, by dollar volume, had been downgraded in the past three months.

Among domestic institutions, 10.5% said they had downgraded less than 1% of their portfolios, while 40.4% reported downgrading between 1% and 5%. Banks that downgraded between 6% and 20% of commercial loans made up 42.1% of the total, and an additional 7% of respondents reported downgrading between 21% and 30%.

The standard elements of the survey, which deal with underwriting standards and loan demand, found that 50.9% of banks had tightened their standards for large and midsize firms. For loans to small firms, 40.4% reported higher standards.

The tightening of standards most frequently took the form of premiums charged for making risky loans, and higher interest rates. Loans to large firms were also likely to have tighter loan covenants, while loans to small firms were likely to carry higher collateralization requirements.

The main reasons for the tougher underwriting standards were a "less favorable or more uncertain economic outlook" and a "worsening of industry-specific problems."

While banks were tightening their standards, commercial borrowers were reducing their demand for loans, the survey found. Loan demand from large and middle-market firms was down at 72% of banks in the survey, while demand form small businesses was down 55.4%. The most common reason reported for the decreased demand was a reduced investment by customers in their plants and equipment.

After noting that, in the aftermath of the attacks, the Securities and Exchange Commission had relaxed its rules on stock repurchases by public companies, the survey asked if demand for loans to finance such repurchases had increased, and if banks had altered the terms of such loans. In both cases, more than 90% of respondents reported little or no change.

The survey also asked if the dislocation of businesses after Sept. 11 had affected liquidity in the secondary loan market. Two-thirds of the respondents reported decreased loan trading volume, and 64.4% reported that since the attacks, bid-ask had widened.

[From the Arizona Daily Star]

KYL ACCUSED OF BLOCKING AID BILL

(By Tiffany Kjos and Aaron J. Latham)

Arizona Sen. Jon Kyl and an anonymous lawmaker are being accused of blocking a bill that would provide low-income loans to small businesses suffering as a result of the country's economic downturn.

The bill would provide financial help through existing loan programs administered by the Small Business Administration: 7(a) working capital loans; and 504 loans for equipment and building improvements. It would also lower fees for borrowers and SBA lenders.

Sen. John Kerry, a Democrat from Massachusetts and chairman of the Senate small-business committee, introduced the bill more than two months ago in hopes of moving it through quickly. It has 60 co-sponsors in the Senate and dozens of backers in small-business associations.

"I'm asking my Republican colleague to stop obstructing this legislation," Kerry said.

The Congressional Budget Office estimates the bill's cost at $860 million, but it would result in $25 billion in government-guaranteed loans and venture capital for businesses, Kerry said. If the bill passes, Congress would have to figure out where the money would come from.

"As each day passes, more and more small businesses are left behind, facing financial hardships that are forcing them to close their doors as a result of inadequate disaster assistance, stifled availability of loans and limited access to capital," Kerry said.

Kyl, a Republican, has said the bill is too expensive, and he told the Washington Post he is not blocking the bill but acting as an agent for the Republican steering committee in reviewing it.

Kyl's anonymous colleague on the bill can remain unidentified because Senate rules allow members to oppose legislation without going public.

The federal government already has in place a disaster loan program that offers low-interest loans to businesses that suffered directly or indirectly as a result of the Sept. 11 attacks. The Small Business Emergency Relief and Recovery Act of 2001 would help those firms, plus any small business that needs money to survive in the lagging economy.

Like thousands of other small businesses across the country, Tucsonan Maggie Johnson has seen a dropoff since Sept. 11. Johnson's Malkia African Arts & Gifts at 272 E. Congress St. is filled with African masks, fabric and clothing, Egyptian beaded scarves, and colorful greeting cards she makes by hand.

"I'm not selling necessities. I'm selling things people buy with their disposable income. And everyone's sitting on their disposable income now," she said.

The consumer response to the attacks was immediate and nationwide, she said.

"People are pulling back, retrenching—waiting is a good word," she said. "They're spending money on things they have to have, food and basics."

The U.S. Chamber of Commerce is a strong supporter of the measure. Giovanani Coratolo, director of small-business policy for the Washington, D.C.-based group, was careful not to criticize Kyl but did not say the chamber has been working hard to get the bill through the Senate.

"We respect his opinion but we are not with him on this," Coratolo said. "We've been actively working to get co-sponsors and, quite frankly, it could have 80 co-sponsors, (but) he is still determined to block it."

Normally the chamber would not endorse legislation that would expand the government's role in small business, Corato said—but these are special circumstances.

"Given the times and what we see from small businesses, there's a lot of hurting going on and they do need help. They're not looking for handouts. They're looking for access to capital that will give them the ability to help them hang in there," he said.

Coratolo said the opposition's strategy has been to run out the clock. The Senate will probably adjourn by the end of this week and not return until late January, Coratolo said.

"Small businesses need the relief now, and actually they needed it last month," he said. "The existing programs and loan programs that were meant to act as a safety net—some are not there and some don't reach out far enough to help those that really need the help."

SBA loans are guaranteed by the government, so lenders are more apt to give them, Kerry said.

While he opposes the small-business bill, Kyl is backing a $500 per person tax credit for travel-related expenses.

"Sen. Kyl has a travel incentive bill going through that's $10 billion, but he says our bill is too expensive. Understanding how important small businesses are to our economy, we are not denying that travel is important as well, but we do need to get these small businesses some assistance," said Dayna Hanson, Kerry's press secretary for the small-business committee.

Kerren Vollmer, who owned Nava-Hopi Tours in Flagstaff with her husband, Roger, agrees. The couple closed their bus tour business Oct. 26 because so many people canceled their travel plans after Sept. 11. The Vollmers owned 10 tour buses and operated charter tours as well as regular trips to Phoenix and the Grand Canyon from Flagstaff.

"You still have to run regular schedules," she said. "You can't quit just because you have only three or four people."

Vollmer is a lifelong Republican who voted for Kyl, ran for county superintendent, and has worked in the voting precinct. She tried to contact Kyl's office but received no response.

"I've sent e-mail. I've sent him a fax, begging him, offering to talk with him or any of his staff, this is what's going on," Vollmer said. "When it's your own senator, it hurts. Because I don't feel like he even recognizes what's going on under his own nose."

Vollmer said the company tried to get a disaster loan but couldn't even get the application, even with the help of the Arizona Department of Revenue and the local community college's small business development center. Whether the latest measure will make it through the Senate is very much up in the air, Coratolo said.

"Am I optimistic? It's about a 50-50 chance, and if it does, it will be by the skin of its teeth," he said. "Sen. Kyl has been very, very effective at blocking it."

THE NATIONAL ASSOCIATION OF GOVERNMENT GUARANTEED LENDERS, INC.,

December 20, 2001.

Hon. JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Senate Building, Washington, DC.

DEAR SENATOR KERRY. On behalf of the members of the National Association of Government Guaranteed Lenders (NAGGL), the SBA's 7(a) lending partners, thank you for your continuing efforts to improve capital access for small businesses in this time of sharply heighted need. We strongly support your efforts and the efforts of Senator Bond to enact S. 1499.

It is clear, especially in light of events of September 11, that banks' profits continue to plunge. According to a November 30 article in the Washington Post, "Earnings for the nation's banks dropped nearly 10 percent in the third quarter because of the largest increase in expected loan losses in more than a decade." The report goes on to say that "the dip in earnings can be partly attributed to losses from the Sept. 11 terrorist attacks, with more expected to be reported in the fourth quarter."

This drop in profits has resulted in an every-tightening credit crunch, as can be inferred from just the headline of a November 14 Wall Street Journal article that reads, "Banks Tighten Credit, Loan Standards In Past Months Amid Uncertain Outlook." This article cities a Federal Reserve study that "aids fuel to growing concerns that an unwillingness among bankers to lend is threatening to choke off investment, hampering chances of a quick economic recovery."

In this economic climate, it has become exceedingly difficult for even the most qualified small businesses to access the capital they need for survival, and to help spur the American economy to recovery and renewed prosperity.

This is why the passage of S. 1499 is so important. While the SBA's Disaster Loan Program is a necessary ingredient of economic recovery, it cannot possibly provide the sweeping help that the 7(a) program can, and S. 1499 addresses this problem. S. 1499 creates a more attractive 7(a) program for cautious lenders, and a more affordable 7(a) program for hurting borrowers for one year's time—when both of them need it most. And it utilizes private sector lenders that are already in place and ready to provide necessary capital immediately.

We encourage you and your Senate colleagues to expeditiously pass S. 1499 while it is still possible to help small businesses and the American economy in their time of greatest need.

Sincerely,

ANTHONY R. WILKINSON,
NAGGL President & CEO.

A PLEA FOR SENSIBLE GUN SAFETY LEGISLATION

Mr. LEVIN. Mr. President, on April 27, 1999, we paused in the Senate to observe a moment of silence in tribute to those who died at Columbine High School and to express our sympathy for their loved ones. Since the Littleton tragedy, over 60,000 people have been killed by guns, criminals continue to gain easy access to guns and, according to the Brady Campaign, there is an unlocked gun in one of every eight family homes. Several strong pieces of gun safety legislation have been introduced in the 107th Congress to address these problems. None, however has been adopted. In fact, none has even been voted on in the Senate.

In 1994, the Brady law established the National Instant Criminal Background Check System, NICS. This check system allows federally licensed gun sellers to determine whether a person is allowed to buy a gun. Since its inception, NICS checks have prevented more than 156,000 felons, fugitives and others not eligible from purchasing a firearm without infringing upon any law-abiding citizen's ability to purchase a gun.

However, a loophole in the law allows unlicenced private gun sellers to sell guns without conducting a NICS check. A 1999 study by the Bureau of Alcohol, Tobacco and Firearms found 314 cases of fraud at gun shows, involving 54,000 guns. Felons and suspected terrorists have reportedly used gun shows to purchase firearms, and smuggle them out of the United States. On April 24, 2001, Senator REED introduced the Gun Show Background Check Act. I cosponsored that bill because I believe it is an important tool to prevent guns from getting into the hands of criminals and foreign terrorists. This bill, which is supported by major law enforcement organizations including the International Association of Chiefs of Police, simply applies existing law governing background checks to persons buying guns at gun shows. We should stand with our Nation's law enforcement community and take this common sense step to reduce gun violence.

In January, regulations issued by the Department of Justice directed the FBI to retain NICS check information for a 90-day period. This 90-day period allows local law enforcement and the FBI to check NICS for illegal guns sales, identify purchasers using fake IDs and screens for gun dealers misusing the system. However, in June, the Attorney General proposed reducing the length of time that law enforcement agencies can retain NICS data to 24 hours. This is simply not a sufficient amount of time for law enforcement to audit and review the NICS database for patterns of illegal activity. This change will create another potential loophole for criminals to purchase guns.

I was greatly concerned by the Attorney General's action and I was pleased to cosponsor the "Use NICS in Terrorist Investigations Act" introduced by Senators KENNEDY and SCHUMER. This legislation would reinstate the 90-day period for law enforcement to retain and review NICS data. The need for this legislation was highlighted just a couple of weeks ago when the Attorney General denied the FBI access to the NICS database to review for gun sales to individuals they had detained in response to the September 11th terrorist attacks and refused to take a position on an amendment which would authorize that access. I believe it is imperative that law enforcement is given the authority to review the NICS database. The Schumer-Kennedy bill is commonsense legislation that deserves floor action.

The Brady law has been effective in keeping guns out of the hands of criminals, but the number of children killed in suicides, unintentional deaths and school violence remains unacceptably high. This is the case because kids still have all too easy access to guns. Young children are too often killed or severely injured because adults do not store their firearms properly. A recent National Institute for Justice survey found that 20 percent of all gun-owning households had an unlocked and loaded gun in the home. To prevent easy access to guns, Senator DURBIN introduced the Children's Firearm Prevention Act. Under this bill, adults who fail to lock up a loaded firearm or an unloaded firearm with ammunition would be held liable if the weapon is taken by a child and used to kill or injure themself or another person. The bill also increases the penalties for selling a gun to a juvenile and creates a gun safety education program that includes parent-teacher organizations, local law enforcement and community organizations. This bill is similar to a bill President Bush signed into law during his tenure as the Governor of Texas. I support this bill and hope the Senate will act on it during this Congress.

We know kids and criminals should not have access to guns, but there are certain types of guns that simply do not belong on the street. One example is .50 caliber sniper guns. These weapons are among the most powerful weapons legally available. In fact, according to one rifle catalogue, a .50 caliber manufacturer touted his product's ability to wreck "several million dollars, worth of jet craft with one or two dollars worth of cartridge." This is a disturbing assertion, particularly in the wake of September 11th. Even more disturbingly, there are fewer restrictions placed on purchases of long-range .50 caliber sniper weapons than there are on handguns. In fact, according to a 1999 GAO report, since the end of the Gulf War, .50 caliber sniper guns have ended up in the hands of many suspected terrorists, including al-Qaeda. Senator FEINSTEIN's Military Sniper Weapon Regulation Act would change the way .50 caliber guns are regulated by placing them under the requirements of the National Firearms Act. This is a necessary step to assuring the safety of Americans.

More than 2 years ago, two young men brought terror to Columbine High School. Of the four guns used by the two Columbine shooters, three were reportedly acquired at a gun show. The teenage shooters took full advantage of the gun show loophole, which allowed their friend to buy them two rifles and a shotgun without ever submitting to a background check. The tragedy in Littleton, Colorado struck a chord with every American. About a month ago, it was discovered in New Bedford, Massachusetts that a 17-year-old was plotting a massacre at his school. He told police he wanted the event to be like the 1999 slaughter at Columbine High School. Since the events of September 11th, several states, including my home state of Michigan, have experienced significant increases in applications for concealed weapons permits and background checks for gun permits. The gun show loophole remains open, law enforcement lacks access to the NICS database, kids continue to gain access to guns and .50 caliber military sniper guns remain uncontrolled.

It is long past time to adopt sensible gun safety legislation.

LEGISLATION IN BEHALF OF VETERANS

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on legislation acted upon during the first session of the 107th Congress which will make a dramatic difference in the lives of hundreds of thousands of service members and veterans, and in the lives of every American. Four bills relating to veterans benefits now await the President's signature. These bills, coupled with another major piece of legislation adopted by the Congress immediately prior to Memorial Day of this year, will substantially enhance veterans' benefits in the areas of health care, education, homeless assistance, disability compensation, and other areas. They are a testament to the good which can come when House and Senate, Republicans and Democrats, come together to achieve a common end.

The first bill now awaiting the President's signature, the "Veterans' Compensation Rate Amendments of 2001", H.R. 2540, provides a 2.6 percent increase in the rates of veterans' disability compensation and survivors' compensation. The increase, effective December 1, 2001, reflects inflation which occurred during the preceding 12 months, and is the same percentage increase Social Security recipients most recently received. H.R. 2540 will ensure that the purchasing power of compensation and survivor benefits is not compromised by inflation.

A second bill, the "Veterans Education and Benefits Expansion Act of 2001", H.R. 1291, is a comprehensive bill which enhances education, disability compensation, housing, burial, and other benefits that veterans have earned through service to the Nation. The education provisions of H.R. 1291 build on legislation, S. 1114, which I introduced earlier this year, by increasing the Montgomery GI Bill, "MGIB", monthly educational assistance benefit from $672 to $985, a 47 percent increase, over the next 3-year period. With the opportunity to "buy-up" an additional $150 per month in benefits as a result of legislation I authored during the 106th Congress, veterans the potential will now exist for a monthly benefit in excess of $1,100 per month for veterans attending school in the Fall of 2003. Such a benefit level will pay the average cost of tuition, fees, books, room and board, and travel expenses at a 4-year public college or university. These improvements are not just good for veterans; they are good for the Nation. The national security dictates that the services attract well-qualified, highly motivated men and women to serve. As was most recently recognized by the United States Commission on National Security/21st Century, enhancements in Montgomery GI Bill benefits are necessary to attract such recruits.

The "Veterans Education and Benefits Expansion Act of 2001" will further enhance educational assistance benefits by providing needed flexibility to students by allowing veterans to claim benefits on an accelerated basis so that they can pay the significant "up front" expenses of high-cost technology courses. It will also expand distance learning and independent study benefits. Further, this legislation incorporates provisions from a bill authored by Senator THOMPSON to allow certain Vietnam-era veterans the ability to use benefits, and it expands work-study opportunities available to veterans while they're attending college. And it will provide increased educational assistance benefits to the spouses and children of service members killed in the line of duty or who are permanently disabled as a result of service. Finally, this legislation preserves the suspended education entitlement of service members or reservists who had to leave school as a result of being called to active duty, such as a call to active duty participation in Operation Enduring Freedom.

In addition to these improvements in educational assistance benefits, the "Veterans Education and Benefits Expansion Act of 2001" keeps faith with veterans who served in past conflicts by expanding the eligibility of Vietnam and Gulf War veterans for presumptive compensation based on exposures and experiences which occurred during those conflicts. A Persian Gulf War veteran will now be eligible for compensation if he or she has a medically unexplained, chronic, multi-symptom illnesses such as chronic fatigue syndrome or irritable bowel syndrome, in addition to undiagnosed illnesses already covered in law. Further, this legislation gives VA explicit authority to compensate Gulf War veterans for any diagnosed condition. Given the Secretary's December 10, 2001, announcement of the increased prevalence of Lou Gehrig's disease among Gulf War veterans, this provision is particularly timely.

For veterans who served in the Vietnam war, the "Veterans Education and Benefits Expansion Act of 2001" will repeal the 30-year limit on the time period during which a Vietnam veteran must have contracted a respiratory cancer if he or she is to be presumed eligible for compensation based on exposure to Agent Orange. According to a recent National Academy of Science/Institute of Medicine report, there is no scientific evidence which suggests an upper limit can be placed on respiratory cancer latency. Given this, I believe the formerly-existing 30-year limit was arbitrary; this bill removed it. I owe thanks to Mr. Joseph R. Mancuso, a Vietnam veteran from Pennsylvania who was stricken by, and who, very sadly, has succumbed to, lung cancer for bringing this legal anomaly to my attention. This provision is a memorial to him. I just wish the Congress might have acted while Mr. Mancuso was still alive.

I should mention a few of this legislation's other important provisions. It increases VA's home loan guaranty to enable veterans living in high-cost regions of the country to afford a home with little or no down payment. It increases burial benefits available to the families of veterans who die due to a service-connected cause, and it increases grants provided to severely disabled veterans so they may purchase an automobile or make modifications to their homes to accommodate disabilities. The legislation also expands outreach and information services for departing service members, veterans, and family members, and it streamlines the eligibility determination process for low-income, disabled veterans seeking non service-connected pension benefits.

A third major piece of veterans' legislation which now awaits the President's signature, the "Homeless Veterans Comprehensive Assistance Act of 2001", H.R. 2716, is an additional step toward achieving the goal of ending chronic homelessness among America's veterans. This legislation would authorize VA to provide grants and per diem payments of up to $60 million in 2002, rising to $75 million in 2003, to entities which provide outreach, rehabilitative, vocational counseling and training, and transitional housing services to homeless veterans. It would expand mental health services, and direct each VA primary care facility to develop and carry out a plan to provide mental health services to veterans who need them. This legislation would also authorize the provision of dental care to homeless veterans by VA in recognition of the fact that such care is a necessary prerequisite if a homeless veteran is to gain, or regain, meaningful employment. Finally, this bill would ensure proper oversight of these programs through the creation of a VA Advisory Committee on Homeless Veterans.

A fourth and final bill which is now pending executive action, the "Department of Veterans Affairs Health Care Programs Enhancement Act of 2001", H.R. 3447, would address a number of critical issues affecting veterans' health care. First, this legislation addresses the looming, and in some places already-present, VA nursing shortage by permanently authorizing the Employee Incentive Scholarship Program, a program which allows VA to provide up to $10,000 per year, for up to three years, to employees engaged in full-time academic studies. Additionally, this legislation reduces the minimum period of employment required for eligibility in the program from two years to one year, and extends authority to increase the award amounts based on federal national comparability increases in pay. Further, in an effort to encourage nurses who have already completed school to come work for VA, the bill would permanently authorize the Employee Debt Reduction Program, EDRP, extend to five the number of years that a VA employee might participate in the EDRP, and increase the gross award limit to any participant to $44,000. The EDRP program allows VA to assist employees with the repayment of education debt, and it allows VA to compete with private sector health care systems that offer similar programs. Finally, this legislation creates the National VA Commission on Nursing, which will consist of experts in the nursing profession as well as economists and education professionals. The Commission will report findings and recommendations relating to nurse recruitment and retention and other nurse employment issues within two years.

The "Department of Veterans Affairs Health Care Programs Enhancement Act of 2001" also contains elements of a bill, S. 1188, which I introduced earlier this year to provide priority access to VA care to poor veterans residing in relatively high cost areas like Philadelphia or Pittsburgh. Currently, VA provides priority access to care, and it waives co-payments, only for veterans whose incomes are below a nationally-determined annual amount. This "one-size-fits-all" formula does not take into account local variations in the cost of living. As a consequence, veterans in high-cost areas, typically urban areas, who are poor by most standards, do not qualify for priority access for VA care. And they must pay the full amount of co-payments charged to other, much better off, veterans. This legislation would relieve much of the burden of co-payments on, and raise the relative priority for VA health care of, these near-poor veterans.

The "Department of Veterans Affairs Health Care Programs Enhancement Act of 2001" also addresses other important health issues. It provides service-dogs, trained to accomplish tasks such as opening doors and retrieving clothing, to disabled veterans. It directs VA to focus its attention on the maintenance of special programs in each geographic region of the country, and it creates a program for chiropractic care in the VA. Finally, this legislation authorizes the construction of a power plant in Miami, FL, that was destroyed over one year ago by a fire that left two employees critically injured.

Finally, I note the enactment of the "Veterans' Survivor Benefits Improvements Act of 2001," Public Law 107–14, which was signed by the President on June 5, 2001. This legislation retroactively increased insurance benefits provided to, and guaranteed additional health care coverage for, the survivors of service members killed in the line of duty. This legislation also expanded health care coverage to the spouses of veterans who have permanent and total disabilities due to military service and to the spouses of veterans who have died as a result of wounds incurred in service. Further, this Act extended life insurance benefits to service members' spouses and children, and authorized, and directed, VA to conduct outreach efforts to contact these survivors, and other eligible dependents, to apprize them of the benefits to which they are entitled. Finally, the "Veterans' Survivor Benefits Improvements Act of 2001," made technical improvements to Montgomery GI Bill education benefits, and make other purely technical amendments to title 38, United States Code.

This first session of the 107th Congress has produced five outstanding bills benefitting veterans. The enhancements contained within them send an unmistakable message to Americans that this Nation values military service and honors those who risk their lives so that we may be free. I complement all those who worked so hard to make these legislative accomplishments a reality.

THE EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001

Mr. TORRICELLI. Mr. President, when the Voting Rights Act was signed into law over 30 years ago, many thought it was the end of a long journey to recognize that the ideals on which this country was founded were more than just abstract notions. The Voting Rights Act and before it the 14th amendment were definitive expressions by our Nation's government that liberty and equality in theory is only as meaningful as liberty and equality in practice. As my colleague from Connecticut noted yesterday in this Chamber, Thomas Paine captured the essence of our Nation's democracy when he stated that the right to vote is "the primary right by which all other rights are protected."

The immediate consequence of the 2000 elections and its unsettling aftermath was a realization that even 30 years after the Voting Rights Act became law, the Nation's election system was not what people thought it was. The election brought to light many problems with the Nation's voting system, including the impact that outdated voting machines, undertrained poll workers, and poorly-designed ballots can have on an election.

Throughout the past year, Congress and the Nation have evaluated how best to ensure that future elections are ones in which Americans can have faith in the results. I have spent countless hours devoted to the subject. A year ago last week, Senator McCONNELL and I introduced one of the first bills seeking to improve election systems and procedures. Others soon followed with their own ideas about how to best bring about change to what we had learned was a clearly flawed system.

With so much at stake, the process has not been without disagreement and at times it seemed that little would be changed. Both the House of Representatives and the Senate, however, have finally made progress in crafting bipartisan legislation seeking to make elections more fair for all Americans. The House of Representatives has passed legislation supported by a majority of both parties. Yesterday, Senators DODD, McCONNELL, BOND, SCHUMER and I introduced bipartisan legislation to modernize the Nation's election procedures.

The Equal Protection of Voting Rights Act of 2001 represents a balance between establishing national standards for voting and giving States the flexibility to make improvements tailored to their State's needs. First, this bill creates a permanent Federal system of analysis and assistance. This legislation establishes an Election Administration Commission, consisting of two commissioners from each party who will serve 4-year terms. The commission will bring expertise to modernizing elections and provide States and localities with advice for their enhancing voting procedures. This permanent commission was the cornerstone of election reform legislation that Senator McCONNELL and I introduced over a year ago and I am extraordinarily pleased to see it included in this landmark legislation.

Second, this legislation establishes three minimum national requirements for voting procedures to ensure that voting across the Nation is uniform and nondiscriminatory. These minimum national standards include requiring States and localities across the Nation to utilize voting systems that enable voters to verify how they voted and ensure accessibility to language minorities and individuals with disabilities, requiring States and localities to provide for provisional balloting, and requiring States and localities to establish a statewide voter registration list with the names and addresses of eligible voters.

Perhaps most importantly, however, this legislation provides $3 billion in Federal grants for States and localities to update voting systems, improve accessibility to polling places, and train poll workers, among other things. States and communities must show that they comply with the three national requirements to be eligible for the grants. An additional $400 million is authorized for providing early funds so that States and localities can implement some improvements quickly; $100 million of the bill's funding is directed to provide grants to make polling places physically accessible to those with disabilities. This funding ensures that for the first time in our Nation's history, the Federal Government will contribute our share to the cost of administering elections for Federal office.

I hope that this legislation completes our Nation's journey to ensuring that all eligible Americans are able to cast their vote fairly, accurately, and without interference. To some, this legislation may not be perfect, but I can assure my colleagues that it is the result of reasoned compromise and is a balanced response to all that our Nation has learned from the 2000 elections. I hope that when my colleagues and I return in January, we can work with the Senate leadership to ensure that bringing this legislation to the Senate floor is one of our top priorities.

EXPIRATION OF TRADE PROVISIONS

Mr. BAUCUS. Mr. President, in the whirlwind of activity that always accompanies the end of a legislative session, many critical legislative decisions are made and critical legislation passes. Often it takes some time to tote up the wins and losses and arrive at a final evaluation of what has been achieved and what remains to be done.

Despite the efforts of those in the Senate, one of the losses for the session is the expiration of three key trade programs, the Generalized System of Preferences (GSP), the Andean Trade Preferences Act (ATPA), and Trade Adjustment Assistance program.

What is surprising about the expiration of these programs is all three of them have nearly universal support. They expire not because of a legitimate difference in policies and not because the programs have served their purpose. They expire because of political maneuvering in the House.

In my view, it always reflects poorly on the Congress when needed programs expire due to political machinations or simply lack of attention. It sends poor signals to those that depend on these programs. In this case, the U.S. companies that import products under GSP and ATPA and the foreign countries we are attempting to aid through these programs can hardly avoid the impression that these programs are a low priority for Congress.

In the case of ATPA, there are those that believe that expiration will spur a rapid move to expand ATPA. I support an expansion of ATPA, but I believe such brinkmanship is far more likely to result in a long break in ATPA than it is a quick expansion.

Fortunately, in the case of both GSP and ATPA it is possible to extend these tariff benefits retroactively. If the U.S. importers are able to shift funds and wait, there is a good chance they will ultimately receive the promised benefits from these programs.

Sadly, this is not the case with the expiration of the Trade Adjustment Assistance program. This program provides income support and training benefits to workers who have lost their jobs due to trade. It provides them the opportunity to train for a new job and rebuild their lives. Given that they are unemployed, they are generally not in a position to absorb a three month or a six month break in benefits.

I understand that the Department of Labor plans to advise the state agencies that work with them to administer TAA plan to advise those agencies to keep paying benefits because they expect the program to be reauthorized. The Department of Labor's advise is sound; indeed, I hope to win passage for a considerable expansion of TAA.

Unfortunately, there is no guarantee that state agencies will keep operating based upon this federal promise and borrow money from other programs to support TAA. In fact, in at least 5 states, state law prohibits such fund shifting.

This raises the prospect that some of the 35,000 TAA recipients around the United States will receive a very nasty Christmas present—the unexpected halt of the benefits on which they depend to rebuild their lives and support their families.

Mr. President, I believe Congress is sometimes criticized unfairly. Sometimes, however, the rush of events diverts attention from some of the glaring errors we make.

The stubborn obstinance of some of the other body to extend TAA is, in my view, a shameful example of playing politics with the interest of those citizens that can least afford it. I hope this example is not lost on journalists, editorial writers, and, ultimately, voters. Someone should be held accountable.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in May 1995 in West Palm Beach, FL. A gay man was robbed and brutally murdered. The attacker, Ronald Knight, 27, was convicted of first-degree murder, armed robbery, and a hate crime in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

THE NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE PRESIDENTIAL COMMISSION

Mr. CLELAND. Mr. President, I rise today to discuss legislation that establishes the National Museum of African American History and Culture Presidential Commission. On Monday, December 17, 2001, the Senate passed, with my support, H.R. 3442 which establishes the National Museum of African American History and Culture Presidential Commission. The Presidential Commission will develop and recommend a legislative plan of action for creating a national museum on the National Mall that recognizes the unique historical and cultural legacy of African Americans. The U.S. House of Representatives passed the legislation, introduced by Representative JOHN LEWIS, on December 11, 2001 by voice vote.

The African American legacy is one of gradual steps that have moved this group of Americans from slavery to full partnership in our society and culture. African Americans have played a central part in the development of our country's democratic institutions and our commitment to individual freedom and equal rights. Despite this history, there is currently no national museum located in Washington, D.C. on the National Mall devoted to telling the African American story. I believe this museum is the next stage in recognizing the burdens born by African Americans and celebrating their unique contributions to our nation.

Many notable African Americans have made contributions in the areas of science, medicine, the arts and humanities, sports, music and dance. It is right to honor this legacy on a national level. I believe that by establishing this museum this nation will be able to finally honor the legacy of African Americans properly. By placing this museum on the National Mall, we will finally place the history of African Americans in a national light, where it belongs.

The legislation creates a 23 member commission made up of individuals who specialize in African American history, education and museum professionals. The commission has nine months to present its recommendations to the President and Congress regarding an action plan for creating a national museum honoring African Americans. The Commission will decide the structure and make-up of the museum, devise a governing board for the museum, and among other action items, will decide whether to place the museum within the Smithsonian's Arts and Industries Building, which is the last existing space on the National Mall.

This museum will commemorate and honor the 400 years of African American history in this country and beyond. Legislation was introduced just about every session of Congress between 1919 and 1929 to create a memorial building to house exhibits demonstrating the achievements of African Americans in art, science, invention and all aspects of life. I am both proud and pleased to be associated with this project and look forward to seeing this legislation signed into law by the President in the near future.

THE POLICE CORPS PROGRAM

Mr. LOTT. It is my understanding there are concerns with the Police Corps Program. It appears that funding from within the current fiscal year is not being made available to certain States.

Mr. GREGG. I appreciate the minority leader's concerns with Police Corps. I have been told that OMB and the Department of Justice have rectified this situation. Both organizations have agreed that any funds available for Police Corps in fiscal year 2002 and unexpended balances from prior fiscal years will be made available for new programs if currently eligible participants have not used the funding provided for their State.

Mr. STEVENS. I have the same understanding. OMB and Justice have decided that available funds can be used from the current balances. I am glad this issue has been worked out.

Mr. KERRY. I very much appreciate the comments of Senators LOTT, STEVENS, and GREGG concerning the Police Corps program, which provides scholarships on a competitive basis to students who earn their bachelor's degrees, complete approved Police Corps training, and then serve for four years on patrol with law enforcement agencies in areas of great need. The Police Corps gives States funding to provide residential police training and to provide local and State agencies that hire Police Corps officers $10,000 a year for each of an officer's first 4 years of service. The fiscal year 2002 Senate Commerce, Justice, State and Judiciary Appropriations bill, under the leadership of Chairman HOLLINGS and Ranking Member GREGG, included $30 million for the Police Corps program. However, I was very disappointed that this amount was reduced to $14.435 million in the conference report, which included legislative language that the Police Corps program has sufficient unobligated balances available to allow the program to maintain its activities in fiscal year 2002 at the prior year level.

I am very concerned that the Office of Justice Programs is not planning to provide appropriate funding for the Police Corps program in fiscal year 2002. It is my understanding that the Office of Justice Programs' plan for the Police Corps program could limit the ability of local law enforcement agencies to address violent crime by decreasing the number of officers with advanced education and training who serve on community patrol in high-crime areas. This could negatively affect the Police Corps program in my home State of Massachusetts, which is currently updating its training curriculum to provide the rigorous physical and moral police training that will help Police Corps recruits work effectively in high-crime areas within Massachusetts. As our nation remains on high alert due to recent terrorist attacks, the Police Corps program will play a crucial role in training future policemen and policewomen to stop terrorist activities before they hurt innocent Americans.

It is my understanding that there are unobligated funds available to provide the Police Corps program with the funding necessary to increase the number of recruits above the modest demonstration level of approximately 25 trainees per state per year and to assist in resolving the current backlog of funding requests for the program.

I believe that the Department of Justice should provide such funds as are necessary to maintain the current level of activity in Police Corps operations and to begin to resolve the current backlog of funding requests for the program. I look forward to working with Chairman HOLLINGS, Ranking Member GREGG and others to assure that the Police Corps program is treated fairly by the Office of Justice Programs this year and in future years, and to insure that this important program receives adequate funding in the future.

BIOTERRORISM

Mr. NELSON of Florida. Mr. President, I rise to recognize the important achievement the Senate has made today in defending our homeland. Just over two months ago, my state of Florida was the site of the first in a series bioterrorist attacks on our Nation that culminated here in Washington, DC. While the repercussions evolving out of the anthrax attacks on our mail system pale in comparison to the enormous tragedy of September 11, the families of those who suffered tragic deaths after being exposed to anthrax laced letters and those of us who continue to be displaced on Capitol Hill understand the very real dangers associated with the elusive threat of bioterrorism.

In the wake of the anthrax attacks, we, as a Nation, began to realize that we were not fully prepared to effectively and comprehensively respond to biological threats. The attack in Boca Raton, FL elicited an array of missteps and symptoms of inadequate preparation at all levels of government. Because Floridians, and Americans, had never faced such a threat before, the necessary communication lines had not been formed and many emergency responders were not properly equipped to handle this new type of crisis. The Bioterrorism Preparedness Act of 2001, passed by the Senate today, is an important first step at increasing our ability to respond to, and prevent, future biological attacks at the Federal, State, and local levels. It will enhance our ability to detect an attack by improving disease surveillance systems and public health laboratories. It will improve our ability to treat victims of an attack by increasing hospital capacity for disease outbreaks. It will also enhance our ability to contain an attack by expanding pharmaceutical stockpiles and accelerating the development of new treatments. Finally, this bill seeks to target future bioterrorist threats in a comprehensive manner by protecting our food sources and other potential targets.

I would like to take this opportunity to highlight a portion of the bill that I believe is essential to our Nation's coordinated prevention and response initiative. Like many Americans, I sought out additional information about the threat of bioterrorism after anthrax was discovered in Florida, New York, New Jersey, and Washington, DC. In the course of my research efforts, I had the opportunity to visit with some of the professors, researchers, and scientists that work for the University of South Florida Center for Biological Defense. The Center for Biological Defense is a joint project of the University of South Florida College of Public Health and the Florida Department of Health. The Center focuses on a full spectrum of studies and programs, ranging from research and development to outreach and educational seminars. The Center has implemented a multifaceted approach to biological defense research that utilizes a number of universities throughout the state of Florida to implement its studies and projects. The Center for Biological Defense has laboratory programs that are dedicated to improving surveillance systems, developing early detection capabilities, rapidly identifying pathogens, and fully understanding the factors that affect the toxicity of biological agents. Moreover, the Center concentrates on efforts to enhance health care preparedness, to strengthen hospital hygiene and containment capabilities, and to coordinate vital educational and training programs for emergency management and health professionals, which has proven to be a crucial component of the response efforts to the anthrax contamination occurring over the course of the past 2 months.

While the preeminent focus of the Bioterrorism Preparedness Act of 2001 is on our government agencies and their crucial missions, a portion of this bill recognizes our Nation's universities as a critical component of the United States bioterrorism defense plan. Centers across the Nation, like Florida's Center for Biological Defense, do critical bio-defense work at the local, State, and national level everyday. In fact, it is these programs that have coordinated first responder training programs, developed products capable of identifying biological contamination on site, and developed new techniques for containing disease and preventing the spread of contagious pathogens. I am delighted that the Senate has been proactive in acknowledging the tremendous value of these programs in an effort to encourage their receipt of additional Federal grants in the future.

I am pleased that I was able to be part of the effort to draft and pass the Bioterrorism Preparedness Act of 2001 and I am thankful to my fellow Senators for ensuring the passage of this vital bi-partisan legislation prior to the holiday recess. I look forward to passing a final version of this bill at the conclusion of the conference between the House and Senate, as I believe that implementation of this bill will not only ensure our preparedness for any future biological threats, but will also quell the concerns and fears of the American people.

MTBE

Mr. SMITH of New Hampshire. Mr. President, for the third day this week, I have come to the floor to speak about MTBE.

This is the gas additive that has become a huge concern for millions across the Nation because of the contamination it has caused.

That is certainly true of many communities throughout New Hampshire where it has become a crisis. And the crisis will continue to escalate unless it is dealt with.

I was pleased last week when the majority leader made a commitment to me that the Senate will vote on MTBE legislation before the end of February.

Until the day of that vote arrives, I will continue to come to the floor to remind Senators of the terrible impact that MTBE is having on the Nation. And remind them why it is important that we act now.

In 1990, the Clean Air Act was amended to include a clean gasoline program. That program mandated the use of an oxygenate in our fuel—MTBE was one of two options to be used.

The program with MTBE is that when it is leaked or spilled, it moves through the ground very quickly and into the water table.

Many homes in New Hampshire and across the nation have lost use of their water supply because of MTBE contamination.

Many others have had to install expensive water treatment systems in order to drink the water or even shower.

According to the New Hampshire Department of Environmental Services, there may be up to 40,000 private wells with some MTBE contamination. Of those, up to 8,000 may have MTBE contamination over state health standards.

So far this week, I have talked about the problems faced by families and small businesses throughout the regions of New Hampshire.

Today I want to talk about the Sojka family who have a home on Cobbetts Pond in Windham.

The water supply for the home is a deep, bedrock on-site well.

Just about two years ago, the Sojkas began noticing that the water had a strange odor and that it left a residue on their hands.

So they did a little test of their own to see if there really was anything unusual with their water. Their son Brian filled up a bowl full of tap water and let it sit overnight. They were horrified with their finding next morning. The water had a slick oily film floating on top—the same water that the family had been drinking, bathing in, and cleaning their food with.

As a result, the Sojkas had their water tested. The test revealed MTBE contamination at a level twice as high as the State standard.

They contacted the State of New Hampshire for help—by now, it had become quite common for the state to get this type of request.

The state began providing bottled water to the family. Just like the Miller family I spoke of yesterday, the Sojka's pointed out similar concern—that while bottled water is fine for drinking, it doesn't help with other daily needs such as: bathing; washing fruits and vegetables; and cooking.

Within a few months of the initial tests at the Sojka home, the MTBE contamination levels in the well jumped up by almost 8,000 percent.

Unbelievable contamination!

Last summer, the State installed an elaborate and cumbersome water treatment system on the Sojka's property. Unlike the Millers that I spoke of yesterday, who had a system installed in their home, the system needed for the Sojka's was too large to fit in the home

The State had to build a shed separate from the house for the commercial water treatment system. The system consists of an enormous commercial air stripper and two 6 cubic foot carbon units.

Such a system costs in the neighborhood of $20,000.

Fortunately for the family, the state is providing the system and cost of operation and maintenance to the tune of an additional $5,000 per year.

Can you imagine having a large chuck of your back yard being occupied by a commercial water treatment system.

It is terrible that this has to happen to any family. And it is horribly wrong for federal mandate to cause such pain.

This problem isn't unique to New Hampshire—it exists in Maine, California, Nevada, Texas, New York, Rhode Island, and on and on.

We would be delinquent in our duties as United State Senators if we were to sit back and do nothing about this.

We must act soon.

I have a bill that has been reported out of committee two years in a row that will address these problems.

Mr. President, the time to act is now—it is time to help out the families who have fallen victim to a Federal mandate.

Mr. CLELAND. Mr. President, the far-reaching education package before us today makes significant strides toward meeting three of America's most important education goals: improved student achievement, increased accountability, and enhanced teacher quality. I am very pleased that the conference report includes two of the amendments I offered to the Senate BEST Act—my Immigrants to New Americas amendment and my amendment to establish a National Center for School and Youth Safety. I thank the distinguished managers of the Senate bill, Senator KENNEDY and Senator JEFFORDS, for their support and their willingness to assist me. I also want to express my appreciation to the staff of the Senator from Massachusetts for the courtesies and counsel they showed to me and to my staff.

Finally, I want to thank the "education team" on my own staff, led by Lynn Kimmerly, my superb deputy legislative director, and Donni Turner, my outstanding chief staff counsel, who helped not only in developing and winning support for my amendments but in analyzing and advising me on all of the details of this landmark legislation. They have served our State and our Nation well, and our country's children will be the beneficiaries.

My Immigrants to New Americans language addresses the explosion of immigrants coming to this country over the past decade. Information from the 2000 Census shows that the impact from this wave of immigration is having a dramatic impact on schools and communities across America, including non-traditional immigrant communities in states like Wisconsin, Iowa, Nebraska, Oklahoma, Georgia and the Carolinas. My amendment will provide resources to these communities to help ensure that these children—and their families—are being served appropriately. Specifically, it would expand the use of funds under the Emergency Immigrant Education set-aside to include activities which, one, assist culturally and linguistically diverse children achieve success in America's schools and, two, allow local educational agencies to partner with community-based organizations to provide the families of these children access to comprehensive community services.

My second amendment incorporated in this landmark legislation addresses the deeply troubling issue of violence at Columbine and Heritage High and in other schools across the country. My School Safety Enhancement Amendment, based on the best research in the field of school violence prevention, would create a National Center for School and Youth Safety tasked with the mission of providing schools with adequate resources to prevent incidents of violence. The National Center would offer emergency assistance to local communities to respond to school safety crises, including counseling for victims, assistance to law enforcement to address short-term security concerns, and advice on how to enhance school safety and prevent future incidents. It would also operate a toll-free, anonymous nationwide hotline for students to report criminal activity and other high-risk behaviors, such as substance abuse, gang or cult affiliation, depression, or other warning signs of potentially violent behavior. Finally, the National Center would compile information about the best practices in school violence prevention, intervention, and crisis management. The goal of the National Center for School and Youth Safety is to involve the entire community—parents, school officials, law enforcement officers, and local governments and agencies—to make them aware of the resources, grants and expertise available to enhance school safety and prevent school crime.

In closing, I would like to quote former British Prime Minister Benjamin Disraeli, who once said: "Upon the education of the people of this country, the fate of this country depends." One of the most important investments this nation can make is an investment in the education of its future leaders. It is my fervent hope that Members of Congress, on both sides of the aisle, will see the wisdom in investing adequate dollars to carry out the worthy goals of this critically important piece of legislation—improved student achievement, increased accountability, and enhanced teacher quality. It is an investment in the future of America, and the future, after all, is in very small hands.

ON REAUTHORIZATION OF THE PROMOTING SAFE AND STABLE FAMILIES PROGRAM

Mr. GRASSLEY. Mr. President, the Senate recently passed legislation reauthorizing an important child welfare program known as Promoting Safe and Stable Families. Under the auspices of this Social Security Act grant program, States are able to provide services to at-risk families to prevent the need for children to enter the foster care system.

Four types of services are included in the program: family preservation; community-based family support; time-limited family reunification; and adoption promotion and support. In addition, the program provides funding for state court improvement projects. I cannot proceed without praising Iowa's court improvement project which, under the leadership of Judge Terry Huitink and Judge Stephen Clarke, has produced valuable research to streamline the court process for children waiting to be adopted. The Iowan project also provides training for judges in order to increase understanding of the needs of children in the foster care system.

The reauthorization passed by the Senate ensures that money will be available for the next five years at an annual minimum of $305 million per year. An additional $200 million is authorized to be spent from discretionary funds determined annually by Senate appropriators. I am also pleased the 2002 Senate Labor, Health and Human Services, and education appropriations legislation included $70 million in discretionary spending for the Safe and Stable program, for a total funding level of $375 million in fiscal year 2002. In fact, I and some of my Senate colleagues are sending a letter to President Bush tomorrow requesting that full funding of $505 million for the program be included in the Administration's fiscal year 2003 budget.

The Promoting Safe and Stable Families program is a valuable weapon in the fight against child abuse and neglect. The Federal Government spends billions of dollars each year to provide services to children who have already been placed in the foster care system. Much less money is spent on providing services before removal from the home is necessary. In fact, the Congressional Budget Office estimates that between 1999 and 2003, money spent on removing children from their homes and placing them in foster and adoptive homes will exceed by nine times the amount of money spent on services and prevention. Furthermore, annual spending during this period for removal and placement is expected to increase by thirty-five percent, from $4.8 billion to $6.5 billion, while annual spending for prevention and services is expected to increase by only nine percent, from $0.57 billion to $0.62 billion.

More than one hundred thirty thousand children are waiting to be adopted out of foster care in the United States, and at least 4,500 of those children live in Iowa. Each child deserves a loving family and a safe environment. Promoting Safe and Stable Families grants provide critical services to vulnerable families and children, and I am pleased the Senate fulfilled its duty and acted to reauthorize the program.

Ms. CANTWELL. Mr. President, I rise today in support of the Enhanced border Security Act of 2001. We must take the long term steps to strengthen the security at our borders. I want to commend my colleagues, Senators KENNEDY and FEINSTEIN, BROWNBACK and KYL, for their tireless work to address border security issues.

The bill we will be voting on today, the Enhanced Border Security Act of 2001, was a product of the thoughtful merging of two bills. As an original cosponsor of Senators KENNEDY and BROWNBACK's initial version of this bill, I have worked closely with the four principal sponsors to integrate the best of each of these two pieces of legislation, and have been very please with the outcome of this effort.

This bill addresses what I consider to be one of the most important issues in our fight against terorism—how we can effectively secure our borders from terrorists. This bill address border security by increasing the number of border patrol and immigration personnel at the borders; improving the quality and sharing of identity information; improving the screening of foreign nations seeking to enter the U.S. on visas; and improving awareness of the comings and goings of these foreign nationals as they enter or exit our country.

As a member of the Judiciary Committee, I have been honored to work closely with Senators KENNEDY and FEINSTEIN to find ways to better protect our borders and provide necessary support to the men and women who work for the State Department, the Immigration and Naturalization Service and the U.S. Customs Agency.

I, along with many of my colleagues, am currently pressing for funding to triple the number of Immigration and Naturalization Service and U.S. Customs personnel on our northern border and improve border technology, the authorization for which was included in the USA Patriot Act. In the past, a severe lack of resources at our northern border has compromise the ability of border control officials to execute their duties. I am pleased that Congress made the tripling of these resources a priority for national security, and I will continue to fight for full funding of this measure. This bill also addresses these needs by increasing INS inspectors and border patrol staffing each by 200 persons per year for the fiscal year 2002–2006. The bill also authorizes $150 million in spending for improving technology and facilities at our borders.

The Enhanced Border Security Act of 2001 addresses several other critical issues. In hearings this session before the Immigration Subcommittee and the Technology and Terrorism Subcommittee, as well as the full Judiciary Committee, we heard repeated calls for better sharing of law enforcement and intelligence information as it relates to admitting aliens into the United States. The bill addresses this problem by mandating INS and Department of State access to relevant FBI information within one year. I am pleased that the authors of the bill have included provisions to protect the privacy and security of this information, and require limitations on the use and repeated dissemination of the information.

Two of the most important provisions of this legislation address international cooperation in enhancing border security. Protecting U.S. borders requires the assistance and cooperation of our closest allies. Indeed, we share an interest in protecting our respective borders. Citizens of several countries, including most European countries, Japan and Canada, can enter the U.S. without visas. And this is as it should be. But the U.S. must, with new urgency, continue to engage Canada, Mexico and other countries that may be interested in sharing law enforcement and intelligence information to protect our respective borders. We must improve information sharing, and must improve the technology to make sure information is shared with the right people and in a timely manner.

In October, we passed a major anti-terrorism bill that contained a number of provisions that will enable our law enforcement community and the intelligence community to obtain and share vital information regarding persons who are a threat to the U.S. One of the most important new tools I was pleased to have had included in USA Patriot Act is a requirement that State and Justice develop a visa technology standard to help secure our border and make certain each individual who seeks entry into our country on a visa is the person he or she claims to be and there is no known reason to keep that person out.

We must work with our allies to take advantage of this technology standard to improve interoperability on an international scale. We should do what we can to eliminate technological barriers to information-sharing regarding dangerous individuals and to address our mutual concern for border security. To this end, this bill requires the Department of State to report to Congress within six months on how best we can undertake "perimeter" screening with our partners, Canada and Mexico. Further, the bill requires the Department of State, the Immigration and Naturalization Service and the Office of Homeland Security to report to Congress within 90 days on how best to facilitate sharing of information that may be relevant to determining whether to issue a U.S. visa. Our borders are only as secure as the borders of those countries whose citizens we allow into our country without a visa.

The provisions we have achieved in the USA Patriot Act laid the foundation for more specific provisions to assure the best use of technology to improve the security at our borders. This bill fulfills the promise of the USA Patriot Act to assure information sharing will be thoughtfully implemented in short order.

With the enactment of the USA Patriot Act of 2001, the federal government committed to developing a visa technology standard that would facilitate the sharing of information related to the admissibility of aliens into the United States. I proposed this language recognizing that, for many years, the U.S law enforcement and intelligence communities have maintained numerous, but separate, non-interoperable databases. These databases are not easily or readily accessible to front-line federal agents responsible for making the critical decisions of whether to issue a visa or to admit an alien into the United States.

To build on and fulfill the goals of establishing this standard, this bill will do three things. First, it will require technology be implemented to track the initial entry and exit of aliens travelling on a U.S. visa. We know now that several of the terrorists who attacked America on September 11th were traveling on expired visas. We have had the law in place for several years now, but due to concerns about maintaining the flow of trade and tourism across our borders—concerns I share—the provisions of Section 110 have not been fully implemented. Technology will address those concerns, allowing electronic recordation and verification of entry and exit data in an instant.

Second, I believe it is necessary to require the Department of State and Justice to work with the Office of Homeland Security to build a cohesive electronic data sharing system. The system must incorporate interoperability and compatibility within and between the databases of the various agencies that maintain information relevant to determining whether a visa should be issued or whether an alien should be admitted into the United States. This legislation will require interoperable real-time sharing of law enforcement and intelligence information relevant to the issuance of a visa or an alien's admissibility to the U.S. The provision will require that information is made available, although with the appropriate safeguards for privacy and the protection of intelligence sources, to the front-line government agents making the decisions to issue visas or to admit visa-holding aliens to the United States.

Keeping terrorists out of the U.S. in the first place will reduce the risks of terrorism within the U.S. in the future. Aliens known to be affiliated with terrorists have been admitted to the U.S. on valid visas simply because one agency in government did not share important information with another department in a timely fashion. We must make sure that this does not happen again.

Until now, we had hoped that agencies would voluntarily share this information on a realtime and regular basis. This has not happened, and although I know that the events of September 11 have led to serious rethinking of our information-sharing processes and procedures, I think it is time to mandate the sharing of fundamental information.

Advancements in technology have provided us with additional tools to verify the identity of individuals entering our country without impairing the flow of legitimate trade, tourism, workers and students. It is time we put these tools to use.

Improving our national security is vitally important, but I will not support measures that compromise America's civil liberties. The bill we are voting on today includes a number of safeguards to protect individuals' rights to privacy. The bill provides that where databases are created or shared, there must be protection of privacy and adequate security measures in place, limitations on the use and re-dissemination of information, and mechanisms for removing obsolete or erroneous information. Even in times of urgent action, we must protect the freedoms that make our country great.

I urge a favorable vote.

TRIBUTE TO COMMISSIONER JOHN F. TIMONEY

Mr. BIDEN. Mr. President, I rise today to pay tribute to the long and distinguished career of one of our Nation's top police executives, Philadelphia Police Commissioner John F. Timoney.

Commissioner Timoney will leave the Philadelphia Police Department in early January, and I want to highlight some of his achievements. I believe John's record of achievement will benefit America's police officers for years to come.

John Timoney immigrated to the United States from Ireland at the age of 13. In 1969, after graduating from high school, he joined the ranks of the New York Police Department. He spent the first twelve years of his career as a patrol officer and later a narcotics investigator on the streets of Harlem and the South Bronx. As his reputation for integrity, innovation, and perseverance grew, he rose through the department's management structure, eventually assuming the position of Chief of Department, the highest ranking uniformed position in the department. It was during Mr. Timoney's tenure in the upper echelons of the NYPD that New York's crime rate began to drop precipitously, due in no small part to the new management structure he instituted, merging the Housing and Transit Police Department with the NYPD. In 1996, upon his departure from the NYPD, then-Chief Timoney had accrued over 65 Department Medals, including the prestigious Medal of Valor.

After retiring from the NYPD, John entered the world of private security consulting, and offered his expertise and advice to law enforcement authorities all across the country and around the world. He served as Vice Chairman of the Irish Commission on Domestic Violence, and he advised Britain's Patton Commission, which focused on policing Northern Ireland.

In March of 1998, Philadelphia Mayor Ed Rendell appointed John Commissioner of the Philadelphia Police Department. His tenure in that position was marked by the same commitment to excellence and improvement which characterized his career in New York. John brought the innovative Compstat system to Philadelphia, and helped to reinvigorate the department. Running a department of 7,000 officers and 900 civilian employees is no easy task, and Commissioner Timoney's efforts to modernize the department have been rewarded by a decline in Philadelphia's crime rate.

While I thank John profusely for what he has done to make the streets safer for millions of New Yorkers and Philadelphians, I rise today for another reason: to thank Commissioner Timoney for the lessons that his expertise and experience have taught the entirety of the law enforcement community. While his achievements as a cop on the beat deserve our thanks, I want to make special mention of the contribution he has made to our understanding of how police departments can better employ their resources to combat crime across the country.

Commissioner Timoney's career in the upper echelons of law enforcement have been marked by two major paradigm shifts. Without them, law enforcement would not be nearly as successful. And because Commissioner Timoney's work represents what I think is the best of law enforcement—because I believe that we at the Federal level ought to encourage and promote police departments around the nation to promote just this kind of progress—I want to draw special attention to it.

First, Commissioner Timoney was at the forefront of efforts to get both the New York and Philadelphia Police Departments to embrace Compstat, a high-tech system which allows police departments to monitor and analyze crime data better, empowering them to re-deploy resources as needed. Compstat was revolutionary policing in both New York and Philadelphia, contributing to dramatic crime reductions in both cities.

Second, Commissioner Timoney has been an outspoken proponent of community policing, which was an integral portion of 1994's crime bill. The Commissioner has set a high standard in the practice of policing multi-ethnic and multi-racial communities by empowering precinct captains and other officers in local areas to develop constructive relationships with members of the communities they police. I've always believed that the more integrated cops are with the communities they serve the better. Commissioner Timoney has lived that principle, and the great accomplishments of his career are due in no small part to his promotion of community policing.

I am grateful to be able to call John Timoney a friend. The people of Philadelphia will miss his law enforcement expertise, the police officers of his department will miss his extraordinary leadership, and the nation's law enforcement executives will lose one of their brightest lights. Good luck in your future endeavors John. A grateful and safer nation thanks you for your service.

WHISPERS OF LIBERTY

Mr. HATCH. Mr. President, I would like to take a minute to bring to the attention of this great body the words of Rachel Bennett. Rachel is a 13-year old constituent who has written "Whispers of Liberty," a moving poem about the events of September 11. These terrorist attacks had a profoundly sobering effect on most of the world. As Americans we were forcefully reminded of the ideals and principles which unite us as a nation. I have read and heard many explain the significance and aftermath of September 11, but few have done so as well as Rachel. She poignantly reminds us of the dreams that were shattered by the terrorists, while at the same time she reminds us of the values and ideas that have rallied Americans to help one another deal with these tragedies. I would like to read this poem for the record:

WHISPERS OF LIBERTY

(By Rachel Bennett)

How could a moment
So change everything?
A speechless nation
Cried out in despair
In unison as one.
How could in a moment
So many lives be put out,
Like a field of flowers
Closing in the mid of summer
Never to bloom again?
And in that moment,
How many chances
Of being a grandfather,
A husband, a mother
Of knowing the joys
Of life and love
Be gone?
Like a candle
Doused with tears of despair,
Our nation wept
For the twin brothers
Who now lie in a
Silent reverie
As two lions
Suddenly tamed
A ghastly graveyard
Of pride and greatness.
Yet buried within
The solid and proud
Red, white, and blue
Of American pride.
A stoic symbol
Of freedom and unity
In a world
Of stricken terror.
Its red, the blood of
The innocent whose
Lives were stolen from them;
Its white,
Purity and strength;
And its blue, the melancholy tears
Of sadness.
These bands of red
And white
Bring us together
As one.
A single
Voice declaring freedom
And a fearless life
For all the world.
Strength resonating
From the richness
Of the colors
Bind us together
In a single dance
Of peace and
A single whispered word—
Liberty.

WILLIAMSON, WEST VIRGINIA

Mrs. CLINTON. Mr. President, I rise today to express my deepest gratitude to and admiration for the citizens of Williamson in Mingo County, West Virginia for their generosity and sacrifice on behalf of others. Their donation of approximately $26,000 to the "Families of Freedom Scholarship Fund," to aid the children of those lost in the terrorist attacks on our country over three months ago, is symbolic of the tremendous compassion and unity of the American people. I would like to thank the citizens of Williamson on behalf of all the families who will be able to take advantage of this scholarship fund. They have reached deep into their hearts and pockets to send the children affected by the September 11 attacks a truly beautiful gift.

Earlier this month, I met with Williamson Mayor Estil "Breezy" Bevins, Fire Chief Grover "Curt" Philips and Police Chief Roby Pope when they presented $26,000 in donations in Senator BYRD's office. Shortly after September 11, the City Council voted to donate $5,000 to the victims of the attacks on the World Trade Center. Over $15,000 was collected on September 14 through a "boot drive" where police officers, firefighters and others took to the streets to stop cars to collect money. As I told Mayor Bevins, Williamson's trememdous efforts and energy symbolize the spirit of "small-Town America."

I suggested that the town consider sending their donations to the "Families of Freedom Scholarship Fund," which former President Clinton and former Majority Leader Bob Dole chair together. The Fund provides educational assistance for the children and spouses of those killed or permanently disabled in the terrorist attacks of September 11. I would like to thank my friend and colleague Senator ROCKEFELLER for contacting my office to seek guidance on directing the donations. I am very grateful to Senators BYRD and ROCKEFELLER for joining me in receiving the people of Williamson's donation earlier this month.

This small town in southern West Virginia, thousands of miles away from the Twin Towers, has experienced its own share of adversity, including a devastating flood in 1977. Perhaps Williamson's struggle to overcome its own set of hurdles has made the citizens there especially sympathetic to the tremendous obstacles that the people of New York City are facing. At the same time as Williamson has reached out to those affected by the terrorist attacks in New York City, they are working to tackle financial difficulties in their own backyard and I applaud their efforts. An aggressive economic development effort is underway to secure a wood products park, most aquaculture and a stronger market for coal.

Many Americans have felt a personal need in their everyday lives to reach out to their neighbors, coworkers or even strangers to offer assistance, both large and small. We saw it in New York with people standing in line for hours to donate blood, and with families donating food to rescue workers who were toiling around the clock, or companies who wanted to contribute funding and resources. "What can I do to help?" is a common, if not universal refrain that Americans have spoken, or thought quietly to themselves, since the attacks. The people of Williamson have matched those noble words with action, and New Yorkers thank them from the bottom of our hearts for their outpouring of compassion.

Winston Churchill once said, "We make a living by what we get. We make a life by what we give." During this time of tremendous grief and anxiety that's being felt in all corners of the world, the citizens' of Williamson efforts to ensure that children who have been affected by these terrible attacks are not forgotten will provide comfort to many and inspiration for us all.

RETIREMENT OF U.S. ATTORNEY JAMES TUCKER

Mr. COCHRAN. Mr. President, one of the best and most respected attorneys to have ever served in our State as an assistant U.S. Attorney is retiring. James Tucker has served the U.S. Department of Justice in the Southern District of Mississippi for 30 years.

I have an enormous amount of respect and appreciation for the way James Tucker has carried out the important responsibilities of his job. He was a true professional in every respect. He was completely honest and trustworthy, and he was tenacious in bringing to justice those who violated the laws of the United States.

I commend him for a job well done and wish him much continued success and satisfaction in the years ahead.

I ask unanimous consent that an article from the Clarion Ledger of December 17, highlighting his illustrious career be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOP CORRUPTION FIGHTER LEAVING POST

(By Jerry Mitchell)

Mississippi's top corruption fighter over the past 30 years—Assistant U.S. Attorney James Tucker—is leaving the U.S. attorney's office to go into private practice.

"If you could combine honor, integrity, courage and expertise in the same person, what you'd have is James Tucker," Attorney General Mike Moore said "they don't make 'em that way anymore. He is the ultimate professional."

Jan. 3 will mark Tucker's last day of work at the U.S. attorney's office, where he has worked since 1971. After that, he'll join the Butler Snow law firm in Jackson, where he'll be part of the litigation division.

Tucker said he is sad to be leaving on one hand but is enthused about his new job. "After 30 years with the Department of Justice, it hurts a little to cut the string, but I'm looking forward to a challenging new career."

A no-nonsense retired Naval Reserve officer, Tucker has shunned the limelight, despite taking on very public prosecutions of Mississippi public officials, including Operation Pretense, which led to convictions of 43 county supervisors and 11 vendors on corruption charges.

His long list of those prosecuted has included members of the Mississippi Senate, the Highway Commission, the Public Service Commission and the Jackson City Council.

His work also helped put former Biloxi Mayor Pete Halat behind bars on federal charges in connection with the 1987 killing of Halat's former law partner, Vincent Sherry and his wife, Margaret.

"I've always had strong feelings about public officials violating the trust," Tucker said. "I always felt if I had the power to right those kinds of wrongs, I ought to do it."

In 1983 and 1998, the Provine High School graduate received the highest award an assistant U.S. attorney can receive from the Justice Department—the Superior Performance Award.

"That's one of my great honors," Tucker said, "winning that award twice."

Perhaps better than an award was the comment he said he received the other day from a current county supervisor: "He said, 'You don't realize it, but what y'all did in Pretense has helped us honest supervisors for years and years and will for years to come. Because of that, we can threaten people with another Pretense if they fool around (with corruption).'"

Moore credited Tucker with cleaning up corruption in Mississippi: "He's helped return integrity to public office."

Tucker's expertise has helped pave the way for many other lawyers, including Moore, who first go to know Tucker when as a district attorney in Pascagoula he pursued corruption cases against local supervisors.

"He really helped me through those tough times, and he's continued to be my friend," Moore said. "He was a mentor to me."

Defense lawyer John Colette of Jackson said what makes Tucker special is his ability to remain calm, even amidst a storm, such as during the 1990 trial of Newton Alfred Winn, convicted in connection with the disappearance of Jackson socialite Annie Laurie Hearin.

But that calmness belies a quiet ruthlessness, he said.

As someone has remarked, Colette said, Tucker is the kind of prosecutor who slits the throat of a defense lawyer, who doesn't realize it until his head is in his lap.

Now that Tucker's gone, he joked, "I'm going to start trying all my cases in federal court."

What may say the most about Tucker is that he has the admiration of not only the defense bar, but judges as well, Colette said.

"He's probably the most competent prosecutor I ever heard," said U.S. District Judge William H. Barbour Jr. "The district was lucky to have him for so many years."

Even as Mississippi has changed U.S. attorneys in the Southern District, Tucker has remained as the chief of the criminal division.

Former U.S. Attorney Brad Pigott said he relied on Tucker during his tenure.

"He's an ideal public servant," Pigott said. "He's personally modest and quiet. I've spent some time with him in the foxhole, I can vouch for his integrity in every way. He deserves a very wonderful reputation."

Defense lawyers say Tucker helped provide continuity to the sometimes revolving door of the U.S. attorney's office, serving once as interim U.S. attorney.

"Many people, including me, felt that with him there, there was somebody to talk to who would listen," said defense lawyer Tom Royals of Jackson.

"It's a real loss to our justice system to see James Tucker leave," said defense lawyer Dennis Sweet of Jackson. "He's a tremendous lawyer, and he's been tremendously fair. I just hope whoever replaces him does as good a job for the U.S. attorney's office as he has."

Current U.S. Attorney Dunn Lampton said he is certainly going to miss Tucker. "He's an institution," Lampton said. "He knows more off the top of his head than you can find out doing research in books."

Because of Tucker, Lampton said he never worried about the criminal side of his office.

Now he'll have to find a replacement, which he'll probably choose from within his office, he said. "We'll all have to work together to take up the slack."

Those outside legal circles also praise Tucker.

"There was a time when James Tucker was the only defense standing between us and total corruption in Mississippi," said veteran journalist Bill Minor, who wrote about Tucker in his new book, Eyes on Mississippi: A Fifty-Year Chronicle of Change. "In my estimation, he ranks among the true heroes that I've known over my 54-year career."

Former Public Safety Commissioner and FBI agent Jim Ingram said Tucker will be sorely missed by all of Mississippi. "Almost all of us can be replaced. He can't."

ADDITIONAL STATEMENTS

RECOGNIZING THE CAREER OF DENIS GALVIN UPON HIS RETIREMENT FROM THE NATIONAL PARK SERVICE

• Mr. BINGAMAN. Mr. President, I would like to take a moment to recognize and thank Denis Galvin, the Deputy Director of the National Park Service, who will be retiring at the end of this year after a career of almost 40 years with the Park Service. The Committee on Energy and Natural Resources has jurisdiction over national park issues, and we have been fortunate to have had the opportunity to work closely with Mr. Galvin over the years.

Since beginning his tenure with the Park Service in 1963 as a civil engineer at Sequoia National Park, Mr. Galvin has held several positions with the Park Service throughout the country, including a period in the Southwest Regional Office in Santa Fe. He also worked for several years in Boston in the Northeast Regional Office, and as the Director of the Denver Services Center, the planning, design, and construction arm of the Park Service. Since 1985 Mr. Galvin has held two positions that brought him into frequent contact with the Congress and our Committee, as the Associate Director for Planning and Development from 1989 to 1997, and twice as the Deputy Director of the National Park Service, from 1985 to 1989, and again from 1997 until now.

In his capacity as Associate Director and Deputy Director, Mr. Galvin has been involved in every major policy issue facing the National Park Service. He has been one of the National Park Service's greatest resources, and his knowledge and judgment about national park issues is very much respected, both within the agency and here in Congress. Whenever the Committee held a hearing on an especially important legislative issue affecting the National Park Service, we would often request that Mr. Galvin testify, so that the members of the Committee could benefit from his expertise and advice. Because of his broad and varied background, he could speak with as much knowledge on the merits of particular construction project within a park as he could on general policy issues affecting the entire park system.

I would like to recognize his efforts, especially in his role in the National Park Service leadership, to maintain and protect the integrity of the National Park System. The Park Service has been fortunate to have had many strong and far-sighted leaders in its history. We have been extremely fortunate that Denis Galvin has continued in that great tradition. As he embarks on a new chapter in his life I would like to take this opportunity to thank Denny for all of his assistance to me and to other members of the Senate, and I extend my best wishes upon his retirement.•

TRIBUTE TO CARAN KOLBE McKEE

• Mr. GRASSLEY. Mr. President, I rise to pay tribute to a loyal friend and trusted advisor who left my staff in late August. Caran Kolbe McKee came to work for me 14 years ago. She served the people of Iowa in a number of capacities in my office. In every case, Caran demonstrated remarkable leadership qualities, steadfastness of purpose, and the kind of problem-solving ability that can make our Government work for the people in the best way possible.

Caran came to the Senate in 1987, when she joined my staff as assistant press secretary. Two years later, she became my press secretary. During this time, she dealt with a range of important issues, including the Gulf War, Supreme Court nominations, whistleblower protections, a farm bill, civil rights legislation, a campaign to apply labor and employment laws to Congress, and the budget battle of 1990. She made certain that Iowans had access to accurate and timely information through the news media and fostered a better understanding of the way in which the issues addressed by Congress affect the lives of individuals and families.

In 1994, Caran took on new challenges as a special assistant. She developed initiatives and reached out to the grassroots. Caran brought to her work a great appreciation for the people who make Iowa the extraordinary place that it is. She grew up on a farm in Western Iowa, graduated from Iowa State University, and maintains many close family ties in Iowa.

Caran is the kind of person who is always looking ahead and making a plan to improve things for others no matter what their stage and place in life. Just last week, President Bush signed into law legislation re-authorizing the Drug Free Communities Act, a bill I sponsored in the Senate. During his remarks, the President took time to recognize a coalition I launched in Iowa to address our state's growing drug problem. Called "Face It Together"—or FIT—it is the first-ever community-based, statewide anti-drug coalition. The goal is to help Iowans work together to keep their neighborhoods, schools, workplaces and communities drug-free. I hope to see this productive effort continue in the years ahead. No individual deserves more credit for making FIT a reality and a success than Caran Kolbe McKee. Her vision for the project, gift for bringing people together and dedication to making the program happen were vitally important.

In recent years, Caran also managed my correspondence with Iowans. In the Senate, I work hard to made the process of representative government work. I keep in close touch with Iowans by returning home when the Senate is not in session. And since 1981, I have conducted a meeting in each of Iowa's 99 counties at least one time every year. I am committed to an active dialogue with constituents, so at town meetings I always say representative government is a two-way street. While I have come to them for a meeting about the issues, they also have a responsibility to write to me expressing concerns and views and asking questions. Well, each and every one of these letters or e-mail messages deserves and receives as answer from me. Caran made sure that Iowans who wrote or called received a reply that was not just a piece of paper but a substantive, informative response. In this way, she helped representative government work for the people in a fundamental, meaningful way.

Caran Kolbe McKee was a true public servant. She was a mentor to many of her fellow staff members. And she was an inspiration for the way she handled challenges—both professional and personal—with compassion, strength and courage. Now Caran has decided to spend more time with her family. She will be greatly missed, but I admire her decision and wish her the very best. Above all, I extend to her my deepest thanks.•

RETIREMENT OF NOAA SPECIAL AGENT IN CHARGE, EUGENE PROULX

• Mr. HOLLINGS. Mr. President, I rise today to express appreciation and congratulations to Eugene Proulx on the occasion of his retirement as the Special Agent in Charge of the Southeast Enforcement Division of NOAA's National Marine Fisheries Service. For over 28 years, Gene has dedicated himself to the protection of our nation's oceans and living marine resources. His service of 3 years with the United States Coast Guard and 25 years with the National Marine Fisheries Service's Office for Law Enforcement (OLE) have been exemplary, and he is being appropriately honored for this service at an event to be held on December 21st in the Southeast region.

His commitment and leadership with the OLE have been reflected through his service as a Special Agent, National Training Coordinator, Assistant Special Agent in Charge, Deputy Special Agent in Charge, and as Special Agent in Charge and Acting Chief. Gene's service as a Special Agent in Charge included assignments in both the Southwest and Southeast Divisions in addition to his many years of service as an agent at various duty posts in the Northeast Division as well as several assignments to Headquarters in Silver

Spring as both an agent and as the Acting Chief of the Office for a period of three months.

Gene has been the example of a public servant who routinely gives 100 percent towards his responsibilities. His enthusiasm, dedication and energy level are widely known. His corporate knowledge, fisheries expertise, common sense, interpersonal skills and gracious humility are all traits that are exemplary and have facilitated his contributions to NOAA and our nation's resource missions. The accomplishments of the Office of Law Enforcement in the areas of Vessel Monitoring Systems, Sanctuaries Enforcement, Accreditation, and Cooperative Enforcement were all strongly facilitated through the support of Gene's vision and leadership.

Gene's work with the national Cooperative Enforcement program and the State Joint Enforcement Agreements have provided a long-lasting foundation for this important program. In particular, the state of South Carolina and its fisheries resources have benefited greatly through his work. In large part, Gene was responsible for convincing South Carolina that working jointly with NMFS could serve to substantially improve protection of our fishery resources far beyond the level we could achieve working separately. His initiative led to a Joint Enforcement Agreement that is improving the management and protection of South Carolina's precious marine resources. This program has proven so successful that it is now the "gold standard" model of marine resource enforcement, and it is being established in coastal states around the nation. These cooperative programs and relationships will be the legacy of Gene's leadership.

In closing, although we hate to see him go, I once again wish to congratulate Agent Proulx on his exemplary career. Through his tireless efforts, he has made a difference in protecting the marine resources of South Carolina and the Nation.•

IN MEMORY OF THE HONORABLE DERAN KOLIGIAN

• Mrs. BOXER. Mr. President, I rise today to recognize the recent passing of Fresno County Supervisor Deran Koligian, an extraordinary public servant and Californian who died on December 11th at the age of 74, after a two-year battle with cancer.

Deran Koligian was a Fresno County icon, having served as a Supervisor for two decades. He faithfully served his constituents up until the day of his death.

Deran Koligian set a high standard of integrity and decency. He was a man of great determination and dedication who worked tirelessly for Fresno County and California and was loved and respected by so many. He was a farmer, a World War II veteran, a family man and an honorable Fresno County Supervisor. He will be greatly missed by all.

I ask that the Fresno Bee editorial from December 13, 2001, be printed in the RECORD. And, on behalf of the Senate, I extend our thoughts and prayers to the Koligian Family on the loss of an extraordinary man.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Fresno Bee, Dec. 13, 2001]

DERAN KOLIGIAN—A POWERFUL VOICE IN FRESNO COUNTY, STATE POLITICS FALLS SILENT

The odds suggest we shall not soon see the likes of Deran Koligian in public life. The longtime Fresno County supervisor, who died Tuesday at the age of 74, embodied a rare set of skills and virtues. He was a bluntly honest farmer, a man of the soil who so deeply loved his roots he lived his entire life on his family's original 40-acre homestead. He was also a talented and shrewd politician, in the very best sense: clear about his philosophy and objectives, civil in his behavior and capable of inspired compromise when conditions demanded it.

Koligian spent most of his adult life in public service. He enlisted in the Army at age 18, fought in the Philippines in World War II, and came home to attend Fresno State. The family farm sustained him, but could not contain him. He served many years on local school boards and was first elected to the county Board of Supervisors in 1982. In doing so, he became the first Armenian-American elected to public office in the county.

Defending Valley agricultural lands against urban encroachment was among Koligian's most important principles. He almost single-handedly pushed Fresno's growth away from his district, mostly lying to the west of Freeway 99, and out to the northeast. He was immensely popular among farmers for his defense of agriculture. He wasn't able to stop westward sprawl completely—no one individual could—but it is only recently that significant residential development has taken place on his turf.

Koligian was deeply opposed to the county using bonds to raise money for capital expenditures, arguing that it was fiscally irresponsible. He usually managed to persuade the rest of the board to support that position. It was one of the bones of contention between Koligian and The Bee, and he won the argument more often than he lost.

But—as with most of his adversaries—we always had a deep respect for Koligian. His combination of honesty and political savvy is one we do not often see, and we are all the poorer for that.•

HONORING DR. DONALD J. COHEN

• Mr. LIEBERMAN. Mr. President, today I honor Dr. Donald J. Cohen, a doctor, an author, an outstanding psychiatrist, a true professional, and caregiver and friend to the thousands of people who had the good fortune of knowing him. Today I grieve for my friend, as he recently passed away after only 61 short years on this Earth. I could think of no better tribute to this great man than to name the very program he envisioned so many years ago to help the victims of violence-related stress in his honor. Thus, I submitted an amendment to the Labor, Health and Human Services appropriations bill to amend Section 582 of the Public Health Service Act to rename this critically important grant program, the "Donald J. Cohen National Child Traumatic Stress Initiative." I am proud to say that this amendment has been accepted by both the House and Senate and for that I thank my colleagues.

Dr. Cohen did more in his 61 years than most anyone else could ever hope to accomplish in a lifetime. He started at Brandeis University in 1961 on the course to a medical career and then went on to graduate from Yale University School of Medicine in 1966. Over the following 35 years, Dr. Cohen dedicated his life to helping children and adolescents. Donald spent virtually all of his adult life working tirelessly to develop and promote programs to assist children. I recently learned from my colleague, Senator DODD, that Dr. Cohen was the first person to suggest a special health insurance program for children that ultimately became the Childrens' Health Insurance Program. Today, this program throughout the Nation provides health care for millions of children who would otherwise go without the basic care they need to grow up healthy and flourish.

Dr. Cohen was a well-respected and world-renowned physician and teacher. Over the course of his illustrious career, he held many faculty positions at the Yale University School of Medicine, culminating with his appointment as the child Psychiatrist-in-Chief of the Yale Children's Hospital and Director of the Child Study Center at Yale School of Medicine. He held these positions for the past 18 years, which, as anyone in medicine will tell you, is an incredible testimony to his stature and leadership.

He has been honored by the Institute of Medicine, the National Academy of Sciences, the National Commission on Children, and the American Psychiatric association for his outstanding work. He received numerous lifetime research awards, including the Strecker Award from the Institute of the Pennsylvania Hospital and the Agnes Purcell McGavin Award for Prevention from the APA. He was recognized as a Sterling Professor of Child Psychiatry, Pediatrics and Psychology. He served as President of the International Association of Child and Adolescent Psychiatry and Allied Professions since 1993 and published over 300 papers and books. Dr. Cohen was also awarded a Doctor of Philosophy, Honoris Causa, from the Bar Ilan University in Israel.

As you can see, Dr. Donald Cohen was quite a remarkable man. So many people have been touched in some way by this great man's dedication.

It can be said that Dr. Cohen indeed achieved what most of us strive for, to make a difference. For those of us who knew him, for those of us in whose life Donald made a difference, his passing comes painfully too soon. We mourn and pray that Donald's soul will be embraced in the warmth of eternal life and that God will comfort and strengthen Phyllis, his wife, their children and grandchildren, and all of the family, friends, colleagues and patients who will miss him. I know the spirit and warmth of Dr. Donald J. Cohen will burn on in the hearts of those who grieve him. It is with spirit that I ask my colleagues to honor this man with the dedication of the Donald J. Cohen National Child Traumatic Stress Initiative.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 2199) to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes.

The message also announced that the House has agreed to the amendment of the Senate to the bill (H.R. 2657) to amend title 11, District of Columbia Code, to redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, to recruit and retain trained and experienced judges to serve in the Family Court, to promote consistency and efficiency in the assignment of judges to the Family Court and in the consideration of actions and proceedings in the Family Court, and for other purposes.

The message further announced that the House has agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 289) directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1.

The message also announced that pursuant to section 3(b) of the Public Safety Officer Medal of Valor Act of 2001 (42 U.S.C. 15202), the Speaker has appointed the following members on the part of the House of Representatives to the Medal of Valor Review Board for a term of 4 years: Mr. Tim Bivens of Dixon, Illinois and Mr. William J. Nolan of Chicago, Illinois.

The message further announced that the House has passed the following bill, without amendment:

S. 1741. An act to amend title XIX of the Social Security Act to clarify that Indian women with breast or cervical cancer who are eligible for health services provided under a medical care program of the Indian Health Service or of a tribal organization are included in the optional medicaid eligibility category of breast or cervical cancer patients added by the Breast and Cervical Prevention and Treatment Act of 2000.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2739. An act to amend Public Law 107-10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes.

H.R. 2751. An act to authorize the President to award a gold medal on behalf of the Congress to General Henry H. Shelton and to provide for the production of bronze duplicates of such medal for sale to the public.

H.R. 2869. An act to provide certain relief for small businesses from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to amend such Act to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

H.R. 3275. An act to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes.

H.R. 3525. An act to enhance the border security of the United States, and for other purposes.

H.R. 3529. An act to provide tax incentives for economic recovery and assistance to displaced workers.

At 12:05 p.m., a message from the House of Representatives, delivered by Ms. Kelaher, one of its clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 79. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

H.J. Res. 80. A joint resolution appointing the day for the convening of the second session of the One Hundred Seventh Congress.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 295. Concurrent resolution providing for the sine die adjournment of the first session of the One Hundred Seventh Congress.

At 12:28 p.m., a message from the House of Representatives, delivered by Ms. Kelaher, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 643. An act to reauthorize the African Elephant Conservation Act.

H.R. 645. An act to reauthorize the Rhinoceros and Tiger Conservation Act of 1994.

H.R. 2199. An act to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes.

H.R. 2657. An act to amend title 11, District of Columbia Code, to redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, to recruit and retain trained and experienced judges to serve in the Family Court, to promote consistency and efficiency in the assignment of judges to the Family Court and in the consideration of actions and proceedings in the Family Court, and for other purposes.

S. 1438. An act to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The enrolled bills were signed subsequently by the president pro tempore (Mr. BYRD).

At 12:43 p.m., a message from the House of Representatives, delivered by Ms. Kelaher, one of its clerks, announced that the House has passed the following bills, without amendment:

S. 1202. An act to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2006.

S. 1714. An act to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building.

S. 1793. An act to provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President on September 14, 2001.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1432. An act to designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the "Major Lyn McIntosh Post Office Building".

H.R. 2561. An act to increase the rate of special pension for recipients of the medal of honor, to authorize those recipients to be furnished an additional medal for display purposes, to increase the criminal penalties associated with misuse or fraud relating to the medal of honor, and for other purposes.

H.R. 3423. An act to amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery.

H.R. 3487. An act to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

H.R. 3504. An act to amend the Public Health Service Act with respect to qualified organ procurement organizations.

H.R. 3507. An act to authorize appropriations for the Coast Guard for fiscal year 2002, and for other purposes.

H.J. Res. 75. A joint resolution regarding the monitoring of weapons development in Iraq, as required by United Nations Security Council Resolution 687 (April 3, 1991).

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 279. Concurrent resolution recognizing the service of the crew members of the USS Enterprise Battle Group during its extended deployment for the war effort in Afghanistan.

H. Con. Res. 292. Concurrent resolution supporting the goals of the Year of the Rose.

MEASURES REFERRED

The following bills and joint resolution were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 38. An act to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2561. An act to increase the rate of special pension for recipients of the medal of honor, to authorize those recipients to be furnished an additional medal for display purposes, to increase the criminal penalties associated with misuse of fraud relating to the medal of honor, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2739. An act to amend Public Law 107–10 to require a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes; to the Committee on Foreign Relations.

H.R. 2776. An act to designate buildings 315, 318, and 319 located at the Federal Aviation Administration's William J. Hughes Technical Center in Atlantic City, New Jersey, as the "Frank R. Lautenberg Aviation Security Complex"; to the Committee on Commerce, Science, and Transportation.

H.R. 3160. An act to amend the Antiterrorism and Effective Death Penalty Act of 1996 with respect to the responsibilities of the Secretary of Health and Human Services regarding biological agents and toxins, and to amend title 18, United States Code, with respect to such agents and toxins; to the Committee on the Judiciary.

H.R. 3275. An act to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes; to the Committee on the Judiciary.

H.R. 3391. An act to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program; to the Committee on Finance.

H.R. 3423. An act to amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery; to the Committee on Veterans' Affairs.

H.R. 3525. An act to enhance the border security of the United States, and for other purposes; to the Committee on the Judiciary.

H.J. Res. 75. Joint resolution regarding the monitoring of weapons development in Iraq, as required by United Nations Security Council Resolution 687 (April 3, 1991); to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 279. Concurrent resolution recognizing the service of the crew members of the USS Enterprise Battle Group during its extended deployment for the war effort in Afghanistan; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3507. An act to authorize appropriations for the Coast Guard for fiscal year 2002, and for other purposes.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 400. An act to authorize the Secretary of the Interior to establish the Ronald Reagan Boyhood Home National Historic Site, and for other purposes.

H.R. 1432. An act to designate the facility of the United States Postal Service located in 3698 Inner Perimeter road in Valdosta, Georgia, as the "Major Lyn McIntosh Post Office Building".

H.R. 2362. An act to establish the Benjamin Franklin Tercentenary Commission.

H.R. 2742. An act to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

H.R. 3441. An act to amend title 49, United States Code, to realign the policy responsibility in the Department of Transportation, and for other purposes.

H.R. 3487. An act to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

H.R. 3504. An act to amend the Public Health Service Act with respect to qualified organ procurement organizations.

H.R. 3529. An act to provide tax incentives for economic recovery and assistance to displaced workers.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 20, 2001, she had presented to the President of the United States the following enrolled bill:

S. 1438. An act to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to perscribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4965. A communication from the Chief Financial Officer of the Export-Import Bank of the United States, transmitting, pursuant to law, the annual report which includes the Management Report on Financial Statements and Internal Accounting Controls, the Report of Independent Accountants and the Report on Compliance and on Internal Control over Financial Reporting for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–4966. A communication from the General Counsel of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a nomination confirmed for the position of Controller, Office of Federal Financial Management, received on December 20, 2001; to the Committee on Governmental Affairs.

EC–4967. A communication from the Deputy Associate Administrator of the Office of Acquisition Policy, General Service Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulations; Federal Acquisition Circular 2001-02" (FAC2001-02) received on December 18, 2001; to the Committee on Governmental Affairs.

EC–4968. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more to Australia, Canada, Finland, Kuwait, Malaysia, Spain and Switzerland; to the Committee on Foreign Relations.

EC–4969. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed manufacturing license agreement with France; to the Committee on Foreign Relations.

EC–4970. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed manufacturing license agreement with Japan; to the Committee on Foreign Relations.

EC–4971. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Denmark and Belgium; to the Committee on Foreign Relations.

EC–4972. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–4973. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–4974. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Germany; to the Committee on Foreign Relations.

EC–4975. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–4976. A communication from the Assistant Secretary of Indian Affairs, Division of Transportation, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Distribution of Fiscal Year 2002 Indian Reservation Roads Funds" (RIN1076–AE28) received on December 20, 2001; to the Committee on Indian Affairs.

EC–4977. A communication from the Assistant Secretary of Indian Affairs, Department of the Interior, transmitting, pursuant to law, a report relative to Judgement Fund Use and Distribution Plan; to the Committee on Indian Affairs.

EC–4978. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "West Virginia Regulatory Program" (WV–093–FOR) received on December 19, 2001; to the Committee on Energy and Natural Resources.

EC–4979. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Iowa Regulatory Program" (IA–012–FOR) received on December 19, 2001; to the Committee on Energy and Natural Resources.

EC–4980. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Pennsylvania Regulatory Program" (PA–122–FOR) received on December 19, 2001; to the Committee on Energy and Natural Resources.

EC–4981. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Kentucky Regulatory Program" (KY–221–FOR) received on December 18, 2001; to the Committee on Energy and Natural Resources.

EC–4982. A communication from the Chairman of the Commission on the Future of the United States Aerospace Industry, transmitting, pursuant to law, a report relative to aerospace research and development, and procurement budgets; to the Committee on Commerce, Science, and Transportation.

EC–4983. A communication from the Assistant Secretary for Communication and Information, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Notice of Solicitation of Grant Applications" (RIN0660–ZA06) received on December 19, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4984. A communication from the Director of the Bureau of Transportation Statistics, Department of Transportation, transmitting, pursuant to law, the Transportation Statistics Annual Report for 2000; to the Committee on Commerce, Science, and Transportation.

EC–4985. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "The Ticket to Work and Self-Sufficiency Program" (RIN0960–AF11) received on December 19, 2001; to the Committee on Finance.

EC–4986. A communication from the Director of the Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Adjustment of Certain Fees of the Immigration Examinations Fee Account" (RIN1115–AF61) received on December 20, 2001; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with amendments:

S. 950: A bill to amend the Clean Air Act to address problems concerning methyl tertiary butyl ether, and for other purposes. (Rept. No. 107–131).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1206: A bill to reauthorize the Appalachian Regional Development Act of 1965, and for other purposes. (Rept. No. 107–132).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Joseph E. Schmitz, of Maryland, to be Inspector General, Department of Defense.

Army nominations beginning Brigadier General Donna F. Barbisch and ending Colonel Bruce E. Zukauskas, which nominations were received by the Senate and appeared in the Congressional Record on December 5, 2001.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

(*Nomination was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee on the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DORGAN (for himself and Mr. Hagel):

S. 1860. A bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes; to the Committee on Finance.

By Mr. LUGAR:

S. 1861. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Russia; to the Committee on Finance.

By Mr. DURBIN:

S. 1862. A bill to provide for grants to assist States and communities in developing a comprehensive approach to helping children 5 and under who have been exposed to domestic violence or a violent act in the home or community; to the Committee on the Judiciary.

By Mr. GRAHAM:

S. 1863. A bill to amend the Internal Revenue Code of 1986 to clarify treatment for foreign tax credit limitation purposes of certain transfers of intangible property; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. Hutchinson, Mr. Kerry, Mr. Jeffords, Mr. Gregg, Mr. Daschle, Mr. Frist, Mr. Kennedy, Ms. Collins, Mr. Lieberman, Mr. Enzi, Mrs. Clinton, Mr. Warner, Mr. Johnson, Mr. Roberts, Mrs. Lincoln, Mrs. Hutchison, Mrs. Murray, Mr. Smith of Oregon, Mr. Sarbanes, Mr. Hagel, Mr. Torricelli, Mr. Cochran, Mr. Dayton, Mr. Chafee, Mr. Graham, Mr. Lugar, Ms. Cantwell, Mr. Hatch, Mr. Leahy, Mrs. Carnahan, Mr. Rockefeller, Ms. Stabenow, Mr. Corzine, Mr. Schumer, Mr. Inouye, Mr. Miller, Mr. Wellstone, Mr. Harkin, Mr. Santorum, Mr. Reed, and Mr. Bond):

S. 1864. A bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes; considered and passed.

By Mrs. BOXER:

S. 1865. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN:

S. 1866. A bill to amend title XVIII of the Social Security Act to phase in the fee schedule for ambulance services to provide for equitable treatment of suppliers of such services that are required to equip all ambulances to provide advanced life support services; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. McCain):

S. 1867. A bill to establish the National Commission on Terrorist Attacks Upon the

United States, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BIDEN:

S. 1868. A bill to establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities; to the Committee on the Judiciary.

By Mrs. LINCOLN (for herself, Mr. BAYH, Mr. DURBIN, Mr. HOLLINGS, and Mr. HUTCHINSON):

S. 1869. A bill to amend the Tariff Act of 1930 to provide for an expedited antidumping investigation when imports increase materially from new suppliers after an antidumping order has been issued, and to amend the provision relating to adjustments to export price and constructed export price; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 1870. A bill to amend the Clean Air Act to establish an inventory, registry, and information system of United States greenhouse gas emissions to inform the public and private sector concerning, and encourage voluntary reductions in, greenhouse emissions; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER:

S. 1871. A bill to direct the Secretary of Transportation to conduct a rail transportation security risk assessment, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAYH:

S. 1872. A bill to amend the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation to notify plan participants and beneficiaries of the commencement of proceedings to terminate such plan; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 1873. A bill to amend the Internal Revenue Code of 1986 to allow credits for the installation of energy efficiency home improvements, and for other purposes; to the Committee on Finance.

By Mr. SESSIONS (for himself and Mr. HATCH):

S. 1874. A bill to reduce the disparity in punishment between crack and powder cocaine offenses, to more broadly focus the punishment for drug offenders on the seriousness of the offense and the culpability of the offender, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY (for himself and Ms. SNOWE):

S. 1875. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. CLINTON (for herself, Mr. SMITH of Oregon, Mr. STEVENS, Mr. SPECTER, Mrs. BOXER, Mr. FITZGERALD, Mr. SCHUMER, and Mr. DODD):

S. 1876. A bill to establish a National Foundation for the Study of Holocaust Assets; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN:

S. 1877. A bill to clarify and reaffirm a cause of action and Federal court jurisdiction for certain claims against the Government of Iran; to the Committee on Foreign Relations.

By Mrs. HUTCHISON (for herself and Mr. BINGAMAN):

S. 1878. A bill to establish programs to address the health care needs of residents of the United States-Mexico Border Area, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1879. A bill to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska; to the Committee on Energy and Natural Resources.

By Mr. WELLSTONE:

S. 1880. A bill to provide assistance for the relief and reconstruction of Afghanistan, and for other purposes; to the Committee on Foreign Relations.

By Mr. DODD (for himself and Mr. MILLER):

S. 1881. A bill to require the Federal Trade Commission to establish a list of consumers who request not to receive telephone sales calls; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH of Oregon:

S. 1882. A bill to amend the Small Reclamation Projects Act of 1956, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. 1883. A bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WELLSTONE (for himself, Mr. DEWINE, Mr. DAYTON, Mr. SPECTER, Mr. BAYH, Ms. MIKULSKI, and Mr. VOINOVICH):

S. 1884. A bill to amend the Emergency Steel Loan Guarantee Act of 1999 to revise eligibility and other requirements for loan guarantees under that Act, and for other purposes; to the Committee on Appropriations.

By Mr. DODD:

S. 1885. A bill to establish the elderly housing plus health support demonstration program to modernize public housing for elderly and disabled persons; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD:

S. 1886. A bill to amend the Internal Revenue Code of 1986 to allow a business credit for supported elderly housing; to the Committee on Finance.

By Ms. SNOWE:

S. 1887. A bill to provide for renewal of project-based assisted housing contracts at reimbursement levels that are sufficient to sustain operations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENS (for himself, Mr. BENNETT, Mr. CAMPBELL, Mr. HATCH, and Mr. SPECTER):

S. 1888. A bill to amend title 18 of the United States Code to correct a technical error in the codification of title 36 of the United States Code; considered and passed.

By Mr. HATCH:

S. 1889. A bill to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States; to the Committee on the Judiciary.

By Mr. HATCH:

S. 1890. A bill to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors; to the Committee on the Judiciary.

By Mr. HATCH:

S. 1891. A bill to extend the basic pilot program for employment eligibility verification, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER:

S.J. Res. 30. A joint resolution proposing an amendment to the Constitution of the United States regarding the appointment of individuals to serve as Members of the House of Representatives in the event a significant number of Members are unable to serve at any time because of death or incapacity; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK:

S. Res. 194. A resolution congratulating the people and government of Kazakhstan on the tenth anniversary of the independence of the Republic of Kazakhstan; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 195. A resolution tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 196. A resolution tendering the thanks of the Senate to the President pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. LOTT:

S. Res. 197. A resolution to commend the exemplary leadership of the Majority Leader; considered and agreed to.

By Mr. DASCHLE:

S. Res. 198. A resolution to commend the exemplary leadership of the Republican Leader; considered and agreed to.

ADDITIONAL COSPONSORS

S. 94

At the request of Mr. DORGAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 94, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced from wind.

S. 162

At the request of Ms. COLLINS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 162, a bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment.

S. 188

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 188, a bill to amend the Internal Revenue Code of 1986 to modify the tax credit for electricity produced from certain renewable resources.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to strike the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 530

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 530, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind.

S. 540

At the request of Mr. DEWINE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 550

At the request of Mr. DASCHLE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 550, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 677

At the request of Mr. HATCH, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 756

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 756, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from biomass, and for other purposes.

S. 762

At the request of Mr. CONRAD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 762, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for information technology training expenses and for other purposes.

S. 950

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 950, a bill to amend the Clean Air Act to address problems concerning methyl tertiary butyl ether, and for other purposes.

S. 1082

At the request of Mr. TORRICELLI, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1082, a bill to amend the Internal Revenue Code of 1986 to expand the expensing of environmental remediation costs.

S. 1125

At the request of Mr. MCCONNELL, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1125, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1214

At the request of Mr. HOLLINGS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1214, a bill to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

S. 1329

At the request of Mr. JEFFORDS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1329, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for land sales for conservation purposes.

S. 1346

At the request of Mr. SESSIONS, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1346, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 1478

At the request of Mr. SANTORUM, the names of the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1500

At the request of Mr. KYL, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1500, a bill to amend the Internal Revenue Code of 1986 to provide tax and other incentives to maintain a vibrant travel and tourism industry, to keep working people working, and to stimulate economic growth, and for other purposes.

S. 1556

At the request of Mr. DOMENICI, his name was added as a cosponsor of S. 1556, a bill to establish a program to name national and community service projects in honor of victims killed as a result of the terrorist attacks on September 11, 2001.

S. 1566

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 1566, a bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 1655

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1745

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. 1749

At the request of Mr. KYL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 1749, supra.

S. 1766

At the request of Mr. BINGAMAN, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from North Dakota (Mr. DORGAN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1766, a bill to provide for the energy security of the Nation, and for other purposes.

S. 1767

At the request of Mr. KENNEDY, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 1767, a bill to amend title 38, United States Code, to provide that certain service in the American Field Service ambulance corps shall be considered active duty for the purposes of all laws administered by the Secretary of Veteran's Affairs, and for other purposes.

S. 1786

At the request of Mr. DURBIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from Hawaii (Mr. INOUYE), the Senator from Missouri (Mrs. CARNAHAN), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1786, a bill to expand aviation capacity in the Chicago area.

S. 1819

At the request of Mr. BIDEN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1819, a bill to provide that members of the Armed Forces performing services in the Republic of Korea shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes.

S. 1858

At the request of Mr. ALLEN, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Virginia (Mr. WARNER), and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1858, a bill to permit the closed circuit televising of the criminal trial of Zacarias Moussaoui for the victims of September 11th.

S. 1859

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1859, a bill to extend the deadline for granting posthumous citizenship to individuals who die while on active-duty service in the Armed Forces.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from Nebraska (Mr. HAGEL) was added as cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the USS *Wisconsin* and all those who served aboard her.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 1861. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Russia; to the Committee on Finance.

Mr. LUGAR. Mr. President, at the request of the Administration, I rise today to offer legislation to repeal the Jackson-Vanik amendment to Title IV of the 1974 Trade Act and to authorize the extension of normal trade relations to the products of the Russian Federation.

Congress passed the Jackson-Vanik amendment as a means to deny Permanent Normal Trade Relations to communist countries that restricted emigration rights and were not market economies. Jackson-Vanik continues to apply to the Russian Federation today despite the findings of successive Administrations that Russia had come into full compliance with requirements of freedom of emigration, including the absence of any tax on emigration. Furthermore, although Russia's transformation has been imperfect, substantial progress has been made toward the creation of a free-market economy.

Since the fall of the Soviet Union, there have been dramatic changes in all aspects of life in Russia. It is clear that the Jackson-Vanik amendment played a role in bringing about these changes and in promoting freedom of emigration in many countries in the former Soviet Union.

But, the time has come to move beyond the Cold War era.

Since 1991, Congress has authorized the removal of Jackson-Vanik restrictions from Estonia, Latvia, Lithuania, the Czech Republic, the Slovak Republic, Hungary, Bulgaria, Romania, Kyrgyszstan, Albania, and Georgia. Because Russia continues to be subject to Jackson-Vanik conditions, the Administration must submit a semi-annual report to the Congress on that government's continued compliance with freedom of emigration requirements. The Administration reports that this requirement continues to be a major irritant is U.S. relations with Russia. The changed circumstances that have permitted the removal of other communist countries from Title IV reporting now apply equally to Russia.

I understand there remain those with concerns about extending nondiscriminatory treatment to the products of the Russian Federation. But I would simply point out that the U.S. and Russia concluded a bilateral trade agreement on June 17, 1992 and that Russia is currently in the process of acceding to the World Trade Organization. In other words, the time has come to take the next step in the U.S.-Russian bilateral relationship, namely, Permanent Normal Trade Relations. It is for that purpose that I introduce this legislation today.

By Mr. GRAHAM:

S. 1863. A bill to amend the Internal Revenue Code of 1986 to clarify treatment for foreign tax credit limitation purposes of certain transfers of intangible property; to the Committee on Finance.

Mr. GRAHAM. Mr. President, today I am introducing legislation that will clarify the proper tax treatment of intangible assets transferred to foreign corporations. This bill is necessary to avoid trapping unwary taxpayers who relied on Congressional intent when it made changes to this area of the tax code in 1997.

Transfers of intangible property from a U.S. person to a foreign corporation in a transaction that would be tax-free under Code section 351 or 361 are subject to special rules. Pursuant to section 367(d), the U.S. person making such a transfer is treated as 1. having sold the intangible property in exchange for payments that are contingent on the productivity, use, or disposition of such property and 2. receiving amounts that reasonably reflect the amounts that would have been received annually over the useful life of such property. The deemed royalty amounts included in the gross income of the U.S. person by reason of this rule are treated as ordinary income and the earnings and profits of the foreign corporation to which the intangible property was distributed are reduced by such amounts.

Prior to the Taxpayer Relief Act of 1997 (the "1997 Act"), the deemed royalties under section 367(d) were treated as U.S.-source income and therefore were not eligible for foreign tax credits. The 1997 Act eliminated this special "deemed U.S. source rule" and provided that deemed royalties under section 367(d) are treated as foreign-source income to the same extent that an actual royalty payment would be so treated. The 1997 Act reflected a recognition that the previous rule was intended to discourage transfers of intangible property to foreign corporations, relative to licenses of such intangible property, but that the enhanced information reporting included in the 1997 Act made it unnecessary to continue to so discourage transfers relative to licenses.

The 1997 Act intended to eliminate the penalty provided by the prior-law deemed U.S. source rule under section 367(d) and that had operated to discourage taxpayers from transferring intangible property in a transaction that would be covered by section 367(d). Prior to the 1997 Act, in order to avoid this penalty, taxpayers licensed intangible property to foreign corporations instead of transferring such property in a transaction that would be subject to section 367(d). With the 1997 Act's elimination of the penalty source rule of section 367(d), it was intended that taxpayers could transfer intangible property to a foreign corporation in a transaction that gives rise to deemed royalty payments under section 367(d) instead of having to structure the transaction with the foreign corporation as a license in exchange for actual royalty payments.

The 1997 Act's goal of eliminating the penalty treatment of transfers of intangible property under section 367(d) is achieved only if the deemed royalty payments under section 367(d) not only are sourced for foreign tax credit purposes in the same manner as actual royalty payments, but also are characterized for foreign tax credit limitation purposes in the same manner as actual royalty payments. Without a clarification that the deemed royalty payments under section 367(d) are characterized for foreign tax credit limitation purposes in the same manner as an actual royalty, there is a risk in many cases that such deemed royalties would be characterized in a manner that leads to a foreign tax credit result that is equally as disadvantageous as the result that arose under the penalty source rule that was intended to be eliminated by the 1997 Act. The bill I am introducing today provides the needed clarification of the foreign tax credit limitation treatment of a deemed royalty under section 367(d), ensuring that the penalty that was intended to be eliminated with the 1997 Act is in fact eliminated.

The bill clarifies that the deemed income inclusions under section 367(d) upon a transfer of intangible property to a foreign corporation are characterized for purposes of the foreign tax credit limitation rules in the same manner as an actual royalty is characterized. The tax treatment of such a transfer of intangible property to a foreign corporation thus would be the same as the tax treatment that applies if the intangible property is made available to the foreign corporation through a license arrangement.

The bill's provision would be effective for income inclusions under section 367(d) on or after August 5, 1997, which is the effective date of the 1997 Act provision eliminating the special deemed U.S. source rule under section 367(d). Like the 1997 Act provision, the bill's provision would be effective for transfers made, and for royalties deemed received, on or after August 5, 1997.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF TREATMENT OF CERTAIN TRANSFERS OF INTANGIBLE PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 367(d)(2) of the Internal Revenue Code of 1986 (relating to transfer of intangibles treated as transfer pursuant to sale of contingent payments) is amended by adding at the end the following new sentence: "For purposes of applying the various categories of income described in section 904(d)(1), any such amount shall be treated in the same manner as if such amount were a royalty.".

(b) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 1131(b) of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claimed therefor is filed before the close of such period.

By Ms. MIKULSKI (for herself, Mr. HUTCHINSON, Mr. KERRY, Mr. JEFFORDS, Mr. GREGG, Mr. DASCHLE, Mr. FRIST, Mr. KENNEDY, Ms. COLLINS, Mr. LIEBERMAN, Mr. ENZI, Mrs. CLINTON, Mr. WARNER, Mr. JOHNSON, Mr. ROBERTS, Mrs. LINCOLN, Mrs. HUTCHISON, Mrs. MURRAY, Mr. SMITH of Oregon, Mr. SARBANES, Mr. HAGEL, Mr. TORRICELLI, Mr. COCHRAN, Mr. DAYTON, Mr. CHAFEE, Mr. GRAHAM, Mr. LUGAR, Ms. CANTWELL, Mr. HATCH, Mr. LEAHY, Mrs. CARNAHAN, Mr. ROCKEFELLER, Ms. STABENOW, Mr. CORZINE, Mr. SCHUMER, Mr. INOUYE, Mr. MILLER, MR. WELLSTONE, Mr. HARKIN, Mr. SANTORUM, Mr. REED, and Mr. BOND):

S. 1864. A bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes; considered and passed.

Ms. MIKULSKI. Mr. President, I rise to introduce the Nurse Reinvestment Act. This bill is a down payment to help address the nursing shortage in this country by bringing more people into the nursing profession and by retaining nurses. This bill combines the Nursing Employment and Education Development Act, S. 721, introduced by Senator TIM HUTCHINSON and myself and the Nurse Reinvestment Act, (S. 1597), introduced by Senators KERRY and JEFFORDS. We have all worked together to bring this important legislation before the Senate today.

This bill is sorely needed, because we have a nursing shortage. In Maryland, 15 percent of the nursing jobs are vacant. Last year, it took an average of 68 days to fill a nurse vacancy, and we need about 1,600 more full-time nurses to fill those vacancies. There were 2,000 fewer nurses in Maryland in 1999 than there were in 1998. The shortage exists across the United States, and will get worse in the future. Nationwide, we need 1.7 million nurses by the year 2020, but only about 600,000 will be available. The need for this bill was clear at the Subcommittee on Aging's hearing on the nursing shortgage earlier this year.

We depend on nurses every day to care for millions of Americans, whether in a hospital, nursing home, community health center, hospice, or through home health. They are the backbone of our health care system. If we don't effectively address the crisis in nursing, those hospitals, nursing homes and clinics will soon be on life support.

This bill is a down payment. It doesn't address the fact that nurses are underpaid, overworked, and undervalued, but it does focus on education and other important areas. This bill seeks to help bring men and women into the nursing profession, and help them to advance within it. The bill does this under five major approaches:

Creates a National Nurse Service Corps Scholarship Program, which provides scholarships in exchange for at least two years of service in a critical nursing shortage area or facility

Provides grants for outreach at primary and secondary schools; scholarships or stipends to nursing students from disadvantaged backgrounds, education programs for students who need assistance with math, science, or other areas; dependent care and transportation assistance; establishment of partnerships between schools of nursing and health care facilities to improve access to care in underserved areas

Creates state and national public awareness and education campaigns to enhance the image of nursing, promote diversity in the nursing workforce, and encourage people to enter the nursing profession

Creates "career ladder" programs with schools of nursing and health care facilities to encourage individuals to pursue additional education and training to enter and advance within the nursing profession

Enables Area Health Education Centers, AHECs, to expand their junior and senior high school mentoring programs for nurses and develop "models of excellence" for community-based nurses

Trains individuals to provide long-term care to the elderly and expands educational opportunities in gerontological nursing

Creates internship and residency programs that encourage mentoring and the development of specialties

Provides grants to improve workplace conditions, reduce workplace injuries, promote continuing nursing education and career development, and establish nurse retention programs

Provides scholarships, loans, and stipends for graduate-level education in nursing in exchange for teaching at an accredited school of nursing, to help ensure that we have enough teachers at our nursing schools.

Creates a National Commission on the Recruitment and Retention of Nurses to study and make recommendations to the health care community and Congress on how to address: the nursing shortage in the long-term, nursing recruitment and retention, career advancement within the profession and attracting individuals into the profession.

This bill is about nursing education, but it's also about empowerment. We can empower people to have a better life and go into a career to save lives.

The bill will empower the single mom who has been working in a minimum wage job to forge a better life for herself and her family. It will help her get a scholarship to help pay for tuition, books, and lab fees, and by funding child care programs to help her balance work and family.

The bill will empower the nurse who has a baccalaureate degree, but wants to get a Master's degree so she can teach nursing at a community college. It will help her get loans or scholarships and living stipends to pursue that degree.

This bill will also fund partnerships between schools of nursing and health care facilities to train individuals who will provide long-term care for the elderly. Our population is aging, more than 70 million Americans will be over age 65 by 2030. This means more people will need care provided by nurses and other individuals specifically trained to care for the unique health needs of older Americans.

I look forward to the Senate's speedy passage of this important legislation and to working with our colleagues in the House of Representatives to enact a strong bill that gets behind our Nation's nurses. I also want to thank Senators KENNEDY, GREGG, and FRIST for their hard work in moving this legislation forward, as well as Senators LIEBERMAN and CLINTON for their important contributions to this bill.

Mr. HUTCHINSON. Mr. President, I am proud to be a lead cosponsor of the legislation we are introducing today to address the critical shortage of nurses in our country. After holding two hearings earlier this year to examine the nurse shortage and its impact on our health care delivery system. I introduced S. 721, the Nurse Employment and Education Development Act, NEED Act. This bipartisan legislation seeks to encourage individuals to enter the nursing profession, provide continued education and opportunities for advancement within the profession, and to bolster the number of nurse faculty to teach at our nursing schools. Most importantly, its legislation would establish a Nurse Service Corps, which would provide financial assistance to individuals for nurse education in exchange for 2 years of service in a nurse shortage area.

The NEED Act won unanimous approval by the Senate Health, Education, Labor and Pensions Committee on November 1, and I am pleased that it has served as the basis for the legislation we are introducing today.

The nursing profession is suffering from a serious decline in practicing nurses due to a shrinking pipeline. The nursing profession as a whole is aging, the average age of Registered Nurses is 43.3 years, while nurses under age 30 comprise less than 10 percent of today's nurse workforce. Large numbers of nurses are retiring or leaving the profession, and only a small number of nurses and nurse educators are taking their place. By the year 2020, when millions of Baby Boomers will retire, it is projected that nursing needs will be unmet by at least 20 percent. For this reason, we need to employ innovative recruitment techniques, including a Nurse Service Corps, public service announcements, and outreach efforts at elementary and secondary schools to promote nursing as a viable, fulfilling career option. To address the needs of the elderly, the bill will provide grants for gerontological education and training.

Hospitals, nursing homes, community health centers and other health care facilities are desperately seeking nurses to fill vacant positions so they can continue to provide safe, quality health care. In Arkansas, hospitals have reported over 750 nursing vacancies. To encourage nurses to stay and advance within the profession, the nursing bill provides for a career ladder program and encourages hospitals and other employers to develop innovative retention strategies. The bill also encourages speciality training and mentors through an internship and residency program, in order to fill the void created by experienced nurses leaving the profession.

Finally, the bill addresses the critical need for nurse educators. The number of nursing school graduates in Arkansas is at its lowest in a decade, and nursing students have been turned away because of the lack of faculty to teach them. There are approximately four hundred nurse faculty vacancies in nursing schools nationwide. Therefore we include two provisions, a nurse faculty fast-track loan repayment program and a stipend and scholarship program, both of which provide financial assistance to masters and doctoral students who will teach at an accredited school of nursing for each year of assistance.

This has been a team effort. I want to thank Senators MIKULSKI, KERRY, and JEFFORDS for their contributions to this important legislation, and I urge my colleagues to support its passage.

Mr. KERRY. Mr. President, I am pleased to join my colleagues Senators JEFFORDS, HUTCHINSON and MIKULSKI in re-introducing the Nurse Reinvestment Act. This legislation will increase the number of nurses in our country, and also ensure that every nurse in the field has the skills he or she needs to provide the quality care patients deserve.

We are in the midst of a serious nursing workforce shortage. Every type of community, urban, suburban and rural, is touched by it. No sector of our health care system is immune to it. Across the country, hospitals, nursing homes, home health care agencies and hospices are struggling to find nurses to care for their patients. Patients in search of care have been denied admission to facilities and told that there were "no beds" for them. Often there are beds, just not the nurses to care for the patients who would occupy them.

Our Naiton has suffered from nursing shortages in the past. However, this shortage is particularly severe because we are losing nurses at both ends of the pipeline. Over the past five years, enrollment in entry-level nursing programs has declined by 20 percent. Lured to the lucartive jobs of the new economy, high school graduates are not pursuing careers in nursing in the numbers they once had. Consequently, nurses under the age of 30 represent only 10 percent of the current workforce. By 2010, 40 percent of the nursing workforce will be over the age of 50, and nearing retirement. If these trends are not reversed, we stand to lose vast numbers of nurses at the same time that they will be needed to care for the millions of baby boomers enrolling in Medicare.

The Nurse Reinvestment Act will support the recruitment of new students into our Nation's nursing programs. The bill will fund national and local public service announcements to enhance the profile of the nursing profession and encourage students to commit to a career in nursing. Our legislation will also expand school-to-career partnerships between health care facilities, nursing colleges, middle schools and high schools to show our youth the value of a nursing degree.

Our legislation will ensure that barriers to higher education do not dissuade Americans who are interested in nursing from pursuing a degree in the field. The Nurse Reinvestment Act will support education for students who need help getting-up to speed on math, science and medical English. Our legislation will also ensure that there is support for single moms and dads with children who need a hand in daycare or a lift in getting to their classroom because they are without transportation.

Still, is it not enough to simply encourage more individuals to enter the nursing profession, we must also ensure that our schools of nursing have enough professors to teach them. The Nurse Reinvestment Act provides for a fast-track facility development program, which encourages master's and doctoral students to rapidly complete their studies through loans and scholarships. Individuals receiving financial assistance through the fast-track faculty program must agree to teach at an ascredited school of nursing in exchange for this assistance.

In addition to recruiting new nurses, our legislation will reinvest in nurses who are already practicing by providing them with education and training at every step of the career ladder and at every health care facility in which they work. It will ensure that nurses can obtain advanced degrees, from a B.S. in Nursing to a PhD in Nursing. It will enable nurses to access the specialty training they require to learn how to treat a specific disease or utilize a new piece of technology. Our bill will also help colleges and universities develop curriculum in gerontology and long-term care so that nursing students can pursue concentrations, minors and majors in this growing field of health care and be ready to apply their knowledge to the current and future senior population.

To assist institutions in providing advanced education and training for nurses across the career ladder, our bill will strengthen the partnerships between colleges of nursing and health care facilities. Grants will be available to support such initiatives as the teaching of a course in gerontology in the conference rooms of a hospital or nurusing home. Grants will also support the use of distance learning technology to extend education and training to rural areas, and specialty education and training to all areas.

The Nurse Reinvestment Act will authorize, for the first time in history, a National Nurse Service Corps. Separate from, though modeled after, the National Health Service Corps, the NNSC will administer scholarships to students who commit to working in a health care facility that is experiencing a shortage of nurses. In urban, suburban and rural communities across the country, where facilities turn away patients due to staff shortages, the NNSC will send qualified nurses to serve and provide the care that patients deserve.

Our country boasts the best health care system in the world. But, that health care system is being jeopardized by the shortage plaguing our nursing workforce. Indeed, state-of-the-art medical facilities are of no use if their beds go unfilled and their floors remain empty because the nurses needed to staff them are not available. The Nurse Reinvestment Act not only seeks to increase the numbers of new nurses in our country, but also ensures that all nurses have the skills they need to provide the high quality care that makes our health care system the best in the world.

Mr. JEFFORDS. Mr. President, I am especially pleased that the Senate is scheduled to consider and vote on the Nurse Reinvestment Act. When we pass this measure, it will represent a good day for the future of nursing in America and a good day for the future for patient-care. I want to take this opportunity to tell our colleagues a little about this legislation and to congratulate and complement my fellow Senators who worked so hard to see this effort through. My good friend from Massachusetts, Senator KERRY, was the original sponsor of the Nurse Reinvestment Act and with me crafted an innovative set of solutions to the nursing shortage problem. Since then, this bill has been strengthened significantly by the inclusion of a complimentary measure authored by my colleagues on the HELP Committee, Senator HUTCHINSON and Senator MIKULSKI. The measure we are considering today has been benefited by this collaboration.

As I have stated before, we are facing a looming crisis in this country. The size of our nursing workforce remains stagnant, while the average age of the American nurse is on the rise. Over the past five years, enrollment in entry-level nursing programs has declined by 20 percent. Nurses under the age of 30 represent only 10 percent of the current workforce. By 2010, 40 percent of the nursing workforce will be over the age of 50, and nearing retirement. In Vermont we are facing an even greater crisis because these numbers are worse. Only 28 percent of nurses are under the age of 40 and Vermont schools and colleges are producing 31 percent fewer nurses today than they did just five years ago.

We have a compelling need to encourage more Americans to enter the nursing profession and to strengthen it so that more nurses choose to stay in the profession. All facets of the health care system will have a role to play in ensuring a strong nursing workforce. Nurses, physicians, hospitals, nursing homes, academia, community organizations and state and federal governments all must accept responsibility and work towards a solution. Part of the responsibility to launch that effort begins with us today as we make a decision on the vote for the Nurse Reinvestment Act.

The Nurse Reinvestment Act expands and improves the federal government's support of "pipeline" programs, which will maintain a strong talent pool and develop a nursing workforce that can address the increasingly diverse needs of America's population. The Nurse Reinvestment Act provides for a comprehensive public awareness and education campaign on a national, state and local level that will bolster the image of the profession, encourage diversity, attract more nurses to the workforce, and lead current nurses to take advantage of career development opportunities.

The legislation creates a National Nursing Service Corps Scholarship Program authorized at $40 million that will provide scholarships to individuals to attend nursing schools in exchange for a commitment to serve two years in a health facility determined to have a critical shortage of nurses. This scholarship program is designed to greatly help the recruitment of nursing students by providing them tuition, other reasonable and necessary educational fees and a monthly stipend paid to the student.

The Act also authorizes the "Nurse Recruitment Grant Program" to support outreach efforts by nursing schools and other eligible healthcare facilities to inform students in primary, junior and secondary schools of nursing educational opportunities and to attract them to the nursing profession. The grant program provides appropriate student support services to individuals from disadvantaged backgrounds and creates community-based partnerships to recruit nurses in medically underserved rural and urban areas. Further, the "Area Health Education Centers Program" will award grants to nursing schools that work in partnership in the community to develop models of excellence.

The "Career Ladder Programs" will assist schools of nursing, health care facilities or partnerships of the two to develop programs that will encourage current nursing students in active nurses alike, to pursue further education and training. This will be achieved through scholarships, stipends, career counseling, direct training and distance learning programs. And, in light of our aging baby-boomer generation, specific grants are offered to schools and health care facilities so that they might place a further emphasis upon encouraging students to study long-term care for the elderly.

In addition to the provisions that were included in the original bill I cosponsored with my colleague Senator KERRY, there are provisions added by our colleagues which, I am happy to have included in this final piece of legislation. Those provisions will provide for the development of internship and residency programs to encourage the development of specialties and student, loan, stipend and scholarship programs for those who would like to seek a masters or doctorate degree at a school of nursing. The final bill was also strengthened by provisions added through the efforts of Senator LIEBERMAN and Senator CLINTON.

Once again, I want to applaud my colleagues Senator KERRY, Senator MIKULSKI and Senator HUTCHINSON for their tireless work on the Nurse Reinvestment Act and for the work of their staffs. In particular, I want to recognize the efforts of Kelly Bovio in Senator KERRY,'s office, Kate Hull in Senator HUTCHINSON's office and Rhonda Richards with Senator MIKULSKI. This effort was also advanced with the help of Sarah Bianchi and Jackie Gran who are members of Senator KENNEDY's staff, Steve Irizarry with Senator GREGG and Shana Christrup with Senator FRIST. Finally, in my own office, I want to note the efforts of Philo Hall, Angela Mattie, Eric Silva and Sean Donohue.

Adequate health care services cannot survive any further diminishing of the nursing workforce. All patients depend on the professional care of nurses, and we must make sure it will be there for them. I urged my colleagues to join me and the bill's cosponsors in support of this measure.

Mr. FRIST. Mr. President, I rise today to discuss the introduction of a very important bill to address the nursing workforce shortage. At the beginning of November, we reported two different bills from the Senate HELP Committee designed to address the nursing shortage in this country, the Hutchinson-Mikulski "Nursing Employment and Education Development Act." and the Kerry-Jeffords "Nursing Reinvestment Act." I was an original cosponsor of the Hutchinson legislation and a strong supporter of that bill. At that time, I voiced my concern that we are marking up two rather similar proposals to deal with the nursing shortage, and I requested that the differences be worked out before the bill was discussed on the Senate floor. I am happy today to report the the final reconciliation is complete, and we have a consensus bill that firmly addresses the nursing workforce shortage issue. I thank Senator HUTCHINSON for his hard work in ensuring that we could reach this point.

We are in the midst of a direct care workforce shortage. Not only are fewer people entering and staying in the nursing profession, but we are losing experienced nurses at a time of growing need. Today, nurses are needed in a greater number of settings, such as nursing homes, extended care facilities, community and public health centers, professional education, and ambulatory care facilities. Nationwide, health care providers, ranging from hospitals and nursing homes to home health agencies and public health departments, are struggling to find qualified nurses to provide safe, efficient, quality care for their patients. That's why it is important to have a new Nursing Corps, which will provide scholarships to qualified individuals in exchange for direct care service in a variety of settings as well as to allow others to know about the numerous possibilities within the profession by authorizing public service announcements.

Though we have faced nursing shortages in the past, this looming shortage is particularly troublesome because it reflects two trends that are occurring simultaneously: 1. A shortage of people entering the profession; and 2. The retirement of nurses who have been working in the profession for many years. Over the past five years, enrollment in entry-level nursing programs has declined by twenty percent, mirroring the declining awareness of the nursing profession among high school graduates. Consequently, nurses under the age of thirty represent only ten percent of the current workforce. By 2010, forty percent of the nursing workforce will be older than fifty years old and nearing retirement. If these trends continue, we stand to lost vast numbers of nurses at the very time that they will be needed to care for the millions of baby boomers reaching retirement age. To deal with the increased need for nurses to care for the elderly, this bill has a provision to assist with both the necessary training and educational development of gerontological nurses as well as to strengthen the ability of nurses to obtain additional training and certification through the career ladders program.

Further, greater efforts must be made to recruit more men and minorities to this noble profession. Currently, only ten percent of the registered nurses in the United States are from racial or ethnic minority backgrounds, even though these individuals comprise twenty-eight percent of the total United States population. In 2000, less than six percent of the registered nurses were men. We must work to promote diversity in the workforce, not only to increase the number of individuals within the profession, but also to promote culturally competent and relevant care. Within the combined nursing shortage bill, one grant program directly addresses the need to increase funding for the training of minority and disadvantaged students to make it easier for individuals to enter the nursing profession.

Even if nursing schools could recruit more students to deal with the shortage, many schools could not accommodate higher enrollments because of faculty shortages. There are nearly four hundred faculty vacancies at nursing schools in this country. And, an even greater faculty shortage looms in the next ten to fifteen years as many current nursing faculty approach retirement and fewer nursing students pursue academic careers. Therefore, I strongly support the two provisions to assist with faculty development and training, the fast track nursing faculty loan program and the stipend and scholarship program.

In addressing these direct care staffing shortages, we must work together to develop innovative solutions to address this growing issue. As reported in the Memphis Commercial Appeal on May 10, there are steps that Congress can take to increase funding for specific programs and reduce regulatory requirements. However, a comprehensive strategy must also include other sectors of the health care system, hospitals, health care professionals, educators, and the general public, to successfully deal with this looming shortage. That's why it is important to also include a provision to deal with developing retention strategies and best practices in nursing staff management.

I am extremely supportive of this legislation, and I want to thank Senator HUTCHINSON again for his hard work in addressing this critical issue. I also want to commend my other colleagues, including Senator MIKULSKI, for her efforts. Senator HUTCHINSON clearly has shown tremendous leadership in this area. He understands the need to address the nursing shortage issue, and he is largely responsible for getting us to this point today.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in introducing the Nurse Reinvestment Act. Our goal in this bipartisan legislation is to do as much as we can to alleviate the nursing shortage experienced by health care facilities across the United States. Increasing the number of nurses is an essential part of the ongoing effort to reduce medical errors, improve patient outcomes, and encourage more Americans to become and remain nurses.

The Nation's nurses provide care for Americans at the most vulnerable times in the lives. We must act now to halt the decline in the number of nurses. Enrollment in schools of nursing is falling, and the average age of the nursing workforce is rising. Across the country, communities are losing vast numbers of nurses, just as we need more to care for the millions of aging baby boomers and deal with the many medical challenges facing our hospitals.

The current shortage means that too many nurses now have to care for too many patients at once, undermining the high quality of care that nurses want to give, and patients deserve. A recent survey by the American Nurses Association showed that 75 percent of nurses believe that the quality of nursing care at their facility has declined. More than half of those surveyed said that the time they can spend with patients has decreased. A nurse in Massachusetts said that she would not go the hospital where she worked, if she needed care.

Nationally, the shortfall is expected to rise to 20 percent in the coming years. Yet nurses themselves are already seriously questioning the quality of bedside treatments now being provided on intensive care units, in emergency rooms, and at the bedsides of patients where they work.

Their questions are call for help. This legislation can be significant in strengthening the nursing profession, and responding to the urgent need.

The Nurse Reinvestment Act will recruit new students into schools of nursing through outreach programs, public awareness and education campaigns, and area health education centers. It establishes a national nurse service corps, which will offer scholarships to bring individuals into the profession and place them in medically underserved areas and facilities. The Act expands school-to-career partnerships to show youths the high value and importance of a nursing degree. It invests in today's nurses by providing education and training at every step of the career ladder, and by helping them obtain advanced degrees, from a B.S. in Nursing to a Ph.D. in Nursing. It includes provisions developed by Senator LIEBERMAN and Senator CLINTON to help health care facilities retain nurses.

Our country has the best health care system in the world. But that system is being jeopardized today by the shortages plaguing the nursing workforce. Even our best medical facilities are in deep trouble if their beds go unfilled and their floors remain empty because there are no nurses to staff them.

I commend Senator MIKULSKI, Senator KERRY, Senator HUTCHINSON, and Senator JEFFORDS for their leadership in this initiative. Bringing more nurses into the profession will help to ensure that nurses are ready and able to provide the highest quality of care to their patients. The Nurse Reinvestment Act is a significant step that Congress can take to support the Nation's nurses, and I urge my colleagues to support it.

Mr. LIEBERMAN. Mr. President, I am proud to be an original cosponsor of the Nurse Reinvestment Act of 2001. I want to congratulate my colleagues, particularly Senators MIKULSKI, HUTCHINSON, KERRY and JEFFORDS, for their extraordinary efforts to put together this excellent bill. I also want to thank the Committee for including the provisions of the LIEBERMAN-ENSIGN "Hospital Based Nursing Initiative Act of 2001" in the bill.

By now, everyone knows that the nation faces a critical shortage of nurses. The shortage has already severely impacted states in many areas of the country, including Connecticut, and I fear it will jeopardize our ability to provide quality health care to patients. A recent report by the Government Accounting Office projected that the growing national nursing shortage will hit a peak in ten years.

While pay is a major factor cited in the report, it is not the primary reason nurses are leaving the profession. The study also cites poor or unsafe working conditions, lack of respect from physicians and patients, barriers to participation in the hospital administration decision-making process, lack of opportunity to continue their education, and lack of recognition for accomplishments. We must do more to attract new people to the nursing profession and retain the quality nurses who currently provide us care. The Nurse Reinvestment Act will do just that.

I want to take just a minute to talk about the specific provisions that were part of the "Hospital Based Nursing Initiative Act." This legislation contained two proposals to help retain nurses in the hospital setting: a competitive grant program that would provide funding to hospitals that actively work to retain their nurses and a scholarship program for registered nurses who hold an associates or diploma degree who wish to obtain a bachelor's degree in nursing.

As part of the Nurse Reinvestment Act, these incentives have been broadened to apply to the nursing workforce in all health care facilities, providing a critical stimulus for these facilities to retain their nurses.

While the ominous projections about the growing nursing shortage looms over the health care industry, it is clear that now is the time to act. I am encouraged that Congress is acting quickly and decisively to actively add to the nurse workforce and to provide critical incentives to keep nurses on the job.

By Mrs. BOXER:

S. 1865. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I am pleased to be introducing today a bill that will take an important first step in restoring the San Gabriel River and Lower LA River, which run through Los Angeles, CA. These two rivers have suffered from years of abuse and neglect. For far too long, we have channeled, redirected, constricted, polluted, and simply ignored these two rivers. The result is that substantial portions of these rivers look nothing like their natural form. Instead of soft bottoms covered with aquatic grasses, stream banks lined with trees and bushes, and waters teaming with fish, these rivers have cement bottoms, cement banks, and little remaining wildlife.

Today, we begin what will be a long, slow process in turning the tide for these two urban waterways. This bill directs the Secretary of Interior to conduct a study of the suitability and feasibility of protecting and restoring these two rivers by making them a part of our national park system. The long term vision I have is to see these rivers restored to a more natural state so that they can be a home to southern California's unique fish and wildlife.

Just as important to me is that these rivers be restored so they can serve as a source of outdoor recreation for one of our Nation's most congested urban areas. Most communities in Los Angeles are desperate for open space. They seek outdoor areas where children can play, adults can meet, and people of all ages can find respite from the daily hustle and bustle of some of our most economically and socially stressed neighborhoods.

What I am proposing would be an unprecedented urban restoration effort. But that does not mean it is impossible. Far from it. This vision is shared by Congresswoman HILDA SOLIS, who first introduced this bill in the House of Representatives. I look forward to working hand in hand with her to ensure that this dream becomes a reality.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1865

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower Los Angeles River and San Gabriel River Watersheds Study Act of 2001".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) WATERSHED.—The term "watershed" means—

(A) the Lower Los Angeles River and its tributaries below the confluence of the Arroyo Seco;

(B) the San Gabriel River and its tributaries in Los Angeles County and Orange County, California; and

(C) the San Gabriel Mountains located within the territory of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (as defined in section 32603(c)(1)(C) of the State of California Public Resource Code).

SEC. 3. AUTHORIZATION OF STUDY.

(a) IN GENERAL.—The Secretary shall carry out a study on the suitability and feasibility of establishing the watershed as a unit of the National Park System.

(b) APPLICABLE LAW.—Section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)) shall apply to the conduct and completion of the study required by subsection (a).

(c) CONSULTATION WITH STATE AND LOCAL GOVERNMENTS.—In carrying out the study authorized by subsection (a), the Secretary shall consult with—

(1) the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy; and

(2) any other appropriate State or local governmental entity.

SEC. 4. REPORT.

Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study required by section 3(a).

By Mr. LIEBERMAN (for himself and Mr. MCCAIN):

S. 1867. A bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise to introduce with my colleague Senator MCCAIN legislation to establish the National Commission on Terrorist Attacks Upon the United States. This Commission will have a broad mandate to examine and report upon the facts and causes relating to the September 11, 2001 terrorist attacks occurring at the World Trade Center and at the Pentagon, and it will be charged with making a "full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks." It will "investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism."

Certain events stand out in our history for having left an indelible mark of pain and sorrow on America. The infamous attack on Pearl Harbor not only roused a slumbering giant, but also raised difficult questions about why our great Navy had been caught unawares. The tragic assassination of President John F. Kennedy evoked powerful feelings of sorrow and loss, but also searching questions about the identity and motives of the assassin. And on this past September 11, the United States suffered assaults on its territory unparalleled in their cruelty, destruction and loss of life. Americans were stunned both by the magnitude of the loss and the maliciously simple plan that had caused the carnage. Here too, alongside their grief and rage, the American people have been asking questions: Why was this plan so successful in achieving its evil goals? Were opportunities missed to prevent the destruction? What additional steps should be taken now to prevent any future attacks?

In the immediate aftermath of both Pearl Harbor and the Kennedy assassination, special commissions were formed to conduct investigations and answer similar questions. These precedents provide us with important models as we seek answers to such questions, and then use the findings to move forward with strategies to respond to the scourge of terrorism. Like many of my constituents, I too want to know how September 11 happened, why it happened, and what corrective measures can be taken to prevent it from ever occurring again. The American people deserve answers to these very legitimate questions about how the terrorists succeeded in achieving their brutal objectives, and in so doing, forever changing the way in which we Americans lead our lives.

To be successful, this Commission must have a number of resources, including enough time, a top level staff, ample investigatory powers, and adequate funding, all of which we have provided for in this legislation. But most critically, it must have broad bipartisan support. This Commission must not become a witch-hunt. The events of September 11 were so cataclysmic that there is enough responsibility to be shouldered by multiple parties. The overriding purpose of the inquiry must be a learning exercise, to understand what happened without preconceptions about its ultimate findings.

Just as Presidents Roosevelt and Johnson turned to national leaders of their day, Justice Roberts and Chief Justice Warren, to spearhead the Pearl Harbor and Kennedy assassination inquiries, respectively, this Commission must also draw upon the great reservoir of bipartisan talent that our nation possesses to answer crucial and fundamental questions. We expect that members appointed to this blue-ribbon Commission will be prominent U.S. citizens, though not currently serving in public office, with "national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs."

To help ensure that members of the Commission will possess some of these substantive areas of expertise, which are so critical to understanding and analyzing the events of September 11, 10 of its 14 members will be appointed by the Senate and House chairmen, in consultation with their ranking minority members, of the Congressional committees that oversee Intelligence, Foreign Affairs, Armed Services, Judiciary, and Commerce. President Bush will appoint the four remaining members of the Commission, including the Chairman, who in turn will appoint the staff. In an effort to mandate bipartisanship, or perhaps more accurately, non-partisanship, no more than 7 of the Commission's 14 members may be from one political party.

Though some of the Commission's recommendations may include "proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations," we cannot wait for the findings of this report to begin the process of strengthening our Nation's homeland defense. That process, of course, is already underway, and must continue to occur at a rapid pace to ensure the continued protection of American lives and property. This Commission will not issue its first report until six months after its first meeting, and its final report will be issued another year after that. Rather than wait for these reports to be researched and submitted, we must continue the process we have already started to pro-actively address vulnerabilities that undermine our daily safety. We have already received the valuable input of numerous other experts and Commissions, some of which even issued their prescient warnings before the events of September, such as the Hart-Rudman Commission. When this proposed Commission completes its investigation and makes its final recommendations, those suggestions and conclusions will augment the record we have already developed on ways we can continue to safeguard our nation.

The Commission is not only the right thing to do, but this is the right time to do it. Understandably, the initial months after September 11 were preoccupied first with mourning, and then with prosecution of the war. There were legitimate concerns that a robust investigation into the causes of September 11 would siphon resources from the ongoing war effort. But with the first stage of the war against terrorism now drawing to a close, and with many perplexing questions still before us, we must now begin in earnest the process of finding answers to how it happened. This Commission should not be at odds with the war effort of any federal agency; rather, its efforts will complement the internal review processes some agencies are undergoing.

Determining the causes and circumstances of the terrorist attacks will ensure that those who lost their lives on this second American "day of infamy" did not die in vain. In so doing, this Commission will not only pay tribute to those who perished, but it will ensure that their survivors, and all the citizens of this great nation, continue to live life secure in the knowledge that the U.S. government is doing all within its powers to preserve their lives, liberties, and pursuits of happiness.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this Act referred to as the "Commission").

SEC. 2. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(4) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 3. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 14 members, of whom—

(1) 4 members shall be appointed by the President;

(2) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Armed Services of the Senate ;

(3) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Commerce, Science, and Transportation of the Senate;

(4) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on the Judiciary of the Senate;

(5) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Select Committee on Intelligence of the Senate;

(6) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Foreign Relations of the Senate;

(7) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Armed Services of the House of Representatives;

(8) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Energy and Commerce of the House of Representatives;

(9) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on the Judiciary of the House of Representatives;

(10) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Permanent Select Committee on Intelligence of the House of Representatives; and

(11) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on International Relations of the House of Representatives.

(b) CHAIRPERSON.—The President shall select the chairperson of the Commission.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 7 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 8 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Eight members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 4. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation into relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, practice, or procedure;

(2) review and evaluate the lessons learned from the terrorist attacks of September 11, 2001 regarding the structure, coordination, and management arrangements of the Federal Government relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this Act containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 5. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this Act—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member. Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this Act.

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 6. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 7. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 8. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 9. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) ADDITIONAL REPORTS.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this Act $3,000,000, to remain available until expended.

Mr. MCCAIN. Mr. President, I am pleased to join my friend JOE LIEBERMAN in introducing legislation calling for a blue-ribbon commission to examine the facts surrounding the September 11th attacks, and to propose reforms to better defend our country in the future.

After Pearl Harbor and President Kennedy's assassination, the President and Congress established boards of inquiry to investigate these tragedies and recommend measures to prevent their recurrence.

The terrorist attacks in New York and Washington represent a watershed in American history—the end of an era of general peace and prosperity, and a terrible awakening to the threats against our people that lurk within, and beyond, our shores.

To prevent future tragedies, we need to know how September 11th could have happened, and explore what we can do to be sure America never again suffers such an attack on her soil.

I believe President Bush and his team have responded forcefully, admirably, and with a sense of purpose in this time of trial. But neither the Administration nor Congress is capable of conducting a thorough, nonpartisan, independent inquiry into what happened on September 11th, or to propose far-reaching reforms needed to protect our people and our institutions against the enemies of freedom.

As we did after Pearl Harbor and the Kennedy assassination, we need a blue-ribbon team of distinguished Americans from all walks of life to thoroughly investigate all evidence surrounding the attacks, including how prepared we were and how well we responded to this unprecedented assault.

It will require digging deep into the resources of the full range of government agencies. It will demand objective judgment into what went wrong, what we did right, and what else we need to do to deter and defeat depraved assaults against innocent lives in the future.

This is no witch hunt. Our enemies would be strengthened if their attacks caused us to turn on ourselves, consumed not with the malevolence of our foes but with our own failings.

We are a proud nation, a strong nation. However horrible, September 11th reminded us of our love of country, our fierce patriotic pride. It highlighted the distinctive accomplishments of our civilization, and the sacrifices we will endure to defend it against evil. It made us stronger.

That said, if there were serious failures on the part of individuals or institutions within the government or the private sector, we have a right to know, indeed a need to know. But to work, this must be a learning exercise, without preconceptions about the inquiry's ultimate findings.

The commission's members should include leading citizens not now holding public office, but with broad experience in national affairs. The commission should have an adequate budget, a top-level staff, and ample investigatory resources—including subpoena power, if it is needed to uncover the truth.

To be effective and legitimate, the commission should be given a broad mandate to discover facts and recommend corrective actions. It should be given time to proceed with care and deliberation. It should have the stature and significance afforded by its grave mission of telling the whole truth about September 11th, and telling us what we need to know to protect against future tragedy.

To be credible, this inquiry must be independent from ongoing government operations, but it must of necessity draw on the resources of government. The commission's conclusions and recommendations will have enduring meaning only if they are valued by those of us who can set them in motion—the President, the Congress, and all concerned Americans.

Our best defense now lies in pursuing our enemy overseas, and working here at home to adapt to the challenges of this new day. We can rid the world of terrorism's scourge. But it will take time, and our campaign will likely inspire further, desperate tests of our resolve.

More Americans may die before we are through. In this moment when we enjoy peace at home, even as brave Americans risk their lives for us overseas, let us marshal our resolve to defend our homeland, not merely through force of arms, but through reasoned introspection into how September 11th happened, what we've learned, and how we can apply those lessons to the defense of the American people.

More than 2 years ago, the bipartisan Hart-Rudman Commission on National Security envisioned a time when terrorists and rogue nations would acquire weapons of mass destruction and "mass disruption."

"Americans will likely die on American soil," the commission warned, "possibly in large numbers."

That time has come. The worst has happened. But it must not happen again. We hope history will judge America well for her response to September 11th—the incredible bravery of so many Americans, and the measures we have already put in place to prevent future acts of catastrophic terrorism.

The commission is an integral part of our response to the attacks of September 11. Its mission is urgent. The American people clearly share our sense of urgency about protecting our country. I hope our proposed commission can channel that sense of urgency into a mandate for reform of the way we defend America.

By Mr. BIDEN:

S. 1868. A bill to establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce the National Child Protection Improvement Act of 2001.

Today, 87 million of our children are involved in provided by child and youth organizations which depend heavily on volunteers to deliver their services. Millions more adults are also served by public and private voluntary organizations. Organizations across the country, like the Boys and Girls Clubs, often rely solely on volunteers to make these safe havens for kids a place where they can learn. The Boys and Girls Clubs and others don't just provide services to kids, their work reverberates throughout our communities, as the after-school programs they provide help keep kids out of trouble. This is juvenile crime prevention at its best, and I salute the volunteers who help make these programs work.

Unfortunately, some of these volunteers come to their jobs with less than the best of intentions. According to the National Mentoring Partnership, incidents of child sexual abuse in child care settings, foster homes and schools ranges from 1 to 7 percent. Volunteer organizations have tried to weed out bad apples, and today most conduct background checks on applicants who seek to work with children. Unfortunately, these checks can often take months to complete, can be expensive, and many organizations do not have access to the FBI's national fingerprint database. These time delays and scope limitations are dangerous: a prospective volunteer could pass a name-based background check in one state, only to have a past felony committed in another jurisdiction go undetected.

Today I am introducing a bill designed to solve some of these problems. The National Child Protection Improvement Act of 2001 creates a new, FBI national center to conduct criminal history fingerprint checks at the request of volunteer organizations. Funds are authorized so that volunteer organizations could have the national checks performed at no cost to them, the Federal government ought to be supporting, those groups who seek to safeguard our kids, and this is a modest investment that deserves to be made. Other child-serving organizations who sought the services of the new national center would have checks conducted at a minimal cost. My bill envisions as many as 10 million background checks conducted per year at this center, enough to prevent felons and other dangerous members of society from getting anywhere near our kids. States perform many of these checks today, so to help them do their jobs better my bill authorizes $5 million per year to hire personnel and improve fingerprint technology so that they can update information in national databases.

All of us understand the positive impact that volunteer organizations are making. Now we need to give these groups the tools and resources they need to ensure absolute safety for the children they serve.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Child Protection Improvement Act".

SEC. 2. ESTABLISHMENT OF A NATIONAL CENTER ON VOLUNTEER AND PROVIDER SCREENING.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following:

"TITLE VI—NATIONAL CENTER ON VOLUNTEER AND PROVIDER SCREENING

"SEC. 601. SHORT TITLE.

"This title may be cited as the 'National Child Protection Improvement Act'.

"SEC. 602. FINDINGS.

"Congress finds the following:

"(1) More than 87,000,000 children are involved each year in activities provided by child and youth organizations which depend heavily on volunteers to deliver their services.

"(2) Millions more adults, both the elderly and individuals with disabilities, are served by public and private voluntary organizations.

"(3) The vast majority of activities provided to children, the elderly, and individuals with disabilities by public and private nonprofit agencies and organizations result in the delivery of much needed services in safe environments that could not be provided without the assistance of virtually millions of volunteers, but abuses do occur.

"(4) Estimates of the incidence of child sexual abuse in child care settings, foster care homes, and schools, range from 1 to 7 percent.

"(5) Abuse traumatizes the victims and shakes public trust in care providers and organizations serving vulnerable populations.

"(6) Congress has acted to address concerns about this type of abuse through the National Child Protection Act of 1993 and the Violent Crime Control Act of 1994 to set forth a framework for screening through criminal record checks of care providers, including volunteers who work with children, the elderly, and individuals with disabilities. Unfortunately, problems regarding the safety of these vulnerable groups still remain.

"(7) While State screening is sometimes adequate to conduct volunteer background checks, more extensive national criminal history checks using fingerprints or other means of positive identification are often advisable, as a prospective volunteer or nonvolunteer provider may have lived in more than one State.

"(8) The high cost of fingerprint background checks is unaffordable for organizations that use a large number of volunteers and, if passed on to volunteers, often discourages their participation.

"(9) The current system of retrieving national criminal background information on volunteers through an authorized agency of the State is cumbersome and often requires months before vital results are returned.

"(10) In order to protect children, volunteer agencies must currently depend on a convoluted, disconnected, and sometimes duplicative series of checks that leave children at risk..

"(11) A national volunteer and provider screening center is needed to protect vulnerable groups by providing effective, efficient national criminal history background checks of volunteer providers at no-cost, and at minimal-cost for employed care providers.

"SEC. 603. DEFINITIONS.

"In this Act—

"(1) the term 'qualified entity' means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services designated by the National Task Force;

"(2) the term 'volunteer provider' means a person who volunteers or seeks to volunteer with a qualified entity;

"(3) the term 'provider' means a person who is employed by or volunteers or who seeks to be employed by or volunteer with a qualified entity, who owns or operates a qualified entity, or who has or may have unsupervised access to a child to whom the qualified entity provides care;

"(4) the term 'national criminal background check system' means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

"(5) the term 'child' means a person who is under the age of 18;

"(6) the term 'individuals with disabilities' has the same meaning as that provided in section 5(7) of the National Child Protection Act of 1993;

"(7) the term 'State' has the same meaning as that provided in section 5(11) of the National Child Protection Act of 1993; and

"(8) the term 'care' means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

"SEC. 604. ESTABLISHMENT OF A NATIONAL CENTER FOR VOLUNTEER AND PROVIDER SCREENING.

"(a) IN GENERAL.—The Attorney General, by agreement with a national nonprofit organization or by designating an agency within the Department of Justice, shall—

"(1) establish a national center for volunteer and provider screening designed—

"(A) to serve as a point of contact for qualified entities to request a nationwide background check for the purpose of determining whether a volunteer provider or provider has been arrested for or convicted of a crime that renders the provider unfit to have responsibilities for the safety and well-being of children, the elderly, or individuals with disabilities;

"(B) to promptly access and review Federal and State criminal history records and registries through the national criminal history background check system—

"(i) at no cost to a qualified entity for checks on volunteer providers; and

"(ii) at minimal cost to qualified entities for checks on non-volunteer providers;

with cost for screening non-volunteer providers will be determined by the National Task Force;

"(C) to provide the determination of the criminal background check to the qualified entity requesting a nationwide background check after not more than 15 business days after the request;

"(D) to serve as a national resource center and clearinghouse to provide State and local governments, public and private nonprofit agencies and individuals with information regarding volunteer screening; and

"(2) establish a National Volunteer Screening Task Force (referred to in this title as the 'Task Force') to be chaired by the Attorney General which shall—

"(A) include—

"(i) 2 members each of—

"(I) the Federal Bureau of Investigation;

"(II) the Department of Justice;

"(III) the Department of Health and Human Services;

"(IV) representatives of State Law Enforcement organizations;

"(V) national organizations representing private nonprofit qualified entities using volunteers to serve the elderly; and

"(VI) national organizations representing private nonprofit qualified entities using volunteers to serve individuals with disabilities; and

"(ii) 4 members of national organizations representing private nonprofit qualified entities using volunteers to serve children;

to be appointed by the Attorney General; and

"(B) oversee the work of the Center and report at least annually to the President and Congress with regard to the work of the Center and the progress of the States in complying with the provisions of the National Child Protection Act of 1993.

"SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out the provisions of this title, there are authorized to be appropriated $80,000,000 for fiscal year 2003 and $25,000,000 for each of the fiscal years

2004, 2005, 2006, and 2007, sufficient to provide no-cost background checks of volunteers working with children, the elderly, and individuals with disabilities.

"(b) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.".

SEC. 3. STRENGTHENING AND ENFORCING THE NATIONAL CHILD PROTECTION ACT OF 1993.

Section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119 et seq.) is amended to read as follows:

"SEC. 3. NATIONAL BACKGROUND CHECKS.

"(a) IN GENERAL.—Requests for national background checks under this section shall be submitted to the National Center for Volunteer Screening which shall conduct a search using the Integrated Automated Fingerprint Identification System, or other criminal record checks using reliable means of positive identification subject to the following conditions:

"(1) A qualified entity requesting a national criminal history background check under this section shall forward to the National Center the provider's fingerprints or other identifying information, and shall obtain a statement completed and signed by the provider that—

"(A) sets out the provider or volunteer's name, address, date of birth appearing on a valid identification document as defined in section 1028 of title 18, United States Code, and a photocopy of the valid identifying document;

"(B) states whether the provider or volunteer has a criminal record, and, if so, sets out the particulars of such record;

"(C) notifies the provider or volunteer that the National Center for Volunteer Screening may perform a criminal history background check and that the provider's signature to the statement constitutes an acknowledgement that such a check may be conducted;

"(D) notifies the provider or volunteer that prior to and after the completion of the background check, the qualified entity may choose to deny the provider access to children or elderly or persons with disabilities; and

"(E) notifies the provider or volunteer of his right to correct an erroneous record held by the FBI or the National Center.

"(2) Statements obtained pursuant to paragraph (1) and forwarded to the National Center shall be retained by the qualified entity or the National Center for at least 2 years.

"(3) Each provider or volunteer who is the subject of a criminal history background check under this section is entitled to contact the National Center to initiate procedures to—

"(A) obtain a copy of their criminal history record report; and

"(B) challenge the accuracy and completeness of the criminal history record information in the report.

"(4) The National Center receiving a criminal history record information that lacks disposition information shall, to the extent possible, contact State and local recordkeeping systems to obtain complete information.

"(5) The National Center shall make a determination whether the criminal history record information received in response to the national background check indicates that the provider has a criminal history record that renders the provider unfit to provide care to children, the elderly, or individuals with disabilities based upon criteria established by the National Task Force on Volunteer Screening, and will convey that determination to the qualified entity.

"(b) GUIDANCE BY THE NATIONAL TASK FORCE.—The National Task Force, chaired by the Attorney General shall—

"(1) encourage the use, to the maximum extent possible, of the best technology available in conducting criminal background checks; and

"(2) provide guidelines concerning standards to guide the National Center in making fitness determinations concerning care providers based upon criminal history record information.

"(c) LIMITATIONS OF LIABILITY.—

"(1) IN GENERAL.—A qualified entity shall not be liable in an action for damages solely for failure to request a criminal history background check on a provider, nor shall a State or political subdivision thereof nor any agency, officer or employee thereof, be liable in an action for damages for the failure of a qualified entity (other than itself) to take action adverse to a provider who was the subject of a criminal background check.

"(2) RELIANCE.—The National Center or a qualified entity that reasonably relies on criminal history record information received in response to a background check pursuant to this section shall not be liable in an action for damages based upon the inaccuracy or incompleteness of the information.

"(d) FEES.—In the case of a background check pursuant to a State requirement adopted after December 20, 1993, conducted through the National Center using the fingerprints or other identifying information of a person who volunteers with a qualified entity shall be free of charge. This subsection shall not affect the authority of the FBI, the National Center, or the States to collect reasonable fees for conducting criminal history background checks of providers who are employed as or apply for positions as paid employees.".

SEC. 4. ESTABLISHMENT OF A MODEL PROGRAM IN EACH STATE TO STRENGTHEN CRIMINAL DATA REPOSITORIES AND FINGERPRINT TECHNOLOGY.

(a) ESTABLISHMENT.—A model program shall be established in each State and the District of Columbia for the purpose of improving fingerprinting technology which shall grant to each State $50,000 to either—

(1) purchase Live-Scan fingerprint technology and a State-vehicle to make such technology mobile and these mobile units shall be used to travel within the State to assist in the processing of fingerprint background checks; or

(2) purchase electric fingerprint imaging machines for use throughout the State to send fingerprint images to the National Center to conduct background checks.

(b) ADDITIONAL FUNDS.—In addition to funds provided in subsection (a), $50,000 shall be provided to each State and the District of Columbia to hire personnel to—

(1) provide information and training to each county law enforcement agency within the State regarding all National Child Protection Act requirements for input of criminal and disposition data into the national criminal history background check system; and

(2) provide an annual summary to the National Task Force of the State's progress in complying with the criminal data entry provisions of the National Child Protection Act of 1993 which shall include information about the input of criminal data, child abuse crime information, domestic violence arrests and stay-away orders of protection.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—To carry out the provisions of this section, there are authorized to be appropriated a total of $5,100,000 for fiscal year 2003 and such sums as may be necessary for each of the fiscal years 2004, 2005, 2006, and 2007, sufficient to improve fingerprint technology units and hire data entry improvement personnel in each of the 50 States and the District of Columbia.

(2) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

By Mr. CORZINE (for himself, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 1870. A bill to amend the Clean Air Act to establish an inventory, registry, and information system of United States greenhouse gas emissions to inform the public and private sector concerning, and encourage voluntary reductions in, greenhouse emissions; to the Committee on Environment and Public Works.

Mr. CORZINE. Mr. President, I rise today to introduce a bill that represents an important step towards the goal of addressing the threats posed by global climate change. I am pleased to be joined on this bill by Senator JEFFORDS and Senator LIEBERMAN. They are recognized environmental leaders in the Senate, and are long-standing, outspoken advocates for taking action to mitigate climate change. I appreciate their help in introducing this legislation today.

Climate change is an enormously complex issue in every aspect. Scientifically. Economically. Politically. But complexity is no excuse for inattention or inaction. Because the health and viability of the global ecosystems upon which we all depend are at stake. The time to act is now.

Earlier this year, the Intergovernmental Panel on Climate Change recently released its Third Assessment Report, and the science is increasingly clear and alarming. We know that human activities, primarily fossil fuel combustion, have raised the atmospheric concentration of carbon dioxide to the highest levels in the last 420,000 years. We know that the planet is warming, and that the balance of the scientific evidence suggests that most of the recent warming can be attributed to increased atmospheric greenhouse gas levels. We know that without concerted action by the U.S. and other countries, greenhouse gases will continue to increase.

Finally, we know that climate models have improved, and that these models predict warming under all scenarios that have been considered. Even the smallest warming predicted by current models, 2.5 degrees Fahrenheit over the next century, would represent the greatest rate of increase in global mean surface temperature in the last 10,000 years.

If these trends continue, the results may be devastating. People in my home State of New Jersey treasure their Jersey Shore. Like all coastal areas, the Jersey Shore is threatened by projected changes in sea levels due to climate change. I am concerned about this impact. And I am concerned about other climate change impacts across New Jersey, the country and the globe.

I believe we need to take reasonable steps today start dealing with this issue. And I think this bill will make an important incremental step.

The main provisions of the bill establish a system that would require companies to estimate and report their emissions of greenhouse gases, as well as a place where companies can register greenhouse gas emissions reductions. In addition, the bill would require an annual report on U.S. greenhouse gas emissions. I'd like to go through each of these components in more detail.

First, the bill requires EPA to work with the Secretaries of Energy, Commerce and Agriculture, as well as the private sector and non-governmental organizations to establish a greenhouse gas emission information system. For the purposes of the bill, greenhouse gases are carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. EPA is directed to establish threshold quantities for each of these gases. The threshold quantities will trigger the requirement for a company to report to the system, and are included to enable exclusion of most small businesses from the reporting requirements. Companies that emit more than a threshold quantity of each gas will be required to report their emissions on an annual basis to EPA. The requirements will be phased in, beginning with stationary source emissions in 2003. The following year, in 2004, companies subject to the reporting requirements will need to submit to EPA estimates of other types of greenhouse gas emissions, such as process emissions, fugitive emissions, mobile source emissions, forest product-sector emissions, and indirect emissions from heat and steam.

Just as important as the reporting system is the greenhouse gas registry established by the bill. The bill requires EPA to work with the same set of actors to establish this greenhouse gas registry, which will enable companies to register greenhouse gas reductions. Many companies are voluntarily implementing projects to reduce emissions or sequester carbon. The registry would establish a place for companies to be able to put these projects on public record in a consistent and reliable way.

Taken together, these provisions of the bill will accomplish several important goals. First, they will create a reliable record of the sources of greenhouse gas emissions within our economy. This will provide the public and private sector with important information that, if necessary, can be used to identify the most cost-effective ways to reduce greenhouse gas emissions.

Perhaps more importantly, these provisions will provide a powerful incentive for companies to continue to make voluntary greenhouse gas reductions. By requiring emissions reporting, and making that information available to the public, companies may face increased scrutiny with respect to their greenhouse gas emissions. But they will also have a place where they can register their greenhouse gas reductions project in a consistent and uniform way. This will enable companies to demonstrate the actions that they are taking to reduce their emissions, and will assist them in making the case for credits if a mandatory greenhouse gas emission reduction program is ever enacted.

Finally, the bill requires EPA to annually publish a greenhouse gas emissions inventory. This will be a national account of greenhouse gas emissions for our Nation, and will incorporate the information submitted to the greenhouse gas information system and registry. EPA has issued such a report for several years now, and this provision is intended to explicitly authorize and expand the scope of this report.

I know that there are technical challenges associated with measuring greenhouse gas emissions and reductions. But many advances have been made in recent years, often in a cooperative way, with industry, environmental groups and governments at the table. It's my intent that the systems and protocols developed under this bill conform to the best practices that have been and continue to be developed in this fashion.

I urge my colleagues to join with me in this legislation. Let's start taking reasonable steps to address the threat of climate change. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1870

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Greenhouse Gas Emissions Inventory and Registry Act of 2001".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) human activities have caused rapid increases in atmospheric concentrations of carbon dioxide and other greenhouse gases in the last century;

(2) according to the Intergovernmental Panel on Climate Change and the National Research Council—

(A) the Earth has warmed in the last century; and

(B) the majority of the observed warming is attributable to human activities;

(3) despite the fact that many uncertainties in climate science remain, the potential impacts from human-induced climate change pose a substantial risk that should be managed in a responsible manner; and

(4) to begin to manage climate change risks, public and private entities will need a comprehensive, accurate inventory, registry, and information system of the sources and quantities of United States greenhouse gas emissions.

(b) PURPOSE.—The purpose of this Act is to establish a mandatory greenhouse gas inventory, registry, and information system that—

(1) is complete, consistent, transparent, and accurate;

(2) will create accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will encourage greenhouse gas emission reductions.

SEC. 3. GREENHOUSE GAS EMISSIONS.

The Clean Air Act (42 U.S.C. 1701 et seq.) is amended by adding at the end the following:

"TITLE VII—GREENHOUSE GAS EMISSIONS

"SEC. 701. DEFINITIONS.

"In this title:

"(1) COVERED ENTITY.—The term 'covered entity' means an entity that emits more than a threshold quantity of greenhouse gas emissions.

"(2) DIRECT EMISSIONS.—The term 'direct emissions' means greenhouse gas emissions from a source that is owned or controlled by an entity.

"(3) ENTITY.—The term 'entity' includes a firm, a corporation, an association, a partnership, and a Federal agency.

"(4) GREENHOUSE GAS.—The term 'greenhouse gas' means—

"(A) carbon dioxide;

"(B) methane;

"(C) nitrous oxide;

"(D) hydrofluorocarbons;

"(E) perfluorocarbons; and

"(F) sulfur hexafluoride.

"(5) GREENHOUSE GAS EMISSIONS.—The term 'greenhouse gas emissions' means emissions of a greenhouse gas, including—

"(A) stationary combustion source emissions, which are emitted as a result of combustion of fuels in stationary equipment such as boilers, furnaces, burners, turbines, heaters, incinerators, engines, flares, and other similar sources;

"(B) process emissions, which consist of emissions from chemical or physical processes other than combustion;

"(C) fugitive emissions, which consist of intentional and unintentional emissions from—

"(i) equipment leaks such as joints, seals, packing, and gaskets; and

"(ii) piles, pits, cooling towers, and other similar sources; and

"(D) mobile source emissions, which are emitted as a result of combustion of fuels in transportation equipment such as automobiles, trucks, trains, airplanes, and vessels.

"(6) GREENHOUSE GAS EMISSIONS RECORD.—The term 'greenhouse gas emissions record' means all of the historical greenhouse gas emissions and project reduction data submitted by an entity under this title, including any adjustments to such data under section 704(c).

"(7) GREENHOUSE GAS REPORT.—The term 'greenhouse gas report' means an annual list of the greenhouse gas emissions of an entity and the sources of those emissions.

"(8) INDIRECT EMISSIONS.—The term 'indirect emissions' means greenhouse gas emissions that are a consequence of the activities of an entity but that are emitted from sources owned or controlled by another entity.

"(9) National greenhouse gas emissions information system.—The term 'national greenhouse gas emissions information system' means the information system established under section 702(a).

"(10) National greenhouse gas emissions inventory.—The term 'national greenhouse gas emissions inventory' means the national inventory of greenhouse gas emissions established under section 705.

"(11) National greenhouse gas registry.—The term 'national greenhouse gas registry' means the national greenhouse gas registry established under section 703(a).

"(12) Project reduction.—The term 'project reduction' means—

"(A) a greenhouse gas emission reduction achieved by carrying out a greenhouse gas emission reduction project; and

"(B) sequestration achieved by carrying out a sequestration project.

"(13) Reporting entity.—The term 'reporting entity' means an entity that reports to the Administrator under subsection (a) or (b) of section 704.

"(14) Sequestration.—The term 'sequestration' means the long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

"(15) Threshold quantity.—The term 'threshold quantity' means a threshold quantity for mandatory greenhouse gas reporting established by the Administrator under section 704(a)(3).

"(16) Verification.—The term 'verification' means the objective and independent assessment of whether a greenhouse gas report submitted by a reporting entity accurately reflects the greenhouse gas impact of the reporting entity.

"SEC. 702. NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.

"(a) Establishment.—In consultation with the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Energy, States, the private sector, and nongovernmental organizations concerned with establishing standards for reporting of greenhouse gas emissions, the Administrator shall establish and administer a national greenhouse gas emissions information system to collect information reported under section 704(a).

"(b) Submission to Congress of Draft Design.—Not later than 180 days after the date of enactment of this title, the Administrator shall submit to Congress a draft design of the national greenhouse gas emissions information system.

"(c) Availability of Data to the Public.—The Administrator shall publish all information in the national greenhouse gas emissions information system through the website of the Environmental Protection Agency, except in any case in which publishing the information would reveal a trade secret or disclose information vital to national security.

"(d) Relationship to Other Greenhouse Gas Registries.—To the extent practicable, the Administrator shall ensure coordination between the national greenhouse gas emissions information system and existing and developing Federal, regional, and State greenhouse gas registries.

"(e) Integration With Other Environmental Information.—To the extent practicable, the Administrator shall integrate information in the national greenhouse gas emissions information system with other environmental information managed by the Administrator.

"SEC. 703. NATIONAL GREENHOUSE GAS REGISTRY.

"(a) Establishment.—In consultation with the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Energy, States, the private sector, and nongovernmental organizations concerned with establishing standards for reporting of greenhouse gas emissions, the Administrator shall establish and administer a national greenhouse gas registry to collect information reported under section 704(b).

"(b) Availability of Data to the Public.—The Administrator shall publish all information in the national greenhouse gas registry through the website of the Environmental Protection Agency, except in any case in which publishing the information would reveal a trade secret or disclose information vital to national security.

"(c) Relationship to Other Greenhouse Gas Registries.—To the maximum extent feasible and practicable, the Administrator shall ensure coordination between the national greenhouse gas registry and existing and developing Federal, regional, and State greenhouse gas registries.

"(d) Integration With Other Environmental Information.—To the maximum extent practicable, the Administrator shall integrate all information in the national greenhouse gas registry with other environmental information collected by the Administrator.

"SEC. 704. REPORTING.

"(a) Mandatory Reporting to National Greenhouse Gas Emissions Information System.—

"(1) Initial reporting requirements.—

"(A) In general.—Not later than April 30, 2003, in accordance with this paragraph and the regulations promulgated under section 706(e)(1), each covered entity shall submit to the Administrator, for inclusion in the national greenhouse gas emissions information system, the greenhouse gas report of the covered entity with respect to—

"(i) calendar year 2002; and

"(ii) each greenhouse gas emitted by the covered entity in an amount that exceeds the applicable threshold quantity.

"(B) Required elements.—Each greenhouse gas report submitted under subparagraph (A)—

"(i) shall include estimates of direct stationary combustion source emissions;

"(ii) shall express greenhouse gas emissions in metric tons of the carbon dioxide equivalent of each greenhouse gas emitted;

"(iii) shall specify the sources of greenhouse gas emissions that are included in the greenhouse gas report;

"(iv) shall be reported on an entity-wide basis and on a facility-wide basis; and

"(v) to the maximum extent practicable, shall be reported electronically to the Administrator in such form as the Administrator may require.

"(C) Method of reporting of entity-wide emissions.—Under subparagraph (B)(iv), entity-wide emissions shall be reported on the bases of financial control and equity share in a manner consistent with the financial reporting practices of the covered entity.

"(2) Final reporting requirements.—

"(A) In general.—Not later than April 30, 2004, and each April 30 thereafter (except as provided in subparagraph (B)(vii)), in accordance with this paragraph and the regulations promulgated under section 706(e)(2), each covered entity shall submit to the Administrator the greenhouse gas report of the covered entity with respect to—

"(i) the preceding calendar year; and

"(ii) each greenhouse gas emitted by the covered entity in an amount that exceeds the applicable threshold quantity.

"(B) Required elements.—Each greenhouse gas report submitted under subparagraph (A) shall include—

"(i) the required elements specified in paragraph (1);

"(ii) estimates of indirect emissions from imported electricity, heat, and steam;

"(iii) estimates of process emissions described in section 701(5)(B);

"(iv) estimates of fugitive emissions described in section 701(5)(C);

"(v) estimates of mobile source emissions described in section 701(5)(D), in such form as the Administrator may require;

"(vi) in the case of a covered entity that is a forest product entity, estimates of direct stationary source emissions, including emissions resulting from combustion of biomass;

"(vii) in the case of a covered entity that owns more than 250,000 acres of timberland, estimates, by State, of the timber and carbon stocks of the covered entity, which estimates shall be updated every 5 years; and

"(viii) a description of any adjustments to the greenhouse gas emissions record of the covered entity under subsection (c).

"(3) Establishment of threshold quantities.—For the purpose of reporting under this subsection, the Administrator shall establish threshold quantities of emissions for each combination of a source and a greenhouse gas that is subject to the mandatory reporting requirements under this subsection.

"(b) Voluntary Reporting to National Greenhouse Gas Registry.—

"(1) In general.—Not later than April 30, 2004, and each April 30 thereafter, in accordance with this subsection and the regulations promulgated under section 706(f), an entity may voluntarily report to the Administrator, for inclusion in the national greenhouse gas registry, with respect to the preceding calendar year and any greenhouse gas emitted by the entity—

"(A) project reductions;

"(B) transfers of project reductions to and from any other entity;

"(C) project reductions and transfers of project reductions outside the United States;

"(D) indirect emissions that are not required to be reported under subsection (a)(2)(B)(ii) (such as product transport, waste disposal, product substitution, travel, and employee commuting); and

"(E) product use phase emissions.

"(2) Types of activities.—Under paragraph (1), an entity may report activities that reduce greenhouse gas emissions or sequester a greenhouse gas, including—

"(A) fuel switching;

"(B) energy efficiency improvements;

"(C) use of renewable energy;

"(D) use of combined heat and power systems;

"(E) management of cropland, grassland, and grazing land;

"(F) forestry activities that increase carbon stocks;

"(G) carbon capture and storage;

"(H) methane recovery; and

"(I) carbon offset investments.

"(c) Adjustment Factors.—

"(1) In general.—Each reporting entity shall adjust the greenhouse gas emissions record of the reporting entity in accordance with this subsection.

"(2) Significant structural changes.—

"(A) In general.—A reporting entity that experiences a significant structural change in the organization of the reporting entity (such as a merger, major acquisition, or divestiture) shall adjust its greenhouse gas emissions record for preceding years so as to maintain year-to-year comparability.

"(B) Mid-year changes.—In the case of a reporting entity that experiences a significant structural change described in subparagraph (A) during the middle of a year, the greenhouse gas emissions record of the reporting entity for preceding years shall be adjusted on a pro-rata basis.

"(3) Calculation changes and errors.—The greenhouse gas emissions record of a reporting entity for preceding years shall be adjusted for—

"(A) changes in calculation methodologies; or

"(B) errors that significantly affect the quantity of greenhouse gases in the greenhouse gas emissions record.

"(4) Organizational growth or decline.—The greenhouse gas emissions record of a reporting entity for preceding years shall not be adjusted for any organizational growth or decline of the reporting entity such as—

"(A) an increase or decrease in production output;

"(B) a change in product mix;

"(C) a plant closure; and

"(D) the opening of a new plant.

"(5) Explanations of adjustments.—A reporting entity shall explain, in a statement included in the greenhouse gas report of the reporting entity for a year—

"(A) any significant adjustment in the greenhouse gas emissions record of the reporting entity; and

"(B) any significant change between the greenhouse gas emissions record for the preceding year and the greenhouse gas emissions reported for the current year.

"(d) Quantification and Verification Protocols and Tools.—

"(1) In general.—The Administrator and the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall jointly work with the States, the private sector, and nongovernmental organizations to develop—

"(A) protocols for quantification and verification of greenhouse gas emissions;

"(B) electronic methods for quantification and reporting of greenhouse gas emissions; and

"(C) greenhouse gas accounting and reporting standards.

"(2) Best practices.—The protocols and methods developed under paragraph (1) shall conform, to the maximum extent practicable, to the best practice protocols that have the greatest support of experts in the field.

"(3) Incorporation into regulations.—The Administrator shall incorporate the protocols developed under paragraph (1)(A) into the regulations promulgated under section 706.

"(4) Outreach program.—The Administrator, the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall jointly conduct an outreach program to provide information to all reporting entities and the public on the protocols and methods developed under this subsection.

"(e) Verification.—

"(1) Provision of information by reporting entities.—Each reporting entity shall provide information sufficient for the Administrator to verify, in accordance with greenhouse gas accounting and reporting standards developed under subsection (d)(1)(C), that the greenhouse gas report of the reporting entity—

"(A) has been accurately reported; and

"(B) in the case of each project reduction, represents actual reductions in greenhouse gas emissions or actual increases in net sequestration, as applicable.

"(2) Independent third-party verification.—A reporting entity may—

"(A) obtain independent third-party verification; and

"(B) present the results of the third-party verification to the Administrator for consideration by the Administrator in carrying out paragraph (1).

"(f) Enforcement.—The Administrator may bring a civil action in United States district court against a covered entity that fails to comply with subsection (a), or a regulation promulgated under section 706(e), to impose a civil penalty of not more than $25,000 for each day that the failure to comply continues.

"SEC. 705. NATIONAL GREENHOUSE GAS EMISSIONS INVENTORY.

"Not later than April 30, 2002, and each April 30 thereafter, the Administrator shall publish a national greenhouse gas emissions inventory that includes—

"(1) comprehensive estimates of the quantity of United States greenhouse gas emissions for the second preceding calendar year, including—

"(A) for each greenhouse gas, an estimate of the quantity of emissions contributed by each key source category;

"(B) a detailed analysis of trends in the quantity, composition, and sources of United States greenhouse gas emissions; and

"(C) a detailed explanation of the methodology used in developing the national greenhouse gas emissions inventory; and

"(2) a detailed analysis of the information reported to the national greenhouse gas emissions information system and the national greenhouse gas registry.

"SEC. 706. REGULATIONS.

"(a) In General.—The Administrator may promulgate such regulations as are necessary to carry out this title.

"(b) Best Practices.—In developing regulations under this section, the Administrator shall seek to leverage leading protocols for the measurement, accounting, reporting, and verification of greenhouse gas emissions.

"(c) National Greenhouse Gas Emissions Information System.—Not later than January 31, 2003, the Administrator shall promulgate such regulations as are necessary to establish the national greenhouse gas emissions information system.

"(d) National Greenhouse Gas Registry.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to establish the national greenhouse gas registry.

"(e) Mandatory Reporting Requirements.—

"(1) Initial reporting requirements.—Not later than January 31, 2003, the Administrator shall promulgate such regulations as are necessary to implement the initial mandatory reporting requirements under section 704(a)(1).

"(2) Final reporting requirements.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to implement the final mandatory reporting requirements under section 704(a)(2).

"(f) Voluntary Reporting Provisions.—Not later than January 31, 2004, the Administrator shall promulgate such regulations and issue such guidance as are necessary to implement the voluntary reporting provisions under section 704(b).

"(g) Adjustment Factors.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to implement the adjustment factors under section 704(c).".

Mr. JEFFORDS. Mr. President, we are now near the end of the first session of the 107th Congress. It has been an exceedingly long and difficult year. There have been many changes, surprises and tragedies.

One politically significant event that particularly dismayed me was the President's modification of his campaign pledge to reduce emissions of four major pollutants, sulfur dioxide, nitrogen oxides, mercury and carbon dioxide, emitted by power plants. In March, he wrote to several Senators telling them he would no longer support mandatory emissions reductions for carbon dioxide, an important greenhouse gas. This struck me as a return to a 1950s-style energy and environmental policy.

On a more optimistic role, however, that reversal and the administration's unilateral withdrawal and disengagement from the international negotiations to implement the United Nations Framework Convention on Climate Change and the Kyoto Protocol has created more interest and activity on this matter than ever on Capitol Hill and in the media.

Now, many Members are asking themselves whether Congress should just proceed without the Administration. In fact, the Daschle-Bingaman energy legislation contains a significant climate change title that does just that. This subject will contain to receive a great deal of attention in the Environment and Public Works Committee and elsewhere as we try to implement through statute our existing national commitment to reduce greenhouse gas emissions to 1990 levels.

Today, I am joining with Senators Corzine and Lieberman in introducing a bill to amend the Clean Air Act to require reporting of greenhouse gas emissions from major sources and to create a voluntary registry for those sources to document their emissions reduction efforts. This new system will be maintained and operated by the Environmental Protection Agency, which has the greatest Federal agency experience and capability in monitoring enforcing and tracking air emissions. The information generated by this system will be of great assistance in developing a national trading system in carbon emission credits. The U.S. is a global leader in the creation and operation of such systems and must not lag behind doors in the international community.

We have been waiting some time for the Administration to make known the results of its climate change policy review and for a constructive multi-pollutant legislative proposal. There is no question that the terrible events of September 11, have had a devastating effect on our citizenry and the government. But, we are a great nation and the Federal Government must be capable of working on a variety of domestic and international fronts, even in the face of great adversity. There are few, if any, environmental issues more compelling than global warming and its effects.

As many Senators may recall, Congress and the previous Bush Administration worked together and were very productive during the Gulf War on many pieces of environmental legislation, not the least of which was the Clean Air Act Amendments of 1990. That was a different time, but that situation demonstrates that given the right level of attention and resources, we can accomplish a great deal working together even under stressful circumstances.

The Administration's unilateral approach to this important subject is puzzling. The U.S. is responsible for approximately 25 percent of the total carbon loading to the atmosphere. This man-made pollution is leading to a warming of the entire planet through the greenhouse effect, according to the National Academy of Sciences. Surely, we should do our share to reduce these emissions to protect our environmental and economy, and our global neighbors. That is the most certain way to protect our long-term interests and reduce the impacts of proceeding with business as usual.

We have asked a great deal of our friends across the globe as part of our response to terrorism, particularly of our friends in the European Union. We must not forget that they too have an agenda for the international community and that agenda includes concerted action on climate change. Ignoring that agenda for too long may create unnecessary trade and tariff barrier problems for U.S. goods and services. Already, the pending adoption of the Kyoto Protocol in European Union countries and elsewhere poses, complex accounting and trade issues for U.S. multi-nationals operating in Annex I countries.

The Administration's silence on this clearly growing problem is also puzzling. The National Oceanic and Atmospheric and the World Meteorological Organization say that 2001 will be the second warmest year on record since records have been kept in the mid-1800s. Recently, the Washington Post reported on the New England Regional Assessment of the Potential Consequence of Climate Variability and Change.

The Assessment, which is one of the many regional assessments being conducted pursuant to the Global Change Research Act of 1990, found that the Northeast's climate is likely to become hotter and more flood-prone. The region may see a 6–9 degrees fahrenheit overall temperature increase over the next 100 hundreds due to the global warming caused by greenhouse gas emissions. This would cause sugar maples to disappear from Vermont forests, threaten coastal areas with rising sea levels, exacerbate existing air pollution problems and harm cold-weather-dependent industries like skiing.

There are varying claims about the economic effects related to global warming and climate change. Effects that will occur beyond the normal economic forecasting period are difficult to determine. But, some studies have suggested that when a doubling of atmospheric CO_2 occurs, sometime in the next 50–70 years according to most models, the cost to the U.S. economy could be between 0.3 percent–6 percent of GDP in 2000 dollars. While the nature of the exact impacts of climate change on forestry, construction, hydropower, and agriculture are disputed, most sectors will see losses, according to studies for the U.S. Environmental Protection Agency, Pennsylvania Academy of Science, Oak Ridge National Laboratory, Massachusetts Institute of Technology, Yale University, Pew Center on Global Climate Change, and the Institute for International Economics.

These effects can be lessened by purposeful and strong leadership in the Congress and the White House. We have the technological ability to revolutionize our use of fossil fuels through efficiency and process changes, and to radically increase our production of renewable energy in all forms. These steps can dramatically and cost-effectively reduce carbon emissions in the near term, according to studies done by the Department of Energy and various think-tanks. However, we must do something soon to stimulate that revolution.

Providing information on waste generation and release into the environment has been a great success of the Toxic Release Inventory. Educating the public and the market about wasteful behavior has stimulated major emissions reductions. The bill we are introducing today should be similarly successful in promoting innovation and efficiency in all major carbon emitting sectors, in addition to preparing the appropriate infrastructure for a national carbon credit trading system.

Early in the next session, the Senate Environment and Public Works Committee will mark up S. 556, the Clean Power Act, which requires reductions in greenhouse gas emission from the power generating sector. That sector's emissions have risen approximately 26 percent above 1990 levels and are expected to grow 1.8 percent annually without some Federal action. This is well beyond our international treaty commitments on a sector basis. The majority of those facilities are already required to report their carbon dioxide emissions to EPA.

I am hopeful that we can proceed with a tri-partisan, consensual markup of the Clean Power Act. But, two elements may preclude our ability to achieve some agreement. First, the Administration may go forward with proposals to modify the New Source Review, NSR, program. This possibility gravely concerns me and other Members of the Committee, given the lack of transparency in the Administration's proceedings on the pending NSR enforcement actions and the "consistency" review by the Department of Justice. And, second, perhaps more importantly, there is a distinct lack of constructive engagement with the Committee on a multi-pollutant bill or any clear progress on an Administration proposal.

Next year promises to be very busy in the energy and environmental policy arena. We cannot afford to simply recreate the debates that occurred during the Energy Policy Act of 1992. We know the world to be a much different place now and fraught with greater and more complex dangers like global warming. It would be irresponsible in the extreme for Congress or the White House to take actions that increase, rather than decrease, the likelihood of those dangers.

I look forward to working with the Administration and my colleagues on a variety of actions to make progress in adapting to the climate change we have already caused and on reducing greenhouse gas emissions to prevent greater future damage that our great-grandchildren will have to face.

I ask unanimous consent to print the article to which I referred in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 17, 2001]

NORTHEAST SEEN GETTING BALMIER

(By Michael Powell)

NEW YORK.—New England's maple trees stop producing sap. The Long Island and Cape Cod beaches shrink and shift, and disappear in places. Cases of heatstroke triple.

And every 10 years or so, a winter storm floods portions of Lower Manhattan, Jersey city and Coney Island with seawater.

The Northeast of recent historical memory could disappear this century, replaced by a hotter and more flood-prone region where New York could have the climate of Miami and Boston could become as sticky as Atlanta, according to the first comprehensive federal studies of the possible effects of global warming on the Northeast.

"In the most optimistic projection, we will end up with a six- to nine-degree increase in temperature," said George Hurtt, a University of New Hampshire scientist and co-author of the study on the New England region. "That's the greatest increase in temperature at any time since the last Ice Age."

Commissioned by Congress, the separate reports on New England and the New York region explore how global warming could affect the coastline, economy and public health of the Northeast. The language is often technical, the projections reliant on middle-of-the-road and sometimes contradictory predictive models.

But the predications are arresting.

New England, where the regional character was forged by cold and long, dark winters, could face a balmy future that within 30 to 40 years could result in increased crop production but also destroy prominent native tree species.

"The brilliant reds, oranges and yellows of the maples, birches and beeches may be replaced by the browns and dull greens of oaks," the New England report concludes. Within 20 years, it says, "the changes in climate could potentially extirpate the sugar maple industry in New England."

The reports' origins date to 1990, when Congress passed the Global Change Research Act. Seven years later, the Environmental Protection Agency appointed 16 regional panels to examine global warming, and how the nation might adapt. These Northeast reports, completed about two months ago, are among the last to be released. (The mid-Atlantic report, which includes Washington, was completed a year go.)

The scientists on the panels employed conventional assumptions, such as an annual 1 percent increase in greenhouse gases in the atmosphere. They conclude that global warming is already occurring, noting that, on average, the Northeast became two degrees warmer in the past century. And they say that the temperature rise in the 21st century "will be significantly larger than in the 20th century." One widely used climate model cited in the report predicted a six-degree increase, the other 10 degrees.

The Environmental Protection Agency summarizes the findings on its Web site.

"Changing regional climate could alter forests, crop yields, and water supplies," the EPA states. "It could also threaten human health, and harm birds, fish, and many types of ecosystems."

Yale economist Robert O. Mendelsohn is more skeptical. He agrees that mild global warming seems likely to continue—but argues that a slightly hotter climate will make the U.S. economy in general, and the Northeast in particular, more rather than less productive. A greater risk comes from spending billions of dollars to slow emissions of greenhouse gases.

"Even in the extreme scenarios, the northern United States benefits from global warming," said Mendelsohn, editor of the forthcoming "Global Warming and the American Economy." "To have New England lead the battle against global warming would be deeply ironic, because it will be beneficial to our climate and economy."

The scientists on the Northeastern panels estimated that Americans have a grace period of a decade or two, during which the nation can adapt before global warming accelerates.

"We will face an increasingly hazardous local environment in this century," said William Solecki, a professor of geography at Montclair State University in New Jersey and a co-author of the climate change report covering the New York metropolitan region. "We're in transition right now to something entirely new and uncertain."

HEAT ISLAND

New York City, the nation's densest urban center, is armored with heat-retaining concrete and stone, and so its median temperature hovers five to six degrees above the regional norm. The city, the New York report predicts, will grow warmer still. Within 70 years, New York will have as many 90-degree days a year as Miami does now.

If temperatures and ozone levels rise, the report says, the poor, the elderly and the young—especially those in crowded, poorly ventilated buildings—could suffer more heatstroke and asthma.

But such problems might have relatively inexpensive solutions, from subsidizing the purchase of air conditioners to planting trees and painting roofs light colors to reflect back heat.

"The experience of southern cities is that you can cut deaths and adapt rather easily," said Patrick Kinney of the Mailman School of Public Health at Columbia University, who authored a section of the report.

Rising ocean waters present a more complicated threat. The seas around New York have risen 15 to 18 inches in the past century, and scientists forecast that by 2050, waters could rise an additional 10 to 20 inches.

By 2080, storms with 25-foot surges could hit New York every three or four years, inundating the Hudson River tunnels and flooding the edges of the financial district, causing billions of dollars in damage.

"This clearly is untenable," said Klaus Jacob, a senior research scientist with Columbia University's Lamont-Doherty Earth Observatory, who worked on the New York report and is an expert on disaster and urban infrastructure. "A world-class city cannot afford to be exposed to such a threat so often."

Jacob recommends constructing dikes and reinforced seawalls in Lower Manhattan, and new construction standards for the lower floors of offices.

Sea-level rise could reshape the entire Northeast coastline, turning the summer retreats of the Hamptons and Cape Cod into landscapes defined by dikes and houses on stilts. Should this come to pass, government would have to decide whether to allow nature to have its way, or to spend vast sums of money to replenish beaches and dunes. Complicating the issue is the fact that some wealthy coastal communities exclude nonresident taxpayers from their beaches.

"Multimillionaires already are armoring their property with sandbags, but they can't do it on their own," said Vivian Gornitz of Columbia's Center for Climate Systems Research, author of the report's section on sea rise. "You would be asking taxpayers to pay for restoring beaches they can never walk on, and they might demand access."

MILD NEW ENGLAND

Farther north, global warming could change flora and fauna, and perhaps the culture itself.

Compared with a century ago, the report notes, ice melts a week earlier on northern lakes. Ticks carrying Lyme disease range north of what scientists once assumed was their natural habitat. Moist, warm winters have led to large populations of mosquitoes, with an accompanying risk of encephalitis and even malaria.

"The present warming trend has led to another growing health problem," the report states, "in the incidence of red tides, fish kills and bacterial contamination."

Hot, dry summer months, the report continues, "are ideal for converting automobile exhaust . . . into ozone." Because winds flow west to east, New England already serves as something of a tailpipe for the nation. The report notes that a study of ozone pollution and lung capacity found that hikers on Mount Washington, New Hampshire's highest peak, ended their treks in worse condition than when they started.

These findings are not definitive. Rising temperatures could exacerbate the effects of harmful ozone—but anti-pollution laws are also cutting emissions.

"There is a little tendency to be alarmist in global warming studies," Kinney said. "We could keep ozone in check."

A warmer New England could help some economic sectors. As oak and hickory replace maples and birch, so commercial forestry might grow. Shorter winters could translate into longer growing seasons, lower fuel bills and less money spent on frost-heaved roads. The foliage and ski industries would suffer, but lingering autumns could bring more tourists and dollars to the coastal towns of Maine and Massachusetts.

"People complain that we'll lose the sugar maple, but 100 years ago, New England was 80 percent farmland," said Yale economist Mendelsohn. "In fact, an entire landscape has shifted in the past 100 years, and most people have no idea it was once so different."

Perhaps—though cold has defined New England for almost 400 years, and some historians caution that the cultural shift could prove disorienting. The region reflects its climate; the literature is austere, the houses stout. For the 19th century naturalists of the region, a clammy southern heat represented moral slackness.

"Surviving winter has become our self-selecting filter," said Vermont archivist Gregory Sanford. "What will we brag about if we live in a temperate zone and go around in Hawaiian shirts and sandals?"

By Mr. ROCKEFELLER:

S. 1871. A bill to direct the Secretary of Transportation to conduct a rail transportation security risk assessment, and for other purposes; to the Committee on Commerce, Science, and Transportation

Mr. ROCKEFELLER. Mr. President, it is my pleasure today to introduce the Safe Rails Act of 2001. This bill will protect the lives of millions of Americans by providing our Nation's freight railroads and hazardous materials shippers with the ability to enhance the security of hazardous materials shipped on the Nation's freight rail network.

The Safe Rails Act will require the Department of Transportation to focus its attention on the significant potential for harm to human health and public safety posed by terrorist attacks on our Nation's freight rail infrastructure. In performing the risk assessment called for in the bill, the Secretary of Transportation will be able to make use of the expertise of the various companies and industries involved in the transportation of hazardous materials. Upon completion of the assessment, the Secretary will administer a 2-year Rail Security Fund to assist railroads and hazardous materials shippers in paying the extraordinary costs associated with their post-September 11 activities to secure rail infrastructure and rolling stock.

Among the painful lessons we have learned from the sad and alarming events of the past three months, one of the most obvious is that security measures for much of our Nation's transportation infrastructure needs immediate improvement. Americans had, for the most part, taken for granted that life in the United States was safe from the senseless violence that occurs all too often elsewhere on the planet. When terrorists used hijacked airlines as missiles against our people, or transformed the mail into a means of spreading illness and death, we awoke in this country to the potential for harm that exists in the misuse of things we depend upon every day.

We depend on few things like we depend on our transportation system. I hope my colleagues in the Senate will agree with me that to adequately protect our homeland security, it is absolutely necessary that Congress, the administration, and the various transportation industries cooperate on a comprehensive evaluation and enhancement of transportation security. I believe we must act soon, and not wait for our ocean-going vessels, our long-haul trucks, or our passenger rail system to be used as tools of terrorist aggression against our fellow citizens.

I have offered this legislation today because the threat to Americans from a terrorist act against a freight railroad carrying hazardous materials may be greater than the threats against all of those other modes combined. Several analyses undertaken even before September 11 point to the chemical industry and the railroads that carry the bulk of its products as likely targets of terrorism. Our economy, and indeed, our public health, depend on the movement of these chemicals. In the days immediately after September 11, for example, a disruption of rail traffic resulted in some major cities having only a few days' supply of water-purifying chlorine at their disposal. It is quite obvious, I believe, that we must safeguard movement of these life-saving, although potentially dangerous, chemicals.

There is legislation before the Senate that would protect the 21 million passengers Amtrak carries every year. I would encourage all my colleagues to support this common-sense legislation. Before we enact that legislation and think we have completed our job, I would just say to my colleagues that the passenger rail traffic in this Nation covers only about one-sixth of the 140,000 miles in the country's freight rail network.

The freight rail network, which passes through or near virtually every small town and large city in the country, carries more than 1.7 million carloads, many millions of tons, of chemicals and other hazardous materials each year. More than 50,000 carloads of "poison by inhalation" chemicals, including chlorine, are transported within a few miles of a huge percentage of our population. It is not my purpose to alarm my colleagues or the public at large. The simple fact is, however, the Safe Rails Act will protect millions of Americans living or working in proximity to the facilities manufacturing these hazardous materials, or the trains carrying them.

Very briefly, the Safe Rails Act would require the Secretary of Transportation to conduct a comprehensive analysis of the security risks on our entire rail system, with special emphasis given to a security needs assessment for the transportation of hazardous materials.

The bill creates a Rail Security Fund, to be administered by the Secretary, to reimburse or defray the costs of increased or new security measures taken by railroads, hazardous materials shippers, or tank car owners, in the wake of the terrorist attacks on September 11. In conducting the required assessments, the Secretary will consult with and may use materials prepared by the railroad, chemical, and tank car leasing industries, as well as any relevant security analyses or assessments prepared by Federal or State law enforcement, public safety, or regulatory agencies.

The Secretary will develop criteria to determine the appropriateness of full or partial reimbursement for various security-related activities. The Secretary may consider, but will not be limited to, using the Fund to help pay for costs incurred due to the following security-related activities: unanticipated rerouting or switching of trains or cargoes, and the express movement of hazardous materials to address security risks; hiring additional manpower required to increase security of the entire rail network, including rail cars on leased track; the purchase of equipment or improved training to enhance emergency response in hazardous materials transportation incidents; improvements in critical communications essential for rail operations and security, including: Development and deployment of global positioning tracking systems on all tank cars transporting high hazard materials; and development of secure network to provide hazardous materials shippers and tank car owners information regarding credible threats to shipments of their products or rolling stock; investment in the physical hardening of critical railroad infrastructure to enable it to withstand terrorist attacks; tank car modifications, or storage of additional tank cars in excess of the number normally stored on-site at shippers' facilities, as mandated by federal regulators; research and development supporting enhanced safety and security of hazardous materials transportation along the freight rail network, including: technology for sealing rail cars; techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; systems to enhance rail car security on shipper property.

Mr. President, the Safe Rails Act is crucially important legislation for the safety and security of our country, and for the protection of human health all along our Nation's rail network. I thank the chairman of the Commerce Committee for his commitment to mark this bill up early next year. I strongly urge the leadership of the Senate to schedule consideration of this legislation early in the next session of the 107th Congress, and I encourage my colleagues to support its passage.

By Mr. SESSIONS (for himself and Mr. HATCH):

S. 1874. A bill to reduce the disparity in punishment between crack and powder cocaine offenses, to more broadly focus the punishment for drug offenders on the seriousness of the offense and the culpability of the offender, and for other purposes; to the Committee on the Judiciary.

Mr. SESSIONS. Mr. President, I send to the desk a bill entitled the Drug Sentencing Reform Act of 2001. This bill provides a measured and balanced approach to improving the statutory and guidelines system that governs the sentencing of drug offenders.

This bill makes two important changes to our Federal sentencing system for drug offenders: First, it reduces the disparity in sentences for crack and powder cocaine from a ratio of 100-to-1 to 20-to-1. It does so by reducing the penalty for crack and increasing the penalty for powder cocaine.

Second, the bill shifts some of the sentencing emphasis from drug quantity to the nature of the criminal conduct, the degree of the defendant's criminality. The bill increases penalties for the worst drug offenders that use violence and employ women and children as couriers to traffic drugs. The bill decreases mandatory penalties on those who play only a minimal role in a drug trafficking offense, such as a girlfriend or child of a drug dealer who receives little compensation.

In short, this bill will make measured and balanced improvements in the current sentencing system to ensure a more just outcome, tougher sentences on the worst and most violent drug offenders and lighter sentences on lower-level, nonviolent offenders.

To understand the changes that I propose, it is necessary to review how we got to the present system.

Prior to the promulgation of the Sentencing Guidelines in 1984, judges in the Federal court system had very broad discretion to sentence drug offenders. Because judges had different views on sentencing, one defendant who committed a crime could receive parole while another defendant guilty of the exact same criminal conduct could receive literally 20 years in prison. See, e.g., United States Sentencing Commission, Guidelines Manual 2 (Nov. 2000).

Further, because of the existence of the parole system, convicts generally served only one-third of the sentence announced by the judge. Id. There was no truth in sentencing. Thus, the old sentencing system lacked uniformity, honesty, and certainty.

In 1984, a bipartisan Congress enacted and President Reagan signed the Sentencing Reform Act as part of the Comprehensive Crime Control Act, Pub. L. No. 98-473, Title II, 98 Stat. 2019 (1984). The Sentencing Reform Act created the Sentencing Commission and instructed it to promulgate sentencing guidelines that would provide more effective, more uniform, and more fair sentences. See generally United States Sentencing Commission, Guidelines Manual 2 (Nov. 2000). As part of this reform, Congress abolished the parole system and substantially reduced good behavior adjustments. Id. at 1.

The Sentencing Commission went to work in studying empirical data on average sentences imposed for various crimes prior to the Sentencing Reform Act. See United States Sentencing Commission, Guidelines Manual 9-10 (Nov. 2000). It then made adjustments for acceptance of responsibility and provision of substantial assistance to the government. Id. at 10.

On April 13, 1987, the Sentencing Commission submitted its first set of Sentencing Guidelines to Congress. See United States Sentencing Commission, Guidelines Manual 1 (Nov. 2000). After the prescribed period, the Guidelines took effect on November 1, 1987, and applied to all offenses committed on or after that date. Id. at 1.

In applying the Guidelines to a particular case, a judge must generally:

1. Determine the base offense level for the offense of conviction;
2. Apply applicable adjustments for the type of victim, the defendant's role in the offense, and whether the defendant obstructed justice;
3. Determine the defendant's criminal history category; and
4. Determine the guideline range based on the defendant's offense level and criminal history category. See U.S.S.G. §1B1.1 (2000).

After all the factors are considered, the judge is required to sentence within a narrow range.

Thus, the promulgation of the Sentencing Guidelines and the repeal of the parole system promoted uniformity, honesty, and certainty in sentencing.

In 1989, in *Mistretta* v. *United States*, 488 U.S. 361 (1989), the Supreme Court upheld the constitutionality of the Sentencing Guidelines. Thus, Federal prosecutors, criminal defense attorneys, and Federal judges have been applying the Sentencing Guidelines for over a decade.

In setting the guideline ranges for particular offenses, the Sentencing Commission has to take into account any minimum or maximum sentences established by Congress.

In 1986, Senator Dole introduced on behalf of the Reagan administration the Drug-Free Federal Workplace Act of 1986. S. 2849, 99th Cong. 2d Sess. §502 (1986). See United States Sentencing Commission, Special Report to Congress: Cocaine and Federal Sentencing Policy 117 (1995). That bill proposed several mandatory minimum sentences for drug trafficking offenses based on the quantity of the drug involved in the offense.

Under the bill, 500 grams of powder cocaine would have triggered a 5-year mandatory minimum, while it would have taken 25 grams of crack to trigger the same 5-year mandatory minimum. This was a 20-to-1 ratio of powder to crack.

Ultimately, Congress passed and President Reagan signed the Omnibus Anti-Drug Abuse Act of 1986 that set tough mandatory minimum sentences for various quantities of illegal drugs. Pub. L. No. 99-570, 100 Stat. 3207 (1986). With respect to cocaine, the law was amended to provide that a 5-year mandatory minimum sentence would be triggered by trafficking just 5 grams of crack cocaine or by trafficking 500 grams of powder—a 100-to-1 ratio. 21 U.S.C. §841(b)(1)(B)(ii) & (iii). A 10-year mandatory minimum sentence was imposed for trafficking 50 grams of crack or 5 kilograms of powder cocaine, again a 100-to-1 ratio. 18 U.S.C. §841(b)(a)(A)(ii) & (iii).

Congress, and those of us in the law enforcement field at the time believed that there was substantial justification for a large differential between crack and powder cocaine. Because crack was cheap, addictive, and believed to serve as a catalyst for crime, Congress wanted to keep it off the streets and out of poor neighborhoods, which were largely minority neighborhoods. Congress sought to accomplish this with stiff penalties. See United States Sentencing Commission, Special Report to Congress: Cocaine and Federal Sentencing Policy 115-21 (1995) (discussing legislative reasons for crack and powder cocaine sentences). Congressman CHARLES RANGEL of New York, stated in 1986:

> We all know that crack is the newest and most insidious addition to the drug culture. It is cheaper than cocaine, and more addictive. Young people who experiment with crack often become habitual users because of its highly concentrated narcotic effect. They become addicts before they know what is happening.—132 Cong. Rec. H3515-02 (1986) statement of Rep. RANGEL).

Congressman RANGEL, who chaired the Select Committee on Narcotics Abuse and Control, called drug dealers

> the entrepreneurs of dealing with the sale of death on the installment plan. (They) have now, in a very sophisticated way, packaged crack which allows our younger people for smaller amounts of money to become addicted.—"Crack," Cocaine Derivative, Called Serious Health Threat, Houston Chronicle, July 16, 1986.

Senator Lawton Chiles of Florida was one of the leaders in the Senate on the fight against crack. He stated:

> The whole Nation now knows about crack cocaine. They know it can be bought for the price of a cassette tape, and make people into slaves. It can turn promising young people into robbers and thieves, stealing anything they can to get the money to feed their habit.—132 Cong. Rec. S 26446, 26447 (1986) (statement of Sen. Chiles).

Senator Chiles also stated with regard to the bill imposing the heavy penalties on crack,

> The Senate bill contained the Democratic three-tiered penalty system which will impose mandatory sentences and large fines against major drug traffickers and kingpins. . . . I am very pleased that the Senate bill recognizes crack as a distinct and separate drug from [powder] cocaine. . . .—132 Cong. Rec. S14270-01 (1986) (statement of Sen. Chiles).

A principal reason for the 1986 crack law was to keep crack from spreading across America and to keep it out of our neighborhoods, especially minority neighborhoods.

Congress continued to follow this line of reasoning in 1988, when it passed and President Reagan signed into law the Anti-Drug Abuse Act. Pub. L. No. 100-690, 102 Stat. 4181 (1988). In addition to the mandatory minimum penalties enacted in 1986 for the trafficking in crack cocaine and other drugs, this act added a mandatory minimum sentence of 5 years for the simple possession of crack cocaine. 21 U.S.C. §844.

Mandatory minimum sentences at the Federal and State levels for various crimes have generally been successful. They have reflected the seriousness with which we as a society take certain crimes and they have reduced crime by keeping recidivist criminals off the streets for longer periods of time. A 1982 Rand study reported that some repeat offenders committed 232 burglaries per year and some committed 485 thefts per year. See Jan M. Chaiken & Marcia R. Chairken, Varieties of Criminal Behavior 44 (Rand 1982). By locking up these repeat offenders, we could prevent a crime a day in some cases.

This effort to lock up the worst offenders has resulted in a substantial increase in Federal and State prison populations. In fact, since 1990 our State and Federal prison populations have increased by a total of 79 percent. See Bureau of Justice Statistics, Prisoners in 2000 1 (2001).

And mandatory minimums did not operate alone. We also made progress in reducing drug use, a cause of crime, down to very low levels. With solid leadership and antidrug education programs we drove drug use by young people down. The University of Michigan's Monitoring the Future Study showed that drug use among 12th grade school children dropped by 76 percent from 1986 to 1992. Lloyd D. Johnston, et al.

Monitoring the Future: National Results on Adolescent Drug Use 14 (Univ. of Mich. 2000).

This dual approach of locking up recidivists and reducing drug use drove crime rates down. From 1990 to 1999, the crime index offenses reported by the FBI, including property crimes and violent crimes, fell to their lowest level since 1973. See Federal Bureau of Investigation, Crime in the United States—1999 6(2000) (stating that crime index offenses for 1999 were the lowest since 1973); Federal Bureau of Investigation, Uniform Crime Reports 2000 1(2001), stating that during 2000, crime index offenses remained stable. Thus, the War on Drugs and the War on Crime that began in the mid and late 1980s bore fruit in the 1990s.

That the system put in place in the 1980s produced good results in general, does not mean that it is perfect. With respect to drug sentencing in particular, the primary focus of the mandatory minimums and the Sentencing Guidelines on quantity has resulted in a blunt instrument that data now shows is in need of refinement.

Since the establishment of mandatory minimums for drug trafficking, the Bureau of Prisons published a study on the recidivism of federal prisoners convicted for various offenses. Federal Bureau of Prisons, Recidivism Among Federal Prison Releases in 1987: A Preliminary Report (1994). For those prisoners convicted of general drug crimes and released after serving their terms, 34.2 percent were rearrested within 3 years. Id. at 12. For those convicted of firearm and explosive crimes, 48.6 percent were rearrested. Id. For those who committed crimes against the person, such as robbery or violent assault, 65 percent were rearrested. Id. Thus, possession of dangerous weapons and violence appear to be better indicators of recidivism than the quantity of drugs possessed or distributed.

The 1986 mandatory minimums based on the quantity of crack cocaine sold or possessed, while appropriately reflecting that drug's more serious effects, failed to keep crack off the streets. The use of crack had grown rapidly in the early and mid-1980s and by 1987 and 1988, crack was available across America, including my home town of Mobile, AL, and small towns all over Alabama. See, e.g., Lloyd D. Johnston, et al. Monitoring the Future: National Results on Adolescent Drug Use 16 (Univ. of Mich. 2000) (noting that crack use grew rapidly from 1983–1986); James Coates & Robert Blau, Big-City Gangs Fuel Growing Crack Crisis, Chicago Tribune, Sept. 13, 1989, at C1, noting that crack use began in Fort Wayne, IN, in 1986 and spread rapidly through that city. Though the tough penalties did not stop the geographical spread of crack, they did, in my opinion, play a role in slowing the rate of increase in use that would have occurred without the tough penalties.

The mandatory minimums for crack were intended to protect minority neighborhoods from the spreading influence of crack. Still, the tough penalties for crack created the appearance of racial bias because the distributors and users of crack are largely African-American.

Parenthetically, let me note that criminal statutes, as they are written, are not biased, they simply required punishment for those who break them regardless of race, sex, nationality, or religion. Thus, just because more males commit Federal crimes than females, it is not unfair or sexist to punish males with all the severity society concludes is necessary to stop or reduce crimes that both sexes commit. See United States Sentencing Commission, 2000 Sourcebook of Federal Sentencing Statistics 15 (Table 5) (reporting that 85.7 percent of Federal offenders are male and 14.3 percent are female).

Because everyone knows that crack carries heavy penalties, I cannot conclude that it is discriminatory to punish all who possess or distribute it with equal severity. My experience does lead me to conclude, however, that where an overwhelming majority of those convicted of crack offenses are African-American, and the penalties for crack offenses are the most severe, we should listen to fair-minded people who argue that these sentences fall too heavily on African-Americans.

One of the facts used in the argument for changing crack sentences is the percentage of crack defendants that are African-American. In 1995, the Sentencing Commission issued report showing that of the defendants convicted for crack cocaine offenses, 88.2 percent were African-American. United States Sentencing Commission, Cocaine and Federal Sentencing Policy 152 (1995). Of the persons sentenced for powder cocaine offenses, 32 percent where white, 27.4 percent African-American, and 37 percent Hispanic, Id.

This generated stories in newspapers, like one from the Birmingham Post-Herald that reported:

> At first, many of the nation's black leaders supported the hard line against drugs. Inner-city church ministers decried the crack epidemic that seemed to blaze through their neighborhoods. But as the disparities in jail sentences became increasingly obvious, support for the policy dried up among many blacks. . . ."—Thomas Hargrove, *Drug's Form Influences Length of Sentence*, Birmingham Post-Herald, Nov. 17, 1997, at A1, A9 (describing differences in punishments for crack and powder cocaine).

As data from the Sentencing Commission became available during the mid-1990s, many federal and state officials, including myself, began to doubt whether the 100-to-1 ratio between powder and crack cocaine continued to be justifiable.

We in the public service asked ourselves: "If in light of our experience, we can conclude that crack sentences are disproportionately severe, why should we not act to improve them?"

In 1995 and 1997, the Sentencing Commission unanimously concluded that the crack-powder disparity was no longer justified. See United States Sentencing Commission, Cocaine and Federal Sentencing Policy 198–200 (1995); United States Sentencing Commission, Special Report to the Congress: Cocaine and Federal Sentencing Policy 2 (1997).

Moreover, in 1995, the Sentencing Commission, most of the members of which are federal judges, passed two amendments to the Guidelines to reduce the disparity in sentences between crack and powder cocaine. Specifically, the amendments would have adopted a starting point for the guidelines of equal amounts of crack and powder cocaine—a 1-to-1 ratio at the 500-gram level, and would have provided a sentencing enhancement for violence and other harms associated with crack cocaine. See United States Sentencing Commission, Cocaine and Federal Sentencing Policy 1 (1997). Congress, however, passed and President Clinton signed a law that rejected the amendments and directed the Sentencing Commission to study the issue more thoroughly. Pub. L. No. 104-38, 109 Stat. 334 (1995).

In 1997, the Sentencing Commission responded with a study entitled, "Cocaine and Federal Sentencing Policy." The study recommended a reduction in the crack-powder differential from 100-1 to approximately 5-to-1. United States Sentencing Commission, Cocaine and Federal Sentencing Policy 9 (1997). Specifically, the Commission recommended to Congress that the trigger points for the 5-year mandatory minimum for powder be lowered from 500 grams to a range of 125 to 375 grams and for crack be raised from 5 grams to a range of 25 to 75 grams. Id.

Moreover, some judges who did not sit on the Sentencing Commission began speaking out against the crack-powder differential. See, e.g., Pete Bowles, Judge Known for Unusual Sentences, Newsday, May 22, 1998, at A39 (quoting Judge Jack Weinstein as characterizing the Sentencing Guidelines as "cruel, excessive and unnecessary," and saying, "I simply cannot sentence another impoverished person whose destruction has no discernible effect on the drug trade"). And some have said that judges may have used downward departures more often than they should have to reduce drug sentences to a level that they view as more just. Indeed, Professors Frank Bowman and Michael Heise, citing a downward trend in drug sentences have stated, "a pervasive disposition toward discretionary evasion of Guideline and statutory law has important implications for the ongoing struggle among the courts, the Justice Department, the Congress, and the Sentencing Commission for control of sentencing policy." See Frank O. Bowman III & Michael Heise, Quiet Rebellion? Explaining Nearly a Decade of Declining Federal Drug Sentences, 86 Iowa L. Rev. 1043, 1049–50 (2001).

To date, however, Congress has declined to address the issue. Many say it is because of a fear of being called "soft on crime." Regardless, we can wait no longer. Based on our experience, the strong position of the Sentencing Commission, which is not a "soft on crime" group, and plain fairness, we must act. Congress' refusal to act, in my view, has been unfortunate.

And in light of our experience, we can conclude that crack sentences are disproportionately severe, why should we not act to improve them? To improve these guidelines, to fix them where they are broken, is to strengthen the system, to reduce judicial manipulation, and to restore confidence in the system's fairness.

We must remember, however, that the goals of the drug sentencing are still valid today, to save babies from being addicted to the drugs their mothers take during pregnancy, to save teenagers from wasting their youth on drugs that lead to crime, to save young girls from being forced into prostitution to feed a habit, and to save adults from wasting their lives on nonproductive and damaging drugs.

I challenge any of you to visit a drug court and look at the defendants before and after the drug court program. The transformation from a hopeless criminal on drugs to productive citizen off of drugs will convince anyone of the danger and destructiveness of illegal drugs.

Does an easing of these tough sentences, but not gutting of them, carry risks. Some, but not much:

1. Some will say that it represents proof that the war against drugs is a failure, but as I just explained, the War on Drugs is just as worthy a cause today as it used to be;

2. Some will say that we are less serious, but a balanced reform will treat dangerous crimes more seriously;

3. Some will say that it may ease a bit the pressure a prosecutor can put on a drug dealer to cooperate, but a balanced approach will retain sufficient leverage for a prosecutor to do his job justly;

4. Some will say that heavy sentences have had some ability to reduce distribution, but of course, after a modest decrease the penalties will remain tough.

After thoughtful review, and consideration in light of my own experience in prosecuting drug offense, I have concluded that we must reform the justness of our means to match the legitimacy of our goals. We must restore justness to sentencing for crack trafficking and other drug crimes which will maintain public confidence in the federal government's anti-drug efforts and make those efforts more rational and justifiable.

Today, I propose a bill to make two modest changes to the current sentencing system:

First, the bill will reduce the crack-powder sentencing disparity from the current 100-to-1 ratio to a 20-to-1 ratio—the same ratio proposed by the Reagan Administration in 1986. This bill would trigger the 5-year mandatory minimum sentence for trafficking at 20 grams of crack—not 5 grams—and at 400 grams of powder cocaine—not 500 grams. The 10-year mandatory minimum would be triggered by trafficking 200 grams of crack and by trafficking 4 kilograms of powder.

The reduction in the amount of powder cocaine required to trigger the mandatory minimum from 500 grams to 400 grams reflects that 400 grams is almost a pound of cocaine—a large amount—worth well over $10,000. Also, this increase in the penalty for powder cocaine reflects that powder cocaine is imported and used as the raw material used to make crack. United States Sentencing Commission, Special Report: Cocaine and Federal Sentencing Policy vi (1995). Finally, the increased penalty responds to the powder cocaine use rates among high school students.

According to the University of Michigan Study entitled Monitoring the Future, powder cocaine use among 12th grade students had risen by 61.3 percent from 1992 to 2000, although there was a slight decline from 1999 to 2000. Further, more than twice as many 12th grade students used powder cocaine than crack in 1992 and in 2000.

12TH GRADERS DRUG USE

[In percent]

Drug	1992	2000	Change
Powder	3.1	5.0	61.3
Crack	1.5	2.2	46.7
Percent Greater	106.7		127.2

See Lloyd D. Johnston, Monitoring the Future: National Results on Adolescent Drug Use 14 (Univ. of Mich. 2000) (Table 2).

We need to discourage those who are dealing powder cocaine to our high school students and those who are providing a supply market of powder cocaine that enable the manufacture of crack. This bill does this by providing a small increase in the penalty for powder cocaine.

The bill's decrease in the penalty for crack reflects that a principal reason for creating the much more severe sentence on crack, to prevent the spread of crack use, has failed. Crack is used throughout America.

The bill's approach of narrowing, but not eliminating, the sentencing disparity between crack and powder cocaine by changing the penalties for both drugs parallels the 1997 Sentencing Commission recommendation of increasing penalties and decreasing penalties on crack. United States Sentencing Commission, Special Report to Congress: Federal Sentencing Policy 9 (1997). Further, it is consistent with the bipartisan Act of Congress that President Clinton signed in 1995 rejecting the Sentencing Commission's attempt to equalize the penalties for crack and powder cocaine. That act stated, "the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking a like quantity of powder cocaine." Pub. L. No. 104–38, 104th Cong. 1st Sess. §2(a)(1)(A) (1995). The bill changes the penalties for crack and powder to reduce the 100-to-1 disparity, but retains a reasonable distinction, a 20-to-1 ratio, between crack and powder.

The bill also reduces the 5-year mandatory minimum penalty for the simple possession of 5 grams of crack to just 1 year. This reflects that crack is a more serious drug than most other drugs, but that the sentence need not be unjustifiably harsh.

Second, the bill increases emphasis on defendant's criminality, as opposed to a heavy emphasis on the quantity of drug involved. This bill requires a sentencing enhancement for violence or possession of a firearm, or other dangerous weapon, associated with a drug trafficking offense. This reflects that use of a dangerous weapon or violent action results in higher recidivism rates than drug use along. See Federal Bureau of Prisons, Recidivism Among Federal Prison Releases in 1987: A Preliminary Report 12 (1994).

Further, the bill requires an additional enhancement if the defendant is an organizer, leader, manager, or supervisor in the drug trafficking offense and a "superaggravating" factor applies. Superaggravating factors include using a girlfriend or child to distribute drugs, maintaining a crack house, distributing a drugs to minor, an elderly person, or a pregnant woman, bribing a law enforcement official, importing drugs in the United States from a foreign country, or committing the drug offense as a part of a pattern of criminal conduct engaging in as a livelihood. These sentencing enhancements will apply to offenses involving cocaine, methamphetamines, marijuana, and all illegal drugs.

Aside from the girlfriend factor, many of the superaggravating factors are already available in certain cases. The bill would employ these punishments in drug cases as sentencing enhancements, instead of statutory penalties, thus allowing a Federal prosecutor to obtain the tougher penalty by proving the superaggravating criminal conduct by a preponderance of the evidence rather than beyond a reasonable doubt. Further, the bill will make some enhancements easier to establish. For example instead of proving that a victim had a particular vulnerability to a crime, a prosecutor could simply show that the victim was 16 years old.

The offenders to which these sentencing enhancements apply are the most culpable members of the drug trade that prey on young women, school children, and the elderly, and bring violence into our neighborhoods. Their sentences should reflect the criminality of their conduct, not simply the quantity of drugs with which they are caught.

While providing sentencing increases for the worst offenders, the bill limits the impact of mandatory minimums on the least dangerous offenders. The bill caps the drug quantity portion of a sentence for a defendant who plays a minimal role at 10 years, base offense level 32 under the Sentencing Guidelines. This is very significant because couriers, who are often low-level participants in a drug organization, can have disproportionate sentences of 20 or 30 years simply because they are caught with a large amount of drugs in their possession. By capping the impact of drug quantity on the minimal role offenders, the bill allows a greater role for the criminality, or lack of criminality, of their conduct in determining their ultimate sentence.

For example, the bill provides a decrease for the super-mitigating factor of the girlfriend or child who plays a minimal role in the offense. These are often the most abused victims of the drug trade, and we should not punish them as harshly as the drug dealer who used them.

Existing adjustments could then be made for factors such as the role in the offense, acceptance of responsibility, and provision of substantial assistance to the government.

The bill also establishes a 3-year pilot program for placing elderly, nonviolent prisoners in home detention in lieu of prison. It allows the Attorney General to designate 1 or more Federal prisons at which prisoners who meet the following criteria could be placed in home detention.

The prisoner: 1. is at least 65 years old; 2. has served the greater of 10 years or one-half of his sentence; 3. has never committed a Federal or State crime of violence; 4. is not determined by the Bureau of Prisons to have a history of violence or to have committed a violent infraction while in prison; and 5. has not escaped or attempted to escape.

My experience tells me, that elderly prisoners who are nonviolent and who have served a substantial amount of their sentence generally pose no threat to the community. Removing them from prison and placing them in home detention could save the federal government money and free up space to house the most dangerous criminals.

The bill, however, would require an independent study on recidivism and cost savings. At the end of 3 years, Congress could decide whether to continue or expand the pilot program.

There are those on the Left of the political spectrum who want to substantially restrict or even repeal mandatory minimums for some drug offenders and oppose all drug penalty increases. I firmly disagree with such an approach. The Sentencing Guidelines and mandatory minimum statutes have been a critical component of a criminal justice system that treats equal conduct equally. It increases deterrence because criminals know they will not be able to talk themselves out of jail. It is a great system. By following the balanced approach that I have proposed, we improve the guidelines and improve sentencing. My goal is to have our sentencing system consistently impose the right sentence to incapacitate, deter, punish, and rehabilitate the criminal. Because Congress has set the rules, we must act to improve them. The courts cannot do it for us.

There are those on the Right side of the political spectrum, however, who do not want to decrease any drug penalty whatsoever. While I respect their view, I can not embrace it. The mandatory minimums have been in effect since 1986 and the Sentencing Guidelines have been in effect since 1987. We are not in a position to reflect on what the effects have been.

As we have seen from experience, the 100-to-1 disparity in sentencing between crack cocaine and power cocaine, which falls the hardest on African-Americans, is not justifiable. See, e.g., 145 Cong. Rec. S. 14452–14453 (1999), (statement of Sen. SESSIONS,to-1 ratio is a movement in the right direction," but questioning whether solely increasing penalties on crack was justifiable). It is simply unjust.

Further, the focus of the drug sentencing system on quantity of drugs, which has sent the girlfriends of drug dealers, who act as mere couriers, to prison for long terms, should be adjusted to increase the emphasis on the criminality of conduct. This will free up prison space for violent drug offenders.

Trust me on this. The federal drug sentences are tough. In practice—as they play out in actual time served, they are tougher than any State drug sentences that I know of. This legislation will in no way change the seriousness with which drugs are taken. Please know that I will resist with all the force I can muster any attempt to destroy or undermine the integrity or effectiveness of the Sentencing Guidelines. This bill simply targets the toughest sentences to those who deserve it most.

The Drug Sentencing Reform Act of 2001 takes a measured and balanced approach to modifying the sentencing system that we have used for over a decade. By increasing penalties on the worst offenders and decreasing penalties on the least dangerous offenders, we will increase the focus of our law enforcement resources on the drug traffickers that endanger our families and decrease the focus on those defendants who pose less danger.

I commend this bill to my colleagues to study and debate. I challenge them to cast aside the politics of the Left and the Right and to support this bill on the merits as a matter of plain, simple justice.

Mr. HATCH. Mr. President, I rise today to speak briefly on the legislation that my good friend from the State of Alabama, Senator SESSIONS, has introduced today. That legislation, the "Drug Sentencing Reform Act of 2001," addresses the disparity between sentences handed down to those who traffic in power cocaine and those who traffic in crack cocaine. I am proud to cosponsor this bill, and I hope that we can promptly act on it when we return next year.

This legislation provides a balanced and measured solution to the disparity problem without undermining our efforts to pursue relentlessly those who make their living peddling these poisons. At the same time that we reduce the crack-powder sentence ratio from 100 to 1 to 20 to 1 and reduce sentences for girlfriends and children who play truly minimal roles in drug crimes, we increase sentences for those who play leadership roles in trafficking organizations. The bill also increases sentences for those who use firearms or violence in carrying out their drug crimes.

As a former federal prosecutor, United States Attorney, and Attorney General of Alabama, Senator SESSIONS is uniquely qualified to lead the Senate on this issue. Since at least 1998, he has done just that. Both in the Judiciary Committee and on the floor of the Senate, Senator SESSIONS has worked tirelessly to bring about a more just sentencing structure for cocaine offenses. This legislation represents the right approach, and it deserves the support of all of my colleagues.

By Mrs. CLINTON (for herself, Mr. SMITH of Oregon, Mr. STEVENS, Mr. SPECTER, Mrs. BOXER, Mr. FITZGERALD, Mr. SCHUMER, and Mr. DODD):

S. 1876. A bill to establish a National Foundation for the Study of Holocaust Assets; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SMITH of Oregon. Mr. President, I am proud to introduce with Senator CLINTON, the Holocaust Victims' Assets Restitution Policy and Remembrance Act. This legislation will create a public/private Foundation dedicated to educating and to completing the necessary research in the area of Holocaust-era assets and restitution policy and to promote innovative solutions to restitution issues. The Foundation is authorized for ten years at a cost of

$100 million, after which it will sunset and "spin off" its research results and materials to private entities. It is able to accept private funds as well as public dollars.

The need for the Foundation comes from the work of the Presidential Advisory Commission on Holocaust Assets in the United States. I was proud to have served as a Commissioner along with several of my colleagues in the Senate. The Commission identified a number of policy initiatives that require U.S. leadership, including: further research and review of Holocaust-era assets in the United States and world-wide; providing for the dissemination of information about restitution programs; creating a simple mechanism to assist claimants in obtaining resolution of claims; and, supporting a modern database of Holocaust victims' claims for the restitution of personal property.

The Commission determined that "our government performed in an unprecedented and exemplary manner in attempting to ensure the restitution of assets to victims of the Holocaust. However, even the best intentioned and most comprehensive policies were unable, given the unique circumstances of the time, to ensure that all victims' assets were restituted."

I believe this Foundation will provide a focal point for work between Federal and State governments to cross-match property records with lists of Holocaust victims. It will work with the museum community to further stimulate provenance research into European paintings and Judaica. It will promote and monitor the implementation by major banking institutions of the agreement developed in conjunction with the New York Bankers Association. Finally, it will work with the private sector to develop and promote common standards and best practices for research on Holocaust-era assets.

I look forward to working with my colleagues in creating this Foundation to finish the work of the Holocaust Assets Commission. I urge all my colleagues to co-sponsor this important legislation that will solve restitution issues and engender needed research on Holocaust assets in the United States.

By Mr. HARKIN:

S. 1877. A bill to clarify and reaffirm a cause of action and Federal court jurisdiction for certain claims against the Government of Iran; to the Committee on Foreign Relations.

Mr. HARKIN. Mr. President, we all remember the dark days of the Iran hostage crisis between 1979 and 1981. Fifty-two Americans were taken hostage in the U.S. Embassy in Tehran and held in captivity by the Ayatollah Khomeini and his followers for the ensuing 444 days in the newly-established Islamic Republic of Iran. They were brutalized by their captors and the pain and suffering of these brave Americans and their families throughout that ordeal cannot be over-estimated.

A constituent of mine, Ms. Kathryn Koob, from Waverly, IA, is one of two women former hostages who endured this nightmarish experience. Last December, she joined the other 51 American heroes taken hostage and their families in filing a lawsuit in the Federal District Court of the District of Columbia seeking redress of this grievous miscarriage of justice and payment by the Government of Iran for the damages and injuries they incurred. If these plaintiffs are successful, the Federal courts could order payment from Iranian cash and assets still frozen in the United States.

Incredibly, the U.S. Justice and State Departments in mid-October and, at the latest possible hour, intervened in this case, *Roeder v. the Islamic Republic of Iran*, seeking to vacate the Federal judge's default judgment in favor of the former hostages and their families and to have this lawsuit dismissed altogether. De facto the Bush Administration is siding with the Government of Iran and against our own people who were taken hostage and treated so cruelly during the Embassy takeover. How could this be, especially when we are united as a Nation in a war against terrorism and the U.S. State Department itself continues to document and declare the Government of Iran as the number one state sponsor of terrorism in the world today?

The Government of Iran has never had to pay one cent to any of the Americans taken hostage or their families. If U.S. Justice and State Department attorneys get their way, the Government of Iran will never have to pay anything and the hostages and their families will never be given their day in Federal court to pursue justice and be awarded compensation.

That is why I am today introducing legislation, The Justice for Former U.S. Hostages in Iran Act, to prevent this grave injustice from being compounded. My bill would reaffirm the clear intent of this Congress expressed in four prior enactments and make crystal clear that this group of hostages and their families have the right to pursue their Federal lawsuit to its rightful conclusion and to be eligible to receive compensatory damage awards from the Government of Iran, should the Federal courts so determine on the merits.

The position of the U.S. Justice and State Departments, contrary to the claims and interests of the American hostages and their families, is that the U.S. Government must honor a little-known executive agreement called the Algiers Accords that Presidents Carter and Reagan entered into in January, 1981 in order to get our hostages released from captivity inside Iran. The Algiers Accords, among other provisions, required the U.S. to immediately transfer to Iran through Algeria $7.9 billion in frozen assets in exchange for the freedom of our people. But also buried in the fine print of the Algiers Accords is one very specific provision which singularly strips the hostages and their families of their rights and flatly prohibits any of them from ever being able to sue the Government of Iran and make that regime pay for their pain and suffering. Ironically, under the terms of the Algiers Accords, U.S. companies can take the Iranians before an international tribunal at The Hague and recover damages for their lost property, but the Americans actually taken hostage and their families alone, are prohibited from doing the same. This is patently unfair to those American heroes and their families who suffered the most from this hellish experience.

The Algiers Accords is not a treaty. It was never submitted to the Senate for ratification for obvious reasons. It is a shabby executive agreement that was negotiated under extreme duress and entered into between the executive branch of our government and the Government of Iran because the Government of Iran, at that time, was daily threatening otherwise to put all of our hostages on trial in Iran as "spies" and to execute them. In fact, the Algiers Accords, from their inception, have functioned as little more than a ransom pact with kidnappers acting in the name and under the sponsorship of the Government of Iran.

Last week, the Federal judge hearing this case expressed a reluctance to make a final judgment and to order the Government of Iran to pay damages unless the Congress takes further legislative action to clearly and irrefutably abrogate the Algiers Accords insofar as necessary to allow the Americans held hostage and their families to sue in federal court and recover damages from the Government of Iran. The next court proceeding is this unresolved matter has been scheduled for January 14.

I appeal to my colleagues on both sides of the aisle to co-sponsor this legislation with a sense of urgency and fairness. Unless the Congress acts promptly to reaffirm and clarify our prior enactments, the U.S. Justice and State Departments will block the only path still open to the hostages and their families to pursue justice, to get a federal court judgment against the Government of Iran for its brutal and criminal misconduct, and to require this on-going state sponsor of international terrorism to pay for the pain, suffering and injuries they inflicted on Kathryn Koob and these other courageous Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL COURT JURISDICTION OF CERTAIN CLAIMS AGAINST THE GOVERNMENT OF IRAN.

(a) CAUSE OF ACTION.—Notwithstanding the Algiers Accords, any other international agreement, or any other provision of law, a former Iranian hostage or immediate relative thereof shall have a cause of action for money damages against the Government of Iran for the hostage taking and any death, disability, or other injury (including pain and suffering and financial loss) to the former Iranian hostage resulting from the former Iranian hostage's period of captivity in Iran.

(b) JURISDICTION OF THE FEDERAL COURTS.—Notwithstanding the Algiers Accords, any other international agreement, or any other provision of law, no United States court shall decline to hear or determine on the merits a claim under subsection (a) against the Government of Iran.

(c) DEFINITIONS.—In this section:

(1) ALGIERS ACCORDS.—The term "Algiers Accords" means the Declarations of the Government of the Democratic and Popular Republic of Algeria concerning commitments and settlement of claims by the United States and Iran with respect to resolution of the crisis arising out of the detention of 52 United States nationals in Iran, with Undertakings and Escrow Agreement, done at Algiers January 19, 1981.

(2) FORMER IRANIAN HOSTAGE.—The term "former Iranian hostage" means any United States personnel held hostage in Iran during the period of captivity in Iran.

(3) IMMEDIATE RELATIVE.—The term "immediate relative" means, with respect to a former Iranian hostage, the parent, spouse, son, or daughter of the former Iranian hostage.

(4) PERIOD OF CAPTIVITY IN IRAN.—The term "period of captivity in Iran" means the period beginning on November 4, 1979, and ending on January 20, 1981.

(d) EFFECTIVE DATE.—This section shall apply to—

(1) any action brought before the date of enactment of this Act and being maintained on such date; and

(2) any action brought on or after the date of enactment of this Act.

By Mrs. HUTCHISON (for herself and Mr. BINGAMAN):

S. 1878. A bill to establish programs to address the health care needs of residents of the United States-Mexico Border Area, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HUTCHISON. Mr. President, I rise today to introduce the U.S./Mexico Border Health Improvement Act. The issue of public health along the U.S./Mexico Border is as vast and varied as the 2000-mile Border itself. With the enactment of the NAFTA agreement, and the tremendous growth in population in the region, the Border represents, for both countries, the area of both greatest potential and enormous challenge. From San Yisidro to Brownsville, and from Tijuana to Matamoros, over 10 million people call the Border region home. At the same time, the U.S. Border population is growing three times as fast as the rest of the Nation's, and the population of Mexico's border cities is expected to double over the next decade. For this reason, I am pleased to be joined by Senator BINGAMAN to offer legislation on the critical issue of improving U.S./Mexico Border Health.

The Border region is like a "top ten" list of substandard living conditions: the highest poverty rate; the lowest education rate; highest unemployment; worst environmental degradation; and the worst record for all major public health indicators.

The statistics are mind-numbing, but it is the sad reality of the human suffering and of the individuals, families, and communities behind those numbers that is so heart wrenching. Diabetes, HIV, hepatitis, tuberculosis, and birth defects all remain disproportionately and unacceptably high. Meanwhile, childhood immunizations, screenings, health education, and the ratio of health care providers to the general population all remain unacceptably low.

This legislation that I offer today provides for a comprehensive border health program to address this woeful situation that includes the creation of an office of Border Health within Health and Human Services, authorizations for community health centers, and dental outreach programs. This bill also directs the Secretary of Health and Human Services to recruit and retain quality members of the National Health Service Corps for service in the border region, while requesting authorization for the recruitment, training and retaining of bilingual health professionals, "promotor(a)s."

As a member of the United States Senate, I have worked very hard to improve the health of Border residents in the short term, but more important, to putting in place the infrastructure and institutions necessary to ensure a good, healthful life for our Nation's people well into the twenty-first century.

I commend the Senator from New Mexico for his support on this issue, and I urge other Senators to join us in this effort.

I ask unanimous consent the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States/Mexico Border Health Improvement Act of 2001".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States-Mexico Border Area is the area located in the United States within 100 kilometers of the border between the United States and Mexico.

(2) In the United States, the United States-Mexico Border Area encompasses 46 counties in California, Arizona, New Mexico, and Texas.

(3) Presently, the United States-Mexico Border Area is experiencing explosive population growth. In the United States, this region currently has 11,500,000 residents. However, this number is expected to exceed 22,000,000 by the year 2025. The population of the region in Mexico is growing at an ever faster rate. In total, the population of the communities in both countries is expected to double between the years 2020 and 2025.

(4) With 11,500,000 residents and a 2,000-mile expanse, the United States-Mexico Border Area has the population and size of a State of the United States. If the region was such a State, it would rank—

(A) last in access to health care;

(B) second in death rates (due to hepatitis);

(C) third in deaths related to diabetes;

(D) first in the number of tuberculosis cases;

(E) first in schoolchildren living in poverty; and

(F) last in per capita income.

(5) In addition to the specific health problems listed in paragraph (5), hundreds of thousands of Area residents also each day face increased health risks due to being exposed to the polluted water, soil, and air of the region.

(6) Every county in the United States-Mexico Border Area in the United States has at least a partial health professional shortage area designation. Twenty-five percent of such counties have severe shortages and lack adequate primary care physicians. The shortage of dentists is also severe in many Area localities.

(7) According to GAO, the United States-Mexico Border Area contains hundreds of colonias. Colonias are substandard developments that typically lack running water, sewerage systems, and electricity. Many of the residents of colonias are migrant farmworker families.

(8) Due to the poor living conditions in the colonias, the United States-Mexico Border Area has a much higher rate of waterborne infectious diseases. The occurrence of hepatitis A, for example, is 3 times the national rate, and the occurrence of salmonella and shigella dysentery occur is 2 to 4 times the national rate.

SEC. 3. DEFINITIONS.

In this Act:

(1) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States within 100 kilometers of the border between the United States and Mexico.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. OFFICE OF BORDER HEALTH.

(a) IN GENERAL.—There is established within the Department of Health and Human Services an Office of Border Health (referred to in this section as the "Office").

(b) DIRECTOR.—The Secretary shall appoint a Director of the Office to administer and oversee the functions of such Office.

(c) AUTHORITY.—In overseeing the Office, the Secretary, acting through the Director—

(1) shall be responsible for the overall direction of the Office and for the establishment and implementation of general policies respecting the management and operation of programs and activities of the Office;

(2) shall establish programs and activities to study and monitor border health service delivery in general, the coordination of Federal and State and Federal and local border health activities, the health education available for border residents, existing outreach for residents and the success of such outreach, health service activities, particularly prevention, and early intervention activities, and any other activity that the Secretary determines is appropriate to improve the health of United States-Mexico Border Area residents, including the health of Native American tribes located within the primary Area;

(3) shall review Federal public health programs and identify opportunities for collaboration with other Federal, State, and local efforts to address border health issues;

(4) shall coordinate activities with the United States-Mexico Border Health Commission and State offices;

(5) shall award grants to States, local governments, nonprofit organizations, or other eligible entities as determined by the Secretary, in the United States-Mexico border area to address priorities and recommendations established by—

(A) the United States-Mexico Border Health Commission on a binational basis, including the Healthy Border 2010 Program Objectives; and

(B) the Director, to improve the health of border region residents;

(6) shall award grants to programs that seek to improve the health care of Area residents, with priority given to applicants such as the Health Resources and Services Administration and other applicants that seek to provide telemedicine and telehealth services; and

(7) shall collaborate with appropriate counterparts in Mexico to coordinate actions and programs to improve health for residents of the United States-Mexico border area.

(d) Report.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report describing Federal health programs' limitations in addressing United States-Mexico Border Area health concerns and recommending solutions to better address such concerns.

(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 5. UNITED STATES-MEXICO BORDER AREA ENVIRONMENTAL HEALTH PROGRAM.

(a) In General.—The Secretary shall award grants to eligible entities as determined by the Secretary to establish environmental health hazard programs for the United States-Mexico Border Area.

(b) Priority.—In awarding grants under this section, the Secretary shall give priority to eligible entities that propose to establish and carry out programs that address environmental health hazards in the United States-Mexico Border Area for pregnant women and children.

(c) Duties.—An eligible entity that receives a grant under this section, shall use funds received through such grant to—

(1) establish an environmental health program that addresses health hazards along the United States-Mexico Border Area;

(2) identify and eliminate environmental health hazards;

(3) coordinate its program with any environmental health programs, if applicable, administered by the Environmental Protection Agency, the National Institute of Environmental Health Sciences, the International Consortium for the Environment (ICE), other relevant Federal, State, and local agencies, and nongovernmental organizations;

(4) recruit and train health professionals and environmental health specialists to identify and address environmental health hazards in the United States-Mexico Border Area; or

(5) support State and local public health, food safety, and building inspection agencies to reduce environmental health hazards, including hazards existing in or around private residences in the United States-Mexico Border Area.

(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 6. COMMUNITY HEALTH CENTERS.

Part D of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

"SEC. 330I. UNITED STATES-MEXICO BORDER AREA GRANTS.

"(a) In General.—The Secretary shall award grants to eligible entities as determined by the Secretary to establish community health centers in medically underserved areas of the United States-Mexico Border Area.

"(b) Definitions.—The term "United States-Mexico Border Area" means the area located in the United States within 100 kilometers of the border between the United States and Mexico.

"(c) Duties.—An eligible entity that receives a grant under this section shall establish and fund community health centers in medically underserved areas of the United States-Mexico Border Area, and as designated by the Secretary.

"(d) Application.—An eligible entity desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.".

SEC. 7. NATIONAL HEALTH SERVICE CORPS.

Subpart II of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by adding at the end the following:

"SEC. 339. UNITED STATES-MEXICO BORDER HEALTH SERVICE CORPS.

"(a) In General.—The Secretary shall establish a loan repayment program and recruit National Health Service Corps members to provide health services for United States-Mexico Border Area residents in exchange for participation in such program.

"(b) Preference.—In selecting Corps members to participate, the Secretary shall give preference to pediatricians and pediatric specialists who are fluent in English and Spanish, and to applicants who agree to serve along the United States-Mexico Border Health Area for at least 2 years.

"(c) Program.—

"(1) In general.—The Secretary shall establish a loan repayment program described in subsection (a).

"(2) Contract.—Under such program, the Secretary shall enter into written agreements with individuals selected by the Secretary to provide the health services described in subsection (a) in exchange for the Secretary providing payment for the individual for the principal, interest, and related expenses on government and commercial loans received by the individual regarding the graduate or undergraduate education of the individual (or both).

"(3) Payment for years served.—For every 2 years of service that an individual contracts to serve under this section the Secretary may pay for 1 year of educational expenses, including tuition, living expenses, and any other such reasonable educational expenses.

"(d) United States-Mexico Border Area.—The term "United States-Mexico Border Area" means the area located in the United States within 100 kilometers of the border between the United States and Mexico.

"(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.".

SEC. 8. PROMOTOR(A) GRANT PROGRAMS.

(a) Program Authorized.—The Secretary shall award grants to eligible entities to establish promotor(a) programs to recruit, train, and retain bilingual lay health advisers to provide culturally appropriate health education and other services for medically underserved populations in the United States-Mexico Border Area.

(b) Definition.—The term "eligible entity" means a school of public health, an academic health sciences center, a Federally qualified health center, a public health agency, a border health office, or a border health education training center or any other entity determined by the Secretary that is located in or that serves the United States-Mexico Border Area.

(c) Duties.—An eligible entity that receives a grant under this section shall, in addition to the duties described in subsection (a), develop bilingual promotor(a) and other border-specific health training programs.

(d) Application.—An eligible entity desiring a grant under this section, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 9. GRANTS FOR DISTANCE LEARNING.

(a) Program Authorized.—The Secretary shall award grants to United States-Mexico Border Area State and local health agencies, community health centers, and other appropriate organizations to fully participate in the provider education distance learning/information dissemination network of the Health Services and Resources Administration.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 10. PREVENTION AND TREATMENT OF HIV/AIDS.

(a) Program Authorized.—The Secretary shall carry out a study to review agency activities regarding reducing the spread of HIV/Aids affecting the residents in the United States-Mexico Border Area.

(b) Coordinations.—In carrying out such study, the Secretary shall coordinate activities with the appropriate Federal and State agencies and with appropriate agencies in Mexico to develop early intervention and treatment efforts to curb the spread of HIV/AIDS.

(c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 11. PREVENTION AND TREATMENT OF TUBERCULOSIS.

(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a study to review agency activities regarding reducing the spread of tuberculosis, particularly multi-drug resistant tuberculosis, affecting the residents in the United States-Mexico Border Area.

(b) COORDINATION.—In carrying out such study, the Secretary shall coordinate activities with the Immigration and Naturalization Service and other appropriate Federal and State agencies and with appropriate agencies in Mexico to develop diagnosis, detection, and early intervention and treatment efforts to curb the spread of tuberculosis, particularly multi-drug resistant tuberculosis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 12. CHILDREN'S HEALTH INSURANCE PROGRAM.

The Secretary shall establish a targeted campaign of public education and awareness in the United States-Mexico Border Area that is culturally relevant to the residents of that Area.

SEC. 13. INTERVENTION AND TREATMENT GRANTS.

(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to eligible entities as determined by the Secretary to carry out intervention and treatment programs for diabetes.

(b) USE OF FUNDS.—An entity that receives a grant under this section shall use funds received through such grant to—

(1) develop intervention programs oriented towards increasing access to diabetes health care;

(2) increase venues and opportunities for physical activity and exercise in the border area;

(3) address obesity as a risk factor for diabetes, especially in juvenile populations;

(4) improve health choices in school nutrition; and

(5) develop diabetes networks and coalitions to encourage communities to address diabetes risk factors.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 14. CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) PROGRAM AUTHORIZED.—The Centers for Disease Control and Prevention shall establish a National Border Health Databank (referred to in this section as the "Databank") to gather and retain data and other information on the health of United States-Mexico Border Area residents and on past, present, and emerging health issues in such Area.

(b) CONTENT.—The Databank shall include an Epidemiological Information System that shall be linked, where feasible, to all relevant State and local health agencies and other relevant national and international health organizations.

(c) AVAILABILITY OF DATA.—All information gathered and retained by the Databank shall, where practicable, be made available for the public via the Internet. The Centers for Disease Control and Prevention shall publish no less than quarterly a publication reporting on activities, studies, and trends regarding United States-Mexico Border Area health issues, including, the resources available from the Databank.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 15. CENTER FOR DISEASE CONTROL PREVENTION.

(a) PROGRAM AUTHORIZED.—There is established within the Centers for Disease Control and Prevention a Border Health Surveillance Network (referred to in this section as the "Network").

(b) DUTIES.—The Network shall—

(1) carry out activities to develop and electronically link the health surveillance, assessment, and response capabilities of the Centers for Disease Control and Prevention and all border State and local health agencies; and

(2) award grants to State and local public health agencies, medical schools, schools of public health, Border Health Education Training Centers, or other entities as determined by the Secretary located in or serving the United States-Mexico Border Area for the development of border health epidemiology training programs and to build upon the existing Health Alert Network, the Information Network for Public Health Officials, the Border Infectious Disease Surveillance ("BIDS") Project, and a Noncommunicable Disease Surveillance System.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 16. BORDER AREA BREAST AND CERVICAL CANCER SCREENING.

Section 1501 of the Public Health Service Act (42 U.S.C. 300k) is amended by adding at the end the following:

"(e) SPECIAL CONSIDERATION FOR BORDER AREA RESIDENTS.—In making grants under subsection (a), the Secretary shall set-aside certain funds described in give special consideration to any State that proposes to increase the number of United States-Mexico Border Area residents who are screened for breast and cervical cancer.".

SEC. 17. GRANTS FOR BORDER AREA HEALTH TESTING.

(a) IN GENERAL.—The Director of the Centers for Disease Control and Prevention shall award grants to United States-Mexico Border Area State and local health agencies to upgrade public health laboratories and conduct rapid tests for disease organisms and toxic chemicals.

(b) COORDINATION.—A State or local health agency that receives a grant under this section shall, to the extent possible, coordinate its activities carried out with funds received under this section with activities carried out under programs administered by the National Laboratory Training Network.

(c) APPLICATION.—A State or local health agency desiring a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 18. HEALTH PROMOTION ACTIVITIES.

(a) IN GENERAL.—The Secretary shall establish new, comprehensive guidelines for community- and family-oriented prevention and health promotion activities focused on Guidelines under The Healthy Border 2010 Guidelines. The Director shall disseminate these guidelines in both English and Spanish to all United States-Mexico Border Area health professionals, utilizing all available tools, including the CDC Prevention Guidelines Database.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 19. GENERAL ACCOUNTING OFFICE.

(a) PROGRAM AUTHORIZED.—The General Accounting Office shall conduct a comprehensive study of Federal and Federal and State border health programs.

(b) CONTENT.—The study described in subsection (a) shall review border health care programs to determine the manner in which such programs may be improved. Such study shall also review any problematic limitations of medicare and medicaid programs in serving United States-Mexico Border Area residents.

(c) REPORT.—Not later than 1 year after the date of enactment of this section, the General Accounting Office shall prepare and submit to Congress a report describing the findings of the study described in subsection (a) and recommending certain courses of action to improve such border health care programs, with particular emphasis on recommendations for improving Federal and State and Federal and local coordinations. Such report shall also make recommendations for changes with regard to medicare and medicaid payment laws and policies for telemedicine and telehealth activities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 20. AGENCY FOR HEALTH CARE RESEARCH AND QUALITY.

(a) IN GENERAL.—The Agency for Health Care Research and Quality shall conduct a comprehensive study of border health needs, trends, and areas of needed improvement and shall utilize border academic institutes to carry out such study and share the results of such study with such institutes.

(b) CONTENT.—The study described in subsection (a) shall study the health needs of United States-Mexico Border Area residents and—

(1) residents' access to health care services;

(2) communicable disease control in the Area;

(3) environmental problems in the Area that contribute to health care problems;

(4) health research being done on residents' health care needs;

(5) make recommendations regarding environmental improvements that may be made to improve health conditions of Area residents; and

(6) make recommendations regarding long range plans to improve the quality and availability of health care of Area residents.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 21. GRANTS TO INCREASE RESOURCES FOR COMMUNITY WATER FLUORIDATION.

(a) IN GENERAL.—The Secretary, acting through the Director of the Division of Oral Health of the Centers for Disease Control and Prevention, may make grants to Southwestern border States or localities for the purpose of increasing the resources available for community water fluoridation.

(b) USE OF FUNDS.—A State or locality shall use amounts provided under a grant under subsection (a)—

(1) to purchase fluoridation equipment;

(2) to train fluoridation engineers; or

(3) to develop educational materials on the advantages of fluoridation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 22. COMMUNITY WATER FLUORIDATION.

(a) IN GENERAL.—The Secretary, acting through the Director of the U.S. Mexico Border Health Commission and the Director of the Centers for Disease Control and Prevention, shall establish a demonstration project that is designed to assist rural water systems in Texas, New Mexico, Arizona and California in successfully implementing the Centers for Disease Control and Prevention water fluoridation guidelines entitled "Engineering and Administrative Recommendations for Water Fluoridation" (referred to in this section as the "EARWF").

(b) REQUIREMENTS.—

(1) COLLABORATION.—The Director of the U.S. Mexico Border Health Commission shall collaborate with the Director of the Centers for Disease Control and Prevention in developing the project under subsection (a). Through such collaboration the Directors shall ensure that technical assistance and training are provided to sites located in each of the 4 States referred to in subsection (a). The Director of the U.S. Mexico Border Health Commission shall provide coordination and administrative support to tribes under this section.

(2) GENERAL USE OF FUNDS.—Amounts made available under this section shall be used to assist small water systems in improving the effectiveness of water fluoridation and to meet the recommendations of the EARWF.

(3) FLUORIDATION SPECIALISTS.—

(A) IN GENERAL.—In carrying out this section, the Secretary shall provide for the establishment of fluoridation specialist engineering positions in each of the Dental Clinical and Preventive Support Centers through which technical assistance and training will be provided to tribal water operators..

(B) CDC.—The Director of the Centers for Disease Control and Prevention shall appoint individuals to serve as the fluoridation specialists.

(4) IMPLEMENTATION.—The project established under this section shall be planned, implemented and evaluated over the 5-year period beginning on the date on which funds are appropriated under this section and shall be designed to serve as a model for improving the effectiveness of water fluoridation systems of small rural communities.

(c) EVALUATION.—In conducting the ongoing evaluation as provided for in subsection (b)(4), the Secretary shall ensure that such evaluation includes—

(1) the measurement of changes in water fluoridation compliance levels resulting from assistance provided under this section;

(2) the identification of the administrative, technical and operational challenges that are unique to the fluoridation of small water systems;

(3) the development of a practical model that may be easily utilized by other tribal, State, county or local governments in improving the quality of water fluoridation with emphasis on small water systems; and

(4) the measurement of any increased percentage of Southwestern border residents who receive the benefits of optimally fluoridated water.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 23. COMMUNITY-BASED DENTAL SEALANT PROGRAM.

(a) IN GENERAL.—The Secretary, acting through the Director of the Maternal and Child Health Bureau of the Health Resources and Services Administration, may award grants to eligible entities determined by the Secretary to provide for the development of innovative programs utilizing mobile van units to carry out dental sealant activities to improve the access of children to sealants as well as for prevention and primary care.

(b) USE OF FUNDS.—An entity shall use amounts received under a grant under subsection (a) to provide funds to eligible community-based entities to make available a mobile van unit to provide children in second or sixth grade with access to dental care and dental sealant services. Such services may be provided by dental hygienists so long as a formalized plan for the referral of a child for treatment of dental problems is established.

(c) ELIGIBILITY.—To be eligible to receive funds under this section an entity shall—

(1) prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require; and

(2) be a community-based entity that is determined by the Secretary to provide an appropriate entry point for children into the dental care system and be located within 100 kilometers of the United States Mexico Border.

(d) COORDINATION WITH OTHER PROGRAMS.—An entity that receives funds from a State under this section shall serve as an enrollment site for purposes of enabling individuals to enroll in the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or in the State Children's Health Insurance Program under title XXI of such Act (42 U.S.C. 1397aa et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 24. UNITED STATES HISPANIC NUTRITION EDUCATION AND RESEARCH CENTER.

(a) ESTABLISHMENT.—The Secretary shall establish a United States Hispanic Nutrition Education and Research Center (referred to in this section as the "Center") at a regional academic health center.

(b) PURPOSE.—The general purpose of the Center shall be to undertake nutrition research and nutrition education activities that sustain and promote the health of United States Hispanics, particularly those United States Hispanics in the United States-Mexico Border Area. The Center shall serve as a national clearinghouse for research, and for data collection and information dissemination on nutrition in the United States Hispanic population. In addition, the Center shall serve as an educational resource on United States Hispanic nutrition for students, universities, and academic and research institutions throughout the United States.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1879. A bill to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Mr. President, I am pleased today to introduce the "Russian River Land Act". The purpose of this legislation is to ratify an agreement that settles a land ownership issue at the Russian River on the Kenai Peninsula in Alaska between the U.S. Forest Service, the U.S. Fish and Wildlife Service, and Cook Inlet Region, Inc., CIRI, an Alaska Native Corporation.

The legislation ratifies an agreement reached between CIRI and the agencies after three years of negotiations and it covers the lands at the confluence of the Kenai and Russian Rivers in Alaska.

The area surrounding the confluence of the Russian and Kenai Rivers is rich in archaeological cultural features. It is also the site of perhaps the most heavily used public sports fishery in Alaska. Because of the archaeological resources at Russian River, Cook Inlet Region, Inc., made selections at Russian River under the section of the Alaska Native Claims Settlement Act that allowed for selections of historical places and cemetery sites. The lands at the confluence are managed in part by the U.S. Forest Service and in part by the U.S. Fish and Wildlife Service.

Seeking to protect the public's access to the sport fishery at Russian River, the two federal agencies and Cook Inlet Region, Inc., reached an agreement that requires the Federal legislation in order to become effective. Because this agreement provides for continuing ownership and management by the two Federal agencies of the vast majority of lands at Russian River, the public's right to continue fishing remains unchanged from its current status.

I congratulate the U.S. Forest Service, the Fish and Wildlife Service and CIRI for finding a way to fulfill the intent of the Alaska Native Claims Settlement Act in a way that fully protects the interests of the public. I also congratulate all three parties on reaching final accord on the longstanding unresolved issue of land ownership at Russian River.

By Mr. WELLSTONE:

S. 1880. A bill to provide assistance for the relief and reconstruction of Afghanistan, and for other purposes; to the Committee on Foreign Relations.

Mr. WELLSTONE. Mr. President, I am introducing the Afghanistan Freedom and Reconstruction Act of 2001. This legislation is a comprehensive framework for U.S. bilateral and multilateral assistance for the humanitarian relief and long-term reconstruction and rehabilitation of Afghanistan. It is a companion to H.R. 3427, introduced by Representatives LANTOS and ACKERMAN in the House.

The last pockets of Taliban resistance are being routed, and the new interim administration of Afghanistan is set to assume power in Kabul in 2 days. Freedom is returning to Afghanistan. Its men and women are listening to music again and women are leaving their homes unescorted, cautiously optimistic about their future after enduring years of repressive rule.

Now is the time for decisive action by Congress and by the administration to demonstrate to the people of Afghanistan and throughout the Muslim world that the war against the al-Qaida and the Taliban was neither a war against Muslims, nor against ordinary Afghans. The United States has led the effort to eliminate the terrorist network in Afghanistan, and now it must lead the peace effort by helping the Afghan people reclaim their country and rebuild their lives.

The United States did not live up to its commitment to the Afghan people after the Soviets were defeated in the 1980s. I regret to say we walked away. If we break or commitment again, Afghanistan is likely to remain an isolated incubator of terrorist activities, and regional instability will continue. We would not now be focused on Afghanistan had the events of September 11 not occurred. Those horrific events have driven home the truth that the indivisibility of human security is not just an empty slogan, but a fact, which we ignore at our peril.

The causes of the Afghan tragedy include nearly all the horrors that stalk failed states: meddling and invasion by neighboring states, internecine warfare leading to a takeover by brutal fanatics, oppression of a majority of the population, especially women and, finally, the Taliban's fateful decision to host international terrorists.

The cures for Afghanistan's agony are less obvious, but one is clear. The rival political and ethnic groups must take advantage of the historic opportunity that emerged in Bonn and make a genuine commitment to the peaceful sharing of power. They must establish a government broad and effective enough to meet the basic needs of the people. The same narrow-minded factionalism that originally left the country vulnerable to backward mullahs, greedy warlords and predatory neighbors continues to pose a threat to the country now.

One other thing is clear: the United States must lead the international community in moving quickly and decisively in a long-term commitment to the reconstruction of Afghanistan. The people of Afghanistan have endured 23 years of war and misery. The conflict has threatened international stability and placed enormous burdens on the people's limited means. The Bush administration has said that it will not let Afghanistan descend into chaos. But, talk is not enough. We must act by committing significant resources. We must show Afghans that our commitments are not hollow. We must show genuine solidarity and real generosity now.

It is time to reverse more than a decade of neglect. The United States, in partnership with the international community, must be willing to make a multi-year, multinational effort to rebuild Afghanistan. Current estimates of the cost of assisting Afghanistan range from $5 billion over 5 years to $40 billion over a decade. The United States should be the lead financial contributor to the rehabilitation and reconstruction effort in Afghanistan, and we believe should contribute as much as $5 billion to this effort over the next 5 years.

The reconstruction effort must focus on education, particularly for girls, which has proven to give the greatest return for each assistance dollar. Creation of secular schools will help break the stranglehold of extremism and allow both boys and girls to make positive contributions to the development of their society. The effort must also focus on rebuilding basic infrastructure, repairing shattered bridges and roads, removing land mines, reconstructing irrigation systems and drilling wells. We must also rebuild the health infrastructure by establishing basic hospitals and village clinics.

Over the past few months, I have held a series of hearings in the Senate Foreign Relations Committee's Subcommittee on Near Eastern and South Asia Affairs regarding the humanitarian and reconstruction needs of Afghanistan. Based on these hearings, I am convinced we must help the Afghan people live in a society where they can feed their children, live in safety and participate fully in their country's development regardless of gender, religious belief or ethnicity.

The Afghan Freedom and Reconstruction Act of 2001 does just that. That bill:

Expresses a sense of Congress on the U.S. policy towards Afghanistan, including promoting its independence, supporting a broad-based, multi-ethnic, gender-inclusive, fully representative government, and maintaining a significant U.S. commitment to the relief, rehabilitation and reconstruction of Afghanistan.

Authorizes $400 million for humanitarian assistance to Afghanistan in fiscal year 03, including $75m for refugee assistance and $175m for food aid.

Authorizes such sums as may be necessary for a multinational security force in Afghanistan, in fiscal year 02 and fiscal year 03.

Authorizes $1.175 billion for rehabilitation and reconstruction assistance for fiscal years 2002–2006, to be distributed by USAID, with conditions for each year to ensure that benchmarks laid out in the December 5, 2001, Bonn Agreement between the various Afghan factions are being met; assistance for agriculture, health care, education, vocational training, disarmament and demobilization, and anticorruption and good governance programs; a special emphasis on assistance to women and girls; a report on assistance actually provided; and authority to provide some of this assistance through a multilateral fund and/or international foundation.

Authorizes the President to furnish such sums as may be necessary to finance a multilateral fund or international foundation, to assist in security, rehabilitation, and reconstruction efforts in Afghanistan, as described above.

Authorizes $60 million for Democracy and human rights initiatives for FY02 through FY04.

Authorizes $62.5 for a contribution to the U.N. Drug Control Program for FY02 through FY04 to reduce or eliminate the trafficking of illicit drugs in Afghanistan.

Authorizes $65 million for a new secure diplomatic facility in Afghanistan.

The legislation's message is simple: the United States is not only a great Nation, but a generous Nation. We keep our word, and stand ready to match our words with our actions. We must not turn our backs again on the people of Afghanistan.

By Mr. DODD (for himself and Mr. MILLER):

S. 1881. A bill to require the Federal Trade Commission to establish a list of consumers who request not to receive telephone sales calls; to the Committee on Commerce, Science and Transportation.

Mr. DODD. Mr. President, today I am introducing legislation along with my friend and colleague from Georgia, Senator MILLER, to help individuals whose personal time is interrupted by the constant annoyance of telephone solicitors. Our bill, modeled after a Connecticut statute, would require the Federal Trade Commission to establish a "no-call" list of consumers who do not wish to receive unsolicited telemarketing calls.

A Department of Labor survey reports that 84 percent of Americans would trade income for more free time. People want to spend more time in the evening with their families, whether it be sitting down to dinner together, relaxing in front of the television, helping children with homework, or catching up with household chores. I suspect most people do not want to be inconvenienced with intrusive, unsolicited telemarketing calls during the evening or anytime throughout the day.

Telemarketing revenue increased from $492.3 billion in 1998 to $585.9 billion in 2000, which translates into millions of phone calls every year. While many sales pitches are made on behalf of legitimate organizations and businesses, consumers still lose more than $40 billion a year to fraudulent sales of goods and services over the telephone. It is time to empower consumers with the ability to stop most unsolicited calls, legitimate or otherwise, from entering their homes and disturbing their lives.

In Connecticut, people now have the right to place their name on a "do not call" list and more than 225,000 households have contacted the Department on Consumer Protection to take advantage of the new law. All telemarketers are required to consult that list and are prohibited from contacting households on the list. Other states, including Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Kentucky, Missouri, New York, North Carolina, Oregon, and Tennessee, have enacted similar laws.

States are taking this action because a 1994 Federal law to curb unsolicited telemarketing, while a good beginning, has not fully succeeded in protecting families' privacy. In fact, individual consumers must keep track of every telemarketer they have contacted to determine if a solicitation call was made in violation. There are numerous exemptions to the Federal law, as well, as because there are no penalties for calls made in "error," it has proved difficult to enforce.

Direct Marketing Association members do not oppose the Connecticut law. It is their belief that consumers placing their name on a list would never buy a product from a telemarketer anyway, and thus the list saves telemarketers time and resources.

Our legislation would take much of the burden off of consumers. At the same time, a comprehensive and universal law actually could help telemarketers by streamlining the process. The legislation we are introducing today would require the Federal Trade Commission to establish a "no sales solicitation calls" listing of consumers who do not wish to receive unsolicited calls. Although certain types of calls would be exempt, including calls from any company with whom a consumer currently does business, non-profits looking for donations, pollsters, and those publishing telephone directories, a violation of the "no call" list would be deemed an unfair or deceptive trade practice and the telemarketer could be fined.

I urge my colleagues to cosponsor this important consumer legislation and I ask that the bill be printed in the RECORD.

I think the chair and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telemarketing Intrusive Practices Act of 2001".

SEC. 2. DEFINITIONS.

In this Act:

(1) CALLER IDENTIFICATION SERVICE OR DEVICE.—The term "caller identification service or device" means a telephone service or device that permits a consumer to see the telephone number of an incoming call.

(2) CHAIRMAN.—The term "Chairman" means the Chairman of the Federal Trade Commission.

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) CONSUMER.—The term "consumer" means an individual who is an actual or prospective purchaser, lessee, or recipient of consumer goods or services.

(5) CONSUMER GOODS OR SERVICES.—The term "consumer good or service" means an article or service that is purchased, leased, exchanged, or received primarily for personal, family, or household purposes, including stocks, bonds, mutual funds, annuities, and other financial products.

(6) MARKETING OR SALES SOLICITATION.—

(A) IN GENERAL.—The term "marketing or sales solicitation" means the initiation of a telephone call or message to encourage the purchase of, rental of, or investment in, property, goods, or services, that is transmitted to a person.

(B) EXCEPTION.—The term does not include a call or message—

(i) to a person with the prior express invitation or permission of that person;

(ii) by a tax-exempt nonprofit organization;

(iii) on behalf of a political candidate or political party; or

(iv) to promote the success or defeat of a referendum question.

(7) STATE.—The term "State" means each of the several States of the United States and the District of Columbia.

(8) TELEPHONE SALES CALL.—

(A) IN GENERAL.—The term "telephone sales call" means a call made by a telephone solicitor to a consumer for the purpose of—

(i) engaging in a marketing or sales solicitation;

(ii) soliciting an extension of credit for consumer goods or services; or

(iii) obtaining information that will or may be used for the direct marketing or sales solicitation or exchange of or extension of credit for consumer goods or services.

(B) EXCEPTION.—The term does not include a call made—

(i) in response to an express request of the person called; or

(ii) primarily in connection with an existing debt or contract, payment, or performance that has not been completed at the time of the call.

(9) TELEPHONE SOLICITOR.—The term "telephone solicitor" means an individual, association, corporation, partnership, limited partnership, limited liability company or other business entity, or a subsidiary or affiliate thereof, that does business in the United States and makes or causes to be made a telephone sales call.

SEC. 3. FEDERAL TRADE COMMISSION NO CALL LIST.

(a) IN GENERAL.—The Commission shall—

(1) establish and maintain a list for each State, of consumers who request not to receive telephone sales calls; and

(2) provide notice to consumers of the establishment of the lists.

(b) STATE CONTRACT.—The Commission may contract with a State to establish and maintain the lists.

(c) PRIVATE CONTRACT.—The Commission may contract with a private vendor to establish and maintain the lists if the private vendor has maintained a national listing of consumers who request not to receive telephone sales calls, for not less than 2 years, or is otherwise determined by the Commission to be qualified.

(d) CONSUMER RESPONSIBILITY.—

(1) INCLUSION ON LIST.—Except as provided in subsection (d)(2), a consumer who wishes to be included on a list established under subsection (a) shall notify the Commission in such manner as the Chairman may prescribe to maximize the consumer's opportunity to be included on that list.

(2) DELETION FROM LIST.—Information about a consumer shall be deleted from a list upon the written request of the consumer.

(e) UPDATE.—The Commission shall—

(1) update the lists maintained by the Commission not less than quarterly with information the Commission receives from consumers; and

(2) annually request a no call list from each State that maintains a no call list and update the lists maintained by the Commission at that time to ensure that the lists maintained by the Commission contain the same information contained in the no call lists maintained by individual States.

(f) FEES.—The Commission may charge a reasonable fee for providing a list.

(g) AVAILABILITY.—

(1) IN GENERAL.—The Commission shall make a list available only to a telephone solicitor.

(2) FORMAT.—The list shall be made available in printed or electronic format, or both, at the discretion of the Chairman.

SEC. 4. TELEPHONE SOLICITOR NO CALL LIST.

(a) IN GENERAL.—A telephone solicitor shall maintain a list of consumers who request not to receive telephone sales calls from that particular telephone solicitor.

(b) PROCEDURE.—If a consumer receives a telephone sales call and requests to be placed on the do not call list of that telephone solicitor, the solicitor shall—

(1) place the consumer on the no call list of the solicitor; and

(2) provide the consumer with a confirmation number which shall provide confirmation of the request of the consumer to be placed on the no call list of that telephone solicitor.

SEC. 5. TELEPHONE SOLICITATIONS.

(a) TELEPHONE SALES CALL.—A telephone solicitor may not make or cause to be made a telephone sales call to a consumer—

(1) if the name and telephone number of the consumer appear in the then current quarterly lists made available by the Commission under section 3;

(2) if the consumer previously requested to be placed on the do not call list of the telephone solicitor pursuant to section 4;

(3) to be received between the hours of nine o'clock p.m. and nine o'clock a.m. and between five o'clock p.m. and seven o'clock p.m., local time, at the location of the consumer;

(4) in the form of an electronically transmitted facsimile; or

(5) by use of an automated dialing or recorded message device.

(b) CALLER IDENTIFICATION DEVICE.—A telephone solicitor shall not knowingly use any method to block or otherwise circumvent the use of a caller identification service or device by a consumer.

(c) SALE OF CONSUMER INFORMATION TO TELEPHONE SOLICITORS.—

(1) IN GENERAL.—A person who obtains the name, residential address, or telephone number of a consumer from a published telephone directory or from any other source and republishes or compiles that information, electronically or otherwise, and sells or offers to sell that publication or compilation to a telephone solicitor for marketing or sales solicitation purposes, shall exclude from that publication or compilation, and from the database used to prepare that publication or compilation, the name, address, and telephone number of a consumer if the name and

telephone number of the consumer appear in the then current quarterly list made available by the Commission under section 3.

(2) EXCEPTION.—This subsection does not apply to a publisher of a telephone directory when a consumer is called for the sole purpose of compiling, publishing, or distributing a telephone directory intended for use by the general public.

SEC. 6. REGULATIONS.

The Chairman may adopt regulations to carry out this Act that shall include—

(1) provisions governing the availability and distribution of the lists established under section 3;

(2) notice requirements for a consumer who requests to be included on the lists established under section 3; and

(3) a schedule for the payment of fees to be paid by a person who requests a list made available under section 3.

SEC. 7. CIVIL CAUSE OF ACTION.

(a) ACTION BY COMMISSION.—

(1) UNFAIR OR DECEPTIVE TRADE PRACTICE.—A violation of section 4 or 5 is an unfair or deceptive trade practice under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(2) CUMULATIVE DAMAGES.—In a civil action brought by the Commission under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to recover damages arising from more than one alleged violation, the damages shall be cumulative.

(b) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—A person or entity may, if otherwise permitted by the laws or the rules of court of a State, bring in an appropriate court of that State—

(A) an action based on a violation of section 4, 5, or 6 to enjoin the violation;

(B) an action to recover for actual monetary loss from a violation of section 4, 5, or 6, or to receive $500 in damages for each violation, whichever is greater; or

(C) an action under paragraphs (1) and (2).

(2) WILLFUL VIOLATION.—If the court finds that the defendant willfully or knowingly violated section 4, 5, or 6, the court may, in the discretion of the court, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph (1)(B) of this subsection and to include reasonable attorney's fees.

SEC. 8. EFFECT ON STATE LAW.

Nothing in this Act shall be construed to prohibit a State from enacting or enforcing more stringent legislation in the regulation of telephone solicitors.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the provisions of this Act.

By Mr. WELLSTONE (for himself, Mr. DEWINE; Mr. DAYTON, Mr. SPECTER, Mr. BAYH, Ms. MIKULSKI, and Mr. VOINOVICH):

S. 1884. A bill to amend the Emergency Steel Loan Guarantee Act of 1999 to revise eligibility and other requirements for loan guarantees under that Act, and for other purposes; to the Committee on Appropriations.

Mr. WELLSTONE. Mr. President, today I introduce, on behalf of myself and Senators DEWINE, DAYTON, SPECTER, MUKULSKI and BAYH the "Emergency Steel Loan Guarantee Amendments of 2001." These amendments to the Steel Loan Guarantee Act of 1999 are designed to make the loan guarantee program more accessible to companies in urgent need of assistance as they attempt to recover from the devastating impacts of enormous, unfair import surges, as well as the effects of the current recession.

A strong domestic steel industry is essential to our national security. To ensure the continuing viability of this critical industry and to deal with the current crisis, we must act quickly, and we must act comprehensively.

First, the Administration must provide immediate and decisive strong relief in the pending Section 201 steel import surge investigation. That relief needs to include substantial tariffs as well as quotas.

Second, we need a formula for industry-wide sharing of the huge retiree health-care cost burdens resulting from the massive layoffs during the 1970's and 1980's. We must protect retirees health care needs without undermining the ability of companies attempting to compete in an increasingly challenging marketplace. Several colleagues and I have previously introduced legislation to accomplish this, and we have urged the Administration to support us in this effort as past of a comprehensive solution to the steel crisis we face today.

Finally, companies urgently need access to capital to sustain their operations. This is precisely what the Emergency Steel Loan Guarantee Act of 1999 was designed to insure. The tireless efforts and foresight of Senator BYRD led to the creation of the Emergency Steel Loan Guarantee Board in 1999, but since then massive import surges, the current economic downturn and apparently overly-restrictive interpretations of the Board's authority have made it all but impossible for struggling steel firms to meet the Board's eligibility criteria.

The bill we introduce today is designed to address these concerns. It provides the Board with the necessary flexibility to provide these essential loan guarantees. In particular, the bill would do the following: 1. Clarify that a company that has placed its facilities on "hot idle status" is eligible to receive a loan guarantee. 2. Increase the amount of loans guaranteed with respect to a single qualified steel company to $350,000,000. 3. Permit the Steel Loan Guarantee Board to guarantee a loan where there is a fair likelihood of repayment, assuming vigorous and timely enforcement of our trade laws and general economic prosperity. 4. Provide flexibility to the Board in structuring security arrangements to maximize participation of lenders. 5. Expand the scope of lenders permitted to participate in a loan subject to the guarantee to include public and private institutions, including the company's existing lenders. 6. Require the Board to adopt form of guarantee regulations no less favorable than those used in other government programs, including the Export-Import bank. 7. Include as a requirement for loan guarantees that the company's business plan maximize both retention of jobs and capacity consistent with the long-term economic viability of the company. 8. Increase the loan guarantee level for all loans to 95 percent.

The recent economic conditions facing the U.s. iron ore and steel industry are of particular concern in Minnesota. We are extremely proud of our State's history as the Nation's largest producer of iron ore. The taconite mines on the Iron Range in Minnesota and in our sister State of Michigan have provided key raw materials to the Nation's steel producers for over a century.

You will not find a harder-working, more committed group of workers anywhere in this country than you find in the iron ore and taconite industry. This is a group of people who work under the toughest of conditions, are absolutely committed to their families, and who now face dire circumstances, through no fault of their own. Unfairly traded iron ore, semi-finished steel and finished steel products are taking their jobs.

Earlier this year, LTV Steel Mining Company halted production at its Hoyt Lakes, MN mine, leaving 1,400 workers out of good paying jobs and affecting nearly 5,000 additional workers. We need to act and we need to act now. Workers in the steel, iron ore and taconite industries want nothing more than the chance to do their jobs. The bill we introduce today is one part of the answer. I urge my colleagues to join with me in moving this legislation as quickly as possible.

Mr. DEWINE. Mr. President, I rise today with my colleague and friend from Minnesota, Senator WELLSTONE, to introduce the Emergency Steel Loan Guarantee Amendments Act. This legislation would improve the Emergency Steel Loan Guarantee program.

Our steel industry is on the brink of financial collapse because of unfair and illegal trade practices. To date, some 25 U.S. steel companies, including LTV Steel in Cleveland, Ohio, have filed bankruptcy. These companies employ thousands of workers and are responsible for providing benefits to their retirees. If our steel industry goes under, the consequences to our nation, and particularly Ohio, would be grave. Steel is vitally important to our military and economic security. During times of crisis, the industry has been a source of strength for America. With our economy sputtering and our nation fighting a new war on terrorism, we need a healthy steel industry now more than ever.

In 1998, more than 41 million tons of steel found their way to U.S. markets. This was an 83 percent increase over the 23 million net ton average for the previous eight years. While in 1999 some claimed that the steel import crisis was over, they were soon reminded how volatile the situation really is. In 2000, 37.8 million tons of steel flooded U.S. markets. This was almost as high as the record 1998 import levels.

For almost 50 years, foreign steel producers have received direct and often illegal assistance from their governments in the form of subsidies or market intervention. This has contributed to a worldwide over production of steel. In 1999, the Organization for Economic Cooperation and Development, OECD, found that world steel making capacity remained "well-above" production between 1985 and 1999. Much of this excess steel has been shipped to the United States and priced well below U.S. steel. In some cases, these imports were dumped, subsidized, and shipped in such increased quantities as to inflict serious financial harm to U.S. producers.

As a key supporter of the Emergency Steel Loan Guarantee program, I believe that we must modify the program to make it work better. It is true that we have changed it this year: extending its life and increasing the portion of the loan covered by the guarantee from 85 percent to in some cases 95 percent. However, we need to do more. The Wellstone/DeWine legislation would clarify that a company, such as LTV, which has placed its facilities on "hot idle status" is eligible to receive a loan guarantee. It would also increase the amount of loans guaranteed with respect to a single qualified steel company to $350,000,000; permit the Steel Loan Guarantee Board to guarantee a loan where there is a fair likelihood of repayment, assuming vigorous and timely enforcement of our trade laws and general economic prosperity; provide flexibility to the Board in structuring security arrangements to maximize participation of lenders; expand the scope of lenders permitted to participate in a loan subject to the guarantee to include public and private institutions, including the company's existing lenders; require the Board to adopt a form of guarantee regulations no less favorable than those used in other government programs, including the Export-Import bank, and; increase the loan guarantee level for all loans to 95 percent.

We in the steel community are grateful for the President's leadership in initiating the Section 201 trade investigation, and we were generally pleased with the International Trade Commission's recommendations. I was pleased to see the Customs Service proceeding in a timely manner with the release of dumping and subsidy offset payments to the victims of illegal trade practices, including LTV, under the Continued Dumping and Subsidy Offset Act. However, without these changes to the Emergency Steel Loan program, many of our steel companies will not survive. We have an opportunity to send a powerful message to the world that America is standing by our steel industry in its time of need just as the industry has stood by America in her time of need.

By Mr. DODD:

S. 1885. A bill to establish the elderly housing plus health support demonstration program to modernize public housing for elderly and disabled persons; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD:

S. 1886. A bill to amend the Internal Revenue Code of 1986 to allow a business credit for supported elderly housing; to the Committee on Finance.

Mr. DODD. Mr. President, I rise today to introduce two bills that will help address a growing problem in America, our ability to provide safe and affordable housing that meets the needs of older Americans. Currently there are 35 million Americans over 65 years old. That number will double within the next thirty years. By 2030, 20 percent of the U.S. population will be over 65 years old.

Both of the bills that I am introducing will promote the development of assisted living programs to provide a wide range of services, including medical assistance, housekeeping services, hygiene and grooming, and meals preparation. Providing these services will in turn give older Americans greater opportunities to decide for themselves where they live and how they exercise their independence.

The first bill I am introducing is the "Elderly Plus Supportive Health Support Demonstration Act," which will provide Federal grants to allow public housing authorities around the country to develop new strategies for providing better housing for senior citizens. Nearly one third of all public housing units are occupied by senior citizens. This figure has been steadily growing in recent years and will undoubtedly continue to grow in the future. It is critically important that we remain committed to providing low-income seniors with safe and affordable housing.

Unfortunately, as we examine the public housing stock across the country, we find a bleak situation. Over 66 percent of existing public housing units are more than 30 years old and most are not designed to meet the needs of older Americans. For example, too few of our housing units are equipped with equipment and features that facilitate mobility for those in wheelchairs. Even such simple things as having a kitchen counter top that can be reached from a wheelchair may make the difference between a senior being able to stay in her home or having to leave, often to be sent to an institution where seniors have less independence and control over their lives. The "Elder Housing Plus Health Support Demonstration Act" will give public housing authorities the tools they need to improve our public housing stock so our seniors will not be prematurely forced out of their homes.

The second bill that I am introducing is the "Assisted Living Tax Credit Act," which will provide a tax incentive to help construct assisted living housing for low- and moderate-income Americans. The current stock of assisted living facilities is inadequate to meet demand in certain places around the country and the stock of moderately-priced units is even tighter. The demand for assisted living units will only increase as our population ages and this highly desired housing choice should be available to all Americans. The "Assisted Living Tax Credit Act" will help make assisted living arrangements available to those who have previously been priced out of the market.

The scarceness of affordable assisted living units has social costs that we must consider as we set national housing policies for the future. Often, the cost of taking care of an aging family member can be devastating to American families. Too often, working men and women are torn between the need to maintain their jobs and the desire to provide the best possible care to their aging family members.

Advances in medicine are allowing us to live longer, healthier lives. Longevity is a great blessing, but it also poses significant challenges for individuals, families, and society as whole. One of the largest challenges we will face in the decades ahead is the challenge of defining new kinds of housing that respond to the needs of our growing elderly population.

It is my hope that the bills I am introducing today will generate earnest discussion on these important matters and will ultimately lead to action to ensure that every American senior can live in security and dignity.

I ask unanimous consent that the text of the "Elderly Housing Plus Health Support Demonstration Act" be printed in the RECORD. I also ask unanimous consent that the "Assisted Living Tax Credit Act" be printed in the RECORD.

S: 1885

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elderly Housing Plus Health Support Demonstration Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are not fewer than 34,100,000 Americans who are 65 years of age and older,

and persons who are 85 years of age or older comprise almost one-quarter of that population;

(2) the Bureau of the Census of the Department of Commerce estimates that, by 2030, the elderly population will double to 70,000,000 persons;

(3) according to the Department of Housing and Urban Development report "Housing Our Elders—A Report Card on the Housing Conditions and Needs of Older Americans", the largest and fastest growing segments of the older population include many people who have historically been vulnerable economically and in the housing market—women, minorities, and people over the age of 85;

(4) many elderly persons are at significant risk with respect to the availability, stability, and accessibility of affordable housing;

(5) one third of public housing residents are approximately 62 years of age or older, making public housing the largest Federal housing program for senior citizens;

(6) the elderly population residing in public housing is older, poorer, frailer, and more racially diverse than the elderly population residing in other assisted housing;

(7) two-thirds of the public housing developments for the elderly, including those that also serve the disabled, were constructed before 1970 and are in dire need of major rehabilitation and reconfiguration, such as rehabilitation to provide new roofs, energy-efficient heating, cooling, utility systems, accessible units, and up-to-date safety features;

(8) many of the dwelling units in public housing developments for elderly and disabled persons are undersized, are inaccessible to residents with physical limitations, do not comply with the requirements under the Americans with Disabilities Act of 1990, or lack railings, grab bars, emergency call buttons, and wheelchair accessible ramps;

(9) a study conducted for the Department of Housing and Urban Development found that the cost of the basic modernization needs for public housing for elderly and disabled persons exceeds $5,700,000,000;

(10) a growing number of elderly and disabled persons face unnecessary institutionalization because of the absence of appropriate supportive services and assisted living facilities in their residences;

(11) for many elderly and disabled persons, independent living in a non-institutionalization setting is a preferable housing alternative to costly institutionalization, and would allow public monies to be more effectively used to provide necessary services for such persons;

(12) congregate housing and supportive services coordinated by service coordinators is a proven and cost-effective means of enabling elderly and disabled persons to remain in place with dignity and independence; and

(13) the effective provision of congregate services and assisted living in public housing developments requires the redesign of units and buildings to accommodate independent living.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a demonstration program to make competitive grants to provide state-of-the-art health-supportive housing with assisted living opportunities for elderly and disabled persons;

(2) to provide funding to enhance, make safe and accessible, and extend the useful life of public housing developments for the elderly and disabled and to increase their accessibility to supportive services;

(3) to provide elderly and disabled public housing residents a readily available choice in living arrangements by utilizing the services of service coordinators and providing a continuum of care that allows such residents to age in place;

(4) to incorporate congregate housing service programs more fully into public housing operations; and

(5) to accomplish such purposes and provide such funding under existing provisions of law that currently authorize all activities to be conducted under the program.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELDERLY AND DISABLED FAMILIES.—The term "elderly and disabled families" means families in which 1 or more persons is an elderly person or a person with disabilities.

(2) ELDERLY PERSON.—The term "elderly person" means a person who is 62 years of age or older.

(3) PERSON WITH DISABILITIES.—The term "person with disabilities" has the same meaning as in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)).

(4) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the same meaning as in section 3(b)(6)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)(A)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 4. AUTHORITY FOR ELDERLY HOUSING PLUS HEALTH SUPPORT PROGRAM.

The Secretary shall establish an elderly housing plus health support demonstration program (referred to in this Act as the "demonstration program") in accordance with this Act to provide coordinated funding to public housing projects for elderly and disabled families selected for participation under section 5, to be used for—

(1) rehabilitation or reconfiguration of such projects;

(2) the provision of space in such projects for supportive services and community and health facilities;

(3) the provision of service coordinators for such projects; and

(4) the provision of congregate services programs in or near such projects.

SEC. 5. PARTICIPATION IN PROGRAM.

(a) APPLICATION AND PLAN.—To be eligible to be selected for participation in the demonstration program, a public housing agency shall submit to the Secretary—

(1) an application, in such form and manner as the Secretary shall require; and

(2) a plan for the agency that—

(A) identifies the public housing projects for which amounts provided under this Act will be used, limited to projects that are designated or otherwise used for occupancy—

(i) only by elderly families; or

(ii) by both elderly families and disabled families; and

(B) provides for local agencies or organizations to establish or expand the provision of health-related services or other services that will enhance living conditions for residents of public housing projects of the agency, primarily in the project or projects to be assisted under the plan.

(b) SELECTION AND CRITERIA.—

(1) SELECTION.—The Secretary shall select public housing agencies for participation in the demonstration program based upon a competition among public housing agencies that submit applications for participation.

(2) CRITERIA.—The competition referred to in paragraph (1) shall be based upon—

(A) the extent of the need for rehabilitation or reconfiguration of the public housing projects of an agency that are identified in the plan of the agency pursuant to subsection (a)(2)(A);

(B) the past performance of an agency in serving the needs of elderly public housing residents or non-elderly, disabled public housing residents given the opportunities in the locality;

(C) the past success of an agency in obtaining non-public housing resources to assist such residents given the opportunities in the locality; and

(D) the effectiveness of the plan of an agency in creating or expanding services described in subsection (a)(2)(B).

SEC. 6. CONFIGURATION AND CAPITAL IMPROVEMENTS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to public housing agencies selected for participation under section 5, to be used only—

(A) for capital improvements to rehabilitate or reconfigure public housing projects identified in the plan submitted under section 5(a)(2)(A); and

(B) to provide space for supportive services and for community and health-related facilities primarily for the residents of projects identified in the plan submitted under section 5(a)(2)(A).

(2) SOURCE OF FUNDS.—Grants shall be made under this section from funds made available for the demonstration program in accordance with subsection (c).

(3) INAPPLICABILITY OF OTHER PROVISIONS.—Section 9(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)(1)) does not apply to grants made under this section.

(b) ALLOCATION.—Grants funded in accordance with this section shall—

(1) be allocated among public housing agencies selected for participation under section 5 on the basis of the criteria established under section 5(b)(2); and

(2) be made in such amounts and subject to such terms as the Secretary shall determine.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the demonstration program, to make grants in accordance with this section—

(1) $100,000,000 for fiscal year 2002; and

(2) such sums as may be necessary for fiscal year 2003 and each subsequent fiscal year.

SEC. 7. SERVICE COORDINATORS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to public housing agencies selected for participation under section 5, to be used only—

(A) for public housing projects for elderly and disabled families for whom capital assistance is provided under section 6; and

(B) to provide service coordinators and related activities identified in the plan of the agency pursuant to section 5(a)(2), so that the residents of such public housing projects will have improved and more economical access to services that support the health and well-being of the residents.

(2) SOURCE OF FUNDS.—Grants shall be made under this section from funds made available for the demonstration program in accordance with subsection (c).

(3) INAPPLICABILITY OF OTHER PROVISIONS.—Section 9(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)(1)) does not apply to grants made under this section.

(b) ALLOCATION.—The Secretary shall provide a grant pursuant to this section, in an amount not to exceed $100,000, to each public housing agency that is selected for participation under section 5.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the demonstration program, to make grants in accordance with this section—

(1) $2,000,000 for fiscal year 2002; and

(2) such sums as may be necessary for fiscal year 2003 and each subsequent fiscal year.

SEC. 8. CONGREGATE HOUSING SERVICES PROGRAMS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to public housing agencies selected for participation under section 5, to be used only—

(A) in connection with public housing projects for elderly and disabled families for which capital assistance is provided under section 6; and

(B) to carry out a congregate housing service program identified in the plan of the agency pursuant to section 5(a)(2) that provides services as described in section 202(g)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(g)(1)).

(2) SOURCE OF FUNDS.—Grants shall be made under this section from funds made available for the demonstration program in accordance with subsection (c).

(3) INAPPLICABILITY OF OTHER PROVISIONS.—Other than as specifically provided in this section—

(A) section 9(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)(1)) does not apply to grants made under this section; and

(B) section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) does not apply to grants made under this section.

(b) ALLOCATION.—The Secretary shall provide a grant pursuant to this section, in an amount not to exceed $150,000, to each public housing agency that is selected for participation under section 5.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the demonstration program, to make grants in accordance with this section—

(1) $3,000,000 for fiscal year 2003; and

(2) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year.

SEC. 9. SAFEGUARDING OTHER APPROPRIATIONS.

Amounts authorized to be appropriated under this Act to carry out this Act are in addition to any amounts authorized to be appropriated under any other provision of law, or otherwise made available in appropriations Acts, for rehabilitation of public housing projects, for service coordinators for public housing projects, or for congregate housing services programs.

S. 1886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Assisted Living Tax Credit Act".

SEC. 2. SUPPORTED ELDERLY HOUSING CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

SEC. 42A. SUPPORTED ELDERLY HOUSING CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the supported elderly housing credit determined under this section for any taxable year in the credit period shall be an amount equal to the sum of—

"(A) 9 percent of the qualified basis of each qualified supported elderly building, plus

"(B) 4 percent of such qualified basis with respect to any qualified supported elderly building providing qualified supported elderly services.

"(b) QUALIFIED BASIS; QUALIFIED SUPPORTED ELDERLY BUILDING; CREDIT PERIOD.—For purposes of this section—

"(1) QUALIFIED BASIS.—

"(A) DETERMINATION.—The qualified basis of any qualified supported elderly building for any taxable year is an amount equal to—

"(i) the applicable fraction (determined as of the close of such taxable year) of

"(ii) the eligible basis of such building (determined under rules similar to the rules under section 42(d)).

"(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the term 'applicable fraction' means the smaller of the unit fraction or the floor space fraction.

"(C) UNIT FRACTION.—For purposes of subparagraph (B), the term 'unit fraction' means the fraction—

"(i) the numerator of which is the number of supported elderly units in the building, and

"(ii) the denominator of which is the number of residential rental units (whether or not occupied) in such building.

"(D) FLOOR SPACE FRACTION.—For purposes of subparagraph (B), the term 'floor space fraction' means the fraction—

"(i) the numerator of which is the total floor space of the supported elderly units in such building, and

"(ii) the denominator of which is the total floor space of the residential rental units (whether or not occupied) in such building.

"(E) QUALIFIED BASIS TO INCLUDE PORTION OF BUILDING USED TO PROVIDE QUALIFIED SUPPORTED ELDERLY SERVICES.—In the case of a qualified supported elderly building described in subsection (a)(2), the qualified basis of such building for any taxable year shall be increased by the less of—

"(i) so much of the eligible basis of such building as is used through the year to provide qualified support elderly services, or

"(ii) 20 percent of the qualified basis of such building (determined without regard to this subparagraph).

"(2) QUALIFIED SUPPORTED ELDERLY BUILDING.—The term 'qualified supported elderly building' means any building which is part of a qualified supported elderly housing project at all times during the period—

"(A) beginning on the 1st day in the compliance period on which such building is part of such a project, and

"(B) ending on the last day of the compliance period with respect to such building.

Such term does not include any building with respect to which moderate rehabilitation assistance is provided, at any time during the compliance period, under section 8(e)(2) of the United States Housing Act of 1937 (other than assistance under the Stewart B. McKinney Homeless Assistance Act (as in effect on the date of the enactment of this sentence)).

"(3) CREDIT PERIOD.—The term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with—

"(A) the taxable year in which the building is placed in service, or

"(B) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified supported elderly building as of the close of the 1st year of such period. The election under subparagraph (B), once made, shall be irrevocable.

"(4) APPLICABLE RULES.—

"(A) For treatment of certain rehabilitation expenditures as separate new buildings, subsection (e) of section 42 shall apply.

"(B) For rules regarding the application of the credit period, paragraph (2) through (5) of section 42(f) shall apply.

"(c) QUALIFIED SUPPORTED ELDERLY HOUSING PROJECT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified supported elderly housing project' means any project for residential rental property if the project meets the requirements of subparagraph (A) or (B) whichever is elected by the taxpayer:

"(A) 20–50 TEST.—The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

"(B) 40–90 TEST.—The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 90 percent or less of area median gross income.

Any election under this paragraph, once made, shall be irrevocable. For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

"(2) RENT-RESTRICTED UNITS.—

"(A) IN GENERAL.—For purposes of paragraph (1), a residential unit is rent-restricted if the gross rent with respect to such unit does not exceed 65 percent of the imputed income limitation applicable to such unit. For purposes of the preceding sentence, the amount of the income limitation under paragraph (1) applicable for any period shall not be less than such limitation for the earliest period the building (which contains the unit) was included in the determination of whether the project is a qualified supported elderly housing project.

"(B) GROSS RENT.—For purposes of subparagraph (A), gross rent—

"(i) includes any fee for a qualified supported elderly service which is paid to the owner of the unit (on the basis of the supported elderly status of the tenant of the unit) by any governmental program of assistance (or by an organization described in section 501(c)(3) and exempt from tax under section 501(a)) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services.

"(ii) does not include any payment under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such unit or occupants thereof),

"(iii) includes any utility allowance determined by the Secretary after taking into account such determinations under section 8 of the United States Housing Act of 1937, and

"(iv) does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949.

"(C) IMPUTED INCOME LIMITATION APPLICABLE TO UNIT.—For purposes of this paragraph, the imputed income limitation applicable to a unit is the income limitation which would apply under paragraph (1) to individuals occupying the unit if the number of individuals occupying the unit were as follows:

"(i) In the case of a unit which does not have a separate bedroom, 1 individual.

"(ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

In the case of a project with respect to which a credit is allowable by reason of this section and for which financing is provided by a bond described in section 142(a)(7), the imputed income limitation shall apply in lieu of the otherwise applicable income limitation for purposes of applying section 142(d)(4)(B)(ii).

"(D) TREATMENT OF UNITS OCCUPIED BY INDIVIDUALS WHOSE INCOMES RISE ABOVE LIMIT.—

"(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding an increase in the income of occupants of a supported elderly unit above the income limitation applicable under paragraph (1), such unit shall continue to be treated as a supported elderly unit if the income of such occupants initially met such income limitation and such unit continues to be rent restricted.

"(ii) NEXT AVAILABLE UNIT MUST BE RENTED TO SUPPORTED ELDERLY TENANT IF INCOME RISES ABOVE 140 PERCENT OF INCOME LIMIT.—If the income of the occupants of the unit increases above 140 percent of the income limitation applicable under paragraph (1), clause (i) shall cease to apply to such unit if any residential rental unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation. In the case of a project described in section 142(d)(4)(B), the preceding sentence shall be applied by substituting '170 percent' for '140 percent' and by substituting 'any supported elderly unit in the building is occupied by a new resident whose income exceeds 40 percent of area median gross income' for 'any residential unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation'.

"(E) UNITS WHERE FEDERAL RENTAL ASSISTANCE IS REDUCED AS TENANT'S INCOME INCREASES.—If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

"(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

"(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

"(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

"(II) such units were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made.

"(3) QUALIFIED SUPPORTED ELDERLY SERVICE.—The term 'qualified supported elderly service' means any service provided under a planned program of services designed to enable residents of a residential rental property to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically handicapped. In the case of a single-room occupancy unit or a building described in subsection (h)(2)(B)(iii), such term includes any service provided to assist tenants in locating and retaining permanent housing.

"(4) DATE FOR MEETING REQUIRMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a building shall be treated as a qualified supported elderly building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 1st year of the credit period for such building.

"(B) BUILDINGS WHICH RELY ON LATER BUILDINGS FOR QUALIFICATION.—

"(i) IN GENERAL.—In determining whether a building (in this subparagraph referred to as the 'prior building') is a qualified supported elderly building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

"(ii) TREATMENT OF ELECTED BUILDINGS.—In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

"(iii) DATE PRIOR BUILDING IS TREATED AS PLACED IN SERVICE.—For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

"(C) SPECIAL RULE.—A building—

"(i) other than the 1st building placed in service as part of a project, and

(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with the respect to a prior building which becomes a qualified supported elderly building,

shall in no event be treated as a qualified supported elderly building unless the project is a qualified supported elderly housing project (without regard to such building) on the date such building is placed in service.

"(D) PROJECTS WITH MORE THAN 1 BUILDING MUST BE IDENTIFIED.—For purposes of this section a project shall be treated as consisting of only 1 building unless, before the close of the 1st calendar year in the project period (as defined in subsection (d)(1)(F)(ii)), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide.

"(5) CERTAIN RULES MADE APPLICABLE.—Paragraphs (2) (other than subparagraph (A) thereof), (3), (4), (5), (6), and (7) of section 142(d), and section 6652(j), shall apply for purposes of determining whether any project is a qualified supported elderly housing project and whether any unit is a supported elderly unit; except that, in applying such provisions for such purposes, the term 'gross rent' shall have the meaning given such term by paragraph (2)(B) of this subsection.

"(6) ELECTION TO TREAT BUILDING AFTER COMPLIANCE PERIOD AS NOT PART OF A PROJECT.—For purposes of this section, the taxpayer may elect to treat any building as not part of a qualified supported elderly housing project for any period beginning after the compliance period for such building.

"(7) SPECIAL RULE WHERE DE MINIMIS EQUITY CONTRIBUTION.—Proeprty shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if—

"(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

"(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted.

"(8) SCATTERED SITE PROJECTS.—Buildings which would (but for their lack of proximity) be treated as a project for purposes of this section shall be so treated if all of the dwelling units in each of the buildings are rent-restricted (within the meaning of paragraph (2)) residential rental units.

"(9) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (i) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by supported elderly tenants.

"(d) LIMITATION ON AGGREGATE CREDIT ALLOWABLE WITH RESPECT TO PROJECTS LOCATED IN A STATE.—

"(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the supported elderly housing credit dollar amount allocated to such building under rules similar to the rules of paragraph (1) of section 42(h).

"(2) ALLOCATED CREDIT AMOUNT TO APPLY TO ALL TAXABLE YEARS ENDING DURING OR AFTER CREDIT ALLOCATION YEAR.—Any supported elderly housing credit dollar amount allocated to any building for any calendar year—

"(A) shall apply to such building for all taxable years in the compliance period ending during or after such calendar year, and

"(B) shall reduce the aggregate supported elderly housing credit dollar amount of the allocating agency only for such calendar year.

"(3) SUPPORTED ELDERLY HOUSING CREDIT DOLLAR AMOUNT FOR AGENCIES.—

"(A) IN GENERAL.—The aggregate supported elderly housing credit dollar amount which a supported elderly housing credit agency may allocate for any calendar year is the portion of the State supported elderly housing credit ceiling allocated under this paragraph for such calendar year to such agency.

"(B) STATE CEILING INITIALLY ALLOCATED TO STATE SUPPORTED ELDERLY HOUSING CREDIT AGENCIES.—Except as provided in subparagraphs (D) and (E), the State supported elderly housing credit ceiling for each calendar year shall be allocated to the supported elderly housing credit agency of such State. If there is more than 1 supported elderly housing credit agency of a State, all such agencies shall be treated as a single agency.

"(C) STATE SUPPORTED ELDERLY HOUSING CREDIT CEILING.—The State supported elderly housing credit ceiling applicable to any State and any calendar year shall be an amount equal to the sum of—

"(i) the unused State supported elderly housing credit ceiling (if any) of such State for the preceding calendar year,

"(ii) $1.25 multiplied by the State population,

"(iii) the amount of State supported elderly housing credit ceiling returned in the calendar year, plus

"(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State supported elderly housing credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (i) through (iv) over the aggregate supported elderly housing credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State supported elderly housing credit ceiling returned in the calendar year equals the supported elderly housing credit dollar amount previously allocated within the State to any project which fails to meet the 10 percent test under section 42(h)(1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified supported elderly housing project within the period required by this section or the terms of the allocation or to any project with respect to which an allocation is canceled by mutual consent of the supported elderly housing credit agency and the allocation recipient.

"(D) UNUSED SUPPORTED ELDERLY HOUSING CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

"(i) IN GENERAL.—The unused supported elderly housing credit carryover of a State for any calendar year shall be assigned to the secretary for allocation among qualified states for the succeeding calendar year.

"(ii) UNUSED SUPPORTED ELDERLY HOUSING CREDIT CARRYOVER.—For purposes of this subparagraph, the unused supported elderly housing credit carryover of a State for any calendar year is the excess (if any) of—

"(I) the unused State supported elderly housing credit ceiling for the year preceding such year, over

"(II) the aggregate supported elderly housing credit dollar amount allocated for such year.

"(iii) FORMULA FOR ALLOCATION OF UNUSED SUPPORTED ELDERLY HOUSING CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused supported elderly housing credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

"(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

"(I) which allocated its entire State supported elderly housing credit ceiling for the preceding calendar year; and

"(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

"(E) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—For purposes of this subsection—

"(i) IN GENERAL.—The aggregate supported elderly housing credit dollar amount for any constitutional home rule city for any calendar year shall be an amount which bears the same ratio to the State supported elderly housing credit ceiling for such calendar year as—

"(I) the population of such city, bear to

"(II) the population of the entire State.

"(ii) COORDINATION WITH OTHER ALLOCATIONS.—In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying this paragraph with respect to supported elderly housing credit agencies in such State other than constitutional home rule cities, the State supported elderly housing credit ceiling for any calendar year shall be reduced by the aggregate supported elderly housing credit dollar amounts determined for such year for all constitutional home rule cities in such State.

"(iii) CONSTITUTIONAL HOME RULE CITY.—For purposes of this paragraph, the term 'constitutional home rule city' has the meaning given such term by section 146(d)(3)(C).

"(F) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

"(G) POPULATION.—For purposes of this paragraph, population shall be determined in accordance with section 146(j).

"(4) CREDIT FOR BUILDINGS FINANCED BY TAX-EXEMPT BONDS SUBJECT TO VOLUME CAP NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the portion of any credit allowable under subsection (a) which is attributable to eligible basis financed by any obligation the interest on which is exempt from tax under section 103 if—

"(i) such obligation is taken into account under section 146, and

"(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing.

"(B) SPECIAL RULE WHERE 50 PERCENT OR MORE OF BUILDING IS FINANCED WITH TAX-EXEMPT BONDS SUBJECT TO VOLUME CAP.—For purposes of subparagraph (A), if 50 percent or more of the aggregate basis of any building and the land on which the building is located is financed by any obligation described in subparagraph (A), paragraph (1) shall not apply to any portion of the credit allowable under subsection (a) with respect to such building.

"(5) PORTION OF STATE CEILING SET-ASIDE FOR CERTAIN PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—

"(A) IN GENERAL.—Not more than 90 percent of the State supported elderly housing credit ceiling for any State for any calendar year shall be allocated to projects other than qualified supported elderly housing projects described in subparagraph (B).

"(B) PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—For purposes of subparagraph (A), a qualified supported elderly housing project is described in this subparagraph if a qualified nonprofit organization is to materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period.

"(C) QUALIFIED NONPROFIT ORGANIZATION.—For purposes of this paragraph, the term 'qualified nonprofit organization' means any organization if—

"(i) such organization is described in paragraph (3) or (4) of section 501(c) and is exempt from tax under section 501(a),

"(ii) such organization is determined by the State supported elderly housing credit agency not to be affiliated with or controlled by a for-profit organization; and

"(iii) 1 of the exempt purposes of such organization includes the fostering of supported elderly housing.

"(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

"(ii) QUALIFIED CORPORATION.—For purposes of clause (i), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

"(E) STATE MAY NOT OVERRIDE SETASIDE.—Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

"(6) BUILDINGS ELIGIBLE FOR CREDIT ONLY IF MINIMUM LONG-TERM COMMITMENT TO SUPPORTED ELDERLY HOUSING.—

"(A) IN GENERAL.—Under rules similar to the rules under section 42(h)(6), no credit shall be allowed by reason of this section with respect to any building for the taxable year unless an extended supported elderly housing commitment is in effect as of the end of such taxable year.

"(B) EXTENDED SUPPORTED ELDERLY HOUSING COMMITMENT.—For purposes of this paragraph, the term 'extended supported elderly housing commitment' has the meaning given the term 'extended low-income housing commitment' under section 42(h)(6).

"(7) APPLICATION OF CERTAIN RULES.—For purposes of this section, rules similar to the rules of section 42(h)(7) shall apply.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SUPPORTED ELDERLY HOUSING CREDIT AGENCY.—The term 'supported elderly housing credit agency' means any agency authorized to carry out this subsection.

"(B) POSSESSIONS TREATED AS STATES.—The term 'State' includes a possession of the United States.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) COMPLIANCE PERIOD.—The term 'compliance period' means, with respect to any building, the period of 15 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

"(2) SUPPORTED ELDERLY UNIT.—

"(A) IN GENERAL.—The term 'supported elderly unit' means any unit in a building if—

"(i) such unit is rent-restricted (as defined in subsection (c)(2)), and

"(ii) the individuals occupying such unit meet the income limitation applicable under subsection (c)(1) to the project of which such building is a part.

"(B) EXCEPTION.—

"(i) IN GENERAL.—A unit shall not be treated as a supported elderly unit unless the unit is suitable for occupancy and used other than on a transient basis.

"(ii) SUITABILITY FOR OCCUPANCY.—For purposes of clause (i), the suitability of a unit for occupancy shall be determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes.

"(iii) TRANSITIONAL HOUSING FOR HOMELESS.—For purposes of clause (i), a unit shall be considered to be used other than on a transient basis if the unit contains sleeping accommodations and kitchen and bathroom facilities and is located in a building—

"(I) which is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on the date of the enactment of this clause) to independent living within 24 months, and

"(II) in which a governmental entity or qualified nonprofit organization (as defined in subsection (d)(5)(C)) provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

"(iv) SINGLE-ROOM OCCUPANCY UNITS.—For purposes of clause (i), a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis.

"(C) SPECIAL RULE FOR BUILDINGS HAVING 4 OR FEWER UNITS.—In the case of any building which has 4 or fewer residential rental units, no unit in such building shall be treated as a supported elderly unit if the units in such building are owned by—

"(i) any individual who occupies a residential unit in such building, or

"(ii) any person who is related (within the meaning of section 42(d)(2)(D)(iii)) to such individual.

"(D) OWNER-OCCUPIED BUILDING HAVING 4 OR FEWER UNITS ELIGIBLE FOR CREDIT WHERE DEVELOPMENT PLAN.—

"(i) IN GENERAL.—Subparagraph (C) shall not apply to the acquisition or rehabilitation of a building pursuant to a development plan of action sponsored by a State or local government or a qualified nonprofit organization (as defined in subsection (d)(5)(C)).

"(ii) LIMITATION ON CREDIT.—In the case of a building to which clause (i) applies, the applicable fraction shall not exceed 80 percent of the unit fraction.

"(iii) CERTAIN UNRENTED UNITS TREATED AS OWNER-OCCUPIED.—In the case of a building to which clause (i) applies, any unit which is not rented for 90 days or more shall be treated as occupied by the owner of the building as of the 1st day it is not rented.

"(3) APPLICATION TO ESTATES AND TRUSTS.—In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (i) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

"(4) IMPACT OF TENANTS RIGHT OF 1ST REFUSAL TO ACQUIRE PROPERTY.—

"(A) IN GENERAL.—No Federal income tax benefit shall fail to be allowable to the taxpayer with respect to any qualified supported elderly building merely by reason of a right of 1st refusal held by the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (d)(5)(C)) or government agency to purchase the property after the close of the compliance period for a price which is not less than the minimum purchase price determined under subparagraph (B).

"(B) MINIMUM PURCHASE PRICE.—For purposes of subparagraph (A), the minimum purchase price under this subparagraph is an amount equal to the sum of—

"(i) the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period ending on the date of the sale to the tenants), and

"(ii) all Federal, State, and local taxes attributable to such sale.

Except in the case of Federal income taxes, there shall not be taken into account under clause (ii) any additional tax attributable to the application of clause (ii).

"(f) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If—

"(A) as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than.

"(B) the amount of such basis as of the close of the preceding taxable year,

then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount determined under rules similar to the rules of section 42(j).

"(g) APPLICATION OF AT-RISK RULES.—For purposes of this section, rules similar to the rules of section 42(k) shall apply.

"(h) RESPONSIBILITIES OF TAXPAYERS AND SUPPORTED ELDERLY HOUSING CREDIT AGENCIES.—For purposes of this section, subsections (l) and (m) of section 42 shall apply.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) dealing with—

"(A) projects which include more than 1 building or only a portion of a building,

"(B) buildings which are placed in service in portions,

"(2) providing for the application of this section to short taxable years,

"(3) preventing the avoidance of the rules of this section, and

"(4) providing the opportunity for supported elderly housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", plus", and by adding at the end the following:

"(14) the supported elderly housing credit determined under section 42A(a).".

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

"(10) NO CARRYBACK OF SUPPORTED ELDERLY HOUSING CREDIT BEFORE EFFECTIVE DATE.—No amount of unused business credit available under section 42A may be carried back to a taxable year beginning on or before the date of the enactment of this paragraph.".

(d) CONFORMING AMENDMENTS.—

(1) Section 55(c)(1) of the Internal Revenue Code of 1986 is amended by inserting "or subsection (f) or (g) of section 42A" after "section 42".

(2) Subsections (i)(c)(3), (i)(c)(6)(B)(i), and (k)(1) of section 469 of such Code are each amended by inserting "or 42A" after "section 42".

(3) Section 772(a) of such Code is amended by striking "and" at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following:

"(11) the supported elderly housing credit determined under section 42A, and".

(4) Section 774(b)(4) of such Code is amended by inserting ", 42A(f)," after "section 42(j)".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 42 the following:

"Sec. 42A. Supported elderly housing credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

By Ms. SNOWE:

S. 1887. A bill to provide for renewal of project-based assisted housing contracts at reimbursement levels that are sufficient to sustain operations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. SNOWE. Mr. President, I rise today to introduce legislation intended to correct serious inequities created by existing statutes affecting owners, financing agencies, and low-income residents participating in one of HUD's Section 8 multifamily rental subsidy programs.

I have worked closely with the Maine Congressional Delegation on this matter, as well as the Maine State Housing Authority and several housing projects in Maine, and the U.S. Department of Housing and Urban Development—HUD. At issue is HUD's interpretation of Section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 as it relates to the renewal of Section 8 "moderate rehabilitation" contracts in Maine and elsewhere.

The effect of HUD's interpretation of current law results in the application of HUD "published Fair Market Rents." Such rents are often well below the actual comparable market rent. If this problem is not addressed, and addressed soon, I am very concerned that we could lose this affordable rental housing stock in Maine, resulting in the displacement of the residents of these properties.

The Maine Delegation worked with HUD over the last year to try to identify an administrative solution to this problem, but have been advised by HUD that we must pursue a change in law to enable the projects to obtain reimbursements at a level sufficient to sustain operations. Accordingly, the legislation I am introducing today will correct the portion of the statute that could result in the loss of this critical housing stock.

The program involved is the Section 8 Moderate Rehabilitation program, which is administered by local and state housing agencies throughout the nation. Existing law, contained in Section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, as amended—MAHRA—regarding renewal of expiring project-based Section 8 contracts, treats contracts under the Moderate Rehabilitation Program in a fundamentally different way from contracts under the New Construction, Substantial Rehabilitation, and Loan Management Set-Aside programs.

Section 524(b)(3) of MAHRA provides a separate and distinct formula for calculating renewal rents for expiring contracts under the Moderate Rehabilitation program. The formula is more restrictive than the formula applicable to expiring contracts under other Section 8 programs, based on an assumption that the debt service payments on the original moderate rehabilitation financing would not be a continuing obligation of the project owner after expiration of the original subsidy contract.

The assumption was correct as to many projects under the Moderate Rehabilitation program, but it is not true as to some significant projects serving particularly vulnerable populations, including two very important community projects located in Maine, which I will describe later.

Perhaps an even greater concern than the formula itself, however, is a ruling by HUD's Office of General Counsel that Section 524(b)(3) presents the exclusive method for renewal of expiring contracts under the Moderate Rehabilitation program. In order to appreciate the drastic and problematic results of this opinion, it is necessary to understand the relationship between the Section 8 renewal legislation and the Mark-to-Market program, also enacted by MAHRA.

According to HUD, housing subsidy contracts are expiring on thousands of privately owned multifamily properties with federally insured mortgages. Many of these contracts set rents at amounts higher than those of the local market. As these subsidy contracts expire, the Mark-to-Market program will reduce rents to market levels and will restructure existing debt to levels supportable by these rents.

The basic principle of this integrated legislative structure is that for projects financed by FHA-insured mortgages, expiring Section 8 contracts which are subsidizing rents higher than market rents in the area will be renewed at rents reduced to a level not higher than the market rents. Where this reduced rent will not support debt service on the FHA-insured mortgage, the mortgage will be restructured pursuant to Mark-to-Market. The basic tradeoff is that while the Federal Government may bear some cost in the FHA insurance fund, it will be a lesser cost than continuing to subsidize above-market rents.

However, not all Section 8 projects are financed by FHA-insured mortgages. Many, instead, are financed by State housing agency bond-financed mortgages without FHA insurance, and some are even conventionally financed. The legislation provides, therefore, for an important "exception" to the requirement that rents be reduced upon renewal to market rents. Under Sections 524(b)(1) and (2), Section 8 contracts for "exception" projects—which are principally projects not eligible for Mark-to-Market because their mortgages are not FHA-insured—may be renewed at rents not exceeding the lower of current rents, as adjusted by an operating cost adjustment factor, and a "budget-based rent" approved by HUD, notwithstanding that such rents may exceed market rents in the area.

The effect of the HUD ruling that Section 524(b)(3) provides the exclusive authority for renewing expiring contracts in the Moderate Rehabilitation program is that "exception" project treatment under Section 524(b)(1) and (2) is made unavailable for Moderate Rehabilitation projects. The irony of this is that while the majority of Section 8 New Construction and Substantial Rehabilitation projects, and of course all Loan Management Set-Aside projects, are financed by FHA-insured mortgages—and therefore non-insured projects are truly the "exception" under those programs—the opposite is true in the Moderate Rehabilitation program.

Information provided by HUD indicates that not more than approximately 13 percent of all units ever subsidized under the Moderate Rehabilitation program were in projects financed by FHA-insured mortgages. Non-insured mortgages, therefore, were the rule, not the exception, in the Moderate Rehabilitation program.

The impact of this circumstance is well illustrated by two projects in Maine, both of which represent vital community resources for highly vulnerable low-income populations.

Loring House is a 104-unit development in Portland. The building originally was the Portland City Hospital, which was closed by the City in the early 1980s. It was converted to a residential facility for elderly and handicapped residents with significant public participation and support, including tax-exempt bond first mortgage financing by the Maine State Housing Authority, Moderate Rehabilitation Section 8 rental subsidies from the Portland and Westbrook public housing authorities, and second mortgage operating deficit financing by the Portland Housing Development Corporation.

The Loring House Section 8 contract expired in stages commencing December 31, 2000. The Loring House mortgage financing is not FHA-insured, but based on the HUD opinion I described, "exception" project treatment was denied. Under the Section 524(b)(3) formula, the Section 8 contract rents were reduced approximately 14 percent on renewal—this notwithstanding that the project was already incurring substantial operating deficits, supported by public operating deficit financing, even under the previous rents. The ultimate financial risk on this development is borne by the Maine State Housing Authority.

Loring House is an important community resource aside from the substantial public stake in its financing. Since 1985, the resident population has undergone a significant transformation, attributable largely to deinstitutionalization of two state mental institutions and concentration of State-supported comprehensive mental health services in the Portland area.

It is estimated that currently 70 percent of the tenant population are impacted by mental health, mental retardation and/or substance abuse issues. This change in population served has increased the total independence of the project on project-based assistance if it is to continue to serve this population. The only feasible avenue to financial survival of this facility, much less to its continued ability to serve its special population, is availability of "exception" project treatment.

Maison Marcotte is a 128-unit congregate care facility located in Lewiston. The building was built originally in the 1920s as a nursing home on a health care campus owned by the Sisters of Charity Health System.

Following construction of a new nursing home on the campus in the early 1980s, the Health System ground leased the former nursing home to a for-profit development group which renovated the facility into several discrete uses, including a kitchen and cafeteria facility for the health care campus, a wing of physician offices, and 128 one-bedroom congregate care units. The renovation was assisted by a 110-unit Moderate Rehabilitation award by the Lewiston Housing Authority; 18 units are private-pay.

A nonprofit subsidiary of Sisters of Charity Health System took over possession and operation of the facility following a Chapter 11 reorganization of the for-profit developer in the late 1980s. The bank debt on the facility was refinanced in 1993 by a tax-exempt bond financed first mortgage loan made by the Maine State Housing Authority which matures in 2023. The mortgage financing is not FHA-insured. The Moderate Rehabilitation HAP Contract expires October 31, 2001.

The current Moderate Rehabilitation contract rents for the one-bedroom units are substantially lower than the private-pay rents for similar units in the facility. Nevertheless, contract renewal pursuant to the existing Section 524(b)(3) formula would result in a 20-percent rent reduction, which clearly would threaten survival of the project. The financial risk, again, is borne solely by the Maine State Housing Authority.

The property might appear to have the option of opting out and converting to all private-pay units at the higher rental, but that is not the desire of the nonprofit operator nor would it be consistent with the low-income use restrictions arising from the tax-exempt bond issue. The only feasible outcome for this facility which would permit continuance of its commitment to very low-income elderly residents is renewal at "exception rent" pursuant to Section 524(b)(1).

I find it inconceivable that Congress consciously intended to impose the financial impact of Section 8 rent reductions in cases such as these onto State housing finance agencies. I also have no reason to think that the circumstances of these two projects, in which state housing agencies have undertaken the financing risk of long-term mortgages backed by short-term rental subsidy contracts because of the important public purposes of the projects, are unique to the State of Maine.

The legislation I am introducing today, therefore, would correct this inequity by simply striking subsection (b)(3) of Section 524. Under this legislation, the renewal of expiring contracts in the Moderate Rehabilitation program would be governed by the same renewal rent provisions as are applicable to expiring contracts in the New Construction and Substantial Rehabilitation programs, including the availability of "exception" project rents where the project financing is not FHA-insured.

Finally, the legislation would also strike one other current provision of the Section 8 renewal legislation which singles out Moderate Rehabilitation projects for unfavorable treatment and, more importantly, excludes Moderate Rehabilitation projects from the important policy preference for encouraging Section 8 project owners to continue their participation in the program and thereby maintain the availability of the units for low-income occupancy.

An essential tool for the preservation program, as strengthened by amendments to MAHRA enacted in 1999, is the ability to permit Section 8 owners currently receiving below-market rents under expiring contracts to receive rent increases upon renewal up to the level of market rents in the area, in exchange for a commitment to remain in the program for not less than an additional 5 years. Expiring contracts under the Moderate Rehabilitation program were excluded from this authority. However, from the standpoint of lower-income families needing subsidized housing opportunities in their communities, I believe the preservation of units which happen to be subsidized under the Moderate Rehabilitation program is no less vital than preservation of units under other subdivisions of the Section 8 program.

The Section 8 Moderate Rehabilitation program, while relatively small in comparison to the New Construction or Substantial Rehabilitation programs, is nevertheless widespread throughout the nation, in both large and small communities. It also has suffered a marked attrition of units, presumably due in large part to owner opt-outs in recent years. Information provided by HUD indicates that out of the total of approximately 120,000 units that we assisted under the Moderate Rehabilitation program, 52,000 units remained in the program in May 2000.

HUD information also indicated that 113 separate housing agencies in 42 States across the nation plus Puerto Rico, including State as well as local agencies, had 100 or more units under contract in May 2000. Since many if not most Moderate Rehabilitation project owners receive rents under their original contracts that are lower than market rents, it cannot be doubted that the ability to receive market rents could encourage many owners to remain in the program and to continue to provide affordable housing opportunities for their communities.

Accordingly, the legislation I am introducing today would also strike the current exclusion of contracts under the Moderate Rehabilitation program from the ability to receive renewal rents increased to market rent levels.

The overall effect of my legislation is to place expiring contracts under the Moderate Rehabilitation program on an equal footing with other expiring Section 8 contracts having similar characteristics in terms of comparison of contract rents with market rents and in terms of financing source—HUD-insured or non-insured.

I believe that preservation of these critical housing units is an imperative to my constituents and the communities I represent, as well as communities and projects elsewhere. As such, I urge my colleagues to join me in supporting this important legislation.

By Mr. HATCH:

S. 1889. A bill to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States; to the Committee on the Judiciary.

By Mr. HATCH:

S. 1890. A bill to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I wish to introduce companion measures to two House bills that would end the barring of the spouses of 'E' and 'L' nonimmigrant visa holders from work authorization while they are in the United States. The House of Representatives passed H.R. 2277 and H.R. 2278 with broad bipartisan support earlier this year and the Senate Judiciary Committee approved the House versions of both bills by unanimous consent earlier today.

The companion to H.R. 2277 amends the Immigration and Nationality Act to authorize the husbands and wives of treaty traders or treaty investors working in the United States, or E visa holders, to work themselves. The companion to H.R. 2278 is very similar, granting employment authorization to the spouses of intracompany transfers, or L visa holders. This measure would also allow individuals to apply for L visas after six months, rather than one year, of employment with the company with which they are working in the United States. I believe that both of these bills are very reasonable and deserve the support of the Senate.

Both pieces of legislation would end practices that deserve change as they currently stand. It is not right to force one spouse in a family to forgo employment simply because the other is working in the United States. Granting employment authorization to the spouses of E and L visa recipients makes it easier for foreign countries and multinational companies to persuade highly qualified employees, who are used to having both spouses actively employed, to relocate to the United States.

The time requirement for L visa applicants also warrants change. Current law requires that an L visa not be granted unless the applicant has been employed for at least 1 year with the employer in question. In many situations, this is too restrictive. This requirement inhibits firms who wish to hire individuals with specialized skills to meet the needs of clients in the United States. A shorter prior employment period would allow companies to meet the needs of their clients in a more timely manner.

I thank the House of Representatives and especially Congressman GEKAS, Chairman of the House Subcommittee on Immigration and Claims, for their hard work on these bills. Given the work between the House and Senate on these bills, I feel comfortable urging my colleagues to give these issues all due attention and support these measures.

By Mr. HATCH:

S. 1891. A bill to extend the basic pilot program for employment eligibility verification, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I stand to introduce a companion bill to H.R. 3030, the House bill that would extend a pilot program for employment eligibility verification of non-citizens. This bill would extend the program, set to expire this year, for two more years.

This basic pilot program, available to employers in California, Florida, Illinois, Nebraska, New York, and Texas, was authorized in 1996, and has proved to be an incredibly effective resource since them. The program allows participating employers to electronically access certain government databases in order to verify the employment authorization of non-citizens. Electronic confirmation of this information provides a critical tool for employers to ensure that they are not hiring unauthorized aliens. This program allows employers to protect themselves from the employer sanction provisions of the Immigration and Nationality Act, while providing meaningful deterrence to would-be employers who lack appropriate authorization from the INS.

During this time of increased national security, we can all appreciate any tool that will facilitate enforcement of our immigration laws. After communication between the House and the Senate on this issue, and the favorable report from the Senate Judiciary Committee this morning, I have little doubt that my colleagues in the Senate will recognize the useful nature of the Pilot Program and support its extension.

By Mr. SPECTER:

S.J. Res. 30. A joint resolution proposing an amendment to the Constitution of the United States regarding the appointment of individuals to serve as Members of the House of Representatives in the event a significant number of Members are unable to serve at any time because of death or incapacity; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I have sought recognition today to discuss language for a proposed constitutional amendment that would provide for the appointment of temporary Representatives by a Governor if fifty percent or more of the members of the House were killed or incapacitated. I place this language in the RECORD not with the intention of urging its passage this session, but rather to afford my colleagues an opportunity to offer their comments and suggestions, and to afford them the opportunity to consider co-sponsoring this proposed amendment.

The events of September 11 and the subsequent anthrax attacks directed against members of Congress and other Americans highlight the very real possibility that the Senate and House of Representatives could suffer catastrophic casualties that would prevent either or both bodies from fulfilling their essential roles in the governance of our Nation. Despite the morbidity of such a scenario, it is essential that we put in place a contingency plan for the effective continuance of our democracy. The Seventeenth Amendment to the Constitution allows for the temporary replacement of Senators by appointment by the Governor of their respective States. However, no such provision applies to members of the House. Only a proposed amendment to the United States Constitution would remedy this deficiency.

The only means to replace members of the House is by special election. Article 1, Section 2, clause 14, states that "[w]hen vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies." My legislative language proposes that if at any time, fifty percent or more of the Members of the House of Representatives are unable to carry out their duties because of death or incapacity, each Governor of a State represented by such Member would have the power to appoint an otherwise qualified individual to take the place of the Member as soon as practicable after certification of the Member's death or incapacity. Article I, Section 4, clause I states that "a Majority of each [House] shall constitute a Quroum to do Business." Accordingly, this extraordinary measure giving a Governor the power of appointment of a replacement Member would be triggered, when due to death or incapacity, the House would not have a quorum to conduct business.

My proposed amendment requires an individual appointed to take the place of the Member to serve until a Member is elected to fill the vacancy by a special election to be held at any time during the 90-day period which begins on the date of the individual's appointment, except that if a regularly schuled general election for the office was scheduled to be held during such period or 30 days thereafter, no special election would be held, and the Member elected in such regularly scheduled general election would fill the vacancy upon election. Further, my proposed amendment allows for the appointed individual to be a candidate in the special election or regularly scheduled general election.

The Governor would be required to appoint a person of the same party as the "replaced" member. This stipulation would ensure that the citizens of a congressional district would continue to be represented by a Congressperson from the same party.

While I understand that this is an issue we would rather not grapple with, it is imperative that we deliberate and ensure that, in case of a catastrophe, our system of governance will continue to remain strong and stable. Similar legislation has been introduced in the House of Representatives. I welcome comments from my colleagues in both the House and Senate and look forward to passing meaningful legislation when Congress returns from its winter recess.

Mr. President, I ask unanimous consent that the text ot the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S. J. RES. 30

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of its submission by the Congress:

"ARTICLE—

"SECTION 1. If at any time 50 percent or more of the Members of the House of Representatives are unable to carry out their duties because of death of incapacity, each Governor of a State represented by a Member, who has died or become incapacitated shall appoint a qualified individual to take the place of the Member as soon as practicable, but no later than 7 days, after the Member's death or incapacity has been certified.

An individual appointed to take the place of a Member of the House of Representatives under this section shall be a member of the same political party as the Member of the House of Representatives who is being replaced.

"SECTION 2. An individual appointed to take the place of a Member of the House of Representatives under section 1 shall serve until an individual is selected to fill the vacancy resulting from the former Member's death or incapacity.

A Member shall be elected to fill the vacancy in a special election to be held at any time during the 90-day period which begins on the date the individual is appointed under section 1, in accordance with the applicable election laws of the State involved. However, if a regularly scheduled general election for the office will be held during such 90-day period, or 30 days thereafter, no special election shall be held and the Member elected in such regularly scheduled general election shall fill the vacancy union election.

An individual appointed under section 1 may be a candidate in such a special election or in such a regularly scheduled general election.

"SECTION 3. During the period of an individual's appointment under section 1, the individual shall have all the powers and duties of a Member of the House of Representatives.

"SECTION 4. Congress shall have the power to enforce this article by appropriate legislation.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 194—CONGRATULATING THE PEOPLE AND GOVERNMENT OF KAZAKHSTAN ON THE TENTH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF KAZAKHSTAN

Mr. BROWNBACK submitted the following resolution; which was considered and agreed to:

S. RES. 194

Whereas, on December 16, 2001, Kazakhstan will celebrate 10 years of independence;

Whereas, since gaining its independence, Kazakhstan has made significant strides in becoming a stable and peaceful nation that provides economic opportunity for its people;

Whereas Kazakhstan continues to face political, ethnic, economic, and environmental challenges;

Whereas Kazakhstan plays an important role in Central Asia by virtue of its large territory, ample natural resources, and strategic location;

Whereas the Department of Energy estimates that Kazakhstan has up to 17,600,000,000 barrels of proven petroleum reserves and up to 83,000,000,000,000 cubic feet of proven natural gas reserves;

Whereas Kazakhstan has successfully partnered with United States companies in the development of its petroleum and natural gas resources;

Whereas in November 2001, the Caspian Pipeline Consortium was inaugurated, providing the first major pipeline to bring the Caspian energy resources to the world market;

Whereas the United States private sector contributed nearly 50 percent of the $2,600,000,000 Caspian Pipeline Consortium investment;

Whereas Kazakhstan, under the leadership of President Nursultan Nazarbaev, has fully cooperated with the United States on national security concerns, including combating nuclear proliferation, international crime, and narcotics trafficking;

Whereas, since September 11, 2001, cooperation with Kazakhstan and other Central Asian States, specifically Tajikistan and Uzbekistan, has become even more important to the ability of the United States to protect the United States homeland; and

Whereas Kazakhstan has extended all due cooperation to the United States in fighting a war against international terrorism: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the people of Kazakhstan and its government, on the tenth anniversary of its independence;

(2) welcomes the partnership between the Government of Kazakhstan and United States companies in developing its natural resources in an environmentally sustainable manner;

(3) applauds the cooperation between the Government of Kazakhstan and the Government of the United States on matters of national security and is grateful for the full cooperation of Kazakhstan in the war against international terrorism;

(4) encourages the Government of Kazakhstan to continue to make progress in the areas of institutionalizing democracy, respecting human rights, reducing corruption, and implementing broad-based market reforms; and

(5) looks forward to further enhancing the economic, political, and national security cooperation between Kazakhstan and the United States.

SENATE RESOLUTION 195—TENDERING THE THANKS OF THE SENATE TO THE VICE PRESIDENT FOR THE COURTEOUS, DIGNIFIED, AND IMPARTIAL MANNER IN WHICH HE HAS PRESIDED OVER THE DELIBERATIONS OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 195

Resolved, That the thanks of the Senate are hereby tendered to the Honorable RICHARD B. CHENEY, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundred Seventh Congress.

SENATE RESOLUTION 196—TENDERING THE THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE FOR THE COURTEOUS, DIGNIFIED, AND IMPARTIAL MANNER IN WHICH HE HAS PRESIDED OVER THE DELIBERATIONS OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 196

Resolved. That the thanks of the Senate are hereby tendered to the Honorable ROBERT C. BYRD, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundred Seventh Congress.

SENATE RESOLUTION 197—TO COMMEND THE EXEMPLARY LEADERSHIP OF THE MAJORITY LEADER

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 197

Resolved, That the thanks of the Senate are hereby tendered to the distinguished Majority Leader, the Senator from South Dakota, the Honorable THOMAS A. DASCHLE, for his exemplary leadership and the cooperative and dedicated manner in which he has performed his leadership responsibilities in the conduct of Senate business during the first session of the 107th Congress.

SENATE RESOLUTION 198—TO COMMEND THE EXEMPLARY LEADERSHIP OF THE REPUBLICAN LEADER

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 198

Resolved, That the thanks of the Senate are hereby tendered to the distinguished Republican Leader, the Senator from Mississippi, the Honorable TRENT LOTT, for his exemplary leadership and the cooperative and dedicated manner in which he has performed his leadership responsibilities in the conduct of Senate business during the first session of the 107th Congress.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2689. Mr. DASCHLE proposed an amendment to the bill H.R. 2884, An act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States, and for other purposes.

SA 2690. Mr. HOLLINGS (for himself, Mr. MCCAIN, and Mr. GRAHAM) proposed an amendment to the bill S. 1214, to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

SA 2691. Mr. REID (for Mr. ALLEN) proposed an amendment to the bill S. 1858, to permit the closed circuit televising of the criminal trial of Zacarias Moussaoui for the victims of September 11th.

SA 2692. Mr. REID (for Mr. FRIST (for himself, Mr. KENNEDY, and Mr. GREGG)) proposed an amendment to the bill H.R. 3448, to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies.

SA 2693. Mr. REID (for Mr. BROWNBACK) proposed an amendment to the bill S. Res. 194, congratulating the people and government of Kazakhstan on the tenth anniversary of the independence of the Republic of Kazakhstan.

SA 2694. Mr. REID (for Mr. SMITH, of New Hampshire) proposed an amendment to the bill S. 990, to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes.

SA 2695. Mr. REID (for Mr. BIDEN (for himself and Mr. HELMS)) proposed an amendment to the bill S. 1803, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal years 2002 and 2003, and for other purposes.

SA 2696. Mr. REID (for Mrs. CLINTON) proposed an amendment to the bill S. 1637, to waive certain limitations in the case of use of the emergency fund authorized by section 125 of title 23, United States Code, to pay the costs of projects in response to the attack on the World Trade Center in New York City that occurred on September 11, 2001.

SA 2697. Mr. REID (for Mr. LEAHY (for himself, Mr. KENNEDY, and Mr. HATCH)) proposed an amendment to the bill H.R. 2215, to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes.

TEXT OF AMENDMENTS

SA 2689. Mr. DASCHLE proposed an amendment to the bill H.R. 2884, an act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Victims of Terrorism Tax Relief Act of 2001".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—VICTIMS OF TERRORISM TAX RELIEF

Subtitle A—Relief Provisions for Victims of Terrorist Attacks

Sec. 101. Income taxes of victims of terrorist attacks.
Sec. 102. Exclusion of certain death benefits.
Sec. 103. Estate tax reduction.
Sec. 104. Payments by charitable organizations treated as exempt payments.
Sec. 105. Exclusion of certain cancellations of indebtedness.

Subtitle B—Other Relief Provisions

Sec. 111. Exclusion for disaster relief payments.
Sec. 112. Authority to postpone certain deadlines and required actions.
Sec. 113. Application of certain provisions to terroristic or military actions.
Sec. 114. Clarification of due date for airline excise tax deposits.
Sec. 115. Treatment of certain structured settlement payments.
Sec. 116. Personal exemption deduction for certain disability trusts.

TITLE II—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

Sec. 201. Disclosure of tax information in terrorism and national security investigations.

TITLE III—NO IMPACT ON SOCIAL SECURITY TRUST FUNDS

Sec. 301. No impact on social security trust funds.

TITLE I——VICTIMS OF TERRORISM TAX RELIEF

Subtitle A—Relief Provisions for Victims of Terrorist Attacks

SEC. 101. INCOME TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) IN GENERAL.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

"(d) INDIVIDUALS DYING AS A RESULT OF CERTAIN ATTACKS.—

"(1) IN GENERAL.—In the case of a specified terrorist victim, any tax imposed by this chapter shall not apply—

"(A) with respect to the taxable year in which falls the date of death, and

"(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds, injury, or illness referred to in paragraph (3) were incurred.

"(2) $10,000 MINIMUM BENEFIT.—If, but for this paragraph, the amount of tax not imposed by paragraph (1) with respect to a specified terrorist victim is less than $10,000, then such victim shall be treated as having made a payment against the tax imposed by this chapter for such victim's last taxable year in an amount equal to the excess of $10,000 over the amount of tax not so imposed.

"(3) TAXATION OF CERTAIN BENEFITS.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to the amount of any tax imposed by this chapter which would be computed by only taking into account the items of income, gain, or other amounts attributable to—

"(A) deferred compensation which would have been payable after death if the individual had died other than as a specified terrorist victim, or

"(B) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after September 11, 2001.

"(4) SPECIFIED TERRORIST VICTIM.—For purposes of this subsection, the term 'specified terrorist victim' means any decedent—

"(A) who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or

"(B) who dies as a result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

Such term shall not include any individual identified by the Attorney General to have been a participant or conspirator in any such attack or a representative of such an individual.".

(b) CONFORMING AMENDMENTS.—

(1) Section 5(b)(1) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(2) Section 6013(f)(2)(B) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(c) CLERICAL AMENDMENTS.—

(1) The heading of section 692 is amended to read as follows:

"SEC. 692. INCOME TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH.".

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

"Sec. 692. Income taxes of members of Armed Forces and victims of certain terrorist attacks on death.".

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 102. EXCLUSION OF CERTAIN DEATH BENEFITS.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(i) CERTAIN EMPLOYEE DEATH BENEFITS PAYABLE BY REASON OF DEATH OF CERTAIN TERRORIST VICTIMS.—

"(1) IN GENERAL.—Gross income does not include amounts (whether in a single sum or otherwise) paid by an employer by reason of the death of an employee who is a specified terrorist victim (as defined in section 692(d)(4)).

"(2) LIMITATION.—

"(A) IN GENERAL.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to amounts which would have been payable after death if the individual had died other than as a specified terrorist victim (as so defined).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to incidental death benefits paid from a plan described in section 401(a) and exempt from tax under section 501(a).

"(3) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of paragraph (1), the term 'employee' includes a self-employed individual (as defined in section 401(c)(1)).".

(b) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 103. ESTATE TAX REDUCTION.

(a) IN GENERAL.—Section 2201 is amended to read as follows:

"SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.

"(a) IN GENERAL.—Unless the executor elects not to have this section apply, in applying sections 2001 and 2101 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

"(b) QUALIFIED DECEDENT.—For purposes of this section, the term 'qualified decedent' means—

"(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

"(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

"(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, and

"(2) any specified terrorist victim (as defined in section 692(d)(4)).

"(c) RATE SCHEDULE.—

"If the amount with respect to which the tentative tax to be computed is:	**The tentative tax is:**
Not over $150,000	1 percent of the amount by which such amount exceeds $100,000.
Over $150,000 but not over $200,000.	$500 plus 2 percent of the excess over $150,000.
Over $200,000 but not over $300,000.	$1,500 plus 3 percent of, the excess over $200,000.
Over $300,000 but not over $500,000.	$4,500 plus 4 percent of the excess over $300,000.
Over $500,000 but not over $700,000.	$12,500 plus 5 percent of the excess over $500,000.
Over $700,000 but not over $900,000.	$22,500 plus 6 percent of the excess over $700,000.
Over $900,000 but not over $1,100,000.	$34,500 plus 7 percent of the excess over $900,000.
Over $1,100,000 but not over $1,600,000.	$48,500 plus 8 percent of the excess over $1,100,000.
Over $1,600,000 but not over $2,100,000.	$88,500 plus 9 percent of the excess over $1,600,000.
Over $2,100,000 but not over $2,600,000.	$133,500 plus 10 percent of the excess over $2,100,000.
Over $2,600,000 but not over $3,100,000.	$183,500 plus 11 percent of the excess over $2,600,000.
Over $3,100,000 but not over $3,600,000.	$238,500 plus 12 percent of the excess over $3,100,000.
Over $3,600,000 but not over $4,100,000.	$298,500 plus 13 percent of the excess over $3,600,000.
Over $4,100,000 but not over $5,100,000.	$363,500 plus 14 percent of the excess over $4,100,000.
Over $5,100,000 but not over $6,100,000.	$503,500 plus 15 percent of the excess over $5,100,000.
Over $6,100,000 but not over $7,100,000.	$653,500 plus 16 percent of the excess over $6,100,000.

"If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Over $7,100,000 but not over $8,100,000.	$813,500 plus 17 percent of the excess over $7,100,000.
Over $8,100,000 but not over $9,100,000.	$983,500 plus 18 percent of the excess over $8,100,000.
Over $9,100,000 but not over $10,100,000.	$1,163,500 plus 19 percent of the excess over $9,100,000.
Over $10,100,000	$1,353,500 plus 20 percent of the excess over $10,100,000.

"(d) DETERMINATION OF UNIFIED CREDIT.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2053(d)(3)(B) is amended by striking "section 2011(e)" and inserting "section 2011(d)".

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

"Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.".

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents—

(A) dying on or after September 11, 2001, and

(B) in the case of individuals dying as a result of the April 19, 1995, terrorist attack, dying on or after April 19, 1995.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 104. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made in good faith using a reasonable and objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

SEC. 105. EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or as the result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, and

(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

(b) EFFECTIVE DATE.—This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002.

Subtitle B—Other Relief Provisions

SEC. 111. EXCLUSION FOR DISASTER RELIEF PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

"SEC. 139. DISASTER RELIEF PAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any amount received by an individual as a qualified disaster relief payment.

"(b) QUALIFIED DISASTER RELIEF PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster relief payment' means any amount paid to or for the benefit of an individual—

"(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

"(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

"(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

"(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

"(c) QUALIFIED DISASTER DEFINED.—For purposes of this section, the term 'qualified disaster' means—

"(1) a disaster which results from a terroristic or military action (as defined in section 692(c)(2)),

"(2) a Presidentially declared disaster (as defined in section 1033(h)(3)),

"(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

"(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

"(d) COORDINATION WITH EMPLOYMENT TAXES.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

"(e) NO RELIEF FOR CERTAIN INDIVIDUALS.—Subsections (a) and (f) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

"(f) EXCLUSION OF CERTAIN ADDITIONAL PAYMENTS.—Gross income shall not include any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act."

(b) CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

"Sec. 139. Disaster relief payments.

"Sec. 140. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 112. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) EXPANSION OF AUTHORITY RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS.—Section 7508A is amended to read as follows:

"SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

"(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

"(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

"(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

"(3) the amount of any credit or refund.

"(b) SPECIAL RULES REGARDING PENSIONS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

"(c) SPECIAL RULES FOR OVERPAYMENTS.—The rules of section 7508(b) shall apply for purposes of this section.".

(b) CLARIFICATION OF SCOPE OF ACTS SECRETARY MAY POSTPONE.—Section 7508(a)(1)(K) (relating to time to be disregarded) is amended by striking "in regulations prescribed under this section".

(c) CONFORMING AMENDMENTS TO ERISA.—

(1) Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of

1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

"SEC. 518. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

"In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.".

(2) Section 4002 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following new subsection:

"(l) Special Rules Regarding Disasters, Etc.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.".

(d) Additional Conforming Amendments.—

(1) Section 6404 is amended—

(A) by striking subsection (h),

(B) by redesignating subsection (i) as subsection (h), and

(C) by adding at the end the following new subsection:

"(i) Cross Reference.—

"For authority to suspend running of interest, etc. by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(2) Section 6081(c) is amended to read as follows:

"(c) Cross References.—

"For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

"(3) Postponement of certain acts.—

"For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(d) Clerical Amendments.—

(1) The item relating to section 7508A in the table of sections for chapter 77 is amended to read as follows:

"Sec. 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.".

(2) The table of contents for the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 517 the following new item:

"Sec. 518. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.".

(e) Effective Date.—The amendments made by this section shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

SEC. 113. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.

(a) Disability Income.—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking "a violent attack" and all that follows through the period and inserting "a terroristic or military action (as defined in section 692(c)(2)).".

(b) Exemption From Income Tax for Certain Military or Civilian Employees.—Section 692(c) is amended—

(1) by striking "outside the United States" in paragraph (1), and

(2) by striking "Sustained Overseas" in the heading.

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 114. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX DEPOSITS.

(a) In General.—Paragraph (3) of section 301(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42) is amended to read as follows:

"(3) Airline-related deposit.—For purposes of this subsection, the term 'airline-related deposit' means any deposit of taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air).".

(b) Effective Date.—The amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

SEC. 115. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS.

(a) In General.—Subtitle E is amended by adding at the end the following new chapter:

"CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

"Sec. 5891. Structured settlement factoring transactions.

"SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

"(a) Imposition of Tax.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

"(b) Exception for Certain Approved Transactions.—

"(1) In general.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

"(2) Qualified order.—For purposes of this section, the term 'qualified order' means a final order, judgment, or decree which—

"(A) finds that the transfer described in paragraph (1)—

"(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

"(ii) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

"(B) is issued—

"(i) under the authority of an applicable State statute by an applicable State court, or

"(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

"(3) Applicable state statute.—For purposes of this section, the term 'applicable State statute' means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

"(A) the State in which the payee of the structured settlement is domiciled, or

"(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

"(4) Applicable state court.—For purposes of this section—

"(A) In general.—The term 'applicable State court' means, with respect to any applicable State statute, a court of the State which enacted such statute.

"(B) Special rule.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

"(5) Qualified order dispositive.—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

"(c) Definitions.—For purposes of this section—

"(1) Structured settlement.—The term 'structured settlement' means an arrangement—

"(A) which is established by—

"(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

"(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

"(B) under which the periodic payments are—

"(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

"(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

"(2) Structured settlement payment rights.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

"(3) Structured settlement factoring transaction.—

"(A) In general.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

“(B) Exception.—Such term shall not include—

“(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

“(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

“(4) Factoring discount.—The term ‘factoring discount’ means an amount equal to the excess of—

“(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

“(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

“(5) Responsible administrative authority.—The term ‘responsible administrative authority’ means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

“(6) State.—The term ‘State’ includes the Commonwealth of Puerto Rico and any possession of the United States.

“(d) Coordination With Other Provisions.—

“(1) In general.—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

“(2) No withholding of tax.—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.”.

(b) Clerical Amendment.—The table of chapters for subtitle E is amended by adding at the end the following new item:

“Chapter 55. Structured settlement factoring transactions.”.

(c) Effective Dates.—.

(1) In general.—The amendments made by this section (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

(2) Clarification of existing law.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into before, on, or after such 30th day.

(3) Transition rule.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(i) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority), and

(ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee, and

(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

SEC. 116. PERSONAL EXEMPTION DEDUCTION FOR CERTAIN DISABILITY TRUSTS.

(a) In General.—Subsection (b) of section 642 (relating to deduction for personal exemption) is amended to read as follows:

“(b) Deduction for Personal Exemption.—

“(1) Estates.—An estate shall be allowed a deduction of $600.

“(2) Trusts.—

“(A) In general.—Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of $100.

“(B) Trusts distributing income currently.—A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of $300.

“(C) Disability trusts.—

“(i) In general.—A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d), determined—

“(I) by treating such trust as an individual described in section 151(d)(3)(C)(iii), and

“(II) by applying section 67(e) (without the reference to section 642(b)) for purposes of determining the adjusted gross income of the trust.

“(ii) Qualified disability trust.—For purposes of clause (i), the term ‘qualified disability trust’ means any trust if—

“(I) such trust is a disability trust described in subsection (c)(2)(B)(iv) of section 1917 of the Social Security Act (42 U.S.C. 1396p), and

“(II) all of the beneficiaries of the trust as of the close of the taxable year are determined by the Commissioner of Social Security to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382c(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled.”

“(3) Deductions in lieu of personal exemption.—The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending on or after September 11, 2001.

TITLE II—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

SEC. 201. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.

(a) Disclosure Without a Request of Information Relating to Terrorist Activities, Etc.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

“(C) Terrorist activities, etc.—

“(i) In general.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

“(ii) Disclosure to the Department of Justice.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

“(iii) Taxpayer identity.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

“(iv) Termination.—No disclosure may be made under this subparagraph after December 31, 2003.”.

(b) Disclosure Upon Request of Information Relating to Terrorist Activities, Etc.—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) Disclosure upon request of information relating to terrorist activities, etc.—

“(A) Disclosure to law enforcement agencies.—

“(i) In general.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

“(ii) Disclosure to State and local law enforcement agencies.—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

"(iii) REQUIREMENTS.—A request meets the requirements of this clause if—

"(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of any terrorist incident, threat, or activity, and

"(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iv) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

"(B) DISCLOSURE TO INTELLIGENCE AGENCIES.—

"(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

"(ii) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request—

"(I) is made by an individual described in clause (iii), and

"(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iii) REQUESTING INDIVIDUALS.—An individual described in this subparagraph is an individual—

"(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

"(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity.

"(iv) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(C) DISCLOSURE UNDER EX PARTE ORDERS.—

"(i) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened to inspection or disclosure pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to such terrorist incident, threat, or activity.

"(ii) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

"(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

"(D) SPECIAL RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

"(ii) LIMITATION ON USE OF INFORMATION.—Information disclosed under clause (i)—

"(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

"(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

"(E) TERMINATION.—No disclosure may be made under this paragraph after December 31, 2003.".

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(a)(2) is amended by inserting "any local law enforcement agency receiving information under subsection (i)(7)(A)," after "State,".

(2) Section 6103(b) is amended by adding at the end the following new paragraph:

"(11) TERRORIST INCIDENT, THREAT, OR ACTIVITY.—The term 'terrorist incident, threat, or activity' means an incident, threat, or activity involving an act of domestic terrorism (as defined in section 2331(5) of title 18, United States Code) or international terrorism (as defined in section 2331(1) of such title).".

(3) The heading of section 6103(i)(3) is amended by inserting "OR TERRORIST" after "CRIMINAL".

(4) Paragraph (4) of section 6103(i) is amended—

(A) in subparagraph (A) by inserting "or (7)(C)" after "paragraph (1)", and

(B) in subparagraph (B) by striking "or (3)(A)" and inserting "(3)(A) or (C), or (7)".

(5) Paragraph (6) of section 6103(i) is amended—

(A) by striking "(3)(A)" and inserting "(3)(A) or (C)", and

(B) by striking "or (7)" and inserting "(7), or (8)".

(6) Section 6103(p)(3) is amended—

(A) in subparagraph (A) by striking "(7)(A)(ii)" and inserting "(8)(A)(ii)", and

(B) in subparagraph (C) by striking "(i)(3)(B)(i)" and inserting "(i)(3)(B)(i) or (7)(A)(ii)".

(7) Section 6103(p)(4) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking "or (5)," the first place it appears and inserting "(5), or (7),", and

(ii) by striking "(i)(3)(B)(i)," and inserting "(i)(3)(B)(i) or (7)(A)(ii),", and

(B) in subparagraph (F)(ii) by striking "or (5)," the first place it appears and inserting "(5) or (7),".

(8) Section 6103(p)(6)(B)(i) is amended by striking "(i)(7)(A)(ii)" and inserting "(i)(8)(A)(ii)".

(9) Section 6105(b) is amended—

(A) by striking "or" at the end of paragraph (2),

(B) by striking "paragraphs (1) or (2)" in paragraph (3) and inserting "paragraph (1), (2), or (3)",

(C) by redesignating paragraph (3) as paragraph (4), and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) to the disclosure of tax convention information on the same terms as return information may be disclosed under paragraph (3)(C) or (7) of section 6103(i), except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government, or".

(10) Section 7213(a)(2) is amended by striking "(i)(3)(B)(i)," and inserting "(i)(3)(B)(i) or (7)(A)(ii),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made on or after the date of the enactment of this Act.

TITLE III—NO IMPACT ON SOCIAL SECURITY TRUST FUNDS

SEC. 301. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

SA 2690. Mr. HOLLINGS (for himself, Mr. MCCAIN, and Mr. GRAHAM) proposed an amendment to the bill S. 1214, to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Port and Maritime Security Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PORT AND MARITIME SECURITY

Sec. 101. Findings.
Sec. 102. National Maritime Security Advisory Committee.
Sec. 103. Initial security evaluations and port vulnerability assessments.
Sec. 104. Establishment of local port security committees.
Sec. 105. Maritime facility security plans.
Sec. 106. Employment investigations and restrictions for security-sensitive positions.
Sec. 107. Maritime domain awareness.
Sec. 108. International port security.
Sec. 109. Counter-terrorism and incident contingency plans.
Sec. 110. Maritime security professional training.
Sec. 111. Port security infrastructure improvement.
Sec. 112. Screening and detection equipment.
Sec. 113. Revision of port security planning guide.
Sec. 114. Shared dockside inspection facilities.
Sec. 115. Mandatory advanced electronic information for cargo and passengers and other improved customs reporting procedures.
Sec. 116. Prearrival messages from vessels destined to United States ports.
Sec. 117. Maritime safety and security teams.
Sec. 118. Research and development for crime and terrorism prevention and detection technology.
Sec. 119. Extension of seaward jurisdiction.
Sec. 120. Suspension of limitation on strength of Coast Guard.
Sec. 121. Additional reports.
Sec. 122. 4-year reauthorization of tonnage duties.
Sec. 123 Definitions.

TITLE II—ADDITIONAL MARITIME SAFETY AND SECURITY RELATED MEASURES

Sec. 201. Extension of deepwater port act to natural gas.
Sec. 202. Assignment of Coast Guard personnel as sea marshals and enhanced use of other security personnel.
Sec. 203. National maritime transportation security plan.
Sec. 204. Area maritime security committees and area maritime security plans.
Sec. 205. Vessel security plans.
Sec. 206. Protection of security-related information.
Sec. 207. Enhanced cargo identification and tracking.
Sec. 208. Enhanced crewmember identification.

TITLE I—PORT AND MARITIME SECURITY

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) There are 361 public ports in the United States which have a broad range of characteristics, and all of which are an integral part of our Nation's commerce.

(2) United States ports conduct over 95 percent of United States overseas trade. Over the next 20 years, the total volume of imported and exported goods at ports is expected to more than double.

(3) The variety of trade and commerce that are carried out at ports has greatly expanded. Bulk cargo, containerized cargo, passenger transport and tourism, intermodal transportation systems, and complex domestic and international trade relationships have significantly changed the nature, conduct, and complexity of port commerce.

(4) The United States is increasingly dependent on imported energy for a substantial share of supply, and a disruption of supply would seriously harm consumers and our economy.

(5) The top 50 ports in the United States account for about 90 percent of all the cargo tonnage. Twenty-five United States ports account for 98 percent of all container shipments. Cruise ships visiting foreign destinations embark from 16 ports. Ferries in the United States transport 113,000,000 passengers and 32,000,000 vehicles per year.

(6) In the larger ports, the activities can stretch along a coast for many miles, including public roads within their geographic boundaries. The facilities used to support arriving and departing cargo are sometimes miles from the coast.

(7) Ports often are a major locus of Federal crime, including drug trafficking, cargo theft, and smuggling of contraband and aliens. The criminal conspiracies often associated with these crimes can pose threats to the people and critical infrastructures of port cities. Ports that accept international cargo have a higher risk of international crimes like drug and alien smuggling and trade fraud.

(8) Ports are often very open and exposed and, by the very nature of their role in promoting the free flow of commerce, are susceptible to large scale terrorism that could pose a threat to coastal, Great Lake, or riverain populations. Port terrorism could pose a significant threat to the ability of the United States to pursue its national security objectives.

(9) United States ports are international boundaries, however, unlike United States airports and land borders, United States ports receive no Federal funds for security infrastructure.

(10) Current inspection levels of containerized cargo are insufficient to counter potential security risks. Technology is currently not adequately deployed to allow for the non-intrusive inspection of containerized cargo. Additional promising technology is in the process of being developed that could inspect cargo in a non-intrusive and efficient fashion.

(11) The burgeoning cruise ship industry poses a special risk from a security perspective.

(12) Effective physical security and access control in ports is fundamental to deterring and preventing potential threats to port operations, and cargo shipments.

(13) Securing entry points, open storage areas, and warehouses throughout the port, controlling the movements of trucks transporting cargo through the port, and examining or inspecting containers, warehouses, and ships at berth or in the harbor are all important requirements that should be implemented.

(14) Identification procedures for arriving workers are important tools to deter and prevent port cargo crimes, smuggling, and terrorist actions.

(15) On April 27, 1999, the President established the Interagency Commission on Crime and Security in United States Ports to undertake a comprehensive study of the nature and extent of the problem of crime in our ports, as well as the ways in which governments at all levels are responding.

(16) The Commission has issued findings that indicate the following:

(A) Frequent crimes in ports include drug smuggling, illegal car exports, fraud (including Intellectual Property Rights and other trade violations), and cargo theft.

(B) Data about crime in ports has been very difficult to collect.

(C) Internal conspiracies are an issue at many ports, and contribute to Federal crime.

(D) Intelligence and information sharing among law enforcement agencies needs to be improved and coordinated at many ports.

(E) Many ports do not have any idea about the threats they face from crime, terrorism, and other security-related activities because of a lack of credible threat information.

(F) A lack of minimum physical, procedural, and personnel security standards at ports and at terminals, warehouses, trucking firms, and related facilities leaves many ports and port users vulnerable to theft, pilferage, and unauthorized access by criminals.

(G) Access to ports and operations within ports is often uncontrolled.

(H) Coordination and cooperation between law enforcement agencies in the field is often fragmented.

(I) Meetings between law enforcement personnel, carriers, marine terminal operators, and port authorities regarding security are not being held routinely in the ports. These meetings could increase coordination and cooperation at the local level.

(J) Security-related equipment such as small boats, cameras, and vessel tracking devices is lacking at many ports.

(K) Detection equipment such as large-scale x-ray machines is lacking at many high-risk ports.

(L) A lack of timely, accurate, and complete manifest (including in-bond) and trade (entry, importer, etc.) data negatively impacts law enforcement's ability to function effectively.

(M) Criminal organizations are exploiting weak security in ports and related intermodal connections to commit a wide range of cargo crimes. Levels of containerized cargo volumes are forecasted to increase significantly, which will create more opportunities for crime while lowering the statistical risk of detection and interdiction.

(17) United States ports are international boundaries that—

(A) are particularly vulnerable to threats of drug smuggling, illegal alien smuggling, cargo theft, illegal entry of cargo and contraband;

(B) may present weaknesses in the ability of the United States to realize its national security objectives; and

(C) may serve as a vector or target for terrorist attacks aimed at the population of the United States.

(18) It is in the best interests of the United States—

(A) to be mindful that United States ports are international ports of entry and that the primary obligation for the security of international ports of entry lies with the Federal government;

(B) to be mindful of the need for the free flow of interstate and foreign commerce and the need to ensure the efficient movement of cargo in interstate and foreign commerce and the need for increased efficiencies to address trade gains;

(C) to increase United States port security by establishing a better method of communication amongst law enforcement officials responsible for port boundary, security, and trade issues;

(D) to formulate requirements for physical port security, recognizing the different character and nature of United States ports, and to require the establishment of security programs at ports;

(E) to provide financial incentives to help the States and private sector to increase physical security of United States ports;

(F) to invest in long-term technology to facilitate the private sector development of technology that will assist in the non-intrusive timely detection of crime or potential crime;

(G) to harmonize data collection on port-related and other cargo theft, in order to address areas of potential threat to safety and security;

(H) to create shared inspection facilities to help facilitate the timely and efficient inspection of people and cargo in United States ports;

(I) to improve Customs reporting procedures to enhance the potential detection of crime in advance of arrival or departure of cargoes; and

(J) to promote private sector procedures that provide for in-transit visibility and support law enforcement efforts directed at managing the security risks of cargo shipments.

SEC. 102. NATIONAL MARITIME SECURITY ADVISORY COMMITTEE.

(a) IN GENERAL.—Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226) is amended by adding at the end the following:

"(d) NATIONAL MARITIME SECURITY ADVISORY COMMITTEE.—

"(1) IN GENERAL.—The Secretary shall establish a National Maritime Security Advisory Committee, comprised of not more than 21 members appointed by the Secretary. The Secretary may require that a prospective member undergo a background check or obtain an appropriate security clearance before appointment.

"(2) ORGANIZATION.—The Secretary—

"(A) shall designate a chairperson of the Advisory Committee;

"(B) shall approve a charter, including such procedures and rules as the Secretary deems necessary for the operation of the Advisory Committee;

"(C) shall establish a law enforcement subcommittee and, with the consent of the Secretary of the Treasury and the Attorney General, respectively, include as members of the subcommittee representatives from the Customs Service and the Immigration and Naturalization Service;

"(D) may establish other subcommittees to facilitate consideration of specific issues, including maritime and port security, border protection, and maritime domain awareness issues, the potential effects on national energy security, the United States economy, and the environment of disruptions of crude oil, refined petroleum products, liquified natural gas, and other energy sources; and

"(E) may invite the participation of other Federal agencies and of State and local government agencies of State, including law enforcement agencies, with an interest or expertise in anti-terrorism or maritime and port security and safety related issues.

"(3) MATERIAL AND MISSION SUPPORT.—In carrying out this subsection, the Secretary may accept contributions of funds, material, services, and the use of personnel and facilities from public or private entities, by contract or other arrangement, if the confidentiality of security-sensitive information is maintained and access to such information is limited appropriately. The Secretary shall deposit any funds accepted under this paragraph as miscellaneous receipts in the general fund of the Treasury.

"(4) FUNCTIONS.—The Advisory Committee shall—

"(A) advise, consult with, report to, and make recommendations to the Secretary on ways to enhance the security and safety of United States ports; and

"(B) provide advice and recommendations to the Secretary on matters related to maritime and port security and safety, including—

"(i) longterm solutions for maritime and port security issues;

"(ii) coordination of security and safety operations and information between and among Federal, State, and local governments and area and local port security committees and harbor safety committees;

"(iii) conditions for maritime security and safety loan guarantees and grants;

"(iv) development of a National Maritime Transportation Security Plan;

"(v) development and implementation of area and local maritime security plans;

"(vi) protection of port energy transportation facilities; and

"(vii) helping to ensure that the public and area and local port security committees are kept informed about maritime security enhancement developments.

"(5) TERMINATION.—The Advisory Committee shall terminate on September 30, 2005.".

(b) FUNDING FOR FYS 2003-2005.—Of the amounts made available under section 122(b) there may be made available to the Secretary of Transportation for activities of the National Maritime Security Advisory Committee established under section 7(d) of the Ports and Waterways Safety Act (33 U.S.C. 1226(d)) $1,000,000 for each of fiscal years 2003 through 2005, such sums to remain available until expended.

(c) AUTHORIZATION OF APPROPRIATIONS FOR FY 2002.—There are authorized to be appropriated to the Secretary of Transportation $1,000,000 for fiscal year 2002 for activities of the Advisory Committee, such sums to remain available until expended.

SEC. 103. INITIAL SECURITY EVALUATIONS AND PORT VULNERABILITY ASSESSMENTS.

(a) IN GENERAL.—Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), as amended by section 102, is further amended by adding at the end the following:

"(e) INITIAL SECURITY EVALUATIONS AND PORT VULNERABILITY ASSESSMENTS.—

"(1) DEVELOPMENT OF STANDARDS.—The Secretary, in consultation with appropriate public and private sector officials and organizations, shall develop standards and procedures for conducting initial security evaluations and port vulnerability assessments.

"(2) INITIAL SECURITY EVALUATIONS.—The Secretary shall conduct an initial security evaluation of all port authorities, waterfront facilities, and public or commercial structures located within or adjacent to the marine environment. The Secretary shall consult the local port security committee while developing the initial security evaluation, and may require each port authority, waterfront facility operator, or operator of a public or commercial structure located within or adjacent to the marine environment to submit security information for review by the local port security committee.

"(3) PORT VULNERABILITY ASSESSMENTS.—The Secretary shall review initial security evaluations and conduct a port vulnerability assessment for each port for which the Secretary determines such an assessment is appropriate. If a port vulnerability assessment has been conducted within 5 years by or on behalf of a port authority or marine terminal operator, and the Secretary determines that it was conducted in a manner that is generally consistent with the standards and procedures specified under this subsection, the Secretary may accept that assessment rather than conducting another port vulnerability assessment for that port.

"(4) REVIEW AND COMMENT OPPORTUNITY.—The Secretary shall make each initial security evaluation and port vulnerability assessment for a port available for review and comment by the local port security committee, officials of the port authority, marine terminal operator representatives, and representatives of other entities connected to or affiliated with maritime commerce or port security as the Secretary determines to be appropriate, based on the recommendations of the local port security committee.

"(5) UNAUTHORIZED DISCLOSURE.—The Secretary shall ensure that all initial security evaluations, port vulnerability assessments, and any associated materials are properly safeguarded from unauthorized disclosure.

"(6) MATERIAL AND MISSION SUPPORT.—In carrying out responsibilities under this Act, the Secretary may accept contributions of funds, material, services, and the use of personnel and facilities from public and private entities by contract or other arrangement if the confidentiality of security-sensitive information is maintained and access to such information is limited appropriately. The Secretary shall deposit any funds accepted under this section as miscellaneous receipts in the general fund of the Treasury.".

(b) FUNDING.—Of the amounts made available under section 122(b) there may be made available to the Secretary $10,000,000 for each of fiscal years 2003 through 2006 to carry out section 7(e) of the Ports and Waterways Safety Act (33 U.S.C. 1226(e)), such sums to remain available until expended.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $20,000,000 for fiscal year 2002 to carry out section 7(e) of the Ports and Waterways Safety Act (33 U.S.C. 1226(e)), such sums to remain available until expended.

SEC. 104. ESTABLISHMENT OF LOCAL PORT SECURITY COMMITTEES.

(a) IN GENERAL.—Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), as amended by section 103, is further amended by adding at the end the following:

"(f) LOCAL PORT SECURITY COMMITTEES.—

"(1) ESTABLISHMENT.—The Secretary shall establish local port security committees.

"(2) FUNCTIONS.—A local port security committees established under this subsection shall—

"(A) help coordinate planning and other port security activities;

"(B) help make use of, and disseminate the information made available under this section;

"(C) make recommendations concerning initial security evaluations and port vulnerability assessments by identifying the unique characteristics of each port;

"(D) assist in the review of port vulnerability assessments promulgated under this section;

“(E) assist in implementing the guidance promulgated under this section;

“(F) annually review maritime security plans for each local port authority, waterfront facility operator, or operator of a public or commercial structure located within or adjacent to the marine environment; and

“(G) assist the Captain-of-the-Port in conducting a field security exercise at least once every 3 years to verify the effectiveness of one or more maritime security plans for a local port authority, waterfront facility operator, or operator of a public or commercial structure located within or adjacent to the marine environment.

“(3) Use of existing committees.—In establishing these local port security committees, the Secretary may use or augment any existing port or harbor safety committee or port readiness committee, if the membership of the port security committee includes representatives of—

“(A) the port authority or authorities;

“(B) Federal, State and local government;

“(C) Federal, State, and local law enforcement agencies;

“(D) longshore labor organizations or transportation workers;

“(E) local port-related business officials or management organizations;

“(F) shipping companies, vessel owners, terminal owners and operators, truck, rail and pipeline operators, where such are in operation;and

“(G) other persons or organizations whose inclusion is deemed beneficial by the Captain of the Port or the Secretary.

“(4) Chair.—Each local port security committee shall be chaired by the Captain-of-the-Port.

“(5) Jurisdiction.—Each port may have a separate port security committee or, at the discretion of the Captain-of-the-Port, a Captain-of-the-Port zone may have a single port security committee covering all ports within that zone.

“(6) Quarterly meetings.—The port security committee shall meet at least 4 times each year at the call of the Chairperson.

“(7) FACA not applicable.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to a port security committee established under this subsection.

“(8) Material and mission support.—In carrying out responsibilities under this Act, the Secretary may accept contributions of funds, material, services, and the use of personnel and facilities from public and private entities by contract or other arrangement if the confidentiality of security-sensitive information is maintained and access to such information is limited appropriately. The Secretary shall deposit any funds accepted under this section as miscellaneous receipts in the general fund of the United States Treasury.”.

(b) Funding.—Of the amounts made available under section 122(b) there may be made available to the Secretary $3,000,000 for each of fiscal years 2003 through 2006 to carry out section 7(f) of the Ports and Waterways Safety Act (33 U.S.C. 1226(f)), such sums to remain available until expended.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2002 and 2003 to carry out section 7(f) of the Ports and Waterways Safety Act (33 U.S.C. 1226(f)), such sums to remain available until expended.

SEC. 105. MARITIME FACILITY SECURITY PLANS.

Section 7 of the Ports and Waterways Safety Act, (33 U.S.C. 1226), as amended by section 104, is further amended by adding at the end the following:

“(g) Maritime Facility Security Plans.—

“(1) Regulations to establish requirement.—The Secretary, after consultation with the Secretary of the Treasury and the Attorney General, shall issue regulations establishing requirements for submission of a maritime facility security plan, as the Secretary determines necessary, by each port authority, waterfront facility operator, or operator of a public or commercial structure located within or adjacent to the marine environment (as defined in section 2101(15) of title 46, United States Code). The Secretary shall ensure that the local port security committee is consulted in the development of a maritime facility security plan under those regulations.

“(2) Purpose; specificity; content.—

“(A) Purpose.—A maritime facility security plan shall provide a law enforcement program and capability at the port that is adequate to safeguard the public and to improve the response to threats of crime and terrorism.

“(B) Specificity.—Notwithstanding other provisions of this Act, the Secretary may impose specific, or different requirements on individual ports, port authorities, marine terminal operators or other entities required to submit a maritime facility security plan under regulations promulgated under this subsection.

“(C) Content.—A maritime facility security plan shall include—

“(i) provisions for establishing and maintaining physical security for port areas and approaches, including establishing, as necessary, controlled access areas and secure perimeters within waterfront facilities and other public or commercial structures located within or adjacent to the marine environment;

“(ii) provisions for establishing and maintaining procedural security for processing passengers, cargo, and crewmembers, and security for employees and service providers;

“(iii) a credentialing requirement to limit access to waterfront facilities and other public or commercial structures located within or adjacent to the marine environment, designed to ensure that only authorized individuals and service providers gain admittance;

“(iv) a credentialing requirement to limit access to controlled areas and security-sensitive information;

“(v) provisions for restricting vehicular access, as necessary, to designated port areas or facilities;

“(vi) provisions for restricting the introduction of firearms and other dangerous weapons, as necessary, to designated port areas or facilities;

“(vii) provisions for the use of appropriately qualified private security officers or qualified State, local, or private law enforcement personnel;

“(viii) procedures for evacuation of people from port areas in the event of a terrorist attack or other emergency;

“(ix) a process for assessment and evaluation of the safety and security of port areas before port operations are resumed after a terrorist attack or other emergency; and

“(x) any other information the Secretary requires.

“(3) Incorporation of existing security plans.—The Secretary may approve a maritime facility security plan, or an amendment to an existing program or plan, that incorporates—

“(A) a security program of a marine terminal operator tenant with access to a secured area of the port, under such conditions as the Secretary deems appropriate; or

“(B) a maritime facility security plan of a port authority that incorporates a State or local security program, policy, or law.

“(4) Approval process.—

“(A) In general.—The Secretary shall review and approve or disapprove each maritime facility security plan submitted under regulations promulgated under this subsection.

“(B) Resubmission of disapproved plans.—If the Secretary disapproves a maritime facility security plan—

“(i) the Secretary shall notify the plan submitter in writing of the reasons for the disapproval; and

“(ii) the submitter shall submit a revised maritime facility security plan within 180 days after receiving the notification of disapproval.

“(5) Periodic review and resubmission.—Whenever appropriate, but no less frequently than once every 5 years, each port authority, marine terminal operator or other entity required to submit a maritime facility security plan under regulations promulgated under this subsection shall review its plan, make necessary or appropriate revisions, and submit the results of its review and revised plan to the Secretary.

“(6) Interim security measures.—The Secretary shall require each port authority, waterfront facility operator, or operator of a public or commercial structure located within or adjacent to the marine environment, to implement any necessary security measures, including the establishment of a secure perimeter and positive access controls, until the maritime facility security plan for that port authority, waterfront facility operator, or operator of a public or commercial structure located within or adjacent to the marine environment is approved.”.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $3,500,000 for each of fiscal years 2002 through 2006 to carry out section 7(g) of the Ports and Waterways Safety Act (33 U.S.C. 1226(g)), such sums to remain available until expended.

SEC. 106. EMPLOYMENT INVESTIGATIONS AND RESTRICTIONS FOR SECURITY-SENSITIVE POSITIONS.

Section 7 of the Ports and Waterways Safety Act, (33 U.S.C. 1226), as amended by section 105, is further amended by adding at the end the following:

“(h) Designation Of Controlled Access Areas; Protection Of Security-Sensitive Information; Employment Investigations And Criminal History Record Checks.—

“(1) Access areas; restricted information regulations.—The Secretary, after consultation with the Secretary of the Treasury and the Attorney General, shall prescribe regulations to—

“(A) require, as necessary, the designation of controlled access areas in the maritime facility security plan for each waterfront facility and other public or commercial structure located within or adjacent to the marine environment; and

“(B) limit access to security-sensitive information, such as passenger and cargo manifests.

“(2) Screening; background checks.—In prescribing access limitations under this section, the Secretary may—

“(A) require that persons entering or exiting secure, restricted, or controlled access areas undergo physical screening;

“(B) require appropriate escorts for persons without proper clearances or credentials; and

“(C) require employment investigations and criminal history record checks to ensure that individuals who have unrestricted access to controlled areas or have access to security-sensitive information do not pose a threat to national security or to the safety and security of maritime commerce.

"(3) Disqualification from new or continued employment.—An individual may not be employed in a security-sensitive position at any waterfront facility or other public or commercial structure located within or adjacent to the marine environment if—

"(A) the individual does not meet other criteria established by the Secretary; or

"(B) a background investigation or criminal records check reveals that—

"(i) within the previous 7 years the individual was convicted, or found not guilty by reason of insanity of an offense described in paragraph (4); or

"(ii) within the previous 5 years was released from incarceration for committing an offense described in paragraph (4).

"(4) Disqualifying offenses.—The offenses referred to in paragraph (3)(B) are the following:

"(A) Murder.

"(B) Assault with intent to murder.

"(C) Espionage.

"(D) Sedition.

"(E) Treason.

"(F) Rape.

"(G) Kidnaping.

"(H) Unlawful possession, sale, distribution, importation, or manufacture of an explosive or weapon.

"(I) Extortion.

"(J) Armed or felony unarmed robbery.

"(K) Importation, manufacture, or distribution of, or intent to distribute, a controlled substance.

"(L) A felony involving a threat.

"(M) A felony involving willful destruction of property.

"(N) Smuggling.

"(O) Theft of property in the custody of the United States Customs Service.

"(P) Attempt to commit, or conspiracy to commit any of the offenses referred to in subparagraphs (A) through (O).

"(5) Alternative arrangements.—Notwithstanding paragraph (1), an individual may be employed in a security-sensitive position although that individual would otherwise be disqualified from such employment if the employer establishes alternate security arrangements acceptable to the Secretary.

"(6) Appeals process.—The Secretary shall establish an appeals process under this section for individuals found to be ineligible for employment under paragraph (3) that includes notice and an opportunity for a hearing.

"(7) Access to databases.—Notwithstanding any other provision of law to the contrary, but subject to existing or new procedural safeguards imposed by the Attorney General, the Secretary is authorized to access the Federal Bureau of Investigation's Integrated Automatic Fingerprinting Identification System, the Fingerprint Identification Record System, the Interstate Identification Index, the National Crime Identification System, and the Integrated Entry and Exit Data System for the purpose of conducting or verifying the results of any background investigation or criminal records check required by this subsection.

"(8) Restrictions on use and maintenance of information.—

"(A) Secretary may give results of investigation to employers.—The Secretary may transmit the results of a background check or criminal records check to a port authority, marine terminal operator, or other entity the Secretary determines necessary for carrying out the requirements of this subsection.

"(B) FOIA not to apply.—Information obtained by the Secretary under this subsection may not be made available to the public under section 552 of title 5, United States Code.

"(C) Confidentiality.—Except to the extent necessary to carry out this subsection, any information other than criminal acts or offenses constituting grounds for ineligibility for employment under paragraph (3) shall be maintained confidentially by the Secretary and may be used only for making determinations under this section.

"(9) Effectiveness audits.—The Secretary shall provide for the periodic audit of the effectiveness of employment investigations and criminal history record checks required by this subsection.

"(10) User fees.—

"(A) In general.—The Secretary and the Attorney General shall establish and collect reasonable fees to pay expenses incurred by the Federal government in carrying out any investigation, criminal history record check, fingerprinting, or identification verification services provided for under this subsection.

"(B) Deposit of amount received.—Amounts received by the Attorney General or Secretary under this section shall be credited to the account in the Treasury from which the expenses were incurred as offsetting collections and shall be available to the Attorney General and the Secretary upon the approval of Congress.

"(11) Subsection not in derogation of other authority.—Nothing in this subsection restricts any agency, instrumentality, or department of the United States from exercising, or limits its authority to exercise, any other statutory or regulatory authority to initiate or enforce port security standards.".

SEC. 107. MARITIME DOMAIN AWARENESS.

(a) In General.—The Secretary shall conduct a study on ways to enhance maritime domain awareness through improved collection and coordination of maritime intelligence and submit a report on the findings of that study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(b) Specific Matters To Be Addressed.—In the study, the Secretary shall—

(1) identify actions and resources necessary for multi-agency cooperative efforts to improve the maritime security of the United States;

(2) specifically address measures necessary to ensure the effective collection, dissemination, and interpretation of maritime intelligence and data, information resource management and database requirements, architectural measures for cross-agency integration, data sharing, correlation and safeguarding of data, and cooperative analysis to identify and effectively respond to threats to maritime security;

(3) estimate the potential costs of establishing and operating such a new or linked database and provides recommendations on what agencies should contribute to the cost of its operation;

(4) evaluate the feasibility of establishing a joint interagency task force on maritime intelligence;

(5) estimate of potential costs and benefits of utilizing commercial supercomputing platforms and data bases to enhance information collection and analysis capabilities across multiple Federal agencies; and

(6) provide a suggested time frame for the development of such a system or database.

(c) Participation of Other Agencies.—The Secretary shall consult with the Director of Central Intelligence, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Energy, the Director of the Federal Emergency Management Agency, and the heads of other departments and agencies as necessary and invite their participation in the preparation of the study and report required by subsection (a).

(d) Deadline.—The Secretary shall submit the report required by subsection (a) within 180 days after the date of enactment of this Act.

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $500,000 in fiscal year 2002 to carry out this section.

SEC. 108. INTERNATIONAL PORT SECURITY.

(a) In General.—Part A of subtitle II of title 46, United States Code, is amended by adding at the end the following:

"CHAPTER 25. INTERNATIONAL PORT SECURITY.

"Sec.
"2501. Assessment.
"2502. Notifying foreign authorities.
"2503. Actions when ports not maintaining and carrying out effective security measures.
"2504. Travel advisories concerning security at foreign ports.
"2505. Suspensions.
"2506. Acceptance of contributions; joint venture arrangements.

"§ 2501. Assessment

"(a) In General.—At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

"(1) a foreign port—

"(A) served by vessels of the United States;

"(B) from which foreign vessels serve the United States; or

"(C) that poses a high risk of introducing danger to United States ports and waterways, United States citizens, vessels of the United States or any other United States interests; and

"(2) any other foreign port the Secretary considers appropriate.

"(b) Procedures and Standards.—The Secretary shall conduct an assessment under subsection (a) of this section—

"(1) in consultation with appropriate authorities of the government of the foreign country concerned and operators of vessels of the United States serving the foreign port for which the Secretary is conducting the assessment;

"(2) to establish the extent to which a foreign port effectively maintains and carries out internationally recognized security measures; and

"(3) by using a standard based on the standards for port security and recommended practices of the International Maritime Organization and other appropriate international organizations.

"(c) Consultation.—In carrying out this section, the Secretary shall consult with—

"(1) the Secretary of State—

"(A) on the terrorist or relevant criminal threat that exists in each country involved; and

"(B) identify foreign ports that—

"(i) are not under the de facto control of the government of the foreign country in which they are located; and "(ii) pose a high risk of introducing danger to international maritime commerce; and

"(2) the Secretary of the Treasury and coordinate any such assessment with the United States Customs Service.

"§ 2502. Notifying foreign authorities

"(a) DISSEMINATION OF INFORMATION ABOUT THE PROGRAM.—The Secretary shall work with the Secretary of State to facilitate the dissemination of port security program information to port authorities and marine terminal operators in other countries.

"(b) SPECIFIC NOTIFICATIONS.—If the Secretary of Transportation, after conducting an assessment under section 2501, finds that a port does not maintain and carry out effective security measures, the Secretary, through the Secretary of State, shall notify the appropriate authorities of the government of the foreign country of the finding and recommend the steps necessary to bring the security measures in use at the port up to the standard used by the Secretary of Transportation in making the assessment.

"§ 2503. Actions when ports not maintaining and carrying out effective security measures

"(a) IN GENERAL.—If the Secretary of Transportation finds that a port does not maintain and carry out effective security measures—

"(1) the Secretary shall—

"(A) in consultation with the Secretaries of State, Treasury, Agriculture, and the Attorney General, develop measures to protect the safety and security of United States ports from risks related to vessels arriving from a foreign port that does not maintain an acceptable level of security;

"(B) publish the identity of the port in the Federal Register;

"(C) have the identity of the port posted and displayed prominently at all United States ports at which scheduled passenger carriage is provided regularly to that port; and

"(D) require each United States and foreign vessel providing transportation between the United States and the port to provide written notice of the decision, on or with the ticket, to each passenger buying a ticket for transportation between the United States and the port;

"(2) the Secretary may, after consultation with the Secretaries of State and of the Treasury, prescribe conditions of port entry into the United States for any vessel arriving from a port determined under this subsection to maintain ineffective security measures, or any vessel carrying cargo originating from or transshipped through such a port, including refusing entry, inspection, or any other condition as the Secretary determines may be necessary to ensure the safety of United States ports and waterways; and

"(3) the Secretary may prohibit a United States or foreign vessel from providing transportation between the United States and any other foreign port that is served by vessels navigating to or from a port found not to maintain and carry out effective security measures.

"(b) EFFECTIVE DATE FOR SANCTIONS.—Any action taken by the Secretary under subsection (a) for a particular port shall take effect—

"(1) 90 days after the government of the foreign country with jurisdiction or control of that port is notified under section 2502 unless the Secretary finds that the government has brought the security measures at the port up to the standard the Secretary used in making an assessment under section 2501 before the end of that 90-day period; or

"(2) immediately upon the determination of the Secretary under subsection (a) if the Secretary finds, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to or from the port.

"(c) STATE DEPARTMENT TO BE NOTIFIED.—The Secretary immediately shall notify the Secretary of State of a finding that a port does not maintain and carry out effective security measures so that the Secretary of State may issue a travel advisory.

"(d) CONGRESSIONAL NOTIFICATION REQUIRED.—The Secretary promptly shall submit to Congress a report (and classified annex if necessary) identifying any port that the Secretary finds does not maintain and carry out effective security measures and describe any action taken under this section with regard to that port.

"(e) ACTION CANCELED.—An action required under this section is no longer required if the Secretary, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the port. The Secretary shall notify Congress when the action is no longer required.

"§ 2504. Travel advisories concerning security at foreign ports

"(a) IN GENERAL.—Upon being notified by the Secretary of Transportation that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port which the Secretary has determined under this chapter to be a port which does not maintain and administer effective security measures, the Secretary of State shall immediately issue a travel advisory with respect to the port. The Secretary of State shall take the necessary steps to publicize the travel advisory widely.

"(b) WHEN TRAVEL ADVISORY MAY BE CANCELED.—The travel advisory required to be issued under subsection (a) of this section may be lifted only if the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port with respect to which the Secretary of Transportation had made the determination.

"(c) CONGRESSIONAL NOTIFICATION.—The Secretary of State shall immediately notify Congress of any change in the status of a travel advisory imposed pursuant to this section.

"§ 2505. Suspensions

"(a) IN GENERAL.—The President, without prior notice or a hearing, shall suspend the right of any vessel of the United States, and the right of a person to trade with the United States, to provide foreign sea transportation, and the right of a person to operate vessels in foreign sea commerce, to or from a foreign port, if the President finds that—

"(1) a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to or from that port; and

"(2) the public interest requires an immediate suspension of trade between the United States and that port.

"(b) DENIAL OF ENTRY.—If a person operates a vessel in violation of this section, the President may deny the vessels of that person entry to United States ports.

"(c) PENALTY FOR VIOLATION.—A person violating this section is liable to the United States Government for a civil penalty of not more than $50,000. Each day a vessel utilizes a prohibited port shall be a separate violation of this section.

"§ 2506. Acceptance of contributions; joint venture arrangements

"In carrying out responsibilities under this chapter, the Secretary may accept contributions of funds, material, services, and the use of personnel and facilities from public and private entities by contract or other arrangement if the confidentiality of security-sensitive information is maintained and access to such information is limited appropriately. The Secretary shall deposit any funds accepted under this section as miscellaneous receipts in the general fund of the United States Treasury.".

(b) CONFORMING AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting the following new item in part A after the item for chapter 23:

"25. International Port Security ....2501".

(c) REPEALS.—Sections 902, 905, 907, 908, 909, 910, 911, 912, and 913 of the International Maritime and Port Security Act (46 U.S.C. App. 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, and 1809), are repealed.

(d) FOREIGN-FLAG VESSELS.—Within 6 months after the date of enactment of this Act and every year thereafter, the Secretary, in consultation with the Secretary of State, shall provide a report to the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate, and the Committees on Transportation and Infrastructure and International Relations of the House of Representatives that lists the following information:

(1) A list of all nations whose flag vessels have entered United States ports in the previous year.

(2) Of the nations on that list, a separate list of those nations—

(A) whose registered flag vessels appear as Priority III or higher on the Boarding Priority Matrix maintained by the Coast Guard;

(B) that have presented, or whose flag vessels have presented, false, intentionally incomplete, or fraudulent information to the United States concerning passenger or cargo manifests, crew identity or qualifications, or registration or classification of their flag vessels;

(C) whose vessel registration or classification procedures have been found by the Secretary to be noncompliant with international classifications or do not exercise adequate control over safety and security concerns; or

(D) whose laws or regulations are not sufficient to allow tracking of ownership and registration histories of registered flag vessels.

(3) Actions taken by the United States, whether through domestic action or international negotiation, including agreements at the International Maritime Organization under section 902 of the International Maritime and Port Security Act (46 U.S.C. App. 1801), to improve transparency and security of vessel registration procedures in nations on the list under paragraph (2).

(4) Recommendations for legislative or other actions needed to improve security of United States ports against potential threats posed by flag vessels of nations named in paragraph (2).

SEC. 109. COUNTER-TERRORISM AND INCIDENT CONTINGENCY PLANS.

(a) IN GENERAL.—The Secretary, in coordination with the Director of the Federal Bureau of Investigation, shall ensure that all area maritime counter-terrorism and incident contingency plans are reviewed, revised, and updated no less frequently than once every 3 years.

(b) Local Port Security Committees.—The Secretary shall ensure that port security committees established under section 7(f) of the Ports and Maritime Safety Act (33 U.S.C. 2116(f)) are involved in the review, revision, and updating of the plans.

(c) Simulation Exercises.—The Secretary shall ensure that—

(1) simulation exercises are conducted annually for all such plans; and

(2) actual practice drills and exercises are conducted at least once every 3 years.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $1,000,000 for each of fiscal years 2002 through 2006 to carry out this section, such sums to remain available until expended.

SEC. 110. MARITIME SECURITY PROFESSIONAL TRAINING.

(a) In General.—

(1) Development of standards.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop standards and curriculum to allow for the training and certification of maritime security professionals. In developing these standards and curriculum, the Secretary shall consult with the National Maritime Security Advisory Committee established under section 7(d) of the Ports and Maritime Safety Act (33 U.S.C. 2116(d)).

(2) Secretary To consult on standards.—In developing standards under this section, the Secretary may, without regard to the Federal Advisory Committee Act (5 U.S.C. App.), consult with the Federal Law Enforcement Training Center, the United States Merchant Marine Academy's Global Maritime and Transportation School, the Maritime Security Council, the International Association of Airport and Port Police, the National Cargo Security Council, and any other Federal, State, or local government or law enforcement agency or private organization or individual determined by the Secretary to have pertinent expertise.

(b) Minimum Standards.—The standards established by the Secretary under subsection (a) shall include the following elements:

(1) The training and certification of maritime security professionals in accordance with accepted law enforcement and security guidelines, policies, and procedures, including, as appropriate, recommendations for incorporating a background check process for personnel trained and certified in foreign ports.

(2) The training of students and instructors in all aspects of prevention, detection, investigation, and reporting of criminal activities in the international maritime environment.

(3) The provision of off-site training and certification courses and certified personnel at United States and foreign ports used by United States-flagged vessels, or by foreign-flagged vessels with United States citizens as passengers or crewmembers, to develop and enhance security awareness and practices.

(c) Training Provided to Law Enforcement and Security Personnel.—The Secretary is authorized to make the training opportunities provided under this section available to any Federal, State, local, and private law enforcement or maritime security personnel in the United States or in foreign ports used by United States-flagged vessels with United States citizens as passengers or crewmembers.

(d) Use of Contract Resources.—The Secretary shall employ existing Federal and contract resources to train and certify maritime security professionals in accordance with the standards and curriculum developed under this Act.

(e) Annual Report.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the expenditure of appropriated funds and the training under this section.

(f) Funding.—Of the amounts made available under section 122(b), there may be made available to the Secretary to carry out this section—

(1) $2,500,000 for each of fiscal years 2003 and 2004, and

(2) $3,000,000 for each of fiscal years 2005 and 2006,

such sums to remain available until expended.

(g) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $5,500,000 for fiscal year 2002;

(2) $3,000,000 for each of fiscal years 2003 and 2004; and

(3) $2,500,000 for each of fiscal years 2005 and 2006.

SEC. 111. PORT SECURITY INFRASTRUCTURE IMPROVEMENT.

(a) In General.—The Merchant Marine Act, 1936 (46 U.S.C. App. 1101 et seq.) is amended by adding at the end the following:

"TITLE XIV—PORT SECURITY INFRASTRUCTURE IMPROVEMENT

"SEC. 1401. LOAN GUARANTEES FOR PORT SECURITY INFRASTRUCTURE IMPROVEMENTS.

"(a) In General.—The Secretary of Transportation, subject to the terms the Secretary shall prescribe and after consultation with the United States Coast Guard, the United States Customs Service, and the National Maritime Security Advisory Committee established under section 102 of the Port and Maritime Security Act of 2001, may guarantee or make a commitment to guarantee the payment of the principal of, and the interest on, an obligation for port security infrastructure improvements for an eligible project at any United States port.

"(b) Limitations.—Guarantees or commitments to guarantee under this section are subject to the extent applicable to all the laws, requirements, regulations, and procedures that apply to guarantees or commitments to guarantee made under title XI, except that—

"(1) guarantees or commitments to guarantee made under this section are eligible for not more than 87.5 percent of the actual cost of the security infrastructure improvement;

"(2) notwithstanding section 1104A(d), determination of economic soundness for a security infrastructure project shall be based upon the economic soundness of the applicant and not the project;

"(3) guarantees or commitments to guarantee may be made under this section to persons who are not citizens of the United States as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802).

"(c) Transfer of Funds.—The Secretary may accept the transfer of funds from any other department, agency, or instrumentality of the United States Government and may use those funds to cover the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 61a)) of making guarantees or commitments to guarantee loans entered into under this section.

"(d) Eligible Projects.—A project is eligible for a loan guarantee or commitment under subsection (a) if it is for the construction or acquisition of new security infrastructure that is—

"(1) equipment or facilities to be used for port security monitoring and recording;

"(2) security gates and fencing;

"(3) security-related lighting systems;

"(4) remote surveillance systems;

"(5) concealed video systems; or

"(6) other security infrastructure or equipment that contributes to the overall security of passengers, cargo, or crewmembers.

"SEC. 1402. GRANTS.

"(a) Financial Assistance.—The Secretary may provide financial assistance for eligible projects (within the meaning of section 1401(d).

"(b) Matching Requirements.—

"(1) 75-percent federal funding.—Except as provided in paragraph (2), Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

"(2) Exceptions.—

"(A) Small projects.—There are no matching requirements for grants under subsection (a) for projects costing not more than $25,000.

"(B) Higher level of support required.—If the Secretary determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, then the Secretary may approve grants under this section with a matching requirement other than that specified in paragraph (1).

"(c) Allocation.—The Secretary shall ensure that financial assistance provided under subsection (a) during a fiscal year is distributed so that funds are awarded for eligible projects that address emerging priorities or threats identified by the National Maritime Security Advisory Committee established under section 7(d) of the Ports and Waterways Safety Act (33 U.S.C. 1226(d)).

"(d) Project Proposals.—Each proposal for a grant under this section shall include the following:

"(1) The name of the individual or entity responsible for conducting the project.

"(2) A comprehensive description of the need for the project, and a statement of the project's relationship to the security plan.

"(3) A description of the qualifications of the individuals who will conduct the project.

"(4) An estimate of the funds and time required to complete the project.

"(5) Evidence of support of the project by appropriate representatives of States or territories of the United States or other government jurisdictions in which the project will be conducted.

"(6) Information regarding the source and amount of matching funding available to the applicant, as appropriate.

"(7) Any other information the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this title.

"SEC. 1403. ALLOCATION OF RESOURCES.

"In carrying out this title, the Secretary may ensure that not less than $2,000,000 in loans and loan guarantees under section 1401, and not less than $6,000,000 in grants under section 1402, are made available for eligible projects (as defined in section 1401(d)) located in any State to which reference is made by name in section 607 of this Act during each of the fiscal years 2002 through 2006.".

(b) Annual Accounting.—The Secretary of Transportation shall submit an annual summary of loan guarantees and commitments to make loan guarantees under section 1401 of the Merchant Marine Act, 1936, and grants made under section 1402 of that Act, to the Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and the Advisory Committee through appropriate media of communication, including the Internet.

(c) FUNDING.—Of amounts made available under section 122(b), there may be made available to the Secretary of Transportation—

(1) $9,000,000 for each of the fiscal years 2003, 2004, 2005, and 2006 as guaranteed loan costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990; 2 U.S.C. 661a(5)) under section 1401 of the Merchant Marine Act, 1936,

(2) $10,000,000 for each of such fiscal years for grants under section 1402 of the Merchant Marine Act, 1936, and

(3) $1,000,000 for each such fiscal year to cover administrative expenses related to loan guarantees under section 1401 of the Merchant Marine Act, 1936, and grants under section 1402 of that Act,

such amounts to remain available until expended.

(d) ADDITIONAL APPROPRIATIONS AUTHORIZED.—In addition to the amounts made available under subsection (c)(2), there are authorized to be appropriated to the Secretary of Transportation—

(1) $26,000,000 for each of fiscal years 2002 through 2006 to the Secretary as guaranteed loan costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990; 2 U.S.C. 661a(5)) under section 1401 of the Merchant Marine Act, 1936;

(2) $70,000,000 for each of fiscal years 2002 through 2006 to the Secretary for grants under section 1402 of the Merchant Marine Act, 1936; and

(3) $4,000,000 for each of fiscal years 2002 through 2006 to the Secretary to cover administrative expenses related to loan guarantees and grants under paragraphs (8) and (9),

such sums to remain available until expended.

SEC. 112. SCREENING AND DETECTION EQUIPMENT.

(a) FUNDING.—Of amounts made available under section 122(b), there may be made available to the Commissioner of Customs for the purchase of nonintrusive screening and detection equipment for use at United States ports—

(1) $15,000,000 for fiscal year 2003,

(2) $16,000,000 for fiscal year 2004,

(3) $18,000,000 for fiscal year 2005, and

(4) $19,000,000 for fiscal year 2006,

such sums to remain available until expended.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner $20,000,000 for each of fiscal years 2002 through 2006 to the Commissioner of Customs for the purchase of non-intrusive screening and detection equipment for use at United States ports, such sums to remain available until expended.

(c) FUNDING FOR FISCAL YEAR 2002.—There are authorized to be appropriated $145,000,000 for the United States Customs Service for fiscal year 2002 for 1,200 new customs inspector positions, 300 new customs agent positions, and other necessary port security positions, and for purchase and support of equipment (including camera systems for docks and vehicle-mounted computers), canine enforcement for port security, and to update computer systems to help improve customs reporting procedures.

SEC. 113. REVISION OF PORT SECURITY PLANNING GUIDE.

The Secretary of Transportation, acting through the Maritime Administration and after consultation with the Advisory Committee and the United States Coast Guard, shall publish a revised version of the document entitled "Port Security: A National Planning Guide", incorporating the requirements promulgated under section 7(g) of the Ports and Waterways Security Act (33 U.S.C. 2116(g)), within 3 years after the date of enactment of this Act, and make that revised document available on the Internet.

SEC. 114. SHARED DOCKSIDE INSPECTION FACILITIES.

(a) IN GENERAL.—The Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Transportation, the Attorney General, and the Administrator of the General Services Administration shall work with each other, the Advisory Committee, and the States to establish shared dockside inspection facilities at United States ports for Federal and State agencies.

(b) FUNDING.—Of the amounts made available under section 122(b), there may be made available to the Secretary of the Transportation, $1,000,000 for each of fiscal years 2003, 2004, 2005, and 2006, such sums to remain available until expended, to establish shared dockside inspection facilities at United States ports in consultation with the Secretary of the Treasury, the Secretary of Agriculture, and the Attorney General.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $1,000,000 for fiscal year 2002 to establish shared dockside inspection facilities at United States ports in consultation with the Secretary of the Treasury, the Secretary of Agriculture, and the Attorney General.

SEC. 115. MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND PASSENGERS AND OTHER IMPROVED CUSTOMS REPORTING PROCEDURES.

(a) CARGO INFORMATION.—

(1) IN GENERAL.—Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(A) by striking "Any manifest" and inserting "(1) Any manifest"; and

(B) by adding at the end the following new paragraph:

"(2)(A) In addition to any other requirement under this section, for every land, air, or vessel carrier required to make entry or obtain clearance under the customs laws of the United States, the pilot, master, operator, or owner of such carrier (or the authorized agent of such owner or operator) shall provide by electronic transmission cargo manifest information described in subparagraph (B) in advance of such entry or clearance in such manner, time, and form as the Secretary shall prescribe. The Secretary may exclude any class of land, aircraft, or vessel for which he concludes the requirements of this subparagraph are not necessary.

"(B) The information described in this subparagraph is as follows:

"(i) The port of arrival or departure, whichever is applicable.

"(ii) The carrier code, prefix code, or both.

"(iii) The flight, voyage, or trip number.

"(iv) The date of scheduled arrival or date of scheduled departure, as the case may be.

"(v) The request for permit to proceed to the destination, if applicable.

"(vi) The numbers and quantities from the carrier's master air waybill, bills of lading, or ocean bills of lading.

"(vii) The first port of lading of the cargo.

"(viii) A description and weight of the cargo or, for a sealed container, the shipper's declared description and weight of the cargo.

"(ix) The shippers name and address from all air waybills and bills of lading.

"(x) The consignee's name and address from all air waybills and bills of lading.

"(xi) Notice that actual boarded quantities are not equal to air waybill or bills of lading quantities, except that a carrier is not required by this clause to verify boarded quantities of cargo in sealed containers.

"(xii) Transfer or transit information for the cargo while it has been under the control of the carrier.

"(xiii) Warehouse or other location of the cargo while it has been under the control of the carrier.

"(xiv) Any additional information that the Secretary by regulation determines is reasonably necessary to ensure aviation, maritime, and surface transportation safety pursuant to those laws enforced and administered by the Customs Service.

"(3) The Secretary by regulation shall require nonvessel operating common carriers to meet the requirements of subparagraphs (A) and (B).".

(2) CONFORMING AMENDMENTS.—Subparagraphs (A) and (C) of section 431(d)(1) of such Act are each amended by inserting "or subsection (b)(2)" before the semicolon.

(b) DOCUMENTATION OF CARGO.—Part II of title IV of the Tariff Act of 1930 is amended by inserting after section 431 the following new section:

"SEC. 431A. DOCUMENTATION OF WATERBORNE CARGO.

"(a) APPLICABILITY.—This section shall apply to all cargo to be exported moving by a vessel common carrier from a port in the United States.

"(b) DOCUMENTATION REQUIRED.—(1) No shipper of cargo subject to this section (including an ocean transportation intermediary that is a nonvessel-operating common carrier (as defined in section 3(17)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(17)(B)) may tender or cause to be tendered to a vessel common carrier cargo subject to this section for loading on a vessel in a United States port, unless such cargo is properly documented pursuant to this subsection.

"(2) For the purposes of this subsection, cargo shall be considered properly documented if the shipper submits to the vessel common carrier or its agent a complete set of shipping documents no later than 24 hours after the cargo is delivered to the marine terminal operator.

"(3) A complete set of shipping documents shall include—

"(A) for shipments for which a shipper's export declaration is required a copy of the export declaration or, if the shipper files such declarations electronically in the Automated Export system, the complete bill of lading, and the master or equivalent shipping instructions including the shipper's Automated Export System instructions; or

"(B) for those shipments for which a shipper's export declaration is not required, such other documents or information as the Secretary may by regulation prescribe.

"(4) The Secretary shall by regulation prescribe the time, manner, and form by which shippers shall transmit documents or information required under this subsection to the Customs Service.

"(c) LOADING UNDOCUMENTED CARGO PROHIBITED.—

"(1) No marine terminal operator (as defined in section 3(14) of the Shipping Act of

1984 (46 U.S.C. App. 1702(14))) may load, or cause to be loaded, any cargo subject to this section on a vessel unless instructed by the vessel common carrier operating the vessel that such cargo has been properly documented in accordance with this section.

"(2) When cargo is booked by one vessel common carrier to be transported on the vessel of another vessel common carrier, the booking carrier shall notify the operator of the vessel that the cargo has been properly documented in accordance with this section. The operator of the vessel may rely on such notification in releasing the cargo for loading aboard the vessel.

"(d) Reporting of Undocumented Cargo.—A vessel common carrier shall notify the United States Customs Service of any cargo tendered to such carrier that is not properly documented pursuant to this section and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal. For vessel common carriers that are members of vessel sharing agreements (or any other arrangement whereby a carrier moves cargo on another carrier's vessel), the vessel common carrier accepting the booking shall be responsible for reporting undocumented cargo, without regard to whether it operates the vessel on which the transportation is to be made.

"(e) Assessment of Penalties.—Whoever violates subsection (b) of this section shall be liable to the United States for civil penalties in a monetary amount up to the value of the cargo, or the actual cost of the transportation, whichever is greater.

"(f) Seizure of Undocumented Cargo.—

"(1) Any cargo that is not properly documented pursuant to this section and has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal operator shall be subject to search, seizure, and forfeiture.

"(2) The shipper of any such cargo is liable to the marine terminal operator and to the ocean carrier for demurrage and other applicable charges for any undocumented cargo which has been notified to or searched or seized by the Customs Service for the entire period the cargo remains under the order and direction of the Customs Service. The marine terminal operator and the ocean carrier shall have a lien on the cargo for the amount of the demurrage and other charges.

"(g) Effect on Other Provisions.—Nothing in this section shall be construed, interpreted, or applied to relieve or excuse any party from compliance with any obligation or requirement arising under any other law, regulation, or order with regard to the documentation or carriage of cargo.".

(c) Passenger Information.—Part II of title IV of the Tariff Act of 1930, as amended by subsection (b), is further amended by inserting after section 431A the following new section:

"SEC. 431B. PASSENGER AND CREW MANIFEST INFORMATION REQUIRED FOR CARRIERS.

"(a) In General.—For each person arriving or departing on an air or land carrier or vessel required to make entry or obtain clearance under the customs laws of the United States, the pilot, master, operator, or owner of such carrier (or the authorized agent of such owner or operator) shall provide by electronic transmission manifest information described in subsection (b) in advance of such entry or clearance in such manner, time, and form as the Secretary shall prescribe.

"(b) Information Described.—The information described in this subsection shall include for each person:

"(1) Full name.

"(2) Date of birth and citizenship.

"(3) Gender.

"(4) Passport number and country of issuance.

"(5) United States visa number or resident alien card number, as applicable.

"(6) Passenger name record.

"(7) Such additional information that the Secretary, by regulation, determines is reasonably necessary to ensure aviation and maritime safety pursuant to the laws enforced or administered by the Customs Service.".

(d) Definition.—Section 401 of the Tariff Act of 1930 is amended by adding at the end the following new subsections:

"(t) Land Air And Vessel Carrier.—The terms 'land carrier', 'air carrier', and 'vessel carrier' mean a carrier that transports by land, air, or water, respectively, goods or passengers for payment or other consideration, including money or services rendered.

"(u) Vessel Common Carrier.—The term 'vessel common carrier' has the meaning given the term 'ocean common carrier' in section 3(16) of the Shipping Act of 1984 (46 U.S.C. App. 1702(16)) and the term 'common carrier by water in interstate commerce' as defined in section 1 of the Shipping Act, 1916 (46 U.S.C. App. 801).".

(e) Other Requirements for Improved Reporting Procedures.—In addition to the promulgation of manifesting information, the United States Customs Service shall improve reporting of goods arriving at United States ports—

(1) by promulgating regulations to require, notwithstanding sections 552 and 553 of the Tariff Act of 1930 (19 U.S.C. 1552 and 1553), at such times as Customs may require prior to the arrival of an in-bond movement of goods at the initial port of unlading, that—

(A) information shall be filed electronically identifying the consignor, consignee, country of origin, and the Harmonized Tariff Schedule of the United States 6-digit classification of the goods; and

(B) such information shall be to the best of the filer's knowledge, and shall not be considered the entry for the goods under section 484 of that Act (19 U.S.C. 1484) or subject to section 592 or 595a of that Act (19 U.S.C. 1592 or 1595a); and

(2) by distributing the information reported under the regulations promulgated under paragraph (1) or section 431(b)(2), 431A, or 431B of the Tariff Act of 1930 on a real-time basis to any Federal, State, or local government agency that has a regulatory or law-enforcement interest in the goods.

(f) Effective Date.—The amendments made by subsections (a) through (d) of this section shall take effect 45 days after the date of enactment of this Act.

(g) Pilot Program for Pre-clearing Inbound Shipments of Waterborne Cargo.—

(1) In general.—If the Commissioner of Customs determines that information from a pilot program for inspecting, monitoring, tracking, and pre-clearing inbound shipments of waterborne cargo would improve the security and safety of ports, the Commissioner may develop and implement such a pilot program.

(2) Program characteristics.—

(A) In general.—Any such pilot program shall—

(i) take into account, and may be organized on the basis of, prearrival information that commercial vessels entering the territorial waters of the United States or destined for United States ports are required to transmit under section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) and the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.); and

(ii) be designed to meet the requirements of United States customs laws and other laws regulating the importation of goods into the United States and to accommodate mechanisms for the collection of applicable duties upon entry or removal from warehouse of such goods.

(B) Customs clearance waiver.—The Commissioner may grant a waiver of any United States Customs Service post-arrival clearance requirement for goods inspected, monitored for security and integrity in transit, tracked, and pre-cleared under any such pilot program.

(3) Consultation with other interested agencies.—In developing and implementing a pilot program under paragraph (1) the Commissioner of Customs shall consult with representatives of other Federal agencies with responsibilities related to the entry of commercial goods into the United States to ensure that those agencies' missions are not compromised by the pre-clearance.

(4) Pilot program to be tested at multiple ports.—Any such pilot program developed and implemented by the Commissioner may be conducted at several different ports in a manner that permits analysis and evaluation of different technologies and takes into account different kinds of goods and ports with different harbor, infrastructure, climatic, geographical, and other characteristics.

(5) Report to the congress.—Within a year after a pilot program is implemented under paragraph (1), the Commissioner of Customs shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that—

(A) evaluates the pilot program and its components;

(B) states the Commissioner's view as to whether any procedure, system, or technology evaluated as part of the program offers a higher level of security than requiring imported goods to clear customs under existing procedures;

(C) states the Commissioner's view as to the integrity of the procedures, technology, or systems evaluated as part of the pilot program;

(D) makes a recommendation with respect to whether the pilot program, or any procedure, system, or technology should be incorporated in a nationwide system for preclearance of imports of waterborne goods;

(E) describes the impact of the pilot program on staffing levels at the Customs Service and the potential effect full implementation of the program on a nationwide basis would have on Customs Service staffing level; and

(F) states the Commissioner's views as to whether there is a method by which the United States could validate foreign ports so that cargo from those ports is pre-approved for United States Custom Service purposes on arrival at United States ports.

SEC. 116. PRE-ARRIVAL MESSAGES FROM VESSELS DESTINED TO UNITED STATES PORTS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended—

(1) by striking "environment" in section 2(a) (33 U.S.C. 1221(a)) and inserting "environment, and the safety and security of United States ports and waterways,";

(2) by striking paragraph (5) of section 4(a) (33 U.S.C. 1223(a)) and inserting the following:

"(5) require—

"(A) the receipt of pre-arrival messages from any vessel destined for a port or place subject to the jurisdiction of the United States;

"(B) the message to include any information the Secretary determines to be necessary for the control of the vessel and the safety and security of the port, waterways, facilities, vessels, and marine environment; and

"(C) the message to be transmitted in electronic form, or otherwise as determined by the Secretary, in sufficient time to permit review before the vessel's entry into port, and deny port entry to any vessel that fails to comply with the requirements of this paragraph.";

(3) by striking "environment" in section 5(a) (33 U.S.C. 1224(a)) and inserting "environment, and the safety and security of United States ports and waterways,"; and

(4) by adding at the end of section 5 (33 U.S.C. 1224) the following:

"Nothing in this section interferes with the Secretary's authority to require information under section 4(a)(5) before a vessel's arrival in a port or place subject to the jurisdiction of the United States.".

SEC. 117. MARITIME SAFETY AND SECURITY TEAMS.

(a) In General.—To enhance the domestic maritime security capability of the United States, the Secretary shall establish such maritime safety and security teams as are needed to safeguard the public and protect vessels, harbors, ports, waterfront facilities, and cargo in waters subject to the jurisdiction of the United States from destruction, loss or injury from crime, or sabotage due to terrorist activity, and to respond to such activity in accordance with security plans developed under section 7 of the Ports and Waterways Safety Act (33 U.S.C. 2116).

(b) Mission.—Each maritime safety and security team shall be trained, equipped and capable of being employed to—

(1) deter, protect against, and rapidly respond to threats of maritime terrorism;

(2) enforce moving or fixed safety or security zones established pursuant to law;

(3) conduct high speed intercepts;

(4) board, search, and seize any article or thing on a vessel or waterfront facility found to present a risk to the vessel, facility or port;

(5) rapidly deploy to supplement United States armed forces domestically or overseas;

(6) respond to criminal or terrorist acts within the port so as to minimize, insofar as possible, the disruption caused by such acts;

(7) assist with port vulnerability assessments required under this Act; and

(8) carry out other such missions as are assigned to it in support of the goals of this Act.

(c) Coordination with Other Agencies.—To the maximum extent feasible, each maritime safety and security team shall coordinate its activities with other Federal, State, and local law enforcement and emergency response agencies.

SEC. 118. RESEARCH AND DEVELOPMENT FOR CRIME AND TERRORISM PREVENTION AND DETECTION TECHNOLOGY.

(a) Grant Program.—

(1) In general.—The Secretary, in consultation with the Advisory Committee, shall establish a grant program to fund eligible projects for the development, testing, and transfer of technology to enhance security at United States ports with respect to security risks, including—

(A) explosives or firearms;

(B) weapons of mass destruction;

(C) chemical and biological weapons;

(D) drug and illegal alien smuggling;

(E) trade fraud; and

(F) other criminal activity.

(2) Matching funds required.—The maximum amount of any grant of funds made available under the program to a participant other than a department or agency of the United States for a technology development project may not exceed 75 percent of costs of that project.

(b) Eligible Projects.—A project is eligible for a grant under subsection (a) if it is for the construction, acquisition, testing, or deployment of surveillance equipment and technology capable of preventing or detecting terrorist or other criminal activity as determined by the Secretary.

(c) Annual Accounting; Dissemination of Information.—The Secretary shall submit an annual summary of grants under subsection (a), together with a general description of the tests and any technology transfers under the program, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $15,000,000 for each of fiscal years 2002 through 2006, such sums to remain available until expended.

SEC. 119. EXTENSION OF SEAWARD JURISDICTION.

(a) Definition of Territorial Waters.—Section 1 of title XIII of the Act of June 15, 1917 (50 U.S.C. 195) is amended—

(1) by striking "The term 'United States' as used in this Act includes" and inserting the following:

"In this Act:

"(a) United States.—The term 'United States' includes"; and

(2) by adding at the end the following:

"(b) Territorial Waters.—The term "territorial waters of the United States" includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

(b) Civil Penalty for Violation of Act of June 15, 1917.—Section 2 of title II of the Act of June 15, 1917 (50 U.S.C. 192), is amended—

(1) by striking "IMPRISONMENT" in the section heading and inserting "IMPRISONMENT; CIVIL PENALTIES";

(2) by inserting "(a) In General.—" before "If" in the first undesignated paragraph;

(3) by striking "(a) If any other" and inserting "(b) Application to Others.—If any other"; and

(4) by adding at the end the following:

"(c) Civil Penalty.—

"(1) Imposition.—A person who is found, after notice and an opportunity for a hearing, to have violated any rule, regulation or order issued under this Act, or found to have knowingly obstructed or interfered with the exercise of any power conferred by this Act, shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(2) Compromise, etc.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

"(3) Collection.—If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.".

SEC. 120. SUSPENSION OF LIMITATION ON STRENGTH OF COAST GUARD.

(a) Personnel End Strengths.—Section 661(a) of title 14, United States Code, is amended by adding at the end the following: "If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength and grade distribution limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.".

(b) Officers in Coast Guard Reserve.—Section 724 of title 14, United States Code, is amended by adding at the end thereof the following:

"(c) Deferral of Limitation.—If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength and grade distribution limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard Reserve, for a period not to exceed 6 months after the end of the war or termination of the national emergency.".

SEC. 121. ADDITIONAL REPORTS.

(a) Additional Security Needs.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the need for any additional security requirements or measures under this title in order to provide for national security and protect the flow of commerce.

(b) Annual Status Report to Congress.—

(1) In general.—Notwithstanding section 7(c) of the Ports and Waterways Safety Act (33 U.S.C. 1226(c)), the Secretary shall report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of port security in a form that does not compromise, or present a threat to the disclosure of security-sensitive information about, the port security vulnerability assessments conducted under this Act. The report may include recommendations for further improvements in port security measures and for any additional enforcement measures necessary to ensure compliance with the port security plan requirements of this title.

(2) Specific port evaluation.—The Secretary shall select a port for the purpose of evaluating security plans and enhancements and, in the first annual report under this subsection, the Secretary shall report on the progress and enhancements of security plans at that port and on how this Act has improved security at that port. The Secretary

shall provide annual updates for that port in subsequent annual reports.

(c) Annual Report on Maritime Security and Terrorism.—Section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) is amended by adding at the end thereof the following: "Beginning with the first report submitted under this section after the date of enactment of the Port and Maritime Security Act of 2001, the Secretary shall include a description of activities undertaken under title I of that Act and an analysis of the effect of those activities on port security against acts of terrorism.".

(d) Annual Report of Expenditure of Funds for Training of Maritime Security Professionals.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the expenditure of appropriated funds and the development of training and certification programs under section 111 of this title.

(e) Accounting.—The Commissioner of Customs shall submit a report for each of fiscal years 2002 through 2006 to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the expenditure of funds appropriated pursuant to section 113 of this title.

(f) Report on Training Center.—The Commandant of the United States Coast Guard, in conjunction with the Secretary of the Navy, shall submit to Congress a report, at the time they submit their fiscal year 2004 budget, on the life cycle costs and benefits of creating a Center for Coastal and Maritime Security. The purpose of the Center would be to provide an integrated training complex to prevent and mitigate terrorist threats against coastal and maritime assets of the United States, including ports, harbors, ships, dams, reservoirs, and transport nodes.

SEC. 122. 4-YEAR REAUTHORIZATION OF TONNAGE DUTIES.

(a) In General.—

(1) Extension of duties.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended by striking "through 2002," each place it appears and inserting "through 2006,".

(2) Conforming amendment.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat 234; 46 U.S.C. App. 132), is amended by striking "through 2002," and inserting "through 2006,".

(b) Availability of Funds.—Amounts deposited in the general fund of the Treasury as receipts of tonnage charges collected as a result of the amendments made by subsection (a) shall be made available, only to the extent provided in advance in appropriations Act, in each of fiscal years 2003 through 2006 to carry out this title, as provided in sections 102(b), 103(b), 104(b), 110(f), 111(c), 112(a) and 114(b) of this title.

(c) Receipts Credited as Offsetting Collections.—Notwithstanding section 3302 of title 31, United States Code, duties collected under section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121) as amended by subsection (a)(1) of this section—

(1) shall be credited as offsetting collections to the account that finances the activities and services authorized by sections 110, 112, and 114 of this Act, section 7(d), (e), and (f) of the Ports and Waterways Safety Act (33 U.S.C. 2116(d), (e), and (f)) (as added by sections 102, 103, and 104 of this Act), and sections 1401 and 1402 of the Merchant Marine Act, 1936 (as added by section 111 of this Act);

(2) shall be available for expenditure only to pay the costs of such activities and services; and

(3) shall remain available until expended.

(c) Limitation; Deposit of Fees.—No amounts may be collected under section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121) as amended by subsection (a)(1) of this section, or credited as provided by subsection (b), except to the extent provided in advance in appropriations Acts. Such amounts shall be used in each of fiscal years 2003 through 2006 as provided in sections 102(b), 103(b), 104(b), 110(f), 111(c), 112(a) and 114(b) of this title.

SEC. 123. DEFINITIONS.

In this title:

(1) Captain-of-the-Port.—The term "Captain-of-the-Port" means the United States Coast Guard's Captain-of-the-Port.

(2) Secretary.—Except as otherwise provided, the term "Secretary" means the Secretary of Transportation.

(4) Advisory Committee.—The term "Advisory Committee" means the National Maritime Security Advisory Committee established under section 7(d) of the Ports and Waterways Safety Act (33 U.S.C. 1226(d)).

(5) Marine terminal operator.—The term "marine terminal operator" has the meaning given that term in section 1702(14) of title 46, United States Code.

TITLE II—ADDITIONAL MARITIME SAFETY AND SECURITY RELATED MEASURES

SEC. 201. EXTENSION OF DEEPWATER PORT ACT TO NATURAL GAS.

The following provisions of the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) are each amended by inserting "or natural gas" after "oil" each place it appears:

(1) Section 2(a) (33 U.S.C. 1501(a)).

(2) Section 3(9) (33 U.S.C. 1502(9)).

(3) Section 4(a) (33 U.S.C. 1503(a)).

(4) Section 5(c)(2)(G) and (H) (33 U.S.C. 1504(c)(2)(G) and (H)).

(5) Section 5(i)(2)(B) (33 U.S.C. 1504(i)(2)(B)).

(6) Section 5(i)(3)(C). (33 U.S.C. 1504 (i)(3)(C)).

(7) Section 8 (33 U.S.C. 1507).

(8) Section 21(a) (33 U.S.C. 1520(a)).

SEC. 202. ASSIGNMENT OF COAST GUARD PERSONNEL AS SEA MARSHALS AND ENHANCED USE OF OTHER SECURITY PERSONNEL.

(a) In General.—Section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) is amended—

(1) by striking "and" after the semicolon in paragraph (1);

(2) by striking "terrorism." in paragraph (2) and inserting "terrorism;" and

(3) by adding at the end the following:

"(3) dispatch properly trained and qualified armed Coast Guard personnel aboard government, private, and commercial structures and vessels to deter, prevent, or respond to acts of terrorism or otherwise provide for the safety and security of the port, waterways, facilities, marine environment, and personnel; and

"(4) require the owner and operator of a commercial structure or the owner, operator, charterer, master, or person in charge of a vessel to provide the appropriate level of security as necessary, including armed security.".

(b) Report on Use of Non-Coast Guard Personnel.—The Secretary of the department in which the Coast Guard is operating shall evaluate and report to the Congress on—

(1) the potential use of Federal, State, or local government personnel, and documented United States Merchant Marine personnel, to supplement Coast Guard personnel under section 7(b)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)(3));

(2) the possibility of using personnel other than Coast Guard personnel to carry out Coast Guard personnel functions under that section and whether additional legal authority would be necessary to use such personnel for such functions; and

(3) the possibility of utilizing the United States Merchant Marine Academy or State maritime academies to provide training carrying out duties under that section.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating $13,000,000 in each of the fiscal years 2002-2006 to carry out section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)), all such funds to remain available until expended.

SEC. 203. NATIONAL MARITIME TRANSPORTATION SECURITY PLAN.

Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), as amended by section 106 of this Act, is amended by adding at the end the following:

"(i) National Maritime Transportation Security Plan.—

"(1) In general.—The Secretary, in consultation with appropriate Federal agencies, shall prepare and publish a National Maritime Transportation Security Plan for prevention and response to maritime crime and terrorism. The Secretary shall consult with the National Maritime Security Advisory Committee in preparation of the National Maritime Transportation Security Plan.

"(2) Contents of plan.—The Plan shall provide for efficient, coordinated, and effective action to prevent and respond to acts of maritime crime or terrorism, and shall include—

"(A) allocation of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies and port authorities;

"(B) identification, procurement, maintenance, and storage of equipment and supplies;

"(C) procedures and techniques to be employed in preventing and responding to acts of crime or terrorism;

"(D) establishment of procedures for effective liaison with State and local governments and emergency responders including law enforcement and fire response;

"(E) establishment of criteria and procedures to ensure immediate and effective Federal identification of, and response to, acts of maritime crime or terrorism, that result in a substantial threat to the welfare of the United States;

"(F) designation of a Federal official to be the Federal maritime security coordinator for each area for which an area maritime security plan is required to be prepared;

"(G) establishment of procedures for the coordination of activities of—

"(i) Coast Guard maritime safety and security teams established under this section;

"(ii) Federal maritime security coordinators;

"(iii) area maritime security committees;

"(iv) local port security committees; and

"(v) the National Maritime Security Advisory Committee.

"(3) Revision authority.—The Secretary may, from time to time, as the Secretary deems advisable, revise or otherwise amend the National Maritime Transportation Security Plan.

"(4) Plan To Be Followed.—After publication of the Plan, the planning and response to acts of maritime crime and terrorism shall, to the greatest extent possible, be in accordance with the Plan.

"(5) Copy to the Congress.—The Secretary shall furnish a copy of the Plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.".

SEC. 204. AREA MARITIME SECURITY COMMITTEES AND AREA MARITIME SECURITY PLANS.

Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), as amended by section 203, is further amended by adding at the end the following:

"(j) Area Maritime Security Committees and Area Maritime Security Plans.—

"(1) In general.—There is established for each area designated by the Secretary an area maritime security committee comprised of members appointed by the Secretary. The Secretary may designate any existing local port security committee as an area maritime security committee for the purposes of this subsection. The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to an area maritime security committee.

"(2) Function.—Each area maritime security committee, under the direction of the Federal maritime security coordinator for its area, shall—

"(A) prepare an area maritime security plan for its area; and

"(B) work with State and local officials to enhance the contingency planning of those officials and to assure pre-planning of joint response efforts, including appropriate procedures for prevention and response to acts of maritime crime or terrorism.

"(3) Area maritime security plan requirement.—Each area maritime security committee shall prepare an area maritime security plan for its area and submit it to the Secretary for approval. The area maritime security plan shall—

"(A) when implemented in conjunction with the national maritime transportation security plan, be adequate to prevent or rapidly and effectively respond to an act of maritime crime or terrorism in or near the area;

"(B) describe the area covered by the plan, including the areas of population or special economic, environmental or national security importance that might be damaged by an act of maritime crime or terrorism;

"(C) describe in detail how the plan is integrated with other area maritime security plans, facility security plans, and vessel security plans under this section;

"(D) include any other information the Secretary requires; and

"(E) be updated periodically by the area maritime security committee.

"(4) Review by secretary.—The Secretary shall—

"(A) review and approve area maritime security plans under this subsection; and

"(B) periodically review previously approved area maritime security plans.".

SEC. 205. VESSEL SECURITY PLANS.

(a) In General.—Section 4(a) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)) is amended—

(1) by striking "and" after the semicolon in paragraph (4);

(2) by striking "environment." in paragraph (5) and inserting "environment; and"; and

(3) by adding at the end the following:

"(6) may issue regulations establishing requirements for vessel security plans and programs for vessels calling on United States ports.".

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating $2,000,000 for each of fiscal years 2002 through 2006 to carry out section 4(a)(6) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(6)), such sums to remain available until expended.

SEC. 206. PROTECTION OF SECURITY-RELATED INFORMATION.

Section 7(c) of the Ports and Waterways Safety Act (33 U.S.C. 1226(c)) is amended to read as follows:

"(c) Nondisclosure of Information.—Notwithstanding any other provision of law, information developed under this section, and vessel security plan information developed under section 4(a)(6) of this Act (33 USC 1223(a)(6)), is not required to be disclosed to the public. This includes information related to security plans, procedures, or programs for passenger vessels or passenger terminals authorized under this Act, and any other information, including maritime facility security plans, vessel security plans and port vulnerability assessments.".

SEC. 207. ENHANCED CARGO IDENTIFICATION AND TRACKING.

(a) Tracking Program.—The Secretaries of the Treasury and Transportation shall establish a joint task force to work with ocean shippers and ocean carriers in the development of performance standards for systems to track data for shipments, containers, and contents—

(1) to improve the capacity of shippers and others to limit cargo theft and tampering; and

(2) to track the movement of cargo, through the Global Positioning System or other systems, within the United States, particularly for in-bond shipments.

(b) Performance Standards for Anti-tampering Devices.—The Secretaries of the Treasury and Transportation shall work with the National Institutes of Standards and Technology to develop enhanced performance standards for in-bond seals and locks for use on or in containers used for water-borne cargo shipments.

SEC. 208. ENHANCED CREWMEMBER IDENTIFICATION.

The Secretary of Transportation, in consultation with the Attorney General, may require crewmembers aboard vessels calling on United States ports to carry and present upon demand such identification as the Secretary determines.

SA 2691. Mr. REID (for Mr. ALLEN) proposed an amendment to the bill S. 1858, to permit the closed circuit televising of the criminal trial of Zacarias Moussaoui for the victims of September 11th; as follows:

On page 2, line 5, strike "including" and insert "in".

On page 2, line 6, after "San Francisco," insert "and such other locations the trial court determines are reasonably necessary,".

SA 2692. Mr. REID (for Mr. FRIST (for himself, Mr. KENNEDY, and Mr. GREGG)) proposed an amendment to the bill H.R. 3448, to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Bioterrorism Preparedness Act of 2001".

(b) Table of Contents.—The table of contents of the Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL GOALS FOR BIOTERRORISM PREPAREDNESS

Sec. 101. Amendment to the Public Health Service Act.

TITLE II—IMPROVING THE FEDERAL RESPONSE TO BIOTERRORISM

Subtitle A—Additional Authorities

Sec. 201. Additional authorities of the Secretary; Strategic National Pharmaceutical Stockpile.
Sec. 202. Improving the ability of the Centers for Disease Control and Prevention to respond effectively to bioterrorism.

Subtitle B—Coordination of Efforts and Responses

Sec. 211. Assistant Secretary of Emergency Preparedness; National Disaster Medical System.
Sec. 212. Expanded authority of the Secretary of Health and Human Services to respond to public health emergencies.
Sec. 213. Public health preparedness and response to a bioterrorist attack.
Sec. 214. The official Federal Internet site on bioterrorism.
Sec. 215. Technical amendments.
Sec. 216. Regulation of biological agents and toxins.

TITLE III—IMPROVING STATE AND LOCAL PREPAREDNESS

Subtitle A—Emergency Measures To Improve State and Local Preparedness

Sec. 301. State bioterrorism preparedness and response block grant.

Subtitle B—Improving Local Preparedness and Response Capabilities

Sec. 311. Designated bioterrorism response medical centers.
Sec. 312. Designated State public emergency announcement plan.
Sec. 313. Training for pediatric issues surrounding biological agents used in warfare and terrorism.
Sec. 314. General Accounting Office report.
Sec. 315. Additional research.
Sec. 316. Sense of the Senate.

TITLE IV—DEVELOPING NEW COUNTERMEASURES AGAINST BIOTERRORISM

Sec. 401. Limited antitrust exemption.
Sec. 402. Developing new countermeasures against bioterrorism.
Sec. 403. Sequencing of priority pathogens.
Sec. 404. Accelerated countermeasure research and development.
Sec. 405. Accelerated approval of priority countermeasures.
Sec. 406. Use of animal trials in the approval of priority countermeasures.
Sec. 407. Miscellaneous provisions.

TITLE V—PROTECTING THE SAFETY AND SECURITY OF THE FOOD SUPPLY

Subtitle A—General Provisions To Expand and Upgrade Security

Sec. 511. Food safety and security strategy.
Sec. 512. Expansion of Animal and Plant Health Inspection Service activities.
Sec. 513. Expansion of Food Safety Inspection Service activities.
Sec. 514. Expansion of Food and Drug Administration activities.
Sec. 515. Biosecurity upgrades at the Department of Agriculture.
Sec. 516. Biosecurity upgrades at the Department of Health and Human Services.

Sec. 517. Agricultural biosecurity.
Sec. 518. Biosecurity of food manufacturing, processing, and distribution.

Subtitle B—Protection of the Food Supply

Sec. 531. Administrative detention.
Sec. 532. Debarment for repeated or serious food import violations.
Sec. 533. Maintenance and inspection of records for foods.
Sec. 534. Registration of food manufacturing, processing, and handling facilities.
Sec. 535. Prior notice of imported food shipments.
Sec. 536. Authority to mark refused articles.
Sec. 537. Authority to commission other Federal officials to conduct inspections.
Sec. 538. Prohibition against port shopping.
Sec. 539. Grants to States for inspections.
Sec. 540. Rule of construction.

Subtitle C—Research and Training To Enhance Food Safety and Security

Sec. 541. Surveillance and information grants and authorities.
Sec. 542. Agricultural bioterrorism research and development.

TITLE I—NATIONAL GOALS FOR BIOTERRORISM PREPAREDNESS

SEC. 101. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXVIII—STRENGTHENING THE NATION'S PREPAREDNESS FOR BIOTERRORISM

"SEC. 2801. CONGRESSIONAL FINDINGS ON BIOTERRORISM PREPAREDNESS.

"Congress finds that the United States should further develop and implement a coordinated strategy to prevent, and if necessary, to respond to biological threats or attacks upon the United States. Such strategy should include measures for—

"(1) enabling the Federal Government to provide health care assistance to States and localities in the event of a biological threat or attack;

"(2) improving public health, hospital, laboratory, communications, and emergency response personnel preparedness and responsiveness at the State and local levels;

"(3) rapidly developing and manufacturing needed therapies, vaccines, and medical supplies; and

"(4) enhancing the protection of the nation's food supply and protecting agriculture against biological threats or attacks.".

TITLE II—IMPROVING THE FEDERAL RESPONSE TO BIOTERRORISM

Subtitle A—Additional Authorities

SEC. 201. ADDITIONAL AUTHORITIES OF THE SECRETARY; STRATEGIC NATIONAL PHARMACEUTICAL STOCKPILE.

Title XXVIII of the Public Health Service Act, as added by section 101, is amended by adding at the end the following:

"Subtitle A—Improving the Federal Response to Bioterrorism

"SEC. 2811. AUTHORITY OF THE SECRETARY RELATED TO BIOTERRORISM PREPAREDNESS.

"(a) PLAN.—To meet the objectives of this title (and the amendments made by the Bioterrorism Preparedness Act of 2001), and to help the United States fully prepare for a biological threat or attack, the Secretary, consistent with the recommendations and activities of the working group established under section 319F(a), shall develop and implement a coordinated plan to meet such objectives that are within the jurisdiction of the Secretary. Such plan shall include the development of specific criteria that will enable measurements to be made of the progress made at the national, State, and local levels toward achieving the national goal of bioterrorism preparedness, including actions to strengthen the preparedness of rural communities for a biological threat or attack.

"(b) BIENNIAL REPORTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this title, and biennially thereafter, the Secretary shall prepare and submit to Congress a report concerning the progress made and the steps taken by the Secretary to further the purposes of this title (and the amendments made by the Bioterrorism Preparedness Act of 2001). Such report shall include an assessment of the activities conducted under section 319F(c).

"(2) ADDITIONAL AUTHORITY.—In the biennial report submitted under paragraph (1), the Secretary may make recommendations concerning—

"(A) additional legislative authority that the Secretary determines is necessary to meet the objectives of this title (and the amendments made by the Bioterrorism Preparedness Act of 2001); and

"(B) additional legislative authority that the Secretary determines is necessary under section 319 to protect the public health in the event that a condition described in section 319(a) occurs.

"(c) OTHER REPORTS.—Not later than 1 year after the date of enactment of this title, the Secretary shall prepare and submit to Congress a report concerning—

"(1) activities conducted under section 319F(b);

"(2) the characteristics that may render a rural community uniquely vulnerable to a biological threat or attack, including distance, lack of emergency transport, hospital or laboratory capacity, lack of integration of Federal or State public health networks, workforce deficits, or other relevant conditions;

"(3) in any case in which the Secretary determines that additional legislative authority is necessary to effectively strengthen the preparedness of rural communities for responding to a biological threat or attack, the recommendations of the Secretary with respect to such legislative authority; and

"(4) the need for and benefits of a National Disaster Response Medical Volunteer Service that would be a private-sector, community-based rapid response corps of medical volunteers.

"SEC. 2812. STRATEGIC NATIONAL PHARMACEUTICAL STOCKPILE.

"(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Veterans Affairs, shall maintain a strategic stockpile of vaccines, therapies, and medical supplies that are adequate, as determined by the Secretary, to meet the health needs of the United States population, including children and other vulnerable populations, for use at the direction of the Secretary, in the event of a biological threat or attack or other public health emergency.

"(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to prohibit the Secretary from including in the stockpile described in such subsection such vaccines, therapies, or medical supplies as may be necessary to meet the needs of the United States in the event of a nuclear, radiological, or chemical attack or other public health emergency.

"(c) DEFINITION.—In this section, the term 'stockpile' means—

"(1) a physical accumulation of the material described in subsection (a); or

"(2) a contractual agreement between the Secretary and a vendor or vendors under which such vendor or vendors agree to provide to the Secretary such medical supplies as shall be described in the contract at such time as shall be specified in the contract.

"(d) PROCEDURES.—The Secretary, in managing the stockpile under this section, shall—

"(1) ensure that adequate procedures are followed with respect to the stockpile maintained under subsection (a) for inventory management, accounting, and for the physical security of such stockpile; and

"(2) in consultation with State and local officials, take into consideration the timing and location of special events, including designated national security events.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $640,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.".

SEC. 202. IMPROVING THE ABILITY OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION TO RESPOND EFFECTIVELY TO BIOTERRORISM.

(a) REVITALIZING THE CDC.—Section 319D of the Public Health Service Act (42 U.S.C. 247d–4) is amended—

(1) in subsection (a), by inserting ", and expanded, enhanced, and improved capabilities of the Centers related to biological threats or attacks," after "modern facilities";

(2) in subsection (b)—

(A) by inserting ", including preparing for or responding to biological threats or attacks," after "public health activities"; and

(B) by inserting "$60,000,000 for fiscal year 2002,"; and

(3) by adding at the end the following:

"(c) IMPROVING PUBLIC HEALTH LABORATORY CAPACITY.—

"(1) IN GENERAL.—The Secretary shall provide for the establishment of a coordinated network of public health laboratories to assist with the detection of and response to a biological threat or attack, that may, at the discretion of the Secretary, include laboratories that serve as regional reference laboratories.

"(2) AUTHORITY.—The Secretary may award grants, contracts, or cooperative agreements to carry out paragraph (1).

"(3) COORDINATION.—To the maximum extent practicable, the Secretary shall ensure that activities conducted under paragraph (1) are coordinated with existing laboratory preparedness activities.

"(4) LOCAL DISCRETION.—Use of regional laboratories, if established under paragraph (1), shall be at the discretion of the public health agencies of the States.

"(5) PROHIBITED USES.—An eligible entity may not use amounts received under this subsection to—

"(A) purchase or improve land or purchase any building or other facility; or

"(B) construct, repair, or alter any building or other facility.

"(6) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under this subsection shall be used to supplement and not supplant other Federal, State, and local public funds provided for activities under this subsection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $59,500,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.".

(b) EDUCATION AND TRAINING.—Section 319F(e) of the Public Health Service Act (42 U.S.C. 247d6(e)) is amended by adding at the end the following flush sentence:

“The education and training activities described in this subsection may be carried out through Public Health Preparedness Centers, Noble training facilities, the Emerging Infections Program, and the Epidemic Intelligence Service.”.

Subtitle B—Coordination of Efforts and Responses

SEC. 211. ASSISTANT SECRETARY FOR EMERGENCY PREPAREDNESS; NATIONAL DISASTER MEDICAL SYSTEM.

Title XXVIII of the Public Health Service Act, as added by section 101, and amended by section 201, is further amended by adding at the end the following:

“SEC. 2813. ASSISTANT SECRETARY FOR EMERGENCY PREPAREDNESS.

“(a) APPOINTMENT OF ASSISTANT SECRETARY FOR EMERGENCY PREPAREDNESS.—The President, with the advice and consent of the Senate, shall appoint an individual to serve as the Assistant Secretary for Emergency Preparedness who shall head the Office for Emergency Preparedness. Such Assistant Secretary shall report to the Secretary.

“(b) DUTIES.—Subject to the authority of the Secretary, the Assistant Secretary for Emergency Preparedness shall—

“(1) serve as the principal adviser to the Secretary on matters relating to emergency preparedness, including preparing for and responding to biological threats or attacks and for developing policy; and

“(2) coordinate all functions within the Department of Health and Human Services relating to emergency preparedness, including preparing for and responding to biological threats or attacks.

“SEC. 2814. NATIONAL DISASTER MEDICAL SYSTEM.

“(a) NATIONAL DISASTER MEDICAL SYSTEM.—

“(1) IN GENERAL.—There shall be operated a system to be known as the National Disaster Medical System (in this section referred to as the ‘National System’) which shall be coordinated by the Secretary, in collaboration with the Secretary of Defense, the Secretary of Veterans Affairs, and the Director of the Federal Emergency Management Agency.

“(2) FUNCTIONS.—The National System shall provide appropriate health services, health-related social services and, if necessary, auxiliary services (including mortuary and veterinary services) to respond to the needs of victims of a public health emergency if the Secretary activates the System with respect to the emergency. The National System shall carry out such ongoing activities as may be necessary to prepare for the provision of such services.

“(b) TEMPORARY DISASTER-RESPONSE PERSONNEL.—

“(1) IN GENERAL.—For the purpose of assisting the Office of Emergency Preparedness and the National System in carrying out duties under this section, the Secretary may in accordance with section 316.401 of title 5, Code of Federal Regulations (including revisions to such section), and notwithstanding the eligibility requirements set forth in paragraphs (1) through (8) of section 316.402(b) of such title (including revisions), make temporary appointments of individuals to intermittent positions to serve as personnel of such Office or System.

“(2) TRAVEL AND SUBSISTENCE.—An individual appointed under paragraph (1) shall, in accordance with subchapter I of chapter 57 of title 5, United States Code, be eligible for travel, subsistence, and other necessary expenses incurred in carrying out the duties for which the individual was appointed, including per diem in lieu of subsistence.

“(3) LIABILITY.—For purposes of section 224(a) and the remedies described in such section, an individual appointed under paragraph (1) shall, while acting within the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions. Participation in training programs carried out by the Office of Emergency Preparedness or Federal personnel of the National System shall be considered within the scope of such an appointment (regardless of whether the individual receives compensation for such participation).

“(c) TEMPORARY DISASTER-RESPONSE APPOINTEE.—For purposes of this section, the term ‘temporary disaster-response appointee’ means an individual appointed by the Secretary under subsection (b).

“(d) COMPENSATION FOR WORK INJURIES.—A temporary disaster-response appointee, as designated by the Secretary, shall be deemed an employee, and an injury sustained by such an individual while actually serving or while participating in a uncompensated training exercise related to such service shall be deemed ‘in the performance of duty’, for purposes of chapter 81 of title 5, United States Code, pertaining to compensation for work injuries. In the event of an injury to such a temporary disaster-response appointee, the Secretary of Labor shall be responsible for making determinations as to whether the claimants are entitled to compensation or other benefits in accordance with chapter 81 of title 5, United States Code.

“(e) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—

“(1) IN GENERAL.—A temporary disaster-response appointee, as designated by the Secretary, shall, when performing service as a temporary disaster-response appointee or participating in an uncompensated training exercise related to such service, be deemed a person performing ‘service in the uniformed services’ for purposes of chapter 43 of title 38, United States Code, pertaining to employment and reemployment rights of members in the uniformed services. All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in chapter 43 of title 38, United States Code.

“(2) NOTICE OF ABSENCE FROM POSITION OF EMPLOYMENT.—Preclusion of giving notice of service by disaster response necessity shall be deemed preclusion by ‘military necessity’ for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of disaster response necessity shall be made pursuant to regulations prescribed by the Secretary, in consultation with the Secretary of Defense, and shall not be subject to judicial review.

“(f) LIMITATION.—A temporary disaster-response appointee shall not be deemed an employee of the Public Health Service or the Office of Emergency Preparedness for purposes other than those specifically set forth in this section.”.

SEC. 212. EXPANDED AUTHORITY OF THE SECRETARY OF HEALTH AND HUMAN SERVICES TO RESPOND TO PUBLIC HEALTH EMERGENCIES.

(a) PROVISION OF DECLARATION TO CONGRESS.—Section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)) is amended by adding at the end the following: “Not later than 48 hours after a declaration of a public health emergency under this section, the Secretary shall provide a written declaration to Congress indicating that an emergency under this section has been declared.”.

(b) WAIVER OF REPORTING DEADLINES.—Section 319 of the Public Health Service Act (42 U.S.C. 247d) is amended by adding at the end the following:

“(d) WAIVER OF DATA SUBMITTAL AND REPORTING DEADLINES.—In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been declared pursuant to subsection (a), individuals or public or private entities are unable to comply with deadlines for the submission to the Secretary of data or reports required under any law administered by the Secretary, the Secretary may, notwithstanding any other provision of law, grant such extensions of such deadlines as the circumstances reasonably require, and may waive any sanctions otherwise applicable to such failure to comply.”.

(c) EMERGENCY DECLARATION PERIOD.—Section 319 of the Public Health Service Act (42 U.S.C. 247d), as amended by subsection (b), is further amended by adding at the end the following:

“(e) EMERGENCY DECLARATION PERIOD.—A determination by the Secretary under subsection (a) that a public health emergency exists shall remain in effect for not longer than the 180-day period beginning on the date of the determination. Such period may be extended by the Secretary if—

“(1) the Secretary determines that such an extension is appropriate; and

“(2) the Secretary provides a written notification to Congress within 48 hours of such extension.”.

SEC. 213. PUBLIC HEALTH PREPAREDNESS AND RESPONSE TO A BIOTERRORIST ATTACK.

Section 319F of the Public Health Service Act (42 U.S.C. 247d-6) is amended by striking subsections (a) and (b), and inserting the following:

“(a) WORKING GROUP ON BIOTERRORISM.—The Secretary, in coordination with the Secretary of Defense, the Director of the Federal Emergency Management Agency, the Attorney General, the Secretary of Veterans Affairs, the Secretary of Labor, and the Secretary of Agriculture, and with other similar Federal officials as determined appropriate, shall establish a joint interdepartmental working group on the prevention, preparedness, and response to a biological threat or attack on the civilian population. Such joint working group shall—

“(1) prioritize countermeasures required to treat, prevent, or identify exposure to a biological agent or toxin pursuant to section 351A;

“(2) coordinate and facilitate the awarding of grants, contracts, or cooperative agreements for the development, manufacture, distribution, and purchase of priority countermeasures;

“(3) coordinate research on pathogens likely to be used in a biological threat or attack on the civilian population;

“(4) develop shared standards for equipment to detect and to protect against biological agents and toxins;

“(5) coordinate the development, maintenance, and procedures for the release of materials from the Strategic National Pharmaceutical Stockpile;

“(6) assess the priorities for and enhance the preparedness of public health institutions, providers of medical care, and other emergency service personnel (including firefighters) to detect, diagnose, and respond (including mental health response) to a biological threat or attack;

"(7) in the recognition that medical and public health professionals are likely to provide much of the first response to such an attack, develop, coordinate, enhance, and assure the quality of joint planning and training programs that address the public health and medical consequences of a biological threat or attack on the civilian population between—

"(A) local firefighters, ambulance personnel, police and public security officers, or other emergency response personnel; and

"(B) hospitals, primary care facilities, and public health agencies;

"(8) coordinate the development of strategies for Federal, State, and local agencies to communicate information to the public regarding biological threats or attacks;

"(9) develop methods to decontaminate facilities contaminated as a result of a biological attack, including appropriate protections for the safety of those conducting such activities; and

"(10) ensure that the activities under this subsection address the needs of children and other vulnerable populations.

The working group shall carry out paragraphs (1) and (2) in consultation with the pharmaceutical, biotechnology, and medical device industries, and other appropriate experts.

"(b) Advice to the Secretary.—The Secretary shall establish advisory committees to provide expert recommendations to the Secretary to assist the Secretary, including the following:

"(1) National task force on children and terrorism.—

"(A) In general.—The National Task Force on Children and Terrorism, which shall be composed of such Federal officials as may be appropriate to address the special needs of children, and child health experts on infectious disease, environmental health, toxicology, and other relevant professional disciplines.

"(B) Duties.—The task force described in subparagraph (A) shall provide recommendations to the Secretary regarding—

"(i) the preparedness of the health care system to respond to bioterrorism as it relates to children;

"(ii) needed changes to the health care and emergency medical service systems and emergency medical services protocols to meet the special needs of children with respect to a biological threat or attack; and

"(iii) changes, if necessary, to the Strategic National Pharmaceutical Stockpile, to meet the special needs of children.

"(2) Emergency public information and communications task force.—

"(A) In general.—The Emergency Public Information and Communications (EPIC) Task Force, which shall be composed of individuals with expertise in public health, communications, behavioral psychology, and other areas determined appropriate by the Secretary.

"(B) Duties.—The task force described in subparagraph (A) shall make recommendations and report to the Secretary on appropriate ways to communicate information regarding biological threats or attacks to the public, including public service announcements or other appropriate means to communicate in a manner that maximizes information and minimizes panic, and includes information relevant to children and other vulnerable populations.

"(3) Sunset.—Each Task Force established under paragraphs (1) and (2) shall terminate on the date that is 1 year after the date of enactment of the Bioterrorism Preparedness Act of 2001.".

SEC. 214. THE OFFICIAL FEDERAL INTERNET SITE ON BIOTERRORISM.

It is the recommendation of Congress that there should be established an official Federal Internet site on bioterrorism, either directly or through provision of a grant to an entity that has expertise in bioterrorism and the development of websites, that should include information relevant to diverse populations (including messages directed at the general public and such relevant groups as medical personnel, public safety workers, and agricultural workers) and links to appropriate State and local government sites.

SEC. 215. TECHNICAL AMENDMENTS.

Section 319C of the Public Health Service Act (42 U.S.C. 247d–3) is amended—

(1) in subsection (a), by striking "competitive"; and

(2) in subsection (f), by inserting "$420,000,000 for fiscal year 2002," after "2001,".

SEC. 216. REGULATION OF BIOLOGICAL AGENTS AND TOXINS.

(a) Biological Agents Provisions of the Antiterrorism and Effective Death Penalty Act of 1996; Codification in the Public Health Service Act, With Amendments.—

(1) Public health service act.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

"SEC. 351A. ENHANCED CONTROL OF BIOLOGICAL AGENTS AND TOXINS.

"(a) Regulatory Control of Biological Agents and Toxins.—

"(1) List of biological agents and toxins.—

"(A) In general.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

"(B) Criteria.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

"(i) consider—

"(I) the effect on human health of exposure to the agent or toxin;

"(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

"(III) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin; and

"(IV) any other criteria, including the needs of children and other vulnerable populations, that the Secretary considers appropriate; and

"(ii) consult with appropriate Federal departments and agencies, and scientific experts representing appropriate professional groups, including those with pediatric expertise.

"(2) Biennial review.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall, through rulemaking, revise the list as necessary to incorporate additions or deletions to ensure public health, safety, and security.

"(3) Exemptions.—The Secretary may exempt from the list under paragraph (1)—

"(A) attenuated or inactive biological agents or toxins used in biomedical research or for legitimate medical purposes; and

"(B) products that are cleared or approved under the Federal Food, Drug, and Cosmetic Act or under the Virus-Serum-Toxin Act, as amended in 1985 by the Food Safety and Security Act.";

"(b) Regulation of Transfers of Listed Biological Agents and Toxins.—The Secretary shall by regulation provide for—

"(1) the establishment and enforcement of safety procedures for the transfer of biological agents and toxins listed pursuant to subsection (a)(1), including measures to ensure—

"(A) proper training and appropriate skills to handle such agents and toxins; and

"(B) proper laboratory facilities to contain and dispose of such agents and toxins;

"(2) safeguards to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

"(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

"(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

"(c) Possession and Use of Listed Biological Agents and Toxins.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of biological agents and toxins listed pursuant to subsection (a)(1) in order to protect the public health and safety, including the measures, safeguards, procedures, and availability of such agents and toxins described in paragraphs (1) through (4) of subsection (b), respectively.

"(d) Registration and Traceability Mechanisms.—Regulations under subsections (b) and (c) shall require registration for the possession, use, and transfer of biological agents and toxins listed pursuant to subsection (a)(1), and such registration shall include (if available to the registered person) information regarding the characterization of such biological agents and toxins to facilitate their identification and traceability. The Secretary shall maintain a national database of the location of such biological agents and toxins with information regarding their characterizations.

"(e) Inspections.—The Secretary shall have the authority to inspect persons subject to the regulations under subsections (b) and (c) to ensure their compliance with such regulations, including prohibitions on restricted persons under subsection (g).

"(f) Exemptions.—

"(1) In general.—The Secretary shall establish exemptions, including exemptions from the security provisions, from the applicability of provisions of—

"(A) the regulations issued under subsections (b) and (c) when the Secretary determines that the exemptions, including exemptions from the security requirements for the use of attenuated or inactive biological agents or toxins in biomedical research or for legitimate medical purposes, are consistent with protecting public health and safety; and

"(B) the regulations issued under subsection (c).

"(2) Clinical laboratories.—The Secretary shall exempt clinical laboratories and other persons that possess, use, or transfer biological agents and toxins listed pursuant to subsection (a)(1) from the applicability of provisions of regulations issued under subsections (b) and (c) only when—

"(A) such agents or toxins are presented for diagnosis, verification, or proficiency testing;

"(B) the identification of such agents and toxins is, when required under Federal or State law, reported to the Secretary or other public health authorities; and

"(C) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary in regulation.

"(g) Security Requirements for Registered Persons.—

"(1) Security.—In carrying out paragraphs (2) and (3) of subsection (b), the Secretary shall establish appropriate security requirements for persons possessing, using, or transferring biological agents and toxins listed pursuant to subsection (a)(1), considering existing standards developed by the Attorney General for the security of government facilities, and shall ensure compliance with such requirements as a condition of registration under regulations issued under subsections (b) and (c).

"(2) Limiting access to listed agents and toxins.—Regulations issued under subsections (b) and (c) shall include provisions—

"(A) to restrict access to biological agents and toxins listed pursuant to subsection (a)(1) only to those individuals who need to handle or use such agents or toxins; and

"(B) to provide that registered persons promptly submit the names and other identifying information for such individuals to the Attorney General, with which information the Attorney General shall promptly use criminal, immigration, and national security databases available to the Federal Government to identify whether such individuals—

"(i) are restricted persons, as defined in section 175b of title 18, United States Code; or

"(ii) are named in a warrant issued to a Federal or State law enforcement agency for participation in any domestic or international act of terrorism.

"(3) Consultation and implementation.—Regulations under subsections (b) and (c) shall be developed in consultation with research-performing organizations, including universities, and implemented with timeframes that take into account the need to continue research and education using biological agents and toxins listed pursuant to subsection (a)(1).

"(h) Disclosure of Information.—

"(1) In general.—Any information in the possession of any Federal agency that identifies a person, or the geographic location of a person, who is registered pursuant to regulations under this section (including regulations promulgated before the effective date of this subsection), or any site-specific information relating to the type, quantity, or characterization of a biological agent or toxin listed pursuant to subsection (a)(1) or the site-specific security mechanisms in place to protect such agents and toxins, including the national database required in subsection (d), shall not be disclosed under section 552(a) of title 5, United States Code.

"(2) Disclosures for public health and safety; congress.—Nothing in this section may be construed as preventing the head of any Federal agency—

"(A) from making disclosures of information described in paragraph (1) for purposes of protecting the public health and safety; or

"(B) from making disclosures of such information to any committee or subcommittee of the Congress with appropriate jurisdiction, upon request.

"(i) Civil Money Penalty.—Any person who violates a regulation under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person. The provisions of section 1128A of the Social Security Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f) of such section) shall apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act. The Secretary may delegate authority under this section in the same manner as provided in section 1128A(j)(2) of such Act and such authority shall include all powers described in section 6 of the Inspector General Act of 1978 (5 U.S.C. App. 2)

"(j) Definitions.—For purposes of this section, the terms 'biological agent' and 'toxin' have the same meaning as in section 178 of title 18, United States Code.".

(2) Regulations.—

(A) Date certain for promulgation; effective date regarding criminal and civil penalties.—Not later than 180 days after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate an interim final rule for carrying out section 351A(c) of the Public Health Service Act, which amends the Antiterrorism and Effective Death Penalty Act of 1996. Such interim final rule will take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(i) section 175(b) of title 18, United States Code (relating to criminal penalties), as added by subsection (b)(1)(B) of this section; and

(ii) section 351A(i) of the Public Health Service Act (relating to civil penalties).

(B) Submission of registration applications.—A person required to register for possession under the interim final rule promulgated under subparagraph (A) shall submit an application for such registration not later than 60 days after the date on which such rule is promulgated.

(3) Conforming amendment.—Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

(4) Effective date.—Paragraph (1) shall take effect as if incorporated in the Antiterrorism and Effective Death Penalty Act of 1996, and any regulations, including the list under subsection (d)(1) of section 511 of that Act, issued under section 511 of that Act shall remain in effect as if issued under section 351A of the Public Health Service Act.

(b) Select Agents.—

(1) In general.—Section 175 of title 18, United States Code, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56), is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

"(b) Select Agents.—

"(1) Unregistered for possession.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulation issued under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

"(2) Transfer to unregistered person.—Whoever transfers a select agent to a person who the transferor has reason to believe has not obtained a registration required by regulations issued under section 351A(b) or (c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.".

(2) Definitions.—Section 175 of title 18, United States Code, as amended by paragraph (1), is further amended by striking subsection (d) and inserting the following:

"(d) Definitions.—As used in this section:

"(1) The terms 'biological agent' and 'toxin' have the meanings given such terms in section 178, except that, for purposes of subsections (b) and (c), such terms do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, cultured, collected, or otherwise extracted from its natural source.

"(2) The term 'for use as a weapon' includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system, other than for prophylactic, protective, or other peaceful purposes.

"(3) The term 'select agent' means a biological agent or toxin, as defined in paragraph (1), that is on the list that is in effect pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), or as subsequently revised under section 351A(a) of the Public Health Service Act.".

(3) Conforming amendment.—

(A) Section 175(a) of title 18, United States Code, is amended in the second sentence by striking "under this section" and inserting "under this subsection".

(B) Section 175(c) of title 18, United States Code, (as redesignated by paragraph (1)), is amended by striking the second sentence.

(c) Report to Congress.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act, including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under section 351A(a)(1) of the Public Health Service Act;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A of the Public Health Service Act and for taking appropriate enforcement actions; and

(4) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A of the Public Health Service Act.

TITLE III—IMPROVING STATE AND LOCAL PREPAREDNESS

Subtitle A—Emergency Measures to Improve State and Local Preparedness

SEC. 301. STATE BIOTERRORISM PREPAREDNESS AND RESPONSE BLOCK GRANT.

(a) In General.—Section 319F of the Public Health Service Act (42 U.S.C. 247d–6) is amended by striking subsection (c) and inserting the following:

"(c) State Bioterrorism Preparedness and Response Block Grants.—

"(1) In general.—The Secretary shall establish the State Bioterrorism Preparedness and Response Block Grant Program (referred to in this subsection as the 'Program') under which the Secretary shall award grants to or enter into cooperative agreements with States, the District of Columbia, and territories (referred to in this section as 'eligible entities') to enable such entities to prepare for and respond to biological threats or attacks. The Secretary shall ensure that activities conducted under this section are coordinated with the activities conducted under this section and section 319C.

"(2) ELIGIBILITY.—To be eligible to receive amounts under paragraph (1), a State, the District of Columbia, or a territory shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the entity will—

"(A) not later than 180 days after the date on which a grant or contract is received under this subsection, prepare and submit to the Secretary a Bioterrorism Preparedness and Response Plan in accordance with subsection (c);

"(B) not later than 180 days after the date on which a grant or contract is received under this subsection, complete an assessment under section 319B(a), or an assessment that is substantially equivalent as determined by the Secretary unless such assessment has already been performed; and

"(C) establish a means by which to obtain public comment and input on the plan and plan implementation that shall include an advisory committee or other similar mechanism for obtaining input from the public at large as well as other stakeholders;

"(D) use amounts received under paragraph (1) in accordance with the plan submitted under paragraph (3), including making expenditures to carry out the strategy contained in the plan;

"(E) use amounts received under paragraph (1) to supplement and not supplant funding at levels in existence prior to September 11, 2001 for public health capacities or bioterrorism preparedness; and

"(F) with respect to the plan under paragraph (3), establish reasonable criteria to evaluate the effective performance of entities that receive funds under the grant or agreement and shall include relevant benchmarks in the plan.

"(3) BIOTERRORISM PREPAREDNESS AND RESPONSE PLAN.—Not later than 180 days after receiving amounts under this subsection, and 1 year after such date, a State, the District of Columbia, or a territory shall prepare and submit to the Secretary a Bioterrorism Preparedness and Response Plan for responding to biological threats or attacks. Recognizing the assessment of public health capacity conducted under section 319B, such plan shall include—

"(A) a description of the program that the eligible entity will adopt to achieve the core capacities developed under section 319A, including measures that meet the needs of children and other vulnerable populations;

"(B) a description (including amounts expended by the eligible entity for such purpose) of the programs, projects, and activities that the eligible entity will implement using amounts received in order to detect and respond to biological threats or attacks, including the manner in which the eligible entity will manage State surveillance and response efforts and coordinate such efforts with national efforts;

"(C) a description of the training initiatives that the eligible entity has carried out to improve its ability to detect and respond to a biological threat or attack, including training and planning to protect the health and safety of those conducting such detection and response activities;

"(D) a description of the cleanup and contamination prevention efforts that may be implemented in the event of a biological threat or attack;

"(E) a description of efforts to ensure that hospitals and health care providers have adequate capacity and plans in place to provide health care items and services (including mental health services and services to meet the needs of children and other vulnerable populations that may include the provision of telehealth services) in the event of a biological threat or attack; and

"(F) other information the Secretary may by regulation require.

"Nothing in subparagraph (E) shall be construed to require or recommend that States establish or maintain stockpiles of vaccines, therapies, or other medical supplies.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—In coordination with the activities conducted under this section, an eligible entity shall use amounts received under this section to—

"(i) conduct the assessment under section 319B to achieve the capacities described in section 319A, if the assessment has not previously been conducted;

"(ii) achieve the public health capacities developed under section 319A; and

"(iii) carry out the plan under paragraph (3).

"(B) ADDITIONAL USES.—In addition to the activities described in subparagraph (A), an eligible entity may use amounts received under this subsection to—

"(i) improve surveillance, detection, and response activities to prepare for emergency response activities including biological threats or attacks, including training personnel in these and other necessary functions;

"(ii) carry out activities to improve communications and coordination efforts within the eligible entity and between the eligible entity and the Federal Government, including activities to improve information technology and communications equipment available to health care and public health officials for use in responding to a biological threat or attack or other public health emergency and including early warning and surveillance networks that use advanced information technology to provide early detection of biological threats or attacks;

"(iii) plan for triage and transport management in the event of a biological threat or attack;

"(iv) meet the special needs of children and other vulnerable populations during and after a biological threat or attack, including the expansion of 2–1–1 call centers or other universal hotlines, or an alternative communication plan to assist victims and their families in receiving timely information;

"(v) improve the ability of hospitals and other health care facilities to provide effective health care (including mental health care) during and after a biological threat or attack, including the development of model hospital preparedness plans by a hospital accreditation organization or similar organizations; and

"(vi) enhance the safety of workplaces in the event of a biological threat or attack, except that nothing in this clause shall be construed to create a new, or deviate from an existing, authority to regulate, modify, or otherwise effect safety and health rules and standards.

"(C) PROHIBITED USES.—An eligible entity may not use amounts received under this subsection to—

"(i) provide inpatient services;

"(ii) make cash payments to intended recipients of health services;

"(iii) purchase or improve land or purchase any building or other facility;

"(iv) construct, repair, or alter any building or other facility; or

"(v) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(5) AMOUNT OF GRANT.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount awarded to a State, the District of Columbia, or a territory under this subsection for a fiscal year shall be an amount that bears the same ratio to the amount appropriated under paragraph (9) for such fiscal year (and remaining after amounts are made available under subparagraphs (C) and (D)) as the total population of the State, District, or territory bears to the total population of the United States.

"(B) EXCEPTIONS.—

"(i) MINIMUM AMOUNT WITH RESPECT TO STATES.—Notwithstanding subparagraph (A) and subject to the extent of amounts made available under paragraph (9), a State may not receive an award under this subsection for a fiscal year in an amount that is less than—

"(I) $5,000,000 for any fiscal year in which the total amount appropriated under this subsection equals or exceeds $667,000,000; or

"(II) 0.75 percent of the total amount appropriated under this subsection for any fiscal year in which such total amount is less than $667,000,000.

"(ii) EXTRAORDINARY NEEDS.—

"(I) IN GENERAL.—Notwithstanding subparagraph (A) and subject to the extent of amounts made available under paragraph (9), the Secretary may provide additional funds to a State, District, or territory under this subsection if the Secretary determines that such State, District, or territory has extraordinary needs with respect to bioterrorism preparedness.

"(II) FINDING WITH RESPECT TO THE DISTRICT OF COLUMBIA.—As a result of the concentration of entities of national significance located within the District of Columbia, Congress finds that the District of Columbia has extraordinary needs with respect to bioterrorism preparedness, and the Secretary shall recognize such finding for purposes of subclause (I).

"(C) RULE WITH RESPECT TO UNEXPENDED FUNDS.—To the extent that all the funds appropriated under paragraph (9) for a fiscal year and available in such fiscal year are not otherwise paid to eligible entities because—

"(i) one or more eligible entities have not submitted an application or public health disaster plan in accordance with paragraphs (2) and (3) for the fiscal year;

"(ii) one or more eligible entities have notified the Secretary that they do not intend to use the full amount awarded under this subsection; or

"(iii) some eligible entity amounts are offset or repaid;

such excess shall be provided to each of the remaining eligible entities in proportion to the amount otherwise provided to such entities under this paragraph for the fiscal year without regard to this subparagraph.

"(D) AVAILABILITY OF FUNDS.—Any amount paid to an eligible entity for a fiscal year under this subsection and remaining unobligated at the end of such year shall remain available for the next fiscal year to such entity for the purposes for which it was made.

"(6) INDIAN TRIBES.—

"(A) IN GENERAL.—If the Secretary—

"(i) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subsection be provided directly by the Secretary to such tribe or organization; and

"(ii) determines that the members of such tribe or tribal organization would be better served by means of grants or agreements made directly by the Secretary under this subsection;

the Secretary shall reserve from amounts which would otherwise be provided to such State under this subsection for the fiscal year the amount determined under subparagraph (B).

"(B) AMOUNT.—The Secretary shall reserve for the purpose of subparagraph (A) from amounts that would otherwise be paid to such State under paragraph (1) an amount equal to the amount which bears the same ratio to the amount awarded to the State for the fiscal year involved as the population of the Indian tribe or the individuals represented by the tribal organization bears to the total population of the State.

"(C) GRANT.—The amount reserved by the Secretary on the basis of a determination under this paragraph shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(D) PLAN.—In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this paragraph, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"(E) DEFINITIONS.—In this paragraph, the terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"(7) WITHHOLDING.—

"(A) REQUIREMENTS.—

"(i) IN GENERAL.—The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected eligible entity, withhold or recoup funds from any such entity that does not use amounts received under this subsection in accordance with the requirements of this subsection. The Secretary shall withhold or recoup such funds until the Secretary finds that the reason for the withholding or recoupment has been removed and there is reasonable assurance that it will not recur.

"(ii) INVESTIGATION.—The Secretary may not institute proceedings to withhold or recoup funds under clause (i) unless the Secretary has conducted an investigation concerning whether the eligible entity has used grant or agreement amounts in accordance with the requirements of this subsection. Investigations required by this clause shall be conducted within the affected entity by qualified investigators.

"(iii) RESPONSE TO COMPLAINTS.—The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that an eligible entity has failed to use funds in accordance with the requirements of this subsection.

"(iv) MINOR FAILURES.—The Secretary may not withhold or recoup funds under clause (i) from an eligible entity for a minor failure to comply with the requirements of this subsection.

"(B) AVAILABILITY OF INFORMATION FOR INSPECTION.—Each eligible entity, and other entity which has received funds under this section, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefore.

"(C) LIMITATION ON REQUESTS FOR INFORMATION.—

"(i) IN GENERAL.—In conducting any investigation in an eligible entity, the Secretary or the Comptroller General of the United States may not make a request for any information not readily available to such eligible entity, or an entity which has received funds under this subsection, or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

"(ii) JUDICIAL PROCEEDINGS.—Clause (i) does not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

"(8) DEFINITION.—In this subsection, the term 'State' means any of the several States.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $667,000,000 for fiscal year 2002, and such sums as may be necessary for fiscal year 2003, and no funds are authorized to be appropriated for subsequent fiscal years.".

(b) REAUTHORIZATION OF OTHER PROGRAMS.—Section 319F(i) of the Public Health Service Act (42 U.S.C. 247d–6(i)) is amended to read as follows:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out subsection (d), $370,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year through 2006; and

"(2) to carry out subsections (a), (b), and (e) through (i), such sums as may be necessary for each of fiscal years 2002 through 2006.".

Subtitle B—Improving Local Preparedness and Response Capabilities

SEC. 311. DESIGNATED BIOTERRORISM RESPONSE MEDICAL CENTERS.

Section 319F of the Public Health Service Act (42 U.S.C. 247d–6) is amended—

(1) by redesignating subsections (d) through (h) and (i), as subsections (e) through (i) and (l), respectively; and

(2) by inserting after subsection (c), the following:

"(d) DESIGNATED BIOTERRORISM RESPONSE MEDICAL CENTERS.—

"(1) GRANTS.—The Secretary shall award project grants to eligible entities to enable such entities, in a manner consistent with applicable provisions of the Bioterrorism Preparedness and Response Plan, to improve local and bioterrorism response medical center preparedness.

"(2) ELIGIBILITY.—To be eligible for a grant under paragraph (1), an entity shall—

"(A) be a consortium that consists of at least one entity from each of the following categories—

"(i) a hospital including children's hospitals, clinic, health center, or primary care facility;

"(ii) a political subdivision of a State; and

"(iii) a department of public health;

"(B) prepare, in consultation with the Chief Executive Officer of the State, District, or territory in which the hospital, clinic, health center, or primary care facility is located, and submits to the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require;

"(C) within a reasonable period of time after receiving a grant under paragraph (1), meet such technical guidelines as may be applicable under paragraph (4); and

"(D) provide assurances satisfactory to the Secretary that such entity shall, upon the request of the Secretary or the Chief Executive Officer of the State, District, or territory in which the entity is located, during the emergency period, serve the needs of the emergency area, including providing adequate health care capacity, serving as a regional resource in the diagnosis, treatment, or care for persons, including children and other vulnerable populations, exposed to a biological threat or attack, and accepting the transfer of patients, where appropriate.

"(3) USE OF FUNDS.—An entity that receives a grant under paragraph (1) shall use funds received under the grant for activities that include—

"(A) the training of health care professionals to enhance the ability of such personnel to recognize the symptoms of exposure to a potential biological threat or attack and to provide treatment to those so exposed;

"(B) the training of health care professionals to recognize and treat the mental health consequences of a biological threat or attack;

"(C) increasing the capacity of such entity to provide appropriate health care for large numbers of individuals exposed to a biological threat or attack;

"(D) the purchase of reserves of vaccines, therapies, and other medical supplies to be used until materials from the Strategic National Pharmaceutical Stockpile arrive;

"(E) training and planning to protect the health and safety of personnel involved in responding to a biological threat or attack; or

"(F) other activities determined appropriate by the Secretary.

"(4) PROHIBITED USES.—An eligible entity may not use amounts received under this subsection to—

"(A) purchase or improve land or purchase any building or other facility; or

"(B) construct, repair, or alter any building or facility.

"(6) TECHNICAL ASSISTANCE.—Not later than 180 days after the date of enactment of the Bioterrorism Preparedness Act of 2001, the Secretary shall develop and publish technical guidelines relating to equipment, training, treatment, capacity, and personnel, relevant to the status as a bioterrorism response medical center and the Secretary may provide technical assistance to eligible entities, including assistance to address the needs of children and other vulnerable populations.".

SEC. 312. DESIGNATED STATE PUBLIC EMERGENCY ANNOUNCEMENT PLAN.

Section 613(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196b(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(7) include a plan for providing information to the public in a coordinated manner.".

SEC. 313. TRAINING FOR PEDIATRIC ISSUES SURROUNDING BIOLOGICAL AGENTS USED IN WARFARE AND TERRORISM.

Section 319F(f) of the Public Health Service Act (42 U.S.C. 247d–6(e)), as so redesignated by section 311, is amended—

(1) in paragraph (1)—

(A) by inserting "(including mental health care)" after "and care"; and

(B) by striking "and" at the end;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) develop educational programs for health care professionals, recognizing the special needs of children and other vulnerable populations.".

SEC. 314. GENERAL ACCOUNTING OFFICE REPORT.

Section 319F(h) of the Public Health Service Act (42 U.S.C. 247d–6(g)), as so redesignated by section 311, is amended—

(1) by striking "Not later than 180 days after the date of the enactment of this section, the" and inserting "The";

(2) in paragraph (3), by striking "and" at the end;

(3) in paragraph (4), by striking the period and inserting a semicolon; and

(4) by adding at the end the following:

"(5) the activities and cost of the Civil Support Teams of the National Guard in responding to biological threats or attacks against the civilian population;

"(6) the activities of the working group described in subsection (a) and the efforts made by such group to carry out the activities described in such subsection;

"(7) the activities and cost of the 2–1–1 call centers and other universal hotlines; and

"(8) the activities and cost of the development and improvement of public health laboratory capacity.".

SEC. 315. ADDITIONAL RESEARCH.

Section 22 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671) is amended by adding at the end the following:

"(h) Research Relating to Biological Threats or Attacks in the Workplace.—The Director shall enhance and expand research as deemed appropriate by the Director on the health and safety of workers who are at risk for biological threats or attacks in the workplace.".

SEC. 316. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) many excellent university-based programs are already functioning and developing important biodefense products and solutions throughout the United States;

(2) accelerating the crucial work done at university centers and laboratories will contribute significantly to the United States capacity to defend against any biological threat or attack;

(3) maximizing the effectiveness of, and extending the mission of, established university programs would be one appropriate use of the additional resources provided for in the Bioterrorism Preparedness Act of 2001; and

(4) Congress recognizes the importance of existing public and private university-based research, training, public awareness, and safety related biological defense programs in the awarding of grants and contracts made in accordance with this Act.

TITLE IV—DEVELOPING NEW COUNTERMEASURES AGAINST BIOTERRORISM

SEC. 401. LIMITED ANTITRUST EXEMPTION.

Section 2 of the Clayton Act (15 U.S.C. 13) is amended by adding at the end the following:

"(g) Limited Antitrust Exemption.—

"(1) Countermeasures development meetings.—

"(A) Countermeasures development meetings and consultations.—The Secretary may conduct meetings and consultations with parties involved in the development of priority countermeasures for the purpose of the development, manufacture, distribution, purchase, or sale of priority countermeasures consistent with the purposes of this title. The Secretary shall give notice of such meetings and consultations to the Attorney General and the Chairperson of the Federal Trade Commission (referred to in this subsection as the 'Chairperson').

"(B) Meeting and consultation conditions.—A meeting or consultation conducted under subparagraph (A) shall—

"(i) be chaired or, in the case of a consultation, facilitated by the Secretary;

"(ii) be open to parties involved in the development, manufacture, distribution, purchase, or sale of priority countermeasures, as determined by the Secretary;

"(iii) be open to the Attorney General and the Chairperson;

"(iv) be limited to discussions involving the development, manufacture, distribution, or sale of priority countermeasures, consistent with the purposes of this title; and

"(v) be conducted in such manner as to ensure that national security, confidential, and proprietary information is not disclosed outside the meeting or consultation.

"(C) Minutes.—The Secretary shall maintain minutes of meetings and consultations under this subsection, which shall not be disclosed under section 552 of title 5, United States Code.

"(D) Exemption.—The antitrust laws shall not apply to meetings and consultations under this paragraph, except that any agreement or conduct that results from a meeting or consultation and that does not receive an exemption pursuant to this subsection shall be subject to the antitrust laws.

"(2) Written agreements.—The Secretary shall file a written agreement regarding covered activities, made pursuant to meetings or consultations conducted under paragraph (1) and that is consistent with this paragraph, with the Attorney General and the Chairperson for a determination of the compliance of such agreement with antitrust laws. In addition to the proposed agreement itself, any such filing shall include—

"(A) an explanation of the intended purpose of the agreement;

"(B) a specific statement of the substance of the agreement;

"(C) a description of the methods that will be utilized to achieve the objectives of the agreement;

"(D) an explanation of the necessity of a cooperative effort among the particular participating parties to achieve the objectives of the agreement; and

"(E) any other relevant information determined necessary by the Secretary in consultation with the Attorney General and the Chairperson.

"(3) Determination.—The Attorney General, in consultation with the Chairperson, shall determine whether an agreement regarding covered activities referred to in paragraph (2) would likely—

"(A) be in compliance with the antitrust laws, and so inform the Secretary and the participating parties; or

"(B) violate the antitrust laws, in which case, the filing shall be deemed to be a request for an exemption from the antitrust laws, limited to the performance of the agreement consistent with the purposes of this title.

"(4) Action on request for exemption.—

"(A) In general.—The Attorney General, in consultation with the Chairperson, shall grant, deny, grant in part and deny in part, or propose modifications to a request for exemption from the antitrust laws under paragraph (3) within 15 days of the receipt of such request.

"(B) Extension.—The Attorney General may extend the 15-day period referred to in subparagraph (A) for an additional period of not to exceed 10 days. Such additional period may be further extended only by the United States district court, upon an application by the Attorney General after notice to the Secretary and the parties involved.

"(C) Determination.—In granting an exemption under this paragraph, the Attorney General, in consultation with the Chairperson and the Secretary—

(i) must find—

"(I) that the agreement involved is necessary to ensure the availability of priority countermeasures;

"(II) that the exemption from the antitrust laws would promote the public interest; and

"(III) that there is no substantial competitive impact to areas not directly related to the purposes of the agreement; and

"(ii) may consider any other factors determined relevant by the Attorney General and the Chairperson.

"(5) Limitation on and renewal of exemptions.—An exemption granted under paragraph (4) shall be limited to covered activities, and shall expire on the date that is 3 years after the date on which the exemption becomes effective (and at 3 year intervals thereafter, if renewed) unless the Attorney General in consultation with the Chairperson determines that the exemption should be renewed (with modifications, as appropriate) considering the factors described in paragraph (4).

"(6) Limitation on parties.—The use of any information acquired under an exempted agreement by the parties to such an agreement for any purposes other than those specified in the antitrust exemption granted by the Attorney General shall be subject to the antitrust laws and any other applicable laws.

"(7) Guidelines.—The Attorney General and the Chairperson may develop and issue guidelines to implement this subsection.

"(8) Report.—Not later than 1 year after the date of enactment of the Bioterrorism Preparedness Act of 2001, and annually thereafter, the Attorney General and the Chairperson shall report to Congress on the use and continuing need for the exemption from the antitrust laws provided by this subsection.

"(9) Sunset.—The authority of the Attorney General to grant or renew a limited antitrust exemption under this subsection shall expire at the end of the 6-year period that begins on the date of enactment of the Bioterrorism Preparedness Act of 2001.

"(h) Definitions.—In this section and title XXVIII of the Public Health Service Act:

"(1) Antitrust laws.—The term 'antitrust laws'—

"(A) has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (15 U.S.C. 13 et seq.) commonly known as the Robinson-Patman Act), and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

"(B) includes any State law similar to the laws referred to in subparagraph (A).

"(2) Covered activities.—

"(A) In general.—Except as provided in subparagraph (B), the term 'covered activities' means any group of activities or conduct, including attempting to make, making, or performing a contract or agreement or engaging in other conduct, for the purpose of—

"(i) theoretical analysis, experimentation, or the systematic study of phenomena or observable facts necessary to the development of priority countermeasures;

"(ii) the development or testing of basic engineering techniques necessary to the development of priority countermeasures;

"(iii) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes necessary to the development of priority countermeasures;

"(iv) the production, distribution, or marketing of a product, process, or service that is a priority countermeasures;

"(v) the testing in connection with the production of a product, process, or services necessary to the development of priority countermeasures;

"(vi) the collection, exchange, and analysis of research or production information necessary to the development of priority countermeasures; or

"(vii) any combination of the purposes described in clauses (i) through (vi);

and such term may include the establishment and operation of facilities for the conduct of covered activities described in clauses (i) through (vi), the conduct of such covered activities on a protracted and proprietary basis, and the processing of applications for patents and the granting of licenses for the results of such covered activities.

"(B) EXCEPTION.—The term 'covered activities' shall not include the following activities involving 2 or more persons:

"(i) Exchanging information among competitors relating to costs, sales, profitability, prices, marketing, or distribution of any product, process, or service if such information is not reasonably necessary to carry out the purposes of covered activities.

"(ii) Entering into any agreement or engaging in any other conduct—

"(I) to restrict or require the sale, licensing, or sharing of inventions, developments, products, processes, or services not developed through, produced by, or distributed or sold through such covered activities; or

"(II) to restrict or require participation by any person who is a party to such covered activities in other research and development activities, that is not reasonably necessary to prevent the misappropriation of proprietary information contributed by any person who is a party to such covered activities or of the results of such covered activities.

"(iii) Entering into any agreement or engaging in any other conduct allocating a market with a competitor that is not expressly exempted from the antitrust laws by a determination under subsection (i)(4).

"(iv) Exchanging information among competitors relating to production (other than production by such covered activities) of a product, process, or service if such information is not reasonably necessary to carry out the purpose of such covered activities.

"(v) Entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the production of a product, process, or service that is not so expressly exempted from the antitrust laws by a determination under subsection (i)(4).

"(vi) Except as otherwise provided in this subsection, entering into any agreement or engaging in any other conduct to restrict or require participation by any person who is a party to such activities, in any unilateral or joint activity that is not reasonably necessary to carry out the purpose of such covered activities.

"(3) DEVELOPMENT.—The term 'development' includes the identification of suitable compounds or biological materials, the conduct of preclinical and clinical studies, the preparation of an application for marketing approval, and any other actions related to preparation of a countermeasure.

"(4) PERSON.—The term 'person' has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

"(5) PRIORITY COUNTERMEASURE.—The term 'priority countermeasure' means a countermeasure, including a drug, medical device, biological product, or diagnostic test to treat, identify, or prevent infection by a biological agent or toxin on the list developed under section 351A(a)(1) and prioritized under subsection (a)(1).".

SEC. 402. DEVELOPING NEW COUNTERMEASURES AGAINST BIOTERRORISM.

Title XXVIII of the Public Health Service Act, as added by section 101 and amended by section 201, is further amended by adding at the end the following:

"Subtitle B—Developing New Countermeasures Against Bioterrorism

"SEC. 2841. SMALLPOX VACCINE AND OTHER VACCINE DEVELOPMENT.

"(a) IN GENERAL.—The Secretary shall award contracts, enter into cooperative agreements, or carry out such other activities as may reasonably be required in order to ensure that the stockpile described in section 2812 shall include the number of doses of vaccine against smallpox and other such vaccines determined by the Secretary to be sufficient to meet the needs of the population of the United States.

"(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the private distribution, purchase, or sale of vaccines from sources other than the stockpile described in subsection (a).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $509,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

"SEC. 2842. CONTRACT AUTHORITY FOR PRIORITY COUNTERMEASURES.

"(a) IN GENERAL.—The Secretary shall, to the extent the Secretary determines necessary to achieve the purposes of this title, enter into long-term contracts and comparable grants or cooperative agreements, for the purpose of—

"(1) ensuring the development of priority countermeasures that are necessary to prepare for a bioterrorist attack or other significant disease emergency;

"(2) securing the manufacture, distribution, and adequate supply of such countermeasures, including through the development of novel production methods for such countermeasures;

"(3) maintaining the Strategic National Pharmaceutical Stockpile under section 2812; and

"(4) carrying out such other activities determined appropriate by the Secretary to achieve the purposes of this title.

"(b) TERMS OF CONTRACTS.—Notwithstanding any other provision of law, the Secretary may enter into a contract or cooperative agreement under subsection (a) prior to the development, approval, or clearance of the countermeasure that is the subject of the contract. The contract or cooperative agreement may provide for its termination for the convenience of the Federal Government if the contractor does not develop the countermeasure involved. Such a contract or cooperative agreement may—

"(1) involve one or more aspects of the development, manufacture, purchase, or distribution of one or more uses of one or more countermeasures; and

"(2) set forth guaranteed minimum quantities of products and negotiated unit prices.

"SEC. 2843. SECURITY FOR COUNTERMEASURE DEVELOPMENT AND PRODUCTION.

"(a) IN GENERAL.—The Secretary, in consultation with the Attorney General and the Secretary of Defense, may provide technical or other assistance, to provide security to persons or facilities that conduct development, production, distribution, or storage of priority countermeasures.

"(b) BEST PRACTICES.—The Secretary shall develop guidelines and best practices to enable entities eligible to receive assistance under this section to secure their facilities against potential terrorist attack.".

SEC. 403. SEQUENCING OF PRIORITY PATHOGENS.

Section 319F(g) of the Public Health Service Act (42 U.S.C. 247d–6(f)), as so redesignated by section 311, is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3), the following:

"(4) the sequencing of the genomes of priority pathogens as determined appropriate by the Director of the National Institutes of Health, in consultation with the working group established in subsection (a); and".

SEC. 404. ACCELERATED COUNTERMEASURE RESEARCH AND DEVELOPMENT.

Section 319F(g) of the Public Health Service Act (42 U.S.C. 247d–6(f)), as so redesignated by section 311 and amended by section 403, is further amended—

(1) by redesignating paragraphs (1) through (5), as subparagraphs (A) through (E), respectively and indenting appropriately;

(2) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary"; and

(3) by adding at the end the following:

"(2) ACCELERATED COUNTERMEASURE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—The Secretary shall conduct, and award grants, contracts, or cooperative agreements for, research, investigations, experiments, demonstrations, and studies in the health sciences relating to—

"(i) the epidemiology and pathogenesis of biological agents or toxins of potential use in a bioterrorist attack;

"(ii) the development of new vaccines and therapeutics for use against biological agents or toxins of potential use in a bioterrorist attack;

"(iii) the development of diagnostic tests to detect biological agents or toxins of potential use in a bioterrorist attack; and

"(iv) other relevant areas of research;

with consideration given to the needs of children and other vulnerable populations.

"(B) PRIORITY.—The Secretary shall give priority under this paragraph to the funding of research and other studies related to priority countermeasures.".

SEC. 405. ACCELERATED APPROVAL OF PRIORITY COUNTERMEASURES.

(a) IN GENERAL.—The Secretary of Health and Human Services may designate a priority countermeasure as a fast-track product pursuant to section 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356) or as a device granted priority review pursuant to section 515(d)(5) of such Act (21 U.S.C. 366e(d)(5)). Such a designation may be made prior to the submission of—

(1) a request for designation by the sponsor or applicant; or

(2) an application for the investigation of the drug under section 505(i) of such Act or section 351(a)(3) of the Public Health Service Act.

Nothing in this subsection shall be construed to prohibit a sponsor or applicant from declining such a designation.

(b) USE OF ANIMAL TRIALS.—A drug for which approval is sought under section 505(d) of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act on the basis of evidence of effectiveness that is derived from animal studies under section 406 may be designated as a fast track product for purposes of this section.

(c) PRIORITY REVIEW.—

(1) IN GENERAL.—A priority countermeasure that is a drug or biological product shall be subject to the performance goals established by the Commissioner of Food and Drugs for priority drugs or biological products.

(2) DEFINITION.—In this subsection the term "priority drugs or biological products" means a drug or biological product that is the subject of a drug application referred to in section 101(4) of the Food and Drug Administration Modernization Act of 1997.

SEC. 406. USE OF ANIMAL TRIALS IN THE APPROVAL OF PRIORITY COUNTERMEASURES.

Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue a final rule for the proposal entitled "New Drug and Biological Drug Products: Evidence Needed to Demonstrate Efficacy of New Drugs for Use Against Lethal or Permanently Disabling Toxic Substances When Efficacy Studies in Humans Ethically Cannot be Conducted" as published in the Federal Register on October 5, 1999 (64 Fed. Reg.).

SEC. 407. MISCELLANEOUS PROVISIONS.

Title XXVIII of the Public Health Service Act, as added by section 101 and amended by section 403, is further amended by adding at the end the following:

"Subtitle C—Miscellaneous Provisions

"SEC. 2851. SUPPLEMENT NOT SUPPLANT.

"A State or local government, or other entity to which a grant, contract, or cooperative agreement is awarded under this title, may not use amounts received under the grant, contract, or cooperative agreement to supplant expenditures by the entity for activities provided for under this title, but shall use such amounts only to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 2001 (excluding those additional, extraordinary expenditures that may have been made after September 10, 2001).".

TITLE V—PROTECTING THE SAFETY AND SECURITY OF THE FOOD SUPPLY

Subtitle A—General Provisions to Expand and Upgrade Security

SEC. 511. FOOD SAFETY AND SECURITY STRATEGY.

(a) IN GENERAL.—The President's Council on Food Safety (as established by Executive Order 13100), the Secretary of Commerce, and the Secretary of Transportation, shall, in consultation with the food industry and consumer and producer groups, and the States, develop a crisis communications and education strategy with respect to bioterrorist threats to the food supply. Such strategy shall address threat assessments, response and notification procedures, and risks communications to the public.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, $500,000 for fiscal year 2002, and such sums as may be necessary in each subsequent fiscal year to implement the strategy developed under subsection (a) in cooperation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency.

SEC. 512. EXPANSION OF ANIMAL AND PLANT HEALTH INSPECTION SERVICE ACTIVITIES.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the "Secretary") shall enhance and expand the capacity of the Animal and Plant Health Inspection Service through the conduct of activities to—

(1) increase the inspection capacity of the Service at international points of origin;

(2) improve surveillance at ports of entry and customs;

(3) enhance methods of protecting against the introduction of plant and animal disease organisms by terrorists;

(4) adopt new strategies and technologies for dealing with intentional outbreaks of plant and animal disease arising from acts of terrorism or from unintentional introduction, including—

(A) establishing cooperative agreements among Veterinary Services of the Animal and Plant Health Inspection Service, State animal health commissions and regulatory agencies for livestock and poultry health, and private veterinary practitioners to enhance the preparedness and ability of Veterinary Services and the commissions and agencies to respond to outbreaks of such animal diseases; and

(B) strengthening planning and coordination with State and local agencies, including—

(i) State animal health commissions and regulatory agencies for livestock and poultry health; and

(ii) State agriculture departments; and

(5) otherwise expand the capacity of the Service to protect against the threat of bioterrorism.

(b) HIGH-TECH AGRICULTURE EARLY WARNING AND EMERGENCY RESPONSE SYSTEM.—

(1) IN GENERAL.—To provide the agricultural system of the United States with a new, enhanced level of protection and biosecurity that does not exist on the date of enactment of this Act, the Secretary of Agriculture, in coordination with the Secretary of Health and Human Services, shall implement a fully secure surveillance and response system that utilizes, or is capable of utilizing, field test devices capable of detecting biological threats to animals and plants and that electronically integrates the devices and the tests on a real-time basis into a comprehensive surveillance, incident management, and emergency response system.

(2) EXPANSION OF SYSTEM.—The Secretary shall expand the system implemented under paragraph (1) as soon as practicable to include other Federal agencies and the States where appropriate and necessary to enhance the protection of the food and agriculture system of the United States. To facilitate the expansion of the system, the Secretary shall award grants to States.

(c) AUTOMATED RECORDKEEPING SYSTEM.—The Administrator of the Animal and Plant Health Inspection Service shall implement a central automated recordkeeping system to provide for the reliable tracking of the status of animal and plant shipments, including those shipments on hold at ports of entry and customs. The Secretary shall ensure that such a system shall be fully accessible to or fully integrated with the Food Safety Inspection Service.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $30,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 513. EXPANSION OF FOOD SAFETY INSPECTION SERVICE ACTIVITIES.

(a) IN GENERAL.—The Secretary of Agriculture shall enhance and expand the capacity of the Food Safety Inspection Service through the conduct of activities to—

(1) enhance the ability of the Service to inspect and ensure the safety and wholesomeness of meat and poultry products;

(2) improve the capacity of the Service to inspect international meat and meat products, poultry and poultry products, and egg products at points of origin and at ports of entry;

(3) strengthen the ability of the Service to collaborate with relevant agencies within the Department of Agriculture and with other entities in the Federal Government, the States, and Indian tribes through the sharing of information and technology; and

(4) otherwise expand the capacity of the Service to protect against the threat of bioterrorism.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 514. EXPANSION OF FOOD AND DRUG ADMINISTRATION ACTIVITIES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall expand the capacity of the Food and Drug Administration to—

(1) increase inspections to ensure the safety of the food supply consistent with the amendments made by subtitle B; and

(2) improve linkages between the Agency and other regulatory agencies of the Federal Government, the States, and Indian tribes with shared responsibilities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $59,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 515. BIOSECURITY UPGRADES AT THE DEPARTMENT OF AGRICULTURE.

There is authorized to be appropriated for fiscal year 2002, $180,000,000 to enable the Agricultural Research Service to conduct building upgrades to modernize existing facilities, of which (1) $100,000,000 is allocated for renovation, updating, and expansion of the Biosafety Level 3 laboratory and animal research facilities at the Plum Island Animal Disease Center (Greenport, New York), and of which (2) $80,000,000 is allocated for the Agricultural Research Service/Animal and Plant Health Inspection Service facility in Ames, Iowa. There is authorized to be appropriated such sums as may be necessary in fiscal years 2003 through 2006 for (1), (2) and the planning and design of an Agricultural Research Service biocontainment laboratory for poultry research in Athens, Georgia, and the planning, updating, and renovation of the Arthropod-Borne Animal Disease Laboratory in Laramie, Wyoming.

SEC. 516. BIOSECURITY UPGRADES AT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

The Secretary of Health and Human Services shall take such actions as may be necessary to secure existing facilities of the Department of Health and Human Services where potential animal and plant pathogens are housed or researched.

SEC. 517. AGRICULTURAL BIOSECURITY.

(a) LAND GRANT ASSESSMENTS.—

(1) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the "Secretary") shall establish minimum security standards and award grants to land grant universities to conduct security needs assessments and to plan for improvement of—

(A) the security of all facilities where hazardous biological agents and toxins are stored or used for agricultural research purposes; and

(B) communication networks that transmit information about hazardous biological agents and toxins.

(2) AVAILABILITY OF STANDARDS.—Not later than 45 days after the establishment of security standards under paragraph (1), the Secretary shall make such standards available to land grant universities.

(3) GRANTS.—Not later than 45 days after the date of enactment of this Act, the Secretary shall award grants, not to exceed $50,000 each, to land grant universities to enable such universities to conduct a security needs assessment and plan activities to improve security. Such an assessment shall be completed not later than 45 days after the date on which such grant funds are received.

(b) NATIONAL HAZARDOUS AGENT INVENTORY.—The Secretary shall carry out activities necessary to develop a national inventory of hazardous biological agents and toxins contained in agricultural research facilities. Such activities shall include developing and distributing a model inventory procedure, developing secure means of transmitting inventory information, and conducting annual inventory activities. The inventory shall be developed in coordination with, or as a component of, similar systems in existence on the date of enactment of this Act.

(c) SCREENING PROTOCOL.—The Secretary shall establish a national protocol for the screening of individuals who require access to agricultural research facilities in a manner that provides for the protection of personal privacy.

(d) INDUSTRY-ON-FARM EDUCATION.—

(1) IN GENERAL.—The Secretary shall develop and implement a program to provide education relating to farms, livestock confinement operations, and livestock auction biosecurity to prevent the intentional or accidental introduction of a foreign animal disease and to attempt to discover the introduction of such a disease before it can spread into an outbreak. Biosecurity for livestock includes animal quarantine procedures, blood testing of new arrivals, farm locations, control of human movement onto farms and holding facilities, control of vermin, and movement of vehicles onto farms.

(2) QUARANTINE AND TESTING.—The Secretary shall develop and disseminate through educational programs animal quarantine and testing guidelines to enable farmers and producers to better monitor new arrivals. Any educational seminars and training carried out by the Secretary under this paragraph shall emphasize the economic benefits of biosecurity and the profound negative impact of an outbreak.

(3) CROP GUIDELINES.—The Secretary may develop guidelines and educational materials relating to biosecurity issues to be distributed to local crop producers and facilities that handle, process, or transport crops.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year, of which not less than $5,000,000 shall be made available in fiscal year 2002 for activities under subsection (a).

SEC. 518. BIOSECURITY OF FOOD MANUFACTURING, PROCESSING, AND DISTRIBUTION.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary"), in consultation with the Attorney General, may award grants, contracts, or cooperative agreements to enable food manufacturers, food processors, food distributors, and other entities regulated by the Secretary to ensure the safety of food through the development and implementation of educational programs to ensure the security of their facilities and modes of transportation against potential bioterrorist attack.

(b) BEST PRACTICES.—The Secretary may develop best practices to enable entities eligible for funding under this section to secure their facilities and modes of transportation against potential bioterrorist attacks.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $500,000 in fiscal year 2002, and such sums as may be necessary for each fiscal year thereafter.

Subtitle B—Protection of the Food Supply

SEC. 531. ADMINISTRATIVE DETENTION.

(a) EXPANDED AUTHORITY.—Section 304 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 334) is amended by adding at the end the following:

"(h) ADMINISTRATIVE DETENTION OF FOODS.—

"(1) AUTHORITY.—Any officer or qualified employee of the Food and Drug Administration may order the detention, in accordance with this subsection, of any article of food that is found during an inspection, examination, or investigation under this Act conducted by such officer or qualified employee, if the officer or qualified employee has credible evidence or information indicating that the article is in violation of this Act and presents a threat of serious adverse health consequences or death to humans or animals.

"(2) PERIOD OF DETENTION; APPROVAL BY SECRETARY OR SECRETARY'S DESIGNEE.—

"(A) DURATION.—An article of food may be detained under this subsection for a reasonable period, not to exceed 20 days, unless a greater period of time, not to exceed 30 days, is necessary to enable the Secretary to institute an action under subsection (a) or section 302.

"(B) SECRETARY'S APPROVAL.—Before an article of food may be ordered detained under this subsection, the Secretary or an officer or qualified employee designated by the Secretary must approve such order, after determining that the article presents a threat of serious adverse health consequences or death to humans or animals.

"(3) SECURITY OF DETAINED ARTICLE.—A detention order under this subsection with respect to an article of food may require that the article be labeled or marked as detained, and may require that the article be removed to a secure facility. An article subject to a detention order under this subsection shall not be moved by any person from the place at which it is ordered detained until released by the Secretary, or the expiration of the detention period applicable to such order, whichever occurs first.

"(4) APPEAL OF DETENTION ORDER.—Any person who would be entitled to claim a detained article if it were seized under subsection (a) may appeal to the Secretary the detention order under this subsection. Within 15 days after such an appeal is filed, the Secretary, after affording opportunity for an informal hearing, shall by order confirm the detention order or revoke it.

"(5) PERISHABLE FOODS.—The Secretary shall provide in regulation or in guidance for procedures for instituting and appealing on an expedited basis administrative detention of perishable foods.".

(b) PROHIBITED ACT.—Section 301 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following new subsection:

"(bb) The movement of an article of food in violation of an order under section 304(h), or the removal or alteration of any mark or label required by the order in order to identify the article as detained.".

SEC. 532. DEBARMENT FOR REPEATED OR SERIOUS FOOD IMPORT VIOLATIONS.

(a) DEBARMENT AUTHORITY.—

(1) PERMISSIVE DEBARMENT.—Section 306(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(b)(1)) is amended—

(A) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(B) by adding at the end the following:

"(C) a person from importing a food or offering a food for import into the United States if—

"(i) the person has been convicted of a felony for conduct relating to the importation into the United States of any food; or

"(ii) the person has engaged in a pattern of importing or offering for import adulterated food that presents a threat of serious adverse health consequences or death to humans or animals.".

(2) CONFORMING AMENDMENT.—Section 306(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(b)(2)) is amended—

(A) in the paragraph heading, by inserting "RELATING TO DRUG APPLICATIONS" after "DEBARMENT"; and

(B) in the matter preceding subparagraph (A), by striking "paragraph (1)" and inserting "subparagraphs (A) and (B) of paragraph (1)".

(3) DEBARMENT PERIOD.—Section 306(c)(2)(A)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(c)(2)(A)(iii)) is amended by striking "subsection (b)(2)" and inserting "subsection (b)(1)(C) or (b)(2)".

(4) TERMINATION OF DEBARMENT.—Section 306(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(d)(3)) is amended—

(A) in subparagraph (A)(i), by striking "or (b)(2)(A)" and inserting ", or (b)(2)(A), or (b)(1)(C)";

(B) in subparagraph (A)(ii)(II), by inserting "in applicable cases," before "sufficient audits"; and

(C) in subparagraph (B), in each of clauses (i) and (ii), by inserting "or (b)(1)(C)" after "(b)(2)(B)".

(5) EFFECTIVE DATES.—Section 306(l)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(l)(2)) is amended—

(A) in the first sentence, by inserting "and subsection (b)(1)(C)" after "subsection (b)(2)(B)"; and

(B) in the second sentence, by striking "and subsections (f) and (g) of this section" and inserting "subsections (f) and (g), and subsection (b)(1)(C)".

(b) CONFORMING AMENDMENT.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(h) If it is an article of food imported or offered for import into the United States by, with the assistance of, or at the direction of, a person debarred under section 306(b)(1)(C).".

SEC. 533. MAINTENANCE AND INSPECTION OF RECORDS FOR FOODS.

(a) IN GENERAL.—Chapter IV of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 341

et seq.) is amended by adding at the end the following:

"SEC. 414. MAINTENANCE AND INSPECTION OF RECORDS.

"(a) In General.—If the Secretary has reason to believe that an article of food is adulterated or misbranded under this Act and presents a threat of serious adverse health consequences or death to humans or animals, each person (excluding restaurants and farms) that manufactures, processes, packs, distributes, receives, holds, or imports such food shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and to copy all records relating to such food that may assist the Secretary to determine the cause and scope of the violation. This requirement applies to all records relating to such manufacture, processing, packing, distribution, receipt, holding, or importation of such food maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.

"(b) Regulations Concerning Recordkeeping.—The Secretary shall promulgate regulations regarding the maintenance and retention of records for inspection for not longer than 2 years by persons (excluding restaurants and farms) that manufacture, process, pack, transport, distribute, receive, hold, or import food, as may be needed to allow the Secretary—

"(1) to promptly trace the source and chain of distribution of food and its packaging to address threats of serious adverse health consequences or death to humans or animals; or

"(2) to determine whether food manufactured, processed, packed, or held by the person may be adulterated or misbranded to the extent that it presents a threat of serious adverse health consequences or death to humans or animals under this Act.

The Secretary may impose reduced requirements under such regulations for small businesses with 50 or fewer employees.

"(c) Limitations.—Nothing in this section shall be construed—

"(1) to limit the authority of the Secretary to inspect records or to require maintenance of records under any other provision of or regulations issued under this Act;

"(2) to authorize the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

"(3) to extend to recipes for food, financial data, sales data other than shipment data, pricing data, personnel data, or research data; or

"(4) to alter, amend, or affect in any way the disclosure or nondisclosure under section 552 of title 5, United States Code, of information copied or collected under this section, or its treatment under section 1905 of title 18, United States Code.".

(b) Factory Inspection.—Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) is amended—

(1) in paragraph (1), by adding after the first sentence the following: "In the case of any person (excluding restaurants and farms) that manufactures, processes, packs, transports, distributes, receives, holds, or imports foods, the inspection shall extend to all records and other information described in section 414(a), or required to be maintained pursuant to section 414(b)."; and

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking "second sentence" and inserting "third sentence".

(c) Prohibited Act.—Section 301 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 331) is amended—

(1) in subsection (e)—

(A) by striking "by section 412, 504, or 703" and inserting "by section 412, 414, 504, 703, or 704(a)"; and

(B) by striking "under section 412" and inserting "under section 412, 414(b)"; and

(2) in section (j), by inserting "414," after "412,".

(d) Expedited Rulemaking.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate proposed and final regulations establishing recordkeeping requirements under subsection 414(b)(1) of the Federal Food, Drug, and Cosmetic Act.

SEC. 534. REGISTRATION OF FOOD MANUFACTURING, PROCESSING, AND HANDLING FACILITIES.

(a) In General.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.), as amended by section 533, is further amended by adding at the end the following:

"SEC. 415. REGISTRATION OF FOOD MANUFACTURING, PROCESSING, AND HANDLING FACILITIES.

"(a) Registration.—

"(1) In general.—Any facility engaged in manufacturing, processing, or handling food for consumption in the United States shall be registered with the Secretary. To be registered—

"(A) for a domestic facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary; and

"(B) for a foreign facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary and shall include with the registration the name of the United States agent for the facility.

"(2) Registration.—An entity (referred to in this section as the 'registrant') shall submit a registration under paragraph (1) to the Secretary containing information necessary to notify the Secretary of the name and address of each facility at which, and all trade names under which, the registrant conducts business and, when determined necessary by the Secretary through guidance, the general food category (as identified under section 170.3 of title 21, Code of Federal Regulations) of any food manufactured, processed, or handled at such facility. The registrant shall notify the Secretary in a timely manner of changes to such information.

"(3) Procedure.—Upon receipt of a completed registration described in paragraph (1), the Secretary shall notify the registrant of the receipt of such registration and assign a registration number to each registered facility.

"(4) List.—The Secretary shall compile and maintain an up-to-date list of facilities that are registered under this section. Such list and other information required to be submitted under this subsection shall not be subject to the disclosure requirements of section 552 of title 5, United States Code.

"(b) Exemption Authority.—The Secretary may by regulation exempt types of retail establishments or farms from the requirements of subsection (a) if the Secretary determines that the registration of such facilities is not needed for effective enforcement of chapter IV and any regulations issued under such chapter.

"(c) Facility.—In this section, the term 'facility' includes any factory, warehouse, or establishment (including a factory, warehouse, or establishment of an importer), that manufactures, handles, or processes food. Such term does not include restaurants.

"(d) Rule of Construction.—Nothing in this section shall be construed to authorize the Secretary to require an application, review, or licensing process.".

(b) Misbranded Foods.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

"(t) If it is a food from a facility for which registration has not been submitted to the Secretary under section 415(a).".

(c) Effective Date.—The amendment made by subsection (b) shall take effect 180 days after the date of enactment of this Act.

SEC. 535. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.

(a) Prior Notice of Imported Food Shipments.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by adding at the end the following:

"(j) Prior Notice of Imported Food Shipments.—

"(1) In general.—At least 4 hours before a food is imported or offered for importation into the United States, the producer, manufacturer, or shipper of the food shall provide documentation to the Secretary of the Treasury and the Secretary of Health and Human Services that—

"(A) identifies—

"(i) the food;

"(ii) the countries of origin of the food; and

"(iii) the quantity to be imported; and

"(B) includes such other information as the Secretary of Health and Human Services may require by regulation.

"(2) Refusal of admission.—If documentation is not provided as required by paragraph (1) at least 4 hours before the food is imported or offered for importation, the food may be refused admission.

"(3) Limitation.—Nothing in this subsection shall be construed to authorize the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).".

(b) Prohibition of Knowingly Making False Statements.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by section 531(b), is further amended by inserting after subsection (bb) the following:

"(cc) Knowingly making a false statement in documentation required under section 801(j).".

SEC. 536. AUTHORITY TO MARK REFUSED ARTICLES.

(a) Misbranded Foods.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343), as amended by section 534(b), is further amended by adding at the end the following:

"(u) If—

"(1) it has been refused admission under section 801(a);

"(2) it has not been required to be destroyed under section 801(a);

"(3) the packaging of it does not bear a label or labeling described in section 801(a); and

"(4) it presents a threat of serious adverse health consequences or death to humans or animals.".

(b) REQUIREMENT.—Section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) is amended by adding at the end the following: "The Secretary of Health and Human Services may require the owner or consignee of a food that has been refused admission under this section, and has not been required to be destroyed, to affix to the packaging of the food a label or labeling that—

"(1) clearly and conspicuously bears the statement: 'United States: Refused Entry';

"(2) is affixed to the packaging until the food is brought into compliance with this Act; and

"(3) has been provided at the expense of the owner or consignee of the food.".

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Secretary of Health and Human Services or the Secretary of the Treasury to require the marking of refused articles under any other provision of law.

SEC. 537. AUTHORITY TO COMMISSION OTHER FEDERAL OFFICIALS TO CONDUCT INSPECTIONS.

Section 702(a) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 372(a)) is amended in the first sentence—

(1) by inserting "qualified" before "employees"; and

(2) by inserting "or of other Federal Departments or agencies, notwithstanding any other provision of law restricting the use of a Department's or agency's officers, employees, or funds," after "officers and qualified employees of the Department".

SEC. 538. PROHIBITION AGAINST PORT SHOPPING.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), as amended by section 532(b), is further amended by adding at the end the following:

"(i) If it is an article of food imported or offered for import into the United States and the article of food has previously been refused admission under section 801(a), unless the person reoffering the article affirmatively establishes, at the expense of the owner or consignee of the article, that the article complies with the applicable requirements of this Act, as determined by the Secretary.".

SEC. 539. GRANTS TO STATES FOR INSPECTIONS.

Chapter IX of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

"SEC. 910. GRANTS TO STATES FOR INSPECTIONS.

"(a) IN GENERAL.—The Secretary is authorized to make grants to States, territories, and Federally recognized Indian tribes that undertake examinations, inspections, and investigations, and related activities under section 702. The funds provided under such grants shall only be available for the costs of conducting such examinations, inspections, investigations, and related activities.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 2002, and such sums as may be necessary to carry out this section for each subsequent fiscal year.".

SEC. 540. RULE OF CONSTRUCTION.

Nothing in this title, or an amendment made by this title, shall be construed to—

(1) provide the Food and Drug Administration with additional authority related to the regulation of meat, poultry, and egg products; or

(2) limit the authority of the Secretary of Agriculture with respect to such products.

Subtitle C—Research and Training to Enhance Food Safety and Security

SEC. 541. SURVEILLANCE AND INFORMATION GRANTS AND AUTHORITIES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317P the following:

"SEC. 317Q. FOOD SAFETY GRANTS.

"(a) IN GENERAL.—The Secretary may award food safety grants to States to expand the number of States participating in Pulsenet, the Foodborne Diseases Active Surveillance Network, and other networks to enhance Federal, State, and local food safety efforts.

"(b) USE OF FUNDS.—Funds awarded under this section shall be used by States to assist such States in meeting the costs of establishing and maintaining the food safety surveillance, technical and laboratory capacity needed to participate in Pulsenet, Foodborne Diseases Active Surveillance Network, and other networks to enhance Federal, State, and local food safety efforts.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $19,500,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

"SEC. 317R. SURVEILLANCE OF ANIMAL AND HUMAN HEALTH.

"The Secretary, through the Commissioner of the Food and Drug Administration and the Director of the Centers for Disease Control and Prevention, and the Secretary of Agriculture shall develop and implement a plan for coordinating the surveillance for zoonotic disease and human disease.".

SEC. 542. AGRICULTURAL BIOTERRORISM RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Agriculture, to the maximum extent practicable, shall utilize existing authorities to expand Agricultural Research Service, and Cooperative State Research Education and Extension Service, programs to protect the food supply of the United States by conducting activities to—

(1) enhance the capability of the Service to respond immediately to the needs of Federal regulatory agencies involved in protecting the food and agricultural system;

(2) continue existing partnerships with institutions of higher education (including partnerships with 3 institutions of higher education that are national centers for countermeasures against agricultural bioterrorism and 7 additional institutions with existing programs related to bioterrorism) to help form stable, long-term programs of research, development, and evaluation of options to enhance the biosecurity of United States agriculture;

(3) strengthen linkages with the intelligence community to better identify research needs and evaluate acquired materials;

(4) expand Service involvement with international organizations dealing with plant and animal disease control; and

(5) otherwise expand the capacity of the Service to protect against the threat of bioterrorism.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $190,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SA 2693. Mr. REID (for Mr. BROWNBACK) proposed an amendment to the bill S. Res. 194, congratulating the people and government on the tenth anniversary of the independence of the Republic of Kazakhstan; as follows:

On page 2, delete the fifth whereas clause, and insert: "Whereas Kazakhstan, under the leadership of President Nursultan Nazarbaev, has cooperated with the United States on national security concerns, including combatting international terrorism, nuclear proliferation, international crime, and narcotics trafficking; and";

Delete the final whereas clause; and

On page 3, delete lines 7-9, and insert the following: "United States on matters of national security, including the war against terrorism."

SA 2694. Mr. REID (for Mr. SMITH of New Hampshire) proposed an amendment to the bill S. 990, to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes; as follows:

On page 49, strike lines 7 through 14 and insert the following:

(1) Section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) is amended—

(A) in the first sentence of subsection (a)(1)—

(i) by inserting "(other than the Account)" after "wildlife restoration fund"; and

(ii) by inserting before the period at the end the following: "(other than sections 4(d) and 12)"; and

(B) in subsection (b), by inserting "(other than the Account)" after "the fund" each place it appears.

On page 74, line 11, insert "(other than an incidental taking statement with respect to a species recovery agreement entered into by the Secretary under subsection (c))" before the semicolon.

SA 2695. Mr. REID (for Mr. BIDEN (for himself and Mr. HELMS)) proposed an amendment to the bill S. 1803, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal years 2002 and 2003, and for other purposes; as follows:

On page 10, between lines 11 and 12, insert the following new section:

SEC. 206. CONGRESSIONAL NOTIFICATION OF SMALL ARMS AND LIGHT WEAPONS LICENSE APPROVALS; ANNUAL REPORTS.

(a) CONGRESSIONAL NOTIFICATION OF EXPORT LICENSE APPROVALS.—Section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)) is amended by inserting "(or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more)" after "$50,000,000 or more".

(b) REPORT.—Not later than six months after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit an unclassified report to the appropriate congressional committees on the numbers, range, and findings of end-use monitoring of United States transfers in small arms and light weapons.

(c) ANNUAL MILITARY ASSISTANCE REPORTS.—Section 655(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2415(b)(3)) is amended by inserting before the period at the end the following: ", including, in the case of defense articles that are firearms controlled under category I of the United States Munitions List, a statement of the aggregate dollar value and quantity of semiautomatic assault weapons, or related equipment, the manufacture, transfer, or possession of which is unlawful under section 922 of title 18, United States Code, that were licensed for export during the period covered by the report".

(d) Annual Report on Arms Brokering.—Not later than six months after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit a report to the appropriate committees of Congress on activities of registered arms brokers, including violations of the Arms Export Control Act.

(e) Annual Report on Investigations of the Bureau of Alcohol, Tobacco and Firearms.—Not later than six months after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall submit a report to the appropriate committees of Congress on investigations and other efforts undertaken by the Bureau of Alcohol, Tobacco and Firearms (including cooperation with other agencies) to stop United States-source weapons from being used in terrorist acts and international crime.

On page 66, strike lines 1 through 12, and insert the following:

SEC. 404. IMPROVEMENTS TO THE AUTOMATED EXPORT SYSTEM.

(a) Contribution to the Automated Export System.—Not less than $250,000 of the amounts provided under section 302 for each fiscal year shall be available for the purpose of—

(1) providing the Department of State with full access to the Automated Export System;

(2) ensuring that the system is modified to meet the needs of the Department of State, if such modifications are consistent with the needs of other United States Government agencies; and

(3) providing operational support.

(b) Mandatory Filing.—The Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Treasury, shall publish regulations in the Federal Register to require, upon the effective date of those regulations, that all persons who are required to file export information under chapter 9 of title 13, United States Code, to file such information through the Automated Export System.

(c) Requirement for Information Sharing.—The Secretary shall conclude an information-sharing arrangement with the heads of United States Customs Service and the Census Bureau—

(1) to allow the Department of State to access information on controlled exports made through the United States Postal Service; and

(2) to adjust the Automated Export System to parallel information currently collected by the Department of State.

(d) Secretary of Treasury Functions.—Section 303 of title 13, United States Code, is amended by striking ", other than by mail,".

(e) Filing Export Information, Delayed Filings, Penalties for Failure To File.—Section 304 of title 13, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "the penal sum of $1,000" and inserting "a penal sum of $10,000"; and

(B) in the third sentence, by striking "a penalty not to exceed $100 for each day's delinquency beyond the prescribed period, but not more than $1,000," and inserting "a penalty not to exceed $1,000 for each day's delinquency beyond the prescribed period, but not more than $10,000 per violation";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) Any person, other than a person described in subsection (a), required to submit export information, shall file such information in accordance with any rule, regulation, or order issued pursuant to this chapter. In the event any such information or reports are not filed within such prescribed period, the Secretary of Commerce (and officers of the Department of Commerce designated by the Secretary) may impose a civil penalty not to exceed $1,000 for each day's delinquency beyond the prescribed period, but not more than $10,000 per violation.".

(f) Additional Penalties.—

(1) In general.—Section 305 of title 13, United States Code, is amended to read as follows:

"SEC. 305. PENALTIES FOR UNLAWFUL EXPORT INFORMATION ACTIVITIES.

"(a) Criminal Penalties.—(1) Any person who knowingly fails to file or knowingly submits false or misleading export information through the Shippers Export Declaration (SED) (or any successor document) or the Automated Export System (AES) shall be subject to a fine not to exceed $10,000 per violation or imprisonment for not more than 5 years, or both.

"(2) Any person who knowingly reports any information on or uses the SED or the AES to further any illegal activity shall be subject to a fine not to exceed $10,000 per violation or imprisonment for not more than 5 years, or both.

"(3) Any person who is convicted under this subsection shall, in addition to any other penalty, be subject to forfeiting to the United States—

"(A) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

"(B) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

"(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

"(b) Civil Penalties.—The Secretary (and officers of the Department of Commerce specifically designated by the Secretary) may impose a civil penalty not to exceed $10,000 per violation on any person violating the provisions of this chapter or any rule, regulation, or order issued thereunder, except as provided in section 304. Such penalty may be in addition to any other penalty imposed by law.

"(c) Civil Penalty Procedure.—(1) When a civil penalty is sought for a violation of this section or of section 304, the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Any such hearing shall be conducted in accordance with sections 556 and 557 of title 5, United States Code.

"(2) If any person fails to pay a civil penalty imposed under this chapter, the Secretary may ask the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than 5 years after the order imposing the civil penalty becomes final. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(3) The Secretary may remit or mitigate any penalties imposed under paragraph (1) if, in his or her opinion—

"(A) the penalties were incurred without willful negligence or fraud; or

"(B) other circumstances exist that justify a remission or mitigation.

"(4) If, pursuant to section 306, the Secretary delegates functions under this section to another agency, the provisions of law of that agency relating to penalty assessment, remission or mitigation of such penalties, collection of such penalties, and limitations of actions and compromise of claims, shall apply.

"(5) Any amount paid in satisfaction of a civil penalty imposed under this section or section 304 shall be deposited into the general fund of the Treasury and credited as miscellaneous receipts.

"(d) Enforcement.—(1) The Secretary of Commerce may designate officers or employees of the Office of Export Enforcement to conduct investigations pursuant to this chapter. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this chapter, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.

"(2) The Commissioner of Customs may designate officers or employees of the Customs Service to enforce the provisions of this chapter, or to conduct investigations pursuant to this chapter.

"(e) Regulations.—The Secretary of Commerce shall promulgate regulations for the implementation and enforcement of this section.

"(f) Exemption.—The criminal fines provided for in this section are exempt from the provisions of section 3571 of title 18, United States Code.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 9 of title 13, United States Code, is amended by striking the item relating to section 305 and inserting the following:

"305. Penalties for unlawful export information activities.".

On page 75, strike lines 1 through 24.

On page 83, between lines 17 and 18, insert the following:

(4) Taiwan.—The President is authorized to transfer to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) the "Kidd" class guided missile destroyers Kidd (DDG 993), Callaghan (DDG 994), Scott (DDG 995), and Chandler (DDG 996). The transfer of these 4 "Kidd" class guided missile destroyers shall be on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

Starting on page 24, line 14, strike all that follows through line 23 of page 25.

Strike page 13, lines 5-14.

On line 4, page 78, delete "not less than" and on line 5, page 78, delete "shall" and insert in lieu thereof "may".

On line 7, page 21, delete "and 2003" and delete lines 9 through 15 on page 21.

SA 2696. Mr. REID (for Mrs. CLINTON) proposed an amendment to the bill S. 1637, to waive certain limitations in the case of use of the emergency fund authorized by section 125 of title 23, United States Code, to pay the costs of projects in response to the attack on the World Trade Center in New York City that occurred on September 11, 2001; as follows:

On page 2, strike lines 10 through 14 and insert the following:

"shall be 100 percent; and

"(2) notwithstanding section 125(d)(1) of that".

SA 2697. Mr. REID (for Mr. LEAHY (for himself, Mr. KENNEDY, and Mr. HATCH)) proposed an amendment to the bill H.R. 2215, to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes; as follows:

On page 51, after line 4, insert the following:

DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

On page 51, line 6, strike "This Act" and insert "This division".

On page 52, beginning with line 4, strike all through page 57, line 12.

Redesignate sections 102 and 103 as sections 101 and 102, respectively.

On page 57, line 23, strike "may" and insert "shall".

On page 80, lines 22, strike all through page 81, line 22.

On page 86, lines 15 and 16, strike "OF APPROPRIATIONS" and insert "WITHIN THE DEPARTMENT OF JUSTICE".

On page 87, line 24, after "contract" insert "over $5,000,000".

On page 89, line 24, after "period" and insert "and the paragraph following".

On page 89, line 25, strike "after".

On page 97, beginning with line 1, strike all through line 6.

At the end of the bill add the following:

DIVISION B—MISCELLANEOUS DIVISION

TITLE I—BOYS AND GIRLS CLUBS OF AMERICA

SEC. 1101. BOYS AND GIRLS CLUBS OF AMERICA.

Section 401 of the Economic Espionage Act of 1966 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a)(2)—

(A) by striking "1,000" and inserting "1,200";

(B) by striking "2,500" and inserting "4,000"; and

(C) by striking "December 31, 1999" and inserting "December 31, 2006, serving not less than 6,000,000 young people";

(2) in subsection (c)—

(A) in paragraph (1), by striking "1997, 1998, 1999, 2000, and 2001" and inserting "2002, 2003, 2004, 2005, and 2006"; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "90 days" and inserting "30 days";

(ii) in subparagraph (A), by striking "1.000" and inserting "1,200"; and

(iii) in subparagraph (B), by striking "2,500 Boys and Girls Clubs of America facilities in operation before January 1, 2000" and inserting "4,000 Boys and Girls Clubs of America facilities in operation before January 1, 2007"; and

(3) in subsection (e), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $70,000,000 for fiscal year 2002;

"(B) $80,000,000 for fiscal year 2003;

"(C) $80,000,000 for fiscal year 2004;

"(D) $80,000,000 for fiscal year 2005; and

"(E) $80,000,000 for fiscal year 2006.".

TITLE II—DRUG ABUSE EDUCATION, PREVENTION, AND TREATMENT ACT OF 2001

SEC. 2001. SHORT TITLE.

This title may be cited as the "Drug Abuse Education, Prevention, and Treatment Act of 2001".

Subtitle A—Drug-Free Prisons and Jails

SEC. 2101. DRUG-FREE PRISONS AND JAILS INCENTIVE GRANTS.

(a) IN GENERAL.—Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13701 et seq.) is amended—

(1) by redesignating section 20110 as section 20111; and

(2) by inserting after section 20109 the following:

"SEC. 20110. DRUG-FREE PRISONS AND JAILS BONUS GRANTS.

"(a) IN GENERAL.—The Attorney General shall make incentive grants in accordance with this section to eligible States, units of local government, and Indian tribes, in order to encourage the establishment and maintenance of drug-free prisons and jails.

"(b) RESERVATION OF FUNDS.—Notwithstanding any other provision of this subtitle, in each fiscal year, before making the allocations under sections 20106 and 20108(a)(2) or the reservation under section 20109, the Attorney General shall reserve 10 percent of the amount made available to carry out this subtitle for grants under this section.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, a State, unit of local government, or Indian tribe shall demonstrate to the Attorney General that the State, unit of local government, or Indian tribe—

"(A) meets the requirements of section 20103(a); and

"(B) has established, or, within 18 months after the initial submission of an application this section will implement, a program or policy of drug-free prisons and jails for correctional and detention facilities, including juvenile facilities, in its jurisdiction.

"(2) CONTENTS OF PROGRAM OR POLICY.—The drug-free prisons and jails program or policy under paragraph (1)(B)—

"(A) shall include—

"(i) a zero-tolerance policy for drug use or presence in State, unit of local government, or Indian tribe facilities, including random and routine sweeps and inspections for drugs, random and routine drug tests of inmates, and improved screening for drugs and other contraband of prison visitors and prisoner mail;

"(ii) establishment and enforcement of penalties, including prison disciplinary actions and criminal prosecution for the introduction, possession, or use of drugs in any prison or jail;

"(iii) the implementation of residential drug treatment programs that are effective and science-based; and

"(iv) drug testing of inmates upon intake and upon release from incarceration as appropriate; and

"(B) may include a system of incentives for prisoners to participate in counter-drug programs such as drug treatment and drug-free wings with greater privileges, except that incentives under this paragraph may not include the early release of any prisoner convicted of a crime of violence that is not part of a policy of a State concerning good-time credits or criteria for the granting of supervised release.

"(d) APPLICATION.—In order to be eligible to receive a grant under this section, a State, unit of local government, or Indian tribe shall submit to the Attorney General an application, in such form and containing such information, including rates of positive drug tests among inmates upon intake and release from incarceration, as the Attorney General may reasonably require.

"(e) USE OF FUNDS.—Amounts received by a State, unit of local government, or Indian tribe from a grant under this section may be used—

"(1) to implement the program under subsection (c)(2); or

"(2) for any other purpose permitted by this subtitle.

"(f) ALLOCATION OF FUNDS.—Grants awarded under this section shall be in addition to any other grants a State, unit of local government, or Indian tribe may be eligible to receive under this subtitle or under part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff et seq.).

"(g) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts allocated under this section, there are authorized to be appropriated to carry out this section such sums as are necessary for each of the fiscal years 2002, 2003, and 2004.".

SEC. 2102. JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS.

(a) USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE AFTERCARE SERVICES.—Section 1902 of part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–1) is amended by adding at the end the following:

"(f) USE OF GRANT AMOUNTS FOR NONRESIDENTIAL AFTERCARE SERVICES.—A State may use amounts received under this part to provide nonresidential substance abuse treatment aftercare services for inmates or former inmates that meet the requirements of subsection (c), if the chief executive officer of the State certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services.".

(b) JAIL-BASED SUBSTANCE ABUSE TREATMENT.—Part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff et seq.) is amended by adding at the end the following:

"SEC. 1906. JAIL-BASED SUBSTANCE ABUSE TREATMENT.

"(a) DEFINITIONS.—In this section:

"(1) The term 'jail-based substance abuse treatment program' means a course of individual and group activities, lasting for a period of not less than 3 months, in an area of a correctional facility set apart from the general population of the correctional facility, if those activities are—

"(A) directed at the substance abuse problems of prisoners; and

"(B) intended to develop the cognitive, behavioral, and other skills of prisoners in order to address the substance abuse and related problems of prisoners.

"(2) The term 'local correctional facility' means any correctional facility operated by a State or unit of local government.

"(b) AUTHORIZATION.—

"(1) IN GENERAL.—At least 10 percent of the total amount made available to a State under section 1904(a) for any fiscal year shall be used by the State to make grants to local correctional facilities in the State, provided the State includes local correctional facilities, for the purpose of assisting jail-based substance abuse treatment programs that are effective and science-based established by those local correctional facilities.

"(2) FEDERAL SHARE.—The Federal share of a grant made by a State under this section to a local correctional facility may not exceed 75 percent of the total cost of the jail-based substance abuse treatment program described in the application submitted under subsection (c) for the fiscal year for which the program receives assistance under this section.

"(c) APPLICATIONS.—

"(1) IN GENERAL.—To be eligible to receive a grant from a State under this section for a jail-based substance abuse treatment program, the chief executive of a local correctional facility shall submit to the State, in such form and containing such information as the State may reasonably require, an application that meets the requirements of paragraph (2).

"(2) APPLICATION REQUIREMENTS.—Each application submitted under paragraph (1) shall include—

"(A) with respect to the jail-based substance abuse treatment program for which assistance is sought, a description of the program and a written certification that the local correctional facility will—

"(i) coordinate the design and implementation of the program between local correctional facility representatives and the appropriate State and local alcohol and substance abuse agencies;

"(ii) implement (or continue to require) urinalysis or other proven reliable forms of substance abuse testing of individuals participating in the program, including the testing of individuals released from the jail-based substance abuse treatment program who remain in the custody of the local correctional facility; and

"(iii) carry out the program in accordance with guidelines, which shall be established by the State, in order to guarantee each participant in the program access to consistent, continual care if transferred to a different local correctional facility within the State;

"(B) written assurances that Federal funds received by the local correctional facility from the State under this section will be used to supplement, and not to supplant, non-Federal funds that would otherwise be available for jail-based substance abuse treatment programs assisted with amounts made available to the local correctional facility under this section; and

"(C) a description of the manner in which amounts received by the local correctional facility from the State under this section will be coordinated with Federal assistance for substance abuse treatment and aftercare services provided to the local correctional facility by the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services.

"(d) REVIEW OF APPLICATIONS.—

"(1) IN GENERAL.—Upon receipt of an application under subsection (c), the State shall—

"(A) review the application to ensure that the application, and the jail-based residential substance abuse treatment program for which a grant under this section is sought, meet the requirements of this section; and

"(B) if so, make an affirmative finding in writing that the jail-based substance abuse treatment program for which assistance is sought meets the requirements of this section.

"(2) APPROVAL.—Based on the review conducted under paragraph (1), not later than 90 days after the date on which an application is submitted under subsection (c), the State shall—

"(A) approve the application, disapprove the application, or request a continued evaluation of the application for an additional period of 90 days; and

"(B) notify the applicant of the action taken under subparagraph (A) and, with respect to any denial of an application under subparagraph (A), afford the applicant an opportunity for reconsideration.

"(3) ELIGIBILITY FOR PREFERENCE WITH AFTERCARE COMPONENT.—

"(A) IN GENERAL.—In making grants under this section, a State shall give preference to applications from local correctional facilities that ensure that each participant in the jail-based substance abuse treatment program for which a grant under this section is sought, is required to participate in an aftercare services program that meets the requirements of subparagraph (B), for a period of not less than 1 year following the earlier of—

"(i) the date on which the participant completes the jail-based substance abuse treatment program; or

"(ii) the date on which the participant is released from the correctional facility at the end of the participant's sentence or is released on parole.

"(B) AFTERCARE SERVICES PROGRAM REQUIREMENTS.—For purposes of subparagraph (A), an aftercare services program meets the requirements of this paragraph if the program—

"(i) in selecting individuals for participation in the program, gives priority to individuals who have completed a jail-based substance abuse treatment program;

"(ii) requires each participant in the program to submit to periodic substance abuse testing; and

"(iii) involves the coordination between the jail-based substance abuse treatment program and other human service and rehabilitation programs that may assist in the rehabilitation of program participants, such as—

"(I) educational and job training programs;

"(II) parole supervision programs;

"(III) half-way house programs; and

"(IV) participation in self-help and peer group programs; and

"(iv) assists in placing jail-based substance abuse treatment program participants with appropriate community substance abuse treatment facilities upon release from the correctional facility at the end of a sentence or on parole.

"(e) COORDINATION AND CONSULTATION.—

"(1) COORDINATION.—Each State that makes 1 or more grants under this section in any fiscal year shall, to the maximum extent practicable, implement a statewide communications network with the capacity to track the participants in jail-based substance abuse treatment programs established by local correctional facilities in the State as those participants move between local correctional facilities within the State.

"(2) CONSULTATION.—Each State described in paragraph (1) shall consult with the Attorney General and the Secretary of Health and Human Services to ensure that each jail-based substance abuse treatment program assisted with a grant made by the State under this section incorporates applicable components of comprehensive approaches, including relapse prevention and aftercare services.

"(f) USE OF GRANT AMOUNTS.—

"(1) IN GENERAL.—Each local correctional facility that receives a grant under this section shall use the grant amount solely for the purpose of carrying out the jail-based substance abuse treatment program described in the application submitted under subsection (c).

"(2) ADMINISTRATION.—Each local correctional facility that receives a grant under this section shall carry out all activities relating to the administration of the grant amount, including reviewing the manner in which the amount is expended, processing, monitoring the progress of the program assisted, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"(3) RESTRICTION.—A local correctional facility may not use any amount of a grant under this section for land acquisition, a construction project, or facility renovations.

"(g) REPORTING REQUIREMENT; PERFORMANCE REVIEW.—

"(1) REPORTING REQUIREMENT.—Not later than March 1 each year, each local correctional facility that receives a grant under this section shall submit to the Attorney General, through the State, a description and an evaluation report of the jail-based substance abuse treatment program carried out by the local correctional facility with the grant amount, in such form and containing such information as the Attorney General may reasonably require.

"(2) PERFORMANCE REVIEW.—The Attorney General shall conduct an annual review of each jail-based substance abuse treatment program assisted under this section, in order to verify the compliance of local correctional facilities with the requirements of this section.

"(h) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.".

(c) ELIGIBILITY FOR SUBSTANCE ABUSE TREATMENT.—Part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff et seq.), as amended by subsection (b), is further amended by adding at the end the following:

"SEC. 1907. DEFINITIONS.

"In this part:

"(1) The term 'inmate' means an adult or a juvenile who is incarcerated or detained in any State or local correctional facility.

"(2) The term 'correctional facility' includes a secure detention facility and a secure correctional facility (as those terms are defined in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603)).".

(d) CLERICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended in the matter relating to part S by adding at the end the following:

"1906. Jail-based substance abuse treatment.
"1907. Definitions.".

(e) USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.—Section 1901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

"(c) ADDITIONAL USE OF FUNDS.—States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treatment and sanctions both during incarceration and after release, provided that no more than 25 percent of funds be spent on aftercare services.

"(d) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services to ensure that programs of substance abuse treatment and related services for State prisoners carried out under this part incorporate applicable components of existing, comprehensive approaches including relapse prevention and aftercare services that have been shown to be efficacious and incorporate evidence-based principles of effective substance abuse treatment as determined by the Secretary of Health and Human Services.".

(f) REAUTHORIZATION.—Paragraph (17) of section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(17)) is amended to read as follows:

"(17) There are authorized to be appropriated to carry out part S such sums as are necessary for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 and 2004.".

(g) SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS REAUTHORIZATION.—Section 3621(e) of title 18, United States Code, is amended—

(1) in paragraph (4), by striking subparagraph (E) and inserting the following:

"(E) such sums as are necessary for fiscal year 2002; and

"(F) such sums as are necessary for fiscal year 2003."; and

(2) in paragraph (5)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(D) the term 'appropriate substance abuse treatment' means treatment in a program that has been shown to be efficacious and incorporates evidence-based principles of effective substance abuse treatment as determined by the Secretary of Health and Human Services.".

SEC. 2103. MANDATORY REVOCATION OF PROBATION AND SUPERVISED RELEASE FOR FAILING A DRUG TEST.

(a) REVOCATION OF PROBATION.—Section 3565(b) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "or" after the semicolon;

(2) in paragraph (3), by striking "(4)," and inserting "(4); or"; and

(3) by adding after paragraph (3) the following:

"(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;".

(b) REVOCATION OF SUPERVISED RELEASE.—Section 3583(g) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "or" after the semicolon;

(2) in paragraph (3), by inserting "or" after the semicolon; and

(3) by adding after paragraph (3) the following:

"(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;".

Subtitle B—Treatment and Prevention

SEC. 2201. DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS ADMINISTERED BY STATE OR LOCAL PROSECUTORS.

(a) PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new part:

"PART CC—PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS

"SEC. 2901. PILOT PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Attorney General may make grants to State or local prosecutors for the purpose of developing, implementing, or expanding drug treatment alternative to prison programs that comply with the requirements of this part.

"(b) USE OF FUNDS.—A State or local prosecutor who receives a grant under this part shall use amounts provided under the grant to develop, implement, or expand the drug treatment alternative to prison program for which the grant was made, which may include payment of the following expenses:

"(1) Salaries, personnel costs, equipment costs, and other costs directly related to the operation of the program, including the enforcement unit.

"(2) Payments to licensed substance abuse treatment providers for providing treatment to offenders participating in the program for which the grant was made, including aftercare supervision, vocational training, education, and job placement.

"(3) Payments to public and nonprofit private entities for providing treatment to offenders participating in the program for which the grant was made.

"(c) FEDERAL SHARE.—The Federal share of a grant under this part shall not exceed 75 percent of the cost of the program.

"(d) SUPPLEMENT AND NOT SUPPLANT.—Grant amounts received under this part shall be used to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"SEC. 2902. PROGRAM REQUIREMENTS.

"A drug treatment alternative to prison program with respect to which a grant is made under this part shall comply with the following requirements:

"(1) A State or local prosecutor shall administer the program.

"(2) An eligible offender may participate in the program only with the consent of the State or local prosecutor.

"(3) Each eligible offender who participates in the program shall, as an alternative to incarceration, be sentenced to or placed with a long-term substance abuse treatment provider that is licensed or certified under State or local law.

"(4) Each eligible offender who participates in the program shall serve a sentence of imprisonment with respect to the underlying crime if that offender does not successfully complete treatment with the residential substance abuse provider.

"(5) Each substance abuse provider treating an offender under the program shall—

"(A) make periodic reports of the progress of treatment of that offender to the State or local prosecutor carrying out the program and to the appropriate court in which the defendant was convicted; and

"(B) notify that prosecutor and that court if that offender absconds from the facility of the treatment provider or otherwise violates the terms and conditions of the program.

"(6) The program shall have an enforcement unit comprised of law enforcement officers under the supervision of the State or local prosecutor carrying out the program, the duties of which shall include verifying an offender's addresses and other contacts, and, if necessary, locating, apprehending, and arresting an offender who has absconded from the facility of a substance abuse treatment provider or otherwise violated the terms and conditions of the program, and returning such offender to court for sentence on the underlying crime.

"SEC. 2903. APPLICATIONS.

"(a) IN GENERAL.—To request a grant under this part, a State or local prosecutor shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(b) CERTIFICATIONS.—Each such application shall contain the certification of the State or local prosecutor that the program for which the grant is requested shall meet each of the requirements of this part.

"SEC. 2904. GEOGRAPHIC DISTRIBUTION.

"The Attorney General shall ensure that, to the extent practicable, the distribution of grant awards is equitable and includes State or local prosecutors—

"(1) in each State; and

"(2) in rural, suburban, and urban jurisdictions.

"SEC. 2905. REPORTS AND EVALUATIONS.

"For each fiscal year, each recipient of a grant under this part during that fiscal year shall submit to the Attorney General a description and an evaluation report regarding the effectiveness of activities carried out using that grant. Each report shall include an evaluation in such form and containing such information as the Attorney General may reasonably require. The Attorney General shall specify the dates on which such reports shall be submitted.

"SEC. 2906. DEFINITIONS.

"In this part:

"(1) The term 'State or local prosecutor' means any district attorney, State attorney general, county attorney, or corporation counsel who has authority to prosecute criminal offenses under State or local law.

"(2) The term 'eligible offender' means an individual who—

"(A) has been convicted of, or pled guilty to, or admitted guilt with respect to a crime for which a sentence of imprisonment is required and has not completed such sentence;

"(B) has never been convicted of, or pled guilty to, or admitted guilt with respect to, and is not presently charged with, a felony crime of violence, a drug trafficking crime (as defined in section 924(c)(2) of title 18, United States Code), or a crime that is considered a violent felony under State or local law; and

"(C) has been found by a professional substance abuse screener to be in need of substance abuse treatment because that offender has a history of substance abuse that is a significant contributing factor to that offender's criminal conduct.

"(3) The term 'felony crime of violence' has the meaning given such term in section 924(c)(3) of title 18, United States Code.

"(4) The term 'major drug offense' has the meaning given such term in section 36(a) of title 18, United States Code.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus

Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following new paragraph:

"(24) There are authorized to be appropriated to carry out part CC such sums as are necessary for each of fiscal years 2002 through 2004.".

(c) STUDY OF THE EFFECT OF MANDATORY MINIMUM SENTENCES FOR CONTROLLED SUBSTANCE OFFENSES.—Not later than 1 year after the date of enactment of this Act, the United States Sentencing Commission shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report regarding mandatory minimum sentences for controlled substance offenses, which shall include an analysis of—

(1) whether such sentences may have a disproportionate impact on ethnic or racial groups;

(2) the effectiveness of such sentences in reducing drug-related crime by violent offenders;

(3) the effectiveness of basing sentences on drug quantities and the feasibility of potential alternatives; and

(4) the frequency and appropriateness of the use of such sentences for nonviolent offenders in contrast with other approaches such as drug treatment programs.

SEC. 2202. JUVENILE SUBSTANCE ABUSE COURTS.

(a) GRANT AUTHORITY.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART DD—JUVENILE SUBSTANCE ABUSE COURTS

"SEC. 2926. DEFINITIONS.

"In this part:

"(1) CRIME OF VIOLENCE.—The term 'crime of violence' means a criminal offense that—

"(A) has as an element, the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

"(2) VIOLENT JUVENILE OFFENDER.—The term 'violent juvenile offender' means a juvenile who has been convicted of a violent offense or adjudicated delinquent for an act that, if committed by an adult, would constitute a crime of violence.

"SEC. 2927. GRANT AUTHORITY.

"(a) APPROPRIATE SUBSTANCE ABUSE COURT PROGRAMS.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribes in accordance with this part to establish programs that—

"(1) involve continuous judicial supervision over juvenile offenders (other than violent juvenile offenders) with substance abuse problems;

"(2) integrate administration of other sanctions and services, which include—

"(A) mandatory random testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

"(B) substance abuse treatment for each participant;

"(C) probation, diversion, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

"(D) programmatic offender management, and aftercare services such as relapse prevention; and

"(3) may include—

"(A) payment, in whole or in part, by the offender or his or her parent or guardian of treatment costs, to the extent practicable, such as costs for urinalysis or counseling;

"(B) payment, in whole or in part, by the offender or his or her parent or guardian of restitution, to the extent practicable, to either a victim of the offender's offense or to a restitution or similar victim support fund; and

"(C) economic sanctions shall not be at a level that would interfere with the juvenile offender's education or rehabilitation.

"(b) USE OF GRANTS FOR NECESSARY SUPPORT PROGRAMS.—A recipient of a grant under this part may use the grant to pay for treatment, counseling, and other related and necessary expenses not covered by other Federal, State, Indian tribal, and local sources of funding that would otherwise be available.

"(c) CONTINUED AVAILABILITY OF GRANT FUNDS.—Amounts made available under this part shall remain available until expended.

"SEC. 2928. APPLICATIONS.

"(a) IN GENERAL.—In order to receive a grant under this part, the chief executive or the chief justice of a State, or the chief executive or judge of a unit of local government or Indian tribe shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(b) CONTENTS.—In addition to any other requirements that may be specified by the Attorney General, each application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan;

"(2) explain the applicant's need for Federal assistance;

"(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

"(4) identify related governmental or community initiatives that complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

"(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the substance abuse court program;

"(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

"(8) describe the methodology that will be used in evaluating the program.

"SEC. 2929. FEDERAL SHARE.

"(a) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2928 for the fiscal year for which the program receives assistance under this part.

"(b) WAIVER.—The Attorney General may waive, in whole or in part, the requirement of a matching contribution under subsection (a).

"(c) IN-KIND CONTRIBUTIONS.—In-kind contributions may constitute a portion of the non-Federal share of a grant under this part.

"SEC. 2930. DISTRIBUTION OF FUNDS.

"(a) GEOGRAPHICAL DISTRIBUTION.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"(b) INDIAN TRIBES.—The Attorney General shall allocate 0.75 percent of amounts made available under this part for grants to Indian tribes.

"(c) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this part have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this part not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this part.

"SEC. 2931. REPORT.

"Each recipient of a grant under this part during a fiscal year shall submit to the Attorney General a description and an evaluation report regarding the effectiveness of programs established with the grant on the date specified by the Attorney General.

"SEC. 2932. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

"(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) EVALUATIONS.—In addition to any evaluation requirement that may be prescribed for recipients of grants under this part, the Attorney General may carry out or make arrangements for evaluations of programs that receive assistance under this part.

"(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.

"SEC. 2933. REGULATIONS.

"The Attorney General shall issue any regulations and guidelines necessary to carry out this part, which shall ensure that the programs funded with grants under this part do not permit participation by violent juvenile offenders.

"SEC. 2934. UNAWARDED FUNDS.

"The Attorney General may reallocate any grant funds that are not awarded for juvenile substance abuse courts under this part for use for other juvenile delinquency and crime prevention initiatives.

"SEC. 2935. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated for each of fiscal years 2002 through 2004, such sums as are necessary to carry out this part.".

(b) CLERICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART DD—JUVENILE SUBSTANCE ABUSE COURTS

"Sec. 2926. Definitions.
"Sec. 2927. Grant authority.
"Sec. 2928. Applications.
"Sec. 2929. Federal share.
"Sec. 2930. Distribution of funds.
"Sec. 2931. Report.
"Sec. 2932. Technical assistance, training, and evaluation.
"Sec. 2933. Regulations.
"Sec. 2934. Unawarded funds.
"Sec. 2935. Authorization of appropriations.".

SEC. 2203. EXPANSION OF SUBSTANCE ABUSE EDUCATION AND PREVENTION EFFORTS.

(a) EXPANSION OF EFFORTS.—Section 515 of the Public Health Service Act (42 U.S.C.

290bb-21) is amended by adding at the end the following:

“(e) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

“(1) IN GENERAL.—The Administrator may make grants to and enter into contracts and cooperative agreements with public and nonprofit private entities to enable such entities—

“(A) to carry out school-based programs concerning the dangers of abuse of and addiction to illicit drugs, using methods that are effective and evidence-based, including initiatives that give students the responsibility to create their own antidrug abuse education programs for their schools; and

“(B) to carry out community-based abuse and addiction education and prevention programs relating to illicit drugs that are effective and evidence-based.

“(2) USE OF GRANT, CONTRACT, OR COOPERATIVE AGREEMENT FUNDS.—Amounts made available under a grant, contract, or cooperative agreement under paragraph (1) shall be used for planning, establishing, or administering education and prevention programs relating to illicit drugs in accordance with paragraph (3).

“(3) USES OF AMOUNTS.—

“(A) IN GENERAL.—Amounts provided under this subsection may be used—

“(i) to carry out school-based programs that are focused on those districts with high or increasing rates of drug abuse and addiction and targeted at populations which are most at-risk to start abuse of illicit drugs;

“(ii) to carry out community-based education and prevention programs and environmental change strategies that are focused on those populations within the community that are most at-risk for abuse of and addiction to illicit drugs;

“(iii) to assist local government entities and community antidrug coalitions to plan, conduct, and evaluate appropriate prevention activities and strategies relating to illegal drugs;

“(iv) to train and educate State and local law enforcement officials, prevention and education officials, members of community antidrug coalitions and parents on the signs of abuse of and addiction to illicit drugs, and the options for treatment and prevention;

“(v) for planning, administration, and educational activities related to the prevention of abuse of and addiction to illicit drugs;

“(vi) for the monitoring and evaluation of prevention activities relating to illicit drugs, and reporting and disseminating resulting information to the public; and

“(vii) for targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

“(B) PRIORITY IN MAKING GRANTS.—The Administrator shall give priority in making grants under this subsection to rural States, urban areas, and other areas that are experiencing a high rate or rapid increases in drug abuse and addiction.

“(4) ANALYSES, EVALUATIONS, AND REPORTS.—

“(A) ANALYSES AND EVALUATIONS.—Not less than $500,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Administrator, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective education and prevention programs for abuse of and addiction to illicit drugs and the development of appropriate strategies for disseminating information about and implementing these programs.

“(B) ANNUAL REPORT.—The Administrator shall submit to the committees of Congress referred to in subparagraph (C) an annual report with the results of the analyses and evaluation under subparagraph (A).

“(C) COMMITTEES.—The committees of Congress referred to in this subparagraph are the following:

“(i) SENATE.—The Committees on Health, Education, Labor, and Pensions, the Judiciary, and Appropriations of the Senate.

“(ii) HOUSE OF REPRESENTATIVES.—The Committees on Energy and Commerce, the Judiciary, and Appropriations of the House of Representatives.”.

(b) AUTHORIZATION OF APPROPRIATIONS FOR EXPANSION OF ABUSE PREVENTION EFFORTS AND PRACTITIONER REGISTRATION REQUIREMENTS.—There is authorized to be appropriated to carry out section 515(e) of the Public Health Service Act (as added by subsection (a)) and section 303(g)(2) of the Controlled Substances Act, such sums as are necessary for fiscal year 2002, and such sums as may be necessary for each succeeding fiscal year.

(c) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

SEC. 2204. FUNDING FOR RURAL STATES AND ECONOMICALLY DEPRESSED COMMUNITIES.

(a) IN GENERAL.—The Director of the Center for Substance Abuse Treatment shall provide awards of grants, cooperative agreement, or contracts to public and nonprofit private entities for the purpose of providing treatment facilities in rural States and economically depressed communities that have high rates of drug addiction but lack the resources to provide adequate treatment.

(b) MINIMUM QUALIFICATIONS FOR RECEIPT OF AWARD.—With respect to the principal agency of the State involved that administers programs relating to substance abuse, the Director may make an award under subsection (a) to an applicant only if the agency has certified to the Director that—

(1) the applicant has the capacity to carry out a program described in subsection (a);

(2) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

(3) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

(c) REQUIREMENT OF MATCHING FUNDS.—

(1) IN GENERAL.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

(1) describing the utilization and costs of services provided under the award;

(2) specifying the number of individuals served and the type and costs of services provided; and

(3) providing such other information as the Director determines to be appropriate.

(e) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

(f) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, subject to the availability of qualified applicants for the awards.

(g) DURATION OF AWARD.—The period during which payments are made to an entity from an award under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed to establish a limitation on the number of awards under such subsection that may be made to an entity.

(h) EVALUATIONS; DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

(i) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

(j) DEFINITION OF RURAL STATE.—In this section, the term “rural State” has the same meaning as in section 1501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of the fiscal years 2002, 2003, and 2004.

SEC. 2205. FUNDING FOR RESIDENTIAL TREATMENT CENTERS FOR WOMEN AND CHILDREN.

(a) IN GENERAL.—The Director of the Center for Substance Abuse Treatment shall provide awards of grants, cooperative agreement, or contracts to public and nonprofit private entities for the purpose of providing treatment facilities that—

(1) provide residential treatment for methamphetamine, heroin, and other drug addicted women with minor children; and

(2) offer specialized treatment for methamphetamine-, heroin-, and other drug-addicted mothers and allow the minor children of those mothers to reside with them in the facility or nearby while treatment is ongoing.

(b) Minimum Qualifications for Receipt of Award.—With respect to the principal agency of the State involved that administers programs relating to substance abuse, the Director may make an award under subsection (a) to an applicant only if the agency has certified to the Director that—

(1) the applicant has the capacity to carry out a program described in subsection (a);

(2) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

(3) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

(c) Requirement of Matching Funds.—

(1) In general.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

(2) Determination of amount contributed.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) Reports to Director.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

(1) describing the utilization and costs of services provided under the award;

(2) specifying the number of individuals served and the type and costs of services provided; and

(3) providing such other information as the Director determines to be appropriate.

(e) Requirement of Application.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

(f) Priority.—In making grants under this subsection, the Director shall give priority to areas experiencing a high rate or rapid increase in drug abuse and addiction.

(g) Equitable Allocation of Awards.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, subject to the availability of qualified applicants for the awards.

(h) Duration of Award.—The period during which payments are made to an entity from an award under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed to establish a limitation on the number of awards under such subsection that may be made to an entity.

(i) Evaluations; Dissemination of Findings.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

(j) Minimum Allocation.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

(k) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of the fiscal years 2002, 2003, and 2004.

SEC. 2206. DRUG TREATMENT FOR JUVENILES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

“PART G—RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES

“SEC. 575. RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES.

“(a) In General.—The Director of the Center for Substance Abuse Treatment shall award grants to, or enter into cooperative agreements or contracts, with public and nonprofit private entities for the purpose of providing treatment to juveniles for substance abuse through programs that are effective and science-based in which, during the course of receiving such treatment the juveniles reside in facilities made available by the programs.

“(b) Availability of Services for Each Participant.—A funding agreement for an award under subsection (a) for an applicant is that, in the program operated pursuant to such subsection—

“(1) treatment services will be available through the applicant, either directly or through agreements with other public or nonprofit private entities; and

“(2) the services will be made available to each person admitted to the program.

“(c) Individualized Plan of Services.—A funding agreement for an award under subsection (a) for an applicant is that—

“(1) in providing authorized services for an eligible person pursuant to such subsection, the applicant will, in consultation with the juvenile and, if appropriate the parent or guardian of the juvenile, prepare an individualized plan for the provision to the juvenile or young adult of the services; and

“(2) treatment services under the plan will include—

“(A) individual, group, and family counseling, as appropriate, regarding substance abuse; and

“(B) followup services to assist the juvenile or young adult in preventing a relapse into such abuse.

“(d) Eligible Supplemental Services.—Grants under subsection (a) may be used to provide an eligible juvenile, the following services:

“(1) Hospital referrals.—Referrals for necessary hospital services.

“(2) HIV and AIDS counseling.—Counseling on the human immunodeficiency virus and on acquired immune deficiency syndrome.

“(3) Domestic violence and sexual abuse counseling.—Counseling on domestic violence and sexual abuse.

“(4) Preparation for reentry into society.—Planning for and counseling to assist reentry into society, both before and after discharge, including referrals to any public or nonprofit private entities in the community involved that provide services appropriate for the juvenile.

“(e) Minimum Qualifications for Receipt of Award.—With respect to the principal agency of a State or Indian tribe that administers programs relating to substance abuse, the Director may award a grant to, or enter into a cooperative agreement or contract with, an applicant only if the agency or Indian tribe has certified to the Director that—

“(1) the applicant has the capacity to carry out a program described in subsection (a);

“(2) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

“(3) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

“(f) Requirements for Matching Funds.—

“(1) In general.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

“(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

“(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

“(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

“(2) Determination of amount contributed.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

“(g) Outreach.—A funding agreement for an award under subsection (a) for an applicant is that the applicant will provide outreach services in the community involved to identify juveniles who are engaging in substance abuse and to encourage the juveniles to undergo treatment for such abuse.

“(h) Accessibility of Program.—A funding agreement for an award under subsection

(a) for an applicant is that the program operated pursuant to such subsection will be operated at a location that is accessible to low income juveniles.

“(i) CONTINUING EDUCATION.—A funding agreement for an award under subsection (a) is that the applicant involved will provide for continuing education in treatment services for the individuals who will provide treatment in the program to be operated by the applicant pursuant to such subsection.

“(j) IMPOSITION OF CHARGES.—A funding agreement for an award under subsection (a) for an applicant is that, if a charge is imposed for the provision of authorized services to or on behalf of an eligible juvenile, such charge—

“(1) will be made according to a schedule of charges that is made available to the public;

“(2) will be adjusted to reflect the economic condition of the juvenile involved; and

“(3) will not be imposed on any such juvenile whose family has an income of less than 185 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

“(k) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

“(1) describing the utilization and costs of services provided under the award;

“(2) specifying the number of juveniles served, and the type and costs of services provided; and

“(3) providing such other information as the Director determines to be appropriate.

“(l) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

“(m) PRIORITY.—In making grants under this subsection, the Director shall give priority to areas experiencing a high rate or rapid increase in drug abuse and addiction.

“(n) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, as well as among Indian tribes, subject to the availability of qualified applicants for the awards.

“(o) DURATION OF AWARD.—

“(1) IN GENERAL.—The period during which payments are made to an entity from an award under this section may not exceed 5 years.

“(2) APPROVAL OF DIRECTOR.—The provision of payments described in paragraph (1) shall be subject to—

“(A) annual approval by the Director of the payments; and

“(B) the availability of appropriations for the fiscal year at issue to make the payments.

“(3) NO LIMITATION.—This subsection may not be construed to establish a limitation on the number of awards that may be made to an entity under this section.

“(p) EVALUATIONS; DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

“(q) REPORTS TO CONGRESS.—

“(1) INITIAL REPORT.—Not later than October 1, 2001, the Director shall submit to the Committee on the Judiciary of the House of Representatives, and to the Committee on the Judiciary of the Senate, a report describing programs carried out pursuant to this section.

“(2) PERIODIC REPORTS.—

“(A) IN GENERAL.—Not less than biennially after the date described in paragraph (1), the Director shall prepare a report describing programs carried out pursuant to this section during the preceding 2-year period, and shall submit the report to the Administrator for inclusion in the biennial report under section 501(k).

“(B) SUMMARY.—Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) during the period with respect to which the report is prepared.

“(r) DEFINITIONS.—In this section:

“(1) AUTHORIZED SERVICES.—The term ‘authorized services’ means treatment services and supplemental services.

“(2) JUVENILE.—The term ‘juvenile’ means anyone 18 years of age or younger at the time that of admission to a program operated pursuant to subsection (a).

“(3) ELIGIBLE JUVENILE.—The term ‘eligible juvenile’ means a juvenile who has been admitted to a program operated pursuant to subsection (a).

“(4) FUNDING AGREEMENT UNDER SUBSECTION (A).—The term ‘funding agreement under subsection (a)’, with respect to an award under subsection (a), means that the Director may make the award only if the applicant makes the agreement involved.

“(5) TREATMENT SERVICES.—The term ‘treatment services’ means treatment for substance abuse, including the counseling and services described in subsection (c)(2).

“(6) SUPPLEMENTAL SERVICES.—The term ‘supplemental services’ means the services described in subsection (d).

“(s) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—For the purpose of carrying out this section and section 576 there is authorized to be appropriated such sums as may be necessary for fiscal years 2002 through 2004. There is authorized to be appropriated from the Violent Crime Reduction Trust Fund such sums as are necessary in each of fiscal years 2002, 2003, and 2004.

“(2) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State,together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

“(3) TRANSFER.—For the purpose described in paragraph (1), in addition to the amounts authorized in such paragraph to be appropriated for a fiscal year, there is authorized to be appropriated for the fiscal year from the special forfeiture fund of the Director of the Office of National Drug Control Policy such sums as may be necessary.

“(4) RULE OF CONSTRUCTION.—The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).

“SEC. 576. OUTPATIENT TREATMENT PROGRAMS FOR JUVENILES.

“(a) GRANTS.—The Secretary of Health and Human Services, acting through the Director of the Center for Substance Abuse Treatment, shall make grants to establish projects for the outpatient treatment of substance abuse among juveniles.

“(b) PREVENTION.—Entities receiving grants under this section shall engage in activities to prevent substance abuse among juveniles.

“(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate projects carried out under subsection (a) and shall disseminate to appropriate public and private entities information on effective projects.”.

SEC. 2207. COORDINATED JUVENILE SERVICES GRANTS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after section 205 the following:

“SEC. 205A. COORDINATED JUVENILE SERVICES GRANTS.

“(a) IN GENERAL.—The Attorney General and the Secretary of Health and Human Services shall make grants to a consortium within a State consisting of State or local juvenile justice agencies, State or local substance abuse and mental health agencies, and child service agencies to coordinate the delivery of services to children among these agencies.

“(b) USE OF FUNDS.—A consortium described in subsection (a) that receives a grant under this section shall use the grant for the establishment and implementation of programs that address the service needs of juveniles with substance abuse and treatment problems who come into contact with the justice system by requiring the following:

“(1) Collaboration across child serving systems, including juvenile justice agencies, relevant substance abuse and mental health treatment providers, and State or local educational entities and welfare agencies.

“(2) Appropriate screening and assessment of juveniles.

“(3) Individual treatment plans.

“(4) Significant involvement of juvenile judges where possible.

“(c) APPLICATION FOR COORDINATED JUVENILE SERVICES GRANT.—

“(1) IN GENERAL.—A consortium described in subsection (a) desiring to receive a grant under this section shall submit an application containing such information as the Administrator may prescribe.

“(2) CONTENTS.—In addition to guidelines established by the Administrator, each application submitted under paragraph (1) shall provide—

“(A) certification that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

“(B) for the regular evaluation of the program funded by the grant and describe the methodology that will be used in evaluating the program;

“(C) assurances that the proposed program or activity will not supplant similar programs and activities currently available in the community; and

“(D) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support.

“(3) FEDERAL SHARE.—The Federal share of a grant under this section shall not exceed 75 percent of the cost of the program.

"(d) REPORT.—Each recipient of a grant under this section during a fiscal year shall submit to the Attorney General a description and an evaluation report regarding the effectiveness of programs established with the grant on the date specified by the Attorney General.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There shall be made available from the Violent Crime Reduction Trust Fund for each of fiscal years 2002 through 2004, such sums as are necessary to carry out this section.".

SEC. 2208. EXPANSION OF RESEARCH.

Section 464L of the Public Health Service Act (42 U.S.C. 285o) is amended by adding at the end the following:

"(f) DRUG ABUSE RESEARCH.—

"(1) GRANTS OR COOPERATIVE AGREEMENTS.—The Director of the Institute shall make grants or enter into cooperative agreements to conduct research on drug abuse treatment and prevention, and as is necessary to establish up to 12 new National Drug Abuse Treatment Clinical Trials Network (CTN) Centers to develop and test an array of behavioral and pharmacological treatments and to determine the conditions under which novel treatments are successfully adopted by local treatment clinics.

"(2) USE OF FUNDS.—Amounts made available under a grant or cooperative agreement under paragraph (1) for drug abuse and addiction may be used for research and clinical trials relating to—

"(A) the effects of drug abuse on the human body, including the brain;

"(B) the addictive nature of various drugs and how such effects differ with respect to different individuals;

"(C) the connection between drug abuse, mental health, and teenage suicide;

"(D) the identification and evaluation of the most effective methods of prevention of drug abuse and addiction among juveniles and adults;

"(E) the identification and development of the most effective methods of treatment of drug addiction, including pharmacological treatments;

"(F) risk factors for drug abuse;

"(G) effects of drug abuse and addiction on pregnant women and their fetuses; and

"(H) cultural, social, behavioral, neurological and psychological reasons that individuals, including juveniles, abuse drugs or refrain from abusing drugs.

"(3) RESEARCH RESULTS.—The Director shall promptly disseminate research results under this subsection to Federal, State and local entities involved in combating drug abuse and addiction.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraphs (1), (2), and (3) there is authorized to be appropriated such sums as are necessary for fiscal year 2002, and such sums as may be necessary for fiscal years 2003 and 2004, for establishment of up to 12 new CTN Centers and for the identification and development of the most effective methods of treatment and prevention of drug addiction, including behavioral, cognitive, and pharmacological treatments among juveniles and adults.

"(B) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to the authorization of appropriations in subparagraph (A) for a fiscal year shall supplement and not supplant any other amounts appropriated in such fiscal year for research on drug abuse and addiction.".

SEC. 2209. REPORT ON DRUG-TESTING TECHNOLOGIES.

(a) REQUIREMENT.—The National Institute on Standards and Technology shall conduct a study of drug-testing technologies in order to identify and assess the efficacy, accuracy, and usefulness for purposes of the National effort to detect the use of illicit drugs of any drug-testing technologies (including the testing of hair) that may be used as alternatives or complements to urinalysis as a means of detecting the use of such drugs.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Institute shall submit to Congress a report on the results of the study conducted under subsection (a).

SEC. 2210. USE OF NATIONAL INSTITUTES OF HEALTH SUBSTANCE ABUSE RESEARCH.

(a) NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.—Section 464H of the Public Health Service Act (42 U.S.C. 285n) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) REQUIREMENT TO ENSURE THAT RESEARCH AIDS PRACTITIONERS.—The Director, in conjunction with the Director of the National Institute on Drug Abuse and the Administrator of the Substance Abuse and Mental Health Services Administration, shall—

"(1) ensure that the results of all current substance abuse research that is set aside for services (and other appropriate research with practical consequences) is widely disseminated to treatment, prevention, and general practitioners in an easily understandable format;

"(2) ensure that such research results are disseminated in a manner that provides easily understandable steps for the implementation of best practices based on the research; and

"(3) make technical assistance available to the Center for Substance Abuse Treatment and the Center for Substance Abuse Prevention to assist alcohol and drug treatment and prevention practitioners, including general practitioners, to make permanent changes in treatment and prevention activities through the use of successful models.".

(b) NATIONAL INSTITUTE ON DRUG ABUSE.—Section 464L of the Public Health Service Act (42 U.S.C. 285o) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) REQUIREMENT TO ENSURE THAT RESEARCH AIDS PRACTITIONERS.—The Director, in conjunction with the Director of the National Institute on Alcohol Abuse and Alcoholism and the Administrator of the Substance Abuse and Mental Health Services Administration, shall—

"(1) ensure that the results of all current substance abuse research that is set aside for services (and other appropriate research with practical consequences) is widely disseminated to treatment and prevention practitioners, including general practitioners, in an easily understandable format;

"(2) ensure that such research results are disseminated in a manner that provides easily understandable steps for the implementation of best practices based on the research; and

"(3) make technical assistance available to the Center for Substance Abuse Treatment and the Center for Substance Abuse Prevention to assist alcohol and drug treatment practitioners to make permanent changes in treatment and prevention activities through the use of successful models.".

SEC. 2211. STUDY ON STRENGTHENING EFFORTS ON SUBSTANCE ABUSE RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH.

(a) STUDY.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), shall enter into a contract, under subsection (b), to conduct a study to determine if combining the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism of the National Institutes of Health to form 1 National Institute on Addiction would—

(1) strengthen the scientific research efforts on substance abuse at the National Institutes of Health; and

(2) be more economically efficient.

(b) INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMY OF SCIENCES.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to enter into a contract under subsection (a) to conduct the study described in subsection (a).

(c) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to the Committee on the Judiciary of the Senate—

(1) a report detailing the results of the study conducted under subsection (a); and

(2) any recommendations.

Subtitle C—School Safety and Character Education

CHAPTER 1—SCHOOL SAFETY

SEC. 2301. ALTERNATIVE EDUCATION.

Part D of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6421 et seq.) is amended by adding at the end the following:

"Subpart 4—Alternative Education Demonstration Project Grants

"SEC. 1441. PROGRAM AUTHORITY.

"(a) GRANTS.—

"(1) IN GENERAL.—From amounts appropriated under section 1443, the Secretary, in consultation with the Administrator, shall make grants to State educational agencies or local educational agencies for not less than 10 demonstration projects that enable the agencies to develop models for and carry out alternative education for at-risk youth.

"(2) CONSTRUCTION.—Nothing in this subpart shall be construed to affect the requirements of the Individuals with Disabilities Education Act.

"(b) DEMONSTRATION PROJECTS.—

"(1) PARTNERSHIPS.—Each agency receiving a grant under this subpart may enter into a partnership with a private sector entity to provide alternative educational services to at-risk youth.

"(2) REQUIREMENTS.—Each demonstration project assisted under this subpart shall—

"(A) accept for alternative education at-risk or delinquent youth who are referred by a local school or by a court with a juvenile delinquency docket and who—

"(i) have demonstrated a pattern of serious and persistent behavior problems in regular schools;

"(ii) are at risk of dropping out of school;

"(iii) have been convicted of a criminal offense or adjudicated delinquent for an act of juvenile delinquency, and are under a court's supervision; or

"(iv) have demonstrated that continued enrollment in a regular classroom—

"(I) poses a physical threat to other students; or

"(II) inhibits an atmosphere conducive to learning; and

"(B) provide for accelerated learning, in a safe, secure, and disciplined environment, including—

“(i) basic curriculum focused on mastery of essential skills, including targeted instruction in basic skills required for secondary school graduation and employment; and

“(ii) emphasis on—

“(I) personal, academic, social, and workplace skills; and

“(II) behavior modification.

“(c) Applicability.—Except as provided in subsections (c) and (e) of section 1442, the provisions of section 1401(c), 1402, and 1431, and subparts 1 and 2, shall not apply to this subpart.

“(d) Definition of Administrator.—In this subpart, the term ‘Administrator’ means the Administrator of the Office of Juvenile Crime Control and Prevention of the Department of Justice.

“SEC. 1442. APPLICATIONS; GRANTEE SELECTION.

“(a) Applications.—Each State educational agency and local educational agency seeking a grant under this subpart shall submit an application in such form, and containing such information, as the Secretary, in consultation with the Administrator, may reasonably require.

“(b) Selection of Grantees.—

“(1) In general.—The Secretary shall select State educational agencies and local educational agencies to receive grants under this subpart on an equitable geographic basis, including selecting agencies that serve urban, suburban, and rural populations.

“(2) Minimum.—The Secretary shall award a grant under this subpart to not less than 1 agency serving a population with a significant percentage of Native Americans.

“(3) Priority.—In awarding grants under this subpart, the Secretary may give priority to State educational agencies and local educational agencies that demonstrate in the application submitted under subsection (a) that the State has a policy of equitably distributing resources among school districts in the State.

“(c) Qualifications.—To qualify for a grant under this subpart, a State educational agency or local educational agency shall—

“(1) in the case of a State educational agency, have submitted a State plan under section 1414(a) that is approved by the Secretary;

“(2) in the case of a local educational agency, have submitted an application under section 1423 that is approved by the State educational agency;

“(3) explain the educational and juvenile justice needs of the community to be addressed by the demonstration project;

“(4) provide a detailed plan to implement the demonstration project; and

“(5) provide assurances and an explanation of the agency's ability to continue the program funded by the demonstration project after the termination of Federal funding under this subpart.

“(d) Matching Requirement.—

“(1) In general.—Grant funds provided under this subpart shall not constitute more than 35 percent of the cost of the demonstration project funded.

“(2) Source of funds.—Matching funds for grants under this subpart may be derived from amounts available under part B of title II, of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) to the State in which the demonstration project will be carried out, except that the total share of funds derived from Federal sources shall not exceed 50 percent of the cost of the demonstration project.

“(e) Program Evaluation.—

“(1) In general.—Each State educational agency or local educational agency that receives a grant under this subpart shall evaluate the demonstration project assisted under this subpart in the same manner as programs are evaluated under section 1431. In addition, the evaluation shall include—

“(A) an evaluation of the effect of the alternative education project on order, discipline, and an effective learning environment in regular classrooms;

“(B) an evaluation of the project's effectiveness in improving the skills and abilities of at-risk students assigned to alternative education, including an analysis of the academic and social progress of such students; and

“(C) an evaluation of the project's effectiveness in reducing juvenile crime and delinquency, including—

“(i) reductions in incidents of campus crime in relevant school districts, compared with school districts not included in the project; and

“(ii) reductions in recidivism by at-risk students who have juvenile justice system involvement and are assigned to alternative education.

“(2) Evaluation by the secretary.—The Secretary, in cooperation with the Administrator, shall comparatively evaluate each of the demonstration projects funded under this subpart, including an evaluation of the effectiveness of private sector educational services, and shall report the findings of the evaluation to the Committee on Education and the Workforce of the House of Representatives and the Committees on the Judiciary and Health, Education, Labor and Pensions of the Senate not later than June 30, 2007.

“SEC. 1443. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this subpart such sums as are necessary for each of fiscal years 2002, 2003, and 2004.”.

SEC. 2302. TRANSFER OF SCHOOL DISCIPLINARY RECORDS.

Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended by adding at the end the following:

“SEC. 14604. TRANSFER OF SCHOOL DISCIPLINARY RECORDS.

“(a) Nonapplication of Provisions.—The provisions of this section shall not apply to any disciplinary records transferred from a private, parochial, or other nonpublic school, person, institution, or other entity, that provides education below the college level.

“(b) Disciplinary Records.—Not later than 2 years after the date of enactment of the Drug Abuse Education, Prevention, and Treatment Act of 2001, each State receiving Federal funds under this Act shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, full-time or part-time, in the school.”.

CHAPTER 2—CHARACTER EDUCATION

Subchapter A—National Character Achievement Award

SEC. 2311. NATIONAL CHARACTER ACHIEVEMENT AWARD.

(a) Presentation Authorized.—The President is authorized to award to individuals under the age of 18, on behalf of the Congress, a National Character Achievement Award, consisting of a medal of appropriate design, with ribbons and appurtenances, honoring those individuals for distinguishing themselves as a model of good character.

(b) Design and Striking.—For the purposes of the award referred to in subsection (a), the Secretary of the Treasury shall design and strike a medal with suitable emblems, devices, and inscriptions, to be determined by such Secretary.

(c) Eligibility.—

(1) In general.—The President pro tempore of the Senate and the Speaker of the House of Representatives shall establish procedures for the processing of recommendations to be forwarded to the President for awarding National Character Achievement Awards under subsection (a).

(2) Recommendations by school principals.—At a minimum, the recommendations referred to in paragraph (1) shall contain the endorsement of the principal (or equivalent official) of the school in which the individual under the age of 18 is enrolled.

Subchapter B—Preventing Juvenile Delinquency Through Character Education

SEC. 2321. PURPOSE.

The purpose of this subchapter is to support the work of community-based organizations, local educational agencies, and schools in providing children and youth with alternatives to delinquency through strong after school programs that—

(1) are organized around character education;

(2) reduce delinquency, school discipline problems, and truancy; and

(3) improve student achievement, overall school performance, and youths' positive involvement in their community.

SEC. 2322. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to carry out the after school programs under this subchapter, such sums as are necessary for fiscal year 2002, and such sums as may be necessary for each of the 2 succeeding fiscal years.

(b) Source of Funding.—Amounts authorized to be appropriated pursuant to this section may be derived from the Violent Crime Reduction Trust Fund.

SEC. 2323. AFTER SCHOOL PROGRAMS.

(a) In General.—The Secretary, in consultation with the Attorney General, is authorized to award grants to community-based organizations to enable the organizations to provide youth with alternative activities, in the after school or out of school hours, that include a strong character education component.

(b) Eligible Community-Based Organizations.—The Secretary shall only award a grant under this section to a community-based organization that has a demonstrated capacity to provide after school or out of school programs to youth, including youth serving organizations, businesses, and other community groups.

(c) Applications.—Each community-based organization desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall include—

(1) a description of the community to be served and the needs that will be met through the program in that community;

(2) a description of how the program will identify and recruit at-risk youth for participation in the program, and how the program will provide continuing support for the participation of such youth;

(3) a description of the activities to be assisted under the grant, including—

(A) how parents, students, and other members of the community will be involved in the design and implementation of the program;

(B) how character education will be incorporated into the program; and

(C) how the program will coordinate activities assisted under this section with activities of schools and other community-based organizations;

(4) a description of the goals of the program;

(5) a description of how progress toward achieving such goals, and toward meeting the purposes of this subchapter, will be measured; and

(6) an assurance that the community-based organization will provide the Secretary with information regarding the program and the effectiveness of the program.

SEC. 2324. GENERAL PROVISIONS.

(a) DURATION.—Each grant under this subchapter shall be awarded for a period of not to exceed 5 years.

(b) PLANNING.—A community-based organization may use grant funds provided under this subchapter for not more than 1 year for the planning and design of the program to be assisted.

(c) SELECTION OF GRANTEES.—

(1) CRITERIA.—The Secretary, in consultation with the Attorney General, shall select, through a peer review process, community-based organizations to receive grants under this subchapter on the basis of the quality of the applications submitted and taking into consideration such factors as—

(A) the quality of the activities to be assisted;

(B) the extent to which the program fosters in youth the elements of character and reaches youth at-risk of delinquency;

(C) the quality of the plan for measuring and assessing the success of the program;

(D) the likelihood the goals of the program will be realistically achieved;

(E) the experience of the applicant in providing similar services; and

(F) the coordination of the program with larger community efforts in character education.

(2) DIVERSITY OF PROJECTS.—The Secretary shall approve applications under this subchapter in a manner that ensures, to the extent practicable, that programs assisted under this subchapter serve different areas of the United States, including urban, suburban and rural areas, and serve at-risk populations.

(d) USE OF FUNDS.—Grant funds under this subchapter shall be used to support the work of community-based organizations, schools, or local educational agencies in providing children and youth with alternatives to delinquency through strong after school, or out of school programs that—

(1) are organized around character education;

(2) reduce delinquency, school discipline problems, and truancy; and

(3) improve student achievement, overall school performance, and youths' positive involvement in their community.

(e) DEFINITIONS.—In this subchapter:

(1) IN GENERAL.—The terms used shall have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) CHARACTER EDUCATION.—The term "character education" means an organized educational program that works to reinforce core elements of character, including caring, civic virtue and citizenship, justice and fairness, respect, responsibility, and trustworthiness.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

Subchapter C—Counseling, Training, and Mentoring Children of Prisoners

SEC. 2331. PURPOSE.

The purpose of this subchapter is to support the work of community-based organizations in providing counseling, training, and mentoring services to America's most at-risk children and youth in low-income and high-crime communities who have a parent or legal guardian that is incarcerated in a Federal, State, or local correctional facility.

SEC. 2332. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out programs under this subchapter, such sums as are necessary for fiscal year 2002, and such sums as may be necessary for each of the 2 succeeding fiscal years.

(b) SOURCE OF FUNDING.—Amounts authorized to be appropriated pursuant to this section may be derived from the Violent Crime Reduction Trust Fund.

SEC. 2333. COUNSELING, TRAINING, AND MENTORING PROGRAMS.

(a) IN GENERAL.—The Attorney General shall award grants to community-based organizations to enable the organizations to provide youth who have a parent or legal guardian incarcerated in a Federal, State, or local correctional facility with counseling, training, and mentoring services in low-income and high-crime communities that include—

(1) counseling, including drug prevention counseling;

(2) academic tutoring, including online computer academic programs that focus on the development and reinforcement of basic skills;

(3) technology training, including computer skills;

(4) job skills and vocational training; and

(5) confidence building mentoring services.

(b) ELIGIBLE COMMUNITY-BASED ORGANIZATIONS.—The Attorney General shall only award a grant under this section to a community-based organization that has a demonstrated capacity to provide after school or out of school programs to youth, including youth serving organizations, businesses, and other community groups.

(c) APPLICATIONS.—Each community-based organization desiring a grant under this section shall submit an application to the Attorney General at such time and in such manner as the Attorney General may require. Each application shall include—

(1) a description of the community to be served and the needs that will be met through the program in that community;

(2) a description of how the program will identify and recruit youth who have a parent or legal guardian that is incarcerated in a Federal, State, or local correctional facility for participation in the program, and how the program will provide continuing support for the participation of such youth;

(3) a description of the activities to be assisted under the grant, including—

(A) how parents, residents, and other members of the community will be involved in the design and implementation of the program; and

(B) how counseling, training, and mentoring services will be incorporated into the program;

(4) a description of the goals of the program;

(5) a description of how progress toward achieving such goals, and toward meeting the purposes of this subchapter, will be measured; and

(6) an assurance that the community-based organization will provide the Attorney General with information regarding the program and the effectiveness of the program.

SEC. 2334. GENERAL PROVISIONS.

(a) DURATION.—Each grant under this subchapter shall be awarded for a period of not to exceed 5 years.

(b) PLANNING.—A community-based organization may use grant funds provided under this subchapter for not more than 1 year for the planning and design of the program to be assisted.

(c) SELECTION OF GRANTEES.—

(1) CRITERIA.—The Attorney General shall select, through a peer review process, community-based organizations to receive grants under this subchapter on the basis of the quality of the applications submitted and taking into consideration such factors as—

(A) the quality of the activities to be assisted;

(B) the extent to which the program fosters positive youth development and encourages meaningful and rewarding lifestyles;

(C) the likelihood the goals of the program will be realistically achieved;

(D) the experience of the applicant in providing similar services; and

(E) the coordination of the program with larger community efforts.

(2) DIVERSITY OF PROJECTS.—The Attorney General shall approve applications under this subchapter in a manner that ensures, to the extent practicable, that programs assisted under this subchapter serve different low-income and high-crime communities of the United States.

(d) USE OF FUNDS.—Grant funds under this subchapter shall be used to support the work of community-based organizations in providing children of incarcerated parents or legal guardians with alternatives to delinquency through strong after school, or out of school programs that—

(1) are organized around counseling, training, and mentoring;

(2) reduce delinquency, school discipline problems, and truancy; and

(3) improve student achievement, overall school performance, and youths' positive involvement in their community.

Subtitle D—Reestablishment of Drug Courts

SEC. 2401. REESTABLISHMENT OF DRUG COURTS.

(a) DRUG COURTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part DD the following new part:

"PART EE—DRUG COURTS

"SEC. 2951. GRANT AUTHORITY.

"(a) IN GENERAL.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for programs that involve—

"(1) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and

"(2) the integrated administration of other sanctions and services, which shall include—

"(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

"(B) substance abuse treatment for each participant;

"(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

"(D) offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services;

"(E) payment, in whole or part, by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; and

"(F) payment, in whole or part, by the offender of restitution, to the extent practicable, to either a victim of the offender's offense or to a restitution or similar victim support fund.

"(b) Limitation.—Economic sanctions imposed on an offender pursuant to this section shall not be at a level that would interfere with the offender's rehabilitation.

"SEC. 2952. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

"The Attorney General shall—

"(1) issue regulations or guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders; and

"(2) immediately suspend funding for any grant under this part, pending compliance, if the Attorney General finds that violent offenders are participating in any program funded under this part.

"SEC. 2953. DEFINITION.

"In this part, the term 'violent offender' means a person who—

"(1) is charged with or convicted of an offense, during the course of which offense or conduct—

"(A) the person carried, possessed, or used a firearm or dangerous weapon;

"(B) there occurred the death of or serious bodily injury to any person; or

"(C) there occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (A) or (B) is an element of the offense or conduct of which or for which the person is charged or convicted; or

"(2) has 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

"SEC. 2954. ADMINISTRATION.

"(a) Consultation.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this part.

"(b) Use of Components.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(c) Regulatory Authority.—The Attorney General may issue regulations and guidelines necessary to carry out this part.

"(d) Applications.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan;

"(2) explain the applicant's inability to fund the program adequately without Federal assistance;

"(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

"(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

"(6) certify that participating offenders will be supervised by 1 or more designated judges with responsibility for the drug court program;

"(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

"(8) describe the methodology that will be used in evaluating the program.

"SEC. 2955. APPLICATIONS.

"To request funds under this part, the chief executive or the chief justice of a State or the chief executive or judge of a unit of local government or Indian tribal government, or the chief judge of a State court or the judge of a local court or Indian tribal court shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"SEC. 2956. FEDERAL SHARE.

"(a) In General.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2955 for the fiscal year for which the program receives assistance under this part, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section.

"(b) In-Kind Contributions.—In-kind contributions may constitute a portion of the non-Federal share of a grant.

"SEC. 2957. DISTRIBUTION AND ALLOCATION.

"(a) Geographic Distribution.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"(b) Minimum Allocation.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this part have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this part not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this part.

"SEC. 2958. REPORT.

"A State, Indian tribal government, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General a description and an evaluation report on a date specified by the Attorney General regarding the effectiveness of this part.

"SEC. 2959. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

"(a) Technical Assistance and Training.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) Evaluations.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

"(c) Administration.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.".

(b) Technical Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part DD the following:

"Part EE—Drug Courts

"Sec. 2951. Grant authority.
"Sec. 2952. Prohibition of participation by violent offenders.
"Sec. 2953. Definition.
"Sec. 2954. Administration.
"Sec. 2955. Applications.
"Sec. 2956. Federal share.
"Sec. 2957. Distribution and allocation.
"Sec. 2958. Report.
"Sec. 2959. Technical assistance, training, and evaluation.".

SEC. 2402. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3), by inserting before the period at the end the following: "or EE"; and

(2) by adding at the end the following new paragraph:

"(20)(A) There are authorized to be appropriated for fiscal year 2002 such sums as are necessary and for fiscal years 2003 and 2004 such sums as may be necessary to carry out part EE.

"(B) The Attorney General shall reserve not less than 1 percent and not more than 4.5 percent of the sums appropriated for this program in each fiscal year for research and evaluation of this program.".

Subtitle E—Program for Successful Reentry of Criminal Offenders Into Local Communities

SEC. 2501. SHORT TITLE.

This subtitle may be cited as the "Offender Reentry and Community Safety Act of 2001".

SEC. 2502. PURPOSES.

The purposes of this subtitle are to—

(1) establish demonstration projects in several Federal judicial districts, the District of Columbia, and in the Federal Bureau of Prisons, using new strategies and emerging technologies that alleviate the public safety risk posed by released prisoners by promoting their successful reintegration into the community;

(2) establish court-based programs to monitor the return of offenders into communities, using court sanctions to promote positive behavior;

(3) establish offender reentry demonstration projects in the states using government and community partnerships to coordinate cost efficient strategies that ensure public safety and enhance the successful reentry into communities of offenders who have completed their prison sentences;

(4) establish intensive aftercare demonstration projects that address public safety and ensure the special reentry needs of juvenile offenders by coordinating the resources of juvenile correctional agencies, juvenile courts, juvenile parole agencies, law enforcement agencies, social service providers, and local Workforce Investment Boards; and

(5) rigorously evaluate these reentry programs to determine their effectiveness in reducing recidivism and promoting successful offender reintegration.

CHAPTER 1—FEDERAL REENTRY DEMONSTRATION PROJECTS

SEC. 2511. FEDERAL COMMUNITY CORRECTIONS CENTERS REENTRY PROJECT.

(a) Authority and Establishment of Federal Community Corrections Centers Reentry Project.—Subject to the availability of appropriations to carry out this chapter, the Attorney General and the Director of the

Administrative Office of the United States Courts, shall establish the Federal Reentry project. The project shall involve appropriate prisoners released from the Federal prison population to a community corrections center during fiscal years 2003 and 2004, and a coordinated response by Federal agencies to assist participating prisoners, under close monitoring and more seamless supervision, in preparing for and adjusting to reentry into the community.

(b) Project Elements.—The project authorized by subsection (a) shall include—

(1) a Reentry Review Team for each prisoner, consisting of representatives from the Bureau of Prisons, the United States Probation System, and the relevant community corrections center, who shall initially meet with the prisoner to develop a reentry plan tailored to the needs of the prisoner and taking into account the views of the victim advocate and the family of the prisoner, if it is safe for the victim, and will thereafter meet regularly to monitor the prisoner's progress toward reentry and coordinate access to appropriate reentry measures and resources;

(2) drug testing, as appropriate;

(3) a system of graduated levels of supervision within the community corrections centers to promote community safety, provide incentives for prisoners to complete the reentry plan, including victim restitution, and provide a reasonable method for imposing immediate sanctions for a prisoner's minor or technical violation of the conditions of participation in the project;

(4) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and basic educational training, and other programming to promote effective reintegration into the community as needed;

(5) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based and business communities, to serve as advisers and mentors to prisoners being released into the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program; and

(7) notification to victims on the status and nature of offenders' release, as appropriate.

(c) Probation Officers.—From funds made available to carry out this Act, the Director of the Administrative Office of the United States Courts shall appoint 1 or more probation officers from each judicial district to the Reentry Demonstration project. Such officers shall serve as reentry officers and shall serve on the Reentry Review Teams.

(d) Project Duration.—The Community Corrections Center Reentry project shall begin not later than 9 months following the availability of funds to carry out this section, and shall last 5 years. The Attorney General and the Director of the Administrative Office of the United States Courts may extend the project for a period of up to 6 months to enable participant prisoners to complete their involvement in the project.

(e) Selection of Prisoners.—The Director of the Administrative Office of the United States Courts in consultation with the Attorney General shall select an appropriate pool of prisoners from the Federal prison population scheduled to be released to community correction centers in fiscal years 2003 and 2004 to participate in the Reentry project.

(f) Coordination of Projects.—If appropriate, Community Corrections Center Reentry project offenders who participated in the Enhanced In-Prison Vocational Assessment and Training Demonstration project established by section 615 may be included.

SEC. 2512. FEDERAL HIGH-RISK OFFENDER REENTRY PROJECT.

(a) Authority and Establishment of Federal High-Risk Offender Project.—Subject to the availability of appropriations to carry out this Act, the Director of the Administrative Office of the United States Courts shall establish the Federal High-Risk Offender Reentry project. The project shall involve Federal offenders under supervised release who have violated the terms of their release following a term of imprisonment and shall utilize, as appropriate and indicated, community corrections centers, home confinement, appropriate monitoring technologies, and treatment and programming to promote more effective reentry into the community.

(b) Project Elements.—The project authorized by subsection (a) shall include—

(1) participation by Federal prisoners who have violated the terms of their release following a term of imprisonment;

(2) use of community corrections centers and home confinement that, together with the technology referenced in paragraph (5), will be part of a system of graduated levels of supervision;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and basic educational training, and other programming to promote effective reintegration into the community as needed;

(4) involvement of a victim advocate and the family of the prisoner, if it is safe for the victim(s), especially in domestic violence cases, to be involved;

(5) the use of monitoring technologies, as appropriate and indicated, to monitor and supervise participating offenders in the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program; and

(7) notification to victims on the status and nature of a prisoner's release, as appropriate.

(c) Condition of Supervised Release.—During the demonstration project, appropriate offenders who are found to have violated a term of supervised release and who will be subject to some additional term of supervised release, may be designated to participate in the demonstration project. With respect to these offenders, the court may impose additional conditions of supervised release that each offender shall, as directed by the probation officer, reside at a community corrections center or participate in a program of home confinement, or both, and submit to appropriate location verification monitoring. The court may also impose additional correctional intervention conditions as appropriate.

(d) Project Duration.—The Federal High-Risk Offender Reentry Project shall begin not later than 9 months following the availability of funds to carry out this section, and shall last 5 years. The Director of the Administrative Office of the United States Courts may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

(e) Selection of Offenders.—The Director of the Administrative Office of the United States Courts shall select an appropriate pool of offenders who are found by the court to have violated a term of supervised release during fiscal year 2003 and 2004 to participate in the Federal High-Risk Offender Reentry project.

SEC. 2513. DISTRICT OF COLUMBIA INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (DC iSTART) DEMONSTRATION.

(a) Authority and Establishment of Demonstration Project.—From funds made available to carry out this Act, the Trustee of the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712) shall establish the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration (DC iSTART) project. The project shall involve high risk District of Columbia parolees who would otherwise be released into the community without a period of confinement in a community corrections facility and shall utilize intensive supervision, monitoring, and programming to promote such parolees' successful reentry into the community.

(b) Project Elements.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk parolees;

(2) use of community corrections facilities and home confinement;

(3) a Reentry Review Team that includes a victim witness professional for each parolee which shall meet with the parolee, by video conference or other means as appropriate, before the release of the parolee from the custody of the Federal Bureau of Prisons to develop a reentry plan that incorporates victim impact information and is tailored to the needs of the parolee and which will thereafter meet regularly to monitor the parolee's progress toward reentry and coordinate access to appropriate reentry measures and resources;

(4) regular drug testing, as appropriate;

(5) a system of graduated levels of supervision within the community corrections facility to promote community safety, victim restitution, to the extent practicable, provide incentives for prisoners to complete the reentry plan, and provide a reasonable method for immediately sanctioning a prisoner's minor or technical violation of the conditions of participation in the project;

(6) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and basic educational training, and other programming to promote effective reintegration into the community as needed;

(7) the use of monitoring technologies, as appropriate;

(8) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based communities, to serve as advisers and mentors to prisoners being released into the community; and

(9) notification to victims on the status and nature of a prisoner's reentry plan.

(c) Mandatory Condition of Parole.—For those offenders eligible to participate in the demonstration project, the United States Parole Commission shall impose additional mandatory conditions of parole such that the offender when on parole shall, as directed by the community supervision officer, reside at a community corrections facility or participate in a program of home confinement, or both, submit to electronic and other remote monitoring, and otherwise participate in the project.

(d) Program Duration.—The District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Trustee of the Court Services and Offender Supervision Agency of the District of Columbia may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

SEC. 2514. FEDERAL INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (FED iSTART) PROJECT.

(a) Authority and Establishment of Project.—Subject to the availability of appropriations to carry out this section, the Director of the Administrative Office of the United States Courts, in consultation with the Attorney General, shall establish the Federal Intensive Supervision, Tracking and Reentry Training (FED iSTART) project. The project shall involve appropriate high risk Federal offenders who are being released into the community without a period of confinement in a community corrections center.

(b) Project Elements.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk Federal offenders;

(2) significantly smaller caseloads for probation officers participating in the demonstration project;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and basic educational training, and other programming to promote effective reintegration into the community as needed; and

(4) notification to victims on the status and nature of a prisoner's reentry plan.

(c) Program Duration.—The Federal Intensive Supervision, Tracking and Reentry Training Project shall begin not later than 9 months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Administrative Office of the United States Courts may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

(d) Selection of Prisoners.—The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General, shall select an appropriate pool of Federal prisoners who are scheduled to be released into the community without a period of confinement in a community corrections center in fiscal years 2003 and 2004 to participate in the Federal Intensive Supervision, Tracking and Reentry Training project.

SEC. 2515. FEDERAL ENHANCED IN-PRISON VOCATIONAL ASSESSMENT AND TRAINING AND DEMONSTRATION.

(a) Authority and Establishment of Demonstration Project.—From funds made available to carry out this section, the Attorney General shall establish the Federal Enhanced In-Prison Vocational Assessment and Training Demonstration project in selected institutions. The project shall provide in-prison assessments of prisoners' vocational needs and aptitudes, enhanced work skills development, enhanced release readiness programming, and other components as appropriate to prepare Federal prisoners for release and reentry into the community.

(b) Program Duration.—The Enhanced In-Prison Vocational Assessment and Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

SEC. 2516. RESEARCH AND REPORTS TO CONGRESS.

(a) Director of the Administrative Office of the United States Courts.—Not later than 2 years after enactment of this Act, the Director of the Administrative Office of the United States Courts shall report to Congress on the progress of the reentry projects authorized by sections 2511, 2512, and 2514. Not later than 2 years after the end of the reentry projects authorized by sections 2511, 2512, and 2514, the Director of the Administrative Office of the United States Courts shall report to Congress on the effectiveness of the reentry projects authorized by sections 2511, 2512, and 2514 on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary of the House of Representatives and the Senate.

(b) Attorney General.—Not later than 2 years after enactment of this Act, the Attorney General shall report to Congress on the progress of the projects authorized by section 2515. Not later than 180 days after the end of the projects authorized by section 2515, the Attorney General shall report to Congress on the effectiveness of the reentry projects authorized by section 2515 on post-release outcomes and recidivism. The report should address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary of the House of Representatives and the Senate.

(c) DC iSTART.—Not later than 2 years after enactment of this Act, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712) shall report to Congress on the progress of the demonstration project authorized by section 2515. Not later than 1 year after the end of the demonstration project authorized by section 2513, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712) shall report to Congress on the effectiveness of the reentry project authorized by section 2513 on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary of the House of Representatives and the Senate. In the event that the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712) is not in operation 1 year after enactment of this Act, the Director of the National Institute of Justice shall prepare and submit the reports required by this section and may do so from funds made available to the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712) to carry out this chapter.

SEC. 2517. DEFINITIONS.

In this chapter:

(1) Appropriate high risk parolees.—The term "appropriate high risk parolees" means parolees considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(B) to lack the skills and family support network that facilitate successful reintegration into the community.

(2) Appropriate prisoner.—The term "appropriate prisoner" means a person who is considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(B) to lack the skills and family support network that facilitate successful reintegration into the community.

SEC. 2518. AUTHORIZATION OF APPROPRIATIONS.

To carry out this chapter, there are authorized to be appropriated, to remain available until expended, the following amounts:

(1) To the Federal Bureau of Prisons—

(A) such sums as are necessary for fiscal year 2002;

(B) such sums as are necessary for fiscal year 2003; and

(C) such sums as are necessary for fiscal year 2004.

(2) To the Federal Judiciary—

(A) such sums as are necessary for fiscal year 2002;

(B) such sums as are necessary for fiscal year 2003;

(C) such sums as are necessary for fiscal year 2004;

(D) such sums as are necessary for fiscal year 2005; and

(E) such sums as are necessary for fiscal year 2006.

(3) To the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712)—

(A) such sums as are necessary for fiscal year 2002;

(B) such sums as are necessary for fiscal year 2003; and

(C) such sums as are necessary for fiscal year 2004.

CHAPTER 2—STATE REENTRY GRANT PROGRAMS

SEC. 2521. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) In General.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after part EE the following new part:

"PART FF—OFFENDER REENTRY AND COMMUNITY SAFETY

"SEC. 2976. ADULT OFFENDER STATE AND LOCAL REENTRY PARTNERSHIPS.

"(a) Grant Authorization.—The Attorney General shall make grants of up to $1,000,000 to States, Territories, and Indian tribes, in partnership with units of local government and nonprofit organizations, for the purpose of establishing adult offender reentry demonstration projects. Funds may be expended by the projects for the following purposes:

"(1) oversight/monitoring of released offenders;

"(2) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and basic educational training, and other programming to promote effective reintegration into the community as needed;

"(3) convening community impact panels, victim impact panels or victim impact educational classes; and

"(4) establishing and implementing graduated sanctions and incentives.

"(b) Submission of Application.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

"(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

"(2) identify the governmental and community agencies that will be coordinated by this project;

"(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies in the implementation of the program, including existing community corrections and parole; and

"(4) describe the methodology and outcome measures that will be used in evaluating the program.

"(c) APPLICANTS.—The applicants as designated under 2601(a)—

"(1) shall prepare the application as required under subsection 2601(b); and

"(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

"(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

"(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a description and an evaluation report at such time and in such manner as the Attorney General may reasonably require that contains—

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

"(2) such other information as the Attorney General may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as are necessary in fiscal year 2002; and such sums as may be necessary for each of the fiscal years 2003 and 2004.

"(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

"(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"SEC. 2977. JUVENILE OFFENDER STATE AND LOCAL REENTRY PROGRAMS.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $250,000 to States, in partnership with local units of governments or nonprofit organizations, for the purpose of establishing juvenile offender reentry programs. Funds may be expended by the projects for the following purposes:

"(1) providing returning juvenile offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

"(2) convening victim impact panels, restorative justice panels, or victim impact educational classes for juvenile offenders;

"(3) oversight/monitoring of released juvenile offenders; and

"(4) providing for the planning of reentry services when the youth is initially incarcerated and coordinating the delivery of community-based services, such as education, family involvement and support, and other services as needed.

"(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

"(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

"(2) identify the governmental and community agencies that will be coordinated by this project;

"(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies, including existing community corrections and parole, in the implementation of the program;

"(4) describe the methodology and outcome measures that will be used in evaluating the program.

"(c) APPLICANTS.—The applicants as designated under 2603(a)—

"(1) shall prepare the application as required under subsection 2603(b); and

"(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

"(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

"(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a description and an evaluation report at such time and in such manner as the Attorney General may reasonably require that contains:

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

"(2) such other information as the Attorney General may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as are necessary in fiscal year 2002, and such sums as are necessary for each of the fiscal years 2003 and 2004.

"(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

"(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"SEC. 2978. STATE REENTRY PROGRAM RESEARCH, DEVELOPMENT, AND EVALUATION.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants to conduct research on a range of issues pertinent to reentry programs, the development and testing of new reentry components and approaches, selected evaluation of projects authorized in the preceding sections, and dissemination of information to the field.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary in fiscal year 2002, and such sums as are necessary to carry out this section in fiscal years 2003 and 2004.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting at the end the following:

"PART FF—OFFENDER REENTRY AND COMMUNITY SAFETY ACT

"Sec. 2976. Adult Offender State and Local Reentry Partnerships.
"Sec. 2977. Juvenile Offender State and Local Reentry Programs.
"Sec. 2978. State Reentry Program Research, Development, and Evaluation.".

CHAPTER 3—CONTINUATION OF ASSISTANCE AND BENEFITS

SEC. 2531. AMENDMENTS TO THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

Section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (21 U.S.C. 862a) is amended—

(1) in subsection (d), by adding at the end the following:

"(3) INAPPLICABILITY TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to an individual who—

"(A) has successfully completed a substance abuse treatment program and has not committed a subsequent offense described in subsection (a); or

"(B) is enrolled in a substance abuse treatment program and is fully complying with the terms and conditions of the program."; and

(2) by striking subsection (e) and inserting the following:

"(e) DEFINITIONS.—In this section:

"(1) SUBSTANCE ABUSE TREATMENT PROGRAM.—The term 'substance abuse treatment program' means a course of individual or group activities or both, lasting for a period of not less than 28 days that—

"(A) includes residential or outpatient treatment services for substance abuse and is operated by a public, nonprofit, or private entity that meets all applicable State licensure or certification requirements; and

"(B) is directed at substance abuse problems and intended to develop cognitive, behavioral, and other skills to address substance abuse and related problems and includes drug testing of patients.

"(2) STATE.—The term 'State' has the meaning given it—

"(A) in section 419(5) of the Social Security Act, when referring to assistance provided under a State program funded under part A of title IV of the Social Security Act; and

"(B) in section 3(m) of the Food Stamp Act of 1977, when referring to the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977) or any State program carried out under the Food Stamp Act of 1977.

"(3) SUCCESSFULLY COMPLETED.—The term 'successfully completed' means has completed the prescribed course of drug treatment.".

Subtitle F—Amendment to Foreign Narcotics Kingpin Designation Act

SEC. 2701. AMENDMENT TO FOREIGN NARCOTICS KINGPIN DESIGNATION ACT.

Section 805 of the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1904) is amended by striking subsection (f).

Subtitle G—Core Competencies in Drug Abuse Detection and Treatment

SEC. 2801. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Subpart 2 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–21 et seq.), as amended by the Youth Drug and Mental Health Services Act (Public Law 106–310), is further amended by adding at the end the following:

"SEC. 519F. CORE COMPETENCIES.

"(a) PURPOSE.—The purpose of this section is—

"(1) to educate, train, motivate, and engage key professionals to identify and intervene with children in families affected by substance abuse and to refer members of such families to appropriate programs and services in the communities of such families;

"(2) to encourage professionals to collaborate with key professional organizations representing the targeted professional groups, such as groups of educators, social workers, faith community members, and probation officers, for the purposes of developing and implementing relevant core competencies; and

"(3) to encourage professionals to develop networks to coordinate local substance abuse prevention coalitions.

"(b) PROGRAM AUTHORIZED.—The Secretary shall award grants to leading nongovernmental organizations with an expertise in aiding children of substance abusing parents or experience with community antidrug coalitions to help professionals participate in such coalitions and identify and help youth affected by familial substance abuse.

"(c) DURATION OF GRANTS.—No organization shall receive a grant under subsection (c) for more than 5 consecutive years.

"(d) APPLICATION.—Any organization desiring a grant under subsection (c) shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a plan for the evaluation of the project involved, including both process and outcome evaluation, and the submission of the evaluation at the end of the project period.

"(e) USE OF FUNDS.—Grants awarded under subsection (c) shall be used to—

"(1) develop core competencies with various professional groups that the professionals can use in identifying and referring children affected by substance abuse;

"(2) widely disseminate the competencies to professionals and professional organizations through publications and journals that are widely read and respected;

"(3) develop training modules around the competencies; and

"(4) develop training modules for community coalition leaders to enable such leaders to engage professionals from identified groups at the local level in community-wide prevention and intervention efforts.

"(f) DEFINITION.—In this section, the term 'professional' includes a physician, student assistance professional, social worker, youth and family social service agency counselor, Head Start teacher, clergy, elementary and secondary school teacher, school counselor, juvenile justice worker, child care provider, or a member of any other professional group in which the members provide services to or interact with children, youth, or families.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as are necessary for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 and 2004.".

Subtitle H—Adolescent Therapeutic Community Treatment Programs

SEC. 2901. PROGRAM AUTHORIZED.

The Secretary shall award competitive grants to treatment providers who administer treatment programs to enable such providers to establish adolescent residential substance abuse treatment programs that provide services for individuals who are between the ages of 14 and 21.

SEC. 2902. PREFERENCE.

In awarding grants under this subtitle, the Secretary shall consider the geographic location of each treatment provider and give preference to such treatment providers that are geographically located in such a manner as to provide services to addicts from nonmetropolitan areas.

SEC. 2903. DURATION OF GRANTS.

For awards made under this subtitle, the period during which payments are made may not exceed 5 years.

SEC. 2904. RESTRICTIONS.

A treatment provider receiving a grant under this subtitle shall not use any amount of the grant for land acquisition or a construction project.

SEC. 2905. APPLICATION.

A treatment provider that desires a grant under this subtitle shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

SEC. 2906. USE OF FUNDS.

A treatment provider that receives a grant under this subtitle shall use those funds to provide substance abuse services for adolescents, including—

(1) a thorough psychosocial assessment;

(2) individual treatment planning;

(3) a strong education component integral to the treatment regimen;

(4) life skills training;

(5) individual and group counseling;

(6) family services;

(7) daily work responsibilities; and

(8) community-based aftercare, providing 6 months of treatment following discharge from a residential facility.

SEC. 2907. TREATMENT TYPE.

The Therapeutic Community model shall be used as a basis for all adolescent residential substance abuse treatment programs established under this subtitle, which shall be characterized by—

(1) the self-help dynamic, requiring youth to participate actively in their own treatment;

(2) the role of mutual support and the therapeutic importance of the peer therapy group;

(3) a strong focus on family involvement and family strengthening;

(4) a clearly articulated value system emphasizing both individual responsibility and responsibility for the community; and

(5) an emphasis on development of positive social skills.

SEC. 2908. REPORT BY PROVIDER.

Not later than 1 year after receiving a grant under this subtitle, and annually thereafter, a treatment provider shall prepare and submit to the Secretary a report describing the services provided pursuant to this subtitle.

SEC. 2909. REPORT BY SECRETARY.

(a) IN GENERAL.—Not later than 3 months after receiving all reports by providers under section 2908, and annually thereafter, the Secretary shall prepare and submit a report containing information described in subsection (b) to—

(1) the Committee on Health, Education, Labor, and Pensions of the Senate;

(2) the Committee on Appropriations of the Senate;

(3) the United States Senate Caucus on International Narcotics Control;

(4) the Committee on Commerce of the House of Representatives;

(5) the Committee on Appropriations of the House of Representatives; and

(6) the Committee on Government Reform of the House of Representatives.

(b) CONTENT.—The report described in subsection (a) shall—

(1) outline the services provided by providers pursuant to this section;

(2) evaluate the effectiveness of such services;

(3) identify the geographic distribution of all treatment centers provided pursuant to this section, and evaluate the accessibility of such centers for addicts from rural areas and small towns; and

(4) make recommendations to improve the programs carried out pursuant to this section.

SEC. 2910. DEFINITIONS.

In this subtitle:

(1) ADOLESCENT RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM.—The term "adolescent residential substance abuse treatment program" means a program that provides a regimen of individual and group activities, lasting ideally not less than 12 months, in a community-based residential facility that provides comprehensive services tailored to meet the needs of adolescents and designed to return youth to their families in order that such youth may become capable of enjoying and supporting positive, productive, drug-free lives.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(3) THERAPEUTIC COMMUNITY.—The term "Therapeutic Community" means a highly structured residential treatment facility that—

(A) employs a treatment methodology;

(B) relies on self-help methods and group process, a view of drug abuse as a disorder affecting the whole person, and a comprehensive approach to recovery;

(C) maintains a strong educational component; and

(D) carries out activities that are designed to help youths address alcohol or other drug abuse issues and learn to act in their own best interests, as well as in the best interests of their peers and families.

SEC. 2911. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to appropriations, there are authorized be appropriated to carry out this subtitle—

(1) such sums as are necessary for fiscal year 2002; and

(2) such sums as may be necessary for 2003 and 2004.

(b) SUPPLEMENT AND NOT SUPPLANT.—Grant amounts received under this subtitle shall be used to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle.

Subtitle I—Other Matters

SEC. 2951. AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 303(g)(2)(I) of the Controlled Substances Act is amended by striking "on the date of enactment" and all that follows through "such drugs," and inserting "on the date of approval by the Food and Drug Administration of a drug in schedule III, IV, or V, a State may not preclude a practitioner from dispensing or prescribed such drug, or combination of such drugs".

SEC. 2952. STUDY OF METHAMPHETAMINE TREATMENT.

Section 3633 of the Methamphetamine Anti-Proliferation Act of 2000 (114 Stat. 1236) is amended by striking "the Institute of Medicine of the National Academy of Sciences" and inserting "the National Institute on Drug Abuse".

TITLE III—NATIONAL COMPREHENSIVE CRIME-FREE COMMUNITIES ACT

SEC. 3001. SHORT TITLE.

This title may be cited as the "National Comprehensive Crime-Free Communities Act".

SEC. 3002. PROGRAM ADMINISTRATION.

(a) ATTORNEY GENERAL RESPONSIBILITIES.—In carrying out this title, the Attorney General shall—

(1) make and monitor grants to grant recipients;

(2) provide, including through organizations such as the National Crime Prevention Council, technical assistance and training, data collection, and dissemination of information on state-of-the-art research-grounded practices that the Attorney General determines to be effective in preventing and reducing crime, violence, and drug abuse;

(3) provide for the evaluation of this title and assess the effectiveness of comprehensive planning in the prevention of crime, violence, and drug abuse;

(4) provide for a comprehensive communications strategy to inform the public and State and local governments of programs authorized by this title and their purpose and intent;

(5) establish a National Crime-Free Communities Commission to advise, consult with, and make recommendations to the Attorney General concerning activities carried out under this Act;

(6) establish the National Center for Justice Planning in a national organization representing State criminal justice executives that will—

(A) provide technical assistance and training to State criminal justice agencies in implementing policies and programs to facilitate community-based strategic planning processes;

(B) establish a collection of best practices for statewide community-based criminal justice planning; and

(C) consult with appropriate organizations, including the National Crime Prevention Council, in providing necessary training to States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for the fiscal years 2002 through 2006, including $4,500,000 to assist States and communities in providing training, technical assistance, and setting benchmarks, and $500,000 to establish and operate the National Center for Justice Planning.

(c) PROGRAM ADMINISTRATION.—Up to 3 percent of program funds appropriated for Community Grants and State Capacity Building grants may be used by the Attorney General to administer this program.

SEC. 3003. FOCUS.

Programs carried out by States and local communities under this title shall include a specialized focus on neighborhoods and schools disproportionately affected by crime, violence, and drug abuse.

SEC. 3004. DEFINITIONS.

In this title, the term "crime prevention plan" means a strategy that has measurable long-term goals and short-term objectives that—

(1) address the problems of crime, including terrorism, violence, and substance abuse for a jurisdiction, developed through an interactive and collaborative process that includes senior representatives of law enforcement and the local chief executive's office as well as representatives of such groups as other agencies of local government (including physical and social service providers), nonprofit organizations, business leaders, religious leaders, and representatives of community and neighborhood groups;

(2) establishes interim and final benchmark measures for each prevention objective and strategy; and

(3) includes a monitoring and assessment mechanism for implementation of the plan.

SEC. 3005. COMMUNITY GRANTS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Attorney General shall award grants to at least 100 communities or an organization organized under section 501(c)(3) of the Internal Revenue Code of 1986 that is the designee of a community, including 1 in each State, in an amount not to exceed $250,000 per year for the planning, evaluation, and implementation of a program designed to prevent and reduce crime, violence, and substance abuse.

(2) LIMITATION.—Of the amount of a grant awarded under this section in any given year, not more than $125,000 may be used for the planning or evaluation component of the program.

(b) PROGRAM IMPLEMENTATION COMPONENT.—

(1) IN GENERAL.—A community grant under this section may be used by a community to support specific programs or projects that are consistent with the local Crime Prevention Plan.

(2) AVAILABILITY.—A grant shall be awarded under this paragraph to a community that has developed a specific Crime Prevention Plan and program outline.

(3) MATCHING REQUIREMENT.—The Federal share of a grant under this paragraph shall not exceed—

(A) 80 percent in the first year;

(B) 60 percent in the second year;

(C) 40 percent in the third year;

(D) 20 percent in the fourth year; and

(E) 20 percent in the fifth year.

(4) DATA SET ASIDE.—A community may use up to 5 percent of the grant to assist it in collecting local data related to the costs of crime, violence, and substance abuse for purposes of supporting its Crime Prevention Plan.

(c) APPLICATION.—

(1) IN GENERAL.—An applicant for a community grant under this section shall—

(A) demonstrate how the proposed program will prevent crime, violence, and substance abuse;

(B) certify that the program is based on nationally recognized research standards that have been tested in local communities;

(C) collaborate and obtain the approval and support of the State agency designated by the Governor of that State in the development of the comprehensive prevention plan of the applicant;

(D) demonstrate the ability to develop a local Crime-Free Communities Commission, including such groups as Federal, State, and local criminal justice personnel, law enforcement, schools, youth organizations, religious and other community organizations, business and health care professionals, parents, State, local, or tribal governmental agencies, and other organizations; and

(E) submit a plan describing how the applicant will maintain the program without Federal funds following the fifth year of the program.

(2) CONSIDERATION.—The Attorney General may give additional consideration in the grant review process to an applicant with an officially designated Weed and Seed site seeking to expand from a neighborhood to community-wide strategy.

(3) RURAL COMMUNITIES.—The Attorney General shall give additional consideration in the grant review process to an applicant from a rural area.

(d) WAIVERS FOR MATCHING REQUIREMENT.—A community with an officially designated Weed and Seed site may be provided a waiver by the Attorney General for all matching requirements under this section based on demonstrated financial hardship.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 to carry out this section for the fiscal years 2002 through 2006.

SEC. 3006. STATE CAPACITY BUILDING GRANTS.

(a) GRANTS AUTHORIZED.—The Attorney General shall award grants to each State criminal justice agency, Byrne agency, or other agency as designated by the Governor of that State and approved by the Attorney General, in an amount not to exceed $400,000 per year to develop State capacity to assist local communities in the prevention and reduction of crime, violence, and substance abuse.

(b) USE OF FUNDS.—

(1) IN GENERAL.—A State capacity building grant shall be used to develop a statewide strategic plan as defined in subsection (c) to prevent and reduce crime, violence, and substance abuse.

(2) PERMISSIVE USE.—A State may also use its grant to provide training and technical assistance to communities and promote innovation in the development of policies, technologies, and programs to prevent and reduce crime.

(3) DATA COLLECTION.—A State may use up to 5 percent of the grant to assist grant recipients in collecting statewide data related to the costs of crime, violence, and substance abuse for purposes of supporting the statewide strategic plan.

(c) STATEWIDE STRATEGIC PREVENTION PLAN.—

(1) IN GENERAL.—A statewide strategic prevention plan shall be used by the State to assist local communities, both directly and through existing State programs and services, in building comprehensive, strategic, and innovative approaches to reducing crime, violence, and substance abuse based on local conditions and needs.

(2) GOALS.—The plan must contain statewide long-term goals and measurable annual objectives for reducing crime, violence, and substance abuse.

(3) ACCOUNTABILITY.—The State shall be required to develop and report in its plan relevant performance targets and measures for the goals and objectives to track changes in crime, violence, and substance abuse.

(4) CONSULTATION.—The State shall form a State crime free communities commission that includes representatives of State and local government, and community leaders who will provide advice and recommendations on relevant community goals and objectives, and performance targets and measures.

(d) REQUIREMENTS.—

(1) TRAINING AND TECHNICAL ASSISTANCE.—The State shall provide training and technical assistance, including through such groups as the National Crime Prevention Council, to assist local communities in developing Crime Prevention Plans that reflect statewide strategic goals and objectives, and performance targets and measures.

(2) REPORTS.—The State shall provide a report on its statewide strategic plan to the Attorney General, including information about—

(A) involvement of relevant State-level agencies to assist communities in the development and implementation of their Crime Prevention Plans;

(B) support for local applications for Community Grants; and

(C) community progress toward reducing crime, violence, and substance abuse.

(3) CERTIFICATION.—Beginning in the third year of the program, States must certify that the local grantee's project funded under the community grant is generally consistent with statewide strategic goals and objectives, and performance targets and measures.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 to carry out this section for the fiscal years 2002 through 2006.

TITLE IV—SAFEGUARDING THE INTEGRITY OF THE CRIMINAL JUSTICE SYSTEM

SEC. 4001. INCREASING THE PENALTY FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.

(a) IN GENERAL.—Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "as provided in paragraph (2)" and inserting "as provided in paragraph (3)";

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

"(A) influence, delay, or prevent the testimony of any person in an official proceeding;

"(B) cause or induce any person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

"(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

"(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3)."; and

(D) in paragraph (3), as redesignated—

(i) by striking "and" at the end of subparagraph (A); and

(ii) by striking subparagraph (B) and inserting the following:

"(B) in the case of—

"(i) an attempt to murder; or

"(ii) the use or attempted use of physical force against any person;

imprisonment for not more than 20 years; and

"(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 10 years.";

(2) in subsection (b), by striking "or physical force"; and

(3) by adding at the end the following:

"(j) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) RETALIATING AGAINST A WITNESS.—Section 1513 of title 18, United States Code, is amended by adding at the end the following:

"(e) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(c) CONFORMING AMENDMENTS.—

(1) WITNESS TAMPERING.—Section 1512 of title 18, United States Code, is amended in subsections (b)(3) and (c)(2) by inserting "supervised release," after "probation".

(2) RETALIATION AGAINST A WITNESS.—Section 1513 of title 18, United States Code, is amended in subsections (a)(1)(B) and (b)(2) by inserting "supervised release," after "probation".

SEC. 4002. CORRECTION OF ABERRANT STATUTES TO PERMIT IMPOSITION OF BOTH A FINE AND IMPRISONMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended—

(1) in section 401, by inserting "or both," after "fine or imprisonment,";

(2) in section 1705, by inserting ", or both" after "years"; and

(3) in sections 1916, 2234, and 2235, by inserting ", or both" after "year".

(b) IMPOSITION BY MAGISTRATE.—Section 636 of title 28, United States Code, is amended—

(1) in subsection (e)(2), by inserting ", or both," after "fine or imprisonment"; and

(2) in subsection (e)(3), by inserting "or both," after "fine or imprisonment,".

SEC. 4003. REINSTATEMENT OF COUNTS DISMISSED PURSUANT TO A PLEA AGREEMENT.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3296. Counts dismissed pursuant to a plea agreement

"(a) IN GENERAL.—Notwithstanding any other provision of this chapter, any counts of an indictment or information that are dismissed pursuant to a plea agreement shall be reinstated by the District Court if—

"(1) the counts sought to be reinstated were originally filed within the applicable limitations period;

"(2) the counts were dismissed pursuant to a plea agreement approved by the District Court under which the defendant pled guilty to other charges;

"(3) the guilty plea was subsequently vacated on the motion of the defendant; and

"(4) the United States moves to reinstate the dismissed counts within 60 days of the date on which the order vacating the plea becomes final.

"(b) DEFENSES; OBJECTIONS.—Nothing in this section shall preclude the District Court from considering any defense or objection, other than statute of limitations, to the prosecution of the counts reinstated under subsection (a).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Chapter 213 of title 18, United States Code, is amended in the table of sections by adding at the end the following new item:

"3296. Counts dismissed pursuant to a plea agreement.".

SEC. 4004. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting ", or any part thereof" after "as to any one or more counts".

SEC. 4005. CLARIFICATION OF LENGTH OF SUPERVISED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

(a) DRUG ABUSE PENALTIES.—Subparagraphs (A), (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking "Any sentence" and inserting "Notwithstanding section 3583 of title 18, any sentence".

(b) PENALTIES FOR DRUG IMPORT AND EXPORT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraphs (1), (2), and (3), by striking "Any sentence" and inserting "Notwithstanding section 3583 of title 18, any sentence"; and

(2) in paragraph (4), by inserting "notwithstanding section 3583 of title 18," before "in addition to such term of imprisonment".

SEC. 4006. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting "(and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment)" after "may reduce the term of imprisonment".

SEC. 4007. CLARIFICATION THAT MAKING RESTITUTION IS A PROPER CONDITION OF SUPERVISED RELEASE.

Subsections (c) and (e) of section 3583 of title 18, United States Code, are amended by striking "and (a)(6) and inserting "(a)(6), and (a)(7)".

TITLE V—CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2001

SEC. 5001. SHORT TITLE.

This title may be cited as the "Criminal Law Technical Amendments Act of 2001".

SEC. 5002. TECHNICAL AMENDMENTS RELATING TO CRIMINAL LAW AND PROCEDURE.

(a) MISSING AND INCORRECT WORDS.—

(1) CORRECTION OF GARBLED SENTENCE.—Section 510(c) of title 18, United States Code, is amended by striking "fine of under this title" and inserting "fine under this title".

(2) INSERTION OF MISSING WORDS.—Section 981(d) of title 18, United States Code, is amended by striking "proceeds from the sale of this section" and inserting "proceeds from the sale of such property under this section".

(3) CORRECTION OF INCORRECT WORD.—Sections 1425 through 1427, 1541 through 1544 and 1546(a) of title 18, United States Code, are each amended by striking "to facility" and inserting "to facilitate".

(4) CORRECTING ERRONEOUS AMENDATORY LANGUAGE ON EXECUTED AMENDMENT.—Effective on the date of the enactment of Public Law 103–322, section 60003(a)(13) of such public law is amended by striking "$1,000,000 or imprisonment" and inserting "$1,000,000 and imprisonment".

(5) CORRECTION OF REFERENCE TO SHORT TITLE OF LAW.—That section 2332d(a) of title 18, United States Code, which relates to financial transactions is amended by inserting "of 1979" after "Export Administration Act".

(6) ELIMINATION OF TYPO.—Section 1992(b) of title 18, United States Code, is amended by striking "term or years" and inserting "term of years".

(7) SPELLING CORRECTION.—Section 2339A(a) of title 18, United States Code, is amended by striking "or an escape" and inserting "of an escape".

(8) SECTION 3553.—Section 3553(e) of title 18, United States Code, is amended by inserting "a" before "minimum".

(9) Misspelling in section 205.—Section 205(d)(1)(B) of title 18, United States Code, is amended by striking "groups's" and inserting "group's".

(10) Conforming change and inserting missing word in section 709.—The paragraph in section 709 of title 18, United States Code, that begins with "A person who" is amended—

(A) by striking "A person who" and inserting "Whoever"; and

(B) by inserting "or" after the semicolon at the end.

(11) Error in language being stricken.—Effective on the date of its enactment, section 726(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132) is amended—

(A) in subparagraphs (C) and (E), by striking "section" the first place it appears; and

(B) in subparagraph (G), by striking "relating to" the first place it appears.

(b) Margins, Punctuation, and Similar Errors.—

(1) Margin error.—Section 1030(c)(2) of title 18, United States Code, is amended so that the margins of subparagraph (B) and each of its clauses, are moved 2 ems to the left.

(2) Correcting capitalization in language to be stricken.—Effective on the date of its enactment, section 607(g)(2) of the Economic Espionage Act of 1996 is amended by striking "territory" and inserting "Territory".

(3) Correcting paragraphing.—The material added to section 521(a) of title 18, United States Code, by section 607(q) of the Economic Espionage Act of 1996 is amended to appear as a paragraph indented 2 ems from the left margin.

(4) Subsection placement correction.—Section 1513 of title 18, United States Code, is amended by transferring subsection (d) so that it appears following subsection (c).

(5) Correction to allow for insertion of new subparagraph and correction of erroneous indentation.—Section 1956(c)(7) of title 18, United States Code, is amended—

(A) in subparagraph (B)(ii), by moving the margin 2 ems to the right;

(B) by striking "or" at the end of subparagraph (D);

(C) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(D) in subparagraph (F)—

(i) by striking "Any" and inserting "any"; and

(ii) by striking the period at the end and inserting a semicolon.

(6) Correction of confusing subdivision designation.—Section 1716 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph, by inserting "(j)(1)" before "Whoever";

(B) in the second undesignated paragraph—

(i) by striking "not more than $10,000" and inserting "under this title"; and

(ii) by inserting "(2)" at the beginning of that paragraph;

(C) by inserting "(3)" at the beginning of the third undesignated paragraph; and

(D) by redesignating subsection (j) as subsection (k).

(7) Punctuation correction in section 1091.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "subsection (a)(1)," and inserting "subsection (a)(1)".

(8) Punctuation correction in section 2311.—Section 2311 of title 18, United States Code, is amended by striking the period after "carcasses thereof" the second place that term appears and inserting a semicolon.

(9) Syntax correction.—Section 115(b)(2) of title 18, United States Code, is amended by striking ", attempted kidnapping, or conspiracy to kidnap of a person" and inserting "or attempted kidnapping of, or a conspiracy to kidnap, a person".

(10) Correcting capitalization in section 982.—Section 982(a)(8) of title 18, United States Code, is amended by striking "Court" and inserting "court".

(11) Punctuation corrections in section 1029.—Section 1029 of title 18, United States Code, is amended—

(A) in subsection (c)(1)(A)(ii), by striking "(9)," and inserting "(9)"; and

(B) in subsection (e), by adding a semicolon at the end of paragraph (8).

(12) Corrections of connectors and punctuation in section 1030.—Section 1030 of title 18, United States Code, is amended—

(A) by inserting "and" at the end of subsection (c)(2)(B)(iii); and

(B) by striking the period at the end of subsection (e)(4)(I) and inserting a semicolon.

(13) Correction of punctuation in section 1032.—Section 1032(1) of title 18, United States Code, is amended by striking "13," and inserting "13".

(14) Correction of punctuation in section 1345.—Section 1345(a)(1) of title 18, United States Code, is amended—

(A) in subparagraph (B), by striking ", or" and inserting "; or"; and

(B) in subparagraph (C), by striking the period and inserting a semicolon.

(15) Correction of punctuation in section 3612.—Section 3612(f)(2)(B) of title 18, United States Code, is amended by striking "preceding." and inserting "preceding".

(16) Correction of indentation in controlled substances act.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by moving the margin of subparagraph (C) 2 ems to the left.

(c) Elimination of Redundancies.—

(1) Elimination of duplicate amendments.—Effective on the date of its enactment, paragraphs (1), (2), and (4) of section 601(b), paragraph (2) of section 601(d), paragraph (2) of section 601(f), paragraphs (1) and (2)(A) of section 601(j), paragraphs (1) and (2) of section 601(k), subsection (d) of section 602, paragraph (4) of section 604(b), subsection (r) of section 605, and paragraph (2) of section 607(j) of the Economic Espionage Act of 1996 are repealed.

(2) Elimination of extra comma.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(A) by striking "Code,," and inserting "Code,"; and

(B) by striking "services),," and inserting "services),".

(3) Repeal of section granting duplicative authority.—

(A) Section 3503 of title 18, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3503.

(4) Elimination of outmoded reference to parole.—Section 929(b) of title 18, United States Code, is amended by striking the last sentence.

(d) Correction of Outmoded Fine Amounts.—

(1) In title 18, united states code.—

(A) In section 492.—Section 492 of title 18, United States Code, is amended by striking "not more than $100" and inserting "under this title".

(B) In section 665.—Section 665(c) of title 18, United States Code, is amended by striking "a fine of not more than $5,000" and inserting "a fine under this title".

(C) In sections 1924, 2075, 2113(b), and 2236.—

(i) Section 1924(a) of title 18, United States Code, is amended by striking "not more than $1,000," and inserting "under this title".

(ii) Sections 2075 and 2113(b) of title 18, United States Code, are each amended by striking "not more than $1,000" and inserting "under this title".

(iii) Section 2236 of title 18, United States Code, is amended by inserting "under this title" after "warrant, shall be fined", and by striking "not more than $1,000".

(D) In section 372 and 752.—Sections 372 and 752(a) of title 18, United States Code, are each amended by striking "not more than $5,000" and inserting "under this title".

(E) In section 924(e)(1).—Section 924(e)(1) of title 18, United States Code, is amended by striking "not more than $25,000" and inserting "under this title".

(2) In the controlled substances act.—

(A) In section 401.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended—

(i) in paragraph (1), by striking "and shall be fined not more than $10,000" and inserting "or fined under title 18, United States Code, or both"; and

(ii) in paragraph (2), by striking "and shall be fined not more than $20,000" and inserting "or fined under title 18, United States Code, or both".

(B) In section 402.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)) is amended—

(i) in subparagraph (A), by striking "of not more than $25,000" and inserting "under title 18, United States Code"; and

(ii) in subparagraph (B), by striking "of $50,000" and inserting "under title 18, United States Code".

(C) In section 403.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(i) by striking "of not more than $30,000" each place that term appears and inserting "under title 18, United States Code"; and

(ii) by striking "of not more than $60,000" each place it appears and inserting "under title 18, United States Code".

(e) Cross Reference Corrections.—

(1) Section 3664.—Section 3664(o)(1)(C) of title 18, United States Code, is amended by striking "section 3664(d)(3)" and inserting "subsection (d)(5)".

(2) Chapter 228.—Section 3592(c)(1) of title 18, United States Code, is amended by striking "section 36" and inserting "section 37".

(3) Correcting erroneous cross reference in controlled substances act.—Section 511(a)(10) of the Controlled Substances Act (21 U.S.C. 881(a)(10)) is amended by striking "1822 of the Mail Order Drug Paraphernalia Control Act" and inserting "422".

(4) Correction to reflect cross reference change made by other law.—Effective on the date of its enactment, section 601(c)(3) of the Economic Espionage Act of 1996 is amended by striking "247(d)" and inserting "247(e)".

(5) Typographical and typeface error in table of chapters.—The item relating to chapter 123 in the table of chapters at the beginning of part I of title 18, United States Code, is amended—

(A) by striking "2271" and inserting "2721"; and

(B) so that the item appears in bold face type.

(6) Section 4104.—Section 4104(d) of title 18, United States Code, is amended by striking "section 3653 of this title and rule 32(f) of"

and inserting "section 3565 of this title and the applicable provisions of".

(7) ERROR IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 583 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (111 Stat. 2436) is amended by striking "Section 2401" and inserting "Section 2441".

(8) ERROR IN CROSS REFERENCE TO COURT RULES.—The first sentence of section 3593(c) of title 18, United States Code, is amended by striking "rule 32(c)" and inserting "rule 32".

(9) SECTION 1836.—Section 1836 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "this section" and inserting "this chapter"; and

(B) in subsection (b), by striking "this subsection" and inserting "this section".

(10) CORRECTION OF ERRONEOUS CITE IN CHAPTER 119.—Section 2510(10) of title 18, United States Code, is amended by striking "shall have" and all that follows through "United States Code;" and inserting "has the meaning given that term in section 3 of the Communications Act of 1934;".

(11) ELIMINATION OF OUTMODED CITE IN SECTION 2339A.—Section 2339A(a) of title 18, United States Code, is amended by striking "2332c,".

(12) CORRECTION OF REFERENCES IN AMENDATORY LANGUAGE.—Effective the date of its enactment, section 115(a)(8)(B) of Public Law 105–119 is amended—

(A) in clause (i)—

(i) by striking "at the end of" and inserting "following"; and

(ii) by striking "paragraph" the second place it appears and inserting "subsection"; and

(B) in clause (ii), by striking "subparagraph (A)" and inserting "clause (i)".

(f) TABLES OF SECTIONS CORRECTIONS.—

(1) CONFORMING TABLE OF SECTIONS TO HEADING OF SECTION.—The item relating to section 1837 in the table of sections at the beginning of chapter 90 of title 18, United States Code, is amended by striking "Conduct" and inserting "Applicability to conduct".

(2) CONFORMING HEADING TO TABLE OF SECTIONS ENTRY.—The heading of section 1920 of title 18, United States Code, is amended by striking "**employee's**" and inserting "**employees'**".

SEC. 5003. ADDITIONAL TECHNICALS.

Title 18, United States Code, is amended—

(1) in section 922(t)(1)(C), by striking "1028(d)(1)" and inserting "1028(d)";

(2) in section 1005—

(A) in the first undesignated paragraph, by striking "Act,," and inserting "Act,"; and

(B) by inserting "or" at the end of the third undesignated paragraph;

(3) in section 1071, by striking "fine of under this title" and inserting "fine under this title";

(4) in section 1368(a), by inserting "to" after "serious bodily injury";

(5) in subsections (b)(1) and (c) of section 2252A, by striking "paragraphs" and inserting "paragraph"; and

(6) in section 2254(a)(3), by striking the comma before the period at the end.

SEC. 5004. REPEAL OF OUTMODED PROVISIONS.

(a) Section 14 of title 18, United States Code, and the item relating thereto in the table of sections at the beginning of chapter 1 of title 18, United States Code, are repealed.

(b) Section 1261 of such title is amended—

(1) by striking "(a) The Secretary" and inserting "The Secretary"; and

(2) by striking subsection (b).

(c) Section 1821 of such title is amended by striking ", the Canal Zone".

(d) Section 3183 of such title is amended by striking "or the Panama Canal Zone,".

(e) Section 3241 of such title is amended by striking "United States District Court for the Canal Zone and the".

SEC. 5005. AMENDMENTS RESULTING FROM PUBLIC LAW 107-56.

(a) MARGIN CORRECTIONS.—

(1) Section 2516(1) of title 18, United States Code, is amended by moving the left margin for subsection (q) 2 ems to the right.

(2) Section 2703(c)(1) of title 18, United States Code, is amended by moving the left margin of subparagraph (E) 2 ems to the left.

(3) Section 1030(a)(5) of title 18, United States Code, is amended by moving the left margin of subparagraph (B) 2 ems to the left.

(b) CORRECTION OF WRONGLY WORDED CLERICAL AMENDMENT.—Effective on the date of its enactment, section 223(c)(2) of Public Law 107-56 is amended to read as follows:

"(2) The table of sections at the beginning of chapter 121 of title 18, United States Code, is amended by adding at the end the following new item:

"2712. Civil actions against the United States.".

(c) CORRECTION OF ERRONEOUS PLACEMENT OF AMENDMENT LANGUAGE.—Effective on the date of its enactment, section 225 of Public Law 107-56 is amended—

(1) by striking "after subsection (g)" and inserting "after subsection (h)"; and

(2) by redesignating the subsection added to section 105 of section 105 of the he Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) as subsection (i).

(d) PUNCTUATION CORRECTIONS.—

(1) Section 1956(c)(6)(B) of title 18, United States Code, is amended by striking the period and inserting a semicolon.

(2) Effective on the date of its enactment, section 803(a) of Public Law 107-56 is amended by striking the close quotation mark and period that follows at the end of subsection (a) in the matter proposed to be inserted in title 18, United States Code, as a new section 2339.

(3) Section 1030(c)(3)(B) of title 18, United States Code, is amended by inserting a comma after "(a)(4)".

(e) ELIMINATION OF DUPLICATE AMENDMENT.—Effective on the date of its enactment, section 805 of Public Law 107-56 is amended by striking subsection (b).

(f) CORRECTION OF UNEXECUTABLE AMENDMENTS.—

(1) Effective on the date of its enactment, section 813(2) of Public Law 107-56 is amended by striking "semicolon" and inserting "period".

(2) Effective on the date of its enactment, section 815 of Public Law 107-56 is amended by inserting "a" before "statutory authorization".

(g) CORRECTION OF HEADING STYLE.—The heading for section 175b of title 18, United States Code, is amended to read as follows:

"§ 175b. Possession by restricted persons".

TITLE VI—UNDERCOVER INVESTIGATIVE PRACTICES CONDUCTED BY FEDERAL ATTORNEYS

SEC. 6001. UNDERCOVER INVESTIGATIVE PRACTICES CONDUCTED BY FEDERAL ATTORNEYS.

Section 530B(a) of title 28, United States Code, is amended by inserting after the first sentence the following: "Notwithstanding any provision of State law, including rules of professional conduct for attorneys, an attorney for the Government may, for the purpose of investigating terrorism, provide legal advice and supervision on conducting undercover activities, even though such activities may require the use of deceit or misrepresentation, where such activities are consistent with Federal law.".

TITLE VII—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

SEC. 7001. PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS.

(a) STATE APPLICATIONS.—Section 503(a)(13)(A)(iii) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(13)(A)(iii)) is amended by striking "or the National Association of Medical Examiners," and inserting ", the National Association of Medical Examiners, or any other nonprofit, professional organization that may be recognized within the forensic science community as competent to award such accreditation,".

(b) FORENSIC SCIENCES IMPROVEMENT GRANTS.—Part BB of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797j et seq.) is amended—

(1) in section 2801, by inserting after "States" the following: " and units of local government";

(2) in section 2802—

(A) in the matter before paragraph (1), by inserting "or unit of local government" after "State";

(B) in paragraph (1), to read as follows:

"(1) a certification that the State or unit of local government has developed a plan for forensic science laboratories under a program described in section 2804(a), and a specific description of the manner in which the grant will be used to carry out that plan;";

(C) in paragraph (2), by inserting "or appropriate certifying bodies" before the semicolon; and

(D) in paragraph (3), by inserting "for a State or local plan" after "program";

(3) in section 2803(a)(2), by striking "to States with" and all that follows through the period and inserting "for competitive awards to States and units of local government. In making awards under this part, the Attorney General shall consider the average annual number of part 1 violent crimes reported by each State to the Federal Bureau of Investigation for the 3 most recent calendar years for which data is available and consider the existing resources and current needs of the potential grant recipient.";

(4) in section 2804—

(A) in subsection (a), by inserting "or unit of local government" after "A State"; and

(B) in subsection (c)(1), by inserting "(including grants received by units of local government within a State)" after "under this part"; and

(5) in section 2806(a)—

(A) in the matter before paragraph (1), by inserting "or unit of local government" after "each State"; and

(B) in paragraph (1), by inserting before the semicolon the following: ", which shall include a comparison of pre-grant and post-grant forensic science capabilities"

(C) in paragraph (2), by striking "and" at the end;

(D) by redesignating paragraph (3) as paragraph (4); and

(E) by inserting after paragraph (2) the following:

"(3) an identification of the number and type of cases currently accepted by the laboratory; and".

SEC. 7002. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) $30,000,000 for the Center for Domestic Preparedness of the Department of Justice in Anniston, Alabama;

(2) $7,000,000, or such sums as may be necessary, for the Texas Engineering Extension Service of Texas A&M University;

(3) $7,000,000, or such sums as may be necessary, for the Energetic Materials Research and Test Center of the New Mexico Institute of Mining and Technology;

(4) $7,000,000, or such sums as may be necessary, for the Academy of Counterterrorist Education at Louisiana State University; and

(5) $7,000,000, or such sums as may be necessary, for the National Exercise, Test, and Training Center of the Department of Energy, located at the Nevada test site.

TITLE VIII—ECSTASY PREVENTION ACT OF 2001

SEC. 8001. SHORT TITLE.

This title may be cited as the "Ecstasy Prevention Act of 2001".

SEC. 8002. GRANTS FOR ECSTASY ABUSE PREVENTION.

Section 506B(c) of title V of the Public Health Service Act is amended by adding at the end the following:

"(3) Effective programs.—

"(A) In general.—In addition to the priority under paragraph (2), the Administrator shall give priority to communities that have taken measures to combat club drug use, including passing ordinances restricting rave clubs, increasing law enforcement on Ecstasy, and seizing lands under nuisance abatement laws to make new restrictions on an establishment's use.

"(B) State priority.—A priority grant may be made to a State under this paragraph on a pass-through basis to an eligible community.".

SEC. 8003. COMBATING ECSTASY AND OTHER CLUB DRUGS IN HIGH INTENSITY DRUG TRAFFICKING AREAS.

(a) Program.—

(1) In general.—The Director of the Office of National Drug Control Policy shall use amounts available under this section to combat the trafficking of MDMA in areas designated by the Director as high intensity drug trafficking areas.

(2) Activities.—In meeting the requirement in paragraph (1), the Director shall transfer funds to assist anti-Ecstasy law enforcement initiatives in high intensity drug trafficking areas, including assistance for investigative costs, intelligence enhancements, technology improvements, and training.

(b) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2002 through 2005.

(2) No supplanting.—Any Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds that would otherwise be used to carry out activities funded under this section.

(c) Apportionment of Funds.—The Director shall apportion amounts appropriated for a fiscal year pursuant to the authorization of appropriations in subsection (b) for activities under subsection (a) among and within areas designated by the Director and based on the threat assessments submitted by individual high intensity drug trafficking areas.

SEC. 8004. NATIONAL YOUTH ANTIDRUG MEDIA CAMPAIGN.

(a) In General.—In conducting the national media campaign under section 102 of the Drug-Free Media Campaign Act of 1998, the Director of the Office of National Drug Control Policy shall ensure that such campaign addresses the reduction and prevention of abuse of MDMA and club and emerging drugs among young people in the United States.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2002 through 2005.

SEC. 8005. MDMA DRUG TEST.

There are authorized to be appropriated to the Office of National Drug Control Policy such sums as are necessary to commission a drug test for MDMA which would meet the standards for the Federal Workplace.

SEC. 8006. NATIONAL INSTITUTE ON DRUG ABUSE REPORT.

(a) Research.—The Director of the National Institute on Drug Abuse (referred to in this section as the "Director") shall conduct research—

(1) that evaluates the effects that MDMA use can have on an individual's health, such as—

(A) physiological effects such as changes in ability to regulate one's body temperature, stimulation of the cardiovascular system, muscle tension, teeth clenching, nausea, blurred vision, rapid eye movement, tremors, and other such conditions, some of which can result in heart failure or heat stroke;

(B) psychological effects such as mood and mind altering and panic attacks which may come from altering various neurotransmitter levels such as serotonin in the brain;

(C) short-term effects like confusion, depression, sleep problems, severe anxiety, paranoia, hallucinations, and amnesia; and

(D) long-term effects on the brain with regard to memory and other cognitive functions, and other medical consequences; and

(2) documenting those research findings and conclusions with respect to MDMA that are scientifically valid and identify the medical consequences on an individual's health.

(b) Final Report.—Not later than January 1, 2003, the Director shall submit a report to the Congress.

(c) Report Public.—The report required by this section shall be made public.

(d) Authorization of Appropriations.—There is authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 8007. INTERAGENCY ECSTASY/CLUB DRUG TASK FORCE.

(a) Establishment.—

(1) In general.—The Director of the Office of National Drug Control Policy shall establish a Task Force on Ecstasy/MDMA and Emerging Club Drugs (referred to in this section as the "task force") which shall—

(A) design, implement, and evaluate the education, prevention, and treatment practices and strategies of the Federal Government with respect to Ecstasy, MDMA, and emerging club drugs; and

(B) specifically study the club drug problem and report its findings to Congress.

(2) Membership.—The task force shall—

(A) be under the jurisdiction of the Director of the Office of National Drug Control Policy, who shall designate a chairperson; and

(B) include as members law enforcement, substance abuse prevention, judicial, and public health professionals as well as representatives from Federal, State, and local agencies.

(b) Responsibilities.—The responsibilities of the task force shall be—

(1) to evaluate the current practices and strategies of the Federal Government in education, prevention, and treatment for Ecstasy, MDMA, and other emerging club drugs and recommend appropriate and beneficial models for education, prevention, and treatment;

(2) to identify appropriate government components and resources to implement task force recommendations; and

(3) to make recommendations to the President and Congress to implement proposed improvements in accordance with the National Drug Control Strategy and its budget allocations.

(c) Meetings.—The task force shall meet at least once every 6 months.

(d) Termination.—The task force shall terminate 3 years after the date of enactment of this Act.

(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 20, 2001, at 11:30 a.m., in executive session to consider a civilian nomination and pending military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, December 20, 2001, at 9:30 a.m., on the nomination of John Magaw to be Undersecretary of Transportation Security, (DOT).

The PRESIDING OFFICER. Without objection it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Madam President, I ask unanimous consent that Ellen Gerrity, of my staff, be allowed floor privileges for the duration of today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I ask unanimous consent Tiffany Smith, a fellow in our office, be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAKING FURTHER CONTINUING APPROPRIATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to H.J. Res. 79, the continuing resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 79) making further continuing appropriations for the fiscal year 2002, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read a third time, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 79) was read the third time and passed.

CONVENING OF THE SECOND SESSION OF THE 107TH CONGRESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.J. Res. 80, which we have just received from the House and is now at the desk.

The PRESIDING OFFICER. The clerk will report the joint resolution.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 80) appointing the day for the convening of the second session of the one hundred seventh Congress.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read a third time, passed, and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 80) was read the third time and passed.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized.

TAX EXTENDERS

Mr. BAUCUS. Mr. President, in a few moments I am going to ask that the Senate take up and pass the tax extenders legislation. It is unfortunate that the Congress, along with the President, were unable to agree on a stimulus to the American economy that would provide not only a boost to the American economy, but also assistance to those who have lost unemployment compensation benefits as a consequence of the decline in the economy accelerated by the events of September 11, as well as those who have lost health insurance as a consequence of losing their jobs.

It is almost axiomatic that the economy is in tough shape. I do not expect with a high degree of certainty that the Congress is going to come back to where we would like to be very quickly.

There are some small points which I think we should keep in mind. One is that auto sales broke records with zero percent financing, and the auto companies get most of their income from financing. So they were not making any money these past couple of months, which means reports coming out next quarter and even this quarter will not be high.

The same applies to retail sales. It is the Christmas season. We know stores across the country, in order to encourage more sales, are giving tremendous discounts, which clearly discounts that company's income.

We are going to have to face a stimulus package and should this next year. I hope we do it in a much more accommodating manner than we have in the last several weeks.

I am not going to get into the blame game. I am not going to say who caused this collapse. I have lots of ideas. That is history. What happened happened. It is now time to go forward. I urge my colleagues, after appropriate rest and a break over the holidays, when they are rested up, to come back with renewed vigor and renewed dedication and perseverance to working together and, most important, listening to the other side.

Too often we tend to talk, and we do not listen enough. If we were to listen a little more, even for a nanosecond, I think that would be progress. I urge my colleagues to listen to different points of view next year.

Nevertheless, I think we should salvage whatever we can, and part of that is what is called the tax extenders. These include matters that are very important for the economy and for people who are relying on them. One is the work opportunity tax credit which helps people find jobs.

The Joint Committee on Tax estimates 450,000 to 525,000 will be hired with this credit next year. It expires this year. All provisions I mentioned expire this year, and I think it is important to keep those in existence so next year people can rely upon them.

Another is extending the qualified zone academy bond that authorizes $400 billion in bonds to States in the calendar year 2002. That is to renovate schools and purchase equipment. That expires this year and will terminate unless this legislation I mentioned passes.

A key point, and I urge my colleagues to listen to this, it is a matter of confidence and certainty. These are provisions upon which so many people in our country depend. Over the years, they have been on again, off again. It is like a yo-yo.

It is no way to do business. People need certainty, a little more than they have today in these uncertain times, a little more ability to predict the future. If we could pass this legislation tonight, extending the extenders, that would enable people with more certainty to know they can count on an existing law.

This is not new law. This is an extension of existing law. It is not right for us to be not continuing that legislation because, otherwise, we will wake up next year, January 1 or 2, and these are not in effect. There are many other of them that are very good and, again, it creates that uncertainty.

One, for example, is AMT for individuals. That is the alternative minimum tax credit. That is an extender. According to the Joint Committee on Tax, 900,000 Americans will be subject to the AMT without this relief, as one of the extenders we have.

Four hundred thousand of those will be taxpayers with incomes between $50,000 and $75,000. Those are really middle-income Americans. If we do not extend this extender, then those people will be subject to the AMT tax.

In addition, this package includes an extension of a GSP, that is a generalized preference for trade. That is a trade provision that is in the law today. The Andean Trade Preference Act extends that. It is in the law today, in addition to trade adjustment assistance.

I strongly urge my colleagues to think of Americans and pass this request.

I ask unanimous consent that the Senate proceed to immediate consideration of Calendar No. 33, H.R. 8; that the Baucus substitute amendment at the desk be agreed to; the bill as amended be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, I concur with many of the statements my friend from Montana made; it is very important for us to work together more than we have done in the last few months. The unanimous consent request, if I am reading it correctly, says the Senate wants to substitute the extenders for H.R. 8, which is the revenue package that passed April 6. Is that correct?

Mr. BAUCUS. That is correct.

Mr. NICKLES. That package would be a substitute for it? In other words, this was a bill that would basically, over a 10-year period of time, eliminate the death tax, I believe, and the Senator wants to strike all that language and put in a 2-year extender bill; is that correct?

Mr. BAUCUS. This is 1 year. There is no intention to repeal any of the tax provisions that passed earlier this year.

Mr. NICKLES. I am reading this as a substitute for the House bill. I believe it is a substitute for the House bill. If the Senator modifies this and makes it in addition to the House bill, at least this Senator would not object. But if it is striking the House bill, I feel constrained to object.

If the Senator is willing to move it, in addition to the House bill, I will not object at this time.

Mr. BAUCUS. I will respond to my colleague that my intention is to take up the bill that is already on the calendar.

Mr. NICKLES. I know.

Mr. BAUCUS. And strike out the substance of it; take it up and pass it back with these provisions.

I might answer my friend, this is the procedure we have to follow in order to pass these extenders.

Mr. NICKLES. Further reserving the right to object, again I will object if it is striking the House bill. The House passed a bill with a good vote. I do not remember exactly what it was. If it is in addition to the House bill, I would not object.

I ask my colleague—and I think I hear the Senator saying he is not going to—is it not the intent of the Senator not to pass the House-passed bill? I was hoping we could make a deal.

I might mention we might have to notify a few other Senators before we do this by unanimous consent.

Mr. BAUCUS. I see. It is now more clear to me what is happening.

Mr. NICKLES. My intention was, if we want to repeal the death tax and pass the extenders, this Senator would have no objection. I am sure we could whip it and see if there would be no objection.

Mr. BAUCUS. I understand. I am sure the Senator would love to do that, and I am also sure there would be other Senators who would object.

Mr. NICKLES. The Presiding Officer might like for us to do that.

Mr. BAUCUS. Given all the objections that approach will take, I was asking the Senator to consider the approach I am suggesting.

Mr. NICKLES. Further reserving the right to object, if the Senator is not going to agree to pass the House-passed language that passed in April with the extenders language, then I ask the Senator to modify his request and let us take up the stimulus package that did have the extenders, that did have many other provisions that would have helped the unemployed, that did have some things that would help stimulate the economy, that did some things that would help New York in addition to what we have already done today. So I ask my colleague to modify his request, let us take up the stimulus package, the H.R. 3529, which was received from the House.

I ask unanimous consent that the request be modified so that at first the Senate would proceed to consideration of H.R. 3529, which is the stimulus package received by the House; the bill be read a third time and passed, with no intervening action or debate.

I would add, before the Chair rules, the bill has extender language that my colleague from Montana is requesting and therefore it would accommodate his request.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. BAUCUS. Mr. President, I believe the Senator made a unanimous consent request that would change my unanimous consent request, at least as I understand it. I ask the Senator if he will modify his request to substitute the stimulus bill that passed the Senate Finance Committee instead of the bill that passed the House.

Mr. NICKLES. I cannot agree to that. I do not know if we are playing one-upmanship. I would like to pass the bill that passed the House. So I will not agree to that.

Mr. BAUCUS. Mr. President, it is clear what is happening.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. NICKLES. I object.

The PRESIDING OFFICER. The objection is heard.

Under the previous order, the Senator from Louisiana is recognized.

BIOTERRORISM

Ms. LANDRIEU. Mr. President, there are many important issues on the agenda and the one that was being discussed is one of the most important, but not the only. There is other business that needs to get done before we leave, which is an issue that is of great concern and an issue I wanted to bring to the attention of the Senators.

Before I get into that subject area, which relates to families and children and adoption, I want to thank the leadership. I thank Senator KENNEDY and Senator FRIST, the main sponsors of the bioterrorism legislation, for agreeing in a colloquy submitted on behalf of myself and Senator MCCONNELL from Kentucky to add a provision that will help all hospitals to call on FEMA funds that may be available in the event of another terrorist attack when hospital resources are called on to assist victims of those attacks or if the hospitals are harmed themselves. I very much appreciate it because it seemed to be an oversight in the legislation.

As that bill moves to conference, I particularly thank them for their sensitivities to provide funding for all hospitals in the event that that situation were to occur. Of course, we are all hopeful it does not and are working very hard to see it does not, but I thank them for agreeing.

TWELVE FAMILIES NEED CAMBODIAN VISAS TO BRING THEIR CHILDREN HOME

Ms. LANDRIEU. Mr. President, I know the Senator from Ohio and others are waiting to speak on other matters before we leave, but last night there was a troubling exposé done on a very unfortunate circumstance, and that circumstance involves 12 American families who are stuck in Cambodia because they are unable to obtain visas for their newly adopted children. They are unable to get those visas to come back to the United States safely with these children to celebrate what would have been a joyous homecoming on these holidays.

We are all getting ready to join our families and loved ones in our home States for Christmas and for the holidays. It is not just parents being reunited with children and children with parents, but grandchildren, aunts, uncles, and cousins. This holiday season, as we have all said, is going to be even that much more special because of the challenges before our Nation and the events of September 11 and subsequent events that make us realize how important our families are to us and our loved ones.

We are mindful as we leave today, happy with some of the successes we have had, of the pain and suffering that will be felt during this holiday season by 3,000 families and many more who were directly affected, who will not have a loved one present for the holidays.

For the record, there is not anything I can offer at this moment—no piece of legislation, no fix that I can offer at this moment—but it is my intention to work with all the Senators and to work with the INS, to work with the State Department over the course of the next several days and weeks and months, if necessary, to make sure these American families can get the visas, take their children safely and come to the United States.

According to the INS and according to the story and the details I know, there is concern that there is fraud and abuse in Cambodia and therefore that is why the visas were not issued. I acknowledge that, unfortunately, in the whole area of adoption, both domestic and international, there is some fraud and abuse. We need to do everything we can to make sure that fraud and abuse is stamped out. This Senate, this House, and this Congress, with the help of President Clinton as well as President Bush and both State Departments in the last administration and this administration, are working diligently on that.

We have passed a Hague treaty, an international treaty aimed specifically at making the system of adoption more transparent, eliminating the middleman, reducing time, and encouraging people to adopt children from all over the world because there are so many children who need a home and so many families who want to add children to their families, to build and strengthen their families through adoption.

Denying visas to 12 American families who pay their taxes, good community citizens, people who are doing everything they think is right, and then denying the visas is, I suggest, not the right approach. I am hoping our INS, with our new Commissioner, Mr. Ziglar, who we all know very well and who I have spoken to directly about this issue, as well as the State Department and Secretary Powell and others, will look into this matter and come to an understanding and agreement to allow these children to come with their families.

These children are 6 months to 31 months old. I have learned if children are not adopted in Cambodia by the age of 8, under the Cambodian rules and regulations, children are not able to be adopted. So there is an urgency. There are time issues here. It is very important to try to work through this situation to help these families who are from Illinois, Pennsylvania, New York, Maine, Virginia, Oklahoma, Washington, and Arizona; none from Louisiana.

As the chair of the adoption caucus, I bring this to the attention of the Senate. I will be working as much as I can over the next weeks and months to make sure this issue is resolved. There are procedures that can be used to focus on eliminating abuse and corruption but holding up families who have gone through the process, sometimes excruciating detail, without specific allegations of fraud in these individual cases, is beyond where I think we need to go.

In conclusion, we need to promote adoption, helping the system to be transparent and encouraging people by saying, it is not too long, it is not too tough, it is not too difficult, and it is worth it to bring some of these children to our country and to provide permanency and love to so many who have so little to hope for.

Mr. President, I ask unanimous consent to have these details printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Why These 12 Notices of Intent To Deny Should Be Revoked

The Consular Officials in Cambodia reviewed each child's documents PRIOR to the child being legally adopted under Cambodian law. The documents were again reviewed by Consular Officials prior to the parents being notified that all was in order and scheduling of their interviews. So the U.S. State Department had two opportunities to identify problems prior to the parents traveling to Cambodia to bring home their child. These children are now officially adopted by American citizens. To deny these children visas for no specific, concrete reason, is to make orphans out of these children all over again.

INS should revoke the Notice of Intent to Deny Letters it issued in the recent Cambodian cases for the following reasons.

1. INS did not conduct a case-by-case investigation.

INS has a policy to adjudicate cases on a case-by-case basis. This policy is predicated on the premise that each case has unique facts, documents and circumstances. In reviewing the seven (7) Notice of Intent to Deny Letters, the matters addressed are exactly alike. The cases do not even reflect correct information about the children and their respective ages. Specifically, the letters focus on children that are infants. However, in review of the children is issue, a significant number of children are not infants.

One child is 31 months old;

One child is 25 months old;

One child is 23 months old;

One child is 20 months old;

One child is 10 months old;

Seven children are approximately 6 months old; and

DOB May 8th 2001 and abandoned May 14 (Munson).

It is important to note that all of the children have been in the Asian Orphanage Association for at least six (6) months. These children have been processed through the Cambodian judicial system and have been adopted by American families in accordance with the laws of Cambodia.

2. The investigation is flawed: INS only investigated cases that were facilitated by a Cambodian man, Serey Puth—it did not investigate orphans from other orphanages or children who came through other facilitators; INS interviewed secondary sources when persons holding primary roles, were available; faulty translations; and erroneous information in the Notice of Intent to Deny.

(a) The only children that were targeted in this investigation were children that has been processed through a Cambodian facilitator, Serey Puth. Children who were placed through other orphanages and other facilitators were not investigated.

(b) Generally, INS protocol is to conduct extensive investigations. Statements are taken under oath by competent investigators and translators. Usually, primary parties are interviewed. This did not occur in these cases.

INS only interviewed three persons. Mrs. Phorn Phon, the wife of a village chief for Chaneng Mang village, Mr. Yo a member of the staff of the Asian Orphanage Association and a villager on motorcycle.

It would have been more appropriate to interview the chief instead of the chief's wife. It is not sound reasoning to expect the wife of the village chief to know everything that the chief knows.

It would have been more direct and informative to interview Serey Puth, the owner and director or the Asian Orphanage Association than Mr. Yo a staff member of AOA. Mr. Yo has the responsibility of listing children in the orphanage's registry, making sure the premises are clean and in good repair. He is not privy as to the circumstances of the particular cases. He would not know when and where children were born.

Additionally, Serey Puth, the director and owner of the AOA orphanage was available and willing to meet with the INS officials. Although he had just moved the location of his office, it would not have been difficult to locate him.

It would have been more credible to interview persons in authority than to interview someone who drove by the chief's dwelling on a motorcycle and claimed he was the deputy chief of a village near by.

(c) There is a serious problem with the comprehension and/or translations. Here are three examples of erroneous interpretations by the translator.

(i) The Notice of Intent to Deny letter contains the following pertinent statement by Mr. Yo. "Mr. Yo was then asked if he thought that it was reasonable to accept the answers that he had given and he said he did not."

Please note that this statement is taken directly from the Notice of Intent to Deny. The only explanation for such a dialogue is that Mr. Yo did not understand the investigator's question or Mr. Yo has some serious competency problems.

(ii) When the INS investigator asked Mr. Yo where Serey Puth was, Mr. Yo responded that Serey Puth, the orphanage director and owner, was out in the country as in the countryside. However, the translator interpreted his answer to be that Serey Puth was out of the country. Serey Puth never left the country during the nine day INS investigation.

(iii) The Chief's wife was asked if any children were abandoned in the village and she stated that there were not. That is true, children from her village had not been abandoned. However, children from other whereabouts had been abandoned to the village.

Review of these examples illustrates how words not properly translated can lead to very unfavorable conclusions.

(d) The Intent to Deny states that a raid was conducted of the Asian Orphanage Association premises. This is false. The Cambodian officials conducted a raid of a medical center, not AOA. Some of the children from the orphanage were being treated at the medical center.

Additionally, the Intent to Deny states that "accusations of baby trafficking have been levied against the director." This too is false! Evidence from the Cambodian newspapers confirm the allegations made herein.

3. Cambodian government authorities are satisfied that their law has been fully complied with.

MOSALVY, a Cambodian governmental entity (Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation) informed the American prospective adoptive parents that they had been approved to adopt specific Cambodian children. Additionally, MOSALVY issued a Certificate of Adoption for each of the children in issue. Had there been any irregularities regarding these children, it would seem that the Cambodian government would have been aware of the problems. Furthermore, if the Cambodian government believes that the Asian Orphanage Association did not comply with Cambodian law, then MOSALVY has the ability to revoke the Certificates of Adoption.

In addition, under the old Cambodian Law, if it was not known where a child was born, the place of birth was picked randomly. In the last year, the law has been changed. Currently, when an abandoned child is found, his place of birth is where he was found. However, at the time that the children were born and registered with vital records, the orphanage director complied with the law of that time—he picked a place of birth.

INS sent Jean M. Christiansen from the INS District Office in Bangkok to investigate the cases. While in Cambodia for nine days, her staff conducted an investigation. Under her pen, INS issued Notices of Intent to Deny to the American families. INS should revoke its Notices of Intent to Deny.

CAMBODIAN CASES THAT RECEIVED NOTICES OF INTENT TO DENY

Adoptive parents' State	DOB	DOA
Pennsylvania	5-05-99	1-01-01
Illinois	10-10-99	11-26-99
Illinois	1-07-00	2-10-01
NY	2-04-00	3-10-00
NY	2-10-01	4-25-01
Maine	2-27-01	3-14-01
Illinois	5-01-01	5-06-01
Virginia	5-05-01	5-12-01
Oklahoma	5-08-01	5-14-01
Arizona	5-18-01	5-25-01
Washington	5-22-01	5-29-01
Arizona	5-29-01	6-01-01
Illinois	6-14-01	6-21-01

DOB: Date of birth,
POA: Place of abandonment.

CAMBODIAN CASES TO RECEIVE NOTICES OF INTENT TO DENY

State and contact	DOB	DOA	Place of birth	Place of abandonment	US agency or facilitator	Orphanage contact
Pennsylvania	5-05-99	1-01-01				AOA/.
Illinois	10-10-99	11-26-99				AOA/RO.
Illinois	1-07-00	2-10-01				AOA/RO.
NY	3-04-00	3-10-00				AOA/RO.
NY	2-8-01	5 01			Independent Facilitator Cassandra Keirstead	Cambodian, French Hungarian Friendship Orphanage.
Maine	2-27-01	3-14-01				AOA.
Illinois	5-01-01	5-06-01				AOA/RO.
Virginia	5-05-01	5-12-01			Independent Facilitator Cassandra Keirstead	Cambodian, French Hungarian Friendship Orphanage.
Oklahoma	5-08-01	5-14-01				AOA/RO.
Arizona	5-22-01				Independent Facilitator Cassandra Keirstead	Cambodian, French Hungarian Friendship Orphanage.
Washington	5-22-01				Independent Facilitator Cassandra Keirstead	Cambodian, French Hungarian Friendship Orphanage.
Arizona	5-29-01	6-1-01				AOA/RO.
Illinois	6-14-01	6-21-01				AOA/RO.

DOB: Date of birth.
POB: Place of birth.
POA: Place of abandonment.
AOA: Asian Orphanage Association.
RO: Web site Reaching Out.

Ms. LANDRIEU. I thank the Senator from Oklahoma. One or two or more of these families are from his home State. He has been such an advocate of adoption and such a tremendous leader in this area. I know he would understand. We will keep the Senate posted and work with the officials from the executive department to see if it is resolved.

My wish to the families is that we could give them Christmas in the United States and get it resolved in the next few days. Perhaps that is possible. If not, we will revisit the issue when we come back in January.

The PRESIDING OFFICER (Mr. REED). The Senator from Oklahoma.

Mr. NICKLES. I congratulate and compliment my friend and colleague from Louisiana for her leadership in adoption, for the statement she just made. Adoption is an issue we have worked on in a bipartisan way, and we will continue to work in a bipartisan way. There are lots of families who are impacted both in the United States and worldwide. My colleague from Louisiana has done a very good job, and I am happy to work with her.

The story last night is heartbreaking. Many of our staff members have been working on these issues for a long time. I compliment her for it.

TERRORIST VICTIMS' COURTROOM ACCESS ACT

Mr. NICKLES. I also compliment Senator ALLEN for his leadership and passage of a bill a few moments ago that will allow closed-circuit TV viewing for the trial of the alleged terrorists. I compliment Senator ALLEN because I know he has a lot of constituents in Virginia and there are a lot of constituents in New York, New Jersey, and California who have a real interest in seeing that justice is done. By passing the authorization bill allowing for closed-circuit TV, he will do that. I compliment Senator ALLEN for making that happen.

UNFINISHED SENATE BUSINESS

Mr. NICKLES. Mr. President, we are getting close to wrapping up this session. We did a lot of good things this year and some things we didn't get done. One thing we did not get done was passage of the stimulus package. That is unfortunate. It became way too partisan. It did not need to be. Recessions are not partisan. We have a lot of people out of work who need help. A lot of companies want to grow. We could have done that.

Senator GRASSLEY worked hard with the Bush administration. There was a lot of movement on this side of the aisle to help pass the stimulus package. It didn't happen. I regret that very much. We could have helped the economy, and we could have helped a lot of unemployed people.

Senator BAUCUS mentioned earlier that he hopes when people come back they are less partisan and more intent on getting some positive results for the American people. That needs to happen. I hope we do not hear: Well, we cannot bring something out unless it passes two-thirds on our side. That does not belong in the Senate. The Senate is a deliberative body, and we should have a chance to try to pass things, and pass them by majority vote. Try to get something done, try to make a positive contribution toward helping the economy, not a strictly Democrat or Republican package, but a package that helps the economy.

The House passed good legislation last night. Not perfect. Maybe we can improve upon it and help our economy and help the unemployed.

As we wind down, there are several nominations that are pending that should be confirmed. It is not fair to this administration. It is not fair to some of these individuals who have been languishing, waiting to be confirmed with no action. There are five district court nominees, Federal judges. We have confirmed 27; if we do 5 more, that will be 32. During President Clinton's first year, we confirmed 27 of 47. President Bush nominated 60. We have confirmed 27, not quite half. We confirmed over half for President Clinton, and if you look at what we did for the first President Bush or what we did for Ronald Reagan, we confirmed 91 percent of Ronald Reagan's judges and a much higher percentage for President Bush. We should confirm more than we have today. There are five on the calendar. There is no reason not to confirm these individuals. We all know they will be confirmed. Why not let them go ahead and assume their duties?

We have a judge from Alabama, a judge from Colorado, a judge from Nevada, a judge from Texas, a judge from Georgia. We have judges from Democrat States and Republican States. Let's not hold these five individuals hostage. We can pass them tonight and I urge my colleagues to help do that.

We also have four U.S. attorneys, from Alabama, New York, Arkansas, and one from New Jersey. They need to be confirmed. They should be confirmed.

We have a couple of marshals who are pending. There is no reason why they should not be confirmed—actually just one marshal and one to be Chairman of the Foreign Claims Settlement Commission. Let's confirm these individuals. Let's do it tonight. Somebody says: Why are you doing it tonight? We confirmed more judges, more U.S. attorneys—all those are always done by voice votes.

We have Janet Hale to be Assistant Secretary of Health and Human Services. Secretary Thompson is entitled to have his Assistant Secretary for Health and Human Services be confirmed. So I urge my colleagues to vote on that nomination or to approve that nomination.

We also have a couple of other positions. We have James Lockhart III to be Deputy Commissioner of Social Security. That is an important position.

In the Department of Energy, we have Michael Smith, actually one of my constituents. He happens to be secretary of energy of the State of Oklahoma. He has been nominated to be Assistant Secretary of Energy dealing with fossil fuels. Secretary Abraham is completing his first year and he doesn't have his Assistant Secretary dealing with fossil fuels. We are now importing about 58 percent of our energy needs and he doesn't even have an Assistant Secretary dealing with fossil fuels.

One of the first bills we are going to be wrestling with next year is an energy bill. We have a commitment from the majority leader that we are going to take up energy early next year. That is great. You would think the administration would be entitled to have their Assistant Secretary to help the negotiations, to help prod Congress along. So I urge my colleagues to approve his nomination. He was reported out of the Energy Committee unanimously, as I believe Beverly Cook was, from Idaho, to be Assistant Secretary of Energy dealing with environment, safety, and health.

Also Margaret S.Y. Chu, of New Mexico, to be Director of the Office of Civilian Radioactive Waste Management, Department of Energy.

There is no reason why we cannot do most of these nominees. Most of these nominees passed by unanimous votes in the committees. Why can't we confirm these individuals?

I urge Senator DASCHLE and Senator REID and others to help.

There are a couple of others who are very important. The Department of State, John Hanford. John Hanford is an individual with whom many of us worked in the Senate for years. He worked for Senator LUGAR. He helped myself and others when we ended up passing the International Religious Freedom Act. Senator LIEBERMAN was a principal sponsor of that, and Senator SPECTER. The administration nominated John Hanford III, of Virginia, to be Ambassador at Large for International Religious Freedom. When you think of the battles we have going on all across the world with religious freedom, and some of it is in Afghanistan and some in Pakistan and some in Sudan where you have individuals who are held captive, imprisoned, enslaved because of their religion, wouldn't it make sense for us to get our Ambassador at Large for International Religious Freedom confirmed so he can go to work and help protect and promote religious harmony and freedom throughout the world? Hopefully, his nomination will be confirmed tonight.

We have several other people in the Department of State who were confirmed by the Foreign Relations Committee unanimously who should be confirmed tonight. Many of these were just reported by the committee, by Senator BIDEN. I thank him for doing that. I am looking at John Ong, who is to be Ambassador to Norway and John Price to be Ambassador Extraordinary to the Republic of Mauritius; Arthur Dewey, of Maryland, to be Assistant Secretary of State for Population, Refugees, and Migration.

Some of these, again, were just reported out. I thank my colleagues. We should be able to get those through as well, not to mention Gaddi Vasquez, of California, to be Director of the Peace Corps.

I mention these. These are not all. I did not mention Gene Scalia. I would really urge my colleagues—Gene Scalia has been on the calendar. He was nominated in, I believe, April, one of the earliest nominees of this administration, to be Solicitor of the Department of Labor. Secretary Chao is entitled to have a Solicitor. One of the most important positions in the Department of Labor is Solicitor. He has to make all kinds of rulings. It is very important that she have her Solicitor. I urge my colleagues, let's have a vote. If we cannot have it today, let's have it in January; let's vote up or down.

Somebody said we may have to file cloture. I can think of several people, including the previous Solicitor of Labor, to whom many on this side might have had a philosophical objection, but we did not require cloture. You should not require cloture on most nominees. You should not require cloture hardly ever on nominees unless they are really out of the Main Street. We had a vote on Joycelyn Elders and I opposed that nomination very significantly, but it was an up-or-down vote.

I think people are entitled to have a difference of opinion and have a debate. If we have a difference of opinion, let's discuss it. This is the Senate. But to not allow somebody to have a vote and hold their careers in limbo for an unlimited period of time, it is not fair to them, and I don't think it makes the Senate look very good.

Again, I urge our colleagues to move forward on Gene Scalia, to move forward on some of these other nominees, many of whom, I hope and expect to be confirmed tonight. I hope they will. I urge the leadership on the Democrat side to work with us and see if we cannot clear up as many nominees as possible, confirm as many nominees as possible on the Executive Calendar.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

ECONOMIC STIMULUS

Mr. VOINOVICH. Mr. President, I rise to express my disappointment that the Senate did not have an opportunity today to vote on the White House and Senate Centrist Coalition compromise on the economic stimulus package to aid dislocated workers. I think the stimulus package, if passed, would have made a real difference for the American people. It would have helped individuals and families. It would have helped create jobs, or at least maintain jobs. And it would have responded to the needs of laid-off workers and their families.

Early this fall, when it became clear to me that our nation was in recession, I decided to get actively involved in developing and advocating a stimulus package. I recognized the package that was coming out of the House could not get through the Senate because it wasn't balanced. So I gathered together with my other colleagues in the Centrist Coalition. Six of us from the Coalition were the ones who really were the nucleus of it—I was one of them with OLYMPIA SNOWE and SUSAN COLLINS, and on the Democrat side there was JOHN BREAUX and two of my colleagues who were former Governors, ZELL MILLER, who was a former Governor of Georgia, and BEN NELSON, the former Governor of Nebraska.

We decided we would try to put something together that would be fair, and that would respond to the need to stimulate the economy, and at the same time, respond to the human needs that we see throughout this country. We wanted to try to work something out, and see if we could get something through Congress and particularly through the Senate.

We worked very conscientiously on that package. We finally were able to get the ear of the White House and got them to be part of this compromise package. Yesterday we were able to convince the leadership in the House of Representatives that it was a fair package, although a far cry from the package they had adopted. We had hoped that, somehow, miraculously, maybe, we would have had an opportunity to vote on that package in the Senate.

The Republican leader, Senator LOTT, talked about the fact that maybe during the period of time we are in recess, pressure will build up and maybe we will get a bill passed. Or maybe the pressure will not be out there and we will not need to pass a piece of legislation. However, I am here to tell you that this legislation is needed now.

This afternoon I met with about 50 steelworkers from Cleveland, OH, from LTV steel. That company is in bankruptcy. Their jobs are gone and they are displaced. They are petrified because they do not know how they are going to be able to take care of their medical costs. Their company had a health plan, but COBRA is no longer an option because the company is out of business. They are worried about how they are going to provide health care for their families. They will get their unemployment benefits, but they are really concerned about how to pay for their health care coverage.

I pointed out to them that the stimulus package the Centrist Coalition put together would subsidize their health care to the tune of 60 percent. They were pleased to learn that their was hope that someone would help them, that they could get insurance for their families to get them over this very difficult period. I can tell you: they are frightened.

I think so often when we talk about stimulus packages, we get caught up in the dollar amounts and we don't talk about real people. That is what this is about. For example, the rebate program that is in our stimulus package would provide help to some 38 million low-income workers who didn't qualify for rebate checks the last time around. Those rebates would mean $13.5 billion would go into the pockets of those individuals to help them with their problems. And I am sure it would help stimulate the economy because they would likely spend that money.

Some describe the reduction in marginal rates as an awful thing because of the fact that we would reduce the marginal rate from 27½ down to 25 percent. I would like to point out that we are talking about single people who make between $28,000 and $68,000, and married couples who make between $47,000 and $113,000. That is about one-third of the taxpayers in this country, some 36 million people, who would have benefitted if we had gone forward with these rate reductions. Between the 38 million beneficiaries of the rebate checks, and the 36 million who would benefit from the reduction in marginal rates, a total of 74 million Americans would have been able to take advantage of this package.

The thing I would really like to concentrate on is the part of this package that deals with health care. When we got started debating the stimulus package, the House passed a package that had something like $3 billion for health care. Likewise, the President's package had also had $3 billion. Our centrist package had $13.5 billion. The Democratic Finance Committee proposal was $16.7 billion. At the end of the day, the Centrist Coalition and White House compromise package had $21 billion in it for dislocated workers' health care, money for the States for national emergency grants, including $4 billion to the States for Medicaid funding.

Now I would like to talk about what we do for displaced workers.

First of all, we include an extension of 13 weeks of unemployment benefits—benefits that would be available to those who became unemployed between March 15, 2001, and December 31 at the end of next year. An estimated 3 million unemployed workers would qualify for benefits averaging about $230 a week. Those extended benefits would be 100-percent federally funded at a cost of about $10 billion to the Federal Government, so States wouldn't have to pick up the tab.

The bill would allow states to accelerate the transfer of $9 billion from State unemployment trust funds so they could distribute that money earlier than now possible. This transfer of money, which already belongs to the states, would help State treasuries, which are in dire straits today. This proposed advance would provide the States with the flexibility to pay administrative costs, provide additional benefits for part-time workers, adopt alternative base periods, and avoid raising their unemployment taxes during the current recessionary times.

Next, let us look at health care benefits.

The Centrist Coalition and White House compromise proposal includes $19 billion in health care assistance for dislocated workers.

It provides a refundable, advanceable tax credit to all displaced workers, who are eligible for unemployment insurance, for the purchase of health insurance—not just individuals who are eligible for COBRA coverage.

Individuals with access to health insurance through a spouse wouldn't be eligible and couldn't get the credit.

However, the credit is available to unemployed people who do not have access to coverage through COBRA, since their employers did not provide health insurance or their employer went out of business. Under this bill, these individuals would have been able to get a 60-percent subsidy of their health insurance costs without any cap on the dollar amount of subsidy.

The proposal also includes reforms to ensure that people have access to health insurance coverage in the individual market. If a person has 12 months of employer-sponsored coverage, rather than 18 months as under the current law, health insurers are required to issue a policy and not impose any preexisting condition exclusion. In other words, if someone has a preexisting exclusion for which they would ordinarily be disqualified from getting health insurance, this reform requires that they be able to obtain health insurance.

The Centrist and White House proposal also includes $4 billion in enhanced national emergency grants for the States which Governors could use to help all workers—not just those eligible for the tax credit. They could use this to pay for health insurance in both public and private plans. In other words, we would be paying $4 billion out to the States so they can reach out and help people in their respective States who are not covered by some of the particular provisions in the stimulus package.

Last if not least, the centrist package provides a $4.6 billion, one-time grant to assist states with their Medicaid programs.

I worked with the National Governors Association and the Bush administration to try to get them to understand that the State governments are not like the Federal Government. States are in deep budgetary trouble because they have to balance their budgets every year. The money isn't there for them to take care of the many needs they face. This $4.6 billion grant would have gone out to the States to help them provide Medicaid for the neediest of our brothers and sisters. In many States they are going to have to cut Medicaid payments because they simply don't have the money since their State treasuries are in such deep financial trouble.

I hope my colleagues understand that this is not some kind of a game. We are talking about real human beings.

This morning at a press conference, one of the reporters said to me: I understand the problem with this stimulus bill is that the majority leader has a problem with the philosophy of it.

I said that this bill responds to most of the concerns that have been raised by my colleagues from the other side of the aisle.

Think about it. When was the last time Congress gave serious consideration to providing health care to unemployed workers? I don't ever recall such consideration before. But this time, we have been able to get a Republican administration and a Republican House of Representatives to consider providing health insurance to unemployed workers. That was a breakthrough in terms of dealing with the unemployed and displaced workers in this country.

I happen to believe that if this proposal had come from the other side of the aisle and not from the centrist coalition and the White House, many of my colleagues on the other side of the aisle would have been very much in favor of this proposal.

I am hoping, as we all go home and look into the eyes of the people who will come and see us because they have lost their jobs, and are panicked about health care for themselves and their families, that we start to understand we have an obligation to touch their lives. And to do this, the first thing we need to do when we come back to this chamber is pass a stimulus package that addressed the needs of unemployed men and women. We need to restore people's faith in their economy and restore people's faith that we do care about them.

The thing that really bothers me about our failure to pass a stimulus package, is that so many people anticipated we would do so. They really did. They were counting on us, as did the financial markets. I think from a psychological point of view, we have really done a disservice to the American people, particularly at a time when we are all going home to celebrate Christmas and the holidays.

What a lousy Christmas present we are giving to the people of America. Shame on us. I hope when we come back in January that we will make it up to them. They need our help.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE HOUSE ECONOMIC STIMULUS PACKAGE

Mr. DASCHLE. Mr. President, when people become doctors they take the Hippocratic oath which, among other things, instructs them to "First, do no harm."

Maybe our Nation's leaders in Washington need to take a similar oath if they intend to operate on the economy.

Sadly, our friends in the Republican Party are steadfast in their insistence that we enact legislation that would harm our economy. Their plan takes more than $200 billion out of Social Security and uses it mostly for tax breaks for wealthy individuals and profitable corporations. It will do little to stimulate the economy, and even less for the millions of newly unemployed Americans. Their plan will not make the recession better, but it will make the deficit worse. This impasse is regrettable—and it was completely avoidable.

Immediately after September 11, it became clear that the attacks dealt our economy—which already was slowing—a devastating blow. We all agreed—Democrats and Republicans, House and Senate—that America needed an economic recovery plan. And Congress had a responsibility to pass such a plan.

We asked the best financial thinkers in the country, economic leaders, such as Chairman Greenspan and Secretary Rubin: What should such a package contain?

Their advice led to the development of a set of bipartisan principles for an economic recovery plan. Those principles were endorsed by the chairmen and ranking members of the Budget Committees in both the House and the Senate.

Rather than work together to develop a plan based on those principles, Republicans in the House chose to withdraw from bipartisan negotiations and pass their own highly partisan economic plan.

The experts we consulted told us that the problem with the economy right now is that corporations have too much capacity and that consumers have too little cash. That is it in a nutshell: Corporations have too much capacity; consumers have too little cash. So we developed a plan to address those problems.

The plan we put together included tax cuts for businesses that invest and create jobs in the near future. It had tax rebates for people who were left out of the first round and unemployment and health benefits for workers who have lost their jobs in this recession and as a result of the September 11 attacks.

Our plan did what economists say needs to be done—no more, no less. And it met the bipartisan standards agreed to by the budget leaders in both Houses.

Early this morning the House passed a far different plan. Their plan speeds up the tax cuts Congress passed last summer—months before the terrorist attacks. Their tax cuts give most of the benefits to the wealthiest individuals, and they will get those tax cuts not just next year, but the year after that, and the year after that, and the year after that. That is the first part of their plan.

The second part of the House Republican plan is to take the biggest corporations in America and give them billions of dollars in new tax breaks. Some profitable corporations would get permission not to pay taxes at all.

Under their plan, companies such as Enron would get hundreds of millions of taxpayer's money. Republicans are not proposing to do that for police officers, for firefighters, for postal workers. They are not proposing it for hard-pressed, hard-working families. Maybe it would help if they did, but they are not.

They are proposing it for the biggest corporations in America, with no strings attached. The corporations do not need to create a single job to get this gift. They can lay off workers and still not have to pay a dime in taxes under the Republican plan. That kind of plan does not help the economy, and it does not help workers.

Since September 11, nearly a million American workers have lost their jobs. Eight and a half million Americans are now out of work.

Often, the biggest worry when Americans lose their jobs is how to pay for their health care. The average cost of keeping health care coverage is half of the average monthly unemployment check, half of a family's total monthly income. That is why only 20 percent of workers who are eligible for COBRA coverage purchase it. Most simply cannot afford it.

The plan passed by the House provides an inadequate tax credit for individuals to buy health care, and it leaves many of them at the whim of the private insurance market.

Under their plan, health insurance will remain out of reach for millions of laid-off workers. The credit would require a parent to spend, on average, a quarter of their unemployment check for COBRA coverage. For most individuals not eligible for COBRA, the price tag would be even higher.

One million displaced workers—part-time workers and recent hires—do not even qualify for assistance under the plan.

Survivors of victims of September 11 do not qualify for assistance under their plan. Employees, whose hours have been reduced and who have lost their health care as a result, do not qualify for their plan.

Their individual tax credit discriminates against older and sicker workers. An insurer can refuse to cover a sick worker, can charge exorbitant prices based on age and health, and can refuse to provide coverage for such basic needs as pregnancy, prescription drugs, or mental health.

All the worst practices of the insurance industry are fair game in their bill. What is worse, it would actually discourage laid-off workers from taking a new job. Under the plan passed by the House, the moment an individual goes back into the workforce, they lose their eligibility for the insurance premium tax credit.

Say a recently laid-off worker has a sick spouse; if he wants to go back to work, he can't because his new job may not offer health insurance for his wife. He would have to choose between freeing himself from unemployment and losing health care his wife needs.

That is their plan for health care. It gives workers insufficient help, and it discourages responsibility in the process.

On jobless benefits, Republicans say their plan extends jobless benefits for all laid-off workers. But it doesn't. More than half of America's laid-off workers held part-time jobs over recent hires. They paid into the unemployment system, but the House plan leaves them out.

A week ago, the whole world paused to remember the victims of September 11, but the House-passed plan forgets the economic victims of those attacks, and that is wrong.

Three days after September 11, we passed a $15 billion airline bailout package. Democrats tried to include help for laid-off workers in that plan. We were told: Now is not the time. There will be another chance soon. We are going to consider airline security. We can help workers then.

Reluctantly, we agreed to wait. We tried to include our package of help for workers on airline security. Again, Republican colleagues filibustered. Again, they said: This is not the time. We still need to pass an economic stimulus package. We will help workers then.

We took them at their word. We included jobless and health benefits for laid-off workers in our economic recovery plan. But instead of joining us, Republicans voted to kill our proposal. They said that helping workers is not an emergency. We have waited. We have compromised.

At Republican insistence, we dropped the measures to strengthen America's homeland security from our plan, even though we believe such measures are essential to restoring confidence in our safety and our economy. We said: We are willing to support larger tax cuts to let businesses write off more of their investment costs.

We also made a significant concession on health care. We believe the best approach is to provide laid-off workers with a direct subsidy to help pay for COBRA premiums. But in the name of compromise, we said we would be willing to move toward the Republican approach again and again. We are willing to adopt an employer tax credit as long as it will work and as long as it will pay 75 percent of health care costs. We even said we will discuss additional tax cuts, such as the Domenici payroll tax holiday, the charitable choice legislation, and others, as long as Republicans agreed to help workers. We made concession after concession after concession to try to get an agreement both sides could support and the President could sign.

We have been willing to compromise on every part of this plan. The only issue we couldn't compromise on was our fundamental principle: We could not support a plan that does not adequately protect workers or help our economy.

By insisting once again on a bloated package of tax cuts that lack real help for workers, the bill that passed in the House indicates that perhaps Republicans were never serious about achieving a negotiated compromise in the first place.

Instead of political theatrics, instead of writing another bill with no chance of passing the Senate, instead of finger pointing and casting blame, we need to come together and pass a real economic recovery plan. We need to pass a bill that helps the economy, helps workers, and meets the standards that we all agreed to at the beginning of this process. At the very least, we need a bill that first does no harm.

We may have missed our opportunity to get it done this year. If that is the case, it is regrettable. But we will again try. We will do all that we can to get it done early next year, as we should.

Mr. KENNEDY. Mr. President, it has been over three months since the terrorist atrocities of September 11. Since that day, the Nation's workers have been among the Nation's most respected heroes. They have come together in the face of new challenges, risking their lives in the rescue and recovery efforts, and in too many cases, losing their lives. Our hearts are heavy with those losses.

Our Nation's workers have come together, and the American people strongly support our efforts to give them the support and assistance they deserve. But our Republican colleagues in Congress have stalled our efforts to help these heroic workers. Senator DASCHLE proposed an effective and balanced plan to stimulate the faltering economy. It had a majority of support in the Senate.

The provisions had the support of the nation's most preeminent economists, including nine Nobel prize laureates. But our Republican colleagues refused to even debate it. They said it wasn't an "emergency."

Listen to what the economists say. They say the House Republican proposal "will do little to assist a near term recovery and is likely to undermine growth in the economy." But also listen to what our values say, that we cannot abandon our fellow citizens in their time of need. If there is any lesson from the tragedy of September 11, it is this: that we are one American community, and the backbone of that community comes from average Americans.

Millions of members of that community are hurting today because they lost their jobs. Yet, our Republican friends repeatedly say no to the very actions that would help these families and strengthen our economy at the same time.

Democrats tried to negotiate in good faith, but Republicans have been unwilling to support any recovery package unless it contains tens of billions of dollars for new tax breaks for wealthy individuals and corporations that will jeopardize the nation's long-term fiscal health and threaten Social Security and Medicare. We cannot let Republicans hold laid-off workers hostage to these irresponsible and costly tax breaks.

Republicans have also refused to agree to a proposal to provide real health insurance to the victims of this terrorist attack and the current economic downturn. Instead, they offer only inadequate plans that leave workers with sky-high premiums for meager health benefits, and that leave behind the survivors of September 11 and many other of our most vulnerable workers.

The Democratic economic recovery proposal puts money in the hands of the people who will spend it immediately.

We strengthen unemployment insurance, and guarantee affordable health care to laid-off workers on the front lines of the economic battle. These workers deserve no less.

Every day that we fail to pass a stimulus package, we fail to help more laid-off workers. The unemployment rate is now 5.7 percent, a 33 percent increase since the recession began. Over 8 million Americans will start the year out of work, through no fault of their own. Millions of Americans are left with no paycheck and no golden parachute. We cannot accept a plan that fails these workers.

Health premiums can cost nearly $600 a month for a family—most of an unemployment check. That is why only about one in five laid-off workers today continue their coverage, even if they are eligible. Our plan covers 75 percent of the health care premium for those who are eligible to continue their coverage, but can't afford the cost.

Some workers are not eligible for any continuing health plan. Our plan also allows states to cover these vulnerable workers. Taken together, our plan ensures that men and women who lose their jobs don't have to worry about losing their health insurance as well.

Our plan also provides fiscal relief to the States, which face serious budget shortfalls, yet must meet yearly balanced budget requirements. We increase Medicaid payments, so that States don't have to cut back on coverage, just as more workers need help. The head of the Republican Governors' Association, Governor John Engler, said without this plan, a stimulus package is "robbing Peter to pay Paul, because States will have to cut critical services, stifling the positive effect of any stimulus measures enacted at the federal level."

Our Democratic plan assures 13 weeks of extended unemployment benefits for laid-off workers.

The current recession is already 9 months old, and the two million workers who have run out of unemployment insurance benefits should not have to continue to wait for our help.

Our plan also makes part-time and low-wage workers eligible for unemployment benefits. In 1975, on average, 75 percent of unemployed workers received unemployment benefits. Last year, the figure was only 38 percent. Expanding coverage to include part-time and low-wage workers will benefit more than 600,000 more of those who have been laid-off, and it will also provide additional economic stimulus.

In addition, our plan supplements the current meager level of unemployment benefits, which do not replace enough lost wages to keep workers out of poverty.

In 2000, the national average unemployment benefit only replaced 33 percent of workers' lost income, a steep drop from the 46 percent of workers' wages replaced by jobless benefits during the recessions of the 1970's and 1980's.

During an economic crisis, unemployed workers have few opportunities to rejoin a declining workforce. They depend on unemployment benefits to live. Adding $150 a month to unemployment benefits will stimulate the economy and help these laid-off workers support their families while they look for a new job.

While Democrats have been negotiating an economic recovery package in good faith, the House Republicans pulled the rug out from under those negotiations. They walked away from the negotiating table, made harsh personal attacks against our Democratic leader, and brought a separate Republican bill, largely a repackaging of the previous bill—back to the House floor.

The latest GOP plan is not an effort to stimulate the economy or help workers. It is a Republican game of political hot potato, to avoid blame. They do not deserve credit for a misguided plan that does nothing for the economy and nothing for workers.

The latest House Republican bill fails the economy. It fails the states, which are struggling to balance their budgets. It fails the millions of workers who have been laid off through no fault of their own and are struggling to keep a roof over their families' heads and food on their tables.

What it will do is blow a deep hole in our economy, estimated at $250 billion, adding to deficits already expected next year. All of it will have to come from the Social Security Trust Fund.

Our Republican colleagues are more concerned about helping wealthy corporations and individuals than about stimulating the economy or assisting laid-off workers. The new House Republican bill continues to gut the corporate Alternative Minimum Tax. They refuse to offer any true help for workers, but wealthy corporations will receive a promise that they won't have to pay any income tax in future years.

The Republican bill also provides new tax reductions for wealthy individuals. Only the top quarter of American families will receive any benefit from these rate reductions and only the top 4.4 percent will receive the full benefit.

The House bill also maintains a 30 percent bonus depreciation over the next 3 years, even though nobody believes the recession will last 3 years. With no incentive for immediate action, companies will not invest, now when the economy is weak. Instead, they will get windfalls in later years.

At the same time, states will suffer revenue losses for the full 3 years of this proposal, on top of the $35 to $50 billion budget deficits they are already facing.

The Republican bill drains money from States, but it provides little fiscal relief. Since states must balance their budgets even in recessions, the Republican plans will force still-larger budget cuts. These losses in revenue will almost certainly result in deep cuts for Medicaid, education, and other vital State and local services.

The Republican bill clearly shortchanges workers. It does little to provide unemployment benefits or affordable health care for laid-off workers.

Perhaps the best and purest form of economic stimulus is to increase unemployment benefits for families, because they are sure to spend it quickly.

Yet, the unemployment insurance provisions in the bill passed by the House do not accomplish nearly enough. The bill leaves out hundreds of thousands of low-wage and part-time workers who have paid into the unemployment fund, but are not eligible for benefits under it.

The Republican plan fails to raise the meager level of benefits, which currently replace half or less of an individual's lost wages. A few weeks ago, the chairman of the Ways and Means Committee proposed temporarily suspending income taxes on UI benefits as a way of raising these meager benefits. That step would be slower and less inclusive than a benefit increase, but at least it acknowledged that we need to raise benefit levels. However, even that tax suspension has been dropped from the latest Republican bill. Instead, that bill provides funding for unemployment insurance that will most likely be used for employer tax cuts, and to boost trust fund reserves instead of worker benefits.

The Republican health proposals are also an empty promise to millions of Americans. Their plan leaves out hundreds of thousands of unemployed workers. It excludes the survivors of the September 11 attack. It excludes low-wage and part-time workers. Even for those are eligible, it provides an inadequate subsidy that most workers can't afford to use.

The Republican plan leaves deserving Americans who are not eligible for COBRA to the flawed individual insurance market which charges thousands of dollars for inadequate benefits. Their plan does not prevent HMOs and insurers from discriminating against sick and older workers, or from charging unlimited premiums.

In these difficult economic times, it is wrong to ignore the needs of working families. It is wrong to repeatedly help our Nation's most prosperous firms, while ignoring the needs of millions of workers.

It is wrong to tell workers, who have been laid off that they don't deserve unemployment benefits. It is wrong to tell hard-working men and women that the price they must pay for the terrorist attack is to go without the health care they need and deserve. It is wrong to offer only an empty promise with unlimited premiums. It is wrong to enact a stimulus plan that says yes to the greedy and no to the needy.

It is time to end the suffering of the millions of families who have lost jobs and health insurance in this economic downturn. It is time for Congress and the President to listen to the voices of working families, instead of powerful special interests.

Over the past 3 months, Congress has acted to help affected industries receive the assistance that they need. Businesses have also received stimulus after stimulus from the Federal Reserve which has cut interest rates 11 times. But business clearly has excess capacity today. Providing more benefits to business is not what will help this country recover most effectively.

Economic recovery will come best and quickest helping unemployed workers pay for their groceries, their mortgage and their health costs. We reject the Republican proposals, because we cannot accept a plan that fails so many millions of workers. We owe it to all the Americans who have lost their jobs to provide the support they need and deserve, and to provide it now.

Mr. ALLARD. Mr. President, at the beginning of this year we passed a series of tax cuts. This was a strong action in favor of hardworking Americans. With the recent slowdown in the economy, we must again act, and act quickly, for the American worker. Historically, Congress has failed to act quick enough to provide economic relief when it is needed. Let us not repeat this error. It is imperative that we now take this opportunity to act in unison to provide the American people with the assistance they deserve.

Several economic stimulus packages have been proposed. The House has recently passed a stimulus package that I feel will give the economy a much needed boost and provide dislocated workers with the temporary assistance they require. I, as well as many of my colleagues, have some reservations about certain items contained in this package. But for the sake of the economy and the American worker we must take quick and decisive action now. Overall, this stimulus package is a positive and much-needed step in the right direction.

We must provide aid to dislocated workers. In times of a slow economy, many hardworking Americans are forced from their jobs through no fault of their own. It is of the utmost importance that we provide the support these hardworking Americans deserve. This package provides around 20 billion dollars in aid to these displaced workers, which includes a measure that will provide a 13 week extension to unemployment benefits, supporting American individuals and families in their time of financial hardship. This also provides support to Medicaid. This assistance is a temporary and much needed helping hand to those whose families and way of life are currently threatened by the recent economic downturn.

When we have taken care of these dislocated workers, we must look forward to what lies beyond the realm of short-term relief. History has shown us time and time again that overall economic growth is one of long term planning. Here we have the opportunity to provide the economy with a short and long term boost via a 10 year investment stimulus package. This would provide almost $160 billion worth of support, through the year 2011, to small businesses and taxpayers. This package calls for increased tax cuts for individuals, $60 billion of tax relief in Fiscal Year 2002 and $112 billion over the next

10 years. This package will provide health care tax credits so that displaced workers and their families do not go without medical coverage. Furthermore, this package provides increases in investment opportunities and net operating loss flexibility for small businesses.

This package, aptly named Economic Stimulus and Aid to Dislocated Workers, is a good start. In the future, we will need to return to these issues. We will need to provide more incentives for long term economic growth and development. But our immediate action on this package is crucial. We must act now, we must pass this stimulus bill before Christmas, because this is what the American people need and deserve. I have commended my colleagues on the passage of the education school reform bill; a bill that leaves no child behind. We must now ensure that American families, workers, and the temporarily unemployed are not left behind. The President proposed an economic security package in October. Now I stand before you in December and tell you that the American people can wait no longer. We must support our economy and our unemployed workers now. I humbly ask my fellow Senators: Put aside your differences and vote in unison for the economy, for hardworking displaced Americans, and for the American family.

Mr. KERRY. Mr. President, at a time when so many Americans are out of work, with out Nation at war and with, appropriately, calls for national unity, I regret to say I have to come to the floor to address what I feel is the ultimate breakdown on unity. Rather than delivering a responsible stimulus package that is targeted and temporary, my colleagues on the other side of the aisle have been working overtime to turn a legitimate policy debate into a personal exercise in demonization. They have worked hard to turn a battle of ideas into a battle of name calling. And their focus has been our leader TOM DASCHLE. They have called him obstructionist—partisan—divisive—and worse.

Now let me make clear for the record, I'm not worried about TOM DASCHLE. He's tough and resilient like the South Dakota prairie. He won't buckle, he won't shrink from their charges, and TOM DASCHLE knows that truth wins out in the end. He knows that what a different wartime leader, Abraham Lincoln, said is still true: "If the end brings me out all right, what is said against me won't amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference." By that measure, TOM DASCHLE will do just fine. But let's be honest. This really isn't about TOM DASCHLE. It's about a Republican Party that knows their agenda won't stand up to the light of day and so they need to make the debate about something else.

Can't pass drilling in an Arctic Refuge on its merits? Then do it because you're patriotic. Can't do that? Attach it to a ban on human cloning. Have that cynical effort rejected almost unanimously, then just blame the Democratic Leader. Can't ram backloaded, retroactive corporate tax giveaways through Congress while ignoring workers? Well, that must be because TOM DASCHLE is a partisan. Better to demonize the Democratic leader than acknowledge that your stimulus bill is unacceptable because it won't stimulate the economy. Better to attack TOM DASCHLE than admit that your bill is an insult to the working, everyday Americans who've been honored in words countless times since September 11th but insulted by the first so-called stimulus bill that the Republican House passed by one vote. Then, Senate Republicans prevented a vote on a balanced package put together by the Fiance Committee.

Now, the House is set to vote on a supposed "bipartisan compromise"—"bipartisan" because it may likely get 51 or 52 votes here in the Senate. But it is not a stimulus bill. It's a tax cut bill that will spend $211 billion over the next five years, with more than half of that cost coming after 2002, when the administration believes that the economy will have already recovered. A "bipartisan" bill is not one that barely gets enough votes for passage. A bipartisan bill is one like the education bill we passed yesterday, which received 87 votes. We were statesmen when we passed—almost unanimously—an emergency spending bill, a use-of-force resolution, a counterterrorism bill, an airline industry bailout, and an airport security bill that will make the skies safer for millions of Americans. But in a Senate as closely divided as this one, to call a bill "bipartisan" that gets two or three Democrats to vote for it is laughable.

There are still other ways in which statesmanship can be exercised. Statesmanship can be resisting bad ideas that take advantage of national emotion to do unacceptable special interest favors for a favored political constituency. That, regrettably, is what the Republican stimulus bill is all about, although they will tell you it is for workers. But they do nothing to expand unemployment insurance to the many thousands of laid-off workers who are not currently eligible for benefits, and their ideas for health care simply will not work. And so we find ourselves divided—not because TOM DASCHLE is an obstructionist, but because a decades-old partisan agenda which was on its last legs before September 11th has been revived under the guise of economic security. Average Americans are being denied unemployment insurance and health care because Republicans want to hold out for more for those who are doing fine as it is. So we have an impasse—we are fighting for everyone to be treated fairly—they're fighting to reward those already rewarded with no guarantee it will be spent or invested in a way that has any immediate stimulative impact on an economy that needs it. No wonder they'd rather just attack TOM DASCHLE—it is easier than dealing in the truth and moving this economy forward and helping America's workers.

It doesn't need to be this way. In early October, three weeks after the terrorist attacks, Democrats and Republicans in the House and Senate agreed to a list of bipartisan principles for stimulus. These included the belief that the package should be temporary, help those most vulnerable, impact the economy quickly, be broad-based, and include out-year offsets. The Republican leader of the Ways and Means Committee in the House abandoned those bipartisan negotiations in order to push through his own partisan package by one vote. It is his truculence, and the insistence of the Republicans that we reduce the corporate Alternative Minimum Tax and cut individual tax rates even more than we did in June, that have led directly to the situation we find ourselves in today.

Mr. President, 700,000 Americans lost their jobs in October and November alone. The unemployment rate is not at 5.7 percent. The country is at war, we have an economy in negative growth, and we are on the verge of returning to an era of deficits after finally putting our fiscal house in order. We should not be passing large, permanent tax cuts unless we can be certain that the cuts will have a stimulative impact. The tax cuts proposed by most Republicans would not have that effect, since most of the costs occur after 2002. Again, this is not a stimulus bill—it is a $200 billion tax cut disguised as a stimulus bill. I still hope that the Senate can work to develop a bipartisan agreement, and I commend my leader for his continued efforts. We owe it to working Americans everywhere to pass a responsible bill. We know that a real stimulus bill should contain some tax relief for businesses, provided that it will help spur new investment or address temporary cashflow concerns. We know that we should provide some temporary tax relief to those families who are likely to spend the money, thus helping generate some additional demand. We know that we need to help unemployed workers make ends meet, and make sure that they don't lose their health insurance as a result of the ripple effects from the terrorist attacks of September 11th.

And we know that we need to temporarily offset some of the impact of the current downturn on the states, by increasing the federal Medicaid matching rate, or FMAP. Let's be clear: Laid-off workers cannot contribute to economic recovery. The answer is not to sit back and wait for economic benefits to trickle down to workers already thrown off the job. Instead we must invest in health care, unemployment insurance, and worker retraining to help put money in their pockets and bring dislocated workers back into the economic mainstream of this country. We need to do that even if we can't agree on how to boost the economy through tax cuts. That's why I introduced the Putting Americans First Act, to take these worker protections out of the stimulus debate and provide a guarantee of immediate relief for those who have been hurt by the economic recession. The legislation would empower the states to expand unemployment compensation and health insurance coverage and provide help to states in which welfare caseloads are sharply increasing.

Common sense and common decency tells us now is not the time for a corporate grab-bag of tax cuts, or for revisiting a debate about future marginal tax rates—particularly when these rate cuts would do nothing for more than three-quarters of the population. It is incumbent upon us to act in the best interests of our country as a whole, not in the interests of a select few. All Americans want to see this economy get moving again, and no Americans want to see this country begin a new chapter in our history where we hold back health insurance and unemployment benefits in tough times because Democrats won't agree to further permanent tax cuts.

Let's put things straight and meet the objectives of the American people and not the objectives of an ideological minority, and let's stop demonizing those who disagree with us. We owe the American people better than what they have been given at one of the most important times in our Nation's history, and it's time the Congress delivered.

Mr. HUTCHINSON. Mr. President, there is no question that we are now in the middle of a recession. Even before the terrorist attacks 3 months ago, economic growth had slowed dramatically and unemployment was rising. Since September 11, the number of payroll jobs has declined by an average of 314,000 per month, unemployment has increased by an average of 392,000 per month, and consumer confidence is at its lowest level in 7 years.

In response to their pessimistic mood and uncertainty about the future, consumers stayed away from shopping centers and retail sales fell by 2.4 percent in September, the largest one-month drop since 1987. In Arkansas, more than three-fourths of employers indicate they have no plans to expand in the next 6 months, whether by adding jobs, making capital investments, or seeking new business opportunities. On October 5, the President publicly urged Congress to send him an economic stimulus package that encourages consumer spending, promotes business investment, and helps dislocated workers.

The House of Representatives has now twice passed economic stimulus legislation. I ask you, Mr. President, how many more Americans have to lose their jobs? How many more businesses have to file for bankruptcy? How many more families do we have to see turned away from their own doctor's office because their medical insurance has run out before we put petty politics aside and do something to help those that so badly need our help.

I have received hundreds of letters, e-mails, faxes, and phone calls from people all over my home State of Arkansas, as I'm sure have all of my colleagues, from people who need our help and need it now. Take for example an e-mail I recently received from a constituent in West Memphis who wrote:

> I am one of the 450,000 Americans who were laid off before the September 11th attack, and I am going to need extended unemployment benefits.
>
> My plant in Forrest City is in the process of closing. My last day was July 27. Since then, I have spent several hours a day trying to find another job. Things are tough right now. Plus, I have another problem—I am a few years away from retirement. I'm too young to retire but too old to get another job. I know that age discrimination is against the law (wink, wink), but the truth is that not even the government will hire a sixty year old.
>
> In a couple of months, my $300 a week unemployment will run out. When that happens, I will have to dip into my retirement funds—if there's anything left by then—to pay the bills. An extension of benefits will help some, and would be appreciated. What I want more than government help, however, is a job.
>
> If your staff knows of agencies, websites, etc., which specialize in senior jobseekers' need, I would appreciate knowing about them. I have a lifetime of knowledge and experience to offer a company, and I have kept up with the latest philosophies of manufacturing, as well. There are just more people than jobs right now.
>
> This is NOT how and when I expected to retire!
>
> Best Wishes—Mike

Some simply write and say: "Please, I urge you help get an economic recovery bill passed now."

While each person has their own individual story to tell about the effects this recession is having on them, they are all saying the same thing: We need help now! We don't have time for you to play politics with this one. People's lives and livelihoods are at stake.

One of, quite possible, the only good things to come out of the horrific terrorist attacks that occurred on September 11th is that we saw, even if for a limited time, real bipartisanship occur here on Capitol Hill. Well guess what . . . the American people saw bipartisanship in action and now expect it, and deserve it, every day. Bipartisanship was once a word that was only spoken by those in political office. It is now being used by nearly every person that contacts me. We need to listen to these people and do what they sent us here to do. We need to work together today, not a month from now, and send to the President an economic stimulus package before we go home for the year.

A constituent of mine recently wrote me and said: "Please quit bickering and pass an economic stimulus package. Senators, it seems that the 'ball is in your court'. Thank you, and God Bless America." I think he summed it up rather nicely.

Mr. President, the ball is in our court, and we need to do something with it. We need to pass an economic stimulus package today.

Mr. ROCKEFELLER. Mr. President, I rise today to express my serious disappointment that we could not reach agreement on a stimulus package that would both help America's workers and encourage immediate business investment to strengthen our economy. I intend to keep fighting for real help for the workers who have lost their jobs and need health care coverage until they get the assistance they need.

I think an economic recovery package is still important work to do. Had my Republican counterparts been willing to stay at the negotiating table and keep talking, I would not have left my post until we reached agreement. As a conferee on this unique Leadership Conference, I am especially disappointed that our work was abandoned by the Republican Leadership.

Unfortunately, the House Leadership chose to walk out on the tough work of negotiation and move a partisan bill that includes numerous, multiyear tax cuts for corporations and for the wealthiest Americans. The House bill would do little to actually stimulate our economy and would not provide real health care coverage for workers in need of meaningful assistance to retain their health insurance.

Moreover, from what I can learn of the legislation which passed just hours ago, it will have significant costs after 2002, as much as $67 billion. That means substantial deficit spending to finance corporate tax relief and additional tax cuts for the top 25 percent of all taxpayers. Nearly 80 percent of West Virginia taxpayers would not get a dime from the tax rate changes proposed by the House Republicans, and to add insult to injury, their payroll taxes would pay for the corporate tax breaks. I cannot support raiding billions of dollars from the Social Security and Medicare Trust Funds.

Nearly a million people have lost their jobs in recent months as a result of the economic downturn that was exacerbated by the September 11 terrorist attacks on our Nation. Those families deserve the help that the Senate Finance Committee package provided, substantial help to pay for health insurance that they can count on and a temporary extension and improvement of unemployment benefits, which includes improved benefits and makes part-time and low wage workers eligible. Unemployed Americans deserve access to affordable health care and to unemployment benefits as they seek new employment.

I deeply regret that the House Leadership conferees could not, or I should say, would not, accept the Senate's worker package that provides immediate, but temporary health care coverage for displaced workers and extended and improved unemployment insurance. The House approach on health care was inadequate and unworkable. It would not have guaranteed health care coverage to a single solitary worker. It failed to include needed reforms to the insurance market to make insurance affordable, or to ensure that a decent benefit package was available.

I am deeply frustrated that the Republican conferees wanted to leave workers at the mercy of the insurance industry. Under the House bill, workers would have had to, on their own, seek affordable coverage on the current, failed individual market, armed with limited resources and zero leverage. Older and sicker workers would have been left entirely out of luck with that kind of approach. I am frustrated that House Leaders insisted on promoting their ideology over existing programs that could have been used to provide reliable health care coverage to workers who need it.

I believe our economy would benefit from additional stimulus in the form of 1-year business incentives and additional individual tax cuts for those taxpayers who were left out and did not benefit from the rebate checks last summer. I believe we could have come together on a package that would have helped workers even as it provided business tax cuts like bonus depreciation and expensing for small businesses. We could have helped many businesses who are having a hard time in this economy by extending the carryback period for net operating losses, NOLs. I also firmly believe we could have reached accommodation on the issue of AMT relief, if only the House Leadership had been willing to accept real health care and unemployment coverage as part of the package.

But the House chose to move forward with a plan that consists primarily of tax cuts, not help for the workers who have been promised for months, promised by both the President and Congress, that we would attend to their needs after the tragedy of September 11. Instead, the House bill's cost over both 5 and 10 years is over 90 percent tax cuts. Less than half of those tax cuts would come in 2002 because it is a back-loaded plan, not the temporary stimulus measure Congress and the President had mutually agreed was the goal of a stimulus package. Common sense tells us that tax cuts in 2003 don't stimulate the economy during our current downturn. There is strong evidence that the House's proposed tax cuts to higher income individuals would not stimulate the economy in the out years, either, because wealthier individuals tend to save rather than spend.

Finally, the House bill does not sufficiently address the desperate financial conditions of the States, or the fact that some of the business tax provisions in the bill will actually mean the States lose billions in revenue. The House bill, as far as I can estimate, does not even offset those costs. States are facing a collective, roughly $50 billion deficit, and experts believe the House bill will cost States. Estimates are that West Virginia alone could lose $35 million in State revenues because of policies embedded in the House Republican package. That means West Virginia and other States would be more likely to cut health care to the poor and other low income programs just when the economy makes the programs most essential.

In sum, workers did not get the help they need or deserve from the House Republicans' bill. They did not get the consideration they deserve from the House Republican Leadership. And some useful business tax incentives, that combined with additional assistance for the unemployed, could have effectively stimulated our economy, won't pass this year.

I had hoped we could have put our partisan and ideological differences aside to speed relief to workers and our ailing economy. I will not give up until we help the people who are waiting to get their fair share of Federal assistance, just as other sectors of our economy have been provided with Federal aid in this unusual time.

Today, in an effort to at least provide a short-term extension of unemployment benefits to workers on the verge of running out of assistance and facing the holidays, the Senate Majority Leader asked unanimous consent to take up and pass a 13-week extension of existing unemployment benefits. He asked for a one-time, 13-week extension of existing benefits, no benefit improvements, no expanded eligibility, just a straight, short-term extension.

The Senate Republican Leader objected to that request, despite the fact that we have frequently extended these unemployment benefits in the past. That tells you something about why the stimulus conference did not produce legislation. American workers are still waiting for the help they need.

2001 IN REVIEW: A SENATE (MOSTLY) EQUAL TO THESE HISTORIC TIMES

Mr. DASCHLE. Mr. President, we are all tired. This has been a long day in what has been a long week and a long session. But before we go our separate ways for the holidays, I want to thank my colleagues for the support and kindness they have shown me during my short time as majority leader.

I thank our staffs, the many hard-working men and women who enable us to do our jobs—from the Capitol Police to the Official Reporters who transcribe our debates, the people in the cloakroom, the people who serve our meals, the doorkeepers, the pages, and so many others. The public may not know their names, but we know the Senate could not function without them.

On a very personal note, I want to say a special word of thanks to my own staff. In the last 3 months, they have experienced the horrors of September 11 as we all did, but they have undergone an additional challenge few of us ever have, or will, face.

Two months ago my staff, along with members of Senator FEINGOLD's staff, and law enforcement officers, were exposed to lethal levels of anthrax when a letter containing that deadly bacteria was opened in my office. I am pleased to report that they are all healthy today, and I am proud to say that they have continued to work throughout all of this time.

They are victims of terrorism. Yet they have spent the last 2 months dedicated to the effort to protect the rest of America from a truly similar fate. Their courage and their grace is truly heroic and a source of inspiration to me.

They are extraordinary people who have endured extraordinary circumstances. I could not be more proud of them.

We started this year appropriately in unusual circumstances. For 17 days between the day this Congress was sworn in and the day President Bush was sworn in, Democrats held the majority in the Senate. I joked back then that I intended to savor every one of my 17 days as majority leader. As it turns out, those days were just a preamble.

For nearly 6 months now, I have again had the rare privilege of serving as majority leader of this Senate. While I can't say I have enjoyed every day of these last 6 months—our country has experienced too much sadness for that to be true—I am honored to have had the chance to work with all. I am proud of much of what we have been able to achieve together.

We made history this year, not just once, but over and over again. It was a year ago this month that the Supreme Court issued its ruling—the first time in history that the Supreme Court had intervened to settle a Presidential election. We started this Congress last January as the first 50-50 Senate in our Nation's history. Some observers predicted we would never be able to agree on a plan to divide power fairly and efficiently, but we did.

Then in late May, Senator JEFFORDS made his historic and extraordinary decision to leave his party and become the Senate's only officially Independent Member. Never before had majority control of the Senate changed on the basis of one Senator's decision. Again, we made history, and we made it work.

Then came the horrific morning of September 11. Even now, more than 3 months later, it is hard to imagine the magnitude of that loss. If you read one name every minute, it would take more than 3 days to read the list of all those who died on September 11.

A little more than a month later, the anthrax letter was opened in my office. The Hart Building became the site of the largest anthrax spill anywhere, ever, and the largest biological weapons attack in our Nation's history.

More than once during these 6 months I have found myself thinking about the words of America's second President, John Adams.

In 1774, John Adams wrote in his diary of his concerns over the quality of the members of the Continental Congress. "We have not men for these times," he worried. "We are deficient in genius, in education, in travel, in fortune, in everything."

That is how our Founders saw themselves: deficient in almost every way. Yet they went on to create the world's greatest experiment, now the world's oldest democracy.

I suspect we have all wondered, at least once or twice since September 11, whether the men and women of this Senate are equal to these times. It would be hubris not to wonder.

As this year ends, we can take some pride knowing that we were largely equal to our times.

In the days following the attacks, we demonstrated greater unity than I have ever experienced in my years in Congress. We worked with each other, and with the President, for the good of the Nation.

We gave the President the authority to use force to defeat terrorism.

We gave law enforcement new tools and authority to pursue terrorists.

We passed billions of dollars in emergency aid to help the communities and families and business devastated by the attacks of September 11th rebuild and recover.

We also passed legislation to keep the airlines flying—and to make airports safer.

Those measures will help our nation recover from the terrorist attacks, and help prevent future attacks.

We also passed other important measures.

Earlier this week, we sent the President a new, bipartisan bill to strengthen America's public schools. The new No Child Left Behind Act marks the first major overhaul of our Nation's education system in more than 35 years.

It is a blueprint for real educational progress that includes good ideas from both parties. More importantly, it reflects the experiences and the needs of America's schoolchildren, parents, teachers, employers and many others who care deeply about America's schools.

We can all take some pride in having been a part of those bipartisan successes.

At the same time, we must acknowledge, there have been occasions on which we were not equal to our times. There have been too many instances when partisanship has prevented us from doing what needs to be done. That is deeply regrettable.

We should have passed a genuine economic recovery plan to lift up America's economy and help laid-off workers. In the first weeks after the terrorist attacks, we worked together to craft such a plan. Even after Republican leaders walked away from that bipartisan effort, we continued to try to reach out to them.

We compromised repeatedly on the details of our proposal—all to no avail. In the end, we could not accept a plan that takes $211 billion out of Social Security and gives most of it, in the form of tax cuts, to the wealthiest individuals and corporations in this country. And our colleagues would accept no less.

We should have passed a farm bill this year.

We talk a lot about families that have fallen on hard times in the last year, especially those who are economic victims of September 11. And we should be concerned about these families.

But what about America's farm and ranch families? The recession didn't start two quarters ago for them. They have been battling near-Depression conditions in the farm economy for years now.

Prices for many commodities are lower today than any time since the Government started keeping records, back in 1910.

If you don't know who these families are, come to South Dakota. You'll see: they are some of the hardest-working people in this country. And they need our help.

We didn't pass a terrorism insurance bill.

We didn't finish work on the Patients' Bill of Rights. It is stuck in a conference committee—along with campaign finance reform.

We didn't increase the minimum wage.

We didn't pass real election reform to protect the right of every American to vote and have that vote counted.

As we leave for the holidays, I want to say to my colleagues, and to the American people: We recognize that these are critically important issues. They will not go away. When this Senate returns next year, these are among the items that will top our agenda.

Senator STABENOW spoke earlier today about an idea some of her constituents proposed to her. They suggested America create "living memorials" to the victims of September 11. These "living memorials" would take the form of community service projects. Through them, the love and courage of the people who died on September 11 will continue to live on.

It is a beautiful and fitting way to remember the victims. I encourage all of my colleagues to support it.

But there is perhaps an even more fitting way for us to remember the victims of September 11. We must recapture the spirit of bipartisanship that allowed us to accomplish so much together in the first weeks and months after the attacks.

The rescue workers did their job.

The firefighters continue to do their job.

We must put aside the partisanship and do our job.

Again, I thank my colleagues for what we were able to do together this year. And I wish them, and the American people, a peaceful holiday season.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I ask that I be allowed to speak for about 20 minutes.

The PRESIDING OFFICER (Mr. CORZINE). Without objection, it is so ordered.

ENERGY

Mr. MURKOWSKI. Mr. President, I very much appreciate the remarks of the majority leader. He indicated that we should have passed a farm bill. We should have passed an energy bill as well, Mr. President. Unfortunately, the majority leader did not mention that.

I think it is fitting to once again discuss the priorities that were laid before this body by our President—trade promotion, stimulus, energy legislation.

So as we look at where we are in the Senate today, clearly, we have not been responsive to our very popular President, nor have we been very responsive to the Nation. Indeed, we labored several days on the farm bill. Some have suggested that perhaps it is easier to address the extended benefits associated with that farm bill than the realities associated with our increased dependence on foreign oil.

As I look at the session we have just completed, I think many of my colleagues would agree that as we look at the completion of the year and the realization that we are coming back next year, we should review in some detail just what progress has been made relative to the priorities that were laid by our President before this body.

When this Congress began, I introduced a comprehensive bipartisan energy measure with the senior Senator from Louisiana, Mr. BREAUX. Later, the ranking member of the Energy Committee, Senator BINGAMAN, along with Senator DASCHLE, introduced legislation that touched on many issues that were covered in our bill. That was March.

Shortly thereafter, Senator DASCHLE indicated that those problems, and more, demonstrate the overwhelming need for a new and comprehensive energy policy. America is faced with a grave energy policy that will get worse if we do not act. Prior to the Memorial Day recess, the Committee on Energy and Natural Resources had almost completed its hearing schedule and we were discussing dates to mark up comprehensive energy legislation. Again, the majority leader was supportive. On May 16, he stated:

> The problem needs comprehensive attention and the problem needs bipartisan solutions. We are concerned about the lack of consultation to date. There has been none. There doesn't appear to be any real sense of urgency here.

I find that a rather curious statement since the only bipartisan measure remained one that I had introduced with Senator BREAUX of Louisiana, and I was receiving complaints about how aggressive was the hearing schedule we were holding.

In May, we received the administration's comprehensive national energy policy, and both the Senate and the House began to prepare for debate on comprehensive, bipartisan, national security energy legislation. We were pressured, perhaps, because the House had done its job. It had reported out its bill, H.R. 4, the energy bill. I stated that I was committed to bringing a bipartisan measure out of the Energy Committee in time for the debate prior to the July 4 recess.

Then, of course, we had a little change of control here, and our current majority leader didn't seem quite as anxious or concerned with energy legislation. The Committee on Energy and Natural Resources, rather than proceeding to a markup, either on my bipartisan measure or the new chairman's more limited bill, suddenly began to repeat hearings—in one case, hearings from the same witnesses who had appeared before us only a few weeks previously.

The majority leader still indicated a willingness to proceed even if it did not have the same sense of urgency. So on July 31, the majority leader stated:

> The Democratic caucus is very supportive of finding ways with which to pursue additional energy production. I think production has to be part of any comprehensive energy policy.

This was encouraging since the only bipartisan bill that I had introduced included significant domestic production.

In retrospect, we all should have known that when the majority leader got around to finally introducing energy legislation, as he did several weeks ago, the only production that he would be supporting would be, evidently, foreign production from Iran and elsewhere in the OPEC nations, and the only jobs and economic stimulus created would be in Canada, as he indicated support for a pipeline, not specifying the route and as a consequence, obviously favoring the alternative in Canada, which is very much opposed by my colleagues, Senator STEVENS, Representative YOUNG, and the Governor of the State of Alaska.

My point is, in their legislation they left the route selection neutral, and this is the one favored by the Canadians. On August 1 and 2, the Committee on Energy and Natural Resources finally began consideration of research and development provisions of energy legislation. The majority leader even announced on August 1:

> There is a great deal of interest in our caucus in moving a comprehensive energy bill in the early part of the fall. The Energy Committee is going to be completing its work about mid-September.

He was certainly correct in stating the Energy Committee would be completing its work in mid-September, but little did we know what he meant was that he intended to shut down the committee and prevent us from reporting comprehensive bipartisan energy legislation.

When we returned in September and our schedule then continued to slide, the majority leader once again said on September 6:

> I have indicated all along that it is our hope and expectation to bring up energy before the end of the session, and that is still my intention.

Like Charlie Brown, once again we believed that Lucy would not pull the football away, but that was not the case. But it was fall and it was football season, and the majority leader finally pulled the plug on the pretense of concern.

It has always been clear that a bipartisan majority of the Committee on Energy and Natural Resources has been ready and willing to report comprehensive legislation with a balance of conservation efficiencies, research and development, and domestic production.

When we on both sides of the aisle stated and indicated our intent to press for a firm schedule to report the legislation, then the majority leader, which in my opinion was in defiance of the rules of the Senate and of the Committee on Energy and Natural Resources, simply shut the Energy Committee down.

I have been around here 21 years, Mr. President. I have never heard of that particular initiation by a majority leader of shutting a committee down.

On October 9, without consultation or advance notice, the members of the Committee on Energy and Natural Resources were told they were irrelevant and would not be allowed to consider any legislation for the remainder of the session.

I read from a press release from the chairman of the committee, Senator BINGAMAN:

> At the request of the majority leader, Senator DASCHLE, the Senate Energy and Natural Resources Committee, Chairman JEFF BINGAMAN, today suspended any further markup on energy legislation for this session of Congress.

I remind my colleagues, there is no provision in the Senate rules for the majority leader to abolish the work of a standing committee by edict. That is what happened. The rules of the Senate require each committee to meet at least once a month before the Senate and while the Senate is in session to address the business of the committee.

The Committee on Energy and Natural Resources has not met in business session since August 2. The business of the committee is, among other things, energy. I wonder the reason for the reluctance of the majority leader. Was he fearful the Energy Committee might report bipartisan legislation, for certainly no amendment from this Senator or any other Republican could be reported without some support from the Democratic side. It is clear the Democrats control the committee by a 12-to-11 ratio. I can only guess perhaps the majority leader would have been better off requiring the committee to approve any amendments perhaps by two-thirds of the Democratic members, as he seems to have set on other issues.

It has now been 4½ months since the Committee on Energy and Natural Resources has held a business meeting, and we are no closer to consideration of comprehensive legislation than we were when the majority leader assumed control of the Senate.

The majority leader has indicated and has finally introduced a warmed-over version of the legislation that he cosponsored almost 9 months ago. The majority leader has again perhaps indicated that he intends to move energy legislation if there is time. Clearly, there is no more time. This is it. We are out.

On the other hand, he has indicated a willingness when we return to take up energy sometime in January or February. Now we hear we are going to go back to an Agriculture bill. We have asked the majority leader to give us an indication of his willingness to take up a bill and give us an up-or-down vote on it, but the indications are we are going to have to have 60 votes.

It is extraordinary that this body in times of national security and the tremendous activity associated with the

Mideast, the OPEC nations, Israel, Afghanistan, Iraq, as we look to those areas for our security interests, would have to have a dictate, but 51 votes on the issue will not do it. We are going to need 60 votes.

We are going to get those 60 votes if that is what it takes, but I do not know of another time when the national energy security of the Nation was at risk requiring more than 50 votes. A simple majority evidently will not do.

Let me make it clear to the majority leader—and I have the greatest respect for him—I am prepared to come back and spend day after day, night after night debating an energy policy in this Senate and get the job done. This is a priority of our President, a priority of our Nation, a priority of our veterans, and a priority of our labor groups.

A few weeks ago both the President and Vice President called for the Senate to end this partisan charade and address energy legislation.

The President said in a radio address not so long ago:

> Last spring, I sent to Congress a comprehensive energy plan that encourages conservation and greater energy independence. The House has acted. The Senate has not.

The President of the United States is correct. Rather than a spirited debate on comprehensive energy legislation, reported from the Energy Committee, developed in an open process, the majority leader has savaged the reforms of the 1970s to craft partisan legislation behind closed doors with only selected special interests allowed to participate.

There is a process to get advice from members of the Energy Committee, and that is in a business meeting. When the majority leader says his legislation represents input from the Energy Committee, he is not being accurate. Make no mistake, the Energy Committee has had no input on this legislation that has been introduced by the majority leader. I accept that the bulk of the bill was drafted by our committee, but the chairman is not the committee, and it is clear neither he nor our majority leader evidently trusts the makeup of the committee to address it in a bipartisan manner and vote it out.

The reforms of the 1970s were designed precisely to curb the dictatorial powers of committee chairmen, as our distinguished President pro tempore noted in his history of the Senate.

The Vice President hit the nail on the head a few weeks ago in his discussion with Tim Russert on "Meet the Press" when he said:

> But there is a disagreement with respect to Senator DASCHLE on energy. The House of Representatives has moved and passed an energy bill last summer. The Senate has not acted. Tom pulled it out of the Energy Committee so they are not considering in committee an energy bill at this point. The House has passed a stimulus package. The Senate has yet to act. The House just passed trade promotion authority. The Senate has yet to act. In the energy area, it is extraordinarily important that we move for energy security, energy independence. We are never going to get all the way over to energy independence, but given the volatility of the Mideast and our increasing dependence on that part of the world for oil, it is important we go forward, for example, with things like ANWR.

I am embarrassed at the lack of action of this body as we conclude this year in not having taken up an energy bill. I grant the farm bill is important, but the farm bill is not about to expire. We do not have an energy bill in this country. We should have an energy bill.

I assume the majority leader will continue to find items he thinks are more important than our national energy security. We have seen it: Railroad retirement, raising the price of milk to consumers through dairy compacts. As I indicated, next year we are going to address this issue and we will seek votes on the issue. I do not believe, on behalf of our constituents, we should duck these difficult decisions. I know the majority leader shares those views as well.

Some time ago, this body voted to initiate sanctions on Iran and some other nations in the Mideast that produce oil because we were not satisfied with their record of human rights, we were not satisfied with their record of full disclosure relative to the development of weapons of mass destruction. I proposed an amendment to include Iraq. At the time during the debate, the majority leader committed to me he would at some time give me an up-or-down vote.

I have communicated with the majority leader and asked him for the up-or-down vote. I have not received a response. I hope I will receive a response very soon because I think it is important to recognize the situation with regard to Iraq. We know Saddam Hussein is developing weapons of mass destruction. We have evidence of that, even though we have not had a U.N. inspector in that country for some time. We know he smuggled the oil.

Many Americans perhaps do not recognize we are importing nearly a million barrels of oil a day from Saddam Hussein, yet we are enforcing a no-fly zone over that country. We are putting the lives of many of our young men and women at risk.

What is he attempting to do? He is attempting to shoot down our aircraft. He has almost succeeded, but it almost seems as though we take his oil, put it in our aircraft, enforce the no-fly zone, which is like an air wall blockade. What does he do with our money? He pays the Republican Army, develops a weapons capability, a biological capability, and aims it at our ally Israel. It is beyond me why this Nation and our foreign policy should rely on Saddam Hussein and Iraq for our energy needs when we have the capability at home.

Finally, I think it is interesting to reflect on where we are in the economic stimulus. We could not reach a conclusion. Yet our economy is in recession. We need a stimulus. It would help get us back on the right track.

The discussions have focused on this for some time. We have talked about "immediate." We have talked about "temporary." We have talked about the creation of jobs, increasing consumer spending or otherwise increasing domestic product. I think we make a big mistake if we only focus on those stimulus ideas that are of a temporary nature. We should also focus on stimulus elements that will ensure the long-term economic growth of our country. Otherwise, we will have to come to the Senate at the end of each economic cycle and perhaps have this debate over again.

One such permanent stimulus would be the establishment of a national energy strategy that ensures energy prices that remain constant, affordable, reliable sources of energy which play an important role in fostering economic growth and development.

We have seen high prices. We have seen sectors of our economy. We have seen the situation in California. We have seen increasing costs. We have seen the development in the OPEC countries of a cartel where, when they want the price to go up, they decrease the supply.

High energy prices reduce consumer disposable income, reduce spending, and inhibit economic growth. Our friend Martin Feldstein, the former Chairman of the Council on Economic Advisers, noted since the end of World War II economic downturns have coincided with energy price increases. This most recent economic downturn is no exception. We have seen a rapid increase in oil prices occurring the first half of this year, followed by similar increases in natural gas and electricity.

The result of data from the Bureau of Economic Statistics shows that while the GDP grew at 5.7 percent in the second quarter of 2000, the most recent data showed the GDP has declined by 1.1 percent for the third quarter. So I think we acknowledge we are in a recession.

This is consistent with findings of the National Bureau of Economic Research that, on an average, for every 10 percent increase in oil prices, economic output falls by 2.5 percent, real wages drop by 1 percent, and increases in oil prices reduce the number of hours worked and increase unemployment.

We recall what has happened over a period of time, and as a consequence of that we could generalize that high prices for energy and natural gas cause significant impacts on those sectors of our economy that do not depend on oil.

America and the world move on oil. We have other sources of energy for electricity. We have seen impacts across the board. Energy spending by American families increased by nearly 30 percent in 2000. Heating bills tripled for many Americans, particularly in the Northeast. Small businesses had a great increase in costs associated with energy. We have seen this. Thousands of jobs were lost. These high energy prices were the result of one unavoidable fact: Our energy supplies failed to meet our growing energy demands.

For 10 years following the passage of the Energy Policy Act of 1992, U.S. demand for energy increased over 17 percent, while total energy production increased only 2.3 percent. By the end of last year, we had simply run out of fuel for the sputtering American economy. That has changed as a consequence of the tragedy of September 11, but it will not stay that way. OPEC will initiate the cartel to again decrease supplies.

We have seen what happened to our economy as a consequence of energy price increases. We know a national energy strategy that balances supply and demand could reduce threats and future recessions. Alan Greenspan noted on November 13:

> As economic policymakers understand the focus on the impact of the tragedy of September 11 and the further weakening of the economy that follows these events, it is essential that we do not lose sight of policies needed to ensure long-term economic growth.
>
> One of the most important objectives for those policies should be assured availability of energy.

As a consequence, the U.S. relies on foreign imported oil with more than one-half of its petroleum needs. Much of this comes from the Middle East, Saudi Arabia, Iraq, and Kuwait.

Consider the consequences of the oil embargo in 1973. At the time, tensions ran high in the Middle East. Then we were involved in the war on terrorism.

It makes sense to consider our energy security in the context of an economic stimulus package. We have not done that. It makes sense to ensure our economic security by ensuring the availability of affordable energy supplies.

One aspect we have not considered in this equation is the contribution of ANWR. Talking about stimulus, there is hardly any single item we could have come up with that would have been a more significant and genuine stimulus package than opening ANWR in my State of Alaska.

What would it have done? It would have created $3.3 billion in Federal bonuses, money that would have come in from the Federal Treasury as a consequence of leasing off Federal land. This would have been paid for by competitive bidding by the oil companies. It was a jobs issue. It would have created 250,000 new jobs in this country.

The contribution of the steel industry is extremely significant, as well. We have a stimulus package not even considered in the debate because we could not have a debate. We did not have an energy bill.

It would have created 250,000 new jobs and $3.3 billion in new Federal bid bonuses. And the bottom line is, not a red penny by the taxpayer. That is the kind of stimulus we need in this country.

As we look at the end of the year, we have to recognize the obligation that we have to come back and do a better job. We need an energy bill. We need it quickly. We need a stimulus in this country. We could and should consider a genuine stimulus that results in jobs that do not cost the taxpayer money, and as a consequence spurs the economy.

I hope as we address our New Year's resolutions we can recognize the House has done its job in energy legislation. We did not do our job in the Senate. I am very disappointed. I am sure the President and the American public shares that disappointment.

We have not been honest with the American people because we have a crisis in energy. Our national security is at risk. We are risking the lives of men and women in the Middle East over this energy crisis. We should address it here and relieve that dependence.

I wish all a happy and joyous holiday season, and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I wish to ask the distinguished Senator from Alabama, Mr. SESSIONS, how long he will be speaking. The reason I ask, I know the Presiding Officer has an engagement. He has to leave within another 20 minutes, from what I understand.

How much time does the Senator desire?

Mr. SESSIONS. Twelve minutes would be sufficient.

Mr. BYRD. Let me deliver my speech. I ask unanimous consent, am I correct that the Presiding Officer needs to leave the Presiding Chair no later than 7:45, or is it 7:50?

The PRESIDING OFFICER. At 7:50.

Mr. BYRD. I ask unanimous consent the distinguished Senator from Alabama may proceed for not to exceed 12 minutes and I will do something not often done around here; I do it quite often. I wait and wait and wait, realizing I can get recognition almost any time I want, but I am usually willing to accommodate another Senator, even if that Senator is on the Republican side. Not many will accommodate me in that fashion, but I am glad to accommodate them.

I ask consent that the Senator from Alabama have not to exceed, say, 10 minutes, after which I be recognized, and that mine be the last speech of the day. I don't mind relieving the Senator in the Chair, so I will ask that the Senator from Alabama go ahead of me.

Mr. SESSIONS. I am delighted to follow the Senator from West Virginia.

Mr. BYRD. I want to make my speech about Christmas in the main. We refer to this as a holiday. It is not a holiday to me. This is Christmas, which is something different. It marks the greatest event that ever occurred in the history of man. It split the centuries in two. There is B.C. and there is A.D. It was a tremendous event. I believe in Christ. I am a Christian—not a very worthy one, but a Christian. I respect those who are of a different religion. I respect those who believe that Christ was a historic figure but not the Messiah, but a prophet. That is all right. They have a right to believe that.

Both would agree that it was a tremendous event. This is something beyond just being a holiday. When someone wishes me happy holidays, I say: No, Happy Christmas.

I want to make a statement about Christmas, so I ask unanimous consent the Senator from Alabama proceed for 10 minutes and I follow him.

I ask the question of the minority, while I am on the floor. Is there an intention on that side of the aisle to seek unanimous consent by Senator BROWNBACK? If there is still the intention to make that request, I want to be here to object to it; if there is not, I may go on my way happy.

I make that consent and I will see to it that the Chair gets relief.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STIMULUS

Mr. SESSIONS. I thank the distinguished Senator from West Virginia. I thank him for his fidelity to his faith and for his fidelity to this Senate and the courtesies and rules that need to be followed to make sure we live up to the high ideals on which this institution was founded. He, more than anyone I know, has taught us the history, and the importance, of what we are about. His courtesy to me, a first-term Senator, is typical of his many courtesies.

I simply say how deeply disappointed I have been that we will be leaving this body before Christmas without having passed a stimulus package. Experts have said a good stimulus package, $75 to $100 billion, would preserve 300,000 jobs in this country. That is a lot of jobs. Those people, if they are working, will be happier. Those families will be happier. The homes will be happier. They will pay taxes. They will pay State and local sales taxes and other taxes. They will pay Federal taxes. It will help us run our government.

But if they lose their jobs, there will be a sadness and an unease in their homes, a difficulty that otherwise would not take place, and the government itself, State, local and Federal, will lose revenue.

It is a big deal if we can affect the economy. I do not think there is any doubt. I have been convinced for a long time in the projections that we could achieve a 1-percent or a half-percent increase in the gross domestic product by passing the stimulus package. That is important. I believe we should pass a bill.

No less than 2 weeks ago I became deeply concerned that we might actually leave this body without a bill being passed. At first I did not think that was possible. We brought up a bill and disagreed, the House had passed a bill, and some here didn't like it but negotiators were working together. The Finance Committee chairman and ranking member, the majority leader, the Democratic leader and the Republican leader, they were all working and talking and surely a bill would pass, I thought. They would work out their differences.

Frankly, I never believed exactly what was in that bill, if it met a few simple principles, would make a lot of difference. Probably, another $100 billion, another $75 billion into the economy we would have made an impact. There was no doubt in my mind if a middle-income family would have gotten a 2-percent reduction in the amount of money withheld from their taxes they would have more money and they would spend it.

Because of my concern, I offered my own bill. As a matter of fact, we were here one night until midnight. I sat around with some colleagues and refined my ideas and four of us introduced a stimulus package. It was simple. It did not have a lot of complexity to it. Frankly, I did not think anybody could find anything wrong with any of it or would object to a bit of it. I said: We offered this bill; let's just vote on that.

It had a number of provisions in it that I thought were worthwhile. My favorite contribution, what I believe in and would like to see accomplished and really needs to be accomplished as part of this package, or it may be more difficult to pass, is the advanced payment of the earned-income tax credit.

The Presiding Officer understands these finance issues a lot better than I, but I can understand a little bit about low-income working Americans. They are at a point with the earned-income tax credit where the Federal Government gives them a tax credit. It is $31 billion a year. It amounts to, for an average family with one child, a $2,000-per-year tax credit. They can get it when they work or on their tax refund a year after they work. Since the earned-income tax credit was designed to encourage work, there has been a strong feeling it ought to go on the wage that they earn.

What has happened, however, is that we have never accomplished that. Only 5 percent of the workers take advantage of the opportunity to get their earned-income tax credit on their paycheck. If it were given to them 100 percent, that would be a $1-an-hour pay raise with no deductions from it. But we have never been able to figure out how to do it.

They finally passed, a day or so ago, an amendment that would allow that to happen, but only 5 percent take advantage of it; 95 percent get their credit the next year.

So it is good public policy, in my view, that they get their credit early. I believe in this time of stimulus, if we would make a conversion and pump in $15 billion or $20 billion extra on low-income people's paychecks, many of whom may be out of work for a while, get another job, lose work and find another job, they would have more money to take care of their families with and it would not cost the budget of the country, the Treasury of the country; any money in the long run. It would shift about $15 billion or more into this fiscal year but that money would be from the next fiscal year, and we would have $15 billion left to spend next year. It is good public policy and a superb stimulus that moves money forward and saves money next year.

We would have put in another item. We proposed reducing the median income tax rate from 27 percent to 25 percent. It was planned to be done anyway.

We extended the unemployment benefits, as most of the proposals have, for an additional 13 weeks. We provided insurance and health benefits. We provided a $5 billion fund for national emergency grants for States to help people who have been displaced or lost their job. And we advanced the plans for 1 year for the child tax credit. This child tax credit is a plan that would infuse about $6 billion or $8 billion into the economy for families with children.

Those were some of the provisions we put in that plan. It could have passed. I don't believe anybody would have been upset about it. It had no business provisions in it that would upset anybody. It did have some depreciation advancement.

I say we ought to have done something. That bill, other bills, the bill that almost reached conclusion, the bipartisan approach that passed the House last night, was sent over here, and we did not get a vote. So I am very disappointed.

I believe the leadership of this Senate made a mistake. We were not even allowed to vote on it or debate it. Everybody said we needed a stimulus package, but we never even got to bring the bill up for a vote. We had a number of Democratic Senators and certainly a large number of Democratic House Members who supported this bipartisan bill, and we could have passed it, but we did not and it is a great disappointment to me.

I was pleased the Senator from Alaska discussed the energy bill that did not pass this time, under the very same factors. I was in Mobile Monday of this week. On two different occasions a real estate person and a very fine doctor came to me and said: JEFF, I think you have to do something about the energy situation. We are too dependent on Middle Eastern oil. They have the ability to disrupt our economy and to affect our foreign policy and damage us in ways that we ought to defend against. You need to do something to reduce our dependence on middle eastern oil. That is something I believe in very strongly.

The bill the Senator from Alaska, Mr. MURKOWSKI, has so eloquently argued for has conservation, reduced use of energy, as well as increased production. Both of those steps together will help reduce our dependence on foreign oil. It will help reduce the amount of American wealth that goes out of our country to purchase this substance that it would be better if we could purchase at home and keep that wealth at home.

I believe we have had a number of opportunities to do better. I wanted a farm bill passed desperately. The President has made clear that we do not have a fight over money on the farm bill. We are prepared to honor the $75 billion set-aside in our budget over 10 years for farm programs. But there are some problems and serious disagreements about some of the policy that was in that bill.

We could not get debate on it. Every amendment was rejected virtually on a party line vote, so we ended up not passing an Agriculture bill. We will have to come back and work on that because we need an Agriculture bill. We do not need to go into the summer without an Agriculture bill. So I am sure we will be back on that early next year. But it could have been done this time.

So I will just say there were some great things accomplished this year: the education bill, a bipartisan effort that passed. The tax reduction was a historic empowerment of individual working Americans, a victory for the individual against the State and the power the State has to extract what they earn from them and spend as the State wishes. But it would empower them to utilize the wealth they have earned in the way they choose. If we had not done that, I am confident our economy would be struggling even more today.

I see the distinguished Senator from West Virginia is ready to speak, and I am interested in hearing his remarks. I thank the Chair. I thank the Senator from West Virginia for his time. I wanted to express these remarks before we recessed today.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

THE PRESIDING OFFICER OF THE SENATE

Mr. BYRD. Mr. President, first I thank our Presiding Officer, the Senator from New Jersey. He always has a clean desk. What does that mean? That means he is paying attention to what is going on in the Senate. He is not at the desk reading a magazine or a piece of paper, a newspaper. He is alert. I watched him. This is the way he always presides. That is the way Presiding Officers ought to conduct themselves when gracing that desk in this, the greatest legislative, parliamentary, deliberative body in the world.

He does it with a great dignity and style. I thank him. He sits there many evenings at this hour when most Senators have gone on their separate ways. I thank him.

I thank the other Members of the new class—I say it in that fashion—who have worked at that desk. There are some of them—I will not call their names at the moment—who make me proud of the Senate. The fact is, the way they preside is a model for legislative bodies everywhere to watch. Too often as we sit in that chair, we forget that millions of people are watching the Senate. They are watching the Chair.

I have been a member of the State legislature in West Virginia and the West Virginia House of Delegates. Those people in the State legislatures watch the Presiding Officer of this body.

This is the premier upper house in the world. They should see the premier act of presiding on the part of the Senator who sits at that desk. Teachers, college professors, students, political column writers, and editorialists watch. We ought to remember that when we are sitting in that chair.

I congratulate the Presiding Officer. I congratulate Senator CORZINE. I thank him.

GLORIA GILLESPIE

Mr. BYRD. Mr. President, as we head toward Christmas and the close of this session of Congress and this turbulent and tragic first year of the new millennium, I want to pause to remember a young woman who passed away this summer. Gloria Margaret Gillespie was a friend of mine.

Many Members of the Senate and staff will remember Gloria, for she worked in the Senate hair salon for 29 years. She cut my hair. Probably for the first time that my hair was ever cut at that salon she cut—28 years or 29 years ago. She worked there for 29 years.

She loved her work, and she loved her friends and she loved life. Gloria had a cheerful, loyal, uplifting spirit. And her time on this Earth was far, far too brief. She was only 54 years of age when she passed away in Berea, KY, this past July—54.

Five years ago, Gloria began a battle with cancer. She had smoking-related lung cancer. But instead of withdrawing, she used her illness as a forum to warn others about the dangers of smoking.

Gloria did not win her battle with cancer, but to the end, even in the face of great pain, she remained a fighter and a friend to all—someone who loved the Senate and someone who loved life.

Gloria Gillespie knew that each day is a gift. Each day is a gift. She cherished each waking moment. She found great joy in seeing people alive. From childhood, Gloria possessed a deep and abiding faith in God. That strong faith made her courageous and deeply appreciative of the sheer wonder of the world that God created.

Her unfailing optimism was contagious, as was her impish laughter. She brought a special kind of joy to all of her endeavors. She made the load a little lighter for all who knew her.

Gloria is survived by her parents, C.H. and Mary Frances Gillespie of Berea, KY, one niece, Lisa Gillespie, and one nephew, David Gillespie.

Along with all the members of her family and her legions of friends, I shall miss Gloria. But I shall think of her during this Christmas season, and I shall never, never, never forget her.

MARIAN BERTRAM

Mr. BYRD. Mr. President, I rise to remember a longtime Senate employee who passed away on October 15 of this year. Marian Bertram dedicated 27 years of her life to public service and to the United States Senate. She began her work at the Democratic Policy Committee in 1971, eventually serving as the chief clerk of that committee. She retired from the Senate in October of 1998.

Marian Bertram served four Democratic Leaders, beginning with Mike Mansfield and continuing on through my own tenure as Democratic Leader, George Mitchell's, and Senator DASCHLE's leader terms.

She gained a deep understanding of the Senate's intricacies during those years and researched and wrote the Democratic Policy Committee's Legislative Bulletin. She also shouldered the challenging task of producing voting records and vote analyses for Democratic Members.

Marian was an able and very dedicated Senate employee and through it all she was unfailing good humored and professional.

My sympathy goes out to her many friends in the Washington area who were shocked and saddened by her untimely death this fall. We shall remember her with great affection and with thanks for the many years she gave so unselfishly to this institution.

SENATORS AND SENATE LEADERS

Mr. BYRD. Mr. President, let me say just a word or so before I make my final speech of this year. I thank all Senators on both sides of the aisle for the work they do on behalf of this great Nation. They work here at a sacrifice. We are paid well, but there are many here who could earn much more money in other fields. There are many who come here after earning much more money in other fields but who want to give something to the Nation, who want to serve. Here is the place—in this Chamber—where Senators, since 1859, have served the Nation.

So I salute all Senators. I salute the leaders of the Senate—our Democratic and Republican leaders of the majority and the minority.

I have been a majority leader. I have been a minority leader. I have been a majority whip. I know the kinds of problems with which they are confronted every day. I know the demands that are made upon them by their colleagues. I know of the expectations that surround this Chamber and the expectations of our leaders. They spend a lot of time protecting our interests and working on behalf of our interests. They spend many hours here when the rest of us are probably sleeping. They carry to their beds problems that we don't know about. Many demands are made on these leaders.

I sit here and I hear criticism of our majority leader. He is the majority leader and was chosen by his colleagues for this job. He sets the schedule. He decides the program.

So not only do I salute him for the great work that he does on behalf of the Nation every day, but I also have empathy with him. I know he must go home troubled at night—troubled because he could not fulfill the expectations of this Senator, or that Senator, troubled because he is sometimes unjustly criticized. I had all of these things happen to me.

So I thank TOM DASCHLE. He can't be everything to everybody. He has to do what he has to do. He has to do what he thinks is best. He has to promote the interests of the Senate. He has to promote the interests of getting on with the work.

So does our majority whip. These are two fine Senators. There isn't a Senator here who doesn't think that he could do that job right there better—that majority leader's job. Every Senator thinks he can do it better. Every Senator thinks he can do the whip's job better. But they do the best they can.

I want to pray for them in this season that we are entering. I want them to know that we Senators, upon reflection, cannot help but thank them for the work they do.

Somebody has to do this so we can leave the Senate when our speeches are made and go home. But they have to stay.

Senator REID, the whip, stays around here. He stays around the Chamber. He renders a tremendous service to his country.

I want to take this moment to thank him, to thank TOM DASCHLE, to thank the Republican leader, to thank the Republican whip, to thank the Senators—the ladies and the gentlemen—who preside, all of the members of the staffs in the cloakrooms and in the hallways, in the corridors, and those who provide the security of this Chamber, and the people who work in it. I thank them all.

Somebody appreciates you. You may not realize it, but somebody is watching you. Somebody appreciates what you are doing. The people at the desk up there, somebody appreciates you.

So I just want to express that appreciation.

THE REAL STORY OF CHRISTMAS

Mr. BYRD. Now, Mr. President, we are just a few days from Christmas, a few days from the morning when millions of children tumble out of their warm beds, awaken their parents, rush to the family room, and look, with gleeful delight, at the bows, the boxes, and the bundles under the tree.

This is one of my favorite times of the year—a time of joy, a time of love, a time of family gatherings and warm memories.

I remember the Christmas presents waiting for me when I was a boy back there during the Great Depression in the hard hills of Mercer County in southern West Virginia. There was not an electric light in the house—no electricity, no running water, but there was an orange or a drawing book or a set of pencils or a set of water colors, or a geography book that I had been wanting.

My family did not have great material wealth, but we always had a wealth of love. The two old people who raised me, they are in Heaven tonight. They are in Heaven. We did not have fancy toys in those days. We celebrated the season for its true meaning: the birth of the Christ Child.

Now, I respect every man's or woman's religion. I respect their religion. If it is Moslem, I respect their religion. I can listen to the prayers of any churchman or any layman. I can respect them all because who am I? I am unworthy of God's blessings. I can respect them.

So my wife Erma and I have passed those lessons on to our children, our grandchildren, and our great-grandchildren.

In recent years, however, that meaning has been drowned out by a society that is focused more on the perfect gift or the latest gadget or the hottest-selling toy. Our attention is on store sales and Santa Claus rather than on the true meaning of Christmas.

Now, I am a Christian. I believe in Christ. I am not very worthy, but I believe in Him. I respect anyone who does not. I respect anyone who believes that He was, that He lived, He was a historic figure, He was a prophet. They may not believe He is the Messiah—I do—but it does not lesson my respect for others.

I will listen to them at any time. But I think all of us have to agree that this was a great event that happened that split the centuries in two, and the years that were before Christ are numbered, the years that are after Christ numbered differently. This was some, some happening. No matter what we believe or do not believe, it is still recognized by all that there was a man named Jesus Christ.

And so no matter what our religion, I think we ought to understand this was more than just an ordinary happening, more than just an ordinary man.

At its core, the season has not changed. Christmas will always be, to me, about a family that found no shelter but a manger, and also about a newborn child who would become, in my viewpoint, the Saviour of the world.

As Luke wrote in his Gospel:

> And the angel said unto them, Fear not: for, behold, I bring you good tidings of great joy, which shall be to all people. For unto you is born this day in the city of David a Savior, which is Christ the Lord.

Good tidings. Great joy. How many people think of those words standing in the long lines of their local shopping malls?

I worry that too many of us, in the hectic pace of the modern world, have forgotten the true spirit of Christmas, have forgotten what this is really all about. They have forgotten the true meaning. The story of the birth of Christ has been overshadowed by the pressures and the strains of a commercialized holiday.

Families will spend hours at shopping malls, waiting in long lines, rather than in the company of loved ones or in a church or in a place of worship celebrating in song or prayer. They will become obsessed with purchases and the gifts they may receive. Children will meticulously craft the perfect list of toys and will worry that grandma will again, this Christmas, buy them another sweater that they will never wear. Sadly, the Christmas season has become the shopping season. A time for joy and spiritual reflection has drowned in the shallow waters of greed.

That does not need to be. We can return to the true meaning of Christmas. During this holiday, I urge all Americans to reflect on their families and their faith—whatever their faith—and to read the story of Jesus' birth in the Gospels. Look up into the night sky and pick the Star of Wonder that led the wise men to Bethlehem to offer gifts to the Christ Child. Join with family and friends to sing a Christmas carol, share a meal, and reflect on the blessings we have been given. Visit each other, one another's church or synagogue or whatever. Go join and visit and enjoy this season. Perhaps the materialism that has come to dominate the season will fade and we can begin to truly understand the great and glorious story of Christmas.

And so, Mr. President:

'Twas battered and scarred, and the auctioneer
Thought it scarcely worth his while
To waste much time on the old violin,
But held it up with a smile:
"What am I bidden, good folks," he cried,
"Who'll start the bidding for me?"
"A dollar, a dollar"; then, "Two!" "Only two?
Two dollars, and who'll make it three?
Three dollars, once; three dollars, twice;
Going for three—" But no,
From the room, far back, a gray-haired man
Came forward and picked up the bow;
Then, wiping the dust from the old violin,
And tightening the loose strings,
He played a melody pure and sweet
As a caroling angel sings.
The music ceased, and the auctioneer,
With a voice that was quiet and low,
Said, "What am I bid for the old violin?"
And he held it up with the bow.
"A thousand dollars, and who'll make it two?
Two thousand! and who'll make it three?
Three thousand, once, three thousand, twice,
And going, and gone," said he.
The people cheered, but some of them cried,
"We do not quite understand
What changed its worth." Swift came the reply:
"The touch of a master's hand."
And many a man with life out of tune,
And battered and scarred with sin,
Is auctioned cheap to the thoughtless crowd,
Much like the old violin.
A "mess of pottage," a glass of wine;
A game—and he travels on.
He is "going" once, and "going" twice,
He's "going" and almost "gone."
But the Master comes, and the foolish crowd
Never can quite understand
The worth of a soul and the change that's wrought
By the touch of the Master's hand.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from New Jersey.

COMMENDING SENATOR BYRD

Mr. CORZINE. Mr. President, it is my honor to address you in the chair. Your remarks with regard to Christmas are ones that stir one's heart and feelings. I am the lucky one to be here this evening to hear you speak. I hope everyone across America has the sense of how you love this body, the great Senate, and the people we serve.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDENT pro tempore. In my capacity as a Senator from the State of West Virginia, I ask unanimous consent that the order for the quorum call be rescinded.

There being no objection, the quorum call is waived.

The Senator from Nevada.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 8:11 p.m., recessed subject to the call of the Chair and reassembled at 9:37 p.m. when called to order by the President pro tempore.

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

EXECUTIVE SESSION

NOMINATIONS DISCHARGED

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the HELP Committee be discharged from further consideration of the nomination of Michael Hammond to be the chairperson of the National Endowment for the Arts. I ask that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements thereon be printed in the RECORD, and that the President be immediately notified of the Senate's action.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The nomination was considered and confirmed, as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Committee on Health, Education, Labor, and Pensions:

Michael Hammond, of Texas, to be Chairperson of the National Endowment for the Arts for a term of four years.

Mr. KENNEDY. Mr. President, I welcome this opportunity to express my strong support for the confirmation of Michael Hammond to be Chairman of the National Endowment for the Arts, and I urge the Senate to confirm him.

Mr. Hammond is a distinguished composer, conductor, arts educator and scientist. His is the Dean of the Shepherd School of Music at Rice University, where he is also a professor of music and a faculty fellow in neuroscience.

Mr. Hammond is an excellent choice to lead the Arts Endowment. He is also one of the nation's leaders in the field of cognitive development and he understands the vast potential of the arts in early childhood education. I welcome his leadership, and I believe that he will be an outstanding chairman for this very important agency.

During the consideration of his nomination by the Committee on Health, Education, Labor and Pensions, I submitted a number of questions to Mr. Hammond. His responses are impressive and I ask unanimous consent that they may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS BY SENATOR EDWARD KENNEDY FOR MICHAEL HAMMOND, NOMINEE FOR CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE ARTS

1. Do you support the mission of the National Endowment for the Arts and believe that there is a federal role in support of the arts?

Yes. The Arts Endowment's mandate is to provide national recognition and support to significant projects of artistic excellence, thus preserving and enhancing our nation's diverse cultural heritage. This is a noble and essential national goal and I embrace it completely. I believe there are important aspects of this task that can best be performed at the federal level. If I have the opportunity to serve as chairman, I will work to advance the Endowment's mandate in every conceivable way.

2. Are there any circumstances under which you would support the elimination of the agency?

No.

3. Due to budget cuts and the impact of inflation, the NEA's spending power has been dramatically reduced. The decline in funding has also reduced the agency's reach and impact. How do you view the current funding? Will you advocate for higher spending levels for the agency?

Although the Endowment's financial resources are limited, it has a national voice that I believe should articulate clearly and strongly the importance of the arts in enriching the lives and shaping the aesthetic taste of all Americans. It is now more important than ever that the Endowment make performances and presentations of the highest artistic quality accessible to our urban, rural and suburban communities.

The Endowment's financial capability is important both for the direct project grants it makes and for the matching money grants generated from other sources. I would advocate for spending levels that are more adequate in fulfilling the full gamut of the Endowment's goals. Should I have the honor to be the chairman, I would look for ways to stimulate more public and private support for the arts and arts education.

4. How do you think the Endowment should best balance its various programs which support the creation and presentation of the arts with providing broad access to the arts?

Each of these tasks is crucial and the balance between them, though difficult, must be reconsidered regularly. A full review of the Endowment's activities in both these areas (creation/presentation and broad access) would be a high priority for me. Further, I would pursue these goals nationwide in rural, urban and suburban communities, in close cooperation with state and local arts groups and educational organizations committed to the arts.

5. What do you think are the highest programming priorities for the agency?

In the days following September 11, in ceremony after ceremony, Americans turned to the arts, especially music and poetry, for expressions of our anguish over our human losses and for confirmation of our common commitments as Americans. It is essential that the Arts Endowment help provide opportunities for our citizens to experience works whose meaning transcends the momentary and speak to us as human beings, sharing one another's mortality and longing for beauty and understanding.

At the same time the Endowment must, I believe, work to create conditions favorable to our professional artists—conditions in which they will be inspired to fulfill their deepest artistic aspirations, encouraging all of us to understand ourselves and one another in continuously new ways. If I am given the opportunity to serve, I will also try to direct the Endowment's efforts toward enlivening the artistic culture of the nation from the ground up by strengthening all forms of educational activity in the arts, especially among the young. If there is to be a further flowering of our artistic culture in the coming years, it must begin by making the best achievements of our rich heritage a reality in the lives of our young people.

6. You have had an extremely accomplished career in music and music education. Do you have any thoughts about ways that the agency can develop or initiate programs for young children and the arts?

To ensure the artistic future of our country, I believe, today's children and those of generations to come must have the opportunity to learn by actual experience, the techniques of music-making, the skills of drawing, painting and sculpting, dance movement, poetry and other forms of writing, and the art of acting and play-making. Such experiences together with regular access to the finest art can stimulate a child's imagination, engage the intellect, create discipline, produce physical skill and enhance curiosity and joy. Few may become professional artists, but many will become grateful audiences for the arts. A richer artistic culture can be brought into being with consistent effort over time in this way.

Should I have the honor of serving as the chairman of the National Endowment for the Arts, I will explore how the agency can provide national leadership in promoting such hands-on educational programs in the arts for children from preschool through high school. The country has vast educational resources both public and private for this undertaking. These need to be surveyed, documented and enhanced.

It is my understanding that grants for arts education are now funded under two new Arts Endowment funding programs—Challenge America and Arts Learning. The state arts agencies also contribute very significantly to educational efforts in the arts, as do a number of private organizations and programs. The Endowment can advocate and promote models for cooperation among these groups and incentives for imaginative action.

From my own studies in neuroscience, I know there is a growing body of information concerning cognitive development among preschoolers showing their ability to discriminate clearly among musical sounds, visual colors, movements and language elements in a way that mandates programs of learning in the arts at very early ages. I would actively pursue this agenda and attempt to work closely with that growing body of scientists and educators throughout the world who are concerned with such early cognitive development.

7. How do you think the agency can best support K–12 education programs?

First, there must be an accurate assessment of the programs and institutions, both public and private, which are addressing the matter of arts education for school-age young people in each region of the country. Working with these groups and with the state and regional arts agencies, the Endowment can help to set goals for instruction and experience at each stage of a student's life, in each of the arts. The Endowment can encourage cooperative efforts among arts groups to get the job done. It is a challenging task that will require all our available institutional resources as well as a new level of aspiration from all quarters, including parents, schools, museums, community centers, performing arts organizations, church groups, Boys and Girls Clubs and many others. Much valuable work is already being done in many parts of the country. These efforts can serve as models for others.

I believe the Endowment can lead in certain aspects by initiating conversations, encouraging fine teaching, generating funding from corporations, foundations, private benefactors and arts support groups. It can assist and strengthen organizations that have valuable ideas but need assistance in initiating them. It can connect outstanding young artists to this effort, both as teachers and practitioners. Finally, through its general grants programs, the Endowment can increase access to outstanding performances and exhibitions so that at every stage of a young person's development, the arts at their best are regularly experienced.

8. How do you feel that the federal role of the Arts Endowment differs from the role of the state entities and local agencies? Do you feel that these roles complement each other well? Are there any changes that you would suggest for either the federal role, or the way the Endowment supports state and local initiatives?

If the opportunity to serve as chairman of the Arts Endowment comes to me, I will make it a high priority to become very familiar with our state and local arts agencies, their leaders and the important work they do. I will explore with them ways in which their partnership with the Endowment can be strengthened and broadened. They have played a vital role in carrying out Challenge America and other important Endowment programs. Many of them have been extremely successful in promoting the arts in their own locales. I see them as already valuable allies for the Endowment, and I would hope that these alliances can be made even more productive for our citizens everywhere.

9. Do you believe that the Arts Endowment should actively pursue private funds to supplement its federal appropriation?

I understand that legislation gives the Endowment authority to accept private gifts and donations. I also understand that there is concern in the arts community that major fundraising activities by the Arts Endowment could compete with, and therefore, conceivably diminish the ability of arts organizations to raise the funding necessary for their survival. In the current economic climate, and following September 11, the issue of financial support for arts groups everywhere is especially serious. If I am confirmed, I would approach this matter carefully and in a collegial spirit.

10. Will you continue the agency's efforts to build partnerships and funding coalitions with other federal agencies?

I support efforts to form coalitions and partnerships with other federal agencies where these can enhance access for Americans nationwide to projects of artistic quality. Accordingly, I would examine the current inter-agency agreements that the Endowment has entered into over the years to see how these and other such cooperative efforts can help to preserve our national artistic heritage and increase the value of that heritage to our citizens, especially those who may be otherwise underserved.

Mr. REID. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from the consideration of the nomination of James Newsome, to be chairman of the Commodity Futures Trading Commission and his nomination to be a commissioner on the Commission; that the nominations be confirmed, the motion to reconsider be laid on the table, and that any statements thereon be printed at the appropriate place in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

DEPARTMENT OF AGRICULTURE

James E. Newsome, of Mississippi, to be Chairman of the Commodity Futures Trading Commission.

James E. Newsome, of Mississippi, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring June 19, 2006. (Reappointment)

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 607, 624, 647, 650, 651, 667, and 668.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask that those nominations be confirmed, the motions to reconsider be laid upon the table, that any statements be printed in the RECORD, and the President be immediately notified.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

DEPARTMENT OF DEFENSE

Claude M. Bolton, Jr., of Florida, to be an Assistant Secretary of the Army.

DEPARTMENT OF THE INTERIOR

Kathleen Burton Clarke, of Utah, to be Director of the Bureau of Land Management.

THE JUDICIARY

C. Ashley Royal, of Georgia, to be United States District Judge for the Middle District of Georgia.

Harry E. Cummins, III, of Arkansas, to be United States Attorney for the Eastern District of Arkansas for the term of four years.

Christopher James Christie, of New Jersey, to be United States Attorney for the District of New Jersey for the term of four years.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Sean O'Keefe, of New York, to be Administrator of the National Aeronautics and Space Administration, vice Daniel S. Goldin, resigned.

ARMY

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brigadier General Donna F. Barbisch, 2133
Brigadier General Jamie S. Barkin, 3376
Brigadier General Robert W. Chesnut, 6270
Brigadier General Richard S. Colt, 4147
Brigadier General Lowell C. Detamore, 9811
Brigadier General Douglas O. Dollar, 9730
Brigadier General Kenneth D. Herbst, 3103
Brigadier General Karol A. Kennedy, 8598
Brigadier General Rodney M. Kobayashi, 6985
Brigadier General Robert B. Ostenberg, 8948
Brigadier General Michael W. Symanski, 1020
Brigadier General William B. Watson, Jr., 6859

To be brigadier general

Colonel James E. Archer, 6923
Colonel Thomas M. Bryson, 0324
Colonel Peter S. Cooke, 6590
Colonel Donna L. Dacier, 9272
Colonel Charles H. Davidson, IV, 6837
Colonel Michael R. Eyre, 9396
Colonel Donald L. Jacka, Jr., 5508
Colonel William H. Johnson, 4212
Colonel Robert J. Kasulke, 2949
Colonel Jack L. Killen, Jr., 2073
Colonel John C. Levasseur, 8050
Colonel James A. Mobley, 1285
Colonel Mark A. Montjar, 7878
Colonel Carrie L. Nero, 7719
Colonel Arthur C. Nuttall, 6098
Colonel Paulette M. Risher, 2429
Colonel Kenneth B. Ross, 1462
Colonel William Terpeluk, 6129
Colonel Michael H. Walter, 6525
Colonel Roger L. Ward, 4572
Colonel David Zalis, 6482
Colonel Bruce E. Zukauskas, 7754

REFERRAL OF THE NOMINATION OF JOSEPH SCHMITZ

Mr. REID. Mr. President, I ask unanimous consent that the nomination of Joseph Schmitz to be Inspector General, Department of Defense, which was ordered reported by the Committee on Armed Services earlier today, be referred to the Committee on Governmental Affairs for not to exceed 20 calendar days, beginning January 23, 2002, and that if the nomination is not reported after that 20-day period, the nomination be automatically discharged and placed on the Executive Calendar.

The PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATIONS TO REMAIN IN STATUS QUO NOTWITHSTANDING THE ADJOURNMENT OF THE SENATE

Mr. REID. Mr. President, I ask unanimous consent that all nominations received by the Senate during the 107th Congress, first session, remain in status quo notwithstanding the adjournment of the Senate and the provisions of rule XXXI, paragraph 6, of the Standing Rules of the Senate, with the following exceptions: PN850, Otto Reich, to be Assistant Secretary of State; PN983-4, Colonel David R. Leffarge, to be Brigadier General.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. The Senate will return to legislative session.

AUTHORIZATION TO MAKE APPOINTMENTS NOTWITHSTANDING THE SINE DIE ADJOURNMENT

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the sine die adjournment of the Senate, the President of the Senate, the Senate President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, and conferences, or interparliamentary conferences authorized by law by concurrent action of the two Houses, or by order of the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE RESOLUTIONS 195, 196, 197, AND 198, EN BLOC

Mr. REID. Mr. President, I ask unanimous consent that it be in order for the Senate to proceed en bloc to the consideration of Senate Resolutions 195, 196, 197, and 198, all submitted earlier today, that the resolutions be agreed to en bloc, and the motions to reconsider be laid upon the table, with no intervening action.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolutions (S. Res. 195, S. Res. 196, S. Res. 197, and S. Res. 198) were agreed to en bloc.

(The text of the resolutions are printed in today's RECORD under "Statements on Submitted Resolutions.")

MEASURE INDEFINITELY POSTPONED—S. 1178

Mr. REID. Mr. President, I ask unanimous consent that Calendar No. 88, S. 1178, be indefinitely postponed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, for the information of the Senate, this item is an appropriations bill. The conference report on the House numbered bill is now public law.

BASIC PILOT EXTENSION ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to H.R. 3030.

The PRESIDENT pro tempore. The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 3030) to extend the basic pilot program for employment eligibility verification, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 3030) was read the third time and passed.

EXPRESSING THE SENSE OF CONGRESS REGARDING EFFORTS OF THE PEOPLE OF THE UNITED STATES OF KOREAN ANCESTRY TO REUNITE WITH FAMILY MEMBERS IN NORTH KOREA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 280, S. Con. Res. 90.

The PRESIDENT pro tempore. The clerk will state the title of the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 90) expressing the sense of Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 90) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 90

Whereas on June 25, 1950, North Korea invaded South Korea, thereby initiating the Korean War, leading to the loss of countless lives, and further polarizing a world engulfed by the Cold War;

Whereas in the aftermath of the Korean War, the division of the Koreas at the 38th parallel separated millions of Koreans from their families, tearing at the heart of every mother, father, daughter, and son;

Whereas on June 13 and 14, 2000, in the first summit conference ever held between leaders of North and South Korea, South Korean President Kim Dae Jung met with North Korean leader Kim Jong Il in Pyongyang, North Korea's capital;

Whereas in a historic joint declaration, South Korean President Kim Dae Jung and North Korean leader Kim Jong Il made an important promise to promote economic cooperation and hold reunions of South Korean and North Korean citizens;

Whereas such reunions have been held in North and South Korea since the signing of the joint declaration, reuniting family members who had not seen or heard from each other for more than 50 years;

Whereas 500,000 people of the United States of Korean ancestry bear the pain of being separated from their families in North Korea;

Whereas the United States values peace in the global community and has long recognized the significance of uniting families torn apart by the tragedy of war; and

Whereas a petition drive is taking place throughout the United States, urging the United States Government to assist in the reunification efforts: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) Congress and the President should support efforts to reunite people of the United States of Korean ancestry with their families in North Korea; and

(2) such efforts should be made in a timely manner, as 50 years have passed since the separation of these families.

GRANTING CONSENT OF CONGRESS TO THE INTERNATIONAL EMERGENCY MANAGEMENT ASSISTANCE MEMORANDUM OF UNDERSTANDING

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 211, S.J. Res. 12.

The PRESIDENT pro tempore. The clerk will state the title of the joint resolution.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 12) granting the consent of Congress to the International Emergency Management Assistance Memorandum of Understanding.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read a third time, passed, the motion to reconsider be laid upon the table, and any statement relating to the joint resolution be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The joint resolution (S.J. Res. 12) was read the third time and passed, as follows:

S.J. RES. 12

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

Congress consents to the International Emergency Management Assistance Memorandum of Understanding entered into between the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut and the Provinces of Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland. The compact is substantially as follows:

"Article I—International Emergency Management Assistance Memorandum of Understanding Purpose and Authorities

"The International Emergency Management Assistance Memorandum of Understanding, hereinafter referred to as the 'compact,' is made and entered into by and among such of the jurisdictions as shall enact or adopt this compact, hereinafter referred to as 'party jurisdictions.' For the purposes of this agreement, the term 'jurisdictions' may include any or all of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut and the Provinces of Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland, and such other states and provinces as may hereafter become a party to this compact.

"The purpose of this compact is to provide for the possibility of mutual assistance among the jurisdictions entering into this compact in managing any emergency or disaster when the affected jurisdiction or jurisdictions ask for assistance, whether arising from natural disaster, technological hazard, manmade disaster or civil emergency aspects of resources shortages.

"This compact also provides for the process of planning mechanisms among the agencies responsible and for mutual cooperation, including, if need be, emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party jurisdictions or subdivisions of party jurisdictions during emergencies, with such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of emergency forces by mutual agreement among party jurisdictions.

"Article II—General Implementation

"Each party jurisdiction entering into this compact recognizes that many emergencies may exceed the capabilities of a party jurisdiction and that intergovernmental cooperation is essential in such circumstances. Each jurisdiction further recognizes that there will be emergencies that may require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency because few, if any, individual jurisdictions have all the resources they need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

"The prompt, full, and effective utilization of resources of the participating jurisdictions, including any resources on hand or available from any other source that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster, shall be the underlying principle on which all articles of this compact are understood.

"On behalf of the party jurisdictions participating in the compact, the legally designated official who is assigned responsibility for emergency management is responsible for formulation of the appropriate inter-jurisdictional mutual aid plans and procedures necessary to implement this compact, and for recommendations to the jurisdiction concerned with respect to the amendment of any statutes, regulations, or ordinances required for that purpose.

"Article III—Party Jurisdiction Responsibilities

"(a) FORMULATE PLANS AND PROGRAMS.—It is the responsibility of each party jurisdiction to formulate procedural plans and programs for inter-jurisdictional cooperation in the performance of the responsibilities listed in this section. In formulating and implementing such plans and programs the party jurisdictions, to the extent practical, shall—

"(1) review individual jurisdiction hazards analyses that are available and, to the extent reasonably possible, determine all those potential emergencies the party jurisdictions might jointly suffer, whether due to natural disaster, technological hazard, manmade disaster or emergency aspects of resource shortages;

"(2) initiate a process to review party jurisdictions' individual emergency plans and develop a plan that will determine the mechanism for the inter-jurisdictional cooperation;

"(3) develop inter-jurisdictional procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

"(4) assist in warning communities adjacent to or crossing jurisdictional boundaries;

"(5) protect and ensure delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services and resources, both human and material to the extent authorized by law;

"(6) inventory and agree upon procedures for the inter-jurisdictional loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

"(7) provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances, over which the province or state has jurisdiction, that impede the implementation of the responsibilities described in this subsection.

"(b) REQUEST ASSISTANCE.—The authorized representative of a party jurisdiction may request assistance of another party jurisdiction by contacting the authorized representative of that jurisdiction. These provisions only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request must be confirmed in writing within 15 days of the verbal request. Requests must provide the following information:

"(1) A description of the emergency service function for which assistance is needed and of the mission or missions, including but not limited to fire services, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

"(2) The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed.

"(3) The specific place and time for staging of the assisting party's response and a point of contact at the location.

"(c) CONSULTATION AMONG PARTY JURISDICTION OFFICIALS.—There shall be frequent consultation among the party jurisdiction officials who have assigned emergency management responsibilities, such officials collectively known hereinafter as the International Emergency Management Group, and other appropriate representatives of the party jurisdictions with free exchange of information, plans, and resource records relating to emergency capabilities to the extent authorized by law.

"Article IV—Limitation

"Any party jurisdiction requested to render mutual aid or conduct exercises and training for mutual aid shall undertake to respond as soon as possible, except that it is understood that the jurisdiction rendering aid may withhold or recall resources to the extent necessary to provide reasonable protection for that jurisdiction. Each party jurisdiction shall afford to the personnel of the emergency forces of any party jurisdiction, while operating within its jurisdictional limits under the terms and conditions of this compact and under the operational control of an officer of the requesting party, the same powers, duties, rights, privileges, and immunities as are afforded similar or like forces of the jurisdiction in which they are performing emergency services. Emergency forces continue under the command and control of their regular leaders, but the organizational units come under the operational control of the emergency services authorities of the jurisdiction receiving assistance. These conditions may be activated, as needed, by the jurisdiction that is to receive assistance or upon commencement of exercises or training for mutual aid and continue as long as the exercises or training for mutual aid are in progress, the emergency or disaster remains in effect or loaned resources remain in the receiving jurisdiction or jurisdictions, whichever is longer. The receiving jurisdiction is responsible for informing the assisting jurisdictions of the specific moment when services will no longer be required.

"Article V—Licenses and Permits

"Whenever a person holds a license, certificate, or other permit issued by any jurisdiction party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party jurisdiction, such person is deemed to be licensed, certified, or permitted by the jurisdiction requesting assistance to render aid involving such skill to meet an emergency or disaster, subject to such limitations and conditions as the requesting jurisdiction prescribes by Executive order or otherwise.

"Article VI—Liability

"Any person or entity of a party jurisdiction rendering aid in another jurisdiction pursuant to this compact are considered agents of the requesting jurisdiction for tort liability and immunity purposes. Any person or entity rendering aid in another jurisdiction pursuant to this compact are not liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article does not include willful misconduct, gross negligence, or recklessness.

"Article VII—Supplementary Agreements

"Because it is probable that the pattern and detail of the machinery for mutual aid among 2 or more jurisdictions may differ from that among the jurisdictions that are party to this compact, this compact contains elements of a broad base common to all jurisdictions, and nothing in this compact precludes any jurisdiction from entering into supplementary agreements with another jurisdiction or affects any other agreements already in force among jurisdictions. Supplementary agreements may include, but are not limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, public utility, reconnaissance, welfare, transportation and communications personnel, equipment, and supplies.

"Article VIII—Workers' Compensation and Death Benefits

"Each party jurisdiction shall provide, in accordance with its own laws, for the payment of workers' compensation and death benefits to injured members of the emergency forces of that jurisdiction and to representatives of deceased members of those forces if the members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

"Article IX—Reimbursement

"Any party jurisdiction rendering aid in another jurisdiction pursuant to this compact shall, if requested, be reimbursed by the party jurisdiction receiving such aid for any loss or damage to, or expense incurred in, the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with those requests. An aiding party jurisdiction may assume in whole or in part any such loss, damage, expense, or other cost or may loan such equipment or donate such services to the receiving party jurisdiction without charge or cost. Any 2 or more party jurisdictions may enter into supplementary agreements establishing a different allocation of costs among those jurisdictions. Expenses under article VIII are not reimbursable under this section.

"Article X—Evacuation

"Each party jurisdiction shall initiate a process to prepare and maintain plans to facilitate the movement of and reception of evacuees into its territory or across its territory, according to its capabilities and powers. The party jurisdiction from which the evacuees came shall assume the ultimate responsibility for the support of the evacuees, and after the termination of the emergency or disaster, for the repatriation of such evacuees.

"Article XI—Implementation

"(a) This compact is effective upon its execution or adoption by any 2 jurisdictions, and is effective as to any other jurisdiction upon its execution or adoption thereby: subject to approval or authorization by the United States Congress, if required, and subject to enactment of provincial or State legislation that may be required for the effectiveness of the Memorandum of Understanding.

"(b) Any party jurisdiction may withdraw from this compact, but the withdrawal does not take effect until 30 days after the governor or premier of the withdrawing jurisdiction has given notice in writing of such withdrawal to the governors or premiers of all other party jurisdictions. The action does not relieve the withdrawing jurisdiction from obligations assumed under this compact prior to the effective date of withdrawal.

"(c) Duly authenticated copies of this compact in the French and English languages and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party jurisdictions.

"Article XII—Severability

"This compact is construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional or the applicability of the compact to any person or circumstances is held invalid, the validity of the remainder of this compact and the applicability of the compact to other persons and circumstances are not affected.

"Article XIII—Consistency of Language

"The validity of the arrangements and agreements consented to in this compact shall not be affected by any insubstantial difference in form or language as may be adopted by the various states and provinces.

"Article XIV—Amendment

"This compact may be amended by agreement of the party jurisdictions.".

SEC. 2. INCONSISTENCY OF LANGUAGE.

The validity of the arrangements consented to by this Act shall not be affected by any insubstantial difference in their form or language as adopted by the States and provinces.

SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this Act is hereby expressly reserved.

RECOGNIZING RADIO FREE EUROPE/RADIO LIBERTY'S SUCCESS IN PROMOTING DEMOCRACY AND ITS CONTINUING CONTRIBUTION TO UNITED STATES NATIONAL INTERESTS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 281, S. Con. Res. 92.

The PRESIDENT pro tempore. The clerk will report the title of the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 92) recognizing Radio Free Europe/Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 92) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 92

Whereas on May 1, 1951, Radio Free Europe inaugurated its full schedule of broadcast services to the people of Eastern Europe and, subsequently, Radio Liberty initiated its broadcast services to the peoples of the Soviet Union on March 1, 1953, just before the death of Stalin;

Whereas now fifty years later, Radio Free Europe/Radio Liberty (in this concurrent resolution referred to as "RFE/RL") continues to promote democracy and human rights and serve United States national interests by fulfilling its mission "to promote democratic values and institutions by disseminating factual information and ideas";

Whereas Radio Free Europe and Radio Liberty were established in the darkest days of the cold war as a substitute for the free media which no longer existed in the communist-dominated countries of Central and Eastern Europe and the Soviet Union;

Whereas Radio Free Europe and Radio Liberty developed a unique form of international broadcasting known as surrogate broadcasting by airing local news about the countries to which they broadcast as well as providing regional and international news, thus preventing the communist governments from establishing a monopoly on the dissemination of information and providing an alternative to the state-controlled, party dominated domestic media;

Whereas the broadcast of uncensored news and information by Radio Free Europe and Radio Liberty was a critical element contributing to the collapse of the totalitarian communist governments of Central and Eastern Europe and the Soviet Union;

Whereas since the fall of the Iron Curtain, RFE/RL has continued to inform and therefore strengthen democratic forces in Central Europe and the countries of the former Soviet Union, and has contributed to the development of a new generation of political and economic leaders who have worked to strengthen civil society, free market economies, and democratic government institutions;

Whereas United States Government funding established and continues to support international broadcasting, including RFE/RL, and this funding is among the most useful and effective in promoting and enhancing the Nation's national security over the past half century;

Whereas RFE/RL has successfully downsized in response to legislative mandate and adapted its programming to the changing international broadcast environment in order to serve a broad spectrum of target audiences—people living in fledgling democracies where private media are still weak and do not enjoy full editorial independence, transitional societies where democratic institutions and practices are poorly developed, as well as countries which still have tightly controlled state media;

Whereas RFE/RL continues to provide objective news, analysis, and discussion of domestic and regional issues crucial to democratic and free-market transformations in emerging democracies as well as strengthening civil society in these areas;

Whereas RFE/RL broadcasts seek to combat ethnic, racial, and religious intolerance and promote mutual understanding among peoples;

Whereas RFE/RL provides a model for local media, assists in training to encourage media professionalism and independence, and develops partnerships with local media outlets in emerging democracies;

Whereas RFE/RL is a unique broadcasting institution long regarded by its audience as an alternative national media that provides both credibility and security for local journalists who work as its stringers and editors in the broadcast region; and

Whereas RFE/RL fosters closer relations between the United States and other democratic states, and the states of Central Europe and the former Soviet republics: Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates the editors, journalists, and managers of Radio Free Europe/Radio Liberty on a half century of effort in promoting democratic values, and particularly their contribution to promoting freedom of the press and freedom of expression in areas of the world where such liberties have been denied or are not yet fully institutionalized; and

(2) recognizes the major contribution of Radio Free Europe/Radio Liberty to the growth of democracy throughout the world and its continuing efforts to advance the vital national interests of the United States in building a world community that is more peaceful, democratic, free, and stable.

REFERRING S. 846 TO CHIEF JUDGE OF U.S. COURT OF FEDERAL CLAIMS

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 83 and that the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 83) referring S. 846 entitled "A bill for the relief of J.L. Simmon Company, Inc., of Champaign, Illinois" to the chief judge of the Unites States Court of Federal Claims for a report thereon.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The resolution (S. Res. 83) was agreed to, as follows:

S. RES. 83

Resolved,

SECTION 1. REFERRAL.

S. 846 entitled "A bill for the relief of J.L. Simmons Company, Inc., of Champaign, Illinois", now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims.

SEC. 2. PROCEEDING AND REPORT.

The chief judge shall—

(1) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, notwithstanding the bar of any statute of limitations, laches, or bar of sovereign immunity; and

(2) report back to the Senate, at the earliest practicable date, providing—

(A) such findings of fact and conclusions as are sufficient to inform Congress of the nature, extent, and character of the claim for compensation referred to in such bill as a legal or equitable claim against the United States, or a gratuity; and

(B) the amount, if any, legally or equitably due from the United States to J.L. Simmons Company; Inc., of Champaign, Illinois.

AMENDING THE INTERNAL REVENUE CODE OF 1986

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3346.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3346) to amend the Internal Revenue Code of 1986 to simplify the reporting requirements relating to higher education, tuition and related expenses.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 3346) was read the third time and passed.

DESIGNATING RICHARD J. GUADAGNO HEADQUARTERS AND VISITORS CENTER

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3334 just received from the House and which is now at the desk.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3334) to designate the Richard J. Guadagno Headquarters and Visitors Center at Humboldt Bay National Wildlife Refuge, California.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 3334) was read the third time and passed.

DESIGNATING THE TODD BEAMER POST OFFICE BUILDING

Mr. REID. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 3248 and that the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3248) to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the Todd Beamer Post Office Building.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The bill (H.R. 3248) was read the third time and passed.

COMMENDING DAW AUNG SAN SUU KYI ON THE TENTH ANNIVERSARY OF HER RECEIVING THE NOBEL PEACE PRIZE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 294, H. Con. Res. 211.

The PRESIDENT pro tempore. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 211) commending Daw Aung San Suu Kyi on the tenth anniversary of her receiving the Nobel Peace Prize and expressing the sense of the Congress with respect to the Government of Burma.

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Foreign Relations, with an amendment and an amendment to the preamble.

(The parts of the concurrent resolution intended to be stricken are shown in boldface brackets and the parts of the concurrent resolution intended to be inserted are shown in italic.)

H. CON. RES. 211

[Whereas since 1962, the people of Burma have lived under a repressive military regime;

[Whereas in 1988, the people of Burma rose up in massive prodemocracy demonstrations;

[Whereas in response to this call for change, the Burmese military brutally suppressed these demonstrations;

[Whereas opposition leader Daw Aung San Suu Kyi was placed under house arrest after these demonstrations;

[Whereas in the 1990 Burmese elections, Daw Aung San Suu Kyi led the National League for Democracy and affiliated parties to a landslide victory, winning 80 percent of the parliamentary seats;

[Whereas the ruling military regime rejected this election and proceeded to arrest hundreds of members of the National League for Democracy;

[Whereas Daw Aung San Suu Kyi's freedom of speech was restricted by the military regime;

[Whereas in recognition of her efforts to bring democracy to Burma, Daw Aung San Suu Kyi was awarded the Nobel Peace Prize on October 14, 1991;

[Whereas Daw Aung San Suu Kyi remained under unlawful house arrest until 1995;

[Whereas even after her release, the Burmese military regime, known as the State Peace and Development Council (SPDC), has continued to ignore the basic human rights of 48,000,000 Burmese citizens and has brutally suppressed any opposition to its authority;

[Whereas according to the State Department, the SPDC has made no significant progress toward stopping the practice of human trafficking, whereby thousands of people have been sent to Thailand for the purpose of factory and household work and for sexual exploitation;

[Whereas the SPDC has forced civilians to work in industrial, military, and infrastructure construction operations throughout Burma, and on a large-scale basis has targeted ethnic and religious minorities for this work;

[Whereas a Department of Labor report in 2000 described the human rights abuses of forced laborers, including beating, torture, starvation, and summary executions;

[Whereas the worldwide scourge of heroin and methamphetamines is significantly aggravated by large-scale cultivation and production of these drugs in Burma;

[Whereas the Drug Enforcement Agency has reported that Burma is the world's second largest producer of opium and opiate-based drugs;

[Whereas officials in Thailand have estimated that as many as 800 million tablets of methamphetamine will be smuggled into their country this year, contributing to the growing methamphetamine problem in Thailand;

[Whereas there are as many as a million internally displaced persons in Burma;

[Whereas the SPDC has severely restricted Daw Aung San Suu Kyi's political activities;

[Whereas in September 2000, Daw Aung San Suu Kyi was placed under house arrest when she attempted to visit a National League for Democracy party office on the outskirts of Rangoon, and again when she attempted to travel by train to Mandalay;

[Whereas Daw Aung San Suu Kyi has recently begun talks with the SPDC which are welcomed by the international community, although the slow pace of the talks reflects on the SPDC's sincerity to move toward national reconciliation;

[Whereas the SPDC has recently allowed the National League for Democracy to open some political offices, and has released some political prisoners, although over 1,800 such prisoners are believed to remain imprisoned;

[Whereas with the exception of these positive developments the SPDC has made little progress in improving human rights conditions and restoring democracy to the country;

[Whereas the SPDC has continued to restrict the political power of Daw Aung San Suu Kyi and the National League for Democracy;

[Whereas Daw Aung San Suu Kyi's struggle to assert the rights of her people has spread beyond politics and into popular culture, as evidenced by others championing her cause, most notably the rock group U2 in their song "Walk On", which is banned in Burma; and

[Whereas, in the face of oppression, Daw Aung San Suu Kyi has remained an outspoken champion of democracy and freedom: Now, therefore, be it]

Whereas, since 1962, the people of Burma have lived under a repressive military regime;

Whereas, in 1988, the people of Burma rose up in massive prodemocracy demonstrations;

Whereas, in response to this call for change, the Burmese military brutally suppressed these demonstrations;

Whereas opposition leader Daw Aung San Suu Kyi was placed under house arrest after these demonstrations;

Whereas, in the 1990 Burmese elections, Daw Aung San Suu Kyi led the National League for Democracy and affiliated parties to a landslide victory, winning 80 percent of the parliamentary seats;

Whereas the ruling military regime rejected this election and proceeded to arrest hundreds of members of the National League for Democracy;

Whereas Daw Aung San Suu Kyi's freedom of speech, assembly, association, and movement was restricted by the military regime;

Whereas, in recognition of her efforts to bring democracy to Burma, Daw Aung San Suu Kyi was awarded the Nobel Peace Prize on December 10, 1991;

Whereas Daw Aung San Suu Kyi remained under unlawful house arrest until 1995;

Whereas, even after the release of Daw Aung San Suu Kyi, the Burmese military regime, known as the State Peace and Development Council (in this concurrent resolution referred to as the "SPDC"), has continued to ignore the basic human rights of 48,000,000 Burmese citizens and has brutally suppressed any opposition to its authority;

Whereas, according to the Department of State, the SPDC has made no significant progress toward stopping the practice of human trafficking, whereby thousands of people have been sent to Thailand and other countries for the purpose of factory and household work and for sexual exploitation;

Whereas the SPDC has forced civilians to work in industrial, military, and infrastructure construction operations throughout Burma, and on a large-scale basis has targeted ethnic and religious minorities for this work;

Whereas a Department of Labor report in 2000 described the human rights abuses of forced laborers, including beating, torture, starvation, and summary executions;

Whereas the Drug Enforcement Administration has reported that Burma is the world's second largest producer of opium and opiate-based drugs;

Whereas officials in Thailand have estimated that as many as 800 million tablets of methamphetamine will be smuggled into their country this year, contributing to the growing methamphetamine problem in Thailand;

Whereas there are as many as a million internally displaced persons in Burma;

Whereas the SPDC continues to severely restrict the political activities of Daw Aung San Suu Kyi and the National League for Democracy;

Whereas, in September 2000, Daw Aung San Suu Kyi was placed under house arrest when she attempted to visit a National League for Democracy party office on the outskirts of Rangoon, and again when she attempted to travel by train to Mandalay;

Whereas Daw Aung San Suu Kyi and the SPDC have recently begun talks under the auspices of the United Nations Special Envoy to Burma, Razali Ismail, which are welcomed by the international community;

Whereas the SPDC has recently allowed the National League for Democracy to open some political offices, and has released some political prisoners, although over 1,800 such prisoners are believed to remain imprisoned;

Whereas, with the exception of these positive developments, the SPDC has made little progress in improving human rights conditions and restoring democracy to Burma;

Whereas the United Nations General Assembly has recently expressed its concern over the slow progress in the talks between Daw Aung San Suu Kyi and the SPDC;

Whereas Daw Aung San Suu Kyi's struggle to assert the rights of her people has spread beyond politics and into popular culture, as evidenced by others championing her cause, most notably the rock group U2 in their song "Walk On", which is banned in Burma;

Whereas Daw Aung San Suu Kyi is the recipient of the Presidential Medal of Freedom; and

Whereas, in the face of oppression and at great personal sacrifice, Daw Aung San Suu Kyi has remained an outspoken champion of democracy and freedom: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

[That—

[(1) the Congress commends and congratulates Daw Aung San Suu Kyi on the 10th anniversary of her receiving the Nobel Peace Prize, and recognizes her remarkable contributions and tireless work toward bringing peace and democracy to Burma;

[(2) it is the sense of the Congress that the President and Secretary of State should continue to encourage the Government of Burma to restore basic human rights to the Burmese people, to eliminate the practice of human trafficking, to address the manufacture of heroin and methamphetamines, to continue the process of releasing political prisoners, to recognize the results of the 1990 democratic elections, and to allow Daw Aung San Suu Kyi and the National League for Democracy to enjoy unfettered freedom of speech and freedom of movement; and

[(3) it is the sense of the Congress that Daw Aung San Suu Kyi should be invited to address a joint meeting of the Congress at such time and under such circumstances as will, in the judgment of Daw Aung San Suu Kyi, advance rather than endanger her continued ability to work within Burma for the rights of the Burmese people.]

SECTION 1. COMMENDATION OF DAW AUNG SAN SUU KYI AND SENSE OF CONGRESS WITH RESPECT TO THE GOVERNMENT OF BURMA.

(a) COMMENDATION OF DAW AUNG SAN SUU KYI.—Congress—

(1) commends and congratulates Daw Aung San Suu Kyi on the 10th anniversary of her receiving the Nobel Peace Prize; and

(2) recognizes her remarkable contributions and tireless work toward bringing national reconciliation and democracy to Burma.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President and the Secretary of State should continue to encourage the SPDC to—

(1) restore basic human rights to the Burmese people;

(2) eliminate the practice of human trafficking;

(3) address the manufacture of heroin and methamphetamines;

(4) release all political prisoners;

(5) remove all restrictions on the freedom of speech, assembly, association, and movement of Daw Aung San Suu Kyi and members of the National League for Democracy;

(6) recognize the results of the 1990 democratic elections; and

(7) take concrete steps to achieve national reconciliation and the restoration of democracy through genuine and substantive dialogue with Daw Aung San Suu Kyi.

Mr. REID. I ask unanimous consent that the committee amendment be agreed to, the concurrent resolution, as amended, be agreed to, the amendment to the preamble be agreed to, the preamble, as amended, be agreed to, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendment was agreed to.

The concurrent resolution (H. Con. Res. 211), as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

CONGRATULATING THE PEOPLE AND GOVERNMENT OF KAZAKHSTAN ON THE ANNIVERSARY OF INDEPENDENCE

Mr. REID. I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 194, and that the Senate now proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 194) congratulating the people and government of Kazakhstan on the tenth anniversary of the independence of the Republic of Kazakhstan.

There being no objection, the Senate proceeded to the immediate consideration of the resolution.

Mr. REID. I ask unanimous consent that the amendment to the resolution and the preamble be agreed to, the resolution, as amended, be agreed to, the preamble, as amended, be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 2693) was agreed to, as follows:

On page 3, delete lines 7–9, and insert the following: "United States on matters of national security, including the war against terrorism."

The resolution (S. Res. 194), as amended, was agreed to.

The preamble, as amended, was agreed to.

[The resolution will appear in a future edition of the RECORD.]

AMERICAN WILDLIFE ENHANCEMENT ACT OF 2001

Mr. REID. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 283, S. 990.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 990) to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Wildlife Enhancement Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PITTMAN-ROBERTSON WILDLIFE CONSERVATION AND RESTORATION PROGRAMS IMPROVEMENT

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Wildlife Conservation and Restoration Account.
Sec. 104. Apportionment of amounts in the Account.
Sec. 105. Wildlife conservation and restoration programs.
Sec. 106. Nonapplicability of Federal Advisory Committee Act.
Sec. 107. Technical amendments.
Sec. 108. Effective date.

TITLE II—ENDANGERED AND THREATENED SPECIES RECOVERY

Sec. 201. Purpose.
Sec. 202. Endangered and threatened species recovery assistance.

TITLE III—NON-FEDERAL LAND CONSERVATION GRANT PROGRAM

Sec. 301. Non-Federal land conservation grant program.

TITLE IV—CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND

Sec. 401. Conservation and restoration of shrubland and grassland.

TITLE I—PITTMAN-ROBERTSON WILDLIFE CONSERVATION AND RESTORATION PROGRAMS IMPROVEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Pittman-Robertson Wildlife Conservation and Restoration Programs Improvement Act".

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 2 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669a) is amended to read as follows:

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) ACCOUNT.—The term 'Account' means the Wildlife Conservation and Restoration Account established by section 3(a)(2).

"(2) CONSERVATION.—

"(A) IN GENERAL.—The term 'conservation' means the use of a method or procedure necessary or desirable—

"(i) to sustain healthy populations of wildlife; or

"(ii) to restore declining populations of wildlife.

"(B) INCLUSIONS.—The term 'conservation' includes any activity associated with scientific resources management, such as—

"(i) research;

"(ii) census;

"(iii) monitoring of populations;

"(iv) acquisition, improvement, and management of habitat;

"(v) live trapping and transplantation;

"(vi) wildlife damage management;

"(vii) periodic or total protection of a species or population; and

"(viii) the taking of individuals within a wildlife stock or population if permitted by applicable Federal law, State law, or law of the District of Columbia, a territory, or an Indian tribe for the purpose of protecting wildlife in decline.

"(3) FUND.—The term 'fund' means the Federal aid to wildlife restoration fund established by section 3(a)(1).

"(4) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(5) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(6) STATE FISH AND GAME DEPARTMENT.—The term 'State fish and game department' means any department or division of a department of another name, or commission, or 1 or more officials, of a State, the District of Columbia, a territory, or an Indian tribe empowered under the laws of the State, the District of Columbia, the territory, or the Indian tribe, respectively, to exercise the functions ordinarily exercised by a State fish and game department or a State fish and wildlife department.

"(7) TERRITORY.—The term 'territory' means Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.

"(8) WILDLIFE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'wildlife' means—

"(i) any species of wild, free-ranging fauna (excluding fish); and

"(ii) any species of fauna (excluding fish) in a captive breeding program the object of which is to reintroduce individuals of a depleted native species into the previously occupied range of the species.

"(B) WILDLIFE CONSERVATION AND RESTORATION PROGRAM.—For the purposes of each wildlife conservation and restoration program, the term 'wildlife' includes fish and native plants.

"(9) WILDLIFE-ASSOCIATED RECREATION PROJECT.—The term 'wildlife-associated recreation project' means—

"(A) a project intended to meet the demand for an outdoor activity associated with wildlife, such as hunting, fishing, and wildlife observation and photography;

"(B) a project such as construction or restoration of a wildlife viewing area, observation tower, blind, platform, land or water trail, water access route, area for field trialing, or trail head; and

"(C) a project to provide access for a project described in subparagraph (A) or (B).

"(10) WILDLIFE CONSERVATION AND RESTORATION PROGRAM.—The term 'wildlife conservation and restoration program' means a program developed by a State fish and game department and approved by the Secretary under section 12.

"(11) WILDLIFE CONSERVATION EDUCATION PROJECT.—The term 'wildlife conservation education project' means a project, including public outreach, that is intended to foster responsible natural resource stewardship.

"(12) WILDLIFE-RESTORATION PROJECT.—

"(A) IN GENERAL.—The term 'wildlife-restoration project' means a project consisting of the selection, restoration, rehabilitation, or improvement of an area of land or water (including a property interest in land or water) that is adaptable as a feeding, resting, or breeding place for wildlife.

"(B) INCLUSIONS.—The term 'wildlife-restoration project' includes—

"(i) acquisition of an area of land or water described in subparagraph (A) that is suitable or capable of being made suitable for feeding, resting, or breeding by wildlife;

"(ii) restoration or rehabilitation of an area of land or water described in subparagraph (A) (such as through management of habitat and invasive species);

"(iii) construction in an area described in subparagraph (A) of such works as are necessary to make the area available for feeding, resting, or breeding by wildlife;

"(iv) such research into any problem of wildlife management as is necessary for efficient administration of wildlife resources; and

"(v) such preliminary or incidental expenses as are incurred with respect to activities described in this paragraph.".

(b) CONFORMING AMENDMENTS.—

(1) The first section, section 3(a)(1), and section 12 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669, 669b(a)(1), 669i) are amended by striking "Secretary of Agriculture" each place it appears and inserting "Secretary".

(2) The Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) is amended by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

(3) Section 3(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(1)) is amended by striking "(hereinafter referred to as the 'fund')".

(4) Section 6(c) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669e(c)) is amended by striking "established by section 3 of this Act".

(5) Section 11(b) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–2(b)) is amended by striking "wildlife restoration projects" each place it appears and inserting "wildlife-restoration projects".

SEC. 103. WILDLIFE CONSERVATION AND RESTORATION ACCOUNT.

(a) IN GENERAL.—Section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) is amended—

(1) by striking "SEC. 3. (a)(1) An" and inserting the following:

"SEC. 3. FEDERAL AID TO WILDLIFE RESTORATION FUND.

"(a) IN GENERAL.—

"(1) FEDERAL AID TO WILDLIFE RESTORATION FUND.—An";

(2) in subsection (a), by striking paragraph (2) and inserting the following:

"(2) WILDLIFE CONSERVATION AND RESTORATION ACCOUNT.—

"(A) ESTABLISHMENT.—There is established in the fund an account to be known as the 'Wildlife Conservation and Restoration Account'.

"(B) FUNDING.—

"(i) IN GENERAL.—There are authorized to be appropriated to the Account for apportionment

to States, the District of Columbia, territories, and Indian tribes in accordance with section 4(d)—

"(I) $50,000,000 for fiscal year 2001; and

"(II) $350,000,000 for each of fiscal years 2002 through 2006.

"(ii) AVAILABILITY.—Notwithstanding the matter under the heading 'FEDERAL AID IN WILDLIFE RESTORATION' under the heading 'FISH AND WILDLIFE SERVICE' in title I of chapter VII of the General Appropriation Act, 1951 (64 Stat. 693), the amount appropriated under clause (i)(II) for each of fiscal years 2002 through 2006 shall be available for obligation in that fiscal year."; and

(3) by striking subsections (c) and (d).

(b) CONFORMING AMENDMENTS.—

(1) Section 3(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(1)) is amended in the first sentence—

(A) by inserting "(other than the Account)" after "wildlife restoration fund"; and

(B) by inserting before the period at the end the following: "(other than sections 4(d) and 12)".

(2) Section 4 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c) is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A)—

(I) by inserting "(other than the Account)" after "the fund"; and

(II) by inserting "(other than subsection (d) and sections 3(a)(2) and 12)" after "this Act"; and

(ii) in paragraph (2)(B), by inserting "from the fund (other than the Account)" before "under this Act"; and

(B) in the first sentence of subsection (b), by striking "said fund" and inserting "the fund (other than the Account)".

(3) Section 6 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669e) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by inserting "(other than sections 4(d) and 12)" after "this Act";

(ii) in the last sentence of paragraph (1), by striking "this Act from funds apportioned under this Act" and inserting "this Act (other than sections 4(d) and 12) from funds apportioned from the fund (other than the Account) under this Act";

(iii) in paragraph (2)—

(I) in the first sentence, by inserting "(other than sections 4(d) and 12)" after "this Act"; and

(II) in the last sentence, by striking "said fund as represents the share of the United States payable under this Act" and inserting "the fund (other than the Account) as represents the share of the United States payable from the fund (other than the Account) under this Act"; and

(iv) in the last paragraph, by inserting "from the fund (other than the Account)" before "under this Act" each place it appears; and

(B) in subsection (b), by inserting "(other than sections 4(d) and 12)" after "this Act" each place it appears.

(4) Section 8A of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g–1) is amended in the first sentence by inserting "from the fund (other than the Account)" before "under this Act".

(5) Section 9 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h) is amended in subsections (a) and (b)(1) by striking "section 4(a)(1)" each place it appears and tnserting "subsections (a)(1) and (d)(1) of section 4".

(6) Section 10 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–1) is amended—

(A) in subsection (a)(1)—

(i) by inserting "(other than the Account)" after "the fund"; and

(ii) in subparagraph (B), by inserting "but excluding any use authorized solely by section 12" after "target ranges"; and

(B) in subsection (c)(2), by inserting before the period at the end the following: "(other than sections 4(d) and 12)".

(7) Section 11(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–2(a)(1)) is amended by inserting "(other than the Account)" after "the fund".

SEC. 104. APPORTIONMENT OF AMOUNTS IN THE ACCOUNT.

Section 4 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c) is amended by striking the second subsection (c) and subsection (d) and inserting the following:

"(d) APPORTIONMENT OF AMOUNTS IN THE ACCOUNT.—

"(1) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—For each fiscal year, the Secretary may deduct, for payment of administrative expenses incurred by the Secretary in carrying out activities funded from the Account, not more than 3 percent of the total amount of the Account available for apportionment for the fiscal year.

"(2) APPORTIONMENT TO DISTRICT OF COLUMBIA, TERRITORIES, AND INDIAN TRIBES.—

"(A) IN GENERAL.—For each fiscal year, after making the deduction under paragraph (1), the Secretary shall apportion from the amount in the Account remaining available for apportionment—

"(i) to each of the District of Columbia and the Commonwealth of Puerto Rico, a sum equal to not more than 1/2 of 1 percent of that remaining amount;

"(ii) to each of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, a sum equal to not more than 1/4 of 1 percent of that remaining amount; and

"(iii) to Indian tribes, a sum equal to not more than 2 1/4 percent of that remaining amount, of which, subject to subparagraph (B)—

"(I) 1/3 shall be apportioned among Indian tribes based on the ratio that the trust land area of each Indian tribe bears to the total trust land area of all Indian tribes; and

"(II) 2/3 shall be apportioned among Indian tribes based on the ratio that the population of each Indian tribe bears to the total population of all Indian tribes.

"(B) MAXIMUM APPORTIONMENT FOR EACH INDIAN TRIBE.—For each fiscal year, the amounts apportioned under subparagraph (A)(iii) shall be adjusted proportionately so that no Indian tribe is apportioned a sum that is more than 5 percent of the amount available for apportionment under subparagraph (A)(iii) for the fiscal year.

"(3) APPORTIONMENT TO STATES.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, after making the deduction under paragraph (1) and the apportionment under paragraph (2), the Secretary shall apportion the amount in the Account remaining available for apportionment among States in the following manner:

"(i) 1/3 based on the ratio that the area of each State bears to the total area of all States.

"(ii) 2/3 based on the ratio that the population of each State bears to the total population of all States.

"(B) MINIMUM AND MAXIMUM APPORTIONMENTS.—For each fiscal year, the amounts apportioned under this paragraph shall be adjusted proportionately so that no State is apportioned a sum that is—

"(i) less than 1 percent of the amount available for apportionment under this paragraph for the fiscal year; or

"(ii) more than 5 percent of that amount.

"(4) USE.—

"(A) IN GENERAL.—Apportionments under paragraphs (2) and (3)—

"(i) shall supplement, but not supplant, funds available to States, the District of Columbia, territories, and Indian tribes—

"(I) from the fund; or

"(II) from the Sport Fish Restoration Account established by section 9504(a) of the Internal Revenue Code of 1986; and

"(ii) shall be used to address the unmet needs for wildlife (including species that are not hunted or fished, and giving priority to species that are in decline), and the habitats on which the wildlife depend, for projects authorized to be carried out as part of wildlife conservation and restoration programs in accordance with section 12.

"(B) PROHIBITION ON DIVERSION.—A State, the District of Columbia, a territory, or an Indian tribe shall not be eligible to receive an apportionment under paragraph (2) or (3) if the Secretary determines that the State, the District of Columbia, the territory, or the Indian tribe respectively, diverts funds from any source of revenue (including interest, dividends, and other income earned on the revenue) available to the State, the District of Columbia, the territory, or the Indian tribe after January 1, 2000, for conservation of wildlife for any purpose other than the administration of the State fish and game department in carrying out wildlife conservation activities.

"(5) PERIOD OF AVAILABILITY OF APPORTIONMENTS.—Notwithstanding section 3(a)(1), for each fiscal year, the apportionment to a State, the District of Columbia, a territory, or an Indian tribe from the Account under this subsection shall remain available for obligation until the end of the second following fiscal year.".

SEC. 105. WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.

(a) IN GENERAL.—The Pittman-Robertson Wildlife Restoration Act is amended—

(1) by redesignating sections 12 and 13 (16 U.S.C. 669i, 669 note) as sections 13 and 15, respectively; and

(2) by inserting after section 11 (16 U.S.C. 669h–2) the following:

"SEC. 12. WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.

"(a) DEFINITION OF STATE.—In this section, the term 'State' means a State, the District of Columbia, a territory, and an Indian tribe.

"(b) WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.—

"(1) IN GENERAL.—A State, acting through the State fish and game department, may apply to the Secretary—

"(A) for approval of a wildlife conservation and restoration program; and

"(B) to receive funds from the apportionment to the State under section 4(d) to develop and implement the wildlife conservation and restoration program.

"(2) APPLICATION CONTENTS.—As part of an application under paragraph (1), a State shall provide documentation demonstrating that the wildlife conservation and restoration program of the State includes—

"(A) provisions vesting in the State fish and game department overall responsibility and accountability for the wildlife conservation and restoration program of the State;

"(B) provisions to identify which species in the State are in greatest need of conservation; and

"(C) provisions for the development, implementation, and maintenance, under the wildlife conservation and restoration program, of—

"(i) wildlife conservation projects—

"(I) that expand and support other wildlife programs; and

"(II) that are selected giving appropriate consideration to all species of wildlife in accordance with subsection (c);

"(ii) wildlife-associated recreation projects; and

"(iii) wildlife conservation education projects.

"(3) PUBLIC PARTICIPATION.—A State shall provide an opportunity for public participation in the development, implementation, and revision of the wildlife conservation and restoration program of the State and projects carried out under the wildlife conservation and restoration program.

"(4) APPROVAL FOR FUNDING.—If the Secretary finds that the application submitted by a State meets the requirements of paragraph (2), the Secretary shall approve the wildlife conservation and restoration program of the State.

"(5) PAYMENT OF FEDERAL SHARE.—

"(A) IN GENERAL.—Subject to subparagraph (D), after the Secretary approves a wildlife conservation and restoration program of a State, the Secretary may use the apportionment to the State under section 4(d) to pay the Federal share of—

"(i) the cost of implementation of the wildlife conservation and restoration program; and

"(ii) the cost of development, implementation, and maintenance of each project that is part of the wildlife conservation and restoration program.

"(B) FEDERAL SHARE.—The Federal share shall not exceed 75 percent.

"(C) TIMING OF PAYMENTS.—Under such regulations as the Secretary may promulgate, the Secretary—

"(i) shall make payments to a State under subparagraph (A) during the course of a project; and

"(ii) may advance funds to pay the Federal share of the costs described in subparagraph (A).

"(D) MAXIMUM AMOUNT FOR CERTAIN ACTIVITIES.—

"(i) IN GENERAL.—Notwithstanding section 8(a), except as provided in clause (ii), for each fiscal year, not more than 10 percent of the apportionment to a State under section 4(d) for the wildlife conservation and restoration program of the State may be used for each of the following activities:

"(I) Law enforcement activities.

"(II) Wildlife-associated recreation projects.

"(ii) EXCEPTION.—For any fiscal year, the limitation under clause (i) shall not apply to law enforcement activities or wildlife-associated recreation projects in a State if the State demonstrates to the satisfaction of the Secretary that law enforcement activities or wildlife-associated recreation projects, respectively, have a significant impact on high priority conservation activities.

"(6) METHOD OF IMPLEMENTATION OF PROJECTS.—A State may implement a project that is part of the wildlife conservation and restoration program of the State through—

"(A) a grant made by the State to, or a contract entered into by the State with—

"(i) any Federal, State, or local agency (including an agency that gathers, evaluates, and disseminates information on wildlife and wildlife habitats);

"(ii) an Indian tribe;

"(iii) a wildlife conservation organization, sportsmen's organization, land trust, or other nonprofit organization; or

"(iv) an outdoor recreation or conservation education entity; and

"(B) any other method determined appropriate by the State.

"(c) WILDLIFE CONSERVATION STRATEGY.—

"(1) IN GENERAL.—Not later than 5 years after the date of the initial apportionment to a State under section 4(d), to be eligible to continue to receive funds from the apportionment to the State under section 4(d), the State shall, as part of the wildlife conservation and restoration program of the State, develop and implement a wildlife conservation strategy that is based on the best available and appropriate scientific information.

"(2) REQUIRED ELEMENTS.—A wildlife conservation strategy shall—

"(A) use such information on the distribution and abundance of species of wildlife as is indicative of the diversity and health of the wildlife of the State, including such information on species with low populations and declining numbers of individuals as the State fish and game department determines to be appropriate;

"(B) identify the extent and condition of wildlife habitats and community types essential to conservation of the species of wildlife of the State identified using information described in subparagraph (A);

"(C)(i) identify the problems that may adversely affect—

"(I) the species identified using information described in subparagraph (A); and

"(II) the habitats of the species identified under subparagraph (B); and

"(ii) provide for high priority research and surveys to identify factors that may assist in the restoration and more effective conservation of—

"(I) the species identified using information described in subparagraph (A); and

"(II) the habitats of the species identified under subparagraph (B);

"(D)(i) describe which actions should be taken to conserve—

"(I) the species identified using information described in subparagraph (A); and

"(II) the habitats of the species identified under subparagraph (B); and

"(ii) establish priorities for implementing those actions; and

"(E) provide for—

"(i) periodic monitoring of—

"(I) the species identified using information described in subparagraph (A);

"(II) the habitats of the species identified under subparagraph (B); and

"(III) the effectiveness of the conservation actions described under subparagraph (D); and

"(ii) adaptation of conservation actions as appropriate to respond to new information or changing conditions.

"(3) PUBLIC PARTICIPATION IN DEVELOPMENT OF STRATEGY.—A State shall provide an opportunity for public participation in the development and implementation of the wildlife conservation strategy of the State.

"(4) REVIEW AND REVISION.—Not less often than once every 7 years, a State shall review the wildlife conservation strategy of the State and make any appropriate revisions.

"(5) COORDINATION.—During the development, implementation, review, and revision of the wildlife conservation strategy of the State, a State shall provide for coordination between—

"(A) the State fish and game department; and

"(B) Federal, State, and local agencies and Indian tribes that—

"(i) manage significant areas of land or water within the State; or

"(ii) administer programs that significantly affect the conservation of

"(I) the species identified using information described in paragraph (2)(A); or

"(II) the habitats of the species identified under paragraph (2)(B).

"(6) EFFECT OF FAILURE TO DEVELOP OR CARRY OUT WILDLIFE CONSERVATION STRATEGY.—

"(A) IN GENERAL.—If, in any fiscal year, a State fails to develop, implement, obtain the approval of the Secretary for, review, or revise a wildlife conservation strategy as required under this subsection, the apportionment to the State under section 4(d) for the following fiscal year shall be reapportioned in accordance with section 4(d) to States that carry out those activities as required under this subsection.

"(B) CORRECTION OF DEFICIENCIES.—If a State whose apportionment for a fiscal year is reapportioned under subparagraph (A) subsequently carries out the activities described in that subparagraph as required under this subsection, the State shall be eligible to receive an apportionment under section 4(d) for the fiscal year following the fiscal year of the reapportionment.

"(d) USE OF FUNDS FOR NEW AND EXISTING PROGRAMS AND PROJECTS.—Funds made available from the Account to carry out activities under this section may be used—

"(1) to carry out new programs and projects; and

"(2) to enhance existing programs and projects.

"(e) PRIORITY FOR FUNDING.—In using funds made available from the Account to carry out activities under this section, a State shall give priority to species that are in greatest need of conservation—

"(1) as evidenced by—

"(A) a low population and declining numbers of individuals;

"(B) a current threat or reasonably anticipated threat to the habitat of the species; or

"(C) any other similar indicator of need of conservation; or

"(2) as identified in the wildlife conservation strategy of the State under subsection (c).

"(f) LIMITATION ON USE OF FUNDS FOR WILDLIFE CONSERVATION EDUCATION PROJECTS.—Funds made available from the Account to carry out wildlife conservation education projects shall not be used to fund, in whole or in part, any activity that promotes or encourages opposition to the regulated hunting or trapping of wildlife.".

(b) CONFORMING AMENDMENT.—Section 8(a) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g) is amended by striking the last sentence.

SEC. 106. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) PITTMAN-ROBERTSON WILDLIFE RESTORATION ACT.—The Pittman-Robertson Wildlife Restoration Act (as amended by section 105(a)(1)) is amended by inserting after section 13 the following:

"SEC. 14. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

"Coordination with State fish and game department personnel or with personnel of any other agency of a State, the District of Columbia, a territory, or an Indian tribe under this Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

(b) DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—The Dingell-Johnson Sport Fish Restoration Act is amended—

(1) by redesignating section 15 (16 U.S.C. 777 note) as section 16; and

(2) by inserting after section 14 (16 U.S.C. 777m) the following:

"SEC. 15. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

"Coordination with State fish and game department personnel or with personnel of any other State agency under this Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 107. TECHNICAL AMENDMENTS.

(a) The first section of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669) is amended by striking "That the" and inserting the following:

"SECTION 1. COOPERATION OF SECRETARY OF THE INTERIOR WITH STATES.

"The".

(b) Section 5 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669d) is amended by striking "SEC. 5." and inserting the following:

"SEC. 5. CERTIFICATION OF AMOUNTS DEDUCTED OR APPORTIONED.".

(c) Section 6 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669e) is amended by striking "Sec. 6." and inserting the following:

"SEC. 6. SUBMISSION AND APPROVAL OF PLANS AND PROJECTS.".

(d) Section 7 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669f) is amended by striking "Sec. 7." and inserting the following:

"SEC. 7. PAYMENT OF FUNDS TO STATES.".

(e) Section 8 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g) is amended by striking "Sec. 8." and inserting the following:

"SEC. 8. MAINTENANCE OF PROJECTS; FUNDING OF HUNTER SAFETY PROGRAMS AND PUBLIC TARGET RANGES.".

(f) Section 8A of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g–1) is amended by striking "Sec. 8A." and inserting the following:

"SEC. 8A. APPORTIONMENTS TO TERRITORIES.".

(g) Section 13 of the Pittman-Robertson Wildlife Restoration Act (as redesignated by section 105(a)(1)) is amended by striking "Sec. 13." and inserting the following:

"SEC. 13. RULES AND REGULATIONS.".

SEC. 108. EFFECTIVE DATE.

This title takes effect on October 1, 2001.

TITLE II—ENDANGERED AND THREATENED SPECIES RECOVERY

SEC. 201. PURPOSE.

The purpose of this title is to promote involvement by non-Federal entities in the recovery of—

(1)(A) the endangered species of the United States;

(B) the threatened species of the United States; and

(C) the species of the United States that may become endangered species or threatened species if conservation actions are not taken to conserve and protect the species; and

(2) the habitats on which the species depend.

SEC. 202. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

(a) In General.—Section 13 of the Endangered Species Act of 1973 (87 Stat. 902) is amended to read as follows:

"SEC. 13. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

"(a) Definitions.—In this section:

"(1) Conservation entity.—

"(A) In general.—The term 'conservation entity' means a nonprofit entity that engages in activities to conserve or protect fish, wildlife, or plants, or habitats for fish, wildlife, or plants.

"(B) Inclusions.—The term 'conservation entity' includes—

"(i) a sportsmen's organization;

"(ii) an environmental organization; and

"(iii) a land trust.

"(2) Farm or ranch.—The term 'farm or ranch' means an activity with respect to which not less than $1,000 in income is derived from agricultural production within a census year.

"(3) Person.—The term 'person' includes a conservation entity.

"(4) Small landowner.—The term 'small landowner' means—

"(A) an individual who owns land in a State that—

"(i) is used as a farm or ranch; and

"(ii) has an acreage of not more than the greater of—

"(I) 50 percent of the average acreage of a farm or ranch in the State; or

"(II) 160 acres of land; and

"(B) an individual who owns land that—

"(i) is not used as a farm or ranch; and

"(ii) has an acreage of not more than 160 acres.

"(5) Species at risk.—The term 'species at risk' means a species that may become an endangered species or a threatened species if conservation actions are not taken to conserve and protect the species.

"(6) Species recovery agreement.—The term 'species recovery agreement' means an endangered and threatened species recovery agreement entered into under subsection (c).

"(b) Endangered and Threatened Species Recovery Assistance.—

"(1) Financial assistance.—The Secretary may provide financial assistance to any person for development and implementation of an endangered and threatened species recovery agreement entered into by the Secretary and the person under subsection (c).

"(2) Priority.—In providing financial assistance under this subsection, the Secretary shall give priority to the development and implementation of species recovery agreements that—

"(A) implement actions identified under recovery plans approved by the Secretary under section 4(f);

"(B) have the greatest potential for contributing to the recovery of endangered species, threatened species, or species at risk;

"(C) benefit multiple endangered species, threatened species, or species at risk;

"(D) carry out activities specified in State or local conservation plans; or

"(E) are proposed by small landowners.

"(3) Prohibition on assistance for required activities.—The Secretary shall not provide financial assistance under this subsection for any activity that is required—

"(A) by a permit issued under section 10(a)(1)(B);

"(B) by an incidental taking statement provided under section 7(b)(4); or

"(C) under another provision of this Act, any other Federal law, or any State law.

"(4) Payments under other programs.—

"(A) Other payments not affected.—Financial assistance provided to a person under this subsection shall be in addition to, and shall not affect, the total amount of payments that the person is eligible to receive under—

"(i) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

"(ii) the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.);

"(iii) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); or

"(iv) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

"(B) Limitation.—A person shall not receive financial assistance under a species recovery agreement for any activity for which the person receives a payment under a program referred to in subparagraph (A) unless the species recovery agreement imposes on the person a financial or management obligation in addition to the obligations of the person under that program.

"(c) Endangered and Threatened Species Recovery Agreements.—

"(1) In general.—In accordance with this subsection, the Secretary may enter into endangered and threatened species recovery agreements.

"(2) Required terms.—The Secretary shall include in each species recovery agreement with a person provisions that—

"(A) require the person—

"(i) to carry out on real property owned or leased by the person, or on Federal or State land, activities (such as activities that, consistent with applicable State water law (including regulations), make water available for endangered species, threatened species, or species at risk) that—

"(I) are not required by Federal or State law; and

"(II) contribute to the recovery of an endangered species, threatened species, or species at risk; or

"(ii) to refrain from carrying out on real property owned or leased by the person otherwise lawful activities that would inhibit the recovery of an endangered species, threatened species, or species at risk, such as refraining from carrying out activities that, consistent with applicable State water law (including regulations), directly reduce the availability of water for such a species;

"(B) describe the real property referred to in clauses (i) and (ii) of subparagraph (A);

"(C) specify species recovery goals for the species recovery agreement, and activities for attaining the goals;

"(D)(i) require the person to make demonstrable progress in accomplishing the species recovery goals; and

"(ii) specify a schedule for implementation of the species recovery agreement;

"(E) specify actions to be taken by the Secretary or the person to monitor the effectiveness of the species recovery agreement in attaining the species recovery goals;

"(F) require the person to notify the Secretary if any right or obligation of the person under the species recovery agreement is assigned to any other person;

"(G) require the person to notify the Secretary if any term of the species recovery agreement is breached;

"(H) specify the date on which the species recovery agreement takes effect and the period of time during which the species recovery agreement shall remain in effect;

"(I) schedule the disbursement of financial assistance provided under subsection (b) for implementation of the species recovery agreement, on an annual or other basis during the period in which the species recovery agreement is in effect, based on the schedule for implementation required under subparagraph (D)(ii); and

"(J) provide that the Secretary shall, subject to paragraph (4)(C), terminate the species recovery agreement if the person fails to carry out the species recovery agreement.

"(3) Review and approval of proposed species recovery agreements.—On submission by any person of a proposed species recovery agreement under this subsection, the Secretary shall—

"(A) review the proposed species recovery agreement and determine whether the species recovery agreement—

"(i) complies with this subsection; and

"(ii) will contribute to the recovery of each endangered species, threatened species, or species at risk that is the subject of the proposed species recovery agreement;

"(B) propose to the person any additional provisions that are necessary for the species recovery agreement to comply with this subsection; and

"(C) if the Secretary determines that the species recovery agreement complies with this subsection, enter into the species recovery agreement with the person.

"(4) Monitoring of implementation of species recovery agreements.—The Secretary shall—

"(A) periodically monitor the implementation of each species recovery agreement;

"(B) based on the information obtained from the monitoring, annually or otherwise disburse financial assistance under this section to implement the species recovery agreement as the Secretary determines to be appropriate under the species recovery agreement; and

"(C) if the Secretary determines that the person is not making demonstrable progress in accomplishing the species recovery goals specified under paragraph (2)(C)—

"(i) propose 1 or more modifications to the species recovery agreement that are necessary to accomplish the species recovery goals; or

"(ii) terminate the species recovery agreement.

"(5) LIMITATION WITH RESPECT TO FEDERAL OR STATE LAND.—The Secretary may enter into a species recovery agreement with a person with respect to Federal or State land only if the United States or the State, respectively, is a party to the species recovery agreement.

"(d) ALLOCATION OF FUNDS.—Of the amounts made available to carry out this section for a fiscal year—

"(1) 1/3 shall be made available to provide financial assistance for development and implementation of species recovery agreements by small landowners, subject to subparagraphs (A) through (D) of subsection (b)(2);

"(2) 1/3 shall be made available to provide financial assistance for development and implementation of species recovery agreements on public land, subject to subparagraphs (A) through (D) of subsection (b)(2); and

"(3) 1/3 shall be made available to provide financial assistance for development and implementation of species recovery agreements, subject to subsection (b)(2).

"(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out this section for a fiscal year, not more than 3 percent may be used to pay administrative expenses incurred in carrying out this section.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended by adding at the end the following:

"(d) ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.—There is authorized to be appropriated to carry out section 13 $150,000,000 for each of fiscal years 2002 through 2006.".

(c) CONFORMING AMENDMENT.—The table of contents in the first section of the Endangered Species Act of 1973 (16 U.S.C. prec. 1531) is amended by striking the item relating to section 13 and inserting the following:

"Sec. 13. Endangered and threatened species recovery assistance.".

TITLE III—NON-FEDERAL LAND CONSERVATION GRANT PROGRAM

SEC. 301. NON-FEDERAL LAND CONSERVATION GRANT PROGRAM.

(a) IN GENERAL.—The Partnerships for Wildlife Act (16 U.S.C. 3741 et seq.) is amended by adding at the end the following:

"SEC. 7106. NON-FEDERAL LAND CONSERVATION GRANT PROGRAM.

"(a) ESTABLISHMENT.—In consultation with appropriate State, regional, and other units of government, the Secretary shall establish a competitive grant program, to be known as the 'Non-Federal Land Conservation Grant Program' (referred to in this section as the 'program'), to make grants to States or groups of States to pay the Federal share determined under subsection (c)(4) of the costs of conservation of non-Federal land or water of regional or national significance.

"(b) RANKING CRITERIA.—In selecting among applications for grants for projects under the program, the Secretary shall—

"(1) rank projects according the extent to which a proposed project will protect watersheds and important scenic, cultural, recreational, fish, wildlife, and other ecological resources; and

"(2) subject to paragraph (1), give preference to proposed projects—

"(A) that seek to protect ecosystems;

"(B) that are developed in collaboration with other States;

"(C) with respect to which there has been public participation in the development of the project proposal;

"(D) that are supported by communities and individuals that are located in the immediate vicinity of the proposed project or that would be directly affected by the proposed project; or

"(E) that the State considers to be a State priority.

"(c) GRANTS TO STATES.—

"(1) NOTICE OF DEADLINE FOR APPLICATIONS.—The Secretary shall give reasonable advance notice of each deadline for submission of applications for grants under the program by publication of a notice in the Federal Register.

"(2) SUBMISSION OF APPLICATIONS.—

"(A) IN GENERAL.—A State or group of States may submit to the Secretary an application for a grant under the program.

"(B) REQUIRED CONTENTS OF APPLICATIONS.—Each application shall include—

"(i) a detailed description of each proposed project;

"(ii) a detailed analysis of project costs, including costs associated with—

"(I) planning;

"(II) administration;

"(III) property acquisition; and

"(IV) property management;

"(iii) a statement describing how the project is of regional or national significance; and

"(iv) a plan for stewardship of any land or water, or interest in land or water, to be acquired under the project.

"(3) SELECTION OF GRANT RECIPIENTS.—Not later than 90 days after the date of receipt of an application, the Secretary shall—

"(A) review the application; and

"(B)(i) notify the State or group of States of the decision of the Secretary on the application; and

"(ii) if the application is denied, provide an explanation of the reasons for the denial.

"(4) COST SHARING.—The Federal share of the costs of a project under the program shall be—

"(A) in the case of a project to acquire an interest in land or water that is not a permanent conservation easement, not more than 50 percent of the costs of the project;

"(B) in the case of a project to acquire a permanent conservation easement, not more than 70 percent of the costs of the project; and

"(C) in the case of a project involving 2 or more States, not more than 75 percent of the costs of the project.

"(5) EFFECT OF INSUFFICIENCY OF FUNDS.—If the Secretary determines that there are insufficient funds available to make grants with respect to all applications that meet the requirements of this subsection, the Secretary shall give priority to those projects that best meet the ranking criteria established under subsection (b).

"(6) GRANTS TO STATE OF NEW HAMPSHIRE.—Notwithstanding subsection (b) and paragraphs (3) and (5), the Secretary shall make grants under the program to the State of New Hampshire to pay the Federal share determined under paragraph (4) of the costs of acquiring conservation easements with respect to land or water located in northern New Hampshire and sold by International Paper to the Trust for Public Land.

"(d) REPORT.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report describing the grants made under this section, including an analysis of how projects were ranked under subsection (b).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out this section (other than subsection (c)(6)) $50,000,000 for each of fiscal years 2002 through 2006; and

"(2) to carry out subsection (c)(6) $9,000,000 for the period of fiscal years 2002 and 2003.".

(b) CONFORMING AMENDMENT.—Section 7105(g)(2) of the Partnerships for Wildlife Act (16 U.S.C. 3744(g)(2)) is amended by striking "this chapter" and inserting "this section".

TITLE IV—CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND

SEC. 401. CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND.

The Partnerships for Wildlife Act (16 U.S.C. 3741 et seq.) (as amended by section 301(a)) is amended by adding at the end the following:

"SEC. 7107. CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND.

"(a) DEFINITIONS.—In this section:

"(1) CONSERVATION ACTIVITY.—The term 'conservation activity' means—

"(A) a project or activity to reduce erosion;

"(B) a prescribed burn;

"(C) the restoration of riparian habitat;

"(D) the control or elimination of invasive or exotic species;

"(E) the reestablishment of native grasses; and

"(F) any other project or activity that restores or enhances habitat for endangered species, threatened species, or species at risk.

"(2) CONSERVATION AGREEMENT.—The term 'conservation agreement' means an agreement entered into under subsection (c).

"(3) CONSERVATION ENTITY.—

"(A) IN GENERAL.—The term 'conservation entity' means a nonprofit entity that engages in activities to conserve or protect fish, wildlife, or plants, or habitats for fish, wildlife, or plants.

"(B) INCLUSIONS.—The term 'conservation entity' includes—

"(i) a sportsmen's organization;

"(ii) an environmental organization; and

"(iii) a land trust.

"(4) COVERED LAND.—The term 'covered land' means public or private—

"(A) natural grassland or shrubland that serves as habitat for endangered species, threatened species, or species at risk, as determined by the Secretary; or

"(B) other land that—

"(i) is located in an area that has been historically dominated by natural grassland or shrubland; and

"(ii) if restored to natural grassland or shrubland, would have the potential to serve as habitat for endangered species, threatened species, or species at risk, as determined by the Secretary.

"(5) ENDANGERED SPECIES.—The term 'endangered species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

"(6) PERMIT HOLDER.—The term 'permit holder' means an individual who holds a grazing permit for covered land that is the subject of a conservation agreement.

"(7) PROGRAM.—The term 'program' means the conservation assistance program established under subsection (b).

"(8) SPECIES AT RISK.—The term 'species at risk' means a species that may become an endangered species or a threatened species if conservation actions are not taken to conserve and protect the species.

"(9) THREATENED SPECIES.—The term 'threatened species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

"(b) ESTABLISHMENT OF PROGRAM.—As soon as practicable after the date of enactment of this section, the Secretary shall establish a conservation assistance program to encourage the conservation and restoration of covered land.

"(c) CONSERVATION AGREEMENTS.—

"(1) IN GENERAL.—In carrying out the program, the Secretary shall enter into a conservation agreement with a landowner, permit holder, or conservation entity with respect to covered land under which—

"(A) the Secretary shall award a grant to the landowner, permit holder, or conservation entity; and

"(B) the landowner, permit holder, or conservation entity shall use the grant to carry out 1 or more conservation activities on the covered land that is the subject of the conservation agreement.

"(2) PERMITTED ACTIVITIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), a conservation agreement may permit on the covered land subject to the conservation agreement—

"(i) operation of a managed grazing system;

"(ii) haying or mowing (except during the nesting season for birds);

"(iii) fire rehabilitation; and

"(iv) the construction of fire breaks and fences.

"(B) LIMITATION.—An activity described in subparagraph (A) may be permitted only if the activity contributes to maintaining the viability of natural grass and shrub plant communities on the covered land subject to the conservation agreement.

"(d) PAYMENTS UNDER OTHER PROGRAMS.—

"(1) OTHER PAYMENTS NOT AFFECTED.—A grant awarded to a landowner, permit holder, or conservation entity under this section shall be in addition to, and shall not affect, the total amount of payments that the landowner, permit holder, or conservation entity is eligible to receive under—

"(A) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

"(B) the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.);

"(C) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); or

"(D) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

"(2) LIMITATION.—A landowner, permit holder, or conservation entity shall not receive a grant under a conservation agreement for any activity for which the landowner, permit holder, or conservation entity receives a payment under a program referred to in paragraph (1) unless the conservation agreement imposes on the landowner, permit holder, or conservation entity a financial or management obligation in addition to the obligations of the landowner, permit holder, or conservation entity under that program.

"(e) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—The Secretary shall not award a grant under this section for any activity that is required under Federal or State law.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2002 through 2006.".

Mr. REID. Mr. President, Senator SMITH has an amendment at the desk. I ask for its consideration; that the amendment be agreed to, the motion to reconsider be laid upon the table, the committee substitute amendment be agreed to, the bill, as amended, be read three times and passed, and the motion to reconsider be laid upon the table, with no further intervening action or debate, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 2694) was agreed to, as follows:

On page 49, strike lines 7 through 14 and insert the following:

(1) Section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) is amended—

(A) in the first sentence of subsection (a)(1)—

(i) by inserting "(other than the Account)" after "wildlife restoration fund"; and

(ii) by inserting before the period at the end the following: "(other than sections 4(d) and 12)"; and

(B) in subsection (b), by inserting "(other than the Account)" after "the fund" each place it appears.

On page 74, line 11, insert "(other than an incidental taking statement with respect to a species recovery agreement entered into by the Secretary under subsection (c))" before the semicolon.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 990), as amended, was read the third time and passed.

DESIGNATION OF GEORGE P. SHULTZ NATIONAL FOREIGN AFFAIRS TRAINING CENTER

Mr. REID. Mr. President, I ask consent that the Foreign Relations Committee be discharged from further consideration of H.R. 3348, and the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 3348) to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. REID. I ask consent the bill be read three times, passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 3348) was read the third time and passed.

SECURITY ASSISTANCE ACT OF 2001

Mr. REID. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 276, S. 1803.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1803) to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal years 2002 and 2003, and for other purposes.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

AMENDMENT NO. 2695

(Purpose: To make managers' amendments to the text of the bill)

Mr. REID. I understand Senators BIDEN and HELMS have an amendment at the desk, and I ask unanimous consent it be considered.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I am very pleased to urge Senate adoption of S. 1803, the Security Assistance Act of 2001. This is legislation that the Foreign Relations Committee reports out each year, either free-standing or as a title in our State Department authorization bill.

But the substance of the Security Assistance Act is anything but routine. It includes: foreign military assistance, including Foreign Military Financing, FMF, and International Military Education and Training, IMET; international arms transfers; and many of our arms control, nonproliferation and anti-terrorism programs.

The Security Assistance Act of 2001 covers those programs and includes not only routine adjustments, but also some significant initiatives. For example, a 5-year National Security Assistance Strategy is mandated, so as to provide country-by-country foreign policy guidance to a function that may tend otherwise to operate on the basis more of military or bureaucratic concerns.

Several provisions are designed to streamline the arms export control system, so as to make it more efficient and responsive to competitive requirements in a global economy, without sacrificing controls that serve foreign policy or nonproliferation purposes. This is a vital enterprise. U.S. industry depends upon the efficient processing of arms export applications, and U.S. firms lose contracts when the U.S. Government cannot make up its mind expeditiously.

At the same time, however, an ill-advised export license could lead to sensitive equipment getting into the hands of enemies or of unstable regimes. So there is a tension between the need for efficiency and the need not to make the mistake that ends up putting U.S. lives at risk. This bill addresses that tension by providing funds for improved staffing levels, information and communications to enable the State Department to make quicker and smarter export licensing decisions.

The Security Assistance Act of 2001 includes several new nonproliferation and antiterrorism measures. For example, the ban on arms sales to state supporters of terrorism, in section 40(d) of the Arms Export Control Act, is broadened to include states engaging in the proliferation of chemical, biological or radiological weapons.

Subtitle III–C of this bill establishes an interagency committee to coordinate nonproliferation programs directed at the independent states of the former Soviet Union. This provision is based on S. 673, a bill introduced by Senator HAGEL and me with the cosponsorship of Senators DOMENICI and LUGAR. It will ensure continuing, high-level coordination of our many nonproliferation programs, so that we can be more confident that they will mesh with each other. The need for better coordination was cited in the report, earlier this year, of the Russia Task Force chaired by former Senator Howard Baker and former White House counsel Lloyd Cutler.

Section 308 of this bill encourages the Secretary of State to seek an increase in the regular budget of the International Atomic Energy Agency, beyond that required to keep pace with inflation, and funds are authorized for the U.S. share of such an enlarged budget. This organization is vital to our nuclear nonproliferation efforts, and its workload is increasing. The lack of a sufficient assessed budget has impaired its ability to hire and retain top-flight scientists, however, so the Committee believes that an increase in that budget is essential.

Subtitle III–B of this bill authorizes the President to offer Soviet-era debt reduction to the Russian Federation in the context of an arrangement whereby a significant proportion of the savings to Russia would be invested in agreed nonproliferation programs or projects. Debt reduction is a potentially important means of funding the costs of securing Russia's stockpiles of sensitive nuclear material, chemical weapons and dangerous pathogens, of destroying its chemical weapons and dismantling strategic weapons, and of helping its former weapons experts to find civilian careers and resist offers from rogue states or terrorists. The Administration is reportedly considering this funding option, and this bill gives the President authority to pursue it.

A few changes were made in a managers' amendment to this bill, which I would like to summarize for the record.

The managers' amendment adds, at the request of Senator FEINSTEIN of California, a new section 206 on congressional notification of small arms and light weapons export license approvals. This section makes license approvals for commercial sales of such weapons, with a value over $1,000,000, subject to the prior notice provisions of section 36(c) of the Arms Export Control Act. It also requires annual reports on end-use monitoring of such arms transfers, the yearly value of such transfers, the activities of registered arms brokers, and efforts of the Bureau of Alcohol, Tobacco and Firearms to stop U.S. weapons from being used in terrorist acts and international crime.

I want to commend Senator FEINSTEIN for raising this issue, which is central to our efforts to stem wars and civil bloodshed in Africa and other regions. The United States leads the way on this issue, but we must do more. Senator FEINSTEIN's proposals for U.S. policy and international negotiations in this field are contained in S. 1555, which has been referred to the Committee on Foreign Relations. I will work with her and with my House and Senate colleagues in the coming weeks and months to see whether we can agree on further steps on small arms and light weapons exports. Personally, I think we can do so.

The managers' amendment deletes subsection 221(c), and I am sorry that we had to do this. This subsection would have returned to Israel certain funds that Israel was forced to give back to the United States due to a general rescission last year. This provision was first proposed by Republican staff to the Foreign Relations Committee, when the Republicans were in the majority, but it was one that I heartily supported. The $4,000,000 at stake may be a small amount of money, but each dollar we provide to Israel is given because it serves our national security interests.

Unfortunately, the chairman of the Appropriations Subcommittee on Foreign Operations and the chairman of the full Appropriations Committee objected strongly to this provision, not the least because it was scored by the Congressional Budget Office as an appropriation. I intend to press this issue in the coming year, and I hope that my good friends from Vermont and West Virginia will work with me to provide these funds. If we are ever to have a lasting peace in the Middle East, we must do all we can to give Israel confidence that the United States will continue to help assure that country's continued sovereignty and well-being.

Section 242, on funds for humanitarian demining programs, is amended in two respects. First, we have deleted any number for the Fiscal Year 2003 authorization for these programs. I welcome this change, because it comes with suggestions that the Foreign Operations Subcommittee may look favorably on an increase in that figure. I will work with that subcommittee on this matter, and I would hope that in conference we could insert a higher figure for Fiscal Year 2003 than the $40,000,000 that has been spent on humanitarian demining each of the last several years.

The second change is to delete subsection (b) of section 242. The Foreign Relations Committee, in its desire to increase funds for humanitarian demining, had suggested that the Secretary of State be authorized to provide up to $40,000,000 from development assistance funds in addition to the $40,000,000 authorized in the State Department's Nonproliferation, Antiterrorism, Demining and Related Programs account. The Foreign Operations Subcommittee informs us that this is not tenable, and I accept their point that this would have been robbing Peter to pay Paul. I think we have made our point, however, that more funds are needed for this program, which has an important political impact in addition to providing humanitarian benefits.

Another provision that is deleted in the managers' amendment is section 302, (on an interagency program to prevent diversion of sensitive U.S. technology). This was an effort to authorize the Secretary of State to institute new joint programs with the Department of Commerce and the Commissioner of Customs to improve our export control, as well as a program to use retired inspectors and investigators from the U.S. Customs Service and the Bureau of Export Enforcement in our diplomatic missions overseas. Another committee questioned our jurisdiction in this matter, and we did not have time to work out this matter today, so we are dropping the provision. The need remains, however, to make more use of the many talents of current and former Commerce and Customs personnel. Especially in our overseas missions, those people can make contracts with law enforcement and border control officials in foreign countries that traditional diplomats have a hard time achieving. So I hope that we can work something out on this issue in the weeks and months to come.

Another provision in the managers' amendment inserts into section 404, on improvements to the Automated Export System new subsections to extend the range of exporters that must file their Shippers' Export Declarations electronically and to increase the penalties for failure to file and for filing false information. An earlier version of these subsections was deleted by the Committee at the request of Senator ENZI of Wyoming, who spotted some faulty language. The version added to the managers' amendment was worked out with Senator ENZI and with the Department of Commerce, and I am pleased to thank my friend from Wyoming, who is a new member of the Foreign Relations Committee, but an expert in export control, for his sage counsel on this provision.

Section 602 of this bill, on nonproliferation interests and free trade agreements, is deleted by the managers' amendment. There were questions from other committees as to whether this was within our jurisdiction. I hope we can resolve those concerns, because the fact remains that other countries' nonproliferation and export control laws and actions are relevant to the question of whether we should engage in free trade with those countries.

The managers' amendment inserts into section 701 authorizing certain ship transfers, a subsection authorizing the transfer of four KIDD-class guided missible destroyers to Taiwan. This provision was accidentially omitted from the bill at the Committee's business meeting. In fact, these ship transfers, and the others in this bill, have already been enacted in the defense authorization act. The Foreign Relations Committee is the committee of jurisdiction on this matter, so we do that in this bill.

One issue that is not addressed in this bill, but that is of considerable interest to Senator MILKULSKI and others, is the need for a Center for Antiterrorism and Security Training in the Department of State. We tried to get funding for this in Fiscal Year 2001, but the executive branch went to the wrong subcommittee of the Appropriations Committee and this center fell between the cracks. Now, as our Antiterrorism Assistance Program increases its course offerings for security personnel from friendly countries, the need for a training center is greater than ever. The Security Assistance Act may not be the best vehicle in which to address this issue, but I want to assure my good friend from Maryland that we work on this and that we will assure the State Department of our support for a new center.

Even with the managers' amendments this is a good bill that will contribute to our national security. I am happy to urge support of it and I am very pleased that my colleagues appear ready to approve it.

Mr. REID. I ask consent the amendment be agreed to, the bill be read the third time and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 2695) was agreed to.

(The amendment is printed in today's RECORD under "Amendments Submitted and Proposed.")

The bill (S. 1803), as amended, was read the third time and passed.

[The bill will appear in a future edition of the RECORD.]

TO PROVIDE GRANTS TO DRINKING WATER AND WASTEWATER FACILITIES

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 273, S. 1608.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1608) to establish a program to provide grants to drinking water and wastewater facilities to meet immediate security needs.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. WATER SECURITY GRANTS.

(a) DEFINITIONS.—In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means a publicly- or privately-owned drinking water or wastewater facility.

(3) ELIGIBLE PROJECT OR ACTIVITY.—

(A) IN GENERAL.—The term "eligible project or activity" means a project or activity carried out by an eligible entity to address an immediate physical security need.

(B) INCLUSIONS.—The term "eligible project or activity" includes a project or activity relating to—

(i) security staffing;

(ii) detection of intruders;

(iii) installation and maintenance of fencing, gating, or lighting;

(iv) installation of and monitoring on closed-circuit television;

(v) rekeying of doors and locks;

(vi) site maintenance, such as maintenance to increase visibility around facilities, windows, and doorways;

(vii) development, acquisition, or use of guidance manuals, educational videos, or training programs; and

(viii) a program established by a State to provide technical assistance or training to water and wastewater facility managers, especially such a program that emphasizes small or rural eligible entities.

(C) EXCLUSIONS.—The term "eligible project or activity" does not include any large-scale or system-wide project that includes a large capital improvement or vulnerability assessment.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a program to allocate to States, in accordance with paragraph (2), funds for use in awarding grants to eligible entities under subsection (c).

(2) ALLOCATION TO STATES.—Not later than 30 days after the date on which funds are made available to carry out this section, the Administrator shall allocate the funds to States in accordance with the formula for the distribution of funds described in section 1452(a)(1)(D) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(1)(D)).

(3) NOTICE.—Not later than 30 days after the date described in paragraph (2), each State shall provide to each eligible entity in the State a notice that funds are available to assist the eligible entity in addressing immediate physical security needs.

(c) AWARD OF GRANTS.—

(1) APPLICATION.—An eligible entity that seeks to receive a grant under this section shall submit to the State in which the eligible entity is located an application for the grant in such form and containing such information as the State may prescribe.

(2) CONDITION FOR RECEIPT OF GRANT.—An eligible entity that receives a grant under this section shall agree to expend all funds provided by the grant not later than September 30 of the fiscal year in which this Act is enacted.

(3) DISADVANTAGED, SMALL, AND RURAL ELIGIBLE ENTITIES.—A State that awards a grant under this section shall ensure, to the maximum extent practicable in accordance with the income and population distribution of the State, that a sufficient percentage of the funds allocated to the State under subsection (b)(2) are available for disadvantaged, small, and rural eligible entities in the State.

(d) ELIGIBLE PROJECTS AND ACTIVITIES.—

(1) IN GENERAL.—A grant awarded by a State under subsection (c) shall be used by an eligible entity to carry out 1 or more eligible projects or activities.

(2) COORDINATION WITH EXISTING TRAINING PROGRAMS.—In awarding a grant for an eligible project or activity described in subsection (a)(3)(B)(vii), a State shall, to the maximum extent practicable, coordinate with training programs of rural water associations of the State that are in effect as of the date on which the grant is awarded.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for the fiscal year in which this Act is enacted.

Mr. REID. I ask unanimous consent the committee amendment in the nature of a substitute be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1608), as amended, was read the third time and passed.

WAIVING CERTAIN LIMITATIONS IN THE USE OF FUNDS TO PAY THE COSTS OF PROJECTS IN RESPONSE TO THE ATTACK ON THE WORLD TRADE CENTER

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Calendar No. 275, S. 1637.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1637) to waive certain limitations in the case of use of the emergency fund authorized by section 125 of title 23, United States Code, to pay the costs of projects in response to the attack on the World Trade Center in New York City that occurred on September 11, 2001.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Senator CLINTON has an amendment at the desk. I ask for its consideration, that the amendment be agreed to, the motion to reconsider be laid upon the table, the bill, as amended, be read three times and passed, and the motion to reconsider be laid on the table, with no intervening action or debate, and any statements pertaining thereto be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 2696) was agreed to, as follows:

On page 2, strike lines 10 through 14 and insert the following:

"shall be 100 percent; and

"(2) notwithstanding section 125(d)(1) of that".

The bill (S. 1637), as amended, was read the third time and passed.

[The bill will appear in a future edition of the RECORD.]

FEDERAL JUDICIARY PROTECTION ACT OF 2001

Mr. REID. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 105, S. 1099.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1099) to increase the criminal penalty for assaulting or threatening Federal judges or family members and other public servants and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate is passing the Smith-Leahy Federal Judiciary Protection Act, S. 1099.

In the last two Congresses, I joined as an original cosponsor of identical legislation introduced by Senator GORDON SMITH, which unanimously passed the Senate Judiciary Committee and the Senate but was not acted upon by the House of Representatives. I commend the Senator from Oregon for his continued leadership in protecting public servants in our Federal government.

Our bipartisan legislation would provide greater protection to Federal judges, law enforcement officers, and United States officials and their families. Federal law enforcement officers, under our bill, include United States Capitol Police Officers. United States officials, under our bill, include the President, Vice President, Cabinet Secretaries and Members of Congress.

Specifically, our legislation would: increase the maximum prison term for forcible assaults, resistance, intimidation or interference with a Federal judge, law enforcement officer or United States official from 3 years imprisonment to 8 years; increase the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge, law enforcement officer or United States official from 10 years imprisonment to 20 years; and increase the maximum prison term for threatening murder or kidnapping of a member of the immediate family of a Federal judge or law enforcement officer from 5 years imprisonment to 10 years.

Our bipartisan bill has the support of the Department of Justice, the United States Judicial Conference, the United States Sentencing Commission and the United States Marshal Service.

It is most troubling that the greatest democracy in the world needs this legislation to protect the hard working men and women who serve in our Federal government. Just a few months ago, I was saddened to read about death threats against my colleague from Vermont after his act of conscience in declaring himself an Independent.

Senator JEFFORDS received multiple threats against his life, which forced around-the-clock police protection. These unfortunate threats made a difficult time even more difficult for Senator JEFFORDS and his family.

We are seeing more violence and threats of violence against officials of our Federal government. In July, we commemorated the lives of two Capitol Police officers, Officer Jacob Chestnut and Detective John Gibson, who were slain in the line of duty in the Capitol Building in 1998. A courtroom in Urbana, Illinois, was firebombed recently, apparently by a disgruntled litigant. And we also continue to mourn the victims of the horrible tragedy of the bombing of the federal office building in Oklahoma City in 1995.

In my home state during the summer of 1997, a Vermont border patrol officer, John Pfeiffer, was seriously wounded by Carl Drega, during a shootout with Vermont and New Hampshire law enforcement officers in which Drega lost his life. Earlier that day, Drega shot and killed two state troopers and a local judge in New Hampshire. Apparently, Drega was bent on settling a grudge against the judge who had ruled against him in a land dispute. I had a chance to visit John Pfeiffer in the hospital and met his wife and young daughter. As a federal law enforcement officer, Agent Pfeiffer and his family will receive greater protection under our bill.

After the tragic events of September 11, it is even more important that we protect the dedicated women and men throughout the Federal Judiciary and Federal government in this country who do a tremendous job under difficult circumstances. They are examples of the hard-working public servants that make up the federal government, who are too often maligned and unfairly disparaged.

It is unfortunate that it takes acts or threats of violence to put a human face on the Federal Judiciary, law enforcement officers and U.S. officials, to remind everyone in our democracy that these are people with children and parents and friends. They deserve our respect and our protection.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

The bill (S. 1099) was read the third time and passed, as follows:

S. 1099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Judiciary Protection Act of 2001".

SEC. 2. ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.

Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "three" and inserting "8"; and

(2) in subsection (b), by striking "ten" and inserting "20".

SEC. 3. INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.

Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking "five" and inserting "10"; and

(2) by striking "three" and inserting "6".

SEC. 4. MAILING THREATENING COMMUNICATIONS.

Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as redesignated by paragraph (1), by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both."; and

(3) in subsection (d), as redesignated by paragraph (1), by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 5. AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) any expression of congressional intent regarding the appropriate penalties for the offense;

(2) the range of conduct covered by the offense;

(3) the existing sentences for the offense;

(4) the extent to which sentencing enhancements within the Federal sentencing guidelines and the authority of the court to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(5) the extent to which the Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(6) the extent to which the Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(7) the relationship of the Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(8) any other factors that the Commission considers to be appropriate.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

Mr. REID. Mr. President, I ask unanimous consent that we move now to Calendar No. 292, H.R. 2278.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2278) to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

The bill (H.R. 2278) was read the third time and passed.

WORK AUTHORIZATION FOR NONIMMIGRANT SPOUSES OF TREATY TRADERS AND TREATY INVESTORS

Mr. REID. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 291, H.R. 2277.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2277) to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

The bill (H.R. 2277) was read the third time and passed.

SMALL BUSINESS LIABILITY RELIEF AND BROWNFIELDS REVITALIZATION ACT

Mr. REID. I ask unanimous consent the Senate proceed to H.R. 2869, just received from the House, now at the desk.

The PRESIDENT pro tempore. The clerk will state the title of the House bill.

The legislate clerk read as follows:

A bill (H.R. 2869) to provide certain relief for small business from liability under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and to amend such Act to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, and to enhance State response programs.

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, for the information of colleagues regarding H.R. 2869, I ask unanimous consent the following letter be printed in the RECORD:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, December 20, 2001.

MEMORANDUM

Subject: Davis Bacon Act Applicability Under Brownfields Legislation.
From: Robert E. Fabricant, General Counsel.
To: Marianne Horinko, Assistant Administrator, Office of Solid Waste and Emergency Response.

As you know, the House of Representatives has passed a bill, H.R. 2869, which we are informed would amend CERCLA to add a new section 104(k), "Brownfields Revitalization Funding." We have been asked whether CERCLA, if amended as proposed in H.R. 2869, would require that the Davis-Bacon Act apply to contracts under loans made from a Brownfields Revolving Loan Fund (BRLF) entirely with non-federal funds. We have concluded that H.R. 2869 does not change the legal applicability of the Davis-Bacon Act to the Brownfields program. We have also concluded that this bill neither requires nor prohibits the application of the Davis-Bacon Act to contracts under BRLF loans made entirely with non-grant funds, e.g., principal and interest loan payments. CERCLA would continue to require that the Davis-Bacon Act apply to contracts under BRLF loans made in whole or in part with federal grant funds. Finally, state cleanup programs that operate independently and are not funded under this bill are not affected by the bill, and will operate in accordance with applicable state law.

The proposed legislation would add section 104(k) to CERCLA. New sections 104(k)(3)(A) and (B) authorize the President to make grants "for capitalization of revolving loan funds" for "the remediation of brownfield sites." Under section 104(k)(9)(B)(iii), each recipient of a capitalization grant must provide a non-federal matching share of at least 20 percent (unless the Administrator makes a hardship determination). Section 104(k)(12), "Funding," authorizes the appropriation of $200 million for each of fiscal years 2002 through 2006 to carry out section 104(k).

Under the Davis-Bacon Act, 40 U.S.C. 276a *et seq.*, most public building or public works construction contracts entered into by the United States must stipulate that the wages paid to laborers and mechanics will be comparable to the prevailing wages for similar work in the locality where the contract is to be performed. The Davis-Bacon Act does not apply by its own terms to contracts to which the United States is not a party, including contracts awarded by recipients of federal grants in performance of a grant project.

The proposed legislation is silent regarding the applicability of the Davis-Bacon Act to BRLFs. However, an existing provision of CERCLA section 104(g), extends the reach of the Davis-Bacon Act beyond direct federal procurement. That section applies Davis-Bacon Act prevailing wage rate requirements to contracts "for construction, repair or alteration work funded in whole or in part under this section." Since the new BRLF provision would fall within section 104, it would be subject to the Davis-Bacon requirements of section 104(g). However, CERCLA does not define the precise meaning or scope of the quoted from section 104(g).

If a statute does not address the precise question at issue, an agency may adopt an interpretation that is reasonable and consistent with the statute and legislative history. Since CERCLA does not address the precise question at issue here, EPA may adopt a reasonable interpretation, which would be entitled to deference. *Chevron, USA* v. *NRDC*, 467 U.S. 837 (1984). If H.R. 2869 is enacted, one reasonable interpretation of CERCLA, as amended, would be that contracts under every loan made from a BRLF that received a capitalization grant pursuant to section 104(k) would be subject to Davis-Bacon. Under this interpretation, Davis-Bacon would apply to loans made entirely from payments of principal and interest. The phrase in section 104(g), "funded in whole or in part under this section" could be construed to encompass every contract indirectly supported by federal grant funds. This arguably would include all contracts awarded by a BRLF, which might not exist but for the EPA capitalization grant(s).

However, it would be at least equally reasonable to interpret CERCLA, as amended by H.R. 2869, to require that only contracts under BRLF loans made with the federal grant funds and the associated 20 percent matching funds are subject to Davis-Bacon. The phrase "funded in whole or in part under this section" may reasonably be construed to mean "receiving funds authorized under this section." The funds authorized under section 104 for BRLFs are the $200 million authorized under section 104(k)(12). The phrase would also include the 20 percent matching funds because when a grant statute requires a non-federal match every expenditure of grant funds includes the federal and non-federal share.

Under H.R. 2869, as passed by the House, the Agency would have the discretion to decide whether to apply Davis-Bacon to contracts under BRLF loans that are made solely with funds other than the federal grant and match amount. However, any loan that includes both grant funds and loan payments would be subject to Davis-Bacon, because it would be funded in part with funds authorized under section 104(k). See 40 CFR 31.21(f).

If you have any questions about this matter, please contact me or John Valeri of this office.

Mr. JEFFORDS. Mr. President, today, we take a historic step toward bolstering economic development. The Small Business Liability Relief and Brownfields Revitalization Act, H.R. 2869, will protect our small businesses. This bill will revitalize once abandoned factory sites. This bill will give new life to our aging industrial sites. This bill will provide hope and prosperity to locations long ago forgotten.

Earlier this year, the U.S. Senate declared a mandate in the form of a 99–0 vote endorsing the Brownfields Revitalization and Environmental Restoration Act, S. 350. Unanimously, the Senate pledged its commitment to the redevelopment of potentially contaminated industrial sites. As Chairman of the Senate Environment and Public Works Committee, I have taken that mandate seriously. I am pleased that, today, the House followed suit.

The Brownfields Revitalization and Environmental Restoration Act authorizes $250 million a year over the next five years for assessment and cleanup grants, including petroleum sites, and State program enhancement. The bill would provide liability relief for three groups: contiguous property owners, prospective purchasers, and innocent landowners. Lastly, the bill outlines the parameters by which EPA may re-enter a site to protect human health and the environment.

We also have fulfilled another mandate today. Earlier this year, the Small Business Liability Protection Act passed the House of Representatives 419–0; today, the Senate followed suit. This legislation is a victory for small businesses, on which the foundation of our nation's economy stands. The Small Business Liability Protection Act provides Superfund liability relief for small businesses and others who disposed of, or arranged disposal of, small amounts of hazardous waste. The legislation also allows expedited settlements for a lesser amount if a business can show financial hardship.

There are many who share in this victory. It was truly a bipartisan and bicameral effort. In particular, I would like to recognize the efforts of Senators SMITH, CHAFEE, BAUCUS and BOXER. I also thank all the Leadership offices, on both sides and in both Chambers, for their dedication to the passage of H.R. 2869.

I am very proud of this legislation. I am pleased to have played an integral role in these efforts to encourage development of our urban cores, reduce development demands in greenfields, and promote our economic base by supporting our small businesses. This new year's resolution has been many years in the making. I am gratified that our communities will reap the rewards of further tools to redevelop brownfields and sustain small businesses in 2002 and beyond.

Mr. REID. Mr. President, I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the Record with no intervening action or debate.

The PRESIDENT pro tempore. Without objection, it is so ordered. The several requests are granted.

The bill (H.R. 2869) was read the third time and passed.

FAMILY SPONSOR IMMIGRATION ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Calendar No. 289, H.R. 1892.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1892) to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment.

[Matter to be added is printed in italic.]

H.R. 1892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Sponsor Immigration Act of 2001".

SEC. 2. SUBSTITUTION OF ALTERNATIVE SPONSOR IF ORIGINAL SPONSOR HAS DIED.

(a) Permitting Substitution of Alternative Close Family Sponsor in Case of Death of Petitioner.—

(1) Recognition of alternative sponsor.—Section 213A(f)(5) of the Immigration and Nationality Act (8 U.S.C. 1183a(f)(5)) is amended to read as follows:

"(5) Non-petitioning cases.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who—

"(A) accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line; or

"(B) is a spouse, parent, mother-in-law, father-in-law, sibling, child (if at least 18 years of age), son, daughter, son-in-law, daughter-in-law, *sister-in-law, brother-in-law,* grandparent, or grandchild of a sponsored alien or a legal guardian of a sponsored alien, meets the requirements of paragraph (1) (other than subparagraph (D)), and executes an affidavit of support with respect to such alien in a case in which—

"(i) the individual petitioning under section 204 for the classification of such alien died after the approval of such petition; and

"(ii) the Attorney General has determined for humanitarian reasons that revocation of such petition under section 205 would be inappropriate.".

(2) Conforming amendment permitting substitution.—Section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1182(a)(4)(C)(ii)) is amended by striking "(including any additional sponsor required under section 213A(f))" and inserting "(and any additional sponsor required under section 213A(f) or any alternative sponsor permitted under paragraph (5)(B) of such section)".

(3) Additional conforming amendments.—Section 213A(f) of such Act (8 U.S.C. 1183a(f)) is amended, in each of paragraphs (2) and (4)(B)(ii), by striking "(5)." and inserting "(5)(A).".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to deaths occurring before, on, or after the date of the enactment of this Act, except that, in the case of a death occurring before such date, such amendments shall apply only if—

(1) the sponsored alien—

(A) requests the Attorney General to reinstate the classification petition that was filed with respect to the alien by the deceased and approved under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) before such death; and

(B) demonstrates that he or she is able to satisfy the requirement of section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1182(a)(4)(C)(ii)) by reason of such amendments; and

(2) the Attorney General reinstates such petition after making the determination described in section 213A(f)(5)(B)(ii) of such Act (as amended by subsection (a)(1) of this Act).

Mr. REID. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and that any statements pertaining to this matter be printed in the Record.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (H.R. 1892), as amended, was passed.

NURSE REINVESTMENT ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1864, introduced earlier today by Senators MIKULSKI, HUTCHINSON, KERRY, and others.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1864) to amend the Public Health Service Act establishing a nurse corps and recruitment and retention strategy to address the nurse shortage, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table, and that any statements on this matter be printed in the Record.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 1864) was passed.

(The text of S. 1864 is printed in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

GENERAL SHELTON CONGRESSIONAL GOLD MEDAL ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2751.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2751) to authorize the President to award a Gold Medal on behalf of the Congress to General Henry H. Shelton.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid on the table with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 2751) was passed.

21ST CENTURY DEPARTMENT OF JUSTICE AUTHORIZATION ACT

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 206, H.R. 2215.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2215) to authorize the appropriations for the Department of Justice for fiscal year 2002, and for other purposes.

There being no objection, the Senate proceeded to consider the bill Appropriations for the Department of Justice for fiscal year 2002, and for other purposes and which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "21st Century Department of Justice Appropriations Authorization Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002

Sec. 101. Specific sums authorized to be appropriated.
Sec. 102. Appointment of additional Assistant United States Attorneys; reduction of certain litigation positions.
Sec. 103. Authorization for additional Assistant United States Attorneys for project safe neighborhoods.

TITLE II—PERMANENT ENABLING PROVISIONS

Sec. 201. Permanent authority.
Sec. 202. Permanent authority relating to enforcement of laws.
Sec. 203. Notifications and reports to be provided simultaneously to committees.
Sec. 204. Miscellaneous uses of funds; technical amendments.
Sec. 205. Technical and miscellaneous amendments to Department of Justice authorities; authority to transfer property of marginal value; recordkeeping; protection of the Attorney General.
Sec. 206. Oversight; waste, fraud, and abuse of appropriations.
Sec. 207. Enforcement of Federal criminal laws by Attorney General.
Sec. 208. Counterterrorism fund.
Sec. 209. Strengthening law enforcement in United States territories, commonwealths, and possessions.
Sec. 210. Additional authorities of the Attorney General.

TITLE III—MISCELLANEOUS

Sec. 301. Repealers.
Sec. 302. Technical amendments to title 18 of the United States Code.
Sec. 303. Required submission of proposed authorization of appropriations for the Department of Justice for fiscal year 2003.
Sec. 304. Study of untested rape examination kits.
Sec. 305. Report on DCS 1000 ("carnivore").
Sec. 306. Study of allocation of litigating attorneys.
Sec. 307. Use of truth-in-sentencing and violent offender incarceration grants.
Sec. 308. Authority of the Department of Justice Inspector General.
Sec. 309. Report on Inspector General and Deputy Inspector General for Federal Bureau of Investigation.
Sec. 310. Use of residential substance abuse treatment grants to provide for services during and after incarceration.
Sec. 311. Report on threats and assaults against Federal law enforcement officers, United States judges, United States officials and their families.
Sec. 312. Additional Federal judgeships.

TITLE IV—VIOLENCE AGAINST WOMEN

Sec. 401. Short title.
Sec. 402. Establishment of Violence Against Women Office.
Sec. 403. Jurisdiction.
Sec. 404. Director of Violence Against Women Office.
Sec. 405. Regulatory authorization.
Sec. 406. Office staff.
Sec. 407. Authorization of appropriations.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002

SEC. 101. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED.

There are authorized to be appropriated for fiscal year 2002, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $93,433,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $178,499,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $55,000,000, which shall include for each such fiscal year, not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $566,822,000, which shall include for each such fiscal year—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and

(B) not to exceed $20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $140,973,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,346,289,000, which shall include not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147): provided, that such amounts in the appropriations account "General Legal Services" as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $3,507,109,000, which shall include for each such fiscal year—

(A) not to exceed $1,250,000 for construction, to remain available until expended; and

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $626,439,000, which shall include for each such fiscal year not to exceed $6,621,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,662,710,000.

(10) FEDERAL PRISONER DETENTION.—For the support of United States prisoners in non-Federal institutions, as authorized by section 4013(a) of title 18 of the United States Code: $724,682,000, to remain available until expended.

(11) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,480,929,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(12) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: $3,516,411,000, which shall include—

(A) not to exceed $2,737,341,000 for salaries and expenses of enforcement and border affairs (i.e., the Border Patrol, deportation, intelligence, investigations, and inspection programs, and the detention program);

(B) not to exceed $650,660,000 for salaries and expenses of citizenship and benefits (i.e., programs not included under subparagraph (A));

(C) for each such fiscal year, not to exceed $128,410,000 for construction, to remain available until expended; and

(D) not to exceed $50,000 to meet unforeseen emergencies of a confidential character.

(13) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed $6,000,000 for construction of protected witness safesites.

(14) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $338,106,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(15) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,130,000.

(16) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $9,269,000..

(17) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(18) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $10,862,000.

(19) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,718,000.

(20) JOINT AUTOMATED BOOKING SYSTEM.—For expenses necessary for the operation of the Joint Automated Booking System: $15,957,000.

(21) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $104,606,000.

(22) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: such sums as necessary.

(23) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: $4,989,000.

(24) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: $116,369,000.

SEC. 102. APPOINTMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS; REDUCTION OF CERTAIN LITIGATION POSITIONS.

(a) Appointments.—Not later than September 30, 2003, the Attorney General may exercise authority under section 542 of title 28, United States Code, to appoint 200 assistant United States attorneys in addition to the number of assistant United States attorneys serving on the date of the enactment of this Act.

(b) Selection of Appointees.—Individuals first appointed under subsection (a) may be appointed from among attorneys who are incumbents of 200 full-time litigation positions in divisions of the Department of Justice and whose official duty station is at the seat of Government.

(c) Termination of Positions.—Each of the 200 litigation positions that become vacant by reason of an appointment made in accordance with subsections (a) and (b) shall be terminated at the time the vacancy arises.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 103. AUTHORIZATION FOR ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS FOR PROJECT SAFE NEIGHBORHOODS.

(a) In General.—The Attorney General shall establish a program for each United States Attorney to provide for coordination with State and local law enforcement officials in the identification and prosecution of violations of Federal firearms laws including school gun violence and juvenile gun offenses.

(b) Authorization for Hiring 94 Additional Assistant United States Attorneys.—There are authorized to be appropriated to carry out this section $9,000,000 for fiscal year 2002 to hire an additional Assistant United States Attorney in each United States Attorney Office.

TITLE II—PERMANENT ENABLING PROVISIONS

SEC. 201. PERMANENT AUTHORITY.

(a) In General.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

"§ 530C. Authority to use available funds

"(a) In General.—Except to the extent provided otherwise by law, the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof) may, in the reasonable discretion of the Attorney General, be carried out through any means, including—

"(1) through the Department's own personnel, acting within, from, or through the Department itself;

"(2) by sending or receiving details of personnel to other branches or agencies of the Federal Government, on a reimbursable, partially-reimbursable, or nonreimbursable basis;

"(3) through reimbursable agreements with other Federal agencies for work, materials, or equipment;

"(4) through contracts, grants, or cooperative agreements with non-Federal parties; and

"(5) as provided in subsection (b), in section 524, and in any other provision of law consistent herewith, including, without limitation, section 102(b) of Public Law 102–395 (106 Stat. 1838), as incorporated by section 815(d) of Public Law 104–132 (110 Stat. 1315).

"(b) Permitted Uses.—

"(1) General permitted uses.—Funds available to the Attorney General (i.e., all funds available to carry out the activities described in subsection (a)) may be used, without limitation, for the following:

"(A) The purchase, lease, maintenance, and operation of passenger motor vehicles, of police-type motor vehicles for law enforcement purposes, without regard to general purchase price limitation for the then-current fiscal year.

"(B) The purchase of insurance for motor vehicles, boats, and aircraft operated in official Government business in foreign countries.

"(C) Services of experts and consultants, including private counsel, as authorized by section 3109 of title 5, and at rates of pay for individuals not to exceed the maximum daily rate payable from time to time under section 5332 of title 5.

"(D) Official reception and representation expenses (i.e., official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions, but excluding expenses of public tours of facilities of the Department of Justice), in accordance with distributions and procedures established, and rules issued, by the Attorney General, and expenses of public tours of facilities of the Department of Justice.

"(E) Unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General.

"(F) Miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration.

"(G) In accordance with procedures established and rules issued by the Attorney General—

"(i) attendance at meetings and seminars;

"(ii) conferences and training; and

"(iii) advances of public moneys under section 3324 of title 31: Provided, That travel advances of such moneys to law enforcement personnel engaged in undercover activity shall be considered to be public money for purposes of section 3527 of title 31.

"(H) Contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States for the purpose of any law administered by the Office of Personnel Management.

"(I) Payment of interpreters and translators who are not citizens of the United States, in accordance with procedures established and rules issued by the Attorney General.

"(J) Expenses or allowances for uniforms as authorized by section 5901 of title 5, but without regard to the general purchase price limitation for the then-current fiscal year.

"(K) Expenses of—

"(i) primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

"(ii) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

"(L) Payment of rewards (i.e., payments pursuant to public advertisements for assistance to the Department of Justice), in accordance with procedures and regulations established or issued by the Attorney General: provided that—

"(i) no such reward shall exceed $2,000,000 (unless a statute should authorize a higher amount);

"(ii) no such reward of $250,000 or more may be made or offered without the personal approval of either the Attorney General or the President;

"(iii) the Attorney General shall give written notice to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives not later than 30 days after the approval of a reward under clause (ii);

"(iv) any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5) may provide the Attorney General with funds for the payment of rewards; and

"(v) neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

"(2) Specific permitted uses.—

"(A) Aircraft and boats.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for the purchase, lease, maintenance, and operation of aircraft and boats, for law enforcement purposes.

"(B) Purchase of ammunition and firearms; firearms competitions.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, for the Federal Prison System, for the Office of the Inspector General, and for the Immigration and Naturalization Service may be used for—

"(i) the purchase of ammunition and firearms; and

"(ii) participation in firearms competitions.

"(C) Construction.—Funds available to the Attorney General for construction may be used for expenses of planning, designing, acquiring, building, constructing, activating, renovating, converting, expanding, extending, remodeling, equipping, repairing, or maintaining buildings or facilities, including the expenses of acquisition of sites therefor, and all necessary expenses incident or related thereto; but the foregoing shall not be construed to mean that funds generally available for salaries and expenses are not also available for certain incidental or minor construction, activation, remodeling, maintenance, and other related construction costs.

"(3) Fees and expenses of witnesses.—Funds available to the Attorney General for fees and expenses of witnesses may be used for—

"(A) expenses, mileage, compensation, protection, and per diem in lieu of subsistence, of witnesses (including advances of public money) and as authorized by section 1821 or other law, except that no witness may be paid more than 1 attendance fee for any 1 calendar day;

"(B) fees and expenses of neutrals in alternative dispute resolution proceedings, where the Department of Justice is a party; and

"(C) construction of protected witness safesites.

"(4) Federal Bureau of Investigation.—Funds available to the Attorney General for the Federal Bureau of Investigation for the detection, investigation, and prosecution of crimes against the United States may be used for the conduct of all its authorized activities.

"(5) Immigration and Naturalization Service.—Funds available to the Attorney General for the Immigration and Naturalization Service may be used for—

"(A) acquisition of land as sites for enforcement fences, and construction incident to such fences;

"(B) cash advances to aliens for meals and lodging en route;

"(C) refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; and

"(D) expenses and allowances incurred in tracking lost persons, as required by public exigencies, in aid of State or local law enforcement agencies.

"(6) FEDERAL PRISON SYSTEM.—Funds available to the Attorney General for the Federal Prison System may be used for—

"(A) inmate medical services and inmate legal services, within the Federal prison system;

"(B) the purchase and exchange of farm products and livestock;

"(C) the acquisition of land as provided in section 4010 of title 18; and

"(D) the construction of buildings and facilities for penal and correctional institutions (including prison camps), by contract or force account, including the payment of United States prisoners for their work performed in any such construction;

except that no funds may be used to distribute or make available to a prisoner any commercially published information or material that is sexually explicit or features nudity.

"(7) DETENTION TRUSTEE.—Funds available to the Attorney General for the Detention Trustee may be used for all the activities of such Trustee in the exercise of all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service and to the detention of aliens in the custody of the Immigration and Naturalization Service, including the overseeing of construction of detention facilities or for housing related to such detention, the management of funds appropriated to the Department for the exercise of detention functions, and the direction of the United States Marshals Service and Immigration Service with respect to the exercise of detention policy setting and operations for the Department of Justice.

"(c) RELATED PROVISIONS.—

"(1) LIMITATION OF COMPENSATION OF INDIVIDUALS EMPLOYED AS ATTORNEYS.—No funds available to the Attorney General may be used to pay compensation for services provided by an individual employed as an attorney (other than an individual employed to provide services as a foreign attorney in special cases) unless such individual is duly licensed and authorized to practice as an attorney under the law of a State, a territory of the United States, or the District of Columbia.

"(2) REIMBURSEMENTS PAID TO GOVERNMENTAL ENTITIES.—Funds available to the Attorney General that are paid as reimbursement to a governmental unit of the Department of Justice, to another Federal entity, or to a unit of State or local government, may be used under authorities available to the unit or entity receiving such reimbursement.

"(d) FOREIGN REIMBURSEMENTS.—Whenever the Department of Justice or any component participates in a cooperative project to improve law enforcement or national security operations or services with a friendly foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Department of Justice or any component. The amount of a reimbursement or contribution credited shall be available only for payment of the share of the project expenses allocated to the participating foreign country.

"(e) RAILROAD POLICE TRAINING FEES.—The Attorney General is authorized to establish and collect a fee to defray the costs of railroad police officers participating in a Federal Bureau of Investigation law enforcement training program authorized by Public Law 106–110, and to credit such fees to the appropriation account "Federal Bureau of Investigation, Salaries and Expenses", to be available until expended for salaries and expenses incurred in providing such services.

"(f) WARRANTY WORK.—In instances where the Attorney General determines that law enforcement-, security-, or mission-related considerations mitigate against obtaining maintenance or repair services from private sector entities for equipment under warranty, the Attorney General is authorized to seek reimbursement from such entities for warranty work performed at Department of Justice facilities, and to credit any payment made for such work to any appropriation charged therefor.".

(b) CONFORMING AMENDMENT.—The table of sections of chapter 31 of title 28, United States Code, is amended by adding at the end the following:

"530C. Authority to use available funds.".

SEC. 202. PERMANENT AUTHORITY RELATING TO ENFORCEMENT OF LAWS.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

"§530D. Report on enforcement of laws

"(a) REPORT.—

"(1) IN GENERAL.—The Attorney General shall submit to the Congress a report of any instance in which the Attorney General or any officer of the Department of Justice—

"(A) establishes or implements a formal or informal policy to refrain—

"(i) from enforcing, applying, or administering any provision of any Federal statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer on the grounds that such provision is unconstitutional; or

"(ii) within any judicial jurisdiction of or within the United States, from adhering to, enforcing, applying, or complying with, any standing rule of decision (binding upon courts of, or inferior to those of, that jurisdiction) established by a final decision of any court of, or superior to those of, that jurisdiction, respecting the interpretation, construction, or application of the Constitution, any statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer;

"(B) determines—

"(i) to contest affirmatively, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law; or

"(ii) to refrain (on the grounds that the provision is unconstitutional) from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of any such provision; or

"(C) approves (other than in circumstances in which a report is submitted to the Joint Committee on Taxation, pursuant to section 6405 of the Internal Revenue Code of 1986) the settlement or compromise (other than in bankruptcy) of any claim, suit, or other action—

"(i) against the United States (including any agency or instrumentality thereof) for a sum that exceeds, or is likely to exceed, $2,000,000, excluding prejudgment interest; or

"(ii) by the United States (including any agency or instrumentality thereof) pursuant to an agreement, consent decree, or order (or pursuant to any modification of an agreement, consent decree, or order) that provides injunctive or other nonmonetary relief that exceeds, or is likely to exceed, 3 years in duration: Provided, That for purposes of this clause, the term "injunctive or other nonmonetary relief" shall not be understood to include the following, where the same are a matter of public record—

"(I) debarments, suspensions, or other exclusions from Government contracts or grants;

"(II) mere reporting requirements or agreements (including sanctions for failure to report);

"(III) requirements or agreements merely to comply with statutes or regulations;

"(IV) requirements or agreements to surrender professional licenses or to cease the practice of professions, occupations, or industries;

"(V) any criminal sentence or any requirements or agreements to perform community service, to serve probation, or to participate in supervised release from detention, confinement, or prison; or

"(VI) agreements to cooperate with the government in investigations or prosecutions (whether or not the agreement is a matter of public record).

"(2) SUBMISSION OF REPORT TO THE CONGRESS.—For the purposes of paragraph (1), a report shall be considered to be submitted to the Congress if the report is submitted to—

"(A) the majority leader and minority leader of the Senate;

"(B) the Speaker, majority leader, and minority leader of the House of Representatives;

"(C) the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives and the chairman and ranking minority member of the Committee on the Judiciary of the Senate; and

"(D) the Senate Legal Counsel and the General Counsel of the House of Representatives.

"(b) DEADLINE.—A report shall be submitted—

"(1) under subsection (a)(1)(A), not later than 30 days after the establishment or implementation of each policy;

"(2) under subsection (a)(1)(B), within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but in no event later than 30 days after the making of each determination; and

"(3) under subsection (a)(1)(C), not later than 30 days after the conclusion of each fiscal-year quarter, with respect to all approvals occurring in such quarter.

"(c) CONTENTS.—A report required by subsection (a) shall—

"(1) specify the date of the establishment or implementation of the policy described in subsection (a)(1)(A), of the making of the determination described in subsection (a)(1)(B), or of each approval described in subsection (a)(1)(C);

"(2) include a complete and detailed statement of the relevant issues and background (including a complete and detailed statement of the reasons for the policy or determination, and the identity of the officer responsible for establishing or implementing such policy, making such determination, or approving such settlement or compromise), except that—

"(A) such details may be omitted as may be absolutely necessary to prevent improper disclosure of national-security- or classified information, of any information subject to the deliberative-process-, executive-, attorney-work-product-, or attorney-client privileges, or of any information the disclosure of which is prohibited by section 6103 of the Internal Revenue Code of 1986, if the fact of each such omission (and the precise ground or grounds therefor) is clearly noted in the statement: Provided, That this subparagraph shall not be construed to deny to the Congress (including any House, Committee, or agency thereof) any such omitted details (or related information) that it lawfully may seek, subsequent to the submission of the report; and

"(B) the requirements of this paragraph shall be deemed satisfied—

"(i) in the case of an approval described in subsection (a)(1)(C)(i), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the legal and factual basis or bases for the settlement or compromise (if not apparent on the face of documents provided); and

"(ii) in the case of an approval described in subsection (a)(1)(C)(ii), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the injunctive or other nonmonetary relief (if not apparent on the face of documents provided); and

"(3) in the case of a determination described in subsection (a)(1)(B) or an approval described in subsection (a)(1)(C), indicate the nature, tribunal, identifying information, and status of the proceeding, suit, or action.

"(d) DECLARATION.—In the case of a determination described in subsection (a)(1)(B), the representative of the United States participating in the proceeding shall make a clear declaration in the proceeding that any position expressed as to the constitutionality of the provision involved is the position of the executive branch of the Federal Government (or, as applicable, of the President or of any executive agency or military department).

"(e) APPLICABILITY TO THE PRESIDENT AND TO EXECUTIVE AGENCIES AND MILITARY DEPARTMENTS.—The reporting, declaration, and other provisions of this section relating to the Attorney General and other officers of the Department of Justice shall apply to the President, to the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) that establishes or implements a policy described in subsection (a)(1)(A) or is authorized to conduct litigation, and to the officers of such executive agency.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

"530D. Report on enforcement of laws.".

(2) Section 712 of Public Law 95–521 (92 Stat. 1883) is amended by striking subsection (b).

(3) Not later than 30 days after the date of the enactment of this Act, the President shall advise the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) of the enactment of this section.

(4)(A) Not later than 90 days after the date of the enactment of this Act, the Attorney General (and, as applicable, the President, and the head of any executive agency or military department described in subsection (e) of section 530D of title 28, United States Code, as added by subsection (a)) shall submit to Congress a report (in accordance with subsections (a), (c), and (e) of such section) on—

(i) all policies of which the Attorney General and applicable official are aware described in subsection (a)(1)(A) of such section that were established or implemented before the date of the enactment of this Act and were in effect on such date; and

(ii) all determinations of which the Attorney General and applicable official are aware described in subsection (a)(1)(B) of such section that were made before the date of the enactment of this Act and were in effect on such date.

(B) If a determination described in subparagraph (A)(ii) relates to any judicial, administrative, or other proceeding that is pending in the 90-day period beginning on the date of the enactment of this Act, with respect to any such determination, then the report required by this paragraph shall be submitted within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but not later than 30 days after the date of the enactment of this Act.

(5) Section 101 of Public Law 106–57 (113 Stat. 414) is amended by striking subsection (b).

SEC. 203. NOTIFICATIONS AND REPORTS TO BE PROVIDED SIMULTANEOUSLY TO COMMITTEES.

If the Attorney General or any officer of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof) is required by any Act (which shall be understood to include any request or direction contained in any report of a committee of the Congress relating to an appropriations Act or in any statement of managers accompanying any conference report agreed to by the Congress) to provide a notice or report to any committee or subcommittee of the Congress (other than both the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate), then such Act shall be deemed to require that a copy of such notice or report be provided simultaneously to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, except that classified notices and reports submitted to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives shall be excluded from this section so long as simultaneous notification of the provision of such reports (other than notification required under section 502(1) of the National Security Act of 1947 (50 U.S.C. 413a(1)) is made to the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 204. MISCELLANEOUS USES OF FUNDS; TECHNICAL AMENDMENTS.

(a) BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 504(a) by striking "502" and inserting "501(b)";

(2) in section 506(a)(1) by striking "participating";

(3) in section 510(a)(3) by striking "502" and inserting "501(b)";

(4) in section 510 by adding at the end the following:

"(d) No grants or contracts under subsection (b) may be made, entered into, or used, directly or indirectly, to provide any security enhancements or any equipment to any non-governmental entity that is not engaged in law enforcement or law enforcement support, criminal or juvenile justice, or delinquency prevention."; and

(5) in section 511 by striking "503" and inserting "501(b)".

(b) ATTORNEYS SPECIALLY RETAINED BY THE ATTORNEY GENERAL.—The 3d sentence of section 515(b) of title 28, United States Code, is amended by striking "at not more than $12,000".

SEC. 205. TECHNICAL AND MISCELLANEOUS AMENDMENTS TO DEPARTMENT OF JUSTICE AUTHORITIES; AUTHORITY TO TRANSFER PROPERTY OF MARGINAL VALUE; RECORDKEEPING; PROTECTION OF THE ATTORNEY GENERAL.

(a) Section 524 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting "to the Attorney General" after "available";

(2) in subsection (c)(1)—

(A) by striking the semicolon at the end of the 1st subparagraph (I) and inserting a period;

(B) by striking the 2d subparagraph (I);

(C) by striking "(A)(iv), (B), (F), (G), and (H)" in the first sentence following the second subparagraph (I) and inserting "(B), (F), and (G)"; and

(D) by striking "fund" in the 3d sentence following the 2d subparagraph (I) and inserting "Fund";

(3) in subsection (c)(2)—

(A) by inserting before the period in the last sentence ", without both the personal approval of the Attorney General and written notice within 30 days thereof to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives";

(B) by striking "for information" each place it appears; and

(C) by striking "$250,000" the 2d and 3d places it appears and inserting "$500,000";

(4) in subsection (c)(3) by striking "(F)" and inserting "(G)";

(5) in subsection (c)(5) by striking "Fund which" and inserting "Fund, that";

(6) in subsection (c)(8)(A), by striking "(A)(iv), (B), (F), (G), and (H)" and inserting "(B), (F), and (G)"; and

(7) in subsection (c)(9)(B)—

(A) by striking "year 1997" and inserting "years 2002 and 2003"; and

(B) by striking "Such transfer shall not" and inserting "Each such transfer shall be subject to satisfaction by the recipient involved of any outstanding lien against the property transferred, but no such transfer shall".

(b) Section 522 of title 28, United States Code, is amended by inserting "(a)" before "The", and by inserting at the end the following:

"(b) With respect to any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose beginning not later than 1 year after the date of enactment of 21st Century Department of Justice Appropriations Authorization Act and continuing thereafter, and notwithstanding any other provision of law, the same criteria shall be used (and shall be required to be used, as applicable) to classify or categorize offenders and victims (in the criminal context), and to classify or categorize actors and acted upon (in the noncriminal context).".

(c) Section 534(a)(3) of title 28, United States Code, is amended by adding "and" after the semicolon.

(d) Section 509(3) of title 28, United States Code, is amended by striking the 2d period.

(e) Section 533 of title 28, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by adding after paragraph (2) a new paragraph as follows:

"(3) to assist in the protection of the person of the Attorney General.".

(f) Hereafter, no compensation or reimbursement paid pursuant to section 501(a) of Public Law 99–603 (100 Stat. 3443) or section 241(i) of the Act of June 27, 1952 (ch. 477) shall be subject to section 6503(d) of title 31, United States Code, and no funds available to the Attorney General may be used to pay any assessment made pursuant to such section 6503 with respect to any such compensation or reimbursement.

(g) Section 108 of Public Law 103–121 (107 Stat. 1164) is amended by replacing "three" with "six", by replacing "only" with ", first,", and by replacing "litigation." with "litigation, and, thereafter, for financial systems, and other personnel, administrative, and litigation expenses of debt collection activities.".

SEC. 206. OVERSIGHT; WASTE, FRAUD, AND ABUSE OF APPROPRIATIONS.

(a) Section 529 of title 28, United States Code, is amended by inserting "(a)" before "Beginning", and by adding at the end the following:

"(b) Notwithstanding any provision of law limiting the amount of management or administrative expenses, the Attorney General shall, not

later than May 2, 2003, and of every year thereafter, prepare and provide to the Committees on the Judiciary and Appropriations of each House of the Congress using funds available for the underlying programs—

"(1) a report identifying and describing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract that was made, entered into, awarded, or, for which additional or supplemental funds were provided in the immediately preceding fiscal year, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services), and including, without limitation, for each such grant, cooperative agreement, or contract: the term, the dollar amount or value, a description of its specific purpose or purposes, the names of all grantees or parties; the names of each unsuccessful applicant or bidder, and a description of the specific purpose or purposes proposed in each unsuccessful application or bid, and of the reason or reasons for rejection or denial of the same; and

"(2) a report identifying and reviewing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract made, entered into, awarded, or for which additional or supplemental funds were provided, after October 1, 2002, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services) that was programmatically and financially closed out or that otherwise ended in the immediately preceding fiscal year (or even if not yet closed out, was terminated or otherwise ended in the fiscal year that ended 2 years before the end of such immediately preceding fiscal year), and including, without limitation, for each such grant, cooperative agreement, or contract: a description of how the appropriated funds involved actually were spent, statistics relating to its performance, its specific purpose or purposes, and its effectiveness, and a written declaration by each non-Federal grantee and each non-Federal party to such agreement or to such contract, that—

"(A) the appropriated funds were spent for such purpose or purposes, and only such purpose or purposes;

"(B) the terms of the grant, cooperative agreement, or contract were complied with; and

"(C) all documentation necessary for conducting a full and proper audit under generally accepted accounting principles, and any (additional) documentation that may have been required under the grant, cooperative agreement, or contract, have been kept in orderly fashion and will be preserved for not less than 3 years from the date of such close out, termination, or end;

except that the requirement of this paragraph shall be deemed satisfied with respect to any such description, statistics, or declaration if such non-Federal grantee or such non-Federal party shall have failed to provide the same to the Attorney General, and the Attorney General notes the fact of such failure and the name of such grantee or such party in the report.".

(b) Section 1913 of title 18, United States Code, is amended by striking "to favor" and inserting "a jurisdiction, or an official of any government, to favor, adopt,", by inserting ", law, ratification, policy," after "legislation" every place it appears, by striking "by Congress" the 2d place it appears, by inserting "or such official" before ", through the proper", by inserting ", measure," before "or resolution", by striking "Members of Congress on the request of any Member" and inserting "any such Member or official, at his request,", by striking "for legislation" and inserting "for any legislation", and by striking the period after "business" and inserting ", or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.".

(c) Section 1516(a) of title 18, United States Code, is amended by inserting ", entity, or program" after "person", and by inserting "grant, or cooperative agreement," after "subcontract,".

(d) Section 112 of title I of section 101(b) of division A of Public Law 105–277 (112 Stat. 2681–67) is amended by striking "fiscal year" and all that follows through "Justice—", and inserting "any fiscal year the Attorney General—".

(e) Section 2320(f) of title 18, United States Code, is amended—

(1) by striking "title 18" each place it appears and inserting "this title"; and

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by inserting "(1)" after "(f)"; and

(4) by adding at the end the following:

"(2) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

"(A) The number of infringement cases involving specific types of works, such as audiovisual works, sound recordings, business software, video games, books, and other types of works.

"(B) The number of infringement cases involving an online element.

"(C) The number and dollar amounts of fines assessed in specific categories of dollar amounts, such as up to $500, from $500 to $1,000, from $1,000 to $5,000, from $5,000 to $10,000, and categories above $10,000.

"(D) The amount of restitution awarded.

"(E) Whether the sentences imposed were served.".

SEC. 207. ENFORCEMENT OF FEDERAL CRIMINAL LAWS BY ATTORNEY GENERAL.

Section 535 of title 28, United States Code, is amended in subsections (a) and (b), by replacing "title 18" with "Federal criminal law", and in subsection (b), by replacing "or complaint" with "matter, or complaint witnessed, discovered, or", and by inserting "or the witness, discoverer, or recipient, as appropriate," after "agency,".

SEC. 208. COUNTERTERRORISM FUND.

(a) Establishment; Availability.—There is hereby established in the Treasury of the United States a separate fund to be known as the "Counterterrorism Fund", amounts in which shall remain available without fiscal year limitation—

(1) to reimburse any Department of Justice component for any costs incurred in connection with—

(A) reestablishing the operational capability of an office or facility that has been damaged or destroyed as the result of any domestic or international terrorism incident;

(B) providing support to counter, investigate, or prosecute domestic or international terrorism, including, without limitation, paying rewards in connection with these activities; and

(C) conducting terrorism threat assessments of Federal agencies and their facilities; and

(2) to reimburse any department or agency of the Federal Government for any costs incurred in connection with detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States.

(b) No Effect on Prior Appropriations.—The amendment made by subsection (a) shall not affect the amount or availability of any appropriation to the Counterterrorism Fund made before the date of enactment of this Act.

SEC. 209. STRENGTHENING LAW ENFORCEMENT IN UNITED STATES TERRITORIES, COMMONWEALTHS, AND POSSESSIONS.

(a) Extended Assignment Incentive.—Chapter 57 of title 5, United States Code, is amended—

(1) in subchapter IV, by inserting at the end the following:

"§5757. Extended assignment incentive

"(a) The head of an Executive agency may pay an extended assignment incentive to an employee if—

"(1) the employee has completed at least 2 years of continuous service in 1 or more civil service positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands;

"(2) the agency determines that replacing the employee with another employee possessing the required qualifications and experience would be difficult; and

"(3) the agency determines it is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in the territory or possession, the Commonwealth of Puerto Rico or Commonwealth of the Northern Mariana Islands, except that the total amount of service performed in a particular territory, commonwealth, or possession under 1 or more agreements established under this section may not exceed 5 years.

"(b) The sum of extended assignment incentive payments for a service period may not exceed the greater of—

"(1) an amount equal to 25 percent of the annual rate of basic pay of the employee at the beginning of the service period, times the number of years in the service period; or

"(2) $15,000 per year in the service period.

"(c)(1) Payment of an extended assignment incentive shall be contingent upon the employee entering into a written agreement with the agency specifying the period of service and other terms and conditions under which the extended assignment incentive is payable.

"(2) The agreement shall set forth the method of payment, including any use of an initial lump-sum payment, installment payments, or a final lump-sum payment upon completion of the entire period of service.

"(3) The agreement shall describe the conditions under which the extended assignment incentive may be canceled prior to the completion of agreed-upon service period and the effect of the cancellation. The agreement shall require that if, at the time of cancellation of the incentive, the employee has received incentive payments which exceed the amount which bears the same relationship to the total amount to be paid under the agreement as the completed service period bears to the agreed-upon service period, the employee shall repay that excess amount, at a minimum, except that an employee who is involuntarily reassigned to a position stationed outside the territory, commonwealth, or possession or involuntarily separated (not for cause on charges of misconduct, delinquency, or inefficiency) may not be required to repay any excess amounts.

"(d) An agency may not put an extended assignment incentive into effect during a period in which the employee is fulfilling a recruitment or relocation bonus service agreement under section 5753 or for which an employee is receiving a retention allowance under section 5754.

"(e) Extended assignment incentive payments may not be considered part of the basic pay of an employee.

"(f) The Office of Personnel Management may prescribe regulations for the administration of this section, including regulations on an employee's entitlement to retain or receive incentive payments when an agreement is canceled.

Neither this section nor implementing regulations may impair any agency's independent authority to administratively determine compensation for a class of its employees."; and

(2) in the analysis by adding at the end the following:

"5757. Extended assignment incentive.".

(b) Conforming Amendment.—Section 5307(a)(2)(B) of title 5, United States Code, is amended by striking "or 5755" and inserting "5755, or 5757".

(c) Effective Date.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 6 months after the date of enactment of this Act.

(d) Report.—No later than 3 years after the effective date of this section, the Office of Personnel Management, after consultation with affected agencies, shall submit a report to Congress assessing the effectiveness of the extended assignment incentive authority as a human resources management tool and making recommendations for any changes necessary to improve the effectiveness of the incentive authority. Each agency shall maintain such records and report such information, including the number and size of incentive offers made and accepted or declined by geographic location and occupation, in such format and at such times as the Office of Personnel Management may prescribe, for use in preparing the report.

SEC. 210. ADDITIONAL AUTHORITIES OF THE ATTORNEY GENERAL.

Section 151 of the Foreign Relations Act, fiscal years 1990 and 1991 (5 U.S.C. 5928 note) is amended by inserting "or Federal Bureau of Investigation" after "Drug Enforcement Administration".

TITLE III—MISCELLANEOUS

SEC. 301. REPEALERS.

(a) Open-Ended Authorization of Appropriations for National Institute of Corrections.—Chapter 319 of title 18, United States Code, is amended by striking section 4353.

(b) Open-Ended Authorization of Appropriations for United States Marshals Service.—Section 561 of title 28, United States Code, is amended by striking subsection (i).

(c) Redundant Authorizations of Payments for Rewards.—

(1) Chapter 203 of title 18 of the United States Code is amended by striking sections 3059, 3059A, 3059B, 3075, and all the matter after the first sentence of 3072; and

(2) Public Law 101–647 is amended in section 2565, by replacing all the matter after "2561" in subsection (c)(1) with "the Attorney General may, in his discretion, pay a reward to the declarant" and by striking subsection (e); and by striking section 2569.

SEC. 302. TECHNICAL AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE.

Title 18 of the United States Code is amended—

(1) in section 4041 by striking "at a salary of $10,000 a year";

(2) in section 4013—

(A) in subsection (a)—

(i) by replacing "the support of United States prisoners" with "Federal prisoner detention";

(ii) in paragraph (2) by adding "and" after "hire;";

(iii) in paragraph (3) by replacing "entities; and" with "entities."; and

(iv) in paragraph (4) by inserting "The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for" before "entering"; and

(B) by redesignating—

(i) subsections (b) and (c) as subsections (c) and (d); and

(ii) paragraph (a)(4) as subsection (b), and subparagraphs (A), (B), and (C), of such paragraph (a)(4) as paragraphs (1), (2), and (3) of such subsection (b); and

(3) in section 209(a)—

(A) by striking "or makes" and inserting "makes"; and

(B) by striking "supplements the salary of, any" and inserting "supplements, the salary of any".

SEC. 303. REQUIRED SUBMISSION OF PROPOSED AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE FOR FISCAL YEAR 2003.

When the President submits to the Congress the budget of the United States Government for fiscal year 2003, the President shall simultaneously submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such proposed legislation authorizing appropriations for the Department of Justice for fiscal year 2003 as the President may judge necessary and expedient.

SEC. 304. STUDY OF UNTESTED RAPE EXAMINATION KITS.

The Attorney General shall conduct a study to assess and report to Congress the number of untested rape examination kits that currently exist nationwide and shall submit to the Congress a report containing a summary of the results of such study. For the purpose of carrying out such study, the Attorney General shall attempt to collect information from all law enforcement jurisdictions in the United States.

SEC. 305. REPORTS ON USE OF DCS 1000 (CARNIVORE).

(a) Report on Use of DCS 1000 (Carnivore) to Implement Orders Under 18 U.S.C. 3123.—At the same time that the Attorney General submits to Congress the annual reports required by section 3126 of title 18, United States Code, that are respectively next due after the end of each of the fiscal years 2001 and 2002, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, on the number of orders under section 3123 applied for by law enforcement agencies of the Department of Justice whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program), which report shall include information concerning—

(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(2) the offense specified in the order or application, or extension of an order;

(3) the number of investigations involved;

(4) the number and nature of the facilities affected;

(5) the identity of the applying investigative or law enforcement agency making the application for an order; and

(6) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.

(b) Report on Use of DCS 1000 (Carnivore) to Implement Orders Under 18 U.S.C. 2518.—At the same time that the Attorney General, or Assistant Attorney General specially designated by the Attorney General, submits to the Administrative Office of the United States Courts the annual report required by section 2519(2) of title 18, United States Code, that is respectively next due after the end of each of the fiscal years 2001 and 2002, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, that contains the following information with respect to those orders described in that annual report that were applied for by law enforcement agencies of the Department of Justice and whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program)—

(1) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of title 18, United States Code, did not apply by reason of section 2518 (11) of title 18);

(2) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(3) the offense specified in the order or application, or extension of an order;

(4) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application;

(5) the nature of the facilities from which or place where communications were to be intercepted;

(6) a general description of the interceptions made under such order or extension, including—

(A) the approximate nature and frequency of incriminating communications intercepted;

(B) the approximate nature and frequency of other communications intercepted;

(C) the approximate number of persons whose communications were intercepted;

(D) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order; and

(E) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(7) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(8) the number of trials resulting from such interceptions;

(9) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(10) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(11) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.

SEC. 306. STUDY OF ALLOCATION OF LITIGATING ATTORNEYS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit a report to the chairman and ranking minority member of the Committees on the Judiciary of the House of Representatives and Committee on the Judiciary of the Senate, detailing the distribution or allocation of appropriated funds, attorneys and other personnel, and per-attorney workloads, for each Office of United States Attorney and each division of the Department of Justice except the Justice Management Division.

SEC. 307. USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended to read as follows:

"(b) Use of Truth-in-Sentencing and Violent Offender Incarceration Grants.—Funds provided under section 20103 or 20104 may be applied to the cost of—

"(1) altering existing correctional facilities to provide separate facilities for juveniles under the jurisdiction of an adult criminal court who are detained or are serving sentences in adult prisons or jails;

"(2) providing correctional staff who are responsible for supervising juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court with orientation and ongoing training regarding the unique needs of such offenders; and

"(3) providing ombudsmen to monitor the treatment of juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court in adult facilities, consistent with guidelines issued by the Assistant Attorney General.

SEC. 308. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

"(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the Inspector General's discretion, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice; and

"(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators or law enforcement personnel, where the allegations relate to the exercise of an attorney's authority to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility."; and

(2) by inserting at the end the following:

"(d) The Attorney General shall insure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department shall report such information to the Inspector General.".

SEC. 309. REVIEW OF THE DEPARTMENT OF JUSTICE.

(a) APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN THE OFFICE OF INSPECTOR GENERAL.—The Inspector General of the Department of Justice shall direct that one official from the Inspector General's office shall be responsible for supervising and coordinating independent oversight of programs and operations of the Federal Bureau of Investigation until September 30, 2003. The Inspector General may continue this policy after September 30, 2003, at the Inspector General's discretion.

(b) INSPECTOR GENERAL OVERSIGHT PLAN FOR THE FEDERAL BUREAU OF INVESTIGATION.—Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Justice shall submit to the Chairman and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives a plan for oversight of the Federal Bureau of Investigation. The Inspector General shall consider the following activities for inclusion in such plan:

(1) FINANCIAL SYSTEMS.—Auditing the financial systems, information technology systems, and computer security systems of the Federal Bureau of Investigation.

(2) PROGRAMS AND PROCESSES.—Auditing and evaluating programs and processes of the Federal Bureau of Investigation to identify systemic weaknesses or implementation failures and to recommend corrective action.

(3) INTERNAL AFFAIRS OFFICES.—Reviewing the activities of internal affairs offices of the Federal Bureau of Investigation, including the Inspections Division and the Office of Professional Responsibility.

(4) PERSONNEL.—Investigating allegations of serious misconduct by personnel of the Federal Bureau of Investigation.

(5) OTHER PROGRAMS AND OPERATIONS.—Reviewing matters relating to any other program or and operation of the Federal Bureau of Investigation that the Inspector General determines requires review.

(6) RESOURCES.—Identifying resources needed by the Inspector General to implement such plan.

(c) REPORT ON INSPECTOR GENERAL FOR FEDERAL BUREAU OF INVESTIGATION.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report and recommendation to the Chairman and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives concerning whether there should be established, within the Department of Justice, a separate office of Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation.

SEC. 310. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.

Section 1901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

"(c) ADDITIONAL USE OF FUNDS.—States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treatment and sanctions both during incarceration and after release.".

SEC. 311. REPORT ON THREATS AND ASSAULTS AGAINST FEDERAL LAW ENFORCEMENT OFFICERS, UNITED STATES JUDGES, UNITED STATES OFFICIALS AND THEIR FAMILIES.

(a) REPEAL OF COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.—Section 808 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat.1310) is repealed.

(b) REPORT ON THREATS AND ASSAULTS AGAINST FEDERAL LAW ENFORCEMENT OFFICERS, UNITED STATES JUDGES, UNITED STATES OFFICIALS AND THEIR FAMILIES.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report on the number of investigations and prosecutions under section 111 of title 18, United States Code, and section 115 of title 18, United States Code, for the fiscal year 2001.

SEC. 312. ADDITIONAL FEDERAL JUDGESHIPS.

(a) PERMANENT DISTRICT JUDGES FOR THE DISTRICT COURTS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 5 additional district judges for the southern district of California;

(B) 1 additional district judge for the western district of North Carolina; and

(C) 2 additional district judges for the western district of Texas.

(2) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of paragraph (1) of this subsection, such table is amended—

(A) by striking the item relating to California and inserting the following:

"California:

Northern	14
Eastern	6
Central	27
Southern	13.";

(B) by striking the item relating to North Carolina and inserting the following:

"North Carolina:

Eastern	4
Middle	4
Western	4.";

and

(C) by striking the item relating to Texas and inserting the following:

"Texas:

Northern	12
Southern	19
Eastern	7
Western	13.".

(b) DISTRICT JUDGESHIPS FOR THE CENTRAL AND SOUTHERN DISTRICTS OF ILLINOIS.—

(1) CONVERSION OF TEMPORARY JUDGESHIPS TO PERMANENT JUDGESHIPS.—The existing district judgeships for the central district and the southern district of Illinois authorized by section 203(c) (3) and (4) of the Judicial Improvements Act of 1990 (Public Law 101–650, 28 U.S.C. 133 note) shall, as of the date of the enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents in such offices shall hold the offices under section 133 of title 28, United States Code (as amended by this section).

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table contained in section 133(a) of title 28, United States Code, is amended by striking the item relating to Illinois and inserting the following:

"Illinois:

Northern	22
Central	4
Southern	4.".

(c) TEMPORARY JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the western district of North Carolina. The first vacancy in the office of district judge in the western district of North Carolina, occurring 7 years or more after the confirmation date of the judge named to fill the temporary district judgeship created in that district by this subsection, shall not be filled.

(d) EXTENSION OF TEMPORARY FEDERAL DISTRICT COURT JUDGESHIP FOR THE NORTHERN DISTRICT OF OHIO.—

(1) IN GENERAL.—Section 203(c) of the Judicial Improvement Act of 1990 (28 U.S.C. 133 note) is amended—

(A) in the first sentence following paragraph (12), by striking "and the eastern district of Pennsylvania" and inserting ", the eastern district of Pennsylvania, and the northern district of Ohio"; and

(B) by inserting after the third sentence following paragraph (12) "The first vacancy in the office of district judge in the northern district of Ohio occurring 15 years or more after the confirmation date of the judge named to fill the temporary judgeship created under this subsection shall not be filled.".

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(A) the date of enactment of this Act; or

(B) November 15, 2001.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this section.

TITLE IV—VIOLENCE AGAINST WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Violence Against Women Office Act".

SEC. 402. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

(a) IN GENERAL.—There is established in the Department of Justice a Violence Against Women Office (in this title referred to as the "Office") under the general authority of the Attorney General.

(b) SEPARATE OFFICE.—The Office—

(1) shall not be part of any division or component of the Department of Justice; and

(2) shall be a separate office headed by a Director who shall report to the Attorney General through the Associate Attorney General of the United States, and who shall also serve as Counsel to the Attorney General.

SEC. 403. JURISDICTION.

The Office—

(1) shall have jurisdiction over all matters related to administration, enforcement, coordination, and implementation of all responsibilities of the Attorney General or the Department of Justice related to violence against women, including formula and discretionary grant programs authorized under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) and the Violence Against Women Act of 2000 (Division B of Public Law 106–386); and

(2) shall be solely responsible for coordination with other offices or agencies of administration, enforcement, and implementation of the programs, grants, and activities authorized or undertaken under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) and the Violence Against Women Act of 2000 (Division B of Public Law 106–386).

SEC. 404. DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

(a) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint a Director for the Violence Against Women Office (in this title referred to as the "Director") to be responsible for the administration, coordination, and implementation of the programs and activities of the office.

(b) OTHER EMPLOYMENT.—The Director shall not—

(1) engage in any employment other than that of serving as Director; or

(2) hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other agreement under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) or the Violence Against Women Act of 2000 (Division B of Public Law 106–386).

(c) VACANCY.—In the case of a vacancy, the President may designate an officer or employee who shall act as Director during the vacancy.

(d) COMPENSATION.—The Director shall be compensated at a rate of pay not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 405. REGULATORY AUTHORIZATION.

The Director may, after appropriate consultation with representatives of States and units of local government, establish such rules, regulations, and procedures as are necessary to the exercise of the functions of the Office, and are consistent with the stated purposes of this Act and those of the Violence Against Women Act of 1994 (title IV of Public Law 103–322) and the Violence Against Women Act of 2000 (Division B of Public Law 106–386).

SEC. 406. OFFICE STAFF.

The Attorney General shall ensure that there is adequate staff to support the Director in carrying out the responsibilities of the Director under this title.

SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

Mr. LEAHY. Mr. President, I am pleased to the Senate is finally passing the 21st Century Department of Justice Appropriations Authorization Act. I thank Senator HATCH, the ranking Republican member of the Judiciary Committee, for his hard work and support of this legislation.

The last time Congress properly authorized spending for the entire Department of Justice ("DOJ" or the "Department") was in 1979. Congress extended that authorization in 1980 and 1981. Since then, Congress has not passed nor has the President signed an authorization bill for the Department. In fact, there are a number of years where Congress failed to consider any Department authorization bill. This 21-year failure to properly reauthorize the Department has forced the appropriations committees in both houses to reauthorize and appropriate money.

We have ceded the authorization power to the appropriators for too long. Our bipartisan legislation is an attempt to reaffirm the authorizing authority and responsibility of the House and Senate Judiciary Committees. I commend Chairman SENSENBRENNER and Ranking Member CONYERS of the House Judiciary Committee for working in a bipartisan manner to pass similar legislation in the House of Representatives.

The 21st Century Department of Justice Appropriations Authorization Act, is divided into two divisions: the first division is a comprehensive authorization of the Department; and the second division is a comprehensive authorization of expired and new Department grants programs and improvements to criminal law and procedures.

Division A of our bipartisan legislation contains four titles which authorize appropriations for the Department for fiscal year 2002, provide permanent enabling authorities which will allow the Department to efficiently carry out its mission, clarify and harmonize existing statutory authority, and repeal obsolete statutory authorities. The bill establishes certain reporting requirements and other mechanisms, such as DOJ Inspector General authority to investigate allegations of misconduct by employees of the Federal Bureau of Investigation (FBI), intended to better enable the Congress and the Department to oversee the operations of the Department. Finally, the bill creates a separate Violence Against Women Office to combat domestic violence.

Title I authorizes appropriations for the major components of the Department for fiscal year 2002. The authorization mirrors the President's request regarding the Department except in two areas. First, the bill increased the President's request for the DOJ Inspector General by $10 million. This is necessary because the Committee is concerned about the severe downsizing of that office and the need for oversight, particularly of the FBI, at the Department. Second, the bill authorizes at least $10 million for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147). The American copyright industry is the largest exporter of goods from the United States, employing more than 7 million Americans, and these additional funds are needed to strengthen the resources available to DOJ and the FBI to investigate and prosecute cyberpiracy.

Title II permanently establishes a clear set of authorities that the Department may rely on to use appropriated funds, including establishing permitted uses of appropriated funds by the Attorney General, the FBI, the Immigration and Naturalization Service, the Federal Prison System, and the Detention Trustee. Title II also establishes new reporting requirements which are intended to enhance Congressional oversight of the Department, including new reporting requirements for information about the enforcement of existing laws, for information regarding the Office of Justice Programs (OJP), and the submission of other reports, required by existing law, to the House and Senate Judiciary Committees. Section 206(e) expands an existing reporting requirement regarding copyright infringement cases.

Title II also provides the Department with additional law enforcement tools in the war against terrorism. For instance, section 201 permits the FBI to enter into cooperative projects with foreign countries to improve law enforcement or intelligence operations. Section 210 of the committee approved bill also provided for special "danger pay" allowances for FBI agents in hazardous duty locations outside the United States, as is provided for agents of the Drug Enforcement Administration. At the insistence of a Republican Senator, section 210 have regrettably been removed from the bill to ensure final passage.

Title III repeals outdated and open-ended statutes, requires the submission of an annual authorization bill to the House and Senate Judiciary Committees, and provides states with flexibility to use existing Truth-In-Sentencing and Violent Offender Incarceration Grants to account for juveniles being housed in adult prison facilities. Title III requires the Department to submit to Congress studies on untested rape examination kits, and the allocation of funds, personnel, and workloads for each office of U.S. Attorney and each division of the Department.

In addition, Title III provides new oversight and reporting requirements for the FBI and other activities conducted by the Justice Department. Specifically, section 308 codifies the Attorney General's order of July 11, 2001, which revised Department of Justice's regulations concerning the Inspector General. The section insures that the Inspector General for the Department of Justice has the authority to decide whether a particular allegation of misconduct by Department of Justice personnel, including employees of the Federal Bureau of Investigation and the Drug Enforcement Administration, should be investigated by the Inspector General or by the internal affairs unit of the appropriate component of the Department of Justice.

Section 309 directs the Inspector General of the Department to appoint an official from the Inspector General's office to be responsible for supervising and coordinating independent oversight of programs and operations of the FBI until the end of the 2003 fiscal year. This section also requires the Inspector General of the Department to submit to Congress not later than 30 days after enactment of this Act an oversight plan for the FBI. This section further requires the Attorney General to submit a report and recommendation to the House and Senate Committees on the Judiciary not later than 90 days after enactment of this Act on whether there should be established a separate office of Inspector General for the FBI that shall be responsible for supervising independent oversight of programs and operations of the FBI.

In addition, the bill as passed by the committee, contains language offered as an amendment by Senator FEINSTEIN to authorize a number of new judgeships. I strongly support Senator FEINSTEIN's amendment, and believe that the need for these new judgeships is acute.

Title IV establishes a separate Violence Against Women Office (VAWO) within the Department. The VAWO is headed by a Director, who is appointed by the President and confirmed by the Senate. In addition, Title IV enumerates duties and responsibilities of the Director, and authorizes appropriations to ensure the VAWO is adequately staffed. I strongly support a separate VAWO office within the Department of Justice.

The 21st Century Department of Justice Appropriations Authorization Act should result in a more effective, as well as efficient, Department of Justice for the American people.

Division B of our bipartisan legislation includes eight titles which compile a comprehensive authorization of expired and new Department of Justice grants programs and improvements to criminal law and procedures.

Title I authorizes Department of Justice grants to establish 4,000 Boys and Girls Clubs across the country before January 1, 2007. This bipartisan amendment authorizes Department of Justice grants for each of the next 5 years to establish 1,200 additional Boys and Girls Clubs across the Nation. In fact, this will bring the number of Boys and Girls clubs to 4,000. That means they will serve approximately 6 million young people by January 1, 2007.

I am very impressed with what I see about the Boys and Girls Clubs as I travel around the country. In 1997, I was very proud to join with Senator HATCH and others to pass bipartisan legislation to authorize grants by the Department of Justice to fund 2,500 Boys and Girls Clubs across the Nation. We increased the Department of Justice grant funding for the Boys and Girls Clubs from $20 million in fiscal year 1998 to $60 million in fiscal year 2001. That is why we have now 2,591 Boys and Girls Clubs in all 50 States and 3.3 million children are served. It is a success story.

I hear from parents certainly across my State how valuable it is to have the Boys and Girls Clubs. I hear it also from police chiefs. In fact, one police chief told me, rather than giving him a couple more police officers, fund a Boys and Girls Club in his district; it would be more beneficial. This long-term Federal commitment has enabled Vermonters to establish six Boys and Girls Clubs—in Brattleboro, Burlington, Montpelier, Randolph, Rutland, and Vergennes. In fact, I believe the Vermont Boys and Girls Clubs have received more than a million dollars from the Department of Justice grants since 1998.

In May of this year at a Vermont town meeting on heroin prevention and treatment, I was honored to present a check for more than $150,000 in Department of Justice funds to the members of the Burlington club to continue helping young Vermonters find some constructive alternatives for both their talents and energies, because we know that in Vermont and across the Nation Boys and Girls Clubs are proving they are a growing success at preventing crime and supporting young children.

Parents, educators, law enforcement officers, and others know we need safe havens where young people can learn and grow up free from the influence of the drugs and gangs and crime. That is why the Boys and Girls Clubs are so important to our Nation's children. Indeed, the success already in Vermont has led to efforts to create nine more clubs throughout my home State. Continued Federal support would be critical to these expansion efforts in Vermont and in the other 49 States as well.

Title II and III is the Drug Abuse Education, Prevention, and Treatment Act of 2001. I am pleased that we have included in this package the version of S. 304 that the Judiciary Committee passed unanimously on November 29. This legislation ushers in a new, bipartisan approach to our efforts to reduce drug abuse in the United States. It was introduced by Senator HATCH and I in February. Senator HATCH held an excellent hearing on the bill in March, the Judiciary Committee has approved it, and the full Senate should follow the Committee's lead. This is a bill that is embraced by Democrats and Republicans alike, as well as law enforcement officers and drug treatment providers.

I have wanted to pass legislation like this for years. This legislation provides a comprehensive approach to reducing drug abuse in America. I hope that the innovative programs established by this legislation will assist all of our States in their efforts to address the drug problems that most affect our communities.

No community or State is immune from the ravages of drug abuse. Earlier this year, I held two town meetings up in Vermont to talk about the most pressing drug problem in my State: heroin. Vermont has historically had one of the lowest crime rates in the nation, but we are experiencing serious troubles because of drug abuse. I was pleased that so many Vermonters—parents, students, teachers, and concerned community members, as well as professionals from our State's prevention, treatment, and enforcement communities—took time out of their busy schedules to discuss the way Vermont's heroin problem affects their lives. They have informed my thinking on these issues and rededicated me to reducing the scourge of drug abuse throughout our nation.

This bill will provide necessary assistance to Vermont and every other State. It contains numerous grant programs to aid States and local communities in their efforts to prevent and treat drug abuse. Of particular interest to Vermonters, S. 304 establishes drug treatment grants for rural States and authorizes money for residential treatment centers for mothers addicted to heroin, methamphetamines, or other drugs.

This legislation also will help States and communities reduce drug use in prisons through testing and treatment. This is an effort I proposed in the Drug Free Prisons Act, which I introduced in the last Congress. It will fund programs designed to reduce recidivism through drug treatment and other services for former prisoners after release. As Joseph Califano, Jr., the president of the Center on Addiction and Substance Abuse and former secretary of the Department of Health, Education, and Welfare, told the National Press Club in January. "The next great opportunity to reduce crime is to provide treatment and training to drug and alcohol abusing prisoners who will return to a life of criminal activity unless they leave prison substance free and, upon release, enter treatment and continuing aftercare." This legislation will accomplish both of those goals. In addition, this bill will authorize drug courts—another step I proposed in the Drug Free Prisons Act—and juvenile drug courts.

Through this legislation, we extend food stamps to people who are ineligible under current law due to a past drug offense, but have completed or are enrolled in drug treatment. Senator HATCH and I wanted to go further, and the Judiciary Committee approved language that would have also extended food stamps to those who were pregnant, seriously ill, or had dependent children. At Senator KYLE's insistence, those provisions have regrettably been removed from this amendment.

This legislation also includes a grant program to assist State and local law enforcement in developing new ways to fight crime. This National Comprehensive Crime-Free Communities Act will provide funding for 250 communities, including at least one from every State, to support crime prevention efforts. It also provides funding for each State to assist local communities by, among other things, providing training and technical assistance in preventing crime.

Our bipartisan bill, S. 304, represents a major step forward for our drug policy. It is a bill that has been very important to Senator HATCH, and it has been very important to me. I think it will greatly benefit Vermonters, and citizens of every State, and I urge the Senate to give this bill its full support.

Title IV is similar to S. 1315, the Judicial Improvement and Integrity Act of 2001, introduced by myself and Senator HATCH, to protect witnesses who provide information on criminal activity to law enforcement officials by increasing maximum sentences and other improvements to the criminal code.

This title would do a number of things, such as:

No. 1. Protect witnesses who come forward to provide information on criminal activity to law enforcement officials by increasing maximum sentences where physical force is actually used or attempted on the witness;

No. 2. Eliminate a loophole in the criminal contempt statute that allows some defendants to avoid serving prison sentences imposed by the Court;

No. 3. Eliminate a loophole in the statute of limitations that makes some defendants immune from further prosecution if they plead guilty then later get their plea agreements vacated;

No. 4. Grant the government the clear right to appeal the dismissal of a part of a count of an indictment, such as a predicate act in a RICO count;

No. 5. Insure that courts may impose appropriate terms of supervised release in drug cases;

No. 6. Give the District Courts greater flexibility in fashioning appropriate conditions of release for certain elderly prisoners; and

No. 7. Clarify the District Court's authority to revoke or modify a term of supervised release when the defendant willfully violates the obligation to pay restitution to the victims of the defendant's crime.

The only difference between this amendment and the earlier bill which was cosponsored by Senator HATCH is additional language in the provision dealing with newly imposed terms of supervised release for certain elderly prisoners. The new language would limit such new terms to the unserved portion of the prison term which the judge is considering amending. I thank Senator HATCH for his assistance on this legislation.

Title V is the Criminal Law Technical Amendments Act, which makes clerical and other technical amendments to title 18, United States Code, and other laws relating to crime and criminal procedure and is similar to H.R. 2137 as passed by the House of Representatives by 374-0 vote. I commend Chairman SENSENBRENNER and Senator HATCH for their leadership on this technical corrections legislation.

Title VI clarifies that an attorney for the Federal Government may provide legal advice and supervision on certain undercover activities for the purpose of investigating terrorism. Title VI of the bill modifies the McDade law, 28 U.S.C. 530B, which was included in the omnibus appropriations bill at the end of the 105th Congress. The McDade law was intended to codify the principle—with which I strongly agree—that the Justice Department may not unilaterally exempt its lawyers from State ethics rules that apply to all members of the bar.

Unfortunately, the McDade law has had serious unintended consequences for Federal law enforcement, delaying important criminal investigations, preventing the use of effective and traditionally accepted investigative techniques, and serving as the basis of litigation to interfere with legitimate federal prosecutions.

Of particular concern, the McDade law is wreaking havoc on law enforcement efforts in Oregon, where an attorney ethics decision by the State Supreme Court—In re Gatti, 330 Or. 517 (2000)—has resulted in a complete shutdown of all undercover activity. The loss of this essential crime-fighting tool poses a serious and continuing problem for law enforcement in that State, and threatens to hamstring investigations into all manner of criminal activity, including terrorism.

I have introduced a bill, together with Senators HATCH and WYDEN, that would remedy the problems caused by the McDade law while adhering to its basic premise: The Department of Justice does not have the authority it long claimed to write its own ethics rules. The proposed legislation, S. 1437, would clarify the ethical standards governing the conduct of government attorneys and address the most pressing contemporary question of government attorney ethics—namely, the question of which rule should govern government attorneys' communications with represented persons. The Senate approved S. 1437 on October 11, 2001, as part of a broader antiterrorism bill (S. 1510), but the House dropped this reasonable corrective legislation from the final antiterrorism package (H.R. 3162).

Title VI of Division B of the bill that the Senate passes today is a subset of S. 1437, which will restore to Federal law enforcement in Oregon the ability to use undercover techniques to investigate terrorist activities. This legislation is a much-needed step in the right direction; however, it is hardly a complete solution for the many serious problems caused by the McDade law. At a time when we need our Federal agents and prosecutors to move quickly to catch those responsible for the recent terrorist attacks, and to prevent further attacks, we need to address these problems in a thorough and comprehensive manner. I therefore urge my colleagues in the House both to approve title VI of this bill, and to consider the other provisions of S. 1437. We cannot afford to wait until more investigations are compromised.

Title VII contains amendments, authored by Senator SESSIONS, that modify the Paul Coverdell National Forensic Science Improvement Act of 2000 (P.L. 106–561) to enhance participation by local crime labs and to allow for DNA backlog elimination. Dr. Eric Buel, the Director of the Vermont Forensic Laboratory, has written to me to endorse these changes to the Coverdell Act, which I was proud to cosponsor last year. I support this title to help bring the necessary forensic technology to all states to improve their criminal justice systems.

Title VIII contains the Ecstasy Prevention Act, authored by Senator GRAHAM, which authorizes several Department of Justice grant programs to combat Ecstasy drug abuse. I commend Senator GRAHAM for his leadership in fighting Ecstasy use.

I look forward to working with Senator HATCH, Congressman SENSENBRENNER and Congressman CONYERS and other members of the upcoming conference to bring the important business of re-authorizing the Department back before the Senate and House Judiciary Committees. Clearly, regular reauthorization of the Department should be part and parcel of the Committees' traditional role in overseeing the Department's activities. Swift passage into law of the 21st Century Department of Justice Appropriations Authorization Act will be a significant step toward restoring our oversight role.

Mr. HATCH. Mr. President, I rise to commend my colleagues today for the passage of the 21st Century Department of Justice Appropriations Authorization Act. This legislation contains a host of provisions that are critical to law enforcement and to our efforts to combat illegal drug use. Let me take a moment to discuss some of them in more detail.

This provision establishes operating authority for the Department of Justice and expressly authorizes some practices that have developed at the Department of Justice on an ad hoc basis. Pursuant to the legislation, DOJ activities may be carried out through any means in the reasonable discretion of the Attorney General, including by sending or receiving details of personnel to or from other branches of the Government and through contracts, grants, or cooperative agreements with non-Federal parties.

The legislation ensures accountability by directing the Attorney General to provide annually to the House and Senate Judiciary and Appropriations Committees: (1) a report detailing every grant, cooperative agreement, or programmatic services contract that was made, entered into, awarded, or extended in the immediately preceding fiscal year by or on behalf of the Office of Justice Programs; and (2) a report identifying and reviewing every grant, agreement, or contract that was closed out or otherwise ended in the immediately preceding fiscal year. The bill also enhances oversight over the FBI by requiring the Inspector General of DOJ to appoint a Deputy Inspector General for the FBI who shall be responsible for supervising independent oversight of FBI programs and operations until September 30, 2004, and submitting to Congress a plan for FBI oversight.

The legislation also assists our ongoing war against terrorism. It establishes in the U.S. Treasury a Counterterrorism Fund to reimburse DOJ for certain counter-terrorism activities and Federal departments or agencies for the cost of detaining accused terrorists in foreign countries.

The bill enhances the privacy rights of law-abiding Americans by directing the Attorney General and the FBI Director to report on their use the DCS 1000, or "Carnivore" surveillance system. The report will include the number of times the system was used for surveillance during the preceding year, the persons who approved its use, the criteria applied to requests for its use, and any information gathered or accessed that was not authorized by the court to be gathered or accessed. Many concerns have been raised about the use of this system, and it is my hope that the reporting requirement will provide policymakers with valuable information and encourage Department to use the system responsibly.

The bill amends the Omnibus Crime Control and Safe Streets Act of 1968 to establish within the Department of Justice a Violence Against Women Office. With this amendment, the Director of the Office currently—Diane Stuart—will: (1) serve as special counsel to the Attorney General on the subject of violence against women; (2) maintain a liaison with the judicial branches of the Federal and State governments on related matters; (3) provide information to the Federal, State and local governments and the general public on related matters; (4) upon request, serve as the DOJ representative on domestic task forces, committees, or commissions addressing related policies or issues and as the U.S. Government representative on human rights and economic justice matters related to violence against women in international forums; (5) carry out DOJ functions under the Violence Against Women Act of 1994 and other DOJ functions on related matters; and (6) provide technical assistance, coordination, and support to other elements of DOJ and to other Federal, State, and tribal agencies in efforts to develop policy and to enforce Federal laws relating to violence against women.

The legislation authorizes Department of Justice grants to establish 4,000 Boys and Girls Clubs across the country before January 1, 2007. As my colleagues know, for years these clubs have steered thousands of our young people away from lives of drugs and crime. I am pleased that we are able to expand this excellent program to serve other needy young people.

The legislation also contains S. 304, the "Drug Abuse Education, Prevention, and Treatment Act of 2001," which I authored with Chairman LEAHY and a bipartisan group of Senators in an effort to shore up our national commitment to the demand reduction component of our national drug control strategy.

Each year, drug abuse exacts an enormous toll on our nation. I am increasingly alarmed that the drug epidemic in America continues to worsen, with more of our youth experimenting with and becoming addicted to illegal drugs. According to recent national surveys, youth drug use, particularly use of so-called "club drugs," such as Ecstasy and GHB, tragically is again on the rise. Over the past two years, use of ecstasy among 12th graders increased dramatically. Hearings I held last year in Utah highlighted the extent the drug problem pervades not just our major cities, but our entire country.

This dangerous trend is not going to reverse course unless we attack the drug abuse problem from all angles. I agree fully with President Bush that while we must remain steadfast in our commitment to enforcing our criminal laws against drug trafficking and use, the time has come to invest in demand reduction programs that have been proven effective. Only through such a balanced approach can we fully remove the scourge of drugs from our society.

The provisions of this bill provide tools that will make a difference in the fight against drug abuse. It has broad, bipartisan support on Capitol Hill, as well as the support of numerous distinguished law enforcement groups, including the Fraternal Order of Police and the National Sheriff's Association. Several mainstream prevention and treatment organizations have also voiced their support for the bill, including the Phoenix House, the National Crime Prevention Council, and the Community Anti-Drug Coalitions of America.

This title is similar to S. 1315, the Judicial Improvement and Integrity Act of 2001, which I introduced with Senator LEAHY to protect witnesses who provide information on criminal activity to law enforcement officials by increasing maximum sentences and other improvements to the criminal code.

The legislation contains provisions from the Professional Standards for Government Attorneys Act of 2001 that will allow Government attorneys, for the purpose of conducting terrorism investigations, to provide legal advice, authorization, concurrence, direction, or supervision on conducting covert activities and to participate in such activities, even though such activities may require the use of deceit or misrepresentation. The Senators from the State of Oregon, GORDON SMITH and RON WYDEN, deserve the appreciation of the federal prosecutors in their state for insisting that this provision be included in this legislation.

Finally, the bill includes Senator GRAHAM's Ecstasy Prevention Act of 2001. The Ecstasy Prevention Act requires the Substance Abuse and Mental Health Services Administration to give priority in the award of grants to communities that have taken measures to combat club drug use, including passing ordinances restricting "rave clubs," increasing law enforcement on ecstasy, and seizing lands under nuisance abatement laws to prevent the abuse of ecstasy. It requires the Office of National Drug Control Policy to use High Intensity Drug Trafficking Area funds to combat trafficking in ecstasy, and ensures that drug prevention media campaigns include efforts at preventing ecstasy abuse. These provisions are extremely important to address the rising threat of ecstasy use among the young people in our society.

Mr. President, not surprisingly, this comprehensive legislation has broad support not only from my colleagues, but also from law enforcement, community groups, and treatment organizations. This is truly bipartisan legislation that we all agree will do a great deal of good. I again want to thank my colleagues for passing this legislation today. I yield the floor.

Mr. REID. Mr. President, I ask unanimous consent that the Leahy-Hatch amendment, which is at the desk, be agreed to, the committee substitute amendment, as amended, be agreed to, the act, as amended, be read a third time and passed, and the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD; further, that the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 2697) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted and Proposed.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 2215), as amended, was passed.

The PRESIDENT pro tempore appointed Mr. LEAHY, Mr. KENNEDY, and Mr. HATCH conferees on the part of the Senate.

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 3447.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3447) to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, to provide an additional basis for establishing the inability of veterans to defray expenses of necessary medical care, to enhance certain health care programs of the Department of Veterans Affairs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I urge prompt Senate passage of H.R. 3447, the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001. This bill passed the House on December 11, 2001, and our action will clear the measure for the President's signature. This bill reflects a compromise agreement that the Senate and House Committees on Veterans' Affairs have reached on a number of health-related bills considered in the Senate and House during the 107th Congress, including: a bill to help VA respond to the looming nurse crisis; a bill to extend health care for Persian Gulf War veterans; and a bill to improve specialized treatment and rehabilitation for disabled veterans.

The centerpiece of this bill are provisions to improve recruitment and retention of VA nurses. On June 14, 2001, the Committee on Veterans' Affairs held a hearing to explore reasons for the imminent shortage of professional nurses in the United States and how this shortage will affect health care for veterans served by Department of Veterans Affairs' health care facilities.

Several registered nurses, including Sandra McMeans from my state of West Virginia, testified before the Committee that unpredictable and dangerously long working hours lead to nurses' fatigue and frustration—and patient care suffers.

Following this hearing, I joined with Senators SPECTER and CLELAND to introduce the Department of Veterans Affairs Nurse Recruitment and Retention Enhancement Act of 2001, S. 1188. This bill was included in full in S. 1188 as reported on October 10, 2001, the Department of Veterans Affairs Medical Programs Enhancement Act of 2001, and all of the provisions are now included in H.R. 3447.

I will highlight a number of the provisions included in the pending measure and refer my colleagues to the joint explanatory statement on the legislation which I will insert at the end of my remarks, for more detail.

The legislation before us includes a requirement that VA produce a policy on staffing standards in VA health care facilities. Such a policy shall be developed in consultation with the VA Under Secretary for Health, the Director of VA's National Center for Patient Safety, and VA's Chief Nurse. While it is up to VA to develop the standards, the policy must consider the numbers and skill mix required of staff in specific medical settings, such as critical care and long-term care. I thank J. David Cox, R.N. from the American Federation of Government Employees for eloquently demonstrating the need for this critical provision at our June hearing.

Because mandatory overtime was frequently cited at the Committee's June hearing as being of serious concern, the legislation also includes a requirement that the Secretary report to the House and Senate Committees on Veterans' Affairs on the use of overtime by licensed nursing staff and nursing assistants in each facility. This is a critical first step in determining what can be done to reduce the amount of mandatory overtime.

In terms of providing sufficient pay, the pending legislation mandates that VA provide Saturday premium pay to certain health professionals. This group of professionals includes licensed practical nurses (LPN's), certified or registered respiratory therapists, licensed physical therapists, licensed vocational nurses, pharmacists, and occupational therapists. These workers are known as "hybrids" as they straddle two different personnel authorities—titles 38 and 5 of the United States Code. Hybrid status allows for direct hiring and a more flexible compensation system.

This is an issue of equity, especially for LPN's who work alongside other nurses on Saturdays. When LPN's who do not receive Saturday premium pay must work together with registered nurses (RN's) who do, poor morale inevitably results. Being aware of the looming nurse shortage, we should be doing all we can to improve VA's ability to recruit and retain these caregivers.

Currently, hospital directors have the discretion to provide Saturday premium pay. But of the 17,000 hybrid employees, 8,000 are not receiving the pay premium.

I believe this change in law will make pay more consistent and fair for our health care workers. There are other VA health care employees who are employed under the title 5 personnel system who are not affected by this change. But since the title 5 system is not under the Veterans' Affairs Committee jurisdiction, we were not able to address Saturday pay for these workers. However, because of concerns about those workers, I pledge to work with my colleagues on other committees to provide other title 5 workers with Saturday premium pay.

Programs initiated within VA to improve conditions for nurses and patients have focused on issues other than staffing ratios, pay, and hours. A highly praised scholarship program that I spearheaded in 1998 allows VA nurses to pursue degrees and training in return for their service, thus encouraging professional development and improving the quality of health care. Included within the legislation before us are modifications to the existing scholarship and debt reduction programs. These changes are intended to improve the programs by providing additional flexibility to recipients.

In the Upper Midwest, the special skills of nurses and nurse practitioners are being recognized in clinics that provide supportive care close to the veterans who need it. The legislation before us seeks to encourage more nurse-managed clinics and also includes a requirement that VA evaluate these clinics.

The legislation before us would amend the treatment of part-time service performed by certain title 38 employees prior to April 7, 1986, for purposes of retirement credit. Currently, part-time service performed by title 5 employees prior to April 7, 1986, is treated as full-time service; however, title 38 employees' part-time services prior to April 7, 1986, is counted as part-time service and therefore results in lower annuities for these employees. In order to rectify this, the pending measure exempts registered nurses, physician assistants, and expanded-function dental auxiliaries from the requirement that part-time service performed prior to April 7, 1986, be prorated when calculating retirement annuities.

Although the nursing crisis has not yet reached its projected peak, the shortage is already endangering patient safety in the areas of critical and long-term care, where demands on nurses are greatest. We must encourage higher enrollment in nursing schools, improve the work environment, and offer nurses opportunities to develop as respected professionals, while taking steps to ensure safe staffing levels in the short-term.

In addition to the many important changes for nurses, this bill also contains other significant health care provisions. For example, the legislation would enable the Department of Veterans Affairs to allow hearing-impaired veterans and veterans with spinal cord injury or dysfunction, in addition to blind veterans, to obtain service dogs to assist them with everyday activities.

This bill would also establish a VA chiropractic program in each of the VA's health care networks. A chiropractic advisory committee will be established for the purpose of advising the Secretary in the development and implementation of the chiropractic program. The Secretary will provide protocols governing referrals, direct access, chiropractic scope of practice, and definition of chiropractic services, which will be available to all veterans enrolled in the VA health care system. I thank our Majority Leader, Senator DASCHLE, for his leadership in shaping this new landmark chiropractic program within the Department of Veterans Affairs.

Another important provision of this bill would help "near poor" veterans living in high cost-of-living areas, by significantly reducing VA copayments for hospital inpatient care. For those veterans whose family incomes fall between the VA's current means test level and the Department of Housing and Urban Development low income index for the area of their primary residence, the current inpatient copayments would be reduced by 80 percent. This is a significant step in reducing the inequities imposed on those veterans in high cost-of-living areas.

Another very important provision of this bill authorizes $28.3 million for a much needed repair project at the Miami VA medical center. Three years ago there was a devastating fire that destroyed the electrical plant at the medical center, and this project is desperately needed.

As has been the case in previous years and is particularly important in light of our country's current military actions, this legislation truly represents a bipartisan commitment to our Nation's veterans. I particularly recognize the hard work of Kim Lipsky and Mickey Thursam of the Democratic staff of the Committee on Veterans' Affairs; Bill Cahill of the Republican staff of the Committee; Tamera Jones of Senator CLELAND's staff, and John Bradley, Kimberly Cowins, and Susan Edgerton of the House Veterans' Affairs Committee in seeing this bill through the legislative process.

In conclusion, I believe that this bill represents a real step forward for veterans and for the health care system which veterans turn to for care. I urge my colleagues to support this important piece of health care legislation for our veterans.

I ask unanimous consent that the text of the compromise agreement and a joint explanatory statement on the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY—DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE PROGRAMS ENHANCEMENT ACT OF 2001

The bill, H.R. 3447, passed the House on December 11, 2001, and reflects a compromise agreement stemming from S. 1188, the "Department of Veterans Affairs Nurse Recruitment and Retention Act of 2001", as originally introduced; S. 1160; S. 1221; and H.R. 2792.

SUMMARY OF PROVISIONS

The following is a summary of the provisions in the Proposed "Department of Veterans Affairs Health Care Programs Enhancement Act of 2001":

TITLE I— ENHANCEMENT OF NURSE RECRUITMENT AND RETENTION AUTHORITIES

Subtitle A—Recruitment Authorities

Employee Incentive Scholarship and Education Debt Reduction Programs: Enhances eligibility and benefits for the programs by enabling nurses to pursue advanced degrees while continuing to care for patients, in order to improve recruitment and retention of nurses within the VA health care system.

Subtitle B—Retention Authorities

Saturday Premium Pay: Mandates that VA provide Saturday premium pay to title 5/title 38 hybrids. Such hybrids include licensed practical nurses, pharmacists, certified or registered respiratory therapists, physical therapists, and occupational therapists.

Staffing Standards and Mandatory Overtime: Requires VA to develop a nationwide policy on staffing standards to ensure that veterans are provided with safe and high quality care, taking into consideration the numbers and skill mix required of staff in specific medical settings. Requires a report on the use of mandatory overtime by licensed nursing staff and nursing assistants in each facility. The report would include a description of the amount of mandatory overtime used by facilities.

Subtitle C—Other Nursing Authorities

Retirement Annuities for RNs, PAs, and Others: Exempts registered nurses, physician assistants, and expanded-function dental auxiliaries from the requirement that part-time service performed prior to April 7, 1986, be prorated when calculating retirement annuities.

Subtitle D—National Commission on VA Nursing

Establishes a 12-member Commission on VA Nursing that would assess legislative and organizational policy changes to enhance the recruitment and retention of nurses by the Department, and the future of the nursing profession within the Department, and recommend legislative and organization policy changes to enhance the recruitment and retention of nurses in the Department.

TITLE II—OTHER MATTERS

Service Dogs: Authorizes VA to provide certain disabled veterans with service dogs to assist them with everyday activities.

Means Test: Retains the current-law means test national income threshold and maintains current allocation methodology (known as VERA), but will reduce copayments by 80% for near-poor veterans who require acute VA hospital inpatient care.

Chiropractic Care: Establishes a program of chiropractic services in VA healthcare facilities in each of the Veterans Integrated Service Networks and requires VA to provide training and educational materials on chiropractic services to VA health care providers. Also creates an advisory committee to oversee the implementation of this provision.

Clinical Research Oversight Funding: Authorizes VA to fund its field Offices of Research Compliance and Assurance from the Medical Care appropriation, rather than from the research budget.

Emergency Construction Project for the Miami VA Hospital: Authorizes a $28,300,000 emergency electrical project.

Health Care for Persian Gulf War Veterans: Extends VA's authority to provide health care for those who served in the Persian Gulf until December 31, 2002.

JOINT EXPLANATORY STATEMENT

The "Department of Veterans Affairs Health Care Programs Enhancement Act of 2001" reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs reached on certain provisions of a number of bills considered by the House and Senate during the 107th Congress, including: H.R. 2792, a bill to make service dogs available to disabled veterans and to make various other improvements in health care benefits provided by the Department of Veterans Affairs, and for other purposes, by the House Committee on Veterans' Affairs on October 16, 2001, and passed by the House on October 23, 2001 [hereinafter, "House Bill"]; S. 1188, a bill to enhance the authority of the Secretary of Veterans' Affairs to recruit and retain qualified nurses for the Veterans Health Administration, and for other purposes, reported by the Senate Committee on Veterans' Affairs on October 10, 2001, as proposed to be amended by a manager's amendment [hereinafter, "Senate Bill"]; S. 1576, a bill to amend section 1710 of title 38, United States Code, to extend the eligibility for health care of veterans who served in Southwest Asia during the Persian Gulf War; and, S. 1598, a bill to amend section 1706 of title 38, United States Code, to enhance the management of the provision by the Department of Veterans Affairs of specialized treatment and rehabilitation for disabled veterans, and for other purposes, introduced on October 21, 2001.

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of the compromise bill, H.R. 3447 (hereinafter referred to as the "Compromise Agreement"). Differences between the provisions contained in the Compromise Agreement and the related provisions in the bills listed above are noted in this document, except for clerical corrections and conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

TITLE I—ENHANCEMENT OF NURSE RECRUITMENT AND RETENTION AUTHORITIES

Subtitle A—Nurse Recruitment Authorities

Current Law

Several VA programs under existing law are designed to aid the Department in recruiting qualified health care professionals in fields where scarcity and high demand produce competition with the private sector.

The Department is authorized to operate the Employee Incentive Scholarship Program (hereafter EISP) under section 7671 of title 38, United States Code. Under the EISP, VA may award scholarship funds, up to $10,000 per year per participant in full-time study, for up to 3 years. These scholarships require eligible participants to reciprocate with periods of obligated service to the Department. Currently, enrollment in the scholarship program is limited to employees with 2 or more antecedent years of VA employment. Statutory authority for this program terminates December 31, 2001.

The Department is authorized to operate the Education Debt Reduction Program (hereafter EDRP) under section 7681 of title 38, United States Code. Under the EDRP, the Department may repay education-related loans incurred by recently hired VA clinical professionals in high demand positions. Statutory authority for this program, a program not yet implemented by the Department, terminates on December 31, 2001. If implemented, the program would authorize VA to repay $6,000, $8,000, and $10,000 per year, respectively, over a 3-year period, in combined principal and interest on educational loans obtained by scarce VA professionals.

Under sections 8344 and 8468 of title 5, United States Code, the Department is authorized to request waivers of the pay reduction otherwise required by law for re-employed Federal annuitants who are recruited to the Department in order to meet staffing needs in scarce health care specialties.

Senate Bill

Section 111 would permanently authorize the EISP; reduce the minimum period of employment for eligibility in the program from 2 years to 1 year; remove the award limit for education pursued during a particular school year by a participant, as long as the participant had not exceeded the overall limitation of the equivalent of 3 years of full-time education; and, extend authority to increase the award amounts based on Federal national comparability increases in pay.

Section 112 would permanently authorize the EDRP; expand the list of eligible occupations furnishing direct patient care services and services incident to such care to veterans; extend the number of years to 5 that a Departmental employee may participate in the EDRP, and increase the gross award limit to any participant to $44,000, with the award payments for the fourth and fifth years to a participant limited to $10,000 in each; and provide limited authority (until June 30, 2002) for the Secretary to waive the eligibility requirement limiting EDRP participation to recently appointed employees on a case-by-case basis for individuals appointed on or after January 1, 1999, through December 30, 2001.

Section 113 would require the Department to report to Congress its use of the authority in title 5, United States Code, to request waivers of pay reduction normally required from re-employed Federal annuitants, when such requests are used to meet its nurse staffing requirements.

House Bill

The House bill has no comparable provisions.

Compromise Agreement

Section 101, 102, and 103 follow the Senate language.

Subtitle B—Nurse Retention Authorities

Current Law

Section 7453(c) of title 38, United States Code, guarantees premium pay (at 25 percent over the basic pay rate) to VA registered nurses who work regularly scheduled tours of duty during Saturdays and Sundays. However, licensed vocational nurses and certain health care support personnel, whose employment status is grounded in employment authorities in title 5 and title 38, United States Code, are eligible for premium pay on regularly scheduled tours of duty that include Sundays. Saturday premium pay for these employees is a discretionary decision at individual medical facilities.

At retirement, VA registered nurses enrolled in the Civil Service Retirement System receive annuity credit for unused sick leave. This credit is unavailable, however, for registered nurses who retire under the Federal Employee Retirement System.

Senate Bill

Section 121 would mandate that VA provide Saturday premium pay to employees specified in Section 7454(b).

Section 122 would extend authority for the Department to provide VA nurses enrolled in the Federal Employee Retirement System the equivalent sick-leave credit in their retirement annuity calculations that is provided to other VA nurses who are enrolled in the Civil Service Retirement System.

Section 123 would require the Department to evaluate nurse-managed clinics, including those providing primary and geriatric care to veterans. Several nurse-managed clinics are in operation throughout the VA health care system, with a preponderance of clinics operating in the Upper Midwest Health Care Network. The evaluation would include information on patient satisfaction, provider experiences, cost, access and other matters. The Secretary would be required to report results from this evaluation to the Committees on Veterans' Affairs 18 months after enactment.

Section 124 would require the Department to develop a nationwide clinical staffing standards policy to ensure that veterans are provided with safe and high quality care. Section 8110 of title 38, United States Code, sets forth the manner in which medical facilities shall be operated, but does not include reference to staffing levels for such operation.

Section 125 would require the Secretary to submit annual reports on exceptions approved by the Secretary to VA's nurse qualification standards. Such reports would include the number of waivers requested and granted to permit promotion of nurses who do not have baccalaureate degrees in nursing, and other pertinent information.

Section 126 would require the Department to report facility-specific use of mandatory overtime for professional nursing staff and nursing assistants during 2001. The Department has no nationwide policy on the use of mandatory overtime. This report would be required within 180 days of enactment. The report would include information on the amount of mandatory overtime paid by VA health care facilities, mechanisms employed to monitor overtime use, assessment of any ill effects on patient care, and recommendations on preventing or minimizing its use.

House Bill

The House bill has no comparable provisions.

Compromise Agreement

Sections 121, 122, 123, 124, 125, and 126 are identical to the provisions in the Senate bill.

The Committees are concerned about VA's current national policy requiring VA nurses to achieve baccalaureate degrees as one means of quality assurance. VA has issued directive 5012.1, a directive that requires VA's registered nurses to obtain baccalaureate degrees in nursing as a precondition to advancement beyond entry level, and to do so by 2005. This policy is effective immediately for newly employed nurses.

At a time of looming crisis in achieving adequacy of basic clinical staffing of VA facilities, the Committees express concern over whether such a policy guiding nurse qualifications may work against VA's interests and responsibilities to protect the safety of its patients by creating unintended shortages of scarce health personnel. The Committees urge the Secretary to consider the implications of continuing such a policy in the face of future shortages of nursing personnel. The American Association of Community Colleges has reported that, each year, more than 60 percent of new US registered nurses are produced in two-year associate degree programs. The Department's current qualification standard for registered nurses may dissuade these fully licensed health care professionals from considering VA employment.

Subtitle C—Other Authorities

Current Law

Section 7306(a)(5) of title 38, United States Code, requires that the Office of the Under Secretary for Health include a Director of Nursing Service, responsible to the Under Secretary for Health.

Section 7426 of title 38, United States Code, provides retirement rights for, among others, nurses, physician assistants and expanded-function dental auxiliaries with part-time appointments. These employees' retirement annuities are calculated in a way that produces an unfair loss of annuity for them compared to other Federal employees. Congress has made a number of efforts since 1980 to provide equity for this group, many members of whom are now retired. These individuals, appointed to their part-time VA positions prior to April 6, 1986, under the employment authority of title 38, United States Code, have been penalized with lower annuities by subsequent Acts of Congress that addressed retirement annuity calculation rules for other part-time Federal employees appointed under the authority of title 5, United States Code.

Section 7251 of title 38, United States Code, authorizes the directors of VA health care facilities to request adjustments to the minimum rates of basic pay for nurses based on local variations in the labor market.

Senate Bill

Section 131 would amend section 7306(a)(5) of title 38, United States Code, to elevate the office of the VA Nurse Executive by requiring that official to report directly to the VA Under Secretary for Health.

Section 132 would amend section 7426 of title 38, United States Code, to exempt registered nurses, physician assistants, and expanded-function auxiliaries from the requirement that part-time service performed prior to April 7, 1986, be prorated when calculating retirement annuities.

Section 133 would modify the nurse locality-pay authorities and reporting requirements. The section would clarify and simplify a VA medical center's use of Bureau of Labor Statistics (BLS) information to facilitate locality-pay decisions for VA nurses. Additionally, section 133 would clarify the Committees' intent on steps VA facilities would take when certain BLS date were unavailable, thus serving as a trigger for the use of third-party survey information, and thereby reducing current restrictions on the use of such surveys.

House Bill

The House bill contains no comparable provisions.

Compromise Agreement

Section 131, 132, and 133 follow the Senate bill.

Subtitle D—National Commission on VA Nursing

Current Law

None.

House Bill

Section 301 would establish a 12-member National Commission on VA Nursing. The Secretary would appoint eleven members, and the Nurse Executive of the Department would serve as the twelfth, ex officio, member. Members would include three recognized representatives of employees of the Department; three representatives of professional associations of nurses or similar organizations affiliated with the Department's health care practitioners; two representatives of trade associations representing the nursing profession; two would be nurses from nursing schools affiliated with the Department; and one member would represent veterans. The Secretary would designate one member to serve as Chair of the Commission.

Section 302 would authorize the Commission to assess legislative and organization policy changes to enhance the recruitment and retention of nurses by the Department and the future of the nursing profession within the Department. This section would also provide for Commission recommendations on legislation and policy changes to enhance recruitment and retention of nurses by the Department.

Section 303 would require the Commission to submit to Congress and the Secretary a report on its findings and conclusions. The report would be due not later than 2 years after the date of the first meeting of the Commission. The Secretary would be required to promptly consider the Commission's report and submit to Congress the Department's views on the Commission's findings and conclusions, including actions, if any, that the Department would take to implement the recommendations.

Sections 304 and 305 would delineate the powers afforded to the Commission, including powers to conduct hearings and meetings, take testimony and obtain information from external sources, employ staff, authorize rates of pay, detail other Federal employees to the Commission staff, and address other administrative matters.

Section 306 would terminate the Commission 90 days after the date of the submission of its report to Congress.

Senate Bill

The Senate bill has no comparable provisions.

Compromise Agreement

Sections 141, 142, 143, 144, 145 and 146 follow the House bill, with certain modifications to the membership of the Commission.

The Committees expect the National Commission on VA Nursing to concern itself with the full spectrum of occupations involved in nursing care of veterans in the Veterans Health Administration, with specific reference to registered professional and licensed vocational nurses, clinical nurse specialists, nurse practitioners, nurse managers and executives, nursing assistants, and other technical and ancillary personnel of the Department involved in direct health care delivery to the nation's veterans. In addition to statutory requirements, the Committees expect the Secretary to appoint members to the Commission to reflect the wide variety of occupations and disciplines that constitute the nursing profession within the Department.

TITLE II—OTHER MATTERS

PROVISION OF SERVICE DOGS

Current Law

None.

House Bill

Section 101 would amend section 1714 of title 38, United States Code, to authorize the Department to provide service dogs to veterans suffering from spinal cord injury or dysfunction, other diseases causing physical immobility, or hearing loss (or other types of disabilities susceptible to improvement or enhanced functioning) for which use of service dogs is likely to improve or enhance their ability to perform activities of daily living or other skills of independent living. Under the provision, a veteran would be required to be enrolled in VA care under section 1705 of title 38, United States Code, as a prerequisite to eligibility. Service dogs would be provided in accordance with existing priorities for VA health care enrollment.

Senate Bill

Section 201 would authorize the Secretary to provide service dogs to service-connected veterans with hearing impairments and with spinal cord injuries.

Compromise Agreement

Section 201 follows the House provision.

Any travel expenses of the veteran in adjusting to the service dog would be reimbursable on the same basis as such expenses are reimbursed under Section 111, title 38, United States Code, for blind veterans adjusting to a guide dog.

MANAGEMENT OF HEALTH CARE FOR CERTAIN LOW-INCOME VETERANS

Current Law

Section 1722(a) of title 38, United States Code, places veterans whose incomes are below a specified level—in calendar year 2001, $23,688 for an individual without dependents—within the definition of a person who is "unable to defray" the cost of health care. The section includes two other such indicators of inability to defray: evidence of eligibility for Medicaid, and receipt of VA nonservice-connected pension. Veterans in these circumstances are adjudged equally unable to defray the costs of health care; as such, they are eligible to receive comprehensive VA health care without agreeing to make co-payments required from veterans whose incomes are higher. Under current law, a single-income threshold (with adjustments only for dependents) is the standard used.

House Bill

Section 103 would amend section 1722(a) of title 38, United States Code, to establish geographically adjusted income thresholds for determining a non-service-connected veteran's priority for VA care, and therefore, whether the veteran must agree to make co-payments in order to receive VA care. The section's purpose would be to address local variations in cost of care, cost-of-living or other variables that, beyond gross income, impinge on a veteran's relative economic status and ability to defray the cost of care.

In section 103, low-income limits administered by the Department of Housing and Urban Development (HUD) for its subsidized housing programs would establish an adjusted poverty-income threshold to be used in the ability-to-defray determination. The actual threshold for determining an individual veteran's ability to pay would be the greater of the current-law income threshold in section 1722 of title 38, United States Code, or the local low-income limits set by HUD.

Section 103 also would include a 5-year limitation on the effects of adoption of the HUD low-income limits policy on system resource allocation within the Veterans Health Administration. Such allocations would not be increased or decreased during the period by more than 5 percent due to this provision. The provision would take effect on October 1, 2002.

Senate Bill

Section 202 would amend section 1722 of title 38, United States Code, to include the HUD income index in determining eligibility for treatment as a low-income family based upon the veteran's permanent residence. The current national threshold would remain in place as the base figure if the HUD formula determines the low-income rate for a particular area is actually less than that amount. The effective date of this change would be January 1, 2002, and would apply to all means tests after December 31, 2001, using data from the HUD index at the time the means test is given.

Compromise Agreement

Section 202 retains the current-law income threshold, but would significantly reduce co-payments from veterans near the threshold of poverty for acute VA hospital inpatient care. The HUD low-income limits would be used to establish a family income determination within the priority 7 group. Those veterans with family incomes above the HUD income limits for their primary residences would pay the co-payments as otherwise required by law. Veterans whose family incomes fall between the current income threshold level under section 1722, title 38, United States Code, and the HUD income limits level for the standard metropolitan statistical area of their primary residences, would be required to pay co-payments for inpatient care that are reduced by 80 percent from co-payments required of veterans with higher incomes. The effective date for this change would be October 1, 2002.

MAINTENANCE OF CAPACITY FOR SPECIALIZED TREATMENT AND REHABILITATIVE NEEDS OF DISABLED VETERANS

Current Law

Section 1706 of title 38, United States Code, requires VA to maintain nationwide capacity to provide for specialized treatment and rehabilitative needs of disabled veterans, including those with amputations, spinal cord injury or dysfunction, traumatic brain injury, and severe, chronic, disabling mental illnesses. To validate VA's compliance with capacity maintenance, section 1706 includes a requirement for an annual report to Congress. The reporting requirement expired on April 1, 2001.

House Bill

Section 102 would modify the mandate for VA to maintain capacity in specialized medical programs for veterans by requiring the Department of each of its Veterans Integrated Service Networks to maintain capacity in certain specialized health care programs for veterans (those with serious mental illness, substance-use disorders, spinal cord injuries and dysfunction, the brain injured and blinded, and those who need prosthetics and sensory aides); and, would extent the capacity reporting requirement for 3 years.

Senate Bill

S. 1598 similarly would modify current law with regard to VA's capacity for specialized services, but would require that medical centers maintain capacity, in addition to geographic service areas; require that VA utilize uniform standards in the documentation of patient care workload used to construct reports under the authority; require the Inspector General on an annual basis to audit each geographic service area and each medical center in the Veterans Health Administration to ensure compliance with capacity limitations; and, prohibit VA from substituting health care outcome data to satisfy the requirement for maintenance of capacity.

Compromise Agreement

Section 203 is derived substantially from the House bill, with addition of provisions from the Senate bill, including a requirement that VA utilize uniform standards in the documentation of workload; a clarification that "mental illness" be defined to include post-traumatic stress disorder (PTSD), substance-use disorder, and seriously and chronically mentally ill services; a prohibition from substituting outcome data to satisfy the requirement to maintain capacity; and, a requirement that the IG audit and certify to Congress as to the accuracy of VA's required reports.

PROGRAM FOR THE PROVISION OF CHIROPRACTIC CARE AND SERVICES TO VETERANS

Current Law

Public Law 106–117 requires the VA to establish a Veterans Health Administration-wide policy regarding chiropractic care. Veterans Health Administration Directive 2000–014, dated May 5, 2000, established such a policy.

House Bill

Title II would establish a national VA chiropractic services program, implemented over a 5-year period; authorize VA to employ chiropractors as federal employees and obtain chiropractic services through contracts; establish an advisory committee on chiropractic care; authorize chiropractors to function as VA primary care providers; authorize the appointment of a director of chiropractic service reporting to the Secretary with the same authority as other service directors in the VA health care system; and provide for training and materials relating to chiropractic services to Department health care providers.

Senate Bill

Section 204 of the Senate Bill would establish a VA chiropractic services program in VA health care facilities and clinics in not less than 25 states. The chiropractic care and services would be for neuro-musculoskeletal conditions, including subluxation complex. The VA would carry out the program through personal service contracts and appointments of licensed chiropractors. Training and materials would be provided to VA health care providers for the purpose of familiarizing them with the benefits of chiropractic care and services.

Compromise Agreement

Section 204 would follow the Senate bill but would replace its reference to 25 states with a reference to VA's 22 Veterans Integrated Service Networks (referred to as "geographic service areas" in the section). Also, the agreement would include an advisory committee to assist the Secretary of Veterans Affairs in implementation of the chiropractic program. Under the agreement, the advisory committee would expire 3 years from enactment.

FUNDS FOR FIELD OFFICES OF THE OFFICE OF RESEARCH COMPLIANCE AND ASSURANCE (ORCA)

Current Law

The Under Secretary of Health has provided funding for ORCA field offices from funds appropriated for Medical and Prosthetic Research.

Senate Bill

Since field offices of ORCA directly protect patient safety, section 205 would authorize VA to fund them from the Medical Care appropriation.

House Bill

The House bill has no comparable provision.

Compromise Agreement

Section 205 follows the Senate bill.

The Committees are concerned about the need for ORCA to maintain independence from the Office of Research and Development. The Committees have concluded, on the strength of hearings and reports on potential conflicts of interest, that funding for ORCA field offices should be statutorily separated from the Medical and Prosthetic Research Appropriation and associated with the Medical Care Appropriation. ORCA advises the Under Secretary for Health on matters affecting the integrity of research, the safety of human-subjects research and research personnel, and the welfare of laboratory animals used in VA biomedical research and development. ORCA field offices investigate allegations of research impropriety, lack of compliance with rules for protection of research participants and scientific misconduct. The ORCA chief officer reports to the Under Secretary for Health.

MAJOR MEDICAL FACILITY CONSTRUCTION

Current Law

None.

Senate Bill

Fiscal Year 2002 appropriations are available for an emergency repair project at the VA Medical Center, Miami, Florida. Section 205 of the Senate Bill authorizes $28.3 million for this project, in accordance with section 8104 of title 38, United States Code.

House Bill

The House bill has no comparable provision.

Compromise Agreement

Section 206 follows the Senate Bill.

SENSE OF CONGRESS ON SPECIAL TELEPHONE SERVICES FOR VETERANS

Current Law

None.

House Bill

Section 104 would require the Secretary to assess special telephone services for veterans (such as help lines and "hotlines") provided by the Department. The assessment would include the geographic coverage, availability, utilization, effectiveness, management, coordination, staffing, and cost of those services. It would require the assessment to include a survey of veterans to measure satisfaction with current special telephone services, as well as the demand for additional services. The Secretary would be required to submit a report to Congress on the assessment within 1 year of enactment.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 207 contains a Sense of the Congress Resolution on the Department's need to assess and report on special telephone services for veterans.

RECODIFICATION OF BEREAVEMENT COUNSELING AUTHORITY AND CERTAIN OTHER HEALTH-RELATED AUTHORITIES

Current Law

Chapter 17 of title 38, United States Code, contains various legal authorities under which VA provides services to non-veterans. These provisions, that authorize bereavement and mental health counseling, care for research subjects, care for dependents and survivors of permanently the totally disabled veterans, and emergency humanitarian care, are intermingled with authorities for the care of veterans in various sections of chapter 17.

House Bill

Section 105 of the House bill would in a new subchapter consolidate and reorganize without substantive change all of the legal authorities under which VA provides services to non-veterans. It would reorganize section 1701 of title 38, United States Code, by transferring one provision (pertaining to sensorineural aids) to section 1707.

Section 105 would create a new Subchapter VIII in Chapter 17 of title 38, United States Code, to incorporate provisions concerning bereavement-counseling services for family members of certain veterans and active duty personnel. A new section 1782 would provide counseling, training, and mental health services for immediate family members.

Section 105 would place in the new subchapter the current dependent health care authorities known as "Civilian Health and Medical Programs—Veterans Affairs" (CHAMPVA), transferred from current section 1713 to the new section 1781. A new provision would specify that a dependent or survivor receiving such VA-sponsored care would be eligible for bereavement and other counseling and training and mental health services otherwise available to family members under the subchapter.

The existing authority to provide hospital care or medical services as a humanitarian service in emergency cases would be moved to this new subchapter from its current location in section 1711(b).

Section 105 would also make various technical changes to accommodate the subchapter reorganization. These changes would recodify the existing provisions, and consolidate and clarify the existing statutory authority to provide care to non-veterans.

Senate Bill

The Senate bill has no comparable provisions.

Compromise Agreement

Section 208 follows the House bill.

EXTENSION OF EXPIRING COLLECTIONS AUTHORITIES

Current Law

Section 1710(f)(2)(B) of title 38, United States Code, authorizes VA until September 30, 2002, to collect nursing home, hospital, and outpatient co-payments from certain veterans. Section 1729(a)(2)(E) of title 38, United States Code, authorizes VA until October 1, 2002, to collect third-party payments for the treatment of the nonservice-connected disabilities of veterans with service-connected disabilities.

House Bill

Section 106 would extend until 2007 VA's authority to collect means test co-payments and to collect third-party payments.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 209 follows the House bill.

PERSONAL EMERGENCY RESPONSE SYSTEM FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

Current Law

None.

House Bill

Section 107 of the House bill would require the Secretary to carry out an evaluation and study of the feasibility and desirability of providing a specialized personal emergency response system for veterans with service-connected disabilities. It would require a report to Congress on the results of this evaluation.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 210 follows the House bill.

HEALTH CARE FOR PERSIAN GULF WAR VETERANS

Current Law

Section 1710 of title 38, United States Code, defines eligible veterans for whom the Secretary is required to furnish hospital, nursing home, and domiciliary care. Section 1710(e)(1)(C) of title 38 authorizes the Secretary to provide health care services on a priority basis to veterans who served in the Southwest Asia Theater of operations during the Persian Gulf War. Section 1710(e)(3)(B) of title 38 specifies that this eligibility expires on December 31, 2001.

Senate Bill

The Senate Bill would amend section 1710 of title 38, United States Code, to extend health care eligibility for veterans who served in Southwest Asia during the Gulf War, to December 31, 2011.

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 211 follows the Senate bill but extends the health care eligibility to December 31, 2002.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and that any statements relating thereto be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 3447) was read the third time and passed.

RELIEF FOR RETIRED SERGEANT FIRST CLASS JAMES D. BENOIT AND WAN SOOK BENOIT

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1834, and that the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1834) for the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 1834) was read the third time and passed, as follows:

S. 1834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REQUIREMENT TO PAY CLAIMS.

(a) PAYMENT REQUIRED.—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to James D. Benoit and Wan Sook Benoit, jointly, the sum of $415,000, in full satisfaction of all claims described in subsection (b), such amount having been determined by the United States Court of Federal Claims as being equitably due the said James D. Benoit and Wan Sook Benoit pursuant to a referral of the matter to that court by Senate Resolution 129, 105th Congress, 1st session, for action in accordance with sections 1492 and 2509 of title 28, United States Code.

(b) COVERED CLAIMS.—Subsection (a) applies with respect to all claims of the said James D. Benoit, Wan Sook Benoit, and the estate of David Benoit against the United States for compensation and damages for the wrongful death of David Benoit, the minor child of the said James D. Benoit and Wan Sook Benoit, pain and suffering of the said David Benoit, loss of the love and companionship of the said David Benoit by the said James D. Benoit and Wan Sook Benoit, and the wrongful retention of remains of the said David Benoit, all resulting from a fall sustained by the said David Benoit, on June 28, 1983, from an upper level window while occupying military family housing supplied by the Army in Seoul, Korea.

SEC. 2. LIMITATION ON USE OF FUNDS FOR ATTORNEYS' FEES.

No part of the amount appropriated by section 1 in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

AMENDING TITLE 18 OF THE UNITED STATES CODE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. 1888, which was introduced earlier today by Senator STEVENS.

The PRESIDENT pro tempore. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1888) to amend title 18 of the United States Code to correct a technical error in the codification of title 36 of the United States Code.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, on August 12th, 1998, the President signed into law H.R. 1085, legislation "to revise, codify, and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, United States Code, 'Patriotic and National Observances, Ceremonies, and Organizations.'" This was legislation prepared by the Office of Law Revision Counsel in the House of Representatives.

One of the organizations affected was the United States Olympic Committee, whose numerical codification citation was changed in that re-codification legislation. The re-codification process also necessitated certain conforming changes to other parts of the U.S. Code to modify cross-reference citations. One of these, occurring at 18 USCS §2320 (e)(1)(B), was intended to cite a portion of the Ted Stevens Olympic and Amateur Sports Act dealing with protection of its trademarks.

The proper citation should have been "220506." However, because of a typographical error that section of 18 USCS reads "220706," citing law that has to do with Submarine Veterans of World War II rather than Olympic symbols and terminology.

This error went unnoticed until recently when U.S. Customs officials brought it to the attention of Salt Lake Olympic Committee and USOC attorneys in a discussion of enforcing trademark protections associated with the upcoming Olympic Winter Games. In this meeting the Customs officials expressed concern that this error could prevent them from enforcing the law.

The Olympic Rings and other symbols were giving exclusively to the USOC under the Ted Stevens Olympic and Amateur Sports Act. They are the prime fund raising source for the USOC.

This would be a simple correction that would merely change "220706" to "220506" at 18 USCS §2320 (e)(1)(B).

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 1888) was read the third time and passed.

(The bill is printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE GERALD B.H. SOLOMON SARATOGA NATIONAL CEMETERY

Mr. REID. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration and the Senate proceed to the immediate consideration of H.R. 3392.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3392) to name the national cemetery in Saratoga, New York, as the Gerald B.H. Solomon Saratoga National Cemetery, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 3392) was read the third time and passed.

GRANTING A FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 392 and the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will state the bill by title.

A bill (S. 392) to grant a Federal charter to Korean War Veterans Association, Incorporated, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 392) was read the third time and passed, as follows:

S. 392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 1201—[RESERVED]"; and

(2) by inserting the following:

"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

"Sec.

"120101. Organization.
"120102. Purposes.
"120103. Membership.
"120104. Governing body.
"120105. Powers.
"120106. Restrictions.
"120107. Duty to maintain corporate and tax-exempt status.
"120108. Records and inspection.
"120109. Service of process.
"120110. Liability for acts of officers and agents.
"120111. Annual report.

"§ 120101. Organization

"(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), incorporated in the State of New York, is a federally chartered corporation.

"(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

"§ 120102. Purposes

"The purposes of the corporation are as provided in its articles of incorporation and include—

"(1) organizing, promoting, and maintaining for benevolent and charitable purposes an association of persons who have seen honorable service in the Armed Forces during the Korean War, and of certain other persons;

"(2) providing a means of contact and communication among members of the corporation;

"(3) promoting the establishment of, and establishing, war and other memorials commemorative of persons who served in the Armed Forces during the Korean War; and

"(4) aiding needy members of the corporation, their wives and children, and the widows and children of persons who were members of the corporation at the time of their death.

"§ 120103. Membership

"Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

"§ 120104. Governing body

"(a) BOARD OF DIRECTORS.—The board of directors of the corporation, and the responsibilities of the board of directors, are as provided in the articles of incorporation of the corporation.

"(b) OFFICERS.—The officers of the corporation, and the election of the officers of the corporation, are as provided in the articles of incorporation.

"§ 120105. Powers

"The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 120106. Restrictions

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

"(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

"§ 120107. Duty to maintain corporate and tax-exempt status

"(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

"(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"§ 120108. Records and inspection

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

"(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 120109. Service of process

"The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

"§ 120110. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 120111. Annual report

"The corporation shall submit an annual report to Congress on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended by striking the item relating to chapter 1201 and inserting the following new item:

"1201. Korean War Veterans Association, Incorporated ....120101".

AMENDING THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1400, and the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1400) to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to extend the deadline for aliens to present a border crossing card that contains a biometric identifier matching the appropriate biometric characteristic of the alien.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, today we will pass an important piece of legislation dealing with America's borders. This bill, S. 1400, has bipartisan support for extending the deadline requiring aliens to present a border passing card with a biometric identifier to enter the United States from Mexico. This deadline expired earlier this year. The bill would extend the requirement by one year to allow the State Department to finish the difficult job of converting the old border crossing cards used by Mexicans entering the United States.

This is a major task, and the State Department has already accomplished a great deal, issuing millions of new biometric border crossing cards. As our State Department continues to work to finish this task, however, we should not punish lawful Mexican workers who are still waiting for new cards, or the American businesses that depend upon them as customers and employees.

This bill is one piece of major border security introduced by Senators KENNEDY and BROWNBACK. I am a proud cosponsor of their bill, S. 1749, the Enhanced Border Security and Visa Entry Reform Act. We should pass that bill in its entirety, and I hope that we do so before the end of this session. In the meantime, we should pass S. 1400 without delay. This measure's original sponsors were Senator KYL of Arizona and Senator BROWNBACK, the Ranking Republican on the Immigration Subcommittee of the Judiciary Committee. It is cosponsored by Senator GRAMM, Senator KENNEDY, Senator BINGAMAN, and Senator DOMENICI. I am glad to be able to accommodate them and urge prompt action by the Senate on this measure.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 1400) was read the third time and passed, as follows:

S. 1400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE FOR PRESENTATION OF CERTAIN BORDER CROSSING IDENTIFICATION CARDS.

Section 104(b)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended by striking "5 years" and inserting "6 years".

YEAR OF THE ROSE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 292 which is at the desk.

The PRESIDENT pro tempore. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 292) supporting the goals of the Year of the Rose.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements related thereto be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 292) was agreed to.

The preamble was agreed to.

RECOGNITION OF THE SENATE STAFF

Mr. REID. Mr. President, the staff is working on a couple more items. While they are doing that, I would like to express to the Presiding Officer my best wishes for a happy holiday.

I would also like to, at this late hour, acknowledge the work done by the staff of the Senate. I spend days with these people. The work of the Senate is done by the people who get no recognition but do so much of the work. Each of them are experts at what they do. People around here will be working until the wee hours of the morning. You and I may be here late—the last two to leave the Senate—but they will arrive at their homes sometime tomorrow morning. The last time we did the Defense bill, I talked to one member of the staff who went home at 5 a.m. that morning.

I want each of them to know that even though they do not get the recognition that we get, their jobs are just as important as ours. We in effect couldn't do without them. Every day they do things that help make us look as if we know what we are doing. Hopefully, we do most of the time, but if we don't, they take care of things, point us in the right direction.

I am personally indebted to the help that each of these fine public servants give to the people of the State of Nevada, the people of West Virginia, and this country.

I want the record spread with my good wishes for a happy holiday. In saying this, I speak for every Senator, Democrats and Republicans, we probably, as busy as we are, don't recognize how busy they are and in the process don't express our appreciation nearly as much as we should.

MEASURES READ THE FIRST TIME—H.R. 1432, H.R. 3487, H.R. 400, H.R. 3529, H.R. 2362, H.R. 3504, H.R. 2742, AND H.R. 3441

Mr. REID. Mr. President, I ask unanimous consent that it be in order for the following bills to receive their first reading and objection having been placed for further proceedings: H.R. 1432, H.R. 3487, H.R. 400, H.R. 3529, H.R. 2362, H.R. 3504, H.R. 2742, and H.R. 3441.

The PRESIDENT pro tempore. Without objection, the several requests are ordered.

ORDERS FOR WEDNESDAY, JANUARY 23, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 12 noon, Wednesday, January 23, 2002; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business until 12:30 p.m. with Senators permitted to speak for up to 10 minutes each, with time equally divided between Senators DASCHLE and LOTT or their designees; further that the Senate recess from 12:30 to 2:15 for the weekly party conferences.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, the Senate will conduct a live quorum when the Senate convenes. Therefore, the next rollcall vote will occur on Wednesday, January 23, at approximately 12 noon. As a reminder, the Senate photograph will be taken at 2:30 p.m. on Wednesday.

ADJOURNMENT SINE DIE

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 295.

There being no objection, at 10:06 p.m., the Senate adjourned sine die.

NOMINATIONS

Executive nominations received by the Senate December 20, 2001:

DEPARTMENT OF AGRICULTURE

NANCY SOUTHARD BRYSON, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF AGRICULTURE, VICE CHARLES R. RAWLS, RESIGNED.

SECURITIES AND EXCHANGE COMMISSION

PAUL S. ATKINS, OF VIRGINIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 5, 2003, VICE ARTHUR LEVITT, JR., RESIGNED.

CYNTHIA A. GLASSMAN, OF VIRGINIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2006, VICE LAURA S. UNGER, TERM EXPIRED.

ENVIRONMENTAL PROTECTION AGENCY

LINDA MORRISON COMBS, OF NORTH CAROLINA, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY, VICE SALLYANNE HARPER.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

EVE SLATER, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE DAVID SATCHER, RESIGNED.

DEPARTMENT OF EDUCATION

WILLIAM LEIDINGER, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION, VICE RODNEY A. MCCOWAN, RESIGNED.

OFFICE OF PERSONNEL MANAGEMENT

DAN GREGORY BLAIR, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT, VICE JOHN U. SEPULVEDA, RESIGNED.

DEPARTMENT OF JUSTICE

MATTHEW D. ORWIG, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS, VICE JOHN MICHAEL BRADFORD, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER.

FOR THE PERSONAL RANK OF CAREER AMBASSADOR IN RECOGNITION OF ESPECIALLY DISTINGUISHED SERVICE OVER A SUSTAINED PERIOD:

JEFFREY DAVIDOW, OF VIRGINIA
RUTH A. DAVIS, OF CALIFORNIA
GEORGE E. MOOSE, OF COLORADO

THE FOLLOWING-NAMED PERSONS OF THE DEPARTMENT OF STATE FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA.

DEPARTMENT OF STATE

GUSTAVIO ALBERTO MEJIA, OF FLORIDA
GREGORY JOHN ORR, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA.

DEPARTMENT OF STATE

KAREN L A EMMERSON, OF WEST VIRGINIA
J. ALBERT TAYLOR, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA.

DEPARTMENT OF STATE

MARK FLETCHER ELLIS, OF MAINE
MARK F. MARRANO, OF TEXAS
DENISON KYLE OFFUTT, OF WEST VIRGINIA
JAMES KENT STIEGLER, OF CALIFORNIA
ABDELNOUR ZAIBACK, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA.

DEPARTMENT OF STATE

EDWARD L. ALLEN, OF ARIZONA
GARY DEAN ANDERSON, OF TEXAS
MICHELE BACK, OF MINNESOTA
ALEJANDRO HOOR BAEZ, OF TEXAS
ANDREA S. BAKER, OF VIRGINIA
ROBERT ALLAN BARE, OF CALIFORNIA
WILLIAM QUINN BEARDSLEE, OF COLORADO
KATHY A. BENTLEY, OF TENNESSEE
BRETT BLACKSHAW, OF NEW YORK
MICHELLE A. BRADFORD, OF NEW JERSEY
TOBIN JOHN BRADLEY, OF CALIFORNIA
HEIDE BRONKE, OF NEW YORK
STEVEN R. BUTLER, OF KENTUCKY
JOHN R. BUZBEE, OF KENTUCKY
CLAUDIA M. COLEMAN, OF TEXAS
ROBERT MADISON CONOLEY, OF WASHINGTON
RICHARD RANDALL CUSTIN, OF MICHIGAN
JESSICA LEE DAVIES, OF CALIFORNIA
GERALD A. DONOVAN, OF DELAWARE
JAMES B. DOTY, OF VIRGINIA
LEAH MICHELLE FENWICK, OF CALIFORNIA
TIMOTHY THOMAS FITZGIBBONS, OF NEBRASKA
RAFAEL P. FOLEY, OF NEW YORK
DANIEL L. FOOTE, OF VIRGINIA
ROBERT M. FREEDMAN, OF WASHINGTON
PAUL N. FUJIMURA, OF CALIFORNIA
ANDREA FRANCA GASTALDO, OF TEXAS
MAUREEN GLAZIER, OF TEXAS
GREGORY S. GROTH, OF CALIFORNIA
BRIAN F. HARRIS, OF WASHINGTON
MELANIE S. HARRIS, OF FLORIDA
MICHAEL J. HAZEL, OF WASHINGTON
PETER GRANT HEMSCH, OF CALIFORNIA
ROBIN HOLZHAUER, OF WISCONSIN
JEFFREY DAVID PRESTON HORWITZ, OF NEW YORK
VIRGINIA MEADE HOTCHNER, OF VIRGINIA
PAUL J. HOUGE, OF TEXAS
DEENA JOHNSONBAUGH, OF WASHINGTON
FREDERICK L. JONES II, OF CALIFORNIA
VIVIAN KELLER, OF VERMONT
MARY MARGARET KNUDSON, OF VIRGINIA
MATTHEW A. KRICHMAN, OF CALIFORNIA
BARBARA BETH LAMPRON, OF NEW JERSEY
JENNIFER L. LANGSTON, OF CALIFORNIA
INGRID D. LARSON, OF MARYLAND
HILLARY MANN, OF THE DISTRICT OF COLUMBIA
DAVID R. MCCAWLEY, OF CALIFORNIA
DAVID L. MCCORMICK, OF MASSACHUSETTS
MEREDITH C. MCEVOY, OF COLORADO
DANIEL FRANCIS MCNICHOLAS, OF ILLINOIS
RACHEL L. MEYERS, OF CALIFORNIA
TESS ANNETTE MOORE, OF TEXAS
MATTHEW DAVID MURRAY, OF MARYLAND
ROBERT S. NEUS, OF FLORIDA
MARC A. NORDBERG, OF TEXAS
SCOTT MCCONNIN OUDKIRK, OF VIRGINIA
KRISTA A. PETERSON, OF NEW MEXICO
CARLTON PHILADELPHIA, OF FLORIDA
USHA E. PITTS, OF THE DISTRICT OF COLUMBIA
THERESA ANN RENNER SMITH, OF MARYLAND
ROGER CLAUDE RIGAUD, OF NEW JERSEY
JEFFREY JAMES ROBERTSON, OF CALIFORNIA
KEVIN S. ROLAND, OF MARYLAND
STEVEN B. ROYSTER, OF VIRGINIA
MICHAEL DEAN SESSUMS, OF FLORIDA
DANNETTE K. SEWARD, OF WYOMING
MAUREEN SHAHEEN, OF VIRGINIA
MATTHEW L. SHIELDS, OF VIRGINIA
SEIJI T. SHIRATORI, OF OREGON
SUSAN M. SHULTZ, OF FLORIDA
PHILLIP T. SLATTERY, OF CALIFORNIA
RICHARD WILLIAM SNELSIRE, OF TEXAS
JAMES BROWARD STORY, OF SOUTH CAROLINA
TIMOTHY C. SWANSON, OF WYOMING
WALTER RANDALL TOWNSEND, OF TEXAS
VERNELLE TRIM, OF VIRGINIA
MICHAEL R TURNER, OF TEXAS
LIAN VON WANTOCH, OF CALIFORNIA
DUNCAN HUGHITT WALKER, OF CALIFORNIA
LISA LOUISE WASHBURN, OF TEXAS
J. RICHARD WATERS III, OF ALABAMA
MARGARET BRYAN WHITE, OF GEORGIA
BENJAMIN V. WOHLAUER, OF THE DISTRICT OF COLUMBIA
ALEISHA WOODWARD, OF WASHINGTON
JEFFERY A. YOUNG, OF FLORIDA
JOSEPH E. ZADROZNY JR., OF TEXAS

IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 1552, 12203 AND 12212.

To be colonel

DAVID E. BLUM, 3181

THE FOLLOWING NAMED OFFICERS FOR THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203 AND 12212:

To be colonel

JAMES C. COOPER II, 6493
JOHN J. KUPKO II, 2772

DEPARTMENT OF JUSTICE

JANE J. BOYLE, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS, VICE PAUL EDWARD COGGINS, RESIGNED.

JAMES K. VINES, OF TENNESSEE, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF FOUR YEARS, VICE JOHN MARSHALL ROBERTS, RESIGNED.

JOHNNY LEWIS HUGHES, OF MARYLAND, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MARYLAND FOR THE TERM OF FOUR YEARS, VICE GEORGE K. MCKINNEY.

RANDY MERLIN JOHNSON, OF ALASKA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF ALASKA FOR THE TERM OF FOUR YEARS, VICE JOHN R. MURPHY.

LARRY WADE WAGSTER, OF MISSISSIPPI, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF FOUR YEARS, VICE JOHN DAVID CREWS, JR.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 20, 2001:

DEPARTMENT OF DEFENSE

CLAUDE M. BOLTON, JR., OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

EXPORT-IMPORT BANK OF THE UNITED STATES

EDUARDO AGUIRRE, JR., OF TEXAS, TO BE FIRST VICE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2005.

J. JOSEPH GRANDMAISON, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2005.

DEPARTMENT OF THE INTERIOR

KATHLEEN BURTON CLARKE, OF UTAH, TO BE DIRECTOR OF THE BUREAU OF LAND MANAGEMENT.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEAN O'KEEFE, OF NEW YORK, TO BE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COMMODITY FUTURES TRADING COMMISSION

JAMES E. NEWSOME, OF MISSISSIPPI, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING JUNE 19, 2006.

JAMES E. NEWSOME, OF MISSISSIPPI, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MICHAEL HAMMOND, OF TEXAS, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR A TERM OF FOUR YEARS.

THE JUDICIARY

C. ASHLEY ROYAL, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF GEORGIA.

DEPARTMENT OF JUSTICE

HARRY E. CUMMINS, III, OF ARKANSAS, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS.

CHRISTOPHER JAMES CHRISTIE, OF NEW JERSEY, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEW JERSEY FOR THE TERM OF FOUR YEARS.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203.

To be major general

BRIGADIER GENERAL DONNA F. BARBISCH
BRIGADIER GENERAL JAMIE S. BARKIN
BRIGADIER GENERAL ROBERT W. CHESNUT
BRIGADIER GENERAL RICHARD S. COLT
BRIGADIER GENERAL LOWELL C. DETAMORE
BRIGADIER GENERAL DOUGLAS O. DOLLAR
BRIGADIER GENERAL KENNETH D. HERBST
BRIGADIER GENERAL KAROL A. KENNEDY
BRIGADIER GENERAL RODNEY M. KOBAYASHI
BRIGADIER GENERAL ROBERT B. OSTENBERG
BRIGADIER GENERAL MICHAEL W. SYMANSKI
BRIGADIER GENERAL WILLIAM B. WATSON, JR.

To be brigadier general

COLONEL JAMES E. ARCHER
COLONEL THOMAS M. BRYSON
COLONEL PETER S. COOKE
COLONEL DONNA L. DACIER
COLONEL CHARLES H. DAVIDSON IV
COLONEL MICHAEL R. EYRE
COLONEL DONALD L. JACKA, JR.
COLONEL WILLIAM H. JOHNSON
COLONEL ROBERT J. KASULKE
COLONEL JACK L. KILLEN, JR.
COLONEL JOHN C. LEVASSEUR
COLONEL JAMES A. MOBLEY
COLONEL MARK A. MONTJAR
COLONEL CARRIE L. NERO
COLONEL ARTHUR C. NUTTALL
COLONEL PAULETTE M. RISHER
COLONEL KENNETH B. ROSS
COLONEL WILLIAM TERPELUK
COLONEL MICHAEL H. WALTER
COLONEL ROGER L. WARD
COLONEL DAVID ZALIS
COLONEL BRUCE E. ZUKAUSKAS

EXTENSIONS OF REMARKS

HONORING PEPPERELL MIDDLE SCHOOL, ROME, GA, "34,288 CANS OF FOOD IN THE HALL"

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BARR of Georgia. Mr. Speaker, the main hall of Pepperell Middle School, located in the small community of Lindale, just outside the city of Rome, GA, has been lined with 1225 inch cardboard boxes stacked halfway to the ceiling for several weeks. The boxes were crammed with more than 34,000 cans of food; all donated by students for this year's local Salvation Army Can-a-Thon.

Sponsored by Atlanta NBC affiliate WXIA 11-Alive; Rome radio stations WRGA, Q–102, South 107; and the Forum, the Salvation Army Can-a-Thon accepts donations of canned, non-perishable food items in the Forum's main parking lot on a designated day in December.

On November 1st each year, students begin to solicit canned goods from family, friends, neighbors, and others. Last year, over 24,000 cans were collected by students at Pepperell Middle School. The goal for 2001 was set at 26,000 cans. Once they exceeded that total, a new goal was set at 30,000 cans. On the morning of Friday, December 7, a large Marine Corps truck made its way to Pepperell Middle School. Upon arrival, students loaded 34,288 cans of food onto the truck which was escorted by the local police, and two bus loads of students from the school, making its way to the Forum.

The annual holiday Can-a-Thon collected more than 70,000 cans from throughout the city and county. Approximately 700 baskets will be filled with canned goods and will be given to families in need. The food will also go toward providing daily meals for men, women, and children who seek shelter at the Salvation Army.

Pepperell Middle School principal Frank Pinson is justifiably and extremely proud of his students, saying, "this is a big deal thing to them, and it teaches them one of the greatest lessons they learn." The students work extremely hard, soliciting in many ways other than just going house to house. Some students donated their ice cream money; they held a dance and a talent show to raise money. The school has led the entire state in Can-a-Thon donations for 8 straight years.

Eight years ago, a tornado hit the Lindale community, destroying or damaging many homes, and leaving many families homeless. The Salvation Army was immediately there to assist those families. The students of Pepperell Middle School decided at that time to secure canned goods for those who experienced losses due to the storm. They found great satisfaction in helping those in need; and the tradition continues each year with the Can-a-Thon.

The principal, staff, faculty, students, their families, and, indeed, the entire community, are to be commended for their outstanding participation in this event. It is with great pride I recognize them today as true community leaders. I am honored to serve as their Representative in the U.S. Congress.

TRIBUTE TO MR. PETE AND LENA NEIN

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SCHAFFER. Mr. Speaker, I rise today to express gratitude to Mr. and Mrs. Pete and Lena Nein of Crook, Colorado, on their 70th Wedding Anniversary. In honor of this extraordinary occasion, I would like to convey to them my genuine congratulations.

Pete and Lena were married on January 3, 1932 in Sedgwick, Colorado, where they began their lives together. Mr. and Mrs. Nein moved to Crook, in 1934 where they rented 160 acres of land and began farming with horse-drawn equipment. Their first house, in which they lived for 42 years, had electricity installed in 1936. Indoor plumbing was not installed until 1940. Pete and Lena have witnessed and experienced extraordinary events including the Dust Bowl, Great Depression, World War II, Korean War, Vietnam War, fall of the Soviet Union and now, the war against terrorism. Throughout this time period they have devoted their lives to agricultural production and determined community service. Pete was the president of the Crook Volunteer Fire Department for 27 years and Lena was the organist and pianist in a Crook church for over 45 years. The Neins serve as a shining example, not only for their community, but for all Americans.

As a husband and father of five, I have come to adore the example of a strong marriage and loving children. Pete and Lena started their lives together humbly, working hard to build a happy and successful life together. My admiration for them, and the fortitude and commitment they have demonstrated is deep. Through the good times and the bad, Pete and Lena's love has forged a seemingly unbreakable bond.

Pete and Lena Nein are amazing role models. As a Member of Congress, it is my honor to congratulate both Pete and Lena on their anniversary. Pete and Lena let nothing stand between their unceasing love for one another on their glorious day. I ask the House to join me in extending wholehearted congratulations to Mr. and Mrs. Pete Nein.

IN RECOGNITION OF THE CITY OF GAINESVILLE

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. HALL of Texas. Mr. Speaker, I rise today to speak in recognition of the City of Gainesville, Texas, which has recently instituted the Medal of Honor Host City Program. This program, unique in the nation, will provide a stipend to cover lodging, food and some travel expenses to Medal of Honor recipients visiting the City of Gainesville.

The Medal of Honor Host City Program seeks both to honor the 149 living Medal of Honor recipients and to expose the citizens of Gainesville—especially its youth—to true American heroes. The local Veterans of Foreign Wars Post No. 1922, and community leaders, initiated the project to help recognize these men of valor and to give the citizens of Gainesville the chance to hear, first-hand, their amazing stories.

The Congressional Medal of Honor Society announced the project to its members at its October annual reunion. Two Medal of Honor recipients visited Gainesville on Veterans Day.

This program was organized before the tragedies of September 11, but in light of recent events, projects like the Gainesville Medal of Honor Host City Program highlight the sacrifice, patriotism and sense of duty that have been a foundation of our great nation. Our Medal of Honor recipients are living examples of those values and are the best messengers to tell the price of freedom. While in Gainesville, these extraordinary individuals will meet with school classes, speak to civic groups and others who would like to hear about their experiences. It gives the honorees a forum for their thoughts and gives Gainesville the chance to thank them for all that they have done for their country.

Mr. Speaker, I want to commend Mayor Kenneth Kaden for his leadership in promoting this project. It is an honor to recognize such a unique and special program—The Medal of Honor Host City Program—and I look forward to seeing it succeed in Gainesville.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. ORTIZ. Mr. Speaker, I was unavoidably detained in my district during the following rollcall votes. Had I been present, I would have voted as indicated below. Rollcall No. 499: Yes; 500: Yes.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IN MEMORY OF HONORABLE R. LAWRENCE COUGHLIN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. RANGEL. Mr. Speaker, today is a bittersweet day. It is with both great sadness and immense pride that I rise today in honor and celebration of the life of my friend, the Honorable R. Lawrence Coughlin.

Robert Lawrence Coughlin was born on April 11, 1929 in Wilkes-Barre, PA, and grew up on his father's farm near Scranton, PA. He served distinguishably as a Republican Member of the United States Congress for 24 years, from January 1969–January 1993 representing a portion of Philadelphia, PA and its surrounding suburban Main Line area.

Lawrence's accomplishments were great during his tenure in Congress. He was a man of great honor and truly a gentleman. I had the pleasure of serving with him while I was Chairman of the Select Committee on Narcotics Abuse and Control and he served as the Ranking Republican Member.

At first glance, one would perceive our relationship as that of the "Odd Couple" as Lawrence and I strolled side by side through the Capitol as he donned his signature bow tie and me wearing a more conventional necktie. He represented the wealthy suburban Main Line area of Philadelphia and I represent the vibrant Harlem area of New York City. However, we had many shared interests and experiences.

Lawrence Coughlin served in the Marine Corps during the Korean War. His military training was evident in the way he conducted himself in the Congress. He was a very disciplined man who took a dogged approach to tackling the difficult problems that face the nation and the Congress. I remember his passion for the youth of our great nation. This passion was the source of his drive to do whatever was necessary during his tenure on the Select Committee on Narcotics Abuse and Control to rid our communities of the scourge of drugs. Although some would say, Lawrence had a Patrician air about him I would say he had the air of a proud ex-marine who viewed the war on drugs as a series of unending battles to be confronted head on until the war was won and victory proclaimed. As a man of great consciousness, I will forever remember his stamina and commitment in his efforts to eliminate drugs from our communities, making the world a better place for our youth.

Mr. Speaker, I ask that all my colleagues join me in celebrating the life and the political accomplishments of my great friend, the Honorable R. Lawrence Coughlin.

INTRODUCTION OF FEDERAL INDIAN RECOGNITION REFORM LEGISLATION

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SIMMONS. Mr. Speaker, our Federal Indian recognition process is broken. Recognition decisions don't take months to decide, they take years—and sometimes decades. Towns and other interested parties—sometimes forced to spend millions because of federal recognition policies—rightfully believe their concerns and comments are often ignored. Criteria for recognition has been overlooked rather than upheld under previous BIA administrators. In short, the public and Indian tribes have lost faith in the current recognition process.

A new administration has brought some hope in fixing this important process. To this end, I am rising today to introduce legislation that lays out a seven-point plan for reforming the federal Indian recognition process.

Specifically, my bill would first require the BIA to notify states whenever a tribe within them files for federal recognition. The state must in turn ensure that notice is given to towns adjacent to that tribe.

Second, the legislation would require the BIA to accept and consider any testimony—including from surrounding towns and others—that bears on whether or not BIA recognizes a tribe.

Third, under my measure, the BIA would be required to find affirmatively that all recognition criteria are met in order to confer federal recognition and any decision conferring recognition must be accompanied by a written set of findings as to how all criteria have been satisfied.

Fourth, I put forth language that would double—from $900,000 to $1.8 million—the resources for the BIA's Branch of Acknowledgment and Research Division to upgrade its recognition process.

To help localities adversely affected by federally recognized tribes, my bill provides $8 million in grants to local governments to assist such governments in participating in certain decisions related to certain Indian groups and Indian tribes. These grants could be applied retroactively to any local government that has spent money on decisions related to certain Indian groups and/or tribes.

In addition, my legislation also creates a grant program of $10 million to be made available to federally impacted towns for relevant infrastructure, public safety and social service needs directly related to tribal activities.

And lastly, the measure would institute a "cooling off period" of one year, in which any high-level BIA official could not appear before their former agency.

Mr. Speaker, I am proud to introduce this bill with three of my colleagues from Connecticut—Mrs. JOHNSON and Messrs. SHAYS and MALONEY—and the gentleman from Wisconsin, Mr. GREEN. I urge others who care about federal Indian recognition issues to join us in working toward a recognition process that is fair, open and respectful to all parties involved.

STUDIES ENDORSE PROJECT LABOR AGREEMENTS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. GEORGE MILLER of California. Mr. Speaker, I wish to bring the results of two recent studies on the value of project labor agreements (PLAS) to the attention of my colleagues.

The California Research Bureau, a nonpartisan confidential research arm of the Governor's office and the state legislature concluded that project labor agreements are "valued by owners and construction firms alike [because of] the role PLAs play in resolving disputes over roles contractors and subcontractors play in large and complex projects." The CRB report also credited PLAs for promoting local economic development, workforce training, and employment goals for women and minorities.

The UCLA Institute for Labor and Employment has also recently released a study that found that PLAs do not increase labor costs, do not exclude non-union workers, encourage competition, promote stability, cooperation and productivity, and reduce the likelihood of work stoppages or delays.

Mr. Speaker, these studies merely confirm what has long been understood by those involved in private and public sector construction who are not otherwise driven by ideology: Project labor agreements promote the timely completion of construction projects and increase productivity. They are good for business. They also promote apprenticeship training and help secure better working conditions. They are good for workers.

Unfortunately, among those who are most driven by ideology is the Bush Administration.

According to the December 13, 2001 issue of The Washington Post, Maryland has been forced by the Bush Administration to proceed with the enormous Wilson Bridge construction project without the ability to use a project labor agreement. I am sure that my colleagues recall that last February, shortly after taking office, President Bush tried to ban project labor agreements for *any* construction project receiving federal money. In a decision that specifically involved the Wilson Bridge project, a federal judge ruled in November that the ban issued by President Bush violated federal law and the Constitution. Following the decision, the Maryland State Highway Administration again sought permission from the Federal Highway Administration to implement a project labor agreement. But according to the Post, the Federal Highway Administration rejected Maryland's request saying the state had not proved the need for a PLA.

By effectively prohibiting the use of a project labor agreement on the Wilson Bridge project, the Bush Administration continues to thwart good business practice and good labor policy to the detriment of taxpayers and continues to deny working Americans the protections they are entitled to under law. I commend to my colleagues' and the administration's attention the reports concerning project labor agreements by the California Research Bureau and the UCLA Institute for Labor and Employment, and I sincerely hope that the Administration reconsiders its unwise hostility for these proven agreements that benefit business, taxpayers, workers and the public in general.

HONORING THE 150TH ANNIVERSARY OF POLK COUNTY, GA

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BARR of Georgia. Mr. Speaker, formed in 1851 by an act of the Georgia Legislature, Polk County, Georgia, was named for James Knox Polk, a former governor of Tennessee and the 11th President of the United States. With a population of 38,127 people and a land area of 311 square miles, Polk County is located in northwest Georgia.

For more than a hundred years the Cherokee and Creek Indians reigned supreme in north Georgia. The southernmost village in the Cherokee Nation was on Cedar Creek, which is located just off Main Street in present-day Cedartown, the county seat of Polk County. In 1826, two white men, Linton Walthall and Hampton Whatley, visited the area. They returned in 1832 to establish stores, and the community began to develop. In 1838, the Cherokee were moved into small forts, and then forced west on The Trail of Tears. In 1852, the first courthouse was built on a 20-acre site which had been donated to the town of Cedartown (then called "Cedar Town") by Asa Prior. Two years later the town was incorporated.

The War Between the States was not kind to Cedar Town. However, after the war, in 1867 the area began to grow and the town of Cedartown prospered, as did much of the surrounding area, including the towns of Rockmart and Aragon.

The residents of Polk County are preparing for Polk County's 150th birthday celebration. Tentative plans include special music, recognition of the oldest living person in the County, the oldest married couple, the longest married couple, the youngest citizen, and the oldest church in the County. Commemorative coins and Christmas ornaments have been designed, cedar trees have been requisitioned to be presented to schools, and a game of Polk historical trivia is being compiled and will be distributed to schools. Students in Polk County schools are being asked to follow specific guidelines to design a flag which would best represent the County. Some items which could be represented on the flag are the City of Aragon as a manufacturing utopia; the City of Cedartown for its cedar trees and for its original inhabitants; the Cherokees; and the slate quarries in Rockmart.

Polk County's sesquicentennial Birthday Celebration will be held on the evening of December 20th, 2001, on the steps of the Courthouse in Cedartown, Georgia. It would behoove us all to take the time to celebrate our heritage and stop to share the stories of our past with our children and grandchildren. The term "home town USA" truly describes the people of Polk County. They are kind, generous, caring folks and I am pleased to call many of them my friends. Happy Birthday Polk County!!

JUDGE GERARD DEVLIN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to a great Irish-American success story, Judge Gerard Devlin of Prince George's County, Maryland. Judge Devlin is called Jerry by his friends of which I am fortunate to be one. I have known Jerry for over thirty years, since I was an intern in Senator Brewster's office and Jerry was an elevator operator in the Capitol.

I have valued Jerry's friendship over those three decades and have always enjoyed his boisterous and comic Irish sensibility. We have also shared a close professional relationship and Jerry was always a faithful ally through our days in the Young Democrats, the Maryland General Assembly and beyond.

I pay tribute to Jerry today not simply because he is a good and old friend but to thank him upon the occasion of his retirement. His distinguished career in public service is not matched by many and his affable and courteous manner is appreciated by all.

Jerry was born in Dorchester, Massachusetts on May 29, 1933. He attended public schools in Dorchester and Boston, and served in U.S. Marine Corps from 1955 to 1957. He went on to Boston College and Suffolk University, and graduated from the University of Baltimore School of Law in 1969. He also earned his masters from the University of Maryland in 1970.

Jerry began his career in public service as a staff member in the United States House of Representatives in 1959 and later worked in the United States Senate. His service was not limited to the national level however. He served his local community for five years as a member of the Prince George's County Board of Election Supervisors from 1964 to 1969, and as a member of the Charter Review Commission of the city of Bowie.

Jerry also served his community as a teacher to Prince George's County's youth at Gonzaga High School, Bowie State University, and Prince George's Community College.

In 1975, Jerry took his talent to the Maryland General Assembly where I had the pleasure of serving with him for six years. He was a member of the House of Delegates for eleven years and was named Freshman Legislator of the Year by the Maryland Young Democrats in 1975. He was also named Legislator of the Year by the Prince George's Municipal Association in 1983, 1985, and 1986.

Jerry stepped down from his position as Associate Judge in the 5th District Court of Maryland this past September and retired from a long and praiseworthy career in civic affairs. During his tenure as a judge, Jerry was well-liked and respected by both bench and bar for his even-handedness and wisdom. He had a good feel for fundamental fairness and through it all his Irish wit and humor shone through.

Judge Bob Sweeney, the former Chief Judge of the Maryland District Court, said this of Jerry, "One of the ten things that a good judge needs is courage. For a judge that means doing the right thing even if it is not the popular thing. Jerry Devlin personifies that type of courage."

Mr. Speaker, I would like to repeat today an Irish Blessing for my dear friend Jerry Devlin to thank him for his years of service and to wish him well in retirement: May your blessings outnumber the shamrocks that grow,/And may trouble avoid you wherever you go./May the road rise up to meet you,/May the wind be always at your back,/May the sun shine down upon your face,/And the rain fall soft upon your fields,/Until we meet again,/May God hold you in the hollow of his hand.

I ask my colleagues to join me in honoring this great Irish American who gave forty years of public service to Prince George's County and the state of Maryland.

TRIBUTE TO AMBASSADOR ULRIK FEDERSPIEL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in commending Ambassador Ulrik Federspiel, who was sworn-in as Denmark's Ambassador to the United States in May of 2000, for his record of achievement in fostering transatlantic ties. Throughout his remarkable career, Ambassador Federspiel has worked tirelessly to strengthen the already close relationship between the United States and Denmark. Indeed, the Danes are fortunate to have such an illustrious representative in Washington, and the United States has no better friend and ally in the Diplomatic Corps here in Washington than Ambassador Federspiel.

Mr. Federspiel began his career in the Danish Foreign Service in 1971, and was immediately assigned to the prestigious European Community office within the Foreign Ministry. His outstanding contributions on E.C. matters earned him a tenure in London as First Secretary of Political Affairs from 1973 to 1977. During this time he worked in cooperation with several African states in the process of democratizing countries including Zimbabwe, Angola and Namibia. Mr. Federspiel was especially active in supporting the anti-apartheid movement in South Africa. As a result, he was personally invited to the inauguration of President Nelson Mandela in 1993 and became a consultant to the modern integrated South African administration.

In 1981, Ambassador Federspiel returned to Copenhagen to become Special Assistant to the Permanent Secretary of State for Foreign Affairs. A post he held until he arrived in Washington to serve as Deputy Chief of Mission at the Danish Embassy in 1984. He quickly developed a reputation in Washington as a quick study with an imposing intellect combined with a personable, friendly demeanor. Ambassador Federspiel came to understand that not only does Denmark have a critical role to play in European matters, but, for a small country, Denmark could "punch above its weight" on transatlantic economic and political issues.

As State Secretary for Foreign Affairs from 1991–93, Ulrik Federspiel worked to support independence for the Baltic states, who were emerging from the dark years of Soviet occupation. Denmark was the first country in the world to recognize the three former Soviet countries of Estonia, Latvia and Lithuania.

From 1993 to 1997 Ambassador Federspiel's outstanding record brought the notice of the most senior members of the Danish government and was asked to serve as Chief of Staff to the Prime Minister. At the EU summit in June 1993 under the Danish presidency, Mr. Federspiel drafted the portion of the Copenhagen Criteria that set standards for EU membership. Ambassador Federspiel became a staunch proponent of NATO expansion and has since taken a leading role in the process. Among his other accomplishments while in the Prime Minister's Office, he played an important role in the Danish decision to play an active part in Bosnia, having the largest contingency of ground troops there per capita, and the only country to have heavy armor, namely ten tanks.

Mr. Speaker, since Ambassador Federspiel arrived in the United States last May, he has been actively engaged in solving trade disputes between the EU, Denmark and the United States. His diplomatic skills were evident while working with both the Congressional leadership and the Administration in resolving several high-profile trade disputes, including the carousel sanctions and the import ban on pork. Mutually beneficial trade has been expanded between the U.S. and Denmark through close cooperation between the former U.S. Ambassador in Copenhagen Richard N. Swett and Ulrik Federspiel.

Mr. Speaker, Ambassador Federspiel has brought his dynamism and passion to so many political and humanitarian issues. Since completing his military service in the Royal Danish Navy in Greenland in 1970–71, Ulrik Federspiel has taken a keen interest in Greenland and its population. In 1984, when he became Deputy Chief of Mission to the Danish Embassy in Washington, D.C., the relationship between Greenland, the United States and Denmark became one of his priorities. The Ambassador has played an instrumental role in furthering the interests of the Home Rule Government and that of the Danish realm and has worked in close cooperation with the U.S. government, especially Thule Air Base. The island and the base are strategic elements of defense and security preparedness of both the United States and Europe.

Ambassador Federspiel is also an accomplished academic. He graduated from the University of Aarhus in political science in 1970, and completed a year of post-graduate studies at the University of Pennsylvania, earning an MA in 1985–86. He has been a visiting lecturer at George Washington University and frequently lectured on international relations at the University of Copenhagen as well as served as a governing board of the university.

His interest in supporting academic excellence continues today. He is an Honorary Trustee of the Crown Prince Frederick Fund for Harvard University that supports two scholarships annually for exemplary Danish university students. Ambassador Federspiel currently sits on the advisory board member of Humanity in Action (HIA), a unique educational program between Denmark, the United States, the Netherlands and Germany. HIA offers a number of competent university students an intensive study of human rights and democratic values each year. This summer the program was expanded to include internships on Capitol Hill.

Ambassador Federspiel's commitment to working for others is undoubtedly a result of his and his family's experiences growing up in war torn Europe. During the Nazi occupation of Denmark, Ambassador Federspiel's father, Per Federspiel, was imprisoned for a year due to his involvement in the rescue of the jews in October 1943. Needless to say, Ambassador Federspiel has proven himself to be a strong and consistent supporter of the State of Israel.

After the horrible events of September 11th, Ambassador Federspiel and the Danish people were among the first to support the American people and the cause of freedom. As a NATO member, Denmark is one of the strongest supporters of the United States in its campaign against terrorism. And a recent poll of the Danish population showed the Danish people as the America's strongest supporters in Europe in our war on terrorism.

Mr. Speaker, it is a great honor and privilege for me to have the opportunity to thank Ambassador Federspiel for his uncompromising dedication to furthering the friendship between our two great countries.

AMENDING TITLE XVIII OF THE SOCIAL SECURITY ACT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. GEKAS. Mr. Speaker, until the early 1980s, Medicare was always the primary payor in all situations to employer health plans for both disabled and retired employees. However, effective with the Omnibus Budget Reconciliation Act of 1981 ("OBRA"), for the first time Medicare became the secondary payor for one group of American employees who were specifically singled out—the "working aged". The "working aged" were defined as American employees over the age of 65 who were provided both Medicare and employer health plan coverage and continued to actively work. As a result of this legislative change, Medicare would now only provide secondary coverage to the "working aged" after their employer health plan. But once the "working aged" stopped working and contributing to our society, Medicare would again become the primary insurance and payor of claims for these good people.

Then in 1986 the Congress again acted by passing the Omnibus Budget and Reconciliation Act of 1986 which singled out yet another group of American workers—this group of individuals was identified as "disabled active individuals". A "disabled active individual" was defined in the statute as an "employee (as may be defined in regulations)". The OBRA Amendments of 1986 also mandated that Medicare become secondary insurance coverage to the employer health plans for the "disabled active individual". The Health Care Financing Administration (HCFA), the responsible federal government agency charged with implementing the 1986 OBRA Amendments, crafted a definition of employee by Agency directive—a policy which was never subjected to the rigors of the Administrative Procedure Act and which was never promulgated into a regulation published in the Federal Register.

This ad hoc policy judgment made by the Administrator of HCFA contradicted the very definition of employee already existing within the body of the Social Security Act and the Internal Revenue Code. HCFA's definition effectively said that if an employer continued to carry a disabled employee on their books in "employee status" after a disability began (which all employers did for employee benefit purposes), the employer health plan, not Medicare, would become the primary payor for that employee if he or she was unfortunate enough to be classified as "the disabled active individual." According to the new HCFA policy, which remains the policy of the Agency, the fact that the disabled employee was not actually working was irrelevant. However, the common law definition of employee used by Social Security and the IRS states that an individual has to be actively working and performing services for remuneration in order to be considered an employee. This ad hoc action by HCFA has already directly and negatively affected numerous companies throughout Pennsylvania, Illinois and other states involving employees that work for these companies.

Due to HCFA's departure from the commonly accepted definition of employee, and existing definitions within federal law, many employer health plans reacted to this unjustified policy making of HCFA by simply taking the easiest course of action—terminating health coverage for their disabled employees. In effect, HCFA's policy forced employers to begin discriminating against their disabled employees.

While HCFA stated that an employer would be primary payor to Medicare for their "working aged", as soon as these individuals quit working, Medicare would become primary payor. However, to these same employers, HCFA said that for your disabled employees you will be the primary payor to Medicare regardless of whether these individuals are working or not.

Due to this contradicting treatment between retirees and disabled employees, clarifying language was finally introduced and passed by the Congress with passage of the Omnibus Budget and Reconciliation Act of 1993 to treat both of these groups in the same and equal manner. As a result, Medicare today now pays primary to employer health plans for disabled employees that are not actually actively working. However, even though HCFA agrees prospectively to be the primary payor once Medicare's "payment status" has been changed to primary, most retroactive Medicare claims submitted for treatment received since August 10, 1993 (effective date of statutory change) are denied. The reason for this from HCFA is that because these claims when submitted were considered to have not been "timely filed" in conjunction with Medicare regulations. These claims could not have been timely filed previously because they were for disabled employees whose former employers continued to pay as primary.

These employers acted honorably by continuing to pay claims from these employees as the primary payor because they were not made aware of clarifying language enacted by the Congress by OBRA in 1993, a change that HCFA did not care to publicize. Even though the Congress in 1993 directed HCFA by clarifying the statute that Medicare is to act as the primary payor for insurance claims for "disabled active individuals," many American employers still have not been able to be fully and lawfully reimbursed and fully benefit from the legislative change intended by the Congress by passage of OBRA in 1993.

As a result, the Congress should once again act to direct the Administrator of HCFA to fully rectify what was originally intended by the Congress in 1993, namely to direct HCFA not to subject this unique and special class of American employees and their respective Medicare claims to the standard Medicare timely filing regulations. These claims are not in any way similar to normal Medicare claims because they could never have been submitted previously or in a timely fashion due to the problems I have illuminated in these remarks. Medicare claims are normally submitted immediately upon or shortly after medical treatment. Though Medicare regulations allow for an exception to their timely filing guidelines if there is an error on the party of the Secretary, HCFA has refused to apply this exception to the special situation we have before us. Even more startling to this Chamber should be the fact that this very HCFA policy was determined to be illegal, unlawful and invalid as a matter of federal administrative law by a U.S. District Court in the District of Columbia in 1999 because of HCFA's failure to promulgate a valid federal regulation to support the Agency's policy determination, in the case SUNTRUST BANKS. INC. v. Donna Shalala, Secretary of Health and Human Services, CA. No. 96

TRIBUTE TO GERALD MAYO

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SCHAFFER. Mr. Speaker, it is an honor to rise today to congratulate to Mr. Gerald Mayo of Estes Park, Colorado, who was recently named honorary-chairman of the National Small Business Advisory Council. For this, Mr. Speaker, the United States Congress should commend him.

The National Small Business-Advisory Council provides a link between small business owners and Members of Congress, The purpose of the council is to give input on economic and tax issues while also participating in private surveys and policy briefings. The council achieves this through participation in strategy sessions and national meetings with local, state and national leaders. I applaud the National Small Business Advisory Council and its new chairman Gerald Mayo, for creating an alliance between the nation's leadership and the small business community.

A broker for Prudential Team Realty, Gerald Mayo has first-hand experience with small businesses. His leadership and dedication to small businesses across the nation is commendable and greatly appreciated. Gerald is truly a shining example for all Americans.

A constituent of Colorado's Forth Congressional District, Gerald not only makes his community proud, but also his state and country. It is a true honor to have such an extraordinary citizen in Colorado. I ask the House to join me in extending wholehearted congratulations to Mr. Gerald Mayo.

IN RECOGNITION OF MARGARET PARX HAYS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. HALL of Texas. Mr. Speaker, I rise today to speak in recognition of Margaret Parx Hays, a devoted community servant and former Mayor who initiated a drive to restore The Santa Fe Depot in the city of Gainesville, Texas. Margaret is a distinguished native of Gainesville and has devoted considerable energy, drive, and creativity to bringing this project to fruition. Her efforts not only saved an historically significant building but helped make the community aware of an important part of their history.

This particular station, constructed in 1902, was Gainesville's second depot. The city, itself, received its first passenger train on January 2, 1887. The depot is an elegant redbrick building that served the Santa Fe line when it was originally constructed. Without Margaret's devotion to her community, though, the station would have remained an abandoned relic. Now it plays host to many community gatherings.

Mr. Speaker, it is with great thanks and appreciation that I recognize the energy and efforts of Margaret Parx Hayes, who organized the effort to return the Santa Fe Depot in Gainesville, Texas to its original beauty. I have had the pleasure of knowing—and working with Margaret—for many years. This would be a better world, with more kindness and caring, and more success in the healthy growth of a city or area, if we had Margaret Parx Hays in each of our cities. She is, other than being a wonderful person, a great asset to the city of Gainesville—and all who live there who want and expect to have gracious living. Margaret brings this to the table of public service because she cares.

Let us close this House of Representatives on this day, December 18, 2001, in loving respect and eternal gratitude, to this kind, loving and generous woman.

TRIBUTE TO THE HONORABLE MARY ALICE SALIZAR

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to an American patriot, Mary Alice Salizar, who is retiring the end of this turbulent year.

A native of Corpus Christi, Texas, Ms. Salizar has served in the judicial branch of our government since the early 1970s. She spent the early part of her career working for local attorneys and as a court reporter.

She wanted to be part of the federal court system, and in 1973, she became part of the U.S. District Clerk's office. She has been an integral part of the office since then.

Likewise, she has been an integral part of our community, working with children and young people from low-income families and communities through her church. In doing so, she is part of a tradition of doing the most fundamental work Jesus instructed Christians to do: help the poor.

While she intends on spending a great deal of time on her crafts, quilting and others pastimes, she nevertheless intends to continue her tradition of service to community through volunteering at a public school or as a senior Candy Striper at a local hospital.

Mary Alice Salizar is the example for others to follow, both in the course of her life's work and her desire to continue that service by volunteering in the fields of health and education.

She will now also be spending more time with her family, the people who supported her during her service to the community including: her husband Pedro Salizar; their children Mark, Rick and David; and their grandchildren Annaliza and Estevan Marcos.

I ask my colleagues to join me in commending the life's work of Mary Alice Salizar, who has spent the better part of her professional life as part of the federal judicial system.

HONORING THE ENLISTED MEN AND WOMEN OF THE UNITED STATES NAVY

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SIMMONS. Mr. Speaker, I rise today to announce legislation that I have introduced to request that the Secretary of the Navy name a U.S. Navy warship the "U.S.S. Bluejacket" in honor of the courageous Americans who have served as enlisted members in the United States Navy.

My resolution also requests that this vessel bear the hull designation number "1776" to reflect the freedom and independence protected and preserved by the millions of enlisted men and women who have proudly served in the United States Navy. Our Navy, as well as for the nation, would be well served to have a ship bearing the hull number 1776.

Mr. Speaker, the Second District of Connecticut, which I have the privilege of representing, has a long and proud Naval and seafaring history, We are home to the "The First and Finest," the Naval Submarine Base New London, homeport to Submarine Squadron Two, Four, and Development Squadron Twelve, the Naval Submarine School, and Naval Submarine Support Facility. Thousands of men and women in my district are part of the "silent service" and its support and training structure. They are dedicating their lives, risking their lives everyday in our great Navy. I believe that we should honor their service and sacrifice by naming a ship the "U.S.S Bluejacket."

I urge all of my colleagues to join me in this effort to forever honor the bravery, dedication and service of the millions of men and women who have fought to defend this country in our Navy.

Finally, I would like to thank the efforts of Mr. John Thor Newlander of Gales Ferry, Connecticut. Mr. Newlander has served this country in several of our military services, both active and reserve duty, and has worked tirelessly on behalf of our enlisted military personnel and on this resolution. I thank him for his service and his commitment to this worthy endeavor.

INTRODUCTION OF CHILD DEVELOPMENT AND FAMILY EMPLOYMENT ACT OF 2002

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased to join my colleagues Mr. ANDREWS, Mr. OWENS, Mr. MORAN, Mr. HINOJOSA, Ms. LEE, Mr. FRANK, Ms. WOOLSEY, Mr. GREEN, Mr. KILDEE, Ms. MCCOLLUM, Mr. ABERCROMBIE, Mr. MCGOVERN, Ms. DELAURO, and Mr. NADLER in introducing the Child Development and Family Employment Act. This legislation reauthorizes the Child Care and Development Block Grant to better meet the child care and after-school care needs of low-income children and families.

Science conclusively demonstrates that children's experiences in their first 5 years of life have major and lasting effects on learning and academic success. Parents undoubtedly are the most significant and important influence on a child's growth. But with 65% of mothers in the labor force raising children under age 6, child care often provides important secondary influences that also greatly affect a child's development. Child care simply is not just babysitting. Early care is an important early learning period and if parents cannot afford to provide their children with high quality care, it is a missed opportunity to help develop a child's school-readiness. Kindergarten teachers report many of their students begin kindergarten cognitively and behaviorally unprepared to learn. For all our youth to achieve in school, we must ensure that they arrive at kindergarten with the skills needed to succeed in school. To do that, parents need to be able to choose quality child care that meets the needs of their children.

Child care assistance must allow eligible families to meet those needs. Since welfare reform passed in 1996, CCDBG has been a critical work support for many low-income families moving off welfare and many other working poor struggling to remain self-sufficient. Reliable, accessible, and affordable child care is important for families to continue their employment and remain off welfare and for sustaining the economic strength of this country. Poor families who are unable to secure child care assistance pay up to one-third of their income for child care, creating an incredible burden for families struggling to make ends meet and marginalizing the value of going to work or remaining employed. Indeed, families often cite problems with child care as a major reason for leaving employment.

Yet today, CCDBG does not do enough to meet children's developmental needs or parents' employment-related needs. CCDBG only requires states use 4% of its dollars to promote improved quality in child care, an insufficient amount since evaluations indicate that the quality of most care ranges from mediocre to poor. CCDBG also leads to subsidy rates that frequently prohibit parents from choosing or affording child care that meets their children's needs and their own employment needs. Care for infants and toddlers, care for children with special needs, accredited care, non-standard hour care, and quality care in low-income and rural communities can be particularly difficult for parents to choose and afford.

Moreover, CCDBG funding only served 12% of eligible children in 1999. Many states have waiting lists of thousands of families. And though States have use some TANF block grants on child care, budgetary shortfalls and rising welfare caseloads are leading many states to cut their child care and early education budgets at the very time that many parents—who are leaving welfare or struggling to hold Jobs in the recession—desperately need child care services.

My bill will improve CCDBG by strengthening child care quality and resources and providing parents greater freedom to choose the type of care they want and need for their child and their family. This bill increases the quality set-aside from 4% to 16%, creates a competitive grant program for States to improve payment rates to providers, and requires child care providers to have pre-service training in child development. This bill also provides money for states to provide stipends to qualified child care providers to boost training, reduce staff turnover, and attract and retain staff—all key goals in improving child care quality. And this bill allocates additional resources so that CCDBG can be expanded to reach one-third of the families for which it was intended.

In conclusion, Mr. Speaker, until we have a quality and affordable child care program, we will continue to miss the opportunity to maximize the early development of young children and get them ready for learning in school. Child care assistance can make the difference in a child's reaching school age ready to learn, and it can make the difference in a family remaining employed and off welfare. The reauthorization of CCDBG provides Congress with a timely opportunity to achieve this urgent goal and meet our commitment to help meet the needs of low-income children and families. Mr. Speaker, I urge Members of the House to join me and co-sponsor the Child Development and Family Employment Act.

TRIBUTE TO CAROL ELISE BENNETT

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. EVERETT. Mr. Speaker, with the U.S. House of Representatives set to conclude its work for the First Session of the 107th Congress, I would like to add a final contribution to the RECORD as we close the Congressional history book on 2001.

The last twelve months have been so dramatic in their significance upon this body and the nation that it is easy to overlook the many vital human elements of this institution. I choose to honor one here today.

I rise to pay tribute to a player on the Congressional stage who said farewell to this House of Democracy earlier this year; Carol Elise Bennett. For two decades, Carol has been a part of the lives of those who served our nation in the House and Senate.

In 1981, she began covering the Congress for the Washington-Alabama News Report, dutifully informing her statewide radio audience of the efforts of the Alabama Congressional Delegation. She was the longest-serving of all the press assigned to cover Alabama's congressmen and she always performed her work with professionalism and a particularly keen attention to accuracy.

Carol had good reason to be at home around the spotlight, having received formal training in the theatre at the University of British Columbia followed by acting roles on the stage and in film. However, Carol's work and many interests never kept her from helping others. She served as a volunteer reader for recordings for the blind here in Washington for more than a decade.

Since I came to Congress in 1993, 1 have personally valued my friendship with Carol, and I wish to thank her for her fairness and dedication to pursuing the truth. This institution is a better place because of the hard work of reporters like Carol. I think I can speak for all the Alabama Delegation, both past and present, in wishing Carol Bennett a happy and equally rewarding retirement.

MEDICAL RURAL AMBULANCE SERVICE IMPROVEMENT ACT OF 2001

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. MURTHA. Mr. Speaker, across America, Americans have come to expect and rely on our health care system, especially, emergency ambulance service. All to often, for many of us, our first exposure to health care is the local EMS unit that responds to a call for help. Unfortunately, for millions of Americans living in a rural setting, this cornerstone of medical care is on the verge of collapse.

I, for one, am a strong believer in the importance and the necessity of maintaining a strong effective EMS component within our health care system. The question that we must answer, as we debate health care, is, how prepared do we want and expect our health care system to be. In an emergency, at that critical moment, the EMS unit is that critical link to our health care system that makes the difference between life and death.

Unfortunately, be it ground or air, EMS for communities throughout America is under enormous financial pressure. For many rural communities, EMS is in jeopardy of collapse. Typically, rural EMS is a small one or two unit service, staffed by volunteers, not affiliated with a hospital or medical facility, that responds to 300 to 500 calls per year within a large radius (37 miles average) who's greatest danger to its existence comes from Medicare. In a growing number of instances, unrealistic and unresponsive Medicare reimbursement fee schedules have done more to erode EMS in America than any other threat to medical care in this country. Because Medicare fees fail to accurately define or reflect the rural medical environment, EMS is facing grave danger of being put out of business by fee schedules that fail to recognize and reflect the actual costs confronting rural ambulance/EMS service.

Therefore, I am introducing the "Medical Rural Ambulance Service Improvement Act of 2001". This legislation will increase by 20 percent the payment under the Medicare program for ambulance services furnished to Medicare beneficiaries in rural areas, require CMS to define rural areas on population density by postal zip codes, increase mileage rates for the first 50 miles and require the use of most recent data by CMS in determining payment adjustments.

For rural ambulance and EMS, the majority of their revenue comes from Medicare reimbursements. Yet existing Medicare fee schedules are not accurate, nor do they reflect real-world costs confronting rural services. Due to their low-volume of calls and transfers, rural EMS providers will remain the hardest hit under CMS' fee schedules unless decisive and corrective action takes place now.

Timely and accurate reimbursement and fee schedules for ambulance/EMS services will be critical to seeing that rural America continues to receive emergency medical services. Citing financial loss as the number one contributing factor for services closing down, the "Medical Rural Ambulance Service Improvement Act of 2001" will level the playing field for rural EMS.

Good health requires an effective and thorough health care system. We all have something to lose by not putting a halt to the erosion of EMS care in rural America. Therefore I am calling on all Members to join with me and sponsor passage of this important and critical piece of health legislation.

HONORING WILLIAMSON BROTHERS BAR-B-Q, MARIETTA AND CANTON, GEORGIA

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BARR of Georgia. Mr. Speaker, the tragic events of the past few months have brought out the best in the hearts of Americans across the nation. Our citizens have reached out their hands, opened their wallets, and given of their time, energy, and compassion in unprecedented ways. Some have traveled thousands of miles and, sacrificed time they could be spending with their own families, in order to take care of another's.

At the same time, corporate and small town businesses alike have also searched for ways to help the victims of the September 11th attacks; to speed along the search and recovery missions, and to lift the spirits of dedicated workers still at the sites today. At this time I would like to highlight one such business from Marietta and Canton, Georgia.

Williamson Brothers Bar-B-Q is a beloved local landmark that came to Georgia from Talladega, Alabama in 1989. Upon watching and learning of the events of September 11th, the restaurant's owners, Larry and Danny Williamson, asked themselves what they could personally do to help. The answer was to load up two U-Haul trucks and drive up enough food to serve 2,000 Pentagon employees and relief workers for a traditional southern feast—the Williamson Brothers Southern Salute. The trucks carried 300 chickens, 300 pounds of barbecued pork, 2,000 hamburgers and hot-dogs, 50 gallons each of Brunswick stew, baked beans, and potato salad, and 500 chocolate chip cookies; enough to truly feed a small army.

The feast was a huge success and a tribute to the majesty of the Pentagon and the men and women who serve there. The Williamson brothers are now considering making the Southern Salute an annual event. I would like to acknowledge Williamson Brothers Bar-B-Q, and its employees, for their unparalleled spirit of community and patriotism, and thank them for a job well done.

HONORING HUNTER HALL

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SCHAFFER. Mr. Speaker, it is an honor to rise today to express gratitude and congratulations to one of Colorado's outstanding young citizens, Mr. Hunter Hall, of Greeley, Colorado, who recently traveled to Washington D.C. to sing at the White House.

This is certainly a high honor for him and for Colorado. Hunter, an eighth grader at Brentwood Middle School, performs about 50 times a year with Colorado's Children's Chorale. Hunter Hall is a hard worker and has performed with the highest degree of excellence. Everyone who has been fortunate enough to know Hunter speaks of his deep commitment to performing and the arts. I am glad to say Hunter Hall has been an inspiration not only to other members of the chorale but also to his family and friends.

Hunter and his parents make great sacrifices for him to perform, and his commitment never falters. This is an experience he will look upon with pride. I stand today to honor his persistence and dedication to the performing arts. Hunter Hall has dedicated much of his time to the arts and I hope he will continue to do so in the future. He is truly a fine example for all Americans.

A constituent of Colorado's Fourth Congressional District, Hunter not only makes his community proud, but also of his state and his country. It is a true honor to know such an extraordinary citizen and we owe him a debt of gratitude for his dedication. I ask the House to join me in extending hearty congratulations to Mr. Hunter Hall.

CONFERENCE REPORT ON H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

SPEECH OF

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 2001

Mr. LANGEVIN. Mr. Speaker, I rise today to commend my colleagues Mr. MILLER and Mr. BOEHNER for their hard work in crafting a bipartisan education bill that provides real reform and real investments to make that reform a reality. I am pleased that in the midst of fighting the war of terrorism, we were able to remain focused on our most pressing domestic priority—the education of our children.

This bill tackles the persistent achievement gap between poor and more affluent school districts. Now more than ever education funding will be targeted at the students who need it most. For students in Providence and Cranston, Rhode Island, the revised Title I funding formula will translate into desperately needed books and supplies, bilingual education, more high-quality afterschool programs, and expanded access to technology. In addition, H.R. 1 authorizes critical funding for school construction and modernization. With three-quarters of our schools in disrepair, this need is overwhelming and cannot wait.

H.R. 1 also expands access to teacher quality programs to give teachers better support, mentoring, and salary incentives. The more support we provide to our teachers the more effective they will be in the classroom and—most importantly—the more students will learn.

While I was disappointed that the conferees were not able to work out a compromise on funding for students with disabilities, I am looking forward to working with my colleagues next year to ensure that IDEA receives the investment it deserves. Schools across the country are bleeding from the cost of educating students with special needs. The federal government made a promise to help ease the financial burden of educating these students, and we owe it to our schools and our children to honor that promise. But despite its lack of full funding for IDEA, H.R. 1 is a strong bill, and I am proud to support it.

DAVID GRAUE, "ALLEY OOP" CARTOONIST

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. TAYLOR of North Carolina. Mr. Speaker, America lost a beloved citizen, World War II veteran, artist, and creative talent when David Graue, 75, of Flat Rock, North Carolina, was tragically killed in an early morning traffic accident on December 10th. Dave was a native of Oak Park, Ill., and was a prior resident of Sarasota, Fla., and Brevard before moving to Henderson County in 1987. He was a 1944 graduate of Sarasota High School and trained at the Art Institute of Pittsburgh. He was a U.S. Army Air Corps veteran of World War II.

In 1950, he rejoined V.T. Hamlin, the creator of the comic strip "Alley Oop," whom he had briefly worked with prior to the war. He took over sole production of the cartoon in 1970 and created both the art and continuity for the strip until entering semi-retirement in 1991. Upon retirement he turned his attention to the fine arts and painting, working mostly with oils, and won several awards for his work.

Dave Graue will be dearly missed by his family, friends, members of the community, and countless "Alley Oop" fans around the country. Dave will be remembered for the special Christmas cards he sent to all his friends, cards that showcased his artistic talents. His last one commemorated the September 11th terrorist attacks on America.

I know my colleagues join me in expressing sympathy to Dave's family: his loving wife, Eliza B. Graue, sons Jeff and Dan, daughter Karin Dowdy, seven grandchildren: Jordan Dowdy, Griffin Dowdy, Kelen Dowdy, Kristin Graue, Lauren Graue, Shannon Graue and Cian Graue.

HONORING THE LIFE OF MASTER SERGEANT JEFFERSON DONALD DAVIS

HON. WILLIAM L. JENKINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. JENKINS. Mr. Speaker, I rise today to ask the Congress to honor the memory of Master Sgt. Jefferson Donald "Donnie" Davis, an American hero.

Master Sgt. Davis was killed in action in Afghanistan on December 5th while participating in Operation Enduring Freedom. He was a member of the Army's 5th Special Forces Group stationed at Fort Campbell, Kentucky.

Yesterday, Master Sgt. Davis was buried with full military honors near his birthplace in Watauga, Tennessee. He had made a career out of the military, serving in Korea, the Middle East during Operation Desert Storm, Somalia, and Afghanistan.

It is the ultimate sacrifice when a soldier dies for his country. We are able to enjoy the freedoms we have today because of men like Master Sgt. Davis and the hundreds of thousands of Americans who have given their lives in the fight for American principles over the past 225 years. Master Sgt. Davis knew the particular risks of being a Green Beret and gladly accepted them. He was aware of the immediate dangers faced by those men, the elite fighting soldiers that this country depends upon in times of crisis. Time and time again, Master Sgt. Davis answered the call of his country, left his family and home, and served with distinction wherever he was sent.

Master Sgt. Davis was a professional soldier, a man who had earned the respect of his fellow soldiers, and he was remembered fondly by all whom had come to know him over the 39 years of his life. He was also remembered locally as the kind of young man that every parent wants his or her son to be like.

I know I speak for the entire Congress when I extend sympathies to Master Sgt. Davis' wife Mi Kyong, his children Cristina and Jesse, his parents Lon and Linda, and the rest of his family and friends who are grieving during this difficult time.

When the terrorists struck our country, our President made the difficult but appropriate decision to respond with our military. Throughout history, in any conflict involving American troops, Tennesseans have volunteered to serve. They have fought and died in every corner of the world to protect freedom. Master Sgt. Davis answered the call of his country, and his death will forever inscribe his name on the roll of heroes who have made the ultimate sacrifice, giving their life in order to protect the lives of others. His efforts should remind us all that the liberties we enjoy do not come without a price. Let us always remember these costs, and always remember Master Sgt. Jefferson Donald Davis.

COMMENDING ST. CHARLES SCHOOL IN LIMA

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. OXLEY. Mr. Speaker, I would like to bring to your attention the care and concern that students at St. Charles School in Lima, Ohio are showing for children in Afghanistan.

The students in Lima learned about the desperate condition of Afghanistan's children. Through no fault of their own, the children of this war-ravaged nation are facing a hard winter without many of the basic necessities of life. Their families often must struggle just to find their daily food.

St. Charles School students took the initiative and collected $1000 to donate to the Afghan Children's Fund at the White House. They presented the check to my office during a school assembly. I, in turn, will make sure that the donation is delivered to President George W. Bush.

Since the events of September 11th, the President has said many times that the United States is at war with terrorists—not with the country of Afghanistan, and certainly not with its innocent children. It is my hope that Afghanistan's new government will devote itself to building a peaceful society where children are able to lead normal lives free of war and hunger.

The donation by the students at St. Charles School will bring comfort to needy children a half-world away. I commend them for the generous spirit that they have shown during this season of peace and goodwill.

HONORING THE BARBARA MASHBURN SCHOLARSHIP FUND AND THE BARBARA MASHBURN SCHOLARSHIP SINGERS

HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BOOZMAN. Mr. Speaker, I rise today to honor the Barbara Mashburn Scholarship Fund and the Barbara Mashburn Scholarship Singers.

Recently, the Barbara Mashburn Singers gave three very patriotic and festive holiday performances in the Third District of Arkansas. These singers and their foundation have traditionally been special invited guests of the White House in several previous Christmas seasons. However, the events of September 11th and the recent Executive Order closing the White House to public events this Christmas has led the foundation to use their vocal talents back home in Arkansas instead by performing at three different Northwest Arkansas locations to honor the victims of September 11th and our nation.

The Barbara Mashburn Foundation, as the only vocal music scholarship program of its kind in the nation, was formed in 1993 by Dr. James and Barbara Mashburn of Fayetteville. The Foundation, funded entirely through donations, fundraising events, grants and an annual gift by the founders, the Mashburns themselves. Patrons of these events have told me of the excellent job these young people have done in promoting patriotism during this holiday season.

On this day, when we remember the importance of the holidays before us and the resurgence of patriotism in this country, I would like to salute the Barbara Mashburn Singers for their efforts to promote the well-being of our nation. We don't often see individuals with foresight and personal sacrifices as the Mashburns have displayed. They continue to invest their personal time and finances to mentor a new generation of contemporary musicians, vocalists and performers. Each of the Barbara Mashburn Foundation Scholarship students gains much more than a musical scholarship, these students take part in leadership conferences; attend financial seminars and luncheons on manners; prepare and meet budgets and they become goodwill ambassadors through the promotion of their positive lifestyles and the role music can play in everyday life.

Mr. Speaker, I ask my colleagues to join with me today in honoring the great tradition of the Barbara Mashburn Scholarship Foundation and its talented singers. Their usual performance at the White House this Christmas season will certainly be missed. May they soon return to Washington, DC and the White House Christmas celebrations of future years, and may they continue to serve as role models for the young people of America.

INTRODUCTION OF BILL TO CLARIFY TAX TREATMENT OF CERTAIN ENVIRONMENTAL ESCROW ACCOUNTS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. HOUGHTON. Mr. Speaker, I am pleased to join my colleague from California, Mr. BECERRA, together with my colleagues, Mr. BOEHLERT from New York and Mr. COYNE from Pennsylvania, in introducing a bill intended to clarify the tax treatment of certain environmental escrow accounts. The provisions in the bill would encourage prompt and efficient settlements with the Environmental Protection Agency ("EPA") for the clean-up of hazardous waste sites.

Currently, there is some uncertainty in the tax treatment of certain "settlement funds" which are, in effect, controlled by the EPA, in their role of resolving claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"). This uncertainty may prevent taxpayers from entering into prompt settlements with the EPA for the cleanup of Superfund hazardous waste sites and reduce the ultimate amount of funds available for cleanup of such sites.

Under our bill, if certain conditions are met, the EPA (U.S. government) will be considered the beneficial owner of funds set aside in an environmental settlement fund account. These conditions include the fund being: (1) established pursuant to a consent decree; (2) created for the receipt of settlement payments for the sole purpose of resolving claims under CERCLA; (3) controlled (in terms of expenditures of contributions and earnings thereon) by the government or an agency or instrumentality thereof; and (4) upon termination, disbursed to the government or an agency or instrumentality thereof (e.g., the EPA). If such conditions are met, the EPA will be considered the beneficial owner of the escrow account for tax purposes and the account will not be considered a grantor trust for purposes of Sections 468B, and 671–677 of the Internal Revenue Code.

These escrow accounts, which are established under court consent decrees, are a necessary tool to enable the EPA to carry out its responsibilities and resolve or satisfy claims under CERCLA. Under these types of consent decrees, the EPA should be considered the owner of such funds for Federal tax purposes.

Due to the uncertainty as to the proper Federal income tax treatment of such government-controlled funds, taxpayers may be hesitant to promptly resolve their claims under CERCLA by contributing to the settlement funds. One of the underlying purposes of CERCLA is to ensure prompt and efficient cleanup of Superfund hazardous waste sites. This goal is being frustrated by the existing uncertainty in the tax laws.

The bill resolves these uncertainties and expedites the cleanup of Superfund hazardous waste sites by treating these escrow accounts as being beneficially owned by the U.S. government and not subject to tax. We urge our colleagues to join us in cosponsoring this legislation.

AMONG MY SOUVENIRS

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SAM JOHNSON of Texas. Mr. Speaker, I submit the following article by Kay Blythe Tracy, Ph.D.:

> Americans now are inspired and united by every musical note of "God Bless America." But back in the sixties, we were a nation in discord, singing many different tunes. Rodgers and Hammerstein wrote songs of Camelot, while Pete Seeger asked, "Where have all the young men gone?"
>
> The story I'm going to tell you today is about what happened to one of those young men. This story began in the sixties, when POW/MIA bracelets were conceived as a way to remember missing or captive American prisoners of war in Southeast Asia. Traditionally, a POW/MIA bracelet is worn until the man named on the bracelet is accounted for, whether it be 30 days or 35 years.
>
> I bought my bracelet in 1970 for $2.50. It has, "Lt. Col. Samuel Johnson, April 16, 1966" engraved on it. I wore the bracelet faithfully for many years, but eventually took it off and put it away. But every time I opened my jewelry box, I saw it. And every time I saw it, I was saddened, and I thought of Lt. Col. Johnson, and I said a little prayer.
>
> The bracelet led to my first foray into the wonderful world of e-Bay, the on-line auction service, where I listed it for sale. I thought that anyone who would buy it would treasure it and it would be out of my sight, out of my mind. To my surprise, bidding on the bracelet was brisk.
>
> On the seventh, and final, day of the auction, my husband George asked me if I knew what had happened to Col. Johnson. "No," I replied. "I never wanted to know." But George went to the Internet, and returned with information. Of the more than twenty-five hundred POWs, and the three to six thousand MIAs, only 591 men returned. My brother did not. After spending seven years as a prisoner of war, Sam Johnson did.
>
> I was so happy I cried.
>
> When I contacted Congressman Johnson's office, his aide, McCall Cameron, told me that he and Mrs. Johnson were on vacation with their grandchildren.
>
> Grandchildren! More tears.
>
> Congressman Johnson said he would very much like to have his bracelet. So, I cancelled the e-Bay auction, and today I am returning this souvenir. In the words of Randy Sparks, "A million tomorrows will all pass away, ere I forget all the joy that is mine today."
>
> And in my own words, I say to Sam, finally, "Welcome home."
>
> To Dr. Tracy, I say, "Thank you. We will never forget. God bless you."

COMMEMORATING THE RETIREMENT OF SUE GALBREATH-SLY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. HONDA. Mr. Speaker, I rise today to recognize the outstanding career of Principal Sue Galbreath-Sly. She is set to retire at the end of this academic year from a long and distinguished life in the field of education. Currently serving in her eighth year as principal of the Julia Baldwin Elementary School, Mrs. Sly, as the students call her, started teaching in 1960. Nearly forty-two years later, Mrs. Sly has served as an educator in three states—Kentucky, Ohio, and California—at both the elementary and secondary levels, in the classroom and as an administrator.

Sue Galbreath-Sly began her career as a teacher in Kentucky in 1960, and the spirit of teaching has remained strong in her to this day. Visiting the principal's office at Baldwin Elementary today, one might wonder if it is a classroom because it is always filled with students seeking Mrs. Sly's guidance and friendship. She successfully presents herself to her students as just another teacher; however, she is anything but "just another teacher." Rather, she is the best kind of teacher, seeing her educational mission as a year-round job—spending weekends chaperoning students to various competitions, fairs, and conferences and recruiting students for summer enrichment programs.

Throughout her long career as an educator, Mrs. Sly has been recognized for her excellence not only by her students, but also by her fellow professionals. She has received numerous awards, both as a teacher and a principal. In fact, just last year, her school won the 2000 California Distinguished School Award, a true testament to her exceptional stewardship.

Not only does Mrs. Sly help develop and educate our youth, but she also works to develop her fellow educators. For example, she currently serves as a mentor for new principals and an advisor to the teacher credentialing program. She is also active in community outreach, expressing her philosophy eloquently: "We must expand the four walls of our school site and guide children to take advantage of every learning opportunity." As a teacher at Baldwin Elementary, my wife, Jeanne, has benefited from Mrs. Sly's holistic approach to education. As a fellow long-time educator myself, I express my deep respect and sincere admiration for Sue Galbreath-Sly and her life's work.

LT. GEN. JOHN M. PICKLER, U.S. ARMY

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. HEFLEY. Mr. Speaker, I attended the retirement parade for Lieutenant General John Pickler. It was a sad day for the Army as they were losing one of their best to the retired roles. It was also a sad day for me personally as over the years John and his wife Karen have become close friends. I rise today not; however, to remark on the retirement of a great soldier but to thank him for a lifetime of service to our country.

General Pickler leaves the Army after over 36 years of dedicated service to our Nation and the soldiers that he loves. His biography is distinguished.

Lieutenant General John M. Pickler assumed the duties of the Director of the Army Staff on 17 August 1999.

A native of Chattanooga, Tennessee, General Pickler was graduated from the United States Military Academy, West Point, and commissioned in the Field Artillery on 9 June 1965. He was awarded a Master of Science in Physics from the University of Virginia in 1971.

Prior to assuming duties as the Director of the Army Staff, he served as Chief of Staff, United States Army Forces Command, Fort McPherson, Georgia; Commander, Fort Carson, Colorado and Deputy Commanding General, III Corps; Deputy Commanding General, XVIII Airborne Corps and Fort Bragg, North Carolina; Commanding General of Joint Task Force Six, Fort Bliss, Texas; and Assistant Division Commander (Support), 4th Infantry Division (Mechanized), Fort Carson, Colorado.

General Pickler has held a wide variety of Field Artillery positions from battery through corps, culminating as the Chief of Staff, III Corps Artillery and the Director of Plans, Training and Mobilization, Fort Sill, Oklahoma. Other key assignments include Instructor and Assistant Professor in the Department of Physics at West Point; Executive Officer to the Director, Defense Nuclear Agency; Commander of 2d Battalion, 81st Field Artillery, 8th Infantry Division (Mechanized) with concurrent duty as Commander of the Idar-Oberstein (Germany) Military Sub-community. Following command, he was assigned as the 8th Infantry Division Inspector General. In 1987, he returned to Germany as Commander, 8th Infantry Division Artillery in Baumholder, and then became the Executive Officer to the Chief of Staff of the Army, Washington, DC, in 1989. In addition to Germany, his overseas assignments include Vietnam and Turkey.

General Pickler is a graduate of both the Command and General Staff College, Fort Leavenworth, Kansas, and also the Army War College with duty as an Advanced Operational Studies Fellow at the Combined Arms Center, Fort Leavenworth. His awards and decorations include the Distinguished Service Medal; the Defense Superior Service Medal with Oak Leaf Clusters; the Legion of Merit with Three Oak Leaf Clusters; the Distinguished Flying Cross; the Bronze Star with "V" Device; and the Meritorious Service Medal with Three Oak Leaf Clusters.

General Pickler and his wife, Karen, have one daughter, Nevelyn, and two sons, Andy and Jeff.

General Pickler attended his last parade as a soldier on Monday, 29 October 2001. I am proud to have had the opportunity to attend it and witness the retirement of a friend.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 499, H.R. 3379, to designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the "Raymond M. Downey Post Office Building." Had I been present I would have voted "yea."

I was also unavoidably detained for rollcall No. 500, H.R. 3054, to award congressional gold medals on behalf of the officers, emergency workers, and other employees of the Federal Government and any State or local government, including any interstate governmental entity, who responded to the attacks on the World Trade Center in New York City and perished in the tragic events of September 11, 2001. Had I been present I would have voted "yea."

TRIBUTE TO CLIFTON E. ARMSTEAD, OUTGOING CHIEF OF THE WILMINGTON FIRE DEPARTMENT

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today as a member of the Congressional Fire Service Caucus to honor and pay tribute to a leader in the firefighting community—Clifton Armstead outgoing Chief of the Wilmington Fire Department. Clifton Armstead is an outstanding, dedicated and caring Delawarean with an abundance of accomplishments in this field. On behalf of myself and the citizens of the First State, I would like to honor this outstanding individual and extend to him our congratulations on his 36 years in the fire department.

Today, I recognize Clifton Armstead for his long and distinguished career in the Wilmington Fire Department. On January 4th 2002 Mr. Armstead will officially retire from a post that he has held since 2000, but from a fire department that he has been part of for over three decades. He has provided service in a manner that has brought distinction not only to himself but to the entire Wilmington Fire Department.

Family, friends and fellow firefighters can now take a moment to truly appreciate the world of difference Clifton Armstead has brought to the firefighting community. He has served for many years as a member of Engine, Ladder and Rescue Companies as well as the Training Unit. Mr. Armstead was promoted to Lieutenant in 1983 and appointed Deputy Chief of Operations in 1993 where he served for seven years before being appointed Chief of Fire in January of 2000.

Clifton E. Armstead has spent all of his life helping the community of Wilmington and all of Delaware. Mr. Armstead graduated with the Class of 1962 from Wilmington High School. He also attended Delaware Technical and Community College, the National Fire Academy and the Delaware State Fire School. Of particular interest are the many supervisory and management classes that have helped him to become such a successful and important leader to the City of Wilmington.

Mr. Speaker, with his wife Dawn at his side, and his daughter Jaye, the Armstead family proudly and unselfishly contributes every day to the quality of life at home in their community and our entire state.

Mr. Clifton E. Armestead's contributions cannot be commended enough. As he retires from the Wilmington Fire Department we can be sure that his contributions will not end. His commitment to fighting fires and saving lives has earned him a permanent place in Delaware's fire service history.

TRIBUTE TO JAMES K. REES

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. CALVERT. Mr. Speaker, I rise today to pay tribute to a most exceptional California Inland Empire community leader, friend and great American—Mr. James Rees.

Calvin Coolidge, America's 13th President, once said, "No person was ever honored for what he received; honor has been the reward for what he gave." And Jim Rees gave much during his years of military service and banking career.

With true valor and love of country, Mr. Rees voluntarily enlisted in the United States Army in 1942 and became an Officer in 1944. Like many other members of the Greatest Generation he served in World War II in both the European and North African/Middle East theaters. After the war, Jim returned to the United States and in 1948 enlisted in the Air Force. He quickly rose among the ranks and in 1957 achieved the rank of Major. Jim served in both the Korean and Vietnam wars, and in 1968 voluntarily retired as a Lieutenant Colonel. He has been honored with numerous medals ranging from the WWII victory medal to the National Defense Service Medal as well as the Air Force Longevity Service Award with four Oak Leaf Clusters.

After a distinguished career in the Air Force, Mr. Rees established himself in Riverside and went into the banking business. He served the community with the same care and dedication he had served our country. An avid golfer, Jim was instrumental in the revitalization of the March Air Force Base golf course. Jim has also been active in the Strategic Air Command Group of Veterans and has always been proud to call himself a team player.

A love of country can only be matched by a love of family. Mr. Rees has four children, Christine, Susan, Laura, and David, five grandchildren, Amy, Jennifer, Jim, Ian, and Susan and great-grandchild, Samuel who all refer to him as their hero. No greater honor can be bestowed on a man who has selflessly and wholeheartedly served our great nation.

Mr. Speaker, looking back at Jim's life, we see a man dedicated to military service and community—an American whose gifts to the Inland Empire and California led to the betterment of those who have the privilege to come in contact or work with Jim. Honoring him today is the least that we can do for all that he has given over the past 80 years of his life.

RAYMOND M. DOWNEY POST OFFICE BUILDING

SPEECH OF

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. WALSH. Mr. Speaker, as an original cosponsor of H.R. 3379 introduced by Congressman ISRAEL, I also rise in strong support of the Raymond M. Downey Post Office Building Designation Act. This legislation is a small, but fitting, tribute to one of New York City's bravest fire chiefs.

Chief Downey was the most decorated member of the New York City Fire Department and leader of the department's special operations unit. At age 63 with 39 years on the job, Chief Downey was a "firemen's fireman" as they say in the fire service. He was a national expert on urban search and rescue and led a team of New York City firefighters who responded to the 1995 Oklahoma City bombing. Chief Downey even testified before a House committee in 1998 on the topic of weapons of mass destruction, sharing his valuable knowledge with our colleagues. He truly defined what is meant by calling New York City firefighters the "world's bravest."

As I watched the events of September 11th unfold in my Washington office with my staff, I remember thinking, God be with the firefighters who are going in there to save lives. As a true leader Chief Downey was on the front lines with his personnel directing the rescue efforts. As he had done in the first World Trade Center bombing in 1993, Chief Downey's efforts saved thousands of lives. Sadly, with 343 of his men, Chief Downey made the ultimate sacrifice on that tragic day.

It is said that a firefighter's first act of heroism is taking the oath to become a firefighter. From there on, the rest is just part of the job. As we recognize Chief Downey today, it is important to remember not only his heroic deeds of September 11th, but his extraordinary firefighting career as well. His wife Rosalie commented, "He never complimented himself. He always did what he had to do." We as a nation are forever grateful for what Chief Downey and his fellow firefighters did on September 11th. We are also grateful for what our nation's firefighters continue to do everyday in this country, saving lives and property. The spirit of Chief Downey will continue to live on through this post office in Deer Park and in the fire service forever.

JESSICA CAROLINE AITON (1983–2001), 2000–01 YOUTH LEADERSHIP COUNCIL REPRESENTATIVE (LOUISIANA NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION)

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BAKER. Mr. Speaker, Jessica Caroline Aiton of Greenwell Springs, LA died on Monday, December 17, 2001, at the age of 18, following a tragic car accident. Jessica served as the 2000–2001 Youth Leadership Council Representative from her state for the National Rural Electric Cooperative Association. This means that she was one of the best and brightest students from rural America and from Louisiana.

Every year, the National Rural Electric Cooperative Association (NRECA), through its nearly one thousand member cooperatives, hosts the Washington, DC Youth Tour. This program brings 1,300 high school students from across rural America to visit their Nation's Capital to learn about their heritage, and about their electric cooperatives. On average, Louisiana brings 25 students each year. From this group, the state association selects one outstanding individual to be its youth spokesperson for the year and to serve on the NRECA national Youth Leadership Council. Jessica was selected as the representative for the 2000–2001 school year. She was one of just 41 nationally appointed to this honor.

Jessica had been an honor student at Central High School where she graduated third in her class. This past fall, she started her freshman year at LSU. She began as an Accounting major and then changed to Chemical Engineering. Next spring, she had planned to take some political science classes, with an eye toward law school and politics. As she once said of her future in an email to one of her former YLC counselors, "All I know is that I want to go to law school and eventually become a Senator. That much is clear." Jessica was also an active member of the Denham Springs Church of Jesus Christ of Latter-day Saints, loved to run and ride horses, and had just recently joined the College Republicans. With a heart for God, an incredible desire to serve, and the poise, charisma, and dedication rarely seen in a young woman of her age, Jessica was well on her way to being a great Senator. The State of Louisiana, her electric cooperative family, and America will miss her.

As her high school graduating class motto said:

> The past is but the beginning of a beginning, and all that is
> and has been is but the twilight of the dawn.
> (H.G. Wells)

May the light of that dawn shine upon Jessica Caroline Aiton forever more.

IN TRIBUTE TO MARILYN HUGHES GASTON, MD

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mrs. CHRISTENSEN. Mr. Speaker, after a twenty-five year career in the U.S. Public Health Service, Marilyn Hughes Gaston, MD, Director of the Bureau of Primary Health Care, within the Health Resources and Services Administration, is resigning and making her transition into the private sector.

Dr. Gaston began her career as a physician. She received her medical degree from the University of Cincinnati College of Medicine and completed a residency training in pediatrics. Her work over the years has been marked by staunch advocacy for the betterment of the health status of minorities, women and children. Dr. Gaston is an internationally recognized leader in sickle cell research and her contributions to the field have resulted in significant changes in the way the disease is treated and managed in children.

She is the first African American woman to direct a U.S. Public Health Service Bureau and she commands a primary health care budget that reaches $5 billion. Under her leadership millions of vulnerable and disadvantaged populations nationwide are assured access to quality, culturally and linguistically competent, primary and preventive health care. Along with her numerous other accolades, she is a former Assistant Surgeon General and the second African American woman to reach Rear Admiral, the highest rank in the U.S. Public Health Service.

Recently, Dr. Gaston co-authored "Prime Time," a health and wellness book for African American women in the midyears. She is a phenomenal leader and mentor. Her work has touched the lives of many and her presence in the Public Health Service will be genuinely missed!

NEED FOR ECONOMIC STIMULUS

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Ms. SOLIS. Mr. Speaker, there's been a lot of talk here about the need to get our economy jump-started and about the best way to get that done.

We've heard talk of tax cuts for big business that will eventually trickle down to the rest of America.

We've heard talk of tax breaks for wealthy individuals.

Well, I'm here to tell you that won't work for the community I represent!

Some of the cities in my congressional district are facing unemployment levels as high as nine percent. Nine percent!

People who are being laid off need help now—not in the future.

They need to make sure their unemployment benefits last long enough to help their family make it through the new year.

They need to make sure their health care doesn't disappear, leaving their families in the lurch.

I urge the leadership of this House to do the right thing for American families and pass a real economic stimulus plan which gives hardworking families a real boost!

HONORING EMERGENCY SERVICE WORKERS DURING LOCAL HEROES WEEK

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. EDWARDS. Mr. Speaker, it is particularly fitting, in the wake of the tragic events of September 11th, 2001 and the courageous and selfless acts of heroism by New York's police, firefighters and rescue workers which were witnessed and acclaimed by the world, that we extend our gratitude to police, fire and emergency service workers in all of America's communities. The citizens of Bell County and Copperas Cove, Texas in my congressional district are honoring these public servants, from November 18–24, during the 10th observance of Local Heroes Week.

This expression of appreciation to our local public safety workers for their service to Central Texas, which has grown every year since its inception in 1992, raises funds from area businesses and organizations to endow scholarships at Central Texas College for their immediate families.

As a community, we owe a special thanks to the police officers, fire fighters and emergency workers we honor and our sincere appreciation to those who organize Local Heroes Week. The recent tragedies at the World Trade Center in New York and at the Pentagon in Arlington, Virginia remind us that every day, in every city and county in the country, these men and women put their lives on the line to protect us from harm.

Mr. Speaker, I ask the Members of the House of Representatives to join me in honoring these local heroes, in Copperas Cove and Bell County, and across the nation. They define the spirit of public service and we are grateful.

TRIBUTE TO ARMY SPECIALIST JONN JOSEPH EDMUNDS

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mrs. CUBIN. Mr. Speaker, I am honored to represent the great state of Wyoming in this House of Representatives.

Nothing reminds me more clearly of the true nature of that honor than each time I look upon the brave men and women who wear the uniforms of America's armed forces.

I have had the pleasure of meeting many of these young patriots. Other times I see their dedicated faces in newspaper photos back home to announce their achievements.

One such photo that I've viewed for the most tragic of reasons pictures Army Specialist Jonn Joseph Edmunds of Cheyenne, Wyoming.

Jonn Edmunds was one of two Army Rangers killed on Friday, October 19, 2001, in the crash of a helicopter in Pakistan. Jonn and his fellow Ranger were the first American combat-related deaths of our necessary new war.

Look at this young mans portrait and you'll instantly recognize a fierce determination to be a good warrior, a good American, and a good citizen.

The military men and women defending this nation and its magnificent principles in and around Afghanistan have left their homes in little towns and big cities all across our country to serve us all.

Jonn's treasured home was Cheyenne, Wyoming. He belonged to the Future Business Leaders of America, was a Wyoming Boys State delegate, lettered in academics, and played soccer.

He graduated from East High School in 1999 and quickly joined the Army.

He became a Ranger five months later and was based in Fort Benning, Georgia as a member of the 75th Ranger regiment.

Jonn's promising future was accompanied by a sworn, sincere promise to serve . . . a promise this young man would never dream of breaking . . . a promise that led to this tragic loss.

In a paper written for a high school class a few short years ago, Jonn discussed his plans for a long-term Army career. He said, "I will be contributing to myself as well as for the defense of this country and for the betterment of the world."

No one should doubt that Jonn Edmunds was ready and willing to join the fight against terrorism and to help seek justice for the evils our nation has endured since the September 11 attacks.

His father Donn told reporters, "I'm extremely proud of my son. He was doing what he wanted to do."

I've called Jonn's family to express my grief at their loss. My prayers are with his father Donn and mother Mary, his brother Seth and sister Alyssa, Anne, his wife of less than a year, and his other family members and friends. I pray that the pain of their sorrows will be softened over time by sweet and loving memories.

Despite their terrible loss, Jonn's family has told us all that their support for President Bush and Operation Enduring Freedom remains strong. When I think of Jonn and his family, I am humbled. Every American should be.

And we all should be thankful for this gift of honor and dedication in the name of justice and freedom.

God bless Jonn, his family and friends, and his comrades in arms. And God bless America.

HONORING MARINE CPL. CHRISTOPHER T. CHANDLER

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. TANCREDO. Mr. Speaker, I rise today to pay tribute to Marine Cpl. Christopher Chandler—who is without a doubt one of America's finest soldiers who fought in Operation Enduring Freedom.

On Sunday, December 16th, our nation learned that Marine Cpl. Christopher Chandler—of the 1st Light Armored Reconnaissance Battalion, 1st Marine Division—lost his leg in a land mine explosion while guarding explosive-clearing teams at the Kandahar International airport in Afghanistan—his mission—to clear unexploded munitions and mines to help launch international humanitarian efforts and other military operations in the area. Injured with Cpl. Chandler were Sgt. Adrian Aranda and Lance Cpl. Nicholas Sovereign, who suffered serious shrapnel wounds in the explosion.

Chandler, a 21-year-old soldier from Aurora, Colorado, entered the Marine Corp. in June 1998, immediately after graduating from Gateway High School.

Mr. Speaker, I am honored to represent Cpl. Chandler, his parents Kenneth and Rumi, and sister Stephanie in the U.S. House of Representatives. Our nation is forever indebted to Cpl. Chandler for his self-sacrifice and admirable actions taken on Sunday, December 16, 2001—for they will be etched in the memory of America's new war against terrorism and never forgotten.

WARREN HIGH SCHOOL'S TRIUMPHANT SEASON

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. ROSS. Mr. Speaker, educating our young people is arguably as important as any issue we deal with not only in the halls of Congress, but also in our everyday lives as parents and as members of our respective communities. Each day, our children learn important lessons in the classroom that will prepare them for the days and years ahead, and we must make sure that they are given the tools they need to compete in the 21st Century.

In addition to work in the classroom, another important aspect of the school experience that can play a valuable role in the academic as well as social development of a young person is athletics, teaching the values of teamwork, leadership, dedication and perseverance. In that spirit, I would like to recognize and congratulate a high school football team in my congressional district that exemplified those qualities, the Warren High School Lumberjacks in Warren, Arkansas, who recently won their school's first AAA Boys High School State Football Championship.

The Lumberjacks captured the championship in a thrilling 45–39 victory over the defending state champion, punctuating a perfect

15 and 0 season. The game was highlighted by a gifted performance by a young man named Reid McKinney, who earned honors as the game's most valuable player. McKinney displayed great talent and leadership exemplary of all his teammates on both sides of the ball, throwing three touchdowns and running for three more, including a fumble recovery for a touchdown that sealed the game.

Their impressive 26-year-old head coach, Bo Hembree, led and inspired his team to perform at a championship level throughout the season. With each game, these young men demonstrated amazing hard work, dedication, and character. I commend the entire team and the coaching staff both collectively and as individuals for a remarkable season, and I applaud Coach Hembree for instilling in his players the characteristics of leaders and champions that they will be able to draw from for the rest of their lives.

These students and their success are a tribute to their parents, their school, and the entire Warren community. Not only the coaches and players, but also the band, cheerleaders, students, teachers, and all those who supported this team can take pride in their role in bringing about this accomplishment. I congratulate Warren High School and the city of Warren as they celebrate this momentous achievement.

A TRIBUTE TO COMMANDER WILLIAM EBBS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. LEWIS of California. Mr. Speaker, I rise today to pay tribute to Commander William Ebbs, who provided invaluable service to Congress on national security issues for two years as a congressional liaison in the Office of the Navy's Director of Budget, and who will soon be on the front lines of our nation's defense as commander of a submarine.

Originally from Atlanta, Georgia, CDR Ebbs enlisted in the Navy in May 1976. He completed boot camp at the Naval Training Center, San Diego and attended Nuclear Power Training at the Naval Training Center, Orlando, Florida. At the completion of his qualification as a nuclear propulsion plant operator, he was assigned to USS *Von Steuben* SSBN 632, a Lafayette class fleet ballistic missile submarine. After four strategic patrols on *Von Steuben*, he was detailed in 1979 as a member of the ship's refueling/overhaul crew. It was during this time that CDR Ebbs applied for and was accepted to participate in the Navy Enlisted Commissioning Program. Under this program, CDR Ebbs attended Auburn University and graduated with honors with a bachelor's degree in Electrical Engineering.

Commissioned an Ensign after attending Officer Candidate School in Newport, Rhode Island, CDR Ebbs was designated a submarine officer and assigned to the USS *Key West* SSN 722, then the Navy's newest Los Angeles Class Fast Attack submarine. During this time, the Commander, Submarine Squadron Eight, recognized him as the "1989 Junior Officer of the Year."

After a tour in the Manpower division on the Staff of the Commander, Submarine Force, US Atlantic Fleet, he attended the Submarine Office Advanced Course and was assigned as the Chief Engineer on USS *Atlanta* SSN 712, a Los Angeles class submarine stationed in Norfolk, Virginia.

Following a tour as the submarine special operations officer at the United States Atlantic Command, CDR Ebbs was assigned as Executive Officer of USS *West Virginia* SSGN 736, a Trident class Fleet Ballistic Missile submarine stationed in Kings Bay, Georgia.

In the spring of 1999, CDR Ebbs was assigned to the Office of the Navy's Director of Budget as a Congressional Liaison. During his time as a Congressional Liaison, CDR Ebbs provided invaluable support to me, the Appropriations Committee, and the various Members and personal staff of the Subcommittee on Defense. He displayed a unique ability to explain complex military requirements in the context of an appropriations framework, serving this Committee well and reflecting great credit on the Department of the Navy. CDR Ebbs left the Office of the Navy's Director of Budget earlier this year for a new assignment.

Mr. Speaker, I have the great honor to inform the Members of the Committee and the Congress that on January 11, 2002, CDR William Ebbs will take Command of the Fleet Ballistic Missile Submarine USS *Louisiana* stationed in Kings Bay, Georgia. We thank him, his wife Patricia, and their boys Arthur and Parker, for their years of service and sacrifice. We wish William God's speed and protection.

HONORING DR. THEODORE LORING, M.D., OF HUMBOLDT COUNTY, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Dr. Theodore W. Loring of Humboldt County, California, who is being honored with the Distinguished Citizen Award by the Redwood Empire Council of the Boy Scouts of America.

Dr. Loring served his country in the U.S. Army from 1943 to 1948, attaining the rank of Captain. In 1951, he began his obstetrics practice in Eureka, California, and since that time he has delivered over 5,000 babies in the community. He and his wife Ruth have raised four fine sons of their own and enjoy five grandchildren and three great-grandchildren.

Dr. Loring has consistently gone beyond the call of duty to serve his profession. He is the founder and past President of the Humboldt Del Norte Foundation for Medical Care. He has held a variety of offices with the California Medical Society, including Secretary, Councilor, Member of the House of Delegates, Program Planner and Moderator and Chairman of the OB–GYN section. He has served with distinction on the American Medical Association and the Pacific Coast OB–GYN Society. Additionally, Dr. Loring is Chairman and Director Emeritus of the Union Labor Hospital Association Board, and he has served on the Board of Directors of Blue Shield of California and as a Director and Secretary of the Norcal Mutual Insurance Company.

The unparalleled work Dr. Loring accomplished in his professional career is matched by his dedication to service within the community. He has been an active member of numerous organizations including the Rotary Club of Eureka, the Boy Scouts of America, Christ Episcopal Church, KEET Public Television and the Salvation Army. His vision, enthusiasm, and commitment are admired throughout Humboldt County.

Mr. Speaker, it is appropriate at this time that we recognize Theodore W. Loring, M.D. for his leadership and commitment to the well being of the citizens and community of Humboldt County, California.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BECERRA. Mr. Speaker, on Tuesday, December 18, 2001, due to business in my District, I was unable to cast my floor vote on rollcall No. 499, on Motion to Suspend the Rules and Pass H.R. 3379, the Raymond M. Downey Post Office Building; and rollcall No. 500 on Motion to Suspend the Rules and Pass H.R. 3054, the True American Heroes Act.

Had I been present, I would have voted "aye" on rollcall votes 499 and 500.

JUNIOR SERVICE LEAGUE OF PANAMA CITY, FLORIDA

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BOYD. Mr. Speaker, today I rise to recognize and commend the Junior Service League of Panama City, Florida as that group celebrates its 50th anniversary of service to our community. The Junior Service League is a remarkable organization, dedicated to training women for leadership in serving their communities. It is committed to promoting volunteerism, developing the potential of women, and improving the community through the effective action and leadership of trained volunteers. The women of Panama City have certainly demonstrated during the past half century that hard work and good spirits can make a powerful difference in the community that we live in.

The Junior Service League of Panama City was founded on October 12, 1951 and had twenty charter members. The founding members' goals were to foster interest in the social, economic, educational, cultural, and civic conditions of the community; to promote the interest of its members in volunteer service to the community; and to work in harmony with the policies of the Association of Junior Leagues. The group began making a strong impact then, and I am proud to report that their work has not only continued but has intensified since that time. The 2000–2001 League year marks the 50th anniversary of this outstanding organization with over 80 active members and over 200 sustainer members still dedicated to the goals established by its charter members.

The largest yearly project for the League is called Child Service Center through which students that are recognized as needing financial assistance are given new clothing, which is paid for by the League and Target. It is a day of shopping and fun for the children. They are allowed to choose the clothing so that when they put on these new clothes they feel they were a part of the selection and really own the clothes. This obviously helps to foster self-esteem, which is needed with some of these children. With a Fall and Spring Child Service Center, the League was able to clothe 915 students last year. For those not able to attend, the League offered clothing to an additional 199 students.

Volunteer opportunities within the League include: After School Assistance Program (ASAP), Domestic Violence, Kids on the Block (a puppet show used to teach children about domestic violence, handicapped people, or divorce), Teen Court, and Mentorship Program (where a mentor is paired with a student that is not doing well in school). These different volunteer placements change as the needs of the community change.

Mr. Speaker, League members have a strong history as State and community leaders, and I commend the Junior Service League of Panama City for their continuing legacy of service and achievement. I am delighted to congratulate them on its 50th Anniversary and I wish them many more years of successful service to their community.

SUPPORT FOR H.R. 3423

HON. RONNIE SHOWS

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SHOWS. Mr. Speaker, I am proud to be here, as a member of the House Veterans Affairs Committee to share my strong support for H.R. 3423.

In the days that followed September 11th, the depth of our lost was expressed in the thousands of testimonies of families and friends who lost loved ones in the World Trade Center, Pentagon and plane crash in Pennsylvania. We struggled as a nation to comprehend what had happened and collectively rose to pay tribute to the lives that were ended.

And as stories of these people's lives turned to stories of these people's funerals, we learned of an injustice that had been occurring for years. We learned of Captain Charles Burlingame, the pilot of Flight 77, who served a full reserve career in the Navy. We learned that if he had lived his full God Given life, one not destroyed by terrorist action, he would have been eligible for burial at Arlington National Cemetery—with all the rights and respect from the U.S. Government he had served so proudly. And yet, because his life ended, before he turned 60, he was denied this honor; an honor for which he surely earned up till the last moment of his life. Today we change this.

We respect the sanctity of Arlington Cemetery's grounds and the special honor it offers those who served our nation with distinction. We recognize the limited burial grounds of the cemetery and so deliberated change to their rules with care. Having done this, we determined that service to one's nation, not age of one's life, should be the ultimate criterion for interment at Arlington. And so, in this bill we move forward in expanding our ability to provide appropriate tribute and reverence to more servicemen who have passed. We eliminate today the age requirement for retired reservists who would otherwise be eligible for in ground burial, and we grant families of reservists who died performing training duty the right to have their loved ones buried at Arlington.

This Holiday season, as we give thanks for our families and the strength of our nation, we recognize more than ever that our veterans are our heroes. They have shaped and sustained our nation with courage, sacrifice and faith. They have earned our respect and deserve our gratitude. Let us join together and do something meaningful by passing this legislation. It is the right thing to do.

PERSONAL EXPLANATION

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Ms. SANCHEZ. Mr. Speaker, on December 13, 1 was in Washington D.C. conducting official government business. It was my intention to vote on Rollcall No. 498, H. Res. 314, which would have suspended the rules and allowed suspension bills on Wednesday December 19. However, the electronic voting machine did not properly record my vote. I request that the CONGRESSIONAL RECORD reflect that had my vote been properly recorded I would have voted "nay" on Rollcall No. 498.

CONFERENCE REPORT ON H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 2001

Mr. REYES. Mr. Speaker, as Chair of the Congressional Hispanic Caucus (CHC), I am proud to support the Conference Report on H.R. 1, which reauthorizes the Elementary and Secondary Education Act (ESEA). I am pleased that the conferees included most of the CHC's priorities in the final bill, which will now go a long way to reduce the disparities in educational achievement between Hispanic and non-Hispanic children.

The Census Bureau projects that by the year 2030, Hispanic children will represent 25 percent of the total student population, and even the most recent Census figures show that Hispanics are now on pace to become the nation's largest minority sooner than expected. Given these statistics, and the likelihood that many of these students will come from low-income households, the reauthorization of ESEA has been a significant priority for the Hispanic Community. With appropriate funding, many of the programs in H.R. 1 that we helped shape will improve the educational achievement of low-income and limited English proficient children.

I would like to share with my colleagues some of the important provisions affecting Hispanic students in H.R. 1 that the Hispanic Caucus helped develop. And in particular, I would like to thank my colleague, Congressman RUBÉN HINOJOSA, who has worked tirelessly on education issues in his capacity as Chair of the CHC Education Task Force. I do not believe we would be where we are today if it were not for his dedication to expanding academic opportunities.

First of all, bilingual education programs are important to limited English proficiency (LEP) children because they build on native language proficiency to make the transition to all-English academic instruction. Without this foundation, many children will not be prepared to perform to high academic standards.

H.R. 1 sets a "trigger" of $650 million at which bilingual education would convert from its current competitive grant structure to a new formula grant, consolidated along with immigrant education. This new formula, accompanied by a significant increase in appropriations, will extend bilingual education to millions of eligible students who currently do not receive bilingual education services.

The Conference Report does not require parental consent before students are placed in bilingual education, even though opponents of bilingual education fought hard for this and included it in the original House version of this bill. Instead, the conference compromise continues to maintain the current "opt-out" system, favored by the Hispanic Caucus. Schools will be required to notify parents if their children are placed in bilingual education and parents will be given the information they need to immediately transfer their children to English-only classes, if they want. This system will ensure that LEP students are not deprived of services that will help them succeed academically, while giving parents flexibility and choice.

It is estimated that 50,000 new bilingual education teachers are needed to meet the demands of a growing limited English proficient student population. At our insistence, H.R. 1 now includes a set-aside program for professional development to improve the qualifications of existing teachers and to recruit and train new teachers. The program will authorize two funding sources: one through the federal government and the other through the states.

In an additional boost to improving teacher quality, the Conference Report retains a national clearinghouse for information and data on bilingual education. The compilation and distribution of this data provides important information to educators on how to improve the quality of bilingual education.

Opponents of bilingual education favored placing a three year limit on how long students can be enrolled in bilingual education regardless of what level of English proficiency they reach. The CHC opposed this, recognizing that students entering the educational system at different stages acquire language proficiency at different speeds. The compromise bill gives students the flexibility to remain enrolled in bilingual education as long as is appropriate.

As part of the compromise, the bill requires students to be tested for English reading proficiency after their third year in bilingual education. However, school districts can obtain a waiver on a case-by-case basis to delay the test for two years. The results of the test will have no direct highstakes effects on individual students, but instead will be used to measure a school's progress and hold it accountable. If the school fails to meet performance objectives, it will be required to implement improvements including professional development and curriculum changes. These accountability measures promise to ensure that schools maintain effective bilingual programs.

The second issue area in H.R. 1 that the Hispanic Caucus worked very hard to achieve results in was migrant education. Migrant students have unique educational needs because of their families' need to periodically relocate in order to maintain employment.

The Conference Report expands education services for migrant students by increasing the authorized funding level of migrant education by $30 million, from $380 million to $410 million for fiscal year 2002. While this funding level would fall short of meeting all existing needs, it is a significant step toward reversing the 11 percent decline in dollars spent per migrant pupil over the past two years.

This bill also helps migrant students by improving the way their academic and health records are transferred from one school to another. Although some States have developed and implemented their own student records systems, current failures and interruptions in records transfer result in delays in school enrollment and academic services for migrant students, discrepancies in student placement, and repeat immunizations of migrant children. Under the Conference Committee agreement, the Secretary of Education is directed to assist states in linking existing systems of interstate migrant student records transfer. This will help eliminate two serious problems faced by migrant students: (1) multiple unnecessary vaccinations, which create a serious health hazard, and (2) denial of high school graduation because high school credit records are missing.

Finally, the third issue area addressed by the Conference Report is high school dropout prevention. Addressing the dropout problem during this ESEA reauthorization has been of paramount importance to the CHC. Statistics show the dropout rate for Hispanic students is approximately 30 percent compared to only 10 percent for non-Hispanic white students. For LEP students, the dropout rate is approximately 50 percent. At this rate, the economic and social potential of an entire generation of Americans is at risk.

Students cite a variety of reasons for dropping out, such as the lack of qualified teachers, lowered expectations of minority students' academic potential, classes that fail to challenge them intellectually and the threat of "tracking." Currently, there are a variety of programs which offer only piecemeal and inadequate solutions to the problem. The Conference Report takes a major step towards addressing the Hispanic dropout crisis by launching an innovative dropout prevention program that will comprehensively support proven measures to reduce high school dropout rates in schools predominantly serving low-income students. I would like to express my thanks Senator JEFF BINGAMAN, who introduced the program in the Senate, and all the conferees, for including this dropout prevention program in the final conference report.

In conclusion Mr. Speaker, I believe we are taking a great step for our children and our nation's future by passing this education reform bill. As President John F. Kennedy said, "Our progress as a nation can be no swifter than our progress in education." While we have more work to do to improve education, let us now appropriate sufficient funds to make the promise of H.R. 1 a reality, and be proud of what we have accomplished for our children's education in this session of Congress.

IN HONOR OF THE STUDENTS OF CANYON CREST ELEMENTARY SCHOOL

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. CANNON. Mr. Speaker, many of us have been dramatically affected by the tragic events of September 11th. As we have all learned to cope and express our feelings regarding this tragedy, there have been some shining stars that have risen beyond themselves in an effort to help others. One such group of people is the fifth and sixth grade students of Canyon Crest Elementary School in Provo, Utah.

These wonderful students felt overcome by the events witnessed that day. As the heroes of New York's police and fire departments bravely sacrificed many of their own to save the lives of those trapped in the towers and while many others worked at the Pentagon, these children all wished they could help but felt only helplessness as they watched over 3, 100 miles away. As their determination grew to assist in the recovery effort, these children felt that the best way for them to assist was to express their appreciation for the sacrifices of the heroes and their desire to comfort the many who lost loved ones through writing.

Their writings have been compiled in a book titled From the Mountains . . . These touching and heartfelt accounts relate many of the feelings that all of us experienced during the attacks as well as during the weeks following.

Mr. Speaker, today I ask that you and our colleagues join me in honoring the students of Canyon Crest Elementary for their own heroic efforts to help us all to recover and rebuild in this great nation by showing us true patriotism and the meaning of freedom.

FAIR DEBT COLLECTION PRACTICES TECHNICAL AMENDMENT ACT OF 2001

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mrs. BIGGERT. Mr. Speaker, I rise to introduce a common-sense technical amendment to the Fair Debt Collection Practices Act. I am pleased that this bipartisan legislation is being cosponsored by my colleagues, Mr. SANDLIN of Texas, Mr. MOORE of Kansas, and CANTOR of Virginia.

For more than two decades, The Fair Debt Collection Practices Act of 1978 has successfully regulated and promoted ethical practices on the part of debt collectors throughout the United States. The Act prohibits abusive or harassing methods of debt collection, and it requires that debt collectors treat consumers fairly.

In 1986, the law was amended to include standards for attorneys who engage in debt collection, and in general, these new rules have worked well to protect consumers. But there is one small provision in the Fair Debt Collection Practices Act that inadvertently has made it more difficult—if not impossible—for an attorney to act as a debt collector and file documents with a court of law.

Under current law, attorneys face a "Catch-22" when they file a lawsuit against a debtor, and here's why.

The Fair Debt Collection Practices Act requires the inclusion of a specific warning notice in every document related to the debtor, including those filed with a court. This warning notice makes good sense; it provides the debtor with information about his or her rights and responsibilities.

But the inclusion of the information required by the Act often renders the document noncompliant with the rules of the court. As a result, attorneys are caught between a rock and hard place. They can include the warning on court documents and risk being in violation of the rules of the court, or they can exclude the warning and be in violation of the Fair Debt Collection Practices Act.

Even the agency responsible for enforcement of the Fair Debt Collection Practices Act, the Federal Trade Commission, has repeatedly acknowledged this dilemma. But the FTC cannot fix the problem administratively. The agency has recommended a narrowly tailored technical amendment to remedy the conflict between Federal law and the rules of the court. It is this technical amendment that I offer the House today.

Under my bill, attorneys no longer will be forced to choose between violating the rules of the court or violating the Fair Debt Collection Practices Act. They still will be required to include warning notices on all correspondence with debtors, but they will be allowed to omit the warning notices only on documents presented to the court. This simple and straightforward solution maintains the spirit and the intent of the Fair Debt Collection Practices Act while allowing attorneys to remain in compliance with the law and their professional standards.

I urge my colleagues to support this legislation.

FINAL DECLARATION OF THE CONFERENCE ON FACILITATING THE ENTRY INTO FORCE OF THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. MARKEY. Mr. Speaker, I would like to call to my colleagues' attention the Final Declaration of the Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT). The document follows.

ANNEX—CONFERENCE ON FACILITATING THE ENTRY INTO FORCE OF THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY (NEW YORK, 2001)

FINAL DECLARATION

1. Fully conscious of the responsibilities which we assumed by signing the comprehensive Nuclear-Test-Ban-Treaty, pursuant to article XIV of that Treaty, and recalling the Final Declaration adopted by the Conference, held in Vienna, from 6 to 8 October 1999, we the ratifiers, together with the States Signatories, met in New York from 11 to 13 November 2001 to promote the entry into force of the Treaty at the earliest possible date. We welcomed the presence of representatives of non-signatory States, international organizations and non-governmental organizations.

2. We reaffirmed our strong determination to enhance international peace and security throughout the world and stressed the importance of a universal and internationally and effectively verifiable comprehensive nuclear-test-ban treaty as a major instrument in the field of nuclear disarmament and non-proliferation in all its aspects. We reiterated that the cessation of all nuclear-weapon test explosions and all other nuclear explosions, by constraining the development and qualitative improvement of nuclear weapons and ending the development of advanced new types of nuclear weapons, constitutes an effective measure of nuclear disarmament and non-proliferation in all its aspects and thus a meaningful step in the realization of a systematic process to achieve nuclear disarmament. We therefore renewed our commitment to work for universal ratificaiotn of the Treaty, and its early entry into force as provided for in article XIV.

3. We reviewed the overall progress made since the opening for signature of the Treaty and, in particular, the progress made after the Conference held in Vienna from 6 to 8 October 1999. We noted with appreciation the overwhelming support for the Treaty that has been expressed: the United Nations General Assembly and other multilateral organs have called for signatures and ratifications of the Treaty as soon as possible and have urged all States to remain seized of the issue at the highest political level. We highlighted the importance of the Treaty and its entry into force for the practical steps for systematic and progressive efforts towards nuclear disarmament and non-proliferation, which were identified in 2000 at international forums dealing with nuclear disarmament and non-proliferation. We believe that the cessation of all nuclear-weapon test explosions or any other nuclear explosions will contribute to the accomplishment of those efforts.

4. In accordance with the provisions of article XIV of the Treaty, we examined the extent to which the requirement set out in paragraph 1 had been met and decided by consensus what measures consistent with international law may be undertaken to accelerate the ratification process in order to facilitate the early entry into force of the Treaty.

5. Since the Treaty was adopted by the United Nations General Assembly and opened for signature five years ago, progress has been made in the ratification process. As of today, 162 States have signed and 87 States have deposited their instruments of ratification, an increase of over 70 per cent compared with the number of ratifications at the time of the Conference held in 1999. Of the 44 States listed in Annex 2 to the Treaty whose ratification is required for the entry into force of the Treaty, 41 have signed, and of these, 31 have also ratified the Treaty. A list of those States is provided in the appendix. Progress in ratification has been sustained. We welcomed this as evidence of the strong determination of States not to carry out any nuclear-weapon test explosion or any other nuclear explosion, and to prohibit and prevent any such nuclear explosion at any place under their jurisdiction or control.

6. Despite the progress made and our strong support for the Treaty, we noted with concern that it has not entered into force five years after its opening for signature. We therefore stressed our determination to strengthen efforts aimed at promoting its entry into force at the earliest possible date in accordance with the provisions of the Treaty.

7. After the opening for signature of the CTBT, nuclear explosions were carried out. The countries concerned subsequently declared that they would not conduct further nuclear explosions and indicated their willingness not to delay the entry into force of the Treaty.

8. In the light of the CTBT and bearing in mind its purpose and objectives, we affirm that the conduct of nuclear-weapon test explosions or any other nuclear explosion constitutes a serious threat to global efforts towards nuclear disarmament and non-proliferation.

9. We call upon all States to maintain a moratorium on nuclear-weapon test explosions or any other nuclear explosions and underline the importance of signature and ratification of the Treaty.

10. We noted with satisfaction the report of the Executive Secretary of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) to the Conference on progress made by the Preparatory Commission and its Provisional Technical Secretariat since November 1996 in fulfillment of the requirement to take all necessary measures to ensure the effective establishment of the future CTBTO.

11. In this connection, we welcomed the momentum which has been developed by the Preparatory Commission and its Provisional Technical Secretariat across the Major Programmes of the Commission, as identified by the Executive Secretary in his report. We also welcomed the progress in building the global infrastructure for Treaty verification, including the International Monitoring System, with a view to ensuring that the verification regime shall be capable of meeting the verification requirements of the Treaty at entry into force. We further welcomed the conclusion of a significant number of related agreements and arrangements with States and with international organizations.

12. Convinced of the importance of achieving universal adherence to the Treaty, welcoming the ratifications of all the States that have done so since the 1999 Conference, and stressing in particular the steps required to achieve its early entry into force, as provided for in article XIV of the Treaty, we:

(a) Call upon all States that have not yet signed the Treaty to sign and ratify it as soon as possible and to refrain from acts which would defeat its object and purpose in the meanwhile;

(b) Call upon all States that have signed but not yet ratified the Treaty, in particular those whose ratification is needed for its entry into force, to accelerate their ratification processes with a view to early successful conclusion;

(c) Recall the fact that two States out of three whose ratifications are needed for the Treaty's entry into force but which have not yet signed it have expressed their willingness not to delay the entry into force of the Treaty, and call upon them to sign and ratify it as soon as possible;

(d) Note the fact that one State out of three whose ratifications are needed for the Treaty's entry into force but which have not yet signed it has not expressed its intention towards the Treaty, and call upon this State to sign and ratify it as soon as possible so as to facilitate the entry into force of the Treaty;

(e) Note the ratification by three nuclear-weapon States and call upon the remaining two to accelerate their ratification processes with a view to early successful conclusion;

(f) In pursuit of the early entry into force of the Treaty, undertake ourselves to use all avenues open to us in conformity with international law, to encourage further signature and ratification of the Treaty; and urge all States to sustain the momentum generated by this Conference by continuing to remain seized of the issue at the highest political level;

(g) Agree that ratifying States will select one of their number to promote cooperation to facilitate the early entry into force of the Treaty, through informal consultations with all interested countries; and encourage bilateral, regional and multilateral initiatives aimed at promoting further signatures and ratification;

(h) Urge all States to share legal and technical information and advice in order to facilitate the processes of signature, ratification and implementation by the State concerned, and upon their request. We encourage the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the Secretary-General of the United Nations to continue supporting actively these efforts consistent with their respective mandates;

(i) Call upon the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization to continue its international cooperation activities to promote understanding of the Treaty, including by demonstrating the benefits of the application of verification technologies for peaceful purposes in accordance with the provisions of the Treaty, in order to further encourage signature and ratification of the Treaty;

(j) Reiterate the appeal to all relevant sectors of civil society to raise awareness of and support for the objectives of the Treaty, as well as its early entry into force as provided for in article XIV of the Treaty.

13. We reaffirm our commitment to the Treaty's basic obligations and our undertaking to refrain from acts which would defeat the object and purpose of the Treaty pending its entry into force.

14. We remain steadfast in our commitment to pursue the efforts to ensure that the Treaty's verification regime shall be capable of meeting the verification requirements of the Treaty at entry into force, in accordance with the provisions of article IV of the Treaty. In this context, we will continue to provide the support required to enable the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization to complete its tasks in the most efficient and cost-effective way.

15. The Conference addressed the issue of possible future conferences, expressed the determination' of its participants to continue working towards entry into force of the Treaty and took note of the provisions contained in paragraph 3 of article XIV of the Treaty.

PERSONAL EXPLANATION

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. GONZALEZ. Mr. Speaker, on rollcall No. 483, 484, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498.

Had I been present, I would have voted 483—yes, 484—yes, 485—yes, 486—yes, 487—no, 488—yes, 489—no, 490—yes, 491—yes, 492—yes, 493—yes, 494—yes, 495—yes, 496—yes, 497—yes, 498—yes.

CASPIAN PIPELINE OPENS

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BARTON. Mr. Speaker, I commend to my colleagues the following article:

[From the Washington Times, Dec. 3, 2001]

CASPIAN PIPELINE OPENS

(By Christopher Pala)

ALMATY, KAZAKHSTAN.—The first pipeline built to bring Kazakhstan's oil to world markets was dedicated in Russia last week, four months late and minus the presidents of the two countries through which it passed.

Speeches delivered near the Russian port of Novorossiisk called the 940-mile steel tube a symbol of international cooperation, and that it is indeed: The Russian Federation and American and Russian oil companies have provided most of the $2.6 billion cost, and Russia stands to earn $20 billion over the 40-year life of the pipeline.

But the pipeline is also:

The first step to Kazakhstan's ambitious plan to deliver 3 million barrels a day in 15 years to world markets and become one of the top three oil exporters in the world.

A mutibillion-dollar bet by Chevron Corp. in 1993 that is now set to pay off handsomely.

An example of the difficulty of doing business in Russia.

Proof that with perseverance, it can be done.

The pipeline, built by the 11-member Caspian Pipeline Consortium, known as CPC, starts on the desert shores of the northeast Caspian Sea at Tengiz, Kazakhstan, the world's sixth-largest oil field.

The longest 40-inch pipe in the world then curls around the Caspian before striking west across the broad plains north of the Caucasus range and ends at a tanker terminal 10 miles west of Novorossiisk.

When completed, at a final cost of $4 billion, it will be able to carry up to 1.3 million barrels per day (bpd), more then double its initial capacity.

PEAK A DECADE OFF

Output at the Tengiz field, now 270,000 bpd, is not expected to rise to a peak of 700,000 bpd until the end of the decade, said Tom Winterton, head of the Tengizchevroil consortium exploiting the field.

Thus, the pipe has plenty of room for oil from other fields—and there lies one of the major disputes that have delayed the opening.

When Chevron took over Tengiz from its post-Soviet managers, it created one consortium for the oil field and a second one to build a pipeline to the Black Sea.

For the first few years, Tengizchevroil, in which Chevron owns 50 percent, diligently overcame such obstacles as the extreme depth of the reservoir (2½ miles below the surface), its high content of poisonous sulfur dioxide and the high pressure at which the oil was flowing. Production steadily climbed from 25,000 bpd and the jinx that gave Tengiz the longest uncontrolled blowout in soviet history was overcome.

But in those years, the pipeline consortium got strictly nowhere in its efforts to persuade Russia and its pipeline monopoly Transneft to allow an outlet through Russia to the Black Sea.

It was not until 1996 that two newly created Russian oil giants, Lukoil and Rosneft, bought into the consortium while the Russian government took a 24 percent share. Then things started moving.

Construction took less than three years.

Transneft Director Semyon Vainshtock tried to fight a rear-guard battle, insisting that what was bad for Transneft was bad for Russia, but the pipeline consortium, headed by Russian Sergei Gnatchenko and assisted by Chevron's Fred Nelson, the consortium's deputy general director for projects, argued that Russia stood to gain from the added production in a non-zero-sum game.

That was just the beginning.

ROCKY ROAD SO FAR

"We had to go through five Russian local governments," Mr. Nelson said recently. "It wasn't always easy."

Twice, customs disputes halted the flow of the oil at the Russia-Kazakhstan border.

This year, the biggest dispute among CPC members turned ugly and public when it derailed the opening ceremony that had been scheduled for Aug. 6 with the Russian and Kazakh presidents in attendance.

Tengiz oil, until the pipeline was built, was exported entirely through Russia and mostly by rail.

Part of its highly prized light "sweet" crude (which sells for up to a dollar a barrel more than Brent, the benchmark crude oil) was mixed along the way with less desirable Russian crudes to make "Urals Blend," which trades at nearly a dollar below Brent.

"The Russians got a free ride for years," said a diplomat familiar with the situation.

But for the pipeline, Chevron insisted on instituting what is called a quality bank—a system penalizing those who would add low-quality crude to the mostly Tengiz CPC Blend.

Quality banks are used in most places in the world where low- and high-quality crude oils are blended in pipelines, but the Russian partners relented only three days before the planned inauguration date, which was to coincide with the loading of the first tanker. The ceremony already had been canceled.

Then, the port authority of Novorossiisk extended its jurisdiction to the deserted piece of coast where holding tanks are buried near the end of the pipeline. There is no port: floating hoses are used to fill tankers moored offshore.

The move allowed the port authorities to demand a hefty port tax. Negotiations caused further delays. Eventually, said oil analyst Ivan Mazalov at Troika Dialog in Moscow, "They were bargained down quite a bit."

Other delays pushed back the date of the loading of the first tanker to Oct 13.

By the time all the difficulties were ironed out, five fully loaded tankers had weighed anchor and sailed over the Black Sea to the Bosphorus Strait, across the Sea of Marmara, through the Dardanelles to the Mediterranean Sea, and on to refineries in Europe.

A sixth one was loading when the ceremony took place.

CHEVRON GAMBLED, WON

While Russia and the United States ended up represented by deputy ministers, Chevron-Texaco sent Chairman David O'Reilly and the incoming and outgoing vice chairmen of the world's fourth-largest oil company.

That was not surprising: Both the pipeline and the giant oil field it serves are Chevron's babies, multibillion-dollar gambles that finally are paying off. As the foreign biggest investment in the former Soviet Union, oil field and pipeline are testimony that with perseverance, Westerners and Russians can work together.

"CPC is a bellwether project for successful international cooperation," Mr. O'Reilly reportedly said at the ceremony. "It demonstrates the confidence the international business community has to invest in Russia and Kazakhstan."

But if Russia, Kazakhstan and world consumers can join Chevron in rejoicing at the pipeline's completion, Turkey has exhibited mostly concern.

The extra tankers carrying Tengiz oil, which eventually will number three a week, will further clog the Bosphorus Strait that bisects Istanbul and increase the chances that the city of 12 million people some day will have to cope with a major oil spill or even a fire.

But turkey is committed to upholding the 1936 Montreux Agreement and, barring a catastrophe, Caspian oil will be able to navigate the strait to reach European markets for the foreseeable future, analysts say.

UNDERPINNINGS OF ADMINISTRATIONS' BUDGET NO LONGER HOLD

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SPRATT. Mr. Speaker, President Bush claims that his administration has "brought sorely needed fiscal discipline to Washington." The same day, his budget director warns us not to expect another surplus until 2005, after the president's first term is over. If this is fiscal discipline, it has an odd bottom line.

President Bush took office with an advantage no president in recent times has enjoyed: a budget in surplus. Ten days after his inaugural, the Congressional Budget Office projected a surplus of $313 billion in fiscal 2002, and over ten years, a cumulative surplus of $5.6 trillion. More than half of that has vanished. The Director of the Office of Management and Budget, Mitchell Daniels, blames the economy, extra spending, the fight against terrorism—everything but tax cuts.

Last month, economists on the House and Senate Budget Committees updated their estimates of the economy and budget. Their analysis is as close as you can get to a consensus on where we stand now. They show that over ten years the tax cut takes a toll of $1.7 trillion on the budget and accounts for 55 percent of the depletion in the surplus. Spending related to the war on terrorism, initiated after September 11, takes another 11 percent. Other spending increases take 11 percent, and of that, the President's request for defense constitutes two-thirds. The remaining 23 percent is due to the economy.

The economy is a major factor over the next two years. But as the economy recover, its drain on the budget tapers off. The President's tax cuts get bigger.

Budget Committee estimates show a remaining surplus over ten years of $2.6 trillion, but virtually all comes from the Social Security Trust Fund, which everyone has sworn not to touch; and most of that is concentrated in future years where the outlook is very uncertain. When the President submits next year's budget in February, an updated forecast of the economy will come with it, and the $2.6 trillion surplus will surely shrink again. Mr. Daniels no doubt had that forecast in hand when he warned of the vanishing surplus.

The Budget Committee estimates were put together as part of a bipartisan search for common ground. Leaders on Budget, Finance, and Ways and Means met to settle on policies to stimulate the economy. We settled instead for a statement of principles. We agreed that stimulus was needed but that it should be short-lived, to avoid converting a cyclical downswing into a structural deficit. We wanted the budget to recover as the economy recovers. The stimulus bill reported by Ways and Means forsook these principles and proposed more permanent tax cuts, with revenue losses continuing long after the recession ends.

More than half of the surplus is gone, and the plan to save the Social Security surpluses and buy back government bonds is in grave doubt. But the administration seems to find no lesson in these results. On the same day Mr. Daniels made his gloomy prediction, the White House renewed discussions on a stimulus plan, and afterwards told the media that repeal of the corporate alternative minimum tax had to be part of any stimulus plan the President signed. In the short run, this will not help the economy; in the long run, it will not help the budget. In all events, it begs the question: How will we pay for the war on terrorism, for homeland defense, for reinsurance of terrorist damages, for victims' compensation, and for that matter, for the baby boomers' retirement?

No one is blaming the administration for the recession, but it can be faulted for ignoring the clouds and betting the budget on a blue-sky forecast. We warned that its budget had no margin for error if the projections it was based upon failed to pan out. We warned that the tax cuts left little room for other priorities, like Medicare drug coverage or the solvency of Social Security. The administration acted as if we could have it all. Now that it's clear we can't, it seems as unwilling as ever to recast its budget. This is not fiscal discipline; this fiscal denial.

If the administration wants to put the economy and the budget back on path, it has to heed the lessons of the last ten months and acknowledge that the underpinnings of its budget no longer hold.

MARSHALL UNIVERSITY MARTIN LUTHER KING DAY OF SERVICE GRANT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. RAHALL. Mr. Speaker, the Rev. Martin Luther King Jr., once declared. "A nation or civilization that continues to produce soft-minded men purchases its own spiritual death on the installment plan." Dr. King devoted his life to improving the minds—and the hearts and souls—of all Americans. That work continues today at Marshall University.

For the fourth time in five years, the Corporation of National Service has awarded Marshall the Martin Luther King Day of Service Grant. It testifies to the energy and efficacy of their efforts. Their work endows children and adults of all creeds and races with a sense of social justice and a commitment of civil rights.

Their January celebration of Dr. King's life and legacy epitomizes the purpose of this national holiday embodies his belief in public service. But just as Dr. King's teaching was not bounded by the walls of his church, Marshall's work in his spirit is not restricted to only one special day. In the upcoming year, for example, Marshall will sponsor a Youth Leadership and Development Program, an Investment in Youth Leadership Forum, and a Mentor Literacy Program, all supported by the CNS grant.

Marshall's is a program that should be honored by all who value Dr. King's message and by any who strive to transmit it to future generations.

SALUTE TO MARTIN HARDY OF GLENDALE, ARIZONA

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Ms. LEE. Mr. Speaker, I rise today to salute Martin Hardy of Glendale, Arizona, who began his career with the FAA in 1971, as an Air Traffic Controller at Sky Harbor Airport in Phoenix, Arizona.

With over 30 years of air traffic experience in the Phoenix and Los Angeles areas, Martin has served in a variety of capacities, including Air Traffic Controller (Sky Harbor & Burbank Airports); Operational Supervisor (Burbank TRACON/ Tower & Phoenix Approach Control Facility); Assistant Training Manager (Phoenix Approach Control Facility); Assistant Air Traffic Manager (Phoenix TRACON, Phoenix Tower, Phoenix TRACON and Tower); Air Traffic Manager (Tucson TRACON & Phoenix Tower); and Staff Specialist (National Headquarters—Washington, DC, and Regional Headquarters—Los Angeles, CA). He has remained in a supervisory or management role since 1984 and has been committed to providing safe air traffic service to the nation.

Throughout the past 10 years, Martin has been involved in all stages of change and progress during the tremendous growth period in the Phoenix region. He established exceptional working relationships with many airline representatives in the industry and has remained involved in the coordination of air traffic control procedures for the third runway and north runway construction projects at Sky Harbor Airport.

Martin's extensive knowledge of the Intergovernmental Agreement between the cities of Phoenix and Tempe has allowed him to work closely with the City of Phoenix and with the community in mitigating the noise concerns around Sky Harbor Airport. He has represented the FAA on the following state and local committees: City of Phoenix Sky Harbor Part 150 Study; City of Peoria Airport Master Plan Advisory Committee; State of Arizona Committee for the Preservation of Military Airports; Maricopa Association of Governments; Williams Gateway Airport Part 150 Study; and Phoenix Airspace user Workgroup (PAUWG). He has also served as a member of NBCFAE (National Black Coalition of Federal Aviation Employees).

Martin attended San Fernando Valley State College in San Fernando, CA. Throughout his career he has completed a multitude of courses at the FAA Center for Management Development, Palm Coast, Florida. He is a native of Eunice, Louisiana, he and his wife, Beverly, of 31 years, reside in Glendale, AZ. They are the proud parents of 3 children—Nicole, Nichelle and Martin II.

Martin is retiring from his current position of Assistant Air Traffic Manager at the FAA Terminal Radar Approach Control (TRACON) facility located at Sky Harbor Airport, where he has directed a staff of approximately 80 personnel, and maintained responsibility for the radar operations, procedures, automation, and administrative functions of the facility for the past 3 years.

I applaud his great achievements and hard work during his noteworthy career. FAA employees have long guarded the safety and security of our airways, and Martin Hardy has had an exemplary career in serving his country in this way. Congratulations on your retirement and best wishes as you enter a new chapter in your life.

IN RECOGNITION OF "CAMP UNITY" DISTRICT OF COLUMBIA VOLUNTEERS AT PENTAGON CRASH SITE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Ms. NORTON. Mr. Speaker, I would like to call attention to the efforts of "Camp Unity," the group of business people and other residents from the District of Columbia, who provided on-site support for relief and rescue workers at the Pentagon crash site following the terrorist attacks on September 11, 2001. Led by Advisory Board Commission 8D Chair, Robin Denise Ijames, the volunteers of Camp Unity offered a variety of services, including meals, chiropractic therapy, and haircuts to hundreds of workers who came from all over the country to assist in rescue and recovery efforts at the Pentagon.

Through September 28th, Camp Unity maintained a tent at what came to be known as "Comfort City," a collection of tents organized to aid emergency medical staff, federal law enforcement officials, police and fire officials, Red Cross volunteers, and countless others assigned to the crash site. Indeed, the District residents at Camp Unity extended great comfort to these workers, many of whom were separated from their families for many days. The services of Camp Unity volunteers proved so essential that they were officially deemed part of the D.C. Fire and Rescue team for the two weeks they spent at the Pentagon.

Mr. Speaker, the District of Columbia takes particular pride in the work of the volunteers of Camp Unity. I ask the House also to join me in recognizing the charitable and patriotic response of these District residents to the tragedy of September 11th.

IN HONOR OF THE LATE BISHOP WILLIE B. McNEIL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of a very special man of God who has recently left us, Bishop Willie B. McNeil.

After a rich and full life serving his community, his church, and his God, Bishop Willie B. McNeil passed away on December 11, 2001. He was born September 10, 1919, the second of nine children to the late John and Mary McNeil in Pritchard, Alabama. He completed his early education at the St. James Catholic School. His formal education came from the "Knee College", where he graduated from "the old man to the new man". In 1944, he met and began a courtship with Dora James. On February 18, 1945 they were married and had seven children.

Bishop McNeil was saved and received the gift of the Holy Ghost at the Old Holiness Church in Pritchard, Alabama. He later moved to New york and God found favor with him and called him to the ministry of the Apostolic Faith. He became Assistant Pastor of the Old Truth Church of the Lord Jesus Christ, in Brooklyn, NY, where the late Elder D. Freeman was Pastor.

In 1963, Bishop McNeil established his own church, The House of the Lord and Savior Jesus Christ of the Apostolic Faith. He later changed the name of that church to Holy Cross Remnant Church of Jesus of the Apostolic Faith.

For 54 years, Bishop W.B. McNeil has been and continues to be a source of wisdom and inspiration. Through his teaching and preaching about God, Bishop McNeil inspired Pastor Clarence Keaton, who loved him like a father; the Bishop became the grandfather of the True Worship Church Worldwide Ministries.

Left to cherish his memory are his loving wife, Mother Dora McNeil, and his seven children, Catherine McNeil, Frances McNeil, Willie McNeil, Jr., Anthony McNeil, Michael McNeil, Crystal McNeil, Stephen McNeil and his spiritual son, Rev. Dr. Clarence Keaton. Preceding him in death were two brothers, the late Rufus McNeil, the late Melvin McNeil, and two sisters, the late Mable Peterson and the late Catherine Richardson. He is also mourned by one of his brothers, John McNeil, and two sisters, Dorothy Pease and Mattie Reed as well as a host of grandchildren, nieces, nephews and his church family, and all the members of the Holy Cross Remnant Church of Jesus of the Apostolic Faith.

The late Bishop McNeil is one of the greatest servants that God has placed on this earth and will truly be missed. As such his family is more than worthy of receiving this recognition today and I urge my colleagues to join me in honoring the life of this truly remarkable man of God.

KAZAKHSTAN'S DICTATOR UNDERMINES U.S. INTERESTS

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. ROHRABACHER Mr. Speaker, I understand that the corrupt and repressive dictator of oil-rich Kazakhstan, Nursultan Nazarbayev, plans to visit Washington soon. He is looking for a White House Good Housekeeping Seal of Approval and a consequent dampening of the Administration's criticism of the Nazarbayev regime's deplorable human rights record. He thinks that his vague offers of assistance in the war against terrorism will tilt U.S. policy concerning such repression and corruption as is found in Kazakhstan. That would be a tragic mistake. We cannot permit the war against terrorism to be manipulated into an affirmation of the status quo in countries that are ruled by tyrants. In the long run, that would pit the United States against those struggling for honest and democratic government, which would lose whatever goodwill our country has in this world.

Nazarbayev, as with his fellow dictators in other former Soviet republics of Central Asia, assumed the title of president through sham elections. He is so repressive and corrupt that his regime will eventually collapse of its own weight. Islamic extremists—already active in the area—as well as China, will be scrambling to pick up the pieces when these gangster regimes fall apart. But we need not let that dismal scenario come to be. Now is the time to press Nazarbayev, as well as other Central Asian strongmen, to hold early free and fair elections monitored by international observers. If he needs to save face, Nazarbayev could simply confirm the many rumors that he plans to step down and retire to one of the countries where he stashed his ill-gotten financial gains.

Of course the Nazarbayev regime, like other human rights abusers, threaten more than their own people. Moscow's Centre TV on February 17, 2001, accused the Nazarbayev regime of illegally selling weapons, like advanced Russian-made S–300 air defense system and heavy tanks, to rogue regions. The United States has had many run-ins with the Nazarbayev regime over arms sales. Early last year, for example, Kazakhstan sold forty MIG fighters to North Korea. And on June 4, 1997, the Washington Times reported that the U.S. had protested plans by Kazakhstan to sell advanced air defense missiles to Iran. This pattern of weapons trafficking must stop. Clearly, this is a policy endorsed by Nazarbayev himself.

Finally, on September 14, 2001, the Swiss Federal Department of Justice made available to the U.S. Department of Justice the findings of a lengthy investigation of corruption involving President Nursultan Nazarbayev of Kazakhstan. These issues raised by this report needs to be addressed. What we have here is a regime condemned by leading human rights organizations, that has trafficked in arms with the dregs of the world, that has been ambiguous in its support of the war on terrorism, and is under investigation for corruption by both Swiss and U.S law enforcement agencies.

Maybe our message to Mr. Nazarbayev is that it is time for him to go. At the very least, he should not be allowed to leave Washington thinking that the U.S. will acquiesce to the status quo in exchange for platitudes about joining us in the war against terrorism. Kazakhstan is a country rich in natural resources. Its people should be enjoying prosperity, peace and yes, freedom. Instead, the iron grip of despotism is strangling the democratic alternative, and with it the hopes of economic progress for the country as a whole.

Let us be on the side of the people of countries like Kazakhstan. Let us use our influence with those in power in such repressed soceities to show them a graceful way of exiting power, rather than giving them, and their repressed populations, the mistaken notion that we are the friends of such corrupt and tyrannical regimes.

TRAGEDY THAT HIT AMERICA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. TRAFICANT. Mr. Speaker, the events of September 11, 2001 in New York, Washington, and Pennsylvania have struck the hearts and minds of Americans everywhere. I am especially touched by the thoughts of the young people who are the future of this great nation. Shanleigh Hart is a 6th grade student in Miss Shiver's class at Southeast School in Salem, Ohio, and she has written a poem remembering "The Tragedy That Hit America". Shanleigh's words are inspiring and should all make us proud to be Americans.

TRAGEDY THAT HIT AMERICA

A threat to America
Brave Country
Count on us
Depend on our army
Extreme explosions
Foreign countries deny
Greatly upset
Hope shines through
Interviewing all over
Just not fair
Killing
Learning to work together
Maybe there will be a war
Never will be forgotten
Obviously not expected
Prepare for war
Quietly they did it
Respectfully we work
Sad as can be
Terrifying
Unfair to us
Very disrespectful
World War three
Extremely unbelievable
Young and old
Zealous people

In memory of all the victims and their families, we are not letting this one go! We are America.

CHAMORRO FIREFIGHTER ASSISTS IN PENTAGON RESCUE OPERATIONS

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. UNDERWOOD. Mr. Speaker, as the Nation is undergoing the recovery process from the terror and destruction brought about by the September 11 attack on America, I would like to take this opportunity to share the experiences of a former resident of Guam who was called upon to assist in the rescue efforts at the Pentagon.

Born and raised on the island of Guam, Mark Anderson moved to the state of Virginia in 1999 to pursue his dream to become a firefighter. Having been employed by the Fairfax County Fire and Rescue Department for the past couple of years, Mark and his colleagues were called to respond to the Pentagon attack that fateful day. Mark assisted in fighting fires, locating survivors, and recovering bodies—working 10 grueling hours without any breaks.

The image of charred rubble and scorched equipment all over the site of the crash will remain with Mark for years to come. To describe the magnitude of the destruction, he conveyed a scene of embers, ashes and heaps of office equipment strewn all over the place. While performing his duties that day, Mark confessed to having been concerned for his own and his colleagues' safety particularly since they were informed that another hijacked plane may be heading for Washington, DC. His duty, however, dictated that he push and attend to the task at hand. This, he did without any hesitation.

Although Mark's fire company was on the site for only 1 day, they were placed on a "call back" status for several days afterward. If given the chance to do it over again, Mark says that he would have no hesitation in doing his part once more. Attention and honors have been heaped upon him and his colleagues for their performance but Mark feels that he only did what was expected and required of him. He is grateful for having been given the chance to actively take part of an effort that will forever be remembered in history.

The tragedy of September 11 has touched every aspect of American society. Although located half a world away, the people of Guam have felt the effects and have made contributions towards our Nation's efforts to recover from the effects of these attacks. Individuals such as Mark Anderson exemplify the best of our island and I am proud of his patriotism and call to duty exhibited on September 11.

Mr. Speaker, I commend Mark Anderson and his colleagues for their contributions. We realize the value of their service and commitments. By working together as these people have, we will be able to overcome any adversity that comes our way.

A SPECIAL TRIBUTE TO MR. MICHAEL ANTHONY GRANDILLO ON HIS RETIREMENT AS PRESIDENT OF THE TIFFIN CITY COUNCIL

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to recognize a great man who has dedicated much of his life to his community. At the end of the year, Mr. Michael Anthony Grandillo will retire as President of the Tiffin City Council. For the past 14 years, he has served as Councilman of the 4th Ward of the City of Tiffin in the Fifth Congressional District of Ohio.

Mike has had a long and distinguished career on the Tiffin City Council. He was appointed to the seat in 1985 and was re-elected to every four-year term since then. He served as Chairman of the Parks and Recreation Committee when the city of Tiffin experienced tremendous growth. He was also Chairman of the Law and Community Planning Committee who has oversight responsibility for economic development in Tiffin. Under his leadership, Tiffin recognized as having one of the top three municipal economic development programs in the State of Ohio.

His dedicated service to this community does not stop with the Tiffin City Council. He is currently Secretary and Director of the Friedman Village, a non-profit corporation which developed and manages an 18 acre assisted and independent living facility. He is an Executive Committee Member of the Independent College Advancement Associates of Ohio and Director of the Ohio Northern University Alumni Board. In addition to his education affiliations, he is a member of Elks International, the Knights of Columbus, Kiwanis Club of Tiffin, Ducks Unlimited of Seneca County, and the Media Institute, a National Italian-American Foundation.

Mike continues today to serve his community. In addition to his post as Vice President of Development of Tiffin University, he serves as Director of the Tiffin Area Chamber of Commerce, Director of the Seneca County Industrial Economic Development Corporation, and Chairman of the Revolving Loan Committee for Tiffin that develops the City's infrastructure to encourage business growth.

Mr. Speaker, I ask my colleagues of the 107th Congress to join me in saluting Mike for his years of service to the Tiffin community. I want to wish my friend, his wife Nancy, and their two children, Vincent and Gina, all the best in their future endeavors.

HOMESTAKE MINE CONVEYANCE ACT OF 2001

SPEECH OF

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. HANSON. Mr. Speaker, the Committees on Transportation and Infrastructure and Energy and Commerce also have a jurisdictional interest in S. 1389, and it is with the cooperation of Chairman Don Young and Chairman Bill Tauzin that the bill was considered in such an expeditiously fashion by the House of Representatives. I have letters reflecting this jurisdictional understanding between our three Committees regarding H.R. 3299, a nearly identical bill, and I ask that they be placed in the RECORD at the appropriate place during debate on S. 1389.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, December 18, 2001.

The Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN YOUNG: I am writing to request that the Committee on Transportation and Infrastructure waive its right to seek a sequential referral of H.R. 3299, a bill introduced by Mr. Thune regarding the disposition of the Homestake Gold Mine in South Dakota.

While the Committee on Resources received sole jurisdiction of this bill upon its introduction, the Committee on Transportation and Infrastructure would receive a sequential referral upon passage because of certain provisions in the text.

I acknowledge that your waiver of this right to a sequential referral does not waive the rights of the Committee on Transportation and Infrastructure in the future on similar legislation. Further, I would recognize the right of the Committee on Transportation and Infrastructure to seek conferees on any provisions of H.R. 3299, or similar legislation, that are within its jurisdiction during any House-Senate conference that may be convened. Accordingly, I would support your request for the appointment of conferees should such a conference be convened.

Thank you for your attention to this important matter.

Sincerely,

JAMES V. HANSEN,
Chairman—Committee on Resources.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, December 18, 2001.

Hon. JAMES V. HANSEN,
Chairman, Committee on Resources, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to review, on behalf of the Committee on Transportation and Infrastructure, the amendment to H.R. 3299, the "Homestake Mine Conveyance Act of 2001." that the Committee on Resources plans to bring to the floor under suspension of the rules.

The Committee on Transportation and Infrastructure has a valid claim to jurisdiction over section 104 of the amendment, as it relates to environmental reviews by the Administrator of the U.S. Environmental Protection Agency and response actions to correct conditions that may present an imminent and substantial endangerment to the public health or environment, and section 106 of the amendment, as it relates to liability under the Comprehensive Environmental Response, Compensation, and Liability Act and the Federal Water Pollution Control Act.

The Committee on Transportation and Infrastructure recognizes the importance of this legislation. In view of your desire to move H.R. 3299 to the floor in an expeditious fashion, I do not intend to seek a sequential referral of H.R. 3299. However, this should in no way be viewed as a waiver of jurisdiction. I would appreciate your acknowledgement of the jurisdiction of the Committee on Transportation and Infrastructure over sections 104 and 106 of the amendment and an acknowledgement of the Transportation and Infrastructure Committee's right to seek conferees in the event that this legislation is considered in a House-Senate conference.

I look forward to working with you on this bill.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, December 18, 2001.

The Hon. JAMES V. HANSEN,
Chairman, Committee on Resources, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN HANSEN: I am writing with regard to H.R. 3299, the Homestake Mine Conveyance Act of 2001.

I recognize your desire to bring this bill before the House in an expeditious manner. Accordingly, I will not exercise the Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 3299. In addition, the Energy and commerce Committee reserves its authority to seek conferees on the provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this or similar legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 3299 or similar legislation.

I request that you include this letter and your response in the CONGRESSIONAL RECORD during debate on the bill. Thank you for your attention to these matters.

Sincerely,

W.J. "BILLY" TAUZIN,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, December 19, 2001.

The Hon. W.J. "BILLY" TAUZIN,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 3299, the Homestake Mine Conveyance Act of 2001. I agree that the Committee on Energy and Commerce and the Committee has a jurisdictional interest in H.R. 3299, and that by not seeking a sequential referral of the bill, you do not compromise your jurisdictional claim. I will also support your request to be named as a conferee on this bill or the similar Senate bill should one become necessary.

As you know, yesterday the House of Representatives passed S. 1389, the Senate companion measure to H.R. 3299, with an amendment under suspension of the rules. S. 1389 had been held at the desk and thus was not referred to any House committee. However, the two bills are very similar. To clarify the committee jurisdiction over this matter, I will place your letter and my response in the CONGRESSIONAL RECORD under the extension of remark authority granted during consideration of S. 1389.

Thank you again for your cooperation on this issue. I am sure that Congressman John Thune, the author of H.R. 3299, is also very grateful.

Sincerely,

JAMES V. HANSEN,
Chairman.

HONORING COACH JOHN THOMPSON AND THE JOHN THOMPSON FOUNDATION CLASSIC

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Ms. NORTON. Mr. Speaker, I rise today to acknowledge the John Thompson Foundation Challenge Basketball Classic on Thursday, December 20, 2001, at the MCI Center in Washington, DC In noting this significant occasion, I am particularly pleased to honor the outstanding contributions of Coach John Thompson, my colleague at Georgetown University, where I continue as a tenured professor of law, and I ask this House to honor Mr. Thompson as well today. John Thompson is a lifelong resident of Washington, DC, a nationally recognized and much honored coach and teacher, and the founder of the John Thompson Foundation. I would especially like to express my deepest appreciation for his leadership in providing scholarships to African American youth living in the District of Columbia to pursue higher education.

Mr. Thompson has made many important contributions to lives of inner city youth residing in the nation's capital. Since the beginning of his career, John Thompson has used athletics to teach and promote the importance of discipline and education to young people who underachieve. This country needs many more sports heroes and teachers to follow John Thompson's extraordinary example.

If our youth are to survive in this globally and technologically advanced society, it will require organizations and individuals to provide an array of educational opportunities that prepare them for success. Coach Thompson has proved his commitment to young people for many years. We particularly applaud Coach Thompson and the John Thompson Foundation for their emphasis on the educational success of inner city youth. The Basketball Classic serves as an inspiration for those interested in expanding educational opportunities for the District's African American youth.

Mr. Speaker, I ask the House to join me in saluting Coach John Thompson, the John Thompson Foundation, and all those associated with the John Thompson Foundation, whose dedicated and creative energy make a significant impact on the progress and the lives of African American youth.

49TH ANNUAL ANDERSEN AIR FORCE BASE CHRISTMAS DROP IN MICRONESIA

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. UNDERWOOD. Mr. Speaker, 49 years ago in 1952, over the tiny island of Kapingamarangi in Micronesia, the crew of an Air Force WB–50 aircraft assigned to the 54th Weather Reconnaissance Squadron in Guam quickly gathered a box of goodies they had on the plane upon seeing a number of islanders waving at them. Thus began the five-decade-old tradition.

For years, the residents of Kapingamarangi, Nukuoro and other remote islands have been receiving a variety of gifts such as machetes, hoes, snorkels, coloring books, soccer balls and toiletries—items they probably would not have been able to obtain otherwise due to their remote location in the Pacific. This year, four C–130 Hercules aircraft from the 36th Airlift Squadron based out of Yokota Air Base in Japan dropped 60 boxes of holiday gift items on the 54 islands and atolls in the Micronesia area. The operation lasted six days and entailed cargo planes descending upon sparsely populated islands and atolls. In addition to the goodwill spread among these communities, the aircrew involved also benefit from the opportunity of having their navigation and flight skills tested as they search out unfamiliar drop zones on remote and isolated island locations.

This year's organizers had a bit of difficulty in raising the necessary funding for this project due to Guam's current economic situation. However, the community has somehow managed to get together and, in the true spirit of this season of sharing, allow for another successful year. For the past several months the Christmas Drop committee has raised funds through several events. Three scuba diving boat trips, a 5k run/walk, a golf tournament along with T-shirt and commemorative coin sales generated a substantial part of the funds used for this year's operation. Despite a recent drop in tourism arrivals on Guam, donations steadily flowed from island residents and the local business communities. Also worth mentioning is the effort initiated by Jacob Jansen as part of his community service project in his effort to attain the rank of Eagle Scout. Through Jacob's efforts, a canned food drive was held at Andersen Air Force Base's middle and elementary schools as well as at Guam High School.

During these times of uncertainty and hardship, it is very gratifying to see that worthwhile projects such as the annual Christmas drop remains alive. This is a testament to our capacity to unite as a community and as a nation in the face of adversity. There is no better way to demonstrate our compassion and generosity than worthwhile projects such as this. I take this occasion to commend all those who participated and contributed towards the success of this year's Christmas drop. Let us keep this tradition going for many more years to come.

TERRORIST ATTACK ON INDIAN PARLIAMENT CONDEMNED—ATTACK IS INEVITABLE CONSEQUENCE OF REPRESSION IN INDIA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. TOWNS. Mr. Speaker, I join with my colleagues and all decent people of the world in condemning the terrorist attack on the Indian Parliament. I extend my sympathies to the victims and their families. Terrorism is never acceptable. We are currently at war against terrorism, as we should be.

However, India is a country that has practiced terrorism against the peoples living within its borders. It has a pattern of terrorism. Remember that two government officials there were quoted last year as saying that Pakistan should be absorbed into India. It is clear that India seeks hegemony over all the peoples and nations of South Asia.

In May, Indian troops were overwhelmed by villagers, both Sikhs and Muslims, while they were trying to set fire to a Sikh Gurdwara and some Sikh houses in Kashmir. Independent investigations by the International Human Rights Organization and jointly by the Punjab Human Rights Organization and the Movement Against State Repression have conclusively shown that the Indian government carried out the massacre of 35 Sikhs in Chithisinghpora in March 2000 while former President Clinton was visiting India. Its police broke up a Christian religious festival with gunfire. According to the excellent book Soft Target, written by two respected Toronto reporters, the Indian government blew up its own airliner in 1985, killing 329 innocent people. According to a report in the Hitavada newspaper, India paid the late Governor of Punjab, Surendra Nath, $1.5 billion to create terrorism in Punjab, Khalistan and in Kashmir.

We must work to stop terrorism wherever it occurs. India's terrorism is no exception. We should stop our aid to India until it stops its repression of the Christians, Sikhs, Muslims, and other minorities, and we should declare our public support for self-determination for all the people of South Asia in the form of a free and fair plebiscite on the question of independence.

A report published this past May by the Movement Against State Repression showed that the Indian government admitted that 52,268 Sikh political prisoners are rotting in Indian jails without charge or trial. Many have been in illegal custody since 1984. The Indian government has murdered over 250,000 Sikhs since 1984, according to the Politics of Genocide by Inderjit Singh Jaijee. Over 75,000 Kashmiri Muslims and over 200,000 Christians have been killed.

Mr. Speaker, the Council of Khalistan has published an excellent press release on this attack. I would like to share it with my colleagues by inserting it into the RECORD now.

[From the Council of Khalistan, Dec. 14, 2001]

COUNCIL OF KHALISTAN CONDEMNS ALL TERRORISM—TERRORIST ATTACK ON INDIAN PARLIAMENT IS A PRODUCT OF INDIAN REPRESSION

(By Guru Gobind Singh Ji, Tenth Master)

India Must End Its Repression Instead of Blaming Pakistan—Newspaper Says Indian Government Knew of Attack in Advance

WASHINGTON, DC—The Council of Khalistan today condemned the terrorist attack on the Indian Parliament, but called on the Indian government to join the fight against terrorism worldwide and to end its own terrorism against minorities.

"We condemn terrorism in all forms, wherever it comes from," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, the government pro tempore of Khalistan, the Sikh homeland, which declared its independence from India on October 7, 1987. "We strongly condemn this terrorist action and we condemn the Indian government's terrorism that gave rise to this act," he said. "When you repress people long enough, they strike back. India's repression of minorities made this incident inevitable."

The Deccan Chronicle reported today that the Indian government knew of the attack in advance and did nothing to stop it. This shows government involvement in the incident, yet the Indian government has blamed Pakistan for the attacks. India will use this incident as an excuse for more repression of the minorities, such as the Sikhs of Khalistan, the Muslims of Kashmir, the Christians of Nagaland, and others.

"India must stop blaming Pakistan for everything that goes wrong in India and end its own terrorism against the Sikhs, Christians, Muslims, and other minorities," said Dr. Aulakh. "It is time for India to release more than 52,000 Sikh political prisoners and the tens of thousands of other political prisoners and end its repression," Dr. Aulakh said. The book "Soft Target," written by two Canadian journalists, proves that the Indian government blew up its own airliner in 1985 to generate more repression against Sikhs. In November 1994, the newspaper Hitavada reported that the government paid the late governor of Punjab, Surendra Nath, $1.5 billion to generate terrorist activity in Punjab and Kashmir.

"I salute Pakistani President Musharraf for risking his political life by supporting America and the world in its fight against terrorism. It is time for India to get on board," Dr. Aulakh said. "I call on India to join the fight against terrorism and I call on the Sikh leadership in Punjab to stop making coalitions with the Indian government and work for freedom for the Sikhs and the other minority nations of South Asia," he said. "There is a very good reason that there are 17 freedom movements within India's current borders."

The Indian government has murdered over 250,000 Sikhs since 1984. According to a report in May by the Movement Against State Repression, India admitted that 52,268 Sikh political prisoners are rotting in Indian jails without charge or trial. Many have been in illegal custody since 1984. Over 200,000 Christians have been killed since 1947 and over 75,000 Kashmiri Muslims have been killed since 1988. The Indian Supreme Court described the situation in Punjab as "worse than a genocide." In May, Indian troops were caught red-handed trying to set fire to a Gurdwara (a Sikh temple) and some Sikh houses in Kashmir. Two independent investigations have proven that the Indian government carried out the March 2000 massacre of 35 Sikhs in Chithisinghpora. U.S. Congressman Dana Rohrabacher has said that for Sikhs, Kashmiri Muslims, and other minorities "India might as well be Nazi Germany."

India has also repressed Christians. Two leaders of the ruling BJP said that everyone who lives in India must either be a Hindu or be subservient to Hinduism. Priests have been murdered, nuns have been raped, churches have been burned, Christian schools and prayer halls have been destroyed, and no one has been punished for these acts. Militant Hindu fundamentalists allied with the RSS, the pro-Fascist parent organization of the ruling BJP, burned missionary Graham Staines and his two young sons to death. In 1997, police broke up a Christian religious festival with gunfire.

"Nations that do not have political power vanish," Dr. Aulakh said. "Sikhs are a separate nation and ruled Punjab up to 1849 when the British annexed Punjab. The nations and people of South Asia must have self-determination now."

CONGRATULATING BURLINGTON CITY HIGH SCHOOL ON ITS GRAMMY AWARD

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to honor and congratulate the students and faculty of the Burlington City High School Music Department in Burlington City, New Jersey for their recognition by the national GRAMMY Foundation as a GRAMMY Signature School.

Burlington City is now one of 100 high schools from across the country to receive a certificate of recognition based on its high level of commitment to music education. The GRAMMY Signature School Program honors high school music students, teachers, principals, and school districts that promote and preserve music education—both performing and studying music—as a key part of their curriculum.

The importance of music education in the overall educational experience of students is becoming clearer every day. In fact, several studies have shown a quantifiable value of the arts in improving overall academic performance. According to the College Entrance Examination Board, students of the arts continue to outperform their non-arts peers on the Scholastic Assessment Test (SAT). In 1995, for example, SAT scores for students who studied the arts for four or more years were 59 points higher on the verbal, and 44 points higher on the math portion of the exam, than students with no course work on experience in the arts.

Moreover, most teachers know that music appreciation and performance can often provide a critical mechanism to engage, and stimulate interest in, other school activities. Students who otherwise would have dropped out of school, and put their long term economic futures at risk; have been re-engaged through music and the arts.

The GRAMMY Signature School Program is developed through the GRAMMY Foundation, a non-profit arm of the Recording Academy that is dedicated to advancing music and arts-based education across the country. Through educational, cultural and professional initiatives, the Foundation aims to strengthen our educational system.

What makes Burlington City's accomplishments so special is the knowledge that it successfully competed against 18,000 public high schools nationwide. In the end, Burlington City's program was chosen by an independent screening committee comprised of university music professors, and representatives from professional music organizations to receive the Signature School Award for their exceptional job of cultivating their arts program.

Mr. Speaker, I commend the faculty and students in the music department for their commitment to furthering music education. I would like to thank the school and the local school board for their hard work and dedication to providing an outstanding music educational program that superbly serves the students of Burlington City.

PERSONAL EXPLANATION

HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BOOZMAN. Mr. Speaker, yesterday, December 18, 2001, I was unavoidably delayed on my return to Washington, DC because of a security breach at Charlotte Douglas Airport, where I was scheduled to transfer flights, and a security delay at Reagan National Airport.

For this reason, I missed votes on the final passage of H.R. 3334, the "Richard J. Guadagno Headquarters and Visitors Center Designation Act" and H.R. 3054, "A bill to award congressional gold medals on behalf of government workers who responded to the attacks on the World Trade Center and perished and on behalf of people aboard United Airlines Flight 93 who helped resist the hijackers and caused the plane to crash."

Had I been present, I would have voted in the affirmative for both of these bills.

WALTER H. MALONEY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to the late Walter H. Maloney, known to his friends as Mike. Mike represented the First District on the Prince George's County Council at the time of his death and he was a leading figure in County politics for four decades. He was legendary for his political independence, perseverance and his remarkable commitment to public service.

Mike was born in Kansas City, Missouri in 1930 and came to Washington, DC in 1937 when his father was recruited to work in the Roosevelt Administration. Mike's mother taught music at the Sidwell Friends School in Washington, DC where Mike also attended school. Mike went on to graduate from Georgetown University and its law school. He also received a LLM degree from the University of Michigan Law School before joining the U.S. Army. Mike was commissioned as a first lieutenant and served in the Judge Advocate General's Corps in La Rochelle, France.

After serving in the Army, Mike embarked upon his impressive career as assistant counsel to the United States Senate Subcommittee on Constitutional Rights chaired by Senator Sam Ervin. He then moved on to the National Labor Relations Board as a trial attorney in the Baltimore regional office, and was appointed a Federal administrative law judge at the NLRB in 1973. Mike worked at the NLRB until his retirement in 1994. He also taught labor law on the adjunct faculty of the University of Maryland University College from 1956 to 1971.

Mike prided himself on fighting for the little guy and his work at NLRB is proof of that dedication. As an administrative law judge, he won national acclaim from the nation's editorial pages and from Congresswoman Bella Abzug on the Floor of this House for his decision in the landmark Farrah slacks case in which he detailed the mistreatment of factory workers in a Texas textile shop.

Mike and his wife, Cecelia, moved to Prince George's County in 1958. He quickly immersed himself in civic activism and was elected a delegate to the statewide Democratic convention in 1962. He also began forty years of involvement in County public affairs by joining efforts to adopt a home rule charter for the County and reform zoning practices.

In 1968, Mike was elected to the Charter Board, which was created by the voters to draft a proposed home rule charter for Prince George's County. Mike chaired the five member board and is widely regarded as the author of the County's modern form of government.

Mike's efforts helped bring about a sweeping reform of the County's government. The County Commissioner system was abolished and replaced by an elected County Executive and council with home rule powers. Prince George's County had previously been run by the Maryland General Assembly in Annapolis.

Mike's reform efforts did not stop with the adoption of the new Charter. He led the way in the election of a bipartisan slate in 1971 and was appointed as the first County Attorney under the new Charter.

Mike helped guide the new County government during his time as Attorney General until he resigned to become a Federal administrative law judge. The incisive and hard-hitting nature of his legal opinions as Attorney General earned him the nickname "Iron Mike."

Mike's demanding career at NLRB did not prevent him from being active in local affairs or from working extensively on local bond and zoning issues over the years. In 1994, following his retirement from the Federal Government, Mike ran a successful grassroots campaign for the Prince George's County Council. He was re-elected in 1998.

As a member of the Council, Mike continued to assert his political independence and to use his sharp mind to challenge land use and spending policies, and fight for the best interests of the community. At the time of his death, Mike was ineligible to run for the Council again thanks to term limits that he helped put in place.

Mike was a devout Catholic and had a deep interest in Catholic history. He authored a profile of 58 historic catholic churches east of the Mississippi titled "Our Catholic Roots." He also received many accolades throughout his long career in public service for his dedication to his local community and the environment.

Mike is survived by his wife of 46 years, Cecelia Fitzpatrick, and six children, Timothy F. Maloney, Eileen Maloney Flynn, Kathy Maloney Gawne, Patrick J. Maloney, John M. Maloney, and Ann Marie Maloney, and twelve grandchildren. One of his greatest prides was his loving family and all of their many achievements. Mike was known to boast about them all and was happiest when surrounded by his many children and grandchildren.

Mike Maloney will be sorely missed not only by those who knew him but also by the residents of Prince George's County whom certainly benefited from his dedication to his community and to the "little guy." I ask my colleagues to join me in honoring this dedicated public servant who leaves behind a loving family and many admirers who will miss him greatly.

COMMENDING THE WORK OF DEBORAH NOVAK AND JOHN WITEK FOR THEIR DOCUMENTARY "BLENKO RETRO: THREE DESIGNERS OF AMERICAN GLASS"

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. RAHALL. Mr. Speaker, as our country began the long process of recovering from the Great Depression and World War II, people sought comfort and change in a variety of places and mediums. Consumers turned their attention to products that were both energetic and new, and Blenko Glass in Milton, West Virginia was one of the American companies able to adjust to this new consumerism with their award-winning pieces and unique designs.

I would like to congratulate Huntington, West Virginia residents Deborah Novak and John Witek who have once again created an insightful and provocative documentary that chronicles three of Blenko's most famous and celebrated designers in the era of post-war modernism. Titled “Blenko Retro: Three Designers of American Glass,” it is the second of its kind by the Emmy-Award winners to highlight the significance of Blenko as the industry leader in modernity in American glass.

Often said to be reflective of events that were occurring at that time, Blenko Glass was able to offer a new attitude to Americans, bringing the sleek and bold creations into their homes that were parallel to the thirst for modernity and change that swept the nation at the end of the World War II. Novak and Witek highlight the role of this American institution, emphasizing the important and permanent position that Blenko Glass and its designers hold in creative history.

TRIBUTE TO THE LIFE, LEGACY, AND MUSIC OF RUFUS THOMAS

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. FORD. Mr. Speaker, I rise today in remembrance of one of music's greatest icons, Rufus Thomas, who passed away in Memphis, TN, on December 15, 2001, at the age of 84. As his family and friends mourn his passing, it is appropriate that we pay tribute to him and his legacy.

Rufus Thomas was known as one of Memphis' most colorful, influential, and beloved entertainers during a career that spanned more than seventy years. As a pioneering disc jockey at WDIA, an accomplished recording artist, and a prolific performer throughout his long career, Mr. Thomas made invaluable contributions to Memphis' storied musical heritage.

Rufus Thomas became widely known for songs such as “Walking the Dog,” “Do the Funky Chicken,” “Can Your Monkey Do the Dog?,” “Push and Pull,” “Breakdown” and “Do the Funky Penguin.” But Mr. Thomas's musical contributions went far beyond commercial success. A true musical pioneer, he opened the door for many young musicians and helped catapult African American music into the limelight as a cornerstone of popular culture and entertainment. Mr. Thomas helped found two historic recording studios, Stax Records and Sun Records, that helped launch the careers of many musical legends, including B. B. King, Otis Redding, Isaac Hayes, and Elvis Presley.

In recognition of his great contributions, Rufus Thomas was honored by the Rock and Roll Hall of Fame in 1998, one of many accolades he received throughout his career. His songs have remained popular since their release and have been re-recorded by groups such as Aerosmith and the Rolling Stones. He was featured as a performer at the 1996 Olympic Games in Atlanta.

Yet, even with all of his successes, Rufus Thomas remained an integral part of the community—always accessible and willing to perform for his many devoted fans. Until he became ill in November of this year, he never spoke of retiring and referred to himself as the “World's Oldest Teenager.” He explained, “I ain't old. You don't get old when you're doing what you love and enjoying every minute of it.”

Rufus Thomas made a life of doing what he loved and for that he was loved by all who knew him. A true symbol of undying youth and optimism, Mr. Thomas will be remembered for the kind heart and boundless energy that he displayed in all aspects of his life, and for the mark he left on musical history.

Mr. Speaker, it is with profound reverence that we honor Rufus Thomas. He will be missed and remembered fondly by his family and friends, an entire community, and musicians and music lovers everywhere.

TRIBUTE TO THE CARNEY-NADEAU WOLVES, MICHIGAN HIGH SCHOOL CLASS D GIRLS BASKETBALL CHAMPIONS

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to the girls' basketball team of Carney-Nadeau High School, a Class D school in the Upper Peninsula of Michigan in my congressional district. With only 86 students, Carney-Nadeau is one of the smallest schools in its division, but the Carney-Nadeau Wolves proved once again on December 1 that it only takes a big heart, not a big school, to win a state division championship. I say “once again,” Mr. Speaker, because the Wolves won State titles under their same coach, Paul Polfus, in 1989 and 1990.

A team championship can be analyzed in numbers, and any sports fan will plenty of exciting statistics associated with this gusty team, such as their season record of 26–1 and their coach's 410–115 career record. In the 54–32 championship game against McBain Northern Michigan Christian, starter Tara Benson, a senior, led the Wolves with 16 points and snagged six rebounds and six steals, while her sister Carly, a freshman, went seven of eight in her shooting. Starter Brittany Pipkorn hit four 3-pointers.

Peel away those numbers, however, and you will find enough stories of real people to make a movie equal to any classic “underdog” story. You will learn that Coach Paul Polfus, who has worked at Carney-Nadeau for 26 years, was once a basketball player at this same school, coached by the current superintendent Ron Solberg. Inducted into the U.P. Sports Hall of Fame in 1996, Paul celebrates his third girls' championship with his wife Colleen and their sons Jacob, Michael and Matt.

In our own version of “Rocky,” look behind the numbers to find 5-foot, 1-inch starter Tracy Hernandez, who vowed after the team's loss in the finals last year that the team would win the title this year. Tracy kept her vow by reporting to the gym every morning at 5:30 to lift weights and work toward that goal.

The story of this championship season is also revealed in the story of the Benson sisters, daughters of Nancy (Janofski) Pugh, a member of the first All-U.P. girls team picked in 1975, and Ed Benson, All-U.P. in 1971 and 1972. Tara credits both parents for their help in shaping her game, but perhaps her greatest accomplishment is a personal one—Tara returned to top-form play this year after sitting out the 2000 season recovering from ACL surgery.

The sacrifice and the hurdles met and overcome by each player are part of the story, as well as the home community itself, Carney. This is a community that has faced great economic adversity, Mr. Speaker, but, like the rest of the Upper Peninsula, hope and optimism are characteristics of its people. And the school proving that education and sports go hand in hand, was honored this week in the Michigan Golden Apple Awards program as one of the state's most improved schools in performance on Michigan Educational Assessment Program tests.

In light of the great challenges facing this team, the championship run of the Carney-Nadeau Wolves caught the attention and fueled the enthusiasm of sports writers in the nearby large communities of Menominee and Escanaba. Tom Kaeser, assistant sports editor for the Menominee, Mich.-Marinette, Wis. EagleHerald, has followed Carney-Nadeau for a decade. He described the 2001 Class D champs as “a team that came together, loved each other and worked hard together for its bright, shining moment.” Dennis Grall, Escanaba Daily Press sports editor, summed up the team's season in a Dec. 3 story. “For 11 months the Carney-Nadeau Wolves lived under unbelievably immense expectations and pressure,” “Dennis wrote. He was on hand—and described the celebration—when the state champs returned home at the head of a two-mile-long motorcade and were given a police escort and a fireworks display along the final leg of their trip from Escanaba to Carney.

Mr. Speaker, basketball is a team sport, and, as such, every member of the team deserves credit for her contribution during this championship season. I am pleased to share with you the full roster of the 2001 Michigan Class D girls basketball state champion Carney-Nadeau Wolves: Tara and Carly Benson, Cindy Charlier, Rachael Folcik, Trisha Hernandez, Rachel Kuntze, Leslie Linder, Emily Marsicek, Jenna Mellen, Trisha Otradovec, Brittany Pipkorn, Cassandra Relken, Shawn Retaskie, Erin Schetter, and Roseann Schetter.

I ask you, Mr. Speaker, to join me and our House colleagues in recognizing the skill, determination, hard work, optimism, hope, love, and teamwork of the Carney-Nadeau Wolves, Michigan Class D basketball champions.

NEWSPAPER SAYS INDIAN GOVERNMENT KNEW OF PARLIAMENT ATTACK

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BURTON of Indiana. Mr. Speaker, the recent attack on India's Parliament by terrorists must be condemned. While there are many legitimate grievances against the Indian government, terrorism is never acceptable. Nevertheless, the Deccan Chronicle, an Indian newspaper, reported something very interesting about the recent attack. It reported that the Indian government knew about the attack in advance and did nothing. Thirteen people, including the terrorists, lost their lives as a result of the attack.

Mr. Speaker, India has a history of supporting terrorism and making it look like the work of others in order to condemn people who oppose the actions of the Indian government and to justify their own attacks on these targets. According to Soft Target, published in 1989 by two Canadian journalists, the Indian government blew up its own airliner in 1985, killing 329 innocent people, including some Americans, to create the impression of "Sikh terrorism" and enhance its repression of the Sikhs. In November 1994, the Hitavada newspaper reported that the Indian government paid Surendra Nath, who was then the governor of Punjab, the equivalent of $1.5 billion to generate and support terrorist activity in Kashmir and Punjab, Khalistan.

While I appreciate recent words of support from the Indian Government regarding America's war against terrorism, it is important that we do not forget some recent actions by the very same government. For example, in May 1999, the Indian Express reported that the Indian Defense Minister convened a meeting with the Ambassadors from Cuba, Communist China, Russia, Serbia, Libya, and Iraq—the latter two known terrorist nations and potential targets in the ongoing effort to eradicate terror—to set up a security alliance "to stop the U.S.".

It is also important to re-examine India's own human rights record in a number of areas. It has been reported that India represses its Christian minority. Specifically, it has been reported that nuns have been raped, priests have been murdered, and a missionary and his two sons were burned to death. The media reports that numerous churches have been burned. A few years ago, police gunfire closed a Christian religious festival. In addition, the pro-Fascist RSS, the parent organization of the ruling party, published a booklet detailing how to bring false criminal complaints against Christians and other minorities. Press reports indicate that Prime Minister Vajpayee promised a New York audience that he would "always be" remain a member this organization.

Since 1984, certain human rights organizations have reported that the Indian government has murdered over 250,000 Sikhs. Since 1947, over 200,000 Christians have been killed, and since 1988, over 75,000 Kashmiri Muslims have been killed. In addition, tens of thousands of other minorities, such as Dalit "untouchables," Tamils, Assamese, Manipuris, and others have been killed.

A May report issued by the Movement Against State Repression cited the Indian government's admission that 52,268 Sikh political prisoners are rotting in Indian jails without charge or trial. It further claims that many have been in illegal custody since 1984. Tens of thousands of other minorities are also being held as political prisoners in the country that proudly proclaims itself "the world's largest democracy."

Also in May, Indian troops set fire to Gurdwara (a Sikh temple) and some Sikh homes in a village in Kashmir. Two independent investigations have shown that the Indian government carried out the massacre of 35 Sikhs in Chithisinghpora. These incidents are just the tip of the iceberg of Indian terror against its minorities and its neighbors.

Again, while I am grateful for recent words of support from the Indian Government regarding America's war against terrorists, the U.S. Government and the American public should not forget about these recent acts of repression. Democracies are not supposed to behave this way. If we are going to fight terrorism, then we must be consistent. There are actions we can take that will help influence India to end its reign of terror in South Asia. We must end our aid to India until they demonstrate a better regard on human rights. The hard-earned dollars of the American people should not be going to support countries that practice terrorism. We should also show our support for freedom rather than terrorism by supporting a free and fair plebiscite on the question of independence in Khalistan, Kashmir, Nagalim, and all the nations of South Asia that seek freedom from repressive occupation. Let us strike a blow for freedom, not terrorism.

Mr. Speaker, I would like to place the Deccan Chronicle article into the RECORD.

[From the Deccan Chronicle, Dec. 14, 2001]

DELHI KNEW BUT ADVANI SLEPT

NEW DELHI, Dec. 13. Union Home Minister L K Advani had full intelligence information of a terrorist attack on Parliament.

Despite this, no measures were taken to tighten security in and around the Parliament House with the five terrorists driving in past two security parameters manner by the Delhi police and the CRPF, unchallenged.

In his first reaction to the terrorist attack, Advani claimed, "There has been no breach of security." He said there was "no intelligence lapse". He said on television that there could be no protection against fidayeen attacks maintaining that they even "had the temerity to attack Pentagon." The Home Minister said it was not possible to provide fool-proof security cover in a democracy "where everything was open." The Union Home Ministry has been flooded with intelligence information about a possible attack on Parliament by terrorists. The other two targets were identified as Rashtrapati Bhavan and the Prime Minister's residence.

Intelligence reports have also suggested the use of women suicide squads. These have also spoken of terrorists using State vehicles to launch the attack, similar to the modus operandi of the terrorist groups in Kashmir for over a decade now.

Despite this, the security agencies were not alerted. The terrorists used a white ambassador car with a red light, the symbol of government officialdom.

They were dressed Black Cat commandos, and were detected only after they got out of the car and displayed their weapons in full public view. Advani, who had been full of praise for the Delhi police, did not explain how the two security rings manned by the police outside Parliament were penetrated with such ease.

In fact defence minister George Fernandes stepped out of line by admitting before the cameras that the government had full information about a possible terrorist attack on Parliament.

He said, "We had intelligence information of this, we knew that the fidayeen could attack Parliament." Even so, the home minister claimed there had been no intelligence lapse while briefing reporters after the meeting of the Cabinet committee on security.

Najma Heptullah, who was in her room in Parliament when it was attacked, said, "The Home Minister knew of the Al Qaeda threat, he should have increased the security in Parliament."

She said she had herself asked for measures to be taken to beef up Parliament security. "There are all these people roaming around all over the building" but nothing had been done.

Interestingly Advani himself spoke of a threat to Parliament at a Border Security Force function a few days ago. Officials point out that despite the security threat little was done to take stock of the entire situation and work out a comprehensive strategy to deal with it.

"It was all in the realm of talk, we have always known that the terrorists have been using and would use the cover of the government-like vehicles and uniforms to penetrate our security layers, but obviously we were unable to get this across to our people," a senior official said.

"THE MOMENT" BY BEN STROK

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BARR of Georgia. Mr. Speaker, a 20 year-old student at Hunter College in Manhattan, Ben Strok wrote this poem reflecting on the September 11th terrorist attacks. It was recently read at one of my town hall meetings in Holly Springs, Georgia, by my constituent, Becky Babcock. As we enter this holiday season, let us remember how invaluable life is and make the most of each and every moment.

THE MOMENT

(By Ben Strok)

The smoke rises,
and the ashes fall
on someone you know.
Someone you have not recently told
how dear they are to you.
Your last chance,
may have been a minute ago.
Your last chance,
might be one minute from now.
One precious minute,
one precious moment.
What does that moment mean to you?
I'll tell you what it means to me.
That moment,
this moment,
right now,
is all that matters.
What good is the moment
if it is not lived for?
What is life,
if it is not being relished
for all that it is?
It is not life,
it is a wasted moment
you will never recapture.
It is an emotion,
you will never again
have the opportunity to express.
It is a person
you will never again

be able to see,
and hold,
and tell them
how much you love them.
It is time,
made up of endless moments,
the only differentiating factor being
how you lived
from one to the next.

IMMIGRANTS AND THE NATIONAL INSECURITY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. RANGEL. Mr. Speaker, I rise today to bring the Congress's attention to a recent article in the Carib News entitled "Immigrants and the National Insecurity" by Dr. Basil Wilson. His opinion editorial cogently details our Nation's current struggle with ensuring our personal security while continuing to uphold the founding principles of this country. The article highlights some of our past reactions to times of strife and their dramatic impact on our immigrant community. Most notably, the passage of the 1996 Anti-Terrorist Act and the 1996 Immigration and Responsibilities Act, spurred in part by the World Trade Center attack in 1993 and the Oklahoma City federal building bombing in 1995, have conveyed the anti-immigrant sentiment in the United States and have sought to reduce the rights and benefits available to immigrants.

Since 1996, many of us have worked to undo the damage done to this community. But our overreaction to September 11th's attack stand to prevent us from advancing our efforts. As Americans we pride ourselves in our historical knowledge in looking at the past and learning from our successes and failures. Immediately following the attacks we strove to respond in an unconventional manner, both here and abroad. Yet, just four months later, we sit by and allow the Attorney General to indefinitely detain aliens, the use of military tribunals to try those suspected of terrorism, and interviews by law enforcement agencies based on ethnic and religious identities. The echoes of Japanese internment camps and McCarthyism are ringing in the halls of Congress and I know I am not the only one who hears them.

Dr. Wilson cautions, "in a global society, there is a danger that America will project to the world that it only values the life of its own citizens. The constitution and life will be preserved for Americans but different standards will be used to measure those who are not citizens of Rome."

More critically than the projection to the world, we will tell our fellow countrymen and teach our children that the immigrant life should be valued less than the citizen's life that the immigrants who have been the building blocks of our pluralistic society generation after generation should stay at the bottom. Dr. Wilson warns that this treatment is a "slippery slope that can readily lead to the dehumanization of others." More than "can lead", it does lead, perpetuating an environment of inequality.

If we sacrifice the constitutional liberties that we are asking our armed services to defend, then I ask what are we fighting for? Each time we give up one of our precious freedoms, we open the door to surrender more.

It does not matter if we give up these rights for our citizens versus our immigrants because one day these immigrants will be citizens. They will not forget that from the inception they were told they were less then the people their children will attend school with.

Our enemy is not the immigrant. Do we honestly believe that if we harshly punish the immigrant community we are now secure, that we are now safe?

By condoning a society that devalues the immigrants' contributions and vital role in our community, we degrade ourselves and our history and we condone the inequity that is present in the United States and in the world. If there is one history lesson we should all remember it is our treatment of the most vulnerable of our citizens that defines our national character. We are only as strong as our weakest link and if we truly want a country where all are equal and prosper, we must empower each part of it to succeed.

IMMIGRANTS AND THE NATIONAL INSECURITY

[Carib News, Week Ending Dec. 11, 2001]

(By Dr. Basil Wilson)

The planning and executing of the bombing of the Pentagon in Washington, D.C., and the implosion of the twin towers led us to believe that the United States was confronted with a formidable foe. The henchmen of Osama bin Láden had demonstrated their zealotry in 1993 in the initial attempt to take down the symbol of world capitalism. They struck again in Saudi Arabia, in Yemen, in Tanzania and Kenya before the devastating blow on the mainland of the United States.

Al Qaeda had managed to pull together jihad warriors from Muslim countries in Bosnia, Algeria, Egypt and Pakistan. This fierce band of warriors with the capacity to kill civilians along with the Taliban in Afghanistan have manifested to the world an incapacity to fight against the United States military. The Al Qaeda and Taliban warriors have shown an inability to wage modern warfare.

That prompts the question, what is left of the Al Qaeda international network? As bin Laden forces disintegrate in Afghanistan, does Al Qaeda remain a formidable terrorist network capable of threatening American national security? The extra-constitutional measures that Attorney General Ashcroft claims that is necessary to save American lives is based on the assumption that the remnants of bin Laden are still capable of additional savagery.

The 1993 attack on the World Trade Center and the destruction of the Federal building in Oklahoma in 1995, prompted the Clinton Administration and Congress to pass the 1996 Anti-Terrorist Act. That Act and the Immigration and Responsibilities Act reduced measurably the rights of permanent residents and foreigners living in the United States. Even the Acts passed since September 11, 2001 respects the constitutional rights of citizens but run roughshod over those who are domiciled in the United States and are not citizens. The Patriot Act is similar to the Walter/McCarran Act passed in 1952. Then the fear was communist organizations and the law allowed the Immigration and Naturalization Service to bar those who sought to enter the United States who were members of communist or organizations sympathetic to communism.

With the Patriot Act, the attempt is to interdict or deport non-citizens who are members of a terrorist organization or who seek to raise or to give funds to any terrorist organization. The Attorney General does not need to bring the defendants to trial and the non-citizen can be immediately deported.

The Attorney General has now assumed powers to indefinitely detain aliens. This amounts to a suspension of habeas corpus and the Attorney General now has the power to supersede the rights of INS judges to release a detainee providing that detainee is suspected to be linked to terrorist activity. No evidence has to be presented in court. Such powers exercised by the state are troubling to constitutional scholars. The rationale given is national security but there are no checks or balances to ensure that the rights of the defendants are duly protected.

Officials at the Justice Department are insisting that the investigation must cast an extensive net. Thus far the Attorney General has indicated after prodding from Congress that 93 persons have been charged with minor visa or criminal violations unconnected to events of September 11, 2001. The files of 11 have been sealed and 22 Middle Eastern men who were engaged in obtaining licenses to transport hazardous materials across state lines, all but one, have been released. Approximately 548 are in custody, mostly comprised of Middle Eastern males.

To extend the dragnet, the Justice Department is asking state and city policy to cooperate with them to interview 5,000 Middle Eastern men between the ages of 18 and 33 who entered the United States from January 2000. They are not necessarily suspected of any crime but the Justice Department wants to conduct voluntary interviews with the expectation it might produce leads to determine the state of the Al Qaeda network in the United States.

This amounts to a vulgar form of racial profiling. Racial profiling as it was aimed at African Americans on the New Jersey Turnpike or the unconstitutional search and seizures conducted in Black and Latino neighborhoods in New York City are examples of the might of state power being used against the powerless to maximize domestic security. Events of September 11, 2001 necessitate additional vigilance on the part of law enforcement but it is dangerous to pass legislation oblivious to the rights of non-citizens since such legislation jeopardizes the rights of all American citizens.

President Bush announced on November 13, in his capacity as Commander-in-Chief of the Armed Forces that the government would reserve the right of trying foreigners during the course of the war in military tribunals. Military tribunals were used during the American Civil War and in World War II. Military tribunals do not require the preponderance of evidence necessary for conviction in a civilian court or in military courts used for court martial cases. Conviction in the Military Tribunal would not require the same rules of evidence and a two-thirds vote of the commissioners could lead to a conviction even in the case of a death penalty.

As the New York Times editorial on Sunday, December 2, 2001 stated, it is very difficult to criticize a President when the nation is at war but the editorial board felt compelled to speak out against the extensive extra-judicial powers assumed by the Bush administration. A conservative columnist like William Safire, who writes for the New York Times has condemned the Military Tribunals as kangaroo courts. Safire is mindful of the spectacle of a bin Laden trial and the security risks that would entail and suggests rather dispassionately that the United States should ensure that Osama bin Laden is bombed to smithereens.

A liberal columnist like Thomas Freedman equivocates. He recognizes the danger of the extra-constitutional decrees but his position is that the nation is up against an enemy with no love for life and cannot carry out business as usual.

In a global society, there is a danger that America will project to the world that it only values the life of its own citizens. The constitution and life will be preserved for Americans but different standards will be used to measure those who are not citizens of Rome. It is a slippery slope that can readily lead to the dehumanization of others.

Treasuring the ëweí and not the ëtheý is inextricably linked to the present human condition. That is the troubling issue in the Middle East. It is that thought process that led to the bombings in Jerusalem. Saturday night that resulted in the death of 25 Israelis and over 250 wounded. It is that same mentality that has led to the unending grieving of the 3,000 lives lost in the World Trade Center.

Some emergency measures are sorely necessary in light of the holocaust of September 11, 2001. But one of the stranges phenomenon of the latter twentieth and the beginning of the twenty-first century is the increasing insecurity of human life and the proposed solutions to enhance safety which seem to augment the quasi-incarcerated nature of our lives. It has prompted the expansion of the penal state with millions in prison and hundreds of thousands leaving prison to be reintegrated into an economy that is jettisoning those who are presently employed.

The military reserve now provides additional security on our streets. Airport security has been federalized and new legislation has been passed by Congress to counter terrorism. The Attorney General is convinced that expanded powers will make us more secure. This should be seen as a temporary holding action. We fought a war in yesteryear to make the world safe for democracy. We need to explore a new politics and to construct a new global system to make the world safe for Christians, Jews, Muslims and non-believers.

DUTY SUSPENSIONS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. GILMAN. Mr. Speaker, today I am introducing three bills H.R. 3526, H.R. 3527, and H.R. 3528, which would suspend duty on three chemicals imported into the United States.

These chemicals are used in the manufacture of corrosion inhibitors that protect metal coatings, as well as solvent-based coatings for a variety of industrial and consumer products. I understand these products are also "environmentally friendly" because they use organic molecules, instead of heavy metals, to prevent corrosion.

I have been advised that these chemicals are not domestically produced. Thus, enactment of this legislation would allow businesses in this country to reduce their costs and thereby make U.S. industries more competitive in world trade markets.

Copies of these bills are set out below.

H.R. 3526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY SUSPENSION OF DUTY ON (2-BENZOTHAZOLYTHIO) BUTANEDIOIC ACID.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by striking heading 9902.32.31 and inserting the following new heading:

"	9902.32.31	(2-Benzothiazolythio) butanedioic acid (CAS No. 95154-01-1) (provided for in subheading 2934.20.40).	Free	No change	No change	On or before 12/31/2004	".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

H.R. 3527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY SUSPENSION OF DUTY ON 60-70% AMINE SALT OF 2-BENZOTHIAZOLYTHIO SUCCINIC ACID IN SOLVENT.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.38.35	60-70% amine salt of 2-benzothiazolythio succinic acid in solvent (provided for in subheading 3824.90.28).	Free	No change	No change	On or before 12/31/2004	".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

H.R. 3528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY SUSPENSION OF DUTY ON 4-METHYL-g-OXO-BENZENE BUTANOIC ACID COMPOUNDED WITH 4-ETHYLMORPHOLINE (2:1).

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by striking heading 9902.38.26 and inserting the following:

"	9902.38.26	4-Methyl-g-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1) (CAS No. 171054-89-0) (provided for in subheading 3824.90.28).	Free	No change	No change	On or before 12/31/2004	".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

21ST CENTURY MONTGOMERY GI BILL ENHANCEMENT ACT AMENDMENTS

SPEECH OF

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Ms. MCKINNEY. Mr. Speaker, I rise in strong support of H.R. 1291, the Veterans' Benefit Act of 2001. This bill contains numerous provisions that will help our nation's veterans obtain greater educational opportunities, it increases the resources available to assist veterans with finding housing, and most importantly, the bill corrects and expands legislation to provide compensation and benefits to veterans who are disabled. I commend the chairman of the Veterans' Affairs Committee, Mr. SMITH from New Jersey, and the ranking member, Mr. EVANS for their hard work in bringing this bill to the floor.

One provision in this that I am personally proud of is section 201, which removes the 30-year time limit for the presumption of service connection of respiratory cancers for Vietnam War veterans. This provision is adapted from H.R. 1587, the Agent Orange Respiratory Cancer Act of 2001, which I introduced and which was cosponsored by 47 of my colleagues.

Agent Orange has rained havoc on the lives of thousands of Vietnam veterans, causing cancer, diabetes, and birth defects. Thankfully, for most veterans suffering from their exposure to this herbicide, benefits were made available. Unfortunately, a seemingly arbitrary 30-year time limit was placed on the presumption of service connection for respiratory cancers—among the most deadly types of cancer. Those veterans who suffered from respiratory cancers that appeared 30 years after their service were denied service connection, and thus benefits and assistance for these diseases. In effect, the U.S. government told them that they were on their own.

In a recent study, the Institute of Medicine stated that there was no evidence that a time limit could be placed on the presumption of service connection, and this bill rightly makes that correction to past law. No longer will veterans who suffer respiratory cancers have to worry about their government forgetting about their service and neglecting their needs. Rare is it that common sense prevails in Congress to help those in greatest need, but I believe that this provision, and this bill, achieve such status. I thank the Veterans Committee Chairman and Ranking Member for their dedicated attention to the plight and troubles of America's veterans, for including the Agent Orange provision in the Veterans Benefits Act of 2001, and for passing this important piece of legislation.

CONFERENCE REPORT ON H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

SPEECH OF

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 2001

Mr. HOLT. Mr. Speaker, I rise today to address my colleagues regarding H.R. 1, No Child Left Behind.

Although we passed this important legislation last week, I must express my reservations about certain language included in the conference report:

> The conferees recognize that a quality science education should prepare students to distinguish the data and testable theories of science from the religious or philosophical claims that are made in the name of science. Where topics are taught that may generate controversy (such as biological evolution), the curriculum should help students to understand the full range of scientific views that exist, why such topics may generate controversy, and how scientific discoveries can profoundly affect society.

Outside of the scientific community, the word "theory" is used to refer to a speculation or guess that is based on limited information or knowledge. Among scientists, however, a theory is not a speculation or guess, but a logical explanation of a collection of experimental data. Thus, the theory of evolution is not controversial among scientists. It is an experimentally tested theory that is accepted by an overwhelming majority of scientists, both in the life sciences and the physical sciences.

The implication in this language that there are other scientific alternatives to evolution represents a veiled attempt to introduce creationism—and, thus, religion—into our schools. Why else would the language be included at all? In fact, this objectionable language was written by proponents of an idea known as "intelligent design." This concept, which could also be called "stealth creationism", suggests that the only plausible explanation for complex life forms is design by an intelligent agent. This concept is religion masquerading as science. Scientific concepts can be tested; intelligent design can never be tested. This is not science, and it should not be taught in our public schools.

Mr. Speaker, I am a religious person. I take my religion seriously and feel it deeply. My point here is not to attack or diminish religion in any way. My point is to make clear that religion is not science and science is not religion. The language is this bill can result in diminishing both science and religion.

FIFTIETH ANNIVERSARY OF THE GUAM WOMEN'S CLUB

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. UNDERWOOD. Mr. Speaker, in February 1952, a group of women set out to establish a non-profit organization designed to help improve the general education, health and welfare of the people of Guam. For the past five decades the Guam Women's Club, working on its own and with the support of other civic and service organizations, have made great contributions towards the betterment of the island of Guam. The club was taken under the wing of the Federation of Asian Women's Association (FAWA) in 1958. Due mainly to the Guam Women's Club's affiliation, this international organization has since held four conferences on Guam.

Education is one of the Guam Women's Club's paramount concerns. The club has awarded high school, college, and university scholarships since its inception. Since 1991, three full time scholarships have been put in place—awarded annually to deserving students of the University of Guam. To acknowledge the value of the teaching profession and to honor the island's teachers in both public and private schools, the club has held numerous gatherings which came to be known as "Teachers Teas."

The club has also been very active in beautification and facility improvement campaigns. A GWC project in 1954 initiated the establishment of the Guam Museum. GWC was instrumental in the construction of facilities such as the public pool in Hagåtña. The construction of the Padre Palomo Park, for which the club received national recognition, the Lalahita Park overlooking the village on Umatac, and the beautification of San Ramon Hill were made possible through their efforts. The post office petition project they initiated culminated to the opening of a post office in Dededo, the island's most populous village.

Through both individual and group efforts, GWC members have been directly involved with community and civic undertakings. In 1963, the club received national recognition from the General Federation of Women's Clubs for their islandwide clean-up campaign. The GWC Hospital Committee donates an average 150 hours of volunteer work at the Guam Memorial hospital. GWC made significant contributions towards the transition of Guam Youth, Inc. to the Guam Recreation Commission—another project that gained them national recognition.

GWC additionally actively participates and contributes toward several local civic programs and institutions. From support organizations and facilities such as the Alee Shelter, Erica's House, Child Care Co-op, the Guam Lytico and Bodig Association, St. Domicic's Nursing facility and Rainbows for all Children to national organizations such as Crime Stoppers, the Salvation Army, the Guam Chapter of the American Red Cross, and the American Cancer Society's Guam Unit, the range of GWC's efforts and interest seems boundless. GWC is a great contributor to holiday projects such as Sugar Plum Tree and the annual Air Force Christmas Drop to sparsely populated outlying islands. A benefactor of the Guam Symphony Society, GWC is also a major contributor to the local public broadcasting stations KPRG and KGTF.

As the Guam Women's Club—the island's oldest women's club—celebrates its fiftieth anniversary, I would like to take this opportunity to recognize the organization and its members. For 50 years, GWC has made substantial contributions toward the transformation of Guam and its people. I am confident that the island of Guam will continue to reap the benefits of GWC's endeavors for many more years to come.

HOME OWNERSHIP EXPANSION AND OPPORTUNITIES

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. HINOJOSA. Mr. Speaker, I rise today to express concerns over the introduction of H.R. 3206, the Home Ownership Expansion and Opportunities Act of 2001. The legislation would allow Ginnie Mae to alter its current role from guaranteeing federally backed mortgage securities to guaranteeing federal and conventional mortgage securities. In short, this legislation transforms this entity into a full functioning Government Sponsored Enterprise.

While I am not necessarily opposed to the creation of an additional Government Sponsored Enterprise, I am opposed to the creation of an entity that draws from Federal capital and is not subject to government guidelines and goals geared toward increasing home ownership and improving the American economy.

This legislation would allow Ginnie Mae to operate with equal flexibility and larger security than current Government Sponsored Enterprises in the housing mortgage market, including Fannie Mae and Freddie Mac. However, it would not require that Ginnie Mae meet the housing goals established by the U.S. Department of Housing and Urban Development. These goals are designed to ensure that every American can and one day will be able to achieve the dream of home ownership.

Therefore, it is unclear how this legislation would help consumers or expand homeownership opportunities for minorities, low- to moderate-income families, and other traditionally underserved markets. The legislation that expands the role and scope of Ginnie Mae does not make them subject to mandatory affordable housing goals, borrower income caps, or limit their business to first time buyers. These ideals have made organizations like Fannie Mae and Freddie Mac an attractive and worthy government sponsored enterprise and prompted them to create new ways to expand the number of first-time borrowers or break down barriers to homeownership.

What this legislation does is make this government entity function like a private corporation, allowing Ginnie Mae to guarantee loans not just to people who need the extra help, but also to those who can and should be using the private market. Under these rules, I see no need to provide federal support for an organization that will perform a function in the housing market that can be executed by a private banking organization.

Mr. Speaker, our nation's housing finance system is the model of the world. We should be concentrating our resources, time and effort in closing the gap of homeownership rates between minority families and the larger homeownership rate. We have the tools necessary to improve ownership numbers; let's use what we have to successfully meet our laudable goals.

RESIST A BILL WITH TAX CUTS THAT WOULD DRAIN THE SURPLUS

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SPRATT. Mr. Speaker, a year ago, economists surveyed the future and saw nothing but surpluses: $5.6 trillion over the next ten years. Today, the ten-year surplus is at $2.6 trillion and falling, and virtually all that's left comes from Social Security. When the President submits next year's budget, an updated economic forecast will come with it, and the surplus will officially shrink again.

the Director of the Office of Management and Budget, Mitchell Daniels, blames the economy, extra spending, the fight against terrorism—everything but tax cuts. All of these have an impact, but over ten years, the Bush tax cuts take a toll of $1.7 trillion on the budget, and account for 55% of the depletion in the surplus—and this is just the toll of tax cuts already passed. Marking time is a little-noticed agenda of highly probable, politically compelling tax cuts that could wipe out much of the remaining surplus.

At the top of this agenda, awaiting a fix, is the alternative minimum tax (AMT). Last year only 1.5 million individual taxpayers had to deal with the AMT, but due to inflation, rising incomes, and an unindexed exemption, the AMT will become a household acronym to millions of middle-income Americans.

Before enactment of the Bush tax cuts, the number of individual taxpayers affected by the AMT was expected to mushroom to 17.5 million by 2010. The Bush tax act created new tax benefits without corresponding adjustments to the AMT, at least not after 2004. As a result, the number of taxpayers affected by the AMT will double by 2010, grow to 35.5 million—or to one in every three individual taxpayers. When these folks find that tax benefits are extended in one part of the code only to be retracted in another, they will protest bitterly, and in time Congress is certain to fix the AMT so that it does not come down on middle-income taxpayers. The cost of confining the AMT to its ambit before the Bush tax cuts would be about $268 billion over 2003–12. But this would leave more than 17 million taxpayers facing the AMT. If taxable income exempt from the AMT were indexed at last year's level, those affected in 2010 could be limited to about 8 million, but at a heavy cost, a further revenue loss of $241 billion.

Just as probable as some fix to the AMT is the renewal of tax benefits set to expire. The tax code is full of short-lived benefits. CBO and OMB do not try to divine what Congress will do when these deductions and credits reach the end of their legislated lives. They simply assume that expiring provisions will not be renewed. But these are popular tax benefits, and they are almost always renewed. The revenues forgone by renewing the most prominent tax benefits from 2003 through 2012 would be about $174 billion.

This, however, omits the largest expiring provision. In an effort to shoehorn as many tax cuts as possible into a package limited to $1.35 trillion, congressional Republicans put a "sunset" in their tax bill, terminating all of the cuts by the end of 2010. They obviously do not intend for the sun to set on their tax cuts. They stuck in a "repealer" to diminish the apparent size of the tax bill, knowing that Congress will be hard-pressed to repeal tax cuts already in place. In time, the "repealer" itself will probably be repealed. If so, the revenue loss will be $373 billion over 2003–2012.

When each of these actions is taken into account, an additional $1 trillion in revenue losses has to be deducted from the budget between 2003 and 2012, along with an additional $143 billion in debt service. The impact on the budget, all told, comes to $1.2 trillion.

This dashes any hope that the nation can repay its publicly held debt before the baby boomers retire. It also puts the "stimulus package" in context. Disdaining the vanishing surplus and the agenda of tax cuts to come, Republicans on the Ways and Means Committee brought forth a stimulus package full of tax cuts with doubtful effects on the economy, but with a clear impact on the surplus, reducing it by $250 billion over the next ten years. If this bill became law, it would push the overall price of the pending tax-cut agenda to almost $3.5 trillion and wipe out what remains of the surplus.

The projection of ten-year surpluses soaring toward $6 trillion left in its wake a sense of euphoria, a feeling that we could have it all. It's clear now that we can't, but in the meantime, out-sized tax cuts have overridden other priorities, like prescription drug coverage under Medicare. If we want to put the economy and the budget back on path, there is an axiom worth recalling from the days of intractable deficits: When you find yourself in a hole, the first rule is to quit digging. That's why we should resist a bill with tax cuts that would drain the surplus without stimulating the economy.

PERSONAL EXPLANATION

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. MCINTYRE. Mr. Speaker, on rollcall Nos. 499 and 500, I was absent since I was unavoidably detained because of a security breach at the Charlotte Douglas Airport, which caused me to be unexpectedly re-routed through another airport on a later flight.

This occurred on Tuesday, December 18, 2001. Had I been present, I would have voted "yea."

COMMENDING THE CANTON JUNIOR/SENIOR HIGH SCHOOL'S SEPTEMBER 11 REMEMBRANCE PROGRAM

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to honor the students and faculty at Canton Junior/Senior High School in Connecticut's Sixth Congressional District for their beautifully touching remembrance program held in honor of the victims of the September 11th terrorist attacks.

The students took the initiative to plan and run the entire program, in which stories, poems and songs were shared, honoring those who so unexpectedly and tragically lost their lives. They also created a chain of 6,000 circles, which was looped around the auditorium, to provide a dramatic reminder of the number of people who were thought to have died on that terrible day. The chain captured both the enormity of the tragedy and the value of each individual life. But ever optimistic, the chain, as one student eloquently said, was a reminder that after the attacks, "the great chain of America—the chain that links every single citizen of our country—strengthened ten thousand fold."

That vital and heartfelt presentation captured the spirit of America's journey as we watched the unfolding events in horror and disbelief and then as we grieved with great sorrow at the lives and dreams shattered by evil. Despite the anger and hatred that has touched all our hearts, these students demonstrated the power of love for others. It is that power that will make our free and caring country able to defeat the hatred of those whose poverty made them easy prey for the preachers of death and destruction.

I commend the students of Canton Junior/Senior High for expressing in words and actions the thoughts and feelings of Americans everywhere.

MEMORIAL SERVICE

(Patriotic Paper by Lauren Schwartzman)

September 11th. Do you feel what I feel when you hear that date? Can you feel the death in that date? The tears cried by three hundred million eyes for six thousand people. People whose lives were so brutally, so cruelly cut short that day. We are crying for those dreams shattered and lost, dreams of life that will never be fulfilled.

Can you feel the hatred in that date? The awful, black hate these terrorists must feel toward us to have done such unbelievable things.

Can you feel the shock in that date? The shock of a fact we have ignored for so long. That fact that maybe we are taking the safety of America for granted. That maybe taking it for granted has left it not so safe anymore. The shock that made every American's heart skip several beats, the shock that branded a look of sadness on our faces. Traces of that helpless look still linger, and it will be a long, long time before they completely fade away.

Can you feel the anger in that date? The acid fire that was lit in our hearts the moment we knew the names of those inhuman people who attacked our country. The same fire that kindles our attacks on these terrorists now. This fire will also take a long time to turn to cold ashes. But can you also feel that other little bit I feel in that date? Can you feel in that date the great chain of America, the chain that links every single citizen of our country, strengthen ten thousand fold? Can you feel that? Through all of the death and tears and hate and shock, can you feel that bit of unity and hope shining through? That light that embodies America better than any two buildings ever could. An untouchable flame that cannot be doused by hate or death or any mere person! For I look at America as a candle. Some people call it the fabric, or the foundation, but I call it the candle. A candle built by the courage of Americans, expanded by the courage of Americans, protected by the courage of Americans, made free by the courage of Americans, and now we must do whatever it takes to protect that freedom. We must keep the flame that was lit so long ago burning bright and true. For if we keep on pouring our heart and soul into our songs, prayers, and actions, then there is nothing and no one that can ever douse the flame.

AS ONE WHOLE

(By Robin Engelke, Grade 8, Canton Junior High School)

As one whole,
we share one soul.

We all pray and hope,
As a nation we cope.

Tragedies don't always bring bad.
Look back to the one's we've already had.

"Always for the best." I say
All I can think about is that day.

The one where the towers fell,
That day felt as if we went to hell.

As one whole,
the tragedy was a form of defeat,
but not for America we hadn't been beat.

As everyone fumbled to find a loved one
In New York City there was no sun.

No sun to shine or gleam or burn,
Those fires did burn, but who did this to us will take their turn.

As one whole;
we share one soul

REFLECTION

(By Louise Eich)

September 11th, 2001 was a day when the clock stood still. Loved ones ran to each other, crying, embracing as the ground shook from the buildings crumbling. Firefighters and police officers showed braveness needed in a war, to fight and die for other's happiness. The black scorched their helmets, made their throats dry and itchy, but they marched on.

Everything stopped at that moment again, as they watched the second tower fall. Silence struck the air, and the first scream and siren pierced through the stillness.

The country went through a breakdown, a cry for help as everything turned to chaos. Planes were brought down, schools canceled, as the city of New York shut down.

But America stayed strong. We stepped right back up. New York has been opened up again, our flags wave high, and we promised to fight the evil that possessed the planes to crash on us.

We will stand strong, America. We will rebuild a nation of togetherness, and we will come out victorious. They can destroy our towers, but they can never destroy the foundations of our hearts.

IN TRIBUTE TO CLARENE LINCOLN ROBERTSON

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Ms. PELOSI. Mr. Speaker, many of us in the U.S. House of Representatives have had our lives enriched and our spirits strengthened through the work of Rev. Doug Tanner, President of the Faith & Politics Institute. His teacher and mentor, Clarene Lincoln Robertson taught American History to Doug at Rutherfordton-Spindale Central High School in North Carolina in 1962–1963. Doug Tanner was one of the students whose life and vocation she profoundly influenced. I rise today to pay tribute to Clarene Lincoln Robertson who will be 100 years old on January 11, 2002.

Clarene Lincoln and her twin brother were born in the Shenandoah Valley of Virginia, near the town of Tenth Legion on January 11, 1902. Clarene rode horseback to elementary school and went by sleigh in the winter. When she entered high school, she went to live during the week in Harrisonburg, Virginia, and came home on the weekends. She graduated from Elon College in North Carolina in 1925.

After teaching at Huntington Girls' College in Montgomery, Alabama, she went to Duke University for a Master's Degree and met W.B. Robertson. Their summer romance has lasted 65 years. They married in 1936 and moved to Rutherfordton, North Carolina, where Clarene began her 30-year teaching career at Central High School. She initially taught both English and American History, but she moved to history only when one of her students said, "Oh, Mrs. Robertson, you learned me all the English I ever knowed.'"

Mrs. Robertson gave birth to her only natural child, daughter Mary Ella in January 1938. Arthur, her stepson from Mr. Robertson's previous marriage, died at age 65. Clarene and "Robby" have five grandchildren and eight great grandchildren. Only a year or so ago, they moved from Rutherfordton to Blanco, Texas, where they live with Mary Ella and her husband David.

Clarene Robertson taught high school American History like a college course. Some students opted to take the required course in summer school to avoid the rigor of her class. Others—some willingly, some reluctantly—submitted to her demanding academic standards. Those students often completed the course with both a deeper knowledge of and appreciation for our Nation's history and an eagerness to follow current events and engage in civic and political life.

Doug Tanner graduated from high school in 1964, having taken her history class in 1962–1963. Both he and Mrs. Robertson recall that Doug entered the class reflecting and embracing the strong racial prejudice typical of white Southerners at the time. Clarene Robertson was not about to let him continue to carry that attitude without her having challenged it as thoroughly and effectively as she possibly could.

The civil rights movement was nearing its height in the spring of 1963, and current events were a regular part of the curriculum. In addition, Mrs. Robertson required Doug to read John Howard Griffin's "Black Like Me" and, in spite of resistance, assigned him to a select group of students to make a presentation on African-American history to the rest of the class. Although several other students readily volunteered for the project, Mrs. Robertson assigned some of them to other topics. She insisted that Doug be among those who would learn and wrestle with all the issues of race in America. Mrs. Robertson also served as advisor to the student government, and worked closely with Doug in his capacity as junior class president.

The following summer, when the civil rights movement touched Doug's heart more directly through experiences in his southeastern Methodist Youth Fellowship, his mind was prepared to embrace the monumental change that racial desegregation was bringing throughout the South. It was in that notable historical context that Doug received his calling into a ministry combining faith, racial justice, and politics.

Today, Clarene Robertson's influence on Doug has helped him to lead the Institute's Congressional Conversations on Race program and its Congressional Civil Rights Pilgrimages to Alabama. We are indebted to Mrs. Robertson for being such an exceptional teacher and mentor. It is with great pleasure and appreciation that we wish her a very happy 100th birthday on January 11, 2002.

TRIBUTE TO ROBERT LAWRENCE COUGHLIN, JR.

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SENSENBRENNER. Mr. Speaker, it is with sadness that I note the death of a former colleague and a great Pennsylvanian, Mr. Robert Lawrence Coughlin, Jr., who passed away last month.

Larry grew up on his father's farm near Scranton, Pennsylvania. But he was no farmhand. Making the most of his opportunities, Larry graduated from the Hotchkiss School in Connecticut in 1946, he received an Economics degree from Yale in 1950, a Masters degree in Business Administration from Harvard, and a law degree from Temple University's law school in 1958. While at Temple, Larry attended classes at night, and was a foreman on a steel assembly line during the day.

This "steely" resolve served him well throughout his career. As a Marine, Larry fought in the Korean War, and was aide-decamp to Lt. General Lewis B. "Chesty" Puller. When he was elected to Congress, he was Chairman of the Capitol Hill Marines, which represented Members who had been in the Marine Corps.

Larry was first elected to the U.S. House of Representatives in 1968. He came from a family that had some experience in the field of public service as his uncle, Clarence Coughlin, was a former Republican Representative. Representing a wealthy suburb of Philadelphia from 1969 to 1993, Larry was so popular personally and politically, that he was almost always easily elected. It wasn't until after he retired that Democrats were able to field significant competitors for that seat.

A tall and authoritative man, Larry always had a way with people. With his military background and penchant for bow ties, Larry came across—rightfully so—as a gentleman and a scholar. While he briefly served on the House Judiciary Committee, he spent most of his career on the Appropriations Committee. Although I never had the opportunity to directly work with him on the Judiciary Committee, I did work with him on several issues. The nation last a good legislator when Larry resigned, and on November 30, the world lost a good man.

It is with a heavy heart that I say good-bye to Larry. My wife Cheryl and I would like to express our condolences to his wife Susan, and the entire family, in this time of sorrow and sadness. They will be in our prayers.

HONORING R. LAWRENCE COUGHLIN, JR.

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. COYNE. Mr. Speaker, I rise today to join in this special order honoring our former colleague, R. Lawrence Coughlin. I want to thank Mr. GEKAS for organizing this special order.

Larry Coughlin represented a suburban Philadelphia district in the House of Representatives for 24 years. He was a gracious gentleman who represented his constituents with integrity and wisdom.

Mr. Coughlin had a remarkable background. Raised on a farm in Pennsylvania, he earned a degree in economics from Yale and an MBA from Harvard. He subsequently attended night school at Temple University to get his law degree while working during the day as a foreman in a steel plant. His academic accomplishments speak to his energy and ability.

Mr. Coughlin was also a dedicated public servant. He served in the Marines in Korea during the Korean War as a aide-de-camp to legendary Marine Lt. General Lewis B. "Chesty" Puller. He served ably in the Pennsylvania House of Representatives and Senate before running for—and winning—a seat in Congress in 1968.

During his 12 terms in Congress, Representative Coughlin served on the House Judiciary Committee, the House Appropriations Committee, and the House Select Committee on Narcotics Abuse and Control. He was particularly active in working to increase federal housing and transportation assistance to our nation's cities. Mr. Coughlin understood that even affluent suburbs like the ones he represented depend upon central cities for their continued economic well-being. Our nation is healthier and more prosperous as a result of his service in Congress.

Larry Coughlin was always a quiet, upbeat, courteous man. It was an honor and a pleasure to serve in the House of Representatives with him. I join my colleagues in mourning his passing.

HONORING RACHEL WALSHE FOR RECEIVING A RHODES SCHOLARSHIP

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. LANGEVIN. Mr. Speaker, I rise to pay tribute to Rachel Walshe, who hails from my hometown of Warwick, Rhode Island, and is the first woman from a New England public university to receive a Rhodes Scholarship.

Rachel was selected for the prestigious Rhodes Scholarship from among 925 applicants from across the nation for her leadership potential, academic achievement, and personal integrity. Throughout her 23 years, Rachel has consistently demonstrated all of these characteristics. Graduating last year from the University of Rhode Island with highest honors, she focused on the philosophy of religions, a major she crafted to explore her interest in understanding human motivation. While a student at the University of Rhode Island, she fought to affect public policy, founding the URI Chapter of the Campaign to End the Death Penalty, volunteering with America Reads and mentoring children in Head Start. In her spare time she mastered equestrian arts and Tai Kwan Do kickboxing.

At Oxford, Rachel will study English and theater history, and when she returns she hopes to direct theatrical performances. Already, Rachel has shared her talent with Perishable Theater in Providence where she works full-time.

I know my colleagues understand the high honor that the Rhodes Scholarship bestows. It signals tremendous achievement and even greater promise. On behalf of the entire Second Congressional District of Rhode Island, I want to express our pride in Rachel's success. Her example is inspiring and her future is overflowing with possibility. I just hope she comes home once in awhile to remind all Rhode Islanders that the smallest of states can produce the biggest of successes.

BEST PHARMACEUTICALS FOR CHILDREN ACT

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of S. 1789, the Best Pharmaceuticals for Children Act. As Chair of the Congressional Children's Caucus, the welfare of children has always been a top priority for me. The bill before us today is reauthorizing legislation designed to ensure that more medicines are tested for children and that useful prescribing and dosing information appears on labels.

Under a 1997 law, pharmaceutical companies that test drugs on children at the request of the FDA are given an extra six months of exclusive marketing rights. This law was aimed at encouraging drug companies to test their products on children so that a pediatrician would be able to prescribe appropriate doses for children. As a result of this law, we have seen more drugs for children on the market that have a label telling how they can be used, and even more basic information for pediatricians.

The difficulty of prescribing medicine for children results from various factors: a child's weight and metabolism, the quick metamorphosis of a child's body, and a child's inaccurate information about how medicines are affecting them.

A recent six-week study done in Boston found that over that time, 616 prescriptions written for children contained errors. Of those, 26 actually harmed children. Of the errors that were caught before the medication was administered, 18 could have been fatal. Medication errors in hospitals occur three times more often with children than with adults. This bill can help prevent such mistakes by prescribing adequate testing and proper labeling.

Mr. Speaker, S. 1789 also requires that the General Accounting Office (GAO) study the inclusion of children of ethnic and racial minorities in drug studies. Ethnic and racial minorities make up a substantial percentage of our population, yet many studies do not reflect the multi-cultural and multi-racial fabric of our society.

Mr. Speaker, S. 1789, which reflects a consensus of the sponsors of both the earlier House and Senate passed bills, is a good bill. It is a necessary bill—necessary to protect the welfare of our nation's children.

TRIBUTE TO HABITAT FOR HUMANITY IN SPRINGFIELD, MISSOURI

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BLUNT. Mr. Speaker, I rise today to pay tribute to a group in Southwest Missouri that intends to turn a careless act of pollution into hope for families. Part of the American dream is buying a home for your family. Home ownership in America is at record levels. Two of three families owns or is buying their primary residence. But for many families that dream is beyond reach.

Working with Habitat for Humanity, the House of Representatives has supported in word and deed a commitment to home ownership for low-income families. Members of this body have assisted in raising funds and working on homes that are "dreams come true" for many disadvantaged families. In Southwest Missouri I have assisted in putting up the walls on four homes in what has become an annual event that my staff and I look forward to. Habitat for Humanity is a charity that has been instrumental in helping thousands of families find permanent and affordable shelter. Home ownership contributes to building strong families. It inspires a family's desire to improve and protect it's personal stake in the community as well as promotes civic participation and involvement.

More importantly today, I am pleased to announce that Habitat for Humanity of Springfield, Missouri has received a grant from the

Corporation for National Community Service specifically to fund a service event on the Martin Luther King Jr. holiday this coming year. The $7,500 grant will be used to fund the organization's kick-off of their new program "Aluminum Cans Build Habitat Houses." On Martin Luther King Jr. Day 2002, hundreds of youth will be working throughout my district picking up and recycling aluminum cans. The money raised from collecting the cans will be used to build Habitat houses and also to provide a scholarship for a high school student in our district.

I commend my local chapter for its continued involvement in Southwest Missouri and its proactive efforts to engage young people in public service. Those of us who have been privileged enough to help on Habitat projects have seen the unity that this organization can bring to our communities. Few things are more inspiring than witnessing people from vastly different backgrounds and ethnic heritages working together to help a family achieve their dream.

It is fitting that this grant, given in honor of Martin Luther King Jr., be used for a project that unifies. I can think of no better way to honor the legacy of a man who sought to sweep away the barriers that kept all Americans from pursuing the American dream.

REMEMBERING MARSHA HANLEY

HON. BRIAN D. KERNS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. KERNS. Mr. Speaker, today I rise to recognize a great Hoosier, a great American—Marsha Hanley. Marsha wore many hats during her lifetime—wife, mother, grandmother, volunteer, community leader, and an advocate for homeless children.

On this day, Marsha Hanley was laid to rest by her husband, Harold, children, family, and friends after leaving our world this past Sunday. The manner in which she led her life—her kindness, her love of country, her devotion to her family—serves as an example for others to follow.

A life-long Republican, Marsha cared deeply about her community and country. She followed the issues closely with great interest and was not afraid to express her opinion.

Mr. Speaker, I would like to have been home in Indiana to pay my respects, but as you know—and as I am sure she would understand—we have important legislation before us in Congress on this day. While my heart is with Marsha and her loved ones in Indiana, my duties keep me in our nation's Capitol.

We are all richer for having known Marsha, and the lives of so many others have been enriched because of her good work. While we will miss her, we take comfort in the knowledge that she is now in a better place and with our Father in heaven.

God bless you Marsha Hanley.

IN RECOGNITION OF MARY DANIELS ON HER RETIREMENT

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. LANGEVIN. Mr. Speaker, I am pleased to recognize one of my constituents, Mary Daniels of Cranston, as she begins her retirement at the impressive age of eighty-four.

On Friday, December 7, Mary completed her final day of work at Leviton, an electrical equipment manufacturer that is one of the largest employers in Rhode Island. For thirty-seven years, Mary served as a dedicated and diligent worker, completing any task that was put before her. She will be remembered by her coworkers for her kindness to her friends and family, her impressive work ethic, and her strong character.

After many years of working to support her family, Mary may now take full advantage of her retirement. I am certain that she will enjoy these golden years, as her strong spirit will keep her active. Her four children and eight grandchildren are also certain to benefit now that she has more time to prepare family meals and her famous lemon meringue pie.

I encourage Mary to take full advantage of her retirement years, to spend more time with her loved ones, and to pursue all of her dreams. I now ask my colleagues to join me in congratulating this impressive woman on her notable achievement.

H.R. 3178, WATER INFRASTRUCTURE SECURITY AND RESEARCH DEVELOPMENT ACT

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased that "H.R. 3178, Water Infrastructure Security and Research Development Act" and the Development of Anti-Terrorism Tools for Water Infrastructure was brought to the floor today.

Mr. Speaker, the nation's water supply and water quality infrastructure have long been recognized as being potentially vulnerable to terrorist attacks of various types, including physical disruption, bioterrorism/chemical contamination, and cyber attack. Interest in such problems has increased since the September 11, 2001 attacks on the World Trade Center and the Pentagon. Damage or destruction to these systems by terrorist attack could disrupt the delivery of vital human services, threatening public health and the environment, or possibly causing loss of life.

Water infrastructure systems include surface and ground water sources of untreated water for municipal, industrial, agricultural, and consumer needs; dams, reservoirs, aqueducts, and pipes that contain and transport raw water; treatment facilities that remove contaminants; finished water reservoirs; systems that distribute water to users; and wastewater collection and treatment facilities. Across the country, these systems comprise more than 75,000 dams and reservoirs, thousands of miles of pipes and aqueducts, 168,000 public drinking water facilities, and about 16,000 publicly owned wastewater treatment facilities. Ownership and management are both public and private; the federal government has responsibility for hundreds of dams and diversion structures, but the vast majority of the nation's water infrastructure is either privately owned or owned by non-federal units of government.

Mr. Speaker, the federal government has built hundreds of water projects over the years, primarily dams and reservoirs for irrigation development and flood control, with municipal and industrial water use as an incidental, self-financed, project purpose. Because of the size and scope of many of these facilities, they are critically entwined with the nation's overall water supply, transportation, and electricity infrastructure. Threats resulting in physical destruction to any of these systems could include disruption of operating or distribution system components, power or telecommunications systems, electronic control systems, and actual damage to reservoirs and pumping stations. A loss of flow and pressure would cause problems for water customers and also would drastically hinder firefighting efforts. Bioterrorism or chemical threats could deliver massive contamination by small amounts of microbiological agents or toxic chemicals and could endanger the public health of thousands.

Water supply was one of eight critical infrastructure systems identified in President Clinton's 1998 Presidential Decision Directive as part of a coordinated national effort to achieve the capability to protect the nation's critical infrastructure from intentional acts that would diminish them.

Mr. Speaker, since September 11, the nation's drinking water utilities have been on a heightened state of alert to protect against the potential disruption of water service and biological and chemical contamination of drinking water supplies. Fortunately, before September 11, the water supply community was already at work with the U.S. Environmental Protection Agency, the Federal Bureau of Investigation and other federal agencies to develop methods and tools to protect water system facilities and consumers. Several drinking water organizations and EPA are currently sponsoring various research and development projects addressing water system security issues. These projects include tools for assessing vulnerabilities, preparations for response and recovery in the event of an attack, understanding the impact of potential biological and chemical agents, and training of water system personnel on security issues.

Mr. Speaker, I would like to thank my colleagues on the Science Committee for supporting my amendment on H.R. 3178. The amendment I offered, which was passed in the Committee is to ensure that the grants awarded under this bill are made to meet the needs of water supply systems of various sizes and are provided to geographically, socially and economically diverse recipients.

Mr. Speaker, this bill is critical in protecting one of our nation's most precious resources—

the water supply. As indicated, protecting our water supply is important to the future of this nation and ensuring that our children are protected from any terrorist act. H.R. 3178, I believe has the greatest potential to ensure the safety of our water systems.

AMERICAN YOUTH

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SAM JOHNSON of Texas. Mr. Speaker, one of the best aspects of our job is the ability to call to the attention of our colleagues, examples of the leadership, maturity, patriotism and values of our American youth. I have inserted in the RECORD a speech from the June 2001 eighth grade graduation address of Michael Robert Glennon. He was the President of the Student Council at Sheridan School in Washington, DC.

Michael is currently a ninth grader at the Hotchkiss School, Lakeville, Connecticut.

Parents, Grandparents, Faculty, Students, Special Guests, and Classmates, welcome and thank you for sharing our special day. I am honored to be here representing my fellow graduates to discuss the Sheridan experience and everything that the Sheridan community has meant to us.

First, however, we must be thankful for the love, efforts, and wisdom of our parents who have made possible the privilege of a Sheridan education. Thank you parents.

What do we mean by the Sheridan experience? Sheridan can not be defined simply by what happens on the sports field or in the classroom. It is after school, during recess, and during lunch, when students and teachers interact on a more personal level. That is what makes Sheridan so unique and contributes to each and every one of our Sheridan experiences.

Community service for those less fortunate than ourselves; the appreciation of nature at the mountain campus that has made us all better stewards of our environment; both of these are hallmarks of the Sheridan experience.

No graduate will soon forget the times we've had or the things we've learned. But more importantly, we won't forget each other. The friendships we have made will stick with us the rest of our lives. It is very rare that you get to have such a close relationship with your fellow classmates at school. Although sometimes it is frustrating to have such a small class and small school, in the end it is uniquely Sheridan because your classmates and school are always there for you in any situation. All of us, including me, can remember when Sheridan was there to support us, to share our joy, or lessen our sorrow. If there is one thing we all take away from Sheridan it is the friendships we have made.

On behalf of my entire class and the entire student body, I would like to thank the faculty and the wonderful staff. All of you have helped us in ways you can not imagine. Thank you especially to all of the teachers who have taught us over the years. Mrs. Lytle in kindergarten, Mrs. Miller and Mrs. Curtis in second grade. Mrs. Goldstein in third and fifth grade. Mrs. Pelton, Mrs. Arcuri, Ms. Provonsil, Mr. Walton, Mrs. Cresswell, Mr. Powell, Mrs. Kotler, Mrs. Haggerty, Senorita Fabiola, Mrs. Garcia deMendoza, Mrs. Sacher and Madame. Of course, a special thanks to Ms. Brown and Mr. Helfand for helping us through this year and the high school admissions process. Mr. Plummer, thank you for being a great principal, always smiling, and always having candy.

In conclusion, earlier I mentioned the privilege of a Sheridan education.

However, this privilege demands responsibility from all of us here today. A responsibility to be a friend, a responsibility to help others, and a responsibility to respect our environment.

But most importantly, a responsibility to honor the values and education we were privileged to receive. The Sheridan experience has shaped our lives.

Thank you parents, thank you teachers, thank you classmates, thank you Sheridan.

ON THE DECISION OF SECRETARY OF ENERGY SPENCER ABRAHAM TO PERMANENTLY CLOSE THE FAST FLUX TEST FACILITY ON THE HANFORD NUCLEAR RESERVATION NEAR RICHLAND, WA

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. WU. Mr. Speaker, I rise today to applaud Secretary Abraham's decision to permanently close the Fast Flux Test Facility (FFTF) located on the Hanford Nuclear Reservation near Richland, Washington.

The FFTF is a 400-megawatt sodium cooled nuclear reactor that operated from 1982 to 1992 to test advanced fuels and materials in support of the national Liquid Metal Fast Breeder Reactor Program. In 1992, this use was terminated. The FFTF then became a facility without a mission. When efforts to identify a long-term mission for the FFTF were unsuccessful, the Department of Energy moved the plant into a standby shutdown.

For nearly ten years, this standby mode cost the American taxpayers $32 million per year, even though there was no functional purpose for maintaining this standby status. I have twice introduced legislation to permanently close this environmentally risky, fiscally wasteful, and technologically unnecessary facility.

Mr. Speaker, nuclear contamination from the Hanford Nuclear Reservation has long threatened the Columbia River and the hundreds of thousands of Oregonians living downstream. The millions of dollars previously spent keeping the FFTF on standby can finally be used to perform the clean up that is essential to ensure environmental safety and clean drinking water for Oregonians.

The Department of Energy has taken an important step today to remedy the environmental problems caused by the Hanford facility. I look forward to working with Secretary Abraham in the coming months and years to ensure that Hanford will no longer pose a health threat to those living in the Columbia River region.

PAYING TRIBUTE TO THOMAS MOORE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Thomas Moore of Grand Junction, Colorado and thank him for his service to this country. Thomas began his service to our nation as a sailor, joining the Navy at a young age to travel and experience the world. Early in his service, Thomas participated in a moment that would change the world and bring this nation into war. The moment was Pearl Harbor on December 7, 1941.

Thomas was assigned to the battleship USS *Maryland* on that December morning. He was serving as a hospital apprentice, learning the skills to assist surgeons in operating procedures. As his ship, along with other ships, were bombed and torpedoed in the harbor, Thomas was thrust into a position to save men's lives. He spent the next several days assisting the wounded with their battle injuries and doing what he could to ease the shock and pain of U.S. sailors.

As a result of the attack that day, twelve U.S. ships were sunk, beached, or destroyed by Japanese action. The U.S. armed forces suffered heavy casualties losing 2,400 men to enemy action and 1,100 casualties as a result of enemy fire. This nation was given no choice but to declare war on Japan and thus enter World War II. Thomas, like many other servicemen and women, would know the horrors of war for the next four years.

Mr. Speaker, as we remember the 60th anniversary of Pearl Harbor let us also remember the recent victims of our nation's quest for freedom. The attacks on this country September 11 again have plunged us into war. As we fight to redeem our fallen friends let us also pay tribute to the soldiers throughout our nation's history who gave their lives to protect our way of life. It's dedicated men like Thomas Moore to whom we should pay homage and thank for his service to this nation.

PAYING TRIBUTE TO WESTERN STATE COLLEGE CROSS-COUNTRY TEAMS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding group of dedicated young men and women from Western State College in Gunnison, Colorado. The group is the men's and women's cross country teams, who for the second year in a row brought back to their school a national championship. I would like to commend them on their efforts and mention several of their accomplishments.

The teams this year won the national title at Slippery Rock State University in Pennsylvania. By taking the title this year and in 2000, Western State has made cross-country history. It is only the second time in NCAA I, II, III Championships that both a men's and women's team from the same school have taken both titles. Their latest achievement culminates a successful year for all the athletes on the team. All of this was accomplished under the guidance and leadership of their coach Duane Vandenbusche, who for his efforts was awarded Coach of the Year at a conference, regional, and national level.

Mr. Speaker, I am always proud to recognize the accomplishments of those who have dedicated their time and efforts to achieving a difficult goal. The Mountaineers of Western State College have made great sacrifices in their lives and have done a wonderful job representing the College and the State of Colorado. Their championship is well deserved and I look forward to watching their next season with pride and admiration.

TRIBUTE TO CELIA HUNTER

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. INSLEE. Mr. Speaker, I rise today to pay tribute to a great conservationist, Celia Hunter, who died December 1 at the age of 82. We need to acknowledge heroes of the conservation community like Celia so that future generations may see and know what made this country the great nation that it is today, what shaped us as a freedom-loving people, and what made us kind and considerate stewards of the land.

Though she was born and raised in Arlington, Washington, Celia's greatest contributions came in protecting our last frontier, Alaska. Our national parks, our wildlife refuges, and our national forests in Alaska have come to be heirlooms that we may pass on to our children and their children in large part because of Celia Hunter.

Celia was a member of the Women's Air Force Service Pilots, flying fighter planes from factories where they were built to airfields and ports for use in World War II. She and lifelong friend Ginny Wood then had the opportunity to fly surplus planes to Alaska. They landed in Fairbanks on January 1, 1947 with temperatures at minus 50 degrees and never looked back.

Celia, Ginny Wood, and Ginny's husband Woody built Denali Camp in 1951 on the edge of then-Mt. McKinley National Park. Their vision for an ecologically friendly, conservation-education, backcountry camp survives today under the management of Wally and Geri Cole, who purchased the tourism accommodation from Celia and Ginny in 1975. In 1960, Celia and Ginny, with a few others in Fairbanks, founded the Alaska Conservation Society, the first statewide conservation organization run entirely by volunteers. The Alaska Conservation Society was the precursor to today's three regional organizations, the Northern Alaska Environmental Center, the Southeast Alaska Conservation Council, and the Alaska Center for the Environment, as well as the Alaska Conservation Foundation, another organization Celia helped to establish and on whose board she served for two decades. In the latter part of the 1970s, Celia served as executive director of the Wilderness Society, and in 1991 the Sierra Club awarded Celia its highest achievement award, the John Muir Award.

She also fought, literally until her death, to preserve the Arctic National Wildlife Refuge. I had the opportunity to visit this beautiful land in July, and while there I witnessed an explosion taking place on the coastal plane of the Arctic—an explosion of life. In fifty years of exploring the back country of America, from Yellowstone to the Appalachian Trail, I have never seen such activity—birds singing, caribou calving, and tundra flowers blooming. It was hard to take a step in the soggy, tussock-filled tundra without scaring up a well-camouflaged ptarmigan, stepping on some happy Mountain Aven blossom, or spying a bunch of caribou heading for their traditional calving grounds. The Arctic Refuge represents the largest intact ecosystem in America, a unique expanse where industrialization has not broken one link in the chain of life.

Celia Hunter was an inspiration to a generation of wilderness enthusiasts and others who wished to make the world a better place. In a 1986 interview she said, "Each one of us has a responsibility to take care of the part of the world we live in." Celia wanted to live in a world where there were wild places, peace and quiet, and compassion for her fellow man and woman. In this vision, she led by example, and she will be sorely missed, but never forgotten by those who worked with her, lived near her, and met her.

CONGRATULATING GUAM'S ROTC PROGRAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. UNDERWOOD. Mr. Speaker, it is an honor to congratulate the University of Guam's (UOG) Army Reserve Officer Training Corps (ROTC) program upon their distinction as the best in the nation for mission accomplishment and quality. UOG's ROTC program, the Triton Warrior Battalion, was recently ranked number one out of 270 programs evaluated nationwide. This is a first for them, an achievement for a program smaller than many of its counterparts. This recognition makes our island very proud and is testament to the hard work of the cadets, cadre, and recruiters of the Triton Warrior Battalion.

Since the founding of UOG's ROTC program in 1979, students have been well trained to become commissioned officers in both the active and reserve components of the U.S. Army. The program has commissioned some of Guam's finest men and women as officers and produced some of the Army's most exceptional leaders. In its 22 years, the program at UOG has commissioned over 240 Second Lieutenants, and this year they are expected to commission 20 more.

The U.S. Army Cadet Command, the supervising headquarters for all ROTC battalions nationwide, annually assesses ROTC programs. A multitude of criteria is used to determine performance ranking. While enrollment, retention, basic camp attendance, commission and contract accomplishment are all part of the criteria, the most important factors contributing to the evaluation are commission and contract accomplishments.

Commission accomplishment is based on the number of cadets commissioned in the course of a year. This year, UOG's ROTC program received a commission mission of ten, however, they surpassed that number by commissioning 20 officers. Next year, they have been tasked to commission 12 and it is expected that they will again exceed the tasked commission requirement by doubling the number of commissioned officers. In 2003, it is anticipated that the commission accomplishment will exceed the requirements three times over.

UOG's ROTC program's contract accomplishment is the ability of the program to meet its fiscal year missions and goals for contracting cadets into the advanced course for juniors advancing toward senior status. While the contract mission for fiscal year 2002 is 20 cadets, UOG's ROTC program has exceeded expectations and contracted 34 cadets. Presently, UOG's ROTC program has 111 cadets enrolled, however they continue to witness an annual enrollment increase.

During these difficult and trying times, the men and women of the Triton Warrior Battalion are to be commended. Together, they are an excellent example of the leadership, determination and courage needed to safeguard our freedoms and our democracy. My congratulations to all the cadets and instructors of UOG's ROTC program. May they continue to achieve success in the years to come.

ON THE INTRODUCTION OF LEGISLATION TO PREVENT TEEN PREGNANCY

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. HARMAN. Mr. Speaker, today, with my colleague NANCY PELOSI, I am pleased to introduce legislation today to strengthen our nation's commitment to preventing teen pregnancy.

The United States has the highest rates of teen pregnancy and births in the western industrialized world. Nearly four in 10 young women become pregnant at least once before they reach the age of 20—one million a year.

This is a problem that has a devastating impact on California as a whole (which has the second worst teen pregnancy rate in the nation) and Hispanic teenagers in particular, who have the highest rates of teen pregnancy of any ethnic group. The cost to the United States in health care and education alone is at least $7 billion annually, and the human cost in dreams deferred and children with limited opportunities is immeasurable. Reducing unwanted pregnancies also reduces the number of abortions.

We must act now to build on the success of existing programs that have helped reduce teen pregnancy rates nationwide so that we may ensure young women and men have the information and confidence they need to make wise choices about their sexual behavior.

The approach of our legislation is very straightforward: fund programs that work.

Over the past decade, a wide variety of teen pregnancy prevention programs have shown dramatic results in delaying teenagers' sexual activity, promoting the safe use of contraceptives, and reducing teen pregnancy. These programs don't fit a particular model: some provide comprehensive sex and HIV education, some provide information on and access to contraception, some provide economic or service opportunities to youth. Some use media campaigns, some intervention and counseling, and some youth development programs.

Successful education programs do, however, all share a common feature: they deliver the message that abstaining from sexual activity is the only 100 percent effective way to prevent teen pregnancy, but recognizing that teens will not always abstain from sex, also provide accurate information on contraception and other means to prevent pregnancy.

The grant program authorized by the bill we introduce today targets new funding at high-risk communities and groups, and allows a wide range of organizations—from local coalitions to State agencies—to apply for funds.

This bill represents an effective and proven way to move forward on teen pregnancy prevention. The program will fund diverse teen pregnancy prevention programs, so long as they are based on methods and programs that work.

This legislation is a win-win deal for teens, their families, and their communities across the nation, and I urge all of my colleague to support it.

RECOGNIZING THE GINNIE MAE CHOICE PROPOSAL

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. BARR of Georgia. Mr. Speaker, as a member of Congress, and a member of the Financial Services Committee, I share the goal of increasing homeownership opportunities for American families. Our government and the Congress have made policy choices to support this goal. These policy choices have paid off for our nation and for American families with more than 67 percent of American families owning their own homes today.

The present system works well and when someone comes up with an idea to change to system, we must be very mindful of the maxim "Do No Harm." One such proposal to alter this system is called the Home Ownership Expansion and Opportunities Act, H.R. 3206 or Ginnie Mae "Choice." For the first time, this legislation would place the full faith and credit guarantee behind conventional mortgage loans.

Ginnie Mae "Choice" would—in effect—create yet another housing GSE, but with the difference being that this one would have an explicit government guarantee behind all that it does, unlike the current housing GSEs such as Fannie Mae, Freddie Mac, and the Federal Home Loan Banks.

The Ginnie Mae Choice proposal would authorize Ginnie Mae (GNMA) to guarantee securities backed by mortgages with loan-to-value ratios of over 80 percent. Interest and principle payments on these mortgages would be insured first by partial private mortgage insurance (PMI), second by insurance issued by the United States Department of Housing and Urban Development (HUD), and lastly by the GNMA guarantee.

Private mortgage insurers would assume a minimum first loss position that varies from 12 to 35 percent of outstanding principal and interest depending on the loan-to-value ratio, and the federal government (HUD and GNMA combined) would assume all residual risk. In general, loans potentially qualifying for the GNMA Choice program are conforming loans that meet the PMI requirements.

I would like to thank my colleague, Representative MARGE ROUKEMA (R–NJ) for introducing the bill. We share the common goal of wanting to increase homeownership, but upon reflection, I am not certain that this bill will achieve the stated goal. In contrast to Fannie Mae and Freddie Mac, this legislation would impose no housing goals on Ginnie Mae. If the goal of the legislation is to increase homeownership among low-income families, it would seem logical to have some kind of housing targets or loan amounts. Yet, this legislation is silent in that regard.

As a practical matter, I remain unconvinced an agency within HUD has the capacity to manage a mortgage volume of some $30 billion per year. Granted, private MIs would pick up 12 to 35 percent of losses, but the prospect of this agency being able to manage both credit and interest rate risk on these mortgages is somewhat dubious. HUD's management track record in this regard is spotty at best.

H.R. 3206 contemplates no Risk Based Capital Standards (RBCS). Fannie Mae and Freddie Mac must adhere to strict RBCS imposed from the 1992 legislation that revised their charters. Both companies are now doing business under the RSBCSs from the 1992 legislation. Indeed, under the Risk Based Capital Standards applied to Fannie Mae and Freddie Mac, GNMA would experience losses in the range of $9.35 billion under severe stressful conditions to $1.86 billion under less stressful conditions—according to an analysis by Pricewaterhouse Coopers.

In conclusion, it seems H.R. 3206 is uncertain to achieve its stated goal of increasing homeownership significantly, while at the same using the explicit backing of the United States Government to potentially cause losses of several billion dollars to the taxpayers. Therefore, I would discourage my colleagues from supporting this bill.

TRIBUTE TO MR. WILLIAM (BILL) HEVERT

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. ENGEL. Mr. Speaker, I rise today in order to honor William (Bill) Hevert on the occasion of his retirement after 28 years of dedicated service to Bessemer Trust Ltd.

Born in the Bronx on September 22, 1943, Bill graduated from Dewitt Clinton High School in June 1961. After graduating with a BA from City College of New York-Baruch School in 1965, Bill took a job with the Internal Revenue Service (IRS). In 1966 he joined the Medical Services Corps at Fort Meade in Laurel, Maryland where he received the Army Commendation Medal for service through January 1968 as a First Lieutenant. After finishing his service in the U.S. Armed Forces, Bill went back to the IRS for two years before he joined SD Leidersforf as an accountant. After two years at SD Leidersforf, Bill joined Bessemer.

For most of his life, Bill lived in the Bronx where he was respected and admired by the community around him. His dedication has touched many others, including former President George H. W. Bush and the former First Lady Barbara Bush, who had the pleasure of working with Bill in the preparation of their own tax returns. Lewis Goldstein, a friend of Bill for over forty years, fondly recalls the many holiday celebrations they shared and the many trips to places such as Palisades Amusement Park and the Bronx Zoo. He also recalls many summers spent at Rockaway where Bill and his family rented a bungalow for many years.

After retiring from Bessemer, Bill plans on spending time in New York as well as Florida. He also plans on traveling extensively with his partner, Larry Bartelsen, who is also retiring. Bill and Larry hope to use their new free time to enjoy the things they love, including the New York Philharmonic, the Metropolitan and New York City Operas, theater and dining out. I would like to congratulate both Bill and Larry and wish them all the best in their retirement.

HONORING BOB KELSEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. McINNIS. Mr. Speaker, I would like to recognize the selfless contributions of one individual in the Grand Junction community of Colorado who has rallied the support of others for a noble cause. In 1997, Bob Kelsey founded, and has since directed, the Catholic Outreach Day Center.

Mr. Kelsey was inspired by the words of a homeless man who was trying to find work one day. With the help of Catholic Outreach and an initial grant from the city, his vision has become a reality. The Catholic Outreach Day Center performs basic services for homeless people and provides opportunities for them to find employment. Not only does it give them a place to shower and do their laundry, but it also aids in giving those less fortunate the tools needed to look for employment. These simple services greatly increase the odds of getting a job for those with very few resources.

Bob Kelsey has been the director of the Catholic Outreach Day Center since its creation in 1997, but at the age of seventy he is passing his responsibilities on to another. In the four years of the day center's existence, Bob, with the help of over 40 volunteers, has helped to provide more than one thousand jobs to the less fortunate members of the community.

Mr. Speaker, Bob Kelsey has dedicated many resources and provided many opportunities to those members of his community who are less privileged. The Catholic Outreach Day Center has become a very valuable asset for many people. Mr. Kelsey has touched the lives of so many and will be greatly missed, but through the ongoing support of his community his vision will survive to make a difference. Thanks Bob for your efforts on behalf of others.

TRIBUTE TO CHIEF DOUGLAS G. SPORLEDER

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. LOFGREN. Mr. Speaker, I rise to commend Chief Douglas G. Sporleder on his retirement from the Santa Clara County Fire Department. Chief Sporleder is retiring after 21 years of service to the people of Santa Clara County.

Santa Clara County Fire Department services an area of 137 square miles and a population of 259,000, and consists of 270 paid personnel and 40 volunteers operating a regional network of sixteen fire stations with a $32 million budget.

Chief Sporleder is third-generation fire service. His father and grandfather were also chief officers in the fire services. Upon his retirement, Douglas Sporleder will have been fire chief for over 21 years, nearly half the time that the Santa Clara County Fire Department has been in existence.

Starting as a volunteer firefighter in 1963, Chief Sporleder attained the rank of chief in 1980 after progressing through the ranks of firefighter, captain, training chief and assistant chief. He is also the Santa Clara County Fire Marshal and the Local Mutual Aid Fire and Rescue Coordinator, and a member of the Governor's Special Arson Task Force and the California Fire and Rescue Service/FIRESCOPE Board of Directors.

Chief Sporleder's other professional accomplishments include: speaking at the National Fire Academy and the International Association of Fire Chiefs conference; certificates of appreciation from Santa Clara County, the American Heart Association; and the recipient of the American Legion Certificate of Commendation for Heroism. He has served as president of the Santa Clara County Fire Chiefs' Association, and is a member of the International Association of Fire Chiefs, the IAFC Metro Chiefs Division, the Western Fire Chiefs' Association, the California Fire Chiefs' Association, the National Fire Protection Association, and the Special Fire Districts' Association of California.

An active participant in community service and community affairs, Chief Sporleder will be sorely missed by the Fire Department and the County. I cannot thank Chief Sporleder enough for his years of service to the people of Santa Clara County, and wish him nothing but the best in the future. He is a leader as well as someone I am proud to call my friend.

IN MEMORY OF SUSAN M. FAGAN

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. WELDON of Florida. Mr. Speaker, I rise to commemorate the life and service of Susan M. Fagan, a Peace Corps volunteer, who lost her life after serving in Ghana in November. At the time of her death, Susan was visiting her family in Ohio. The cause of death is believed to be malaria.

Mrs. Fagan, of Barefoot Bay, Florida, had served in the Peace Corps from November 29, 1999, to November 2, 2001, in Akwida, Ghana, where she started tourist management committees so that the villagers could benefit directly from the burgeoning tourist industry in Ghana. Before completing her service, Susan had developed and presented to the Ghana Tourist Board a longterm plan for promoting tourism in the Akwida region. Thanks to Susan's hard work, that plan is being utilized today.

Susan is survived by her father, William Wilson, her stepmother, Linda Wilson, her sisters, Debra Moore and Shelby Wilson, and stepbrothers, Terry and Brandan Zastrow. A memorial service was conducted in East Liverpool, Ohio, on Thursday, December 6, 2001. A second memorial service was held in Florida on December 13, 2001. Susan is also survived by her deceased husband's family, father and mother-in-law, Raymond and Dona Fagan, brother-in-law, William Fagan, and sister-in-law, Dori Ziomek.

Susan embodied the best traditions of Peace Corps Volunteers, and her life and work will be deeply missed by all who knew and worked with her. Our thoughts and prayers are with her family and friends. In memory of Susan Fagan, the Peace Corps flag was flown at half-staff on December 6, 2001.

Susan helped the people of interested countries and helped promote a better understanding of Americans on the part of the people she served. Susan always saw the humor in a situation and never allowed the frustrating things about living in a developing country get her down. She considered herself very lucky to have had such an opportunity.

"I am very proud to say that Susan's life embodied the Peace Corps goals," said Ghana Country Director Leonard Floyd. We will all miss her—her family, friends, the Peace Corps staff, the Peace Corps Volunteers and all of the people who considered her a friend and family in her Ghana home of Akwida." Indeed, her example will continue to inspire us.

HUMAN RIGHTS IN CENTRAL ASIA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. SMITH of New Jersey. Mr. Speaker, on Friday, December 21, Kazakhstan's President Nursultan Nazarbaev will be meeting with President Bush. Sometime in January, Uzbekistan's President Islam Karimov is likely to arrive for his visit, The invitations to these Heads of State obviously reflect the overriding U.S. priority of fighting international terrorism and the corresponding emphasis on the strategic importance of Central Asia, which until September 11 had been known largely as a resource-rich, repressive backwater.

As Co-Chairman of the Commission on Security and Cooperation in Europe, I have chaired a series of hearings in recent years focused on human rights and democratization in the Central Asian region.

Clearly, we need the cooperation of many countries, including Afghanistan's Central Asian neighbors, in this undertaking. But we should not forget, as we conduct our multidimensional campaigns, two vitally important points: first, Central Asian leaders need the support of the West at least as much as we need them.

Unfortunately, Central Asian presidents seem to have concluded that they are indispensable and that we owe them for allowing us to use their territory and bases in this fight against the terrorists and those who harbor them. I hope Washington does not share this misapprehension. By striking against the radical Islamic threat to their respective security and that of the entire region, we have performed a huge service for Central Asian leaders.

Second, one of the main lessons of September 11 and its aftermath is that repression of political opposition and alternative viewpoints is a key cause of terrorism. Secretary of State Colin Powell and National Security Adviser Condoleezza Rice have declared that the war on terrorism will not keep the United States from supporting human rights. I am hopeful the administration means what they have said. But given the sudden warming of relations between Washington and Central Asian leaders, I share the concerns voiced in many editorials and op-eds that the United States will downplay human rights in favor of cultivating ties with those in power. More broadly, I fear we will fall into an old pattern of backing repressive regimes and then being linked with them in the minds and hearts of their long-suffering peoples.

In that connection, Mr. Speaker, on the eve of President Nazarbaev's meeting with President Bush and in anticipation of the expected visit by President Karimov, as well as possible visits by other Central Asian leaders, I want to highlight some of the most glaring human rights problems in these countries.

To begin with, corruption is rampant throughout the region, and we should keep this in mind as the administration requests more money for assistance to Central Asian regimes. Kazakhstan's President Nazarbaev and some of his closest associates are under investigation by the U.S. Department of Justice for massive corruption. Not surprisingly, to keep any information about high-level misdeeds from the public—most of which lives in dire poverty—the Nazarbaev regime has cracked down hard on the media. Family or business associates of President Nazarbaev control most media outlets in the country, including printing houses which often refuse to print opposition or independent newspapers. Newspapers or broadcasters that try to cover taboo subjects are harassed by the government and editorial offices have had their premises raided. The government also controls the two main Internet service providers and regularly blocks the web site of the Information Analytical Center Eurasia, which is sponsored by Kazakhstan's main opposition party.

In addition, libel remains a criminal offense in Kazakhstan. Despite a growing international consensus that people should not be jailed for what they say or write, President Nazarbaev on May 3 ratified an amendment to the Media Law that increases the legal liability of editors and publishers. Furthermore, a new draft religion law was presented to the Kazakh parliament at the end of November without public consultation. If passed, it would seriously curtail the ability of individuals and groups to practice their religious faith freely.

Uzbekistan is a wholesale violator of human rights. President Karimov allows no opposition parties, permits no independent media, and has refused even to register independent human rights monitoring groups. Elections in Uzbekistan have been a farce and the Organization for Security and Cooperation in Europe (OSCE) rightly refused to observe the last presidential "contest," in which Karimov's "rival" proclaimed that he was planning to vote for the incumbent.

In one respect, however, Karimov is not lacking—brazen gall. Last week, on the eve of Secretary Powell's arrival in Tashkent, Uzbek authorities announced plans to hold a referendum next month on extending Karimov's tenure in office from five years to seven. Some members of the tightly controlled parliament urged that he be made "president for life." The timing of the announcement could have had only one purpose: to embarrass our Secretary of State and to show the United States that Islam Karimov will not be cowed by OSCE commitments on democracy and the need to hold free and fair elections.

I am also greatly alarmed by the Uzbek Government's imprisonment of thousands of Muslims, allegedly for participating in extremist Islamic groups, but who are probably "guilty" of the "crime" of attending non-government approved mosques. The number of people jailed on such dubious grounds is estimated to be between 5,000 and 10,000, according to Uzbek and international human rights organizations. While I do not dismiss Uzbek government claims about the seriousness of the religion-based insurgency, I cannot condone imprisonment of people based on mere suspicion of religious piety. As U.S. Government officials have been arguing for years, this policy of the Uzbek Government also seems counterproductive to its stated goal of eliminating terrorists. Casting the net too broadly and jailing innocent people will only inflame individuals never affiliated with any terrorist cell.

In addition, Uzbekistan has not only violated individual rights, but has also implemented policies that affect religious groups. For example, the Uzbek Government has consistently used its religion law to frustrate the ability of religious groups to register, placing them in a "catch-22". By inhibiting registration, the Uzbek Government can harass and imprison individuals for attending unregistered religious meetings, as well as deny property purchases and formal education opportunities. As you can see, Mr. Speaker, Uzbekistan's record on human rights, democratization and religious freedom is unacceptable.

I am not aware that Kyrgyzstan's President Askar Akaev has been invited to Washington, but I would not be too surprised to learn of an impending visit. Once the most democratic state in Central Asia, Kyrgyzstan has gone the way of its neighbors, with rigged elections, media crackdowns and repression of opposition parties. At a Helsinki Commission hearing I chaired last week on democratization and human rights in Kyrgyzstan, we heard from the wife of Felix Kulov, Kyrgyzstan's leading opposition figure, who has been behind bars since January 2001. Amnesty International and many other human rights groups consider him a political prisoner, jailed because he dared to try to run against President Akaev. Almost all opposition and independent newspapers which have sought to expose high-level corruption have been sued into bankruptcy.

With respect to the proposed religion law the Kyrgyz Parliament is drafting, which would repeal the current law, significant concerns exist. If the draft law were enacted in its current emanation, it would categorize and prohibit groups based on beliefs alone, as well as allow arbitrary decisions in registering religious groups due to the vague provisions of the draft law. I encourage President Akaev to support a law with strong protections for religious freedom. Implementing the modification suggested by the OSCE Advisory Panel of Experts on Religious Freedom would ensure that the draft religion law meets Kyrgyzstan's OSCE commitments.

Mr. Speaker, this morning I had a meeting with Ambassador Meret Orazov of Turkmenistan and personally raised a number of specific human rights cases. Turkmenistan, the most repressive state in the OSCE space, resembles North Korea: while the people go hungry, megalomaniac President Saparmurat Niyazov builds himself palaces and monuments, and is the object of a Stalin-style cult of personality. No opposition of any kind is allowed, and anyone who dares to express a view counter to Niyazov is arrested. Turkmenistan is the only country in the OSCE region where places of worship have been destroyed on government orders—in November 1999, the authorities bulldozed a Seventh-Day Adventist Church. Since then, Niyazov has implemented his plans to provide a virtual bible for his benighted countrymen; apparently, he intends to become their spiritual as well as secular guide and president for life.

Turkmenistan has the worst record on religious freedom in the entire 55-nation OSCE. The systematic abuses that occur almost weekly are an abomination to the internationally recognized values which undergird the OSCE. Recent actions by Turkmen security agents against religious groups, including harassment, torture and detention, represent a catastrophic failure by Turkmenistan to uphold its human rights commitments as a participating OSCE State. In addition, last January, Mukhamed Aimuradov, who has been in prison since 1995, and Baptist pastor Shageldy Atakov, imprisoned since 1999, were not included in an amnesty which freed many prisoners. I hope that the Government of Turkmenistan will immediately and unconditionally release them, as well as all other prisoners of conscience.

Rounding out the Central Asian countries, Tajikistan also presents human rights concerns. A report has recently emerged concerning the government's religious affairs agency in the southern Khatlon region, which borders Afghanistan. According to reliable sources, a memorandum from the religious affairs agency expressed concern about "increased activity" by Christian churches in the region, calling for them to be placed under "the most stringent control." Tajik Christians fear that this statement of intolerance could be a precursor to persecution. Keston News Service reported that law enforcement officials have already begun visiting registered churches and are trying to find formal grounds to close them down. Additionally, city authorities in the capital Dushanbe have cracked down on unregistered mosques.

Mr. Speaker, as the world focuses on Central Asia states with unprecedented energy, I wanted to bring these serious deficiencies in their commitment to human rights and democracy to the attention of my colleagues. All these countries joined the Organization for Security and Cooperation in Europe soon after their independence from the Soviet Union a decade ago. By becoming OSCE participating States, they agreed without reservation to comply with the Helsinki Final Act and all subsequent agreements. These documents cover a wide range of human dimension issues, including clear language on the human right of religious freedom and the right of the individual to profess and practice religion or belief. Unfortunately, as I have highlighted, these countries are failing in their commitment to promote and support human rights, and overall trends in the region are very disturbing.

The goals of fighting terrorism and steadfastly supporting human rights are not dichotomous. It is my hope that the U.S. Government will make issues of human rights and religious freedom paramount in bilateral discussions and public statements concerning the ongoing efforts against terrorism. In this context, the considerable body of OSCE commitments on democracy, human rights and the rule of law should serve as our common standard for our relations with these countries.

COLONEL KARL "KASEY" WARNER RETIREMENT

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mrs. CAPITO. Mr. Speaker, I rise today to honor Colonel Karl "Kasey" Warner of the United States Special Operations Command who is retiring from the United States Army after 27 years of active duty.

Colonel Warner has served this great country with dedication and honor for over 27 years in uniform, but his service to his country has not ended. He will be taking on the duties of the United States Attorney for the Southern District of West Virginia for the term of four years.

Colonel Warner began his military career as a cadet at the United States Military Academy at West Point. It was there that he graduated and was commissioned a Second Lieutenant in 1974. Colonel Warner's career epitomizes leadership and selfless service. He has served his country well both as a line officer in Field Artillery and later as a Judge Advocate.

Colonel Warner attended West Virginia University School of Law and graduated in 1980. He has served primarily as a trial litigator and has been an instructor of criminal law at the Army Judge Advocate General School. His career has taken him from the parade grounds of West Point to foreign lands and harsh living conditions—he was the joint task force and multinational force staff judge advocate at Port-au-Prince, Haiti in 1994–1995.

In Haiti, he designed a procedure for detaining Haitians—as a matter of policy they determined that detainees should be afforded the same treatment accorded to detained persons under the 1949 Geneva Prisoner of War provisions (food shelter medical care)—the treatment was so good by Haitian standards that often people would "confess" in the hopes of being detained. However by all accounts the Joint Detention Facility was an unqualified success. Colonel Warner also arranged for the appointment of four judge advocates to be authorized to serve as a one-member foreign claims commissions and the appointment of three more judge advocates to serve as a three-member commission.

Prior to becoming the prestigious Special Operations Judge Advocate, Colonel Warner was the deputy legal counsel to the Chairman of the Joint Chiefs of Staff. In whatever challenge he was tasked with, he excelled and constantly personified the words General Douglas MacArthur made famous and synonymous with West Point: "Duty, Honor, Country."

Colonel Warner's military decorations include the Defense Superior Service Medal, Legion of Merit, Defense Meritorious Service Medal with oak leaf cluster, Meritorious Service Medal with four oak leaf clusters, Army Commendation Medal with oak leaf cluster; two Joint Meritorious Unit Awards; and the Armed Forces Expeditionary Medal. He is qualified to wear, in addition to Master Parachutist Wings, the coveted Ranger tab and Air Assault wings. He has also been accorded the honor of receiving the Jump Wings of the Australians, British, and Saudi Arabians.

Colonel Warner and his wife, Joanie, have four children: Margaret who is a lieutenant with the Army Corps of Engineers in Germany; Frances, a speech pathology graduate student at Vanderbilt University; Kole, who serves with the West Virginia National Guard and attends West Virginia University and Travis, age 13.

It is with great pride and honor that I wish Kasey and his family the best as he retires from the United States Army and continues his service to our great country as the U.S. Attorney for the Southern District of West Virginia. He has set an inspiring example of dedication to the defense of freedom and to the protection of the basic liberties that the citizens of our country enjoy by taking his turn at "standing on the wall" and now continues to defend freedom and liberties as a U.S. Attorney.

TRIBUTE TO THE NEW YORK CITY PUBLIC SCHOOLS COMMUNITY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay special tribute and to recognize the courage and professionalism of the New York City Public Schools community during the attack on September 11, 2001.

I know that none of us will ever forget where we were and what we were doing when the attacks on the World Trade Center occurred. For the New York City Public Schools community, the attacks were not something they watched on television, they were in the middle of the mayhem. In the immediate aftermath eight schools which were located in the "frozen zone" were closed, displacing nearly 6,000 students, a number which is more than 2½ times the average school district in the U.S.

Not only did the faculty and staff in these affected schools react with extraordinary calm, grace and bravery to evacuate their schools and to ensure that every child in their care was safe and accounted for, the students and staff from these heavily impacted schools worked together in spite of the fact that over 1,500 students and 800 staff members lost a family member or loved one as a result of the disaster. Consider these snapshots from one of the most horrific days in our history.

Jordan Schiele, ajunior at Stuyvesant High School, retold his experience in a recent article in The Washington Post. Jordan was in band class when the first plane hit Tower One. He saw the second hit, in the middle of a class debate on the best form of government. From the window, he watched what he first thought were fax machines and later realized were people falling from the Tower's top floors. As Tower One collapsed, the lights in his classroom flickered, the whole Stuyvesant building rumbled, and Jordan fled with his classmates out of the building and began running north up the West Side Highway, looking back as a cloud of dust engulfed his school. "I'll never forget when the dust engulfed Stuyvesant," he remembers. "I felt it was engulfing my future, because school is your future at this age."

Ada Dolch, Principal at the High School for Leadership and Public Service just four blocks from the site of the Twin Towers, made a series of decisions that students, staff and parents credit in saving innumerable lives. When the first explosion came, Principal Dolch looked outside and what she saw made her immediately fear for her 600 students. She watched in horror as debris rained down on Liberty Plaza and waves of frightened people ran into the school lobby for safety. She moved her students away from the 6-by-6-foot windows in every classroom out into the hallways and told her kids to remain calm. Then the second plane hit and Stephen Kam of the New York Police Department's Division of School Safety raced into the lobby and said to Principal Dolch that it was time to get the students out. Dolch agreed and teachers quickly moved students out of the building floor by floor.

Once outside, they met up with 750 of their peers from the High School for Economics and Finance, which is located next door to Leadership, and their Principal, Dr. Patrick Burke. Two secretaries from Economics, Kathleen Gilson and Joan Truteneff, wanted to stay and answer calls from frantic parents but Burke told them "No way, you have to come with me."

Right as the students got to Rector Street the first building collapsed and a dust ball, full of debris, began to chase them. One teacher shouted to her kids, "Run! Now you can run!" and they hopped over benches as many raced for Battery Park at the tip of lower Manhattan while others headed north and east. Once in Battery Park, the students hopped on ferries to Jersey City and Staten Island. Nearly 100 of the students, those who could not make it home that night, were fed and spent the night on cots in Curtis High School on Staten Island, accompanied by their teachers. Still others were housed and fed by parishioners of a Jersey City Catholic Church.

John O'Sullivan, an earth science teacher at Economic and Finance, said that when the first tower fell, he thought they were finished. "It was an optical illusion, but it looked like it was falling on us," said the teacher. "I'll never forget the look on the face of one of my students from last year. The look of terror. It was like that picture of the little girl running from the napalm attack in Vietnam," he said. Other teachers walked students home over the Manhattan Bridge to Brooklyn. Mr. O'Sullivan and several of his colleagues walked north with a group of students and then caught a bus to O'Sullivan's apartment. Once there, the teachers fed pizza and soda to the students and put on a video until their parents could pick them up.

What make Principal Dolch's heroism even more remarkable is that she performed all of these acts of bravery while knowing that her sister Wendy Wakeford, who worked for an investment banking firm on the 100th floor of 1 World Trade Center, was more than likely a victim of the attack. Her sister remains missing. "She was in the first building that was hit. I think that she was caught in the fireball. We haven't heard from her," Dolch said shortly after the attack. "I prayed she was safe, but I had kids to worry about, I knew I had to get them out."

The teachers at P.S. 234, the Independence School, which is located dangerously close to the crash site, had to evacuate 6- and 7-year old students during the most harrowing part of the disaster immediately after the second Trade Center tower collapsed and enveloped the school in a debris-filled cloud. Many of the children were screaming for parents who actually worked in the towers. As one teacher stepped into the street, a small child saw the burning bodies falling from the towers and cried out, "Look teacher, the birds are on fire!" Taking some students by the hand and carrying others on their shoulders, the teachers plunged through the rubble-strewn streets that were clogged with adults running for their lives. With their small charges in tow, they walked 40 minutes north to the nearest safe school in Greenwich Village. Some children whose parents could not come to get them by the close of the day went home with their teachers, and stayed with them until their mothers or fathers could be reached by phone.

Mr. Speaker, I salute the New York City Public City School community for their courage on September 11, and I ask my fellow Members of Congress to join me in recognizing their efforts by becoming, a co-sponsor of House Resolution 325, which recognizes the courage and professionalism of the entire New York City Public Schools community during and after the attack on the World Trade Center on Tuesday, September 11th, 2001, as well as supporting Federal assistance to the school community.

HONORING THE MEMORY OF THE HONORABLE ANNETTE MORGAN, FORMER MISSOURI STATE REPRESENTATIVE

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to honor Annette Morgan, whose death on December 18, 2001, is an immeasurable loss to our community, the State of Missouri, and our nation. Annette touched the lives of the people who knew her and the people she fought for as a State Representative in the Missouri General Assembly. A stalwart champion of the education needs of our children, she has left an indelible mark on countless lives. The school communities of Missouri have Annette Morgan to thank for many of the pioneering reforms established during her tenure as a State Representative and during her career as a champion for quality education.

Throughout her career, Annette Morgan was a dedicated public servant, committed to our community and dedicated to our children. A lifelong resident of the state of Missouri, Annette Morgan grew up in Kennett. She earned degrees at the University of Missouri-Columbia and the University of Missouri-Kansas City in social work and adult and continuing education. Annette pursued a teaching career that began in the Bootheel, helping migrant workers. She later taught at William Chrisman High School in Independence and was coordinator of adult and continuing education at Avila College.

Annette and I shared many memorable moments when we served together in the General Assembly for 14 years. We enjoyed cherished morning walks that allowed us to reflect upon the issues of the day and of our lives. Our commutes to Jefferson City by Amtrak and auto provided us the opportunity to devise successful strategies for legislative challenges and delight in the victories these strategies achieved. Our apartment afforded late night gatherings of women members of the House and Senate that strengthened our resolve and enabled us to forge lasting bonds.

Politics and government ran in Morgan's blood. Her father, John Noble, was a 16-year state senator from Kennett in the Bootheel. Her grandfather, John Bradley, served on the Missouri Supreme Court. And her mother, Alletha Noble, was a lawyer and a teacher. Because of her heartfelt interest in serving our community and state, Annette Morgan was elected to the Missouri State Legislature in 1980 and served in the House for 16 years. She earned the Chairmanship of the Missouri House Education Committee in 1985, and it was in this capacity that she embraced the task of shaping major education reform that would improve school policy in Missouri. She advocated for education policies that set high academic standards for elementary and secondary students, and she fought to give each local school district the same opportunity for state funds. Serving as both a commissioner on the Education Commission of the States and a member of its steering committee, Annette Morgan was able to affect education policy on a national scale and use this expertise to benefit education in Missouri. She went on to serve as Co-chair of the Missouri Commission on the Future of Teaching and as a Member of the National Commission on Teaching and America's Future, and was a leader in key education reform legislation in Missouri, including the Excellence in Education Act in 1985 and the Outstanding Schools Act of 1993. The Outstanding Schools Act contained lasting school reform to improve the state's formula for distributing money to schools and increase funding. The major education reforms to schools during the 1985–1995 decade are a credit to her persistence and unwavering commitment to the cause she loved. A former public school teacher and dedicated education advocate, she was the recipient of many honors and awards as her abilities as a leader, educator, legislator, and outstanding citizen were recognized by numerous groups. She was recently named to the Jackson County Honor Role, honoring the top 175 Jackson Countians in celebration of the county's 175th anniversary. Annette's legislative victories were not limited to education. She initiated legislation that authorized the first 24-hour skilled nursing facility in the Midwest for HIV-AIDS patients.

Mr. Speaker, please join me in expressing sympathy to her loving family; her son John Allen Morgan, daughter-in-law Veronica; daughter Katherine Morgan Campbell, son-in-law David, granddaughter Alexis Morgan Campbell; and loving friend William P. Mackle. Her love of family and friends will be forever remembered. She will live on in all those whose lives she touched.

RECOGNIZING TOP GEORGIA HIGH SCHOOL FOOTBALL PROGRAMS

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. BARR of Georgia. Mr. Speaker, it is no secret football is a second religion to the people of the south, especially those that call Georgia their home. The sport dominates casual conversation at least six months out of the year; it rules households and weekends, determines anniversaries and the scheduling of political events, and occasionally instigates arguments ranging from "just what is the problem with the University of Georgia or the Georgia Tech offense," to "are you listening to me?" The traditions that are Sanford Stadium, Bobby Dodd Field, and the Georgia Dome have come to be a part of Georgia culture, yet the hype that surrounds this spectacular sport starts much sooner than the day the college boys strap on their pads and take to the field.

High School football in Georgia has been taken to a whole new level of competition in recent years with technique, strategy, and talent surpassing the highest of expectations. Athletics have become an integral element in educational programs for our youth; teaching teamwork, responsibility, pride, and discipline.

I am proud to say that in Georgia's 7th District, at least six high school football programs are to be congratulated on their outstanding success this year. Paulding County and Troup High Schools made it to the final four in the AAAA Division, while Cartersville High School represented the district in AA competition. Cedartown and LaGrange made the final four in AAA, and will continue on to play each other for the state title, along with Bowdon which will play Gwinnett County's Buford High School for the A state championship. In addition to Buford, I would like to highlight Collins Hill for its accomplishments in the AAAAA division, and congratulate the Parkview Panthers on the team's fourth trip to the state championship game in seven years.

The spirit and camaraderie of high school athletics cannot be taught in a classroom, but the lessons learned on the field will shadow their counterparts for a lifetime. I congratulate each team for their perseverance and dedication, and thank the people who supported them along the way.

HONORING CARL WARE

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to pay tribute to Mr. Carl Ware. For almost a third of a century, he has been a leader in the drive for responsible corporate citizenship. He has been an international leader, and an ambassador of goodwill not only for Coca-Cola, but for the entire country.

Mr. Ware joined Coca-Cola twenty-seven years ago and since that time, he has represented the best in American business. He began as a government and urban affairs specialist, and then went on to lead the organization's efforts to market to African-American and Hispanic consumers. He has overseen the company's philanthropic efforts, with significant responsibility for international affairs. He rose through the ranks to become Executive Vice President of Global Public Affairs and Administration.

Perhaps, Mr. Ware's greatest legacy is as architect of Coca-Cola's strategy to divest from South Africa. The African National Congress applauded the company's actions as a world model. Mr. Ware has been saluted by, among others, former South African President Nelson Mandela and Archbishop Desmond Tutu.

Mr. Speaker, Mr. Ware will step down from his position with Coca-Cola next year. The entire nation is indebted to him for his leadership in the causes of corporate world citizenship and global human rights.

CONFERENCE REPORT ON H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

SPEECH OF

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 2001

Mrs. LOWEY. Mr. Speaker, I rise today in support of the conference report. I want to commend Chairman BOEHNER and Ranking Member MILLER for putting together a strong compromise on such an important issue.

This legislation has the potential to dramatically change the public education system in this country. It authorizes significant levels of funding. It says to parents that Congress believes education is a top priority, and that we will make good on our goal—that every child in America should get a quality education.

I am pleased with the changes this bill makes. Changes to the Title I formula will provide a 29-percent increase for New York City schools. For years, the New York City school system has provided an education to tens of thousands of low-income and disadvantaged children, while receiving less than their fair share of Title I funding. This money is especially important as New York City schools recover from the continuing effects of September 11.

This legislation also promises parents that their children will have qualified teachers in the classroom, and that student progress will be closely monitored to ensure that they are on the right track.

I've had the pleasure to work with Chairman RALPH REGULA and Ranking Member DAVID OBEY in crafting the Labor, Health and Human Services and Education Appropriations bill. They have both worked tirelessly to provide significant increases in education funding this year, and we will vote on the fruits of their labor next week.

But while we will provide these increases this year, the prospects for continuing to provide the resources necessary to continue our efforts on education are dim. The faltering economy, coupled with the increasing impact of the President's tax cut, will make the appropriations process exceedingly difficult in the coming years. We will be forced to make some difficult choices.

This same dilemma will be felt in all fifty states. School districts across the country are being forced to slash their budgets as state revenues have plummeted. If we enforce these new requirements without ensuring that schools have the funding to implement them, our school districts will have to make choices they shouldn't be asked to consider.

I support this legislation, and I urge my colleagues to support it as well. I also hope that our support for education does not stop at authorizing funds, but that this vote today is the first step in the process of providing the necessary resources. Our children deserve no less.

H.R. 2187, CLEANUP FUNDS FOR COLORADO OIL SHALE RESERVE

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. UDALL of Colorado. Mr. Speaker, I support this bill, which I have cosponsored with my colleague, the dean of the Colorado delegation, Representative HEFLEY.

H.R. 2187 would enable the Bureau of Land Management (BLM) to begin environmental restoration activities at the Naval Oil Shale Reserve 3, near Rifle, Colorado, using existing funds in a special Treasury account.

This account was specifically designated in the Strom Thurmond National Defense Act for Fiscal Year 1998 (Public Law 105–85) which transferred administration of the two Colorado Naval Oil Shale Reserves—Numbered 1 and 3, and known as NOSR 1 & 3—from the Department of Energy to the Department of the Interior for management by BLM.

This provision was added to that act by an amendment offered by Mr. HEFLEY with the assistance and support of my predecessor, Representative David Skaggs. It specifies that receipts from existing mineral leases in NOSR 3 are to be retained in a special account intended for cleanup of contamination caused by previous activities on these lands. However, to avoid Budget Act problems the amendment provided that subsequent legislation would be required to authorize BLM to have access to the funds.

Since enactment of Public Law 105–85, the Interior Department has collected approximately $8.5 million in lease receipts, which are currently held in the special cleanup account.

Enactment of H.R. 2187 will allow BLM to use up to $1.5 million of these funds for the preliminary analyses needed before cleanup work can begin and to prepare an estimate of the cost of completing the project. BLM can then begin work, unless the estimated cost of the work would be more than the total in the special account. If the estimate indicates that more would be required than the total in the account, a subsequent authorization will be required before work can begin.

Mr. Speaker, this is important legislation that will allow BLM to begin the process of cleaning up the lands involved and reducing the risks of contaminated runoff reaching the Colorado River. I commend Mr. HEFLEY for introducing the bill and urge its approval by the House.

TRIBUTE TO PRESIDENT NGUYEN VAN THIEU

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. LOFGREN. Mr. Speaker, I rise to extend my sincere condolences to the family of former Vietnamese President Nguyen Van Thieu, who died on September 29, 2001. President Thieu played an important role in the history of his country and that of the United States.

Thieu's passing closes a sad chapter in the history of two nations—Vietnam and the United States. To many Vietnamese in San Jose, Nguyen Van Thieu's name is synonymous with the struggle of the Vietnamese people to live freely without fear of Communist repression. As a founding member of the Congressional Dialogue on Vietnam, I feel it is important that we in the House continue that fight on behalf of those in Vietnam and around the world who are unable to speak, assemble, or worship freely.

Thieu was born April 5, 1923 as the youngest of five children in the poverty-stricken town of Phan Rang in central Ninh Thuan province. He attended the Merchant Marine Academy and the National Military Academy in Dalat, and was commissioned as a 2nd lieutenant in 1949. As an infantry platoon commander in the French campaign against the Viet Minh—the precursor to the Viet Cong—he became regarded as a good strategist and capable leader.

President Thieu passed away with family present in the suburbs of Boston, where he spent the last years of his life. I wish to again extend my condolences to his family and those grieving his loss, and hope that one day the dream he shared of democracy, freedom, and human rights will come to Vietnam.

IN MEMORY OF DOUGLAS ECCLESTON

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. WELDON of Florida. Mr. Speaker, I rise to commemorate the life and service of Douglas L. Eccleston, a Staff Sergeant with the United States Air Force, who lost his life on December 7, 2001, while performing a rescue mission 1,000 miles off the coast of Florida. His heroic action successfully saved the life of a critically ill sailor.

Mr. Eccleston honorably served his country for 15 years and was a member of the elite Pararescue team assigned to the 920th Rescue Group at Patrick Air Force Base in Satellite Beach, Florida. His service included military action in Operation Just Cause and Operation Desert Storm as a Combat Controller.

During the first part of his career, Doug was a combat controller, an airman who helps direct air strikes from the ground, often in hazardous territory. During the last part of his career, Doug worked to become a Pararescue, also known as a "PJ", an airman who rescues downed aviators anywhere in the world under any conditions.

Mr. Eccleston's military decorations include: Air Force Commendation Medal, Air Force Achievement Medal, Air Force Reserve Meritorious Service Medal, and National Defense Medal.

Doug is survived by his wife, Stacie, his loving parents David and Donna Eccleston and sisters Dana Mohr and Dianna Coulton. Several hundred people attended the memorial service that was conducted at Pelican Beach Park in Satellite Beach, Florida, on December 11, 2001. Funeral services were held in Midland, Texas on December 13, 2001.

Doug will be remembered by those who loved him as a fun loving, caring man. His life's passions included family and surfing. In memory of Doug Eccleston's love of surfing, six of Eccleston's surfing buddies and fellow airmen paddled out on surfboards into the Atlantic Ocean and cast a wreath on the water. Our thoughts and prayers are with his family and friends.

"There's no greater gift than giving your life so that another may live," said Chief Master Sgt. Greg Lowdermilk. "He gave the ultimate sacrifice and we'll always remember him for that. We've lost another great American." We will all miss him. Doug Eccleston is a true hero.

OLYMPIC TORCH BEARER GEORGE M. MOORE

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mrs. CAPITO. Mr. Speaker, I rise today in honor of a constituent of mine, Mr. George M. Moore. I have the pleasure of knowing George personally, and I am proud to recognize him. Tonight, George will carry the Olympic torch in Martinsburg, West Virginia.

Although George considers this a once in a lifetime opportunity, it will actually be his second time to run the Olympic torch. Seventeen years ago, George carried the flame for the 1984 Olympic games.

In service to our country, George Moore has sacrificed much. As a United States Air Force fighter pilot, Moore did two tours of duty in Vietnam from 1967 to 1970, when his plane crashed into runway construction. Injuries from this accident put George in a wheelchair. He was only 26 at the time.

Today George Moore is an active member of our West Virginia community. He serves as the director of the Martinsburg Veterans Affairs Medical Center. He is a devoted father and husband. His active life is proof that George has the ability to overcome any challenge or obstacle with which he is faced.

In the Olympic spirit, George has dedicated his stretch with the torch to the victims of the September 11th terrorist attacks. His compassionate and determined approach to life is impressive and truly embodies the Olympic spirit.

George Moore is an inspiration to all of his fellow West Virginians. George is extremely deserving of this privilege of carrying the Olympic torch in our home state of West Virginia. I am honored to commend George Moore and I wish him all the best tonight.

HONORING MAYOR HARRIET MILLER

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mrs. CAPPS. Mr. Speaker, today I would like to pay tribute to a woman who is not only an extraordinary citizen of Santa Barbara, California, but has also served the city as Mayor for the last eight years. On December 30, 2001, the City of Santa Barbara will honor Harriet Miller and pay tribute to her for all the wonderful things she has accomplished not only during her tenure as Mayor, but throughout her life.

Harriet Miller grew up in Idaho and attended Whitman College in Walla Walla, Washington, graduating with a Bachelor of Arts degree in chemistry. After graduation, she went on to earn a Master of Arts degree in political science from the University of Pennsylvania, and later received an Honorary Doctorate in Humane Letters from Whitman College.

Education has always been a driving force in Harriet's life. From 1950–1955 she served as an Associate Professor and Associate Dean of Students at the University of Montana. She was then elected as the Superintendent of Public Instruction for the State of Montana in 1956, and additionally served the state as a member of the Board of Land Commissioners, the Library Commission, the Teachers Retirement Board and the Board of Education, in addition to being an exofficio Regent of the Montana University system.

In 1969 Harriet first moved to Santa Barbara and started HMA, a management consulting company. Yet after seven years of serving as president of the company, Harriet relocated to Washington, D.C. and over the next several years served as Executive Director of the American Association of Retired Person, the National Retired Teachers Association and the U.S. Occupational Safety and Health Review Commission. She then returned to Santa Barbara and was appointed to Santa Barbara City Council in 1987, was elected during the same year, and was reelected as a City Council member in 1992.

In January, 1995, Harriet was appointed as Mayor, and then went on to become elected as Mayor in November of 1995. She was then reelected in 1997. During her tenure, Harriet Miller served the City in many ways, including serving as either a chair, active member, or on the Board of Directors for countless agencies.

Throughout the years, Harriet Miller has been a pleasure to work with and after stepping down from office she will surely be missed. The City of Santa Barbara has been fortunate to have such a distinguished woman as Harriet as Mayor, and the City will never forget all her wonderful achievements. I would like to thank Harriet today for her dedication to Santa Barbara, and wish her the best of luck in all her future endeavors.

A TRIBUTE TO THE HONORABLE AND DISTINGUISHED LIFE OF EIGHTH CIRCUIT COURT OF APPEALS SENIOR JUDGE FLOYD R. GIBSON

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to pay tribute to Floyd R. Gibson, Senior Judge, U.S. Court of Appeals for the Eighth Circuit who died Thursday, October 4, 2001. Judge Gibson was a stalwart for justice and his professional career exemplifies his unwavering dedication to public service. His tenure in the Missouri State Legislature and his 34 years on the Eighth Circuit, created a legacy of commitment to Justice and the common good.

Judge Gibson was born in the Arizona Territory in 1910. He moved to Kansas City at age 4 and graduated from Northeast High School. From Northeast, he went on to attend the University of Missouri, where he received his bachelors degree in 1931 and his law degree in 1933. In 1935, he wed his wife, Gertrude. Floyd and his lovely wife have raised three successful and talented children, Charles, John, and Catherine, while demonstrating a distinguished career in public policy and the law. Judge Gibson entered private law practice in the Kansas City area, where he rose to become a named partner in three firms. While in private practice, Judge Gibson was elected County Counselor for Jackson County.

He later turned his efforts to state government where he served 21 years in both the House and Senate of the Missouri General Assembly. He believed "politics is the handmaiden of the law and should be actively pursued by members of the legal profession as an avocation." The Judge distinguished himself in the Missouri Senate as Chairman of the Judiciary Committee, Majority Floor Leader, and in his final term as President Pro Tem of the Senate. His success did not go unnoticed—in 1960 the 'St. Louis Globe Democrat' newspaper named Floyd Gibson the Most Valuable Member of the Missouri State Legislature.

With such credentials, President John F. Kennedy nominated him in 1961 to become a U.S. District Judge for the Western District of Missouri. Judge Gibson was named to the position of Chief Judge one year to the day of his September 1961 appointment. In June of 1965 President Johnson appointed Judge Gibson to the U.S. Court of Appeals for the Eighth Circuit. He served as Eighth Circuit Chief Judge from 1974 to 1980 when he assumed senior status. As a dedicated public servant, he continued to serve the Bench actively until June of 2000.

Judge Gibson has received numerous awards and honors. He received the University of Missouri Faculty-Alumni Award. He was named Phi Kappa Psi Man of the Year. The Missouri Bar Foundation honored Judge Gibson with the Spurgeon Smithson Award. He was an Honorary Member of the Order of Coif. He received the Kansas City Bar Association Annual Achievement Award and was a recipient of the Lawyers Association's Charles Evans Wittaker Award. A member of the Missouri, Kansas City, Federal, and American Bar Associations, Judge Gibson has distinguished himself through his legal work.

Judge Gibson's service to his community included the Chairmanship of Manufacturers Mechanics Bank and Blue Valley Federal Savings & Loan. He had an intense interest in agriculture and was a member of the Gibson Family Limited Partnership, which owns the Lone Summit Ranch and other farm ground in Jackson County, Missouri. Judge Gibson also gave back to the Kansas City community through his service on the Board of Trustees for the University of Missouri-Kansas City and as an Advisory Director to the Greater Kansas City Community Foundation. He was recently recognized as one of the top living contributors to the University Missouri-Columbia Law School.

Judge Gibson's life is celebrated by a host of loving family, friends, and colleagues who mourn his loss. Mr. Speaker, please join me in expressing our heartfelt sympathy to his devoted wife of 66 years, Gertrude, his sons, John and Charles, his daughter, Catherine, his daughters-in-law, Judy and Bonnie, his beloved grandchildren, Heather Allen, Jennifer Ringgold, Lynn Gibson-Lind, Scott Gibson, David Gibson, Joshua Glick and Amber Glick, along with his great-granddaughter, Isabelle Allen. Judge Floyd R. Gibson will be greatly missed, but his legacy and commitment to justice and equality will live on in the hearts and minds of those he touched.

Judge Gibson was active and energetic as a leader of the Democratic Party of Missouri; however, he left partisan politics at the door of the courthouse when he became a member of the Federal Judiciary. He is remembered by all who knew him and those who appeared before him as a fair, direct and competent judge. He loved his work as a judge, and even after retirement in 1979, he continued to serve the Bench and his country in active senior status until June of 2000. Judge Gibson served his country for most of the Twentieth Century. He served with honor and distinction. He asked for no more and we cannot think of a better epitaph.

RECOGNIZING GWINNETT COUNTY'S NEW HIGH-TECH COLLEGE CAMPUS

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. BARR of Georgia. Mr. Speaker, recent changes in global economics have had a direct effect on the face of America's job market. To be professionally competitive some degree of higher learning is rapidly becoming a necessity. Educational administrators in Georgia have recognized the growing need for these resources and have taken action to meet increasing demands.

Three institutions have come together to create a new learning facility in Gwinnett County. The collaborative efforts of the Board of Regents, the University of Georgia, and Georgia Perimeter College will all be revealed on January 7, 2002, with the opening of Gwinnett's new high-tech campus; helping alleviate higher educational needs for the Northeast metro-Atlanta community. The University of Georgia and Georgia Perimeter College will serve as partners in this new endeavor and promise to bring forth the very latest in technological and educational services available to students.

I would like to take this moment to congratulate the successful efforts of the forming team and wish them the best of luck with the new campus.

HONORING MS. PATRICIA IRELAND

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to pay tribute to Ms. Patricia Ireland. During her many years of service in the fight for equal rights, Ms. Ireland has been a tireless crusader for the fundamental principles of our democracy. She is a true America heroine.

For ten years, Ms. Ireland served as the president of the National Organization for Women. She stood up for the rights of Anita Hill, she raised awareness of domestic abuse, and she fought against those who would regard women as second class citizens. Through it all, she developed a reputation for integrity and effective action.

During the election controversy of 2000, she was a consistent champion of the right of Americans to have his or her vote counted. She has helped move NOW squarely into a role as a leading civil rights institution. Throughout her lifetime of service, Ms. Ireland has stood up to those in power and spoke up for those who would otherwise not have had a voice.

Mr. Speaker, Ms. Ireland stepped down as President of NOW earlier this year. The country looks forward to her continued leadership, and is indebted to her for her service.

TRIBUTE TO ALASKA'S CELIA HUNTER

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. UDALL of Colorado. Mr. Speaker, earlier this month news came of the death of one of the pioneers of the conservation movement in Alaska, Celia Hunter.

A founder of the Alaska Conservation Society—Alaska's first statewide organization of its kind—Celia Hunter was involved in many debates over the future of Alaska, including the "Project Chariot" plan to use nuclear explosives to dig a new deep-water port and the proposed Rampart Dam on the Yukon.

And in the late 1970's, she was among the many people from across the country whose strong support made possible the enactment of the Alaska National Interests Land Conservation Act, introduced in the House of Representatives by my father, Mo Udall of Arizona.

Now Congress has again been debating the proper balance between development and conservation in Alaska, and again Celia Hunter was active and involved in that debate right up to the day of her death. As she explained earlier this year, it remained her view that "If we lose wild spaces, we could be a much poorer nation . . . the whole concept of natural areas, with intact ecosystems is vital to life . . . we need places of the world that are still natural."

Mr. Speaker, in the words of the Fairbanks Daily News-Miner, Celia Hunter's death was a "great loss for Alaska," and it leaves the whole country poorer. She earned our thanks and remembrance. She will be greatly missed.

For the benefit of our colleagues, I am attaching a brief outline of her life as well as a newspaper editorial.

CELIA'S LIFE

Many are called, but few choose to hear and give of themselves completely. Celia Hunter heard the call of the wilderness at an early age and answered it with her adventuresome spirit, loving heart, and thoughtful mind.

Born on January 13, 1919 in Arlington, Washington, Celia grew up during the Depression in a logging community. After high school graduation, she worked as a clerk for Weyerhauser Timber Company for $50 a month, enough to buy a car. Each day when Celia drove to work, she passed by Everett Airport and saw an opportunity. An admirer of Amelia Earhart, she decided to learn to fly. One week after her 21th birthday she took off on her first flight and was immediately hooked.

"The viewpoint from on high is so different, and so much more comprehensive . . . just that whole feeling of being aloft. It gives you a feeling that birds must have. In fact, I think, if I wanted to be reincarnated, I'd like to be a bird of some sort."

Celia had discovered her first wilderness. Her love of flying led her to train with the Women Airforce Service Pilots, and she became skilled at flying a number of aircraft, including large aircraft such as the P–47 that zoomed up to 300 mph. Celia ferried aircraft across the country for the Air Force during WWII and dreamed of flying to Alaska one day to see the vast wilderness that other pilots had described.

In December 1946, she and pilot friend Ginny Hill were hired to fly two Stinson airplanes from Seattle to Fairbanks. They arrived in a snowstorm at Weeks Field in Fairbanks on January 1, 1947, nearly a month-long trip with all the weather delays. They decided to stay and work in the tourism industry, ferrying visitors to a travel lodge in Kotzebue during the summer.

This experience inspired Celia, Ginny Hill Wood, and Woody Wood to build Camp Denali, a wilderness camp just outside the original boundary of McKinley National Park. There visitors could see Denali and enjoy hiking and wildlife-viewing in a magnificent setting.

In 1960, Celia and Ginny help found Alaska's first statewide environmental organization, the Alaska Conservation Society. This small group of pioneering conservationists was inspired by Olaus and Margaret Murie to work for the establishment of the Arctic National Wildlife Range and to protect the special and unspoiled lands of Alaska.

Working together, Celia and Ginny have tackled all of Alaska's major environmental issues. They fought against Project Chariot and the Rampart Dam project, became loving stewards and advocates for Denali National Park, and worked to create and pass the 1980 Alaska National Interest Lands Conservation Act, the greatest lands conservation act in world history.

In the late '70s, Celia's leadership moved to the national level when she served as Executive Director for the Wilderness Society. She also began writing memorable environmental columns for the Fairbanks Daily News-Miner. Fearless and outspoken, Celia carefully studied a diversity of issues and wrote articulate and compelling columns for more than 20 years. Dedicated to the conservation movement, she also helped found the Alaska Conservation Foundation in 1980.

Through the years, Celia not only devoted her energy to environmental causes, she also loved people and the web of connections between them. She had the natural ability to inspire and nurture countless individuals by listening to their ideas and dreams and sharing her views. Her glacial-blue eyes could look into one's soul and bring out the best of a person's spirit including a good laugh.

Celia leaves a tremendous legacy of conservation accomplishments. Her vibrant spirit will live on in the wilderness she loved, in the lives of those she inspired, and in the legislation that holds her tireless effort to protect what she truly loved. The earth and all its a living things are grateful. Alaska will forever remember Celia.

[From the Fairbanks Daily News-Miner, Dec. 4, 2001]

A GREAT LOSS FOR ALASKA

Celia Hunter died still doing the work she loved most—fighting for Alaska's environment.

The night before her death Hunter had been putting together a list of U.S. senators who might be considered undecided regarding the Senate vote on drilling in the Arctic National Wildlife Refuge.

Hunter spent more than 50 years as a pioneer and conservationist in Alaska, most often working side-by-side with her longtime companion and fellow conservationist Ginny Wood.

Hunter's years of dedication to the protection and preservation of Alaska and her work to that end on the local, state and national levels meant that she played a vital role in shaping Alaska's environmental future.

Her work and contributions to increase public awareness of Alaska's unique natural resources have been pushed even more into the public eye as the nation began focusing on solving national energy policy issues. One of the biggest questions directly related to Alaska has been what role if any should ANWR play in that policy—the very issue Hunter contemplated during her last days.

Hunter and Wood first flew in Fairbanks in January 1947, piloting two planes to be delivered to the Interior. Extreme temperatures kept the pair here longer than expected, and after spending a bit of time in Europe, they were back to stay.

The list of her works in conservation and environmentalism are lengthy. In the 1950s, Hunter and Wood built Camp Denali, an early combination of ecology and tourism. Not long after, Hunter was a founding member of the Alaska Conservation Society, the first statewide conservation society in Alaska. Later on, she was instrumental in the formation of the Alaska Conservation Foundation and served as its first board chair. Hunter was interim executive director of The Wilderness Society in the 1970s. In 1991, she was presented the Sierra Clubs' highest honor and has received innumerable awards in recognition of her dedication and service to conservation.

News-Miner readers recognize Hunter as a longtime contributor to this page—she began writing her column in 1979. While her opinions quite often differed from our own, our respect for Hunter was beyond question.

In the days since her death, Hunter's friends and associates have described her in a variety of ways: pioneer, voice of responsible environmentalism, adventurer, kind and honest with everybody. And all said that her passing would leave a void in Fairbanks and in Alaska.

In during a 1986 interview with a News-Miner reporter, Hunter said that her basic philosophy was that much of the damage done to the earth was caused by people making a living. That creates an obligation, she said: "Each one of us has a responsibility to take care of the part of the world we live in."

Hunter's life-long goal was to minimize the footprints that humans leave on our environment. But through her work and her passion Alaska, she has left behind an impression that will long be remembered.

TRIBUTE TO CAPTAIN VIRGIL AUGUSTUS KING

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. LOFGREN. Mr. Speaker, I rise to commend Captain Virgil Augustus King, who will be retiring from the Santa Clara County Department of Correction on December 28th after twenty-six years of service to Santa Clara County.

Captain King joined the Department of Correction in 1989 after serving as a Deputy Sheriff and Sergeant for the Sheriff's Department. Since that time, he has served as a Sergeant in the Main Jail, Work Out of Class Lieutenant in The Training Unit, Personnel Unit and the Elmwood Complex. Captain King was promoted to Captain in July of 1999, and currently serves as the Programs Division, Professional Compliance and Audit Unit and Special Projects Commander.

Captain King was integral to the development of the Regimented Corrections Program (RCP), a modified boot-camp program with a strong emphasis on education. RCP has been a highly successful program which this December is celebrating its 5th Anniversary. Captain King was also instrumental in the development of the Artemis Program, a similar program designed for pregnant women and women with young children, which was selected as the 2001 recipient of the Thomas M. Wernert Award for Innovation in Community Behavioral Healthcare. The latest innovative program developed under Captain King's direction is Women in Community Services, a pre- and post-program for female inmates in Santa Clara County, which starts with classes inside the jail and extends into the community for supportive aftercare. Each of the participants is matched up with a professional mentor for up to six months to assist them in the successful achievement of their individual goals.

I wish to thank Captain Virgil King for his compassionate dedication to the County and wish him the best in his future endeavors. His innovation and loyalty will be sorely missed, but the people of the County are the richer for his service.

PAYING TRIBUTE TO RONALD APPLBAUM

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize the new President of the University of Southern Colorado, Ronald Applbaum. The University and the community of Pueblo are fortunate to have Dr. Applbaum join their extended family. As he prepares for his new post, I would like to recognize several of his academic achievements and wish him the best of luck when he takes his new post in July.

Dr. Applbaum was selected to head the University based on his impressive academic resume and past successes he has enjoyed in other higher education institutions. He was one of three finalists considered for the position in a selection process that lasted just three months. Upon reaching the finalist category, it became an easy board decision to name Dr. Applbaum to the University's top post. The doctor was selected trusting that he can continue to lead the University of Southern Colorado to the prominence and stature that the educational institution maintains today in the State of Colorado.

Dr. Applbaum has enjoyed a long and distinguished career in higher education. He has served in numerous academic positions for several colleges and universities throughout the country. He received a bachelors and masters degree in speech communication from California State University and later a doctorate in the field from Pennsylvania State University. He served as the Vice President of Academic Affairs for the University of Texas-Pan American and Dean of the School of Humanities for Long Beach State. His rise to USC's top post began with a term as president of Westfield State College in Massachusetts, and serving as the President of Kean University in New Jersey since 1996.

Mr. Speaker, it is my pleasure to welcome Dr. Ronald Applbaum to Pueblo and the University of Southern Colorado. The community is truly fortunate to gain this new and distinguished leader. I would like to further welcome his family to the area and look forward to meeting them in the coming year. Congratulations on your latest achievement, Dr. Applbaum, and welcome to your new home. I am confident when I say the commitment to higher education is strong with leaders such as yourself and I am assured you will continue to perform great work!

PAYING TRIBUTE TO JACOB SCHOOLEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize and pay tribute to a hero of the community of Glenwood Springs, Colorado. Jacob Schooley recently distinguished himself in a local fire that threatened to destroy a historic building and injure several residents. I would like to highlight Jacob's heroics and thank him for his service.

Jacob arose to a regular morning on Saturday, December 1, 2001, until he heard fire alarms ringing throughout his residence. After making a call to 911, Jacob proceeded to awaken his neighbors to the danger that lay ahead. After finding the source of the fire, Jacob extinguished the flames and directed the residents to safety. Jacob continued to fight the fire until firefighters arrived on the scene to control the blaze. As a result of his quick reaction, the fire damage was minimal and the residents were allowed to reoccupy their homes soon thereafter.

Mr. Speaker, I again commend Jacob Schooley for his quick action and decisiveness in a time of crisis. The fire harmed several residents and firefighters with burns and smoke inhalation, but without Jacob's efforts, the toll could have been much worse. I am honored to represent citizens like Jacob and his community of Glenwood Springs. Thank you for your efforts Jacob and this body appreciates your dedication to helping others in a time of need.

BREAKING THE ABM TREATY COULD SPARK A NEW ARMS RACE

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. HOLT. Mr. Speaker, It is with tremendous concern that I note the President's announcement that the United States will withdraw from the Anti-Ballistic Missile (ABM) Treaty. This is an ill-advised decision that could have dangerous repercussions in the long run.

The most troubling part of the President's decision today is the rationale supporters have used to justify backing out of the treaty: they claim it interferes with the United States' development of a National Missile Defense (NMD) system. This is clearly a straw man argument.

The United States is nowhere near developing or fielding a working NMD system, after decades and billions of dollars of effort. To back out of the treaty at this time, a time when we are working closely with Russia and other allies in the international war on terror, is unneeded and simply off base. And to do so for such a technologically premature program is clearly folly.

Backing out of the ABM treaty is not without serious repercussions. For example, a senior Russian lawmaker predicted in response to today's news that Russia will pull out of the Start I and Start II arms reduction treaties. I fear that today's action will lead to a spiral of action and reactions, sparking a new arms race would not make us less, not more, secure.

SUPPORT FOR BAY AREA COUNCIL FOR JEWISH RESCUE AND RENEWAL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. LANTOS. Mr. Speaker, I rise today to express my support for the Bay Area Council for Jewish Rescue and Renewal (Bay Area Council), an exemplary organization which has been carrying out important work in the Russian Federation.

The Bay Area Council has designed and implemented a Climate of Trust program to enable Russian law enforcement officials to combat ethnic and religious intolerance and xenophobia in Russia by providing a sustained and supportive relationship between American and Russian communities, law enforcement professionals, city administrators, prosecutors, human rights activists, educators, and local media representatives. The goal is to promote tolerance and reduce incidents of hate-based violence in Russia through training, seminars, workshops, and symposiums.

The Climate of Trust program has brought in tangible results. Over the 2000–01 period, more than five hundred Russian officers, civil servants, community members, and media representatives have taken part in its activities. In the Russian city of Ryazan, which had been marked by anti-Semitic acts, the Climate of Trust program proposed several initiatives which were later enacted and are in the process of implementation. In 2002–03, the Bay Area Council plan is to continue their activities in Ryazan and expand them to several other Russian communities outside of Moscow. This is a worthy and important work that earned Bay Area Council a tribute in the 2001 State Department International Religious Freedom Report.

Not only our government has recognized the Climate of Trust program as effective and successful in training Russian law enforcement and other government officials in promoting tolerance. The government of the Russian Federation also identified the Climate of Trust program as a key component of its 2001–2005 national program for preventing extremism and promoting tolerance in Russian society. When Congress graduates Russia from Jackson-Vanik next session, the role of the Bay Area Council and other non-governmental organization will become even more important in the human rights dialogue between our countries.

The Climate of Trust is exactly the kind of program we should be supporting in Russia. It is cost-effective and it works at the grass-roots level with communities throughout Russian Federation. The program is interactive and responsive to the needs of these communities, I am confident it has immediate and lasting effect on individuals and communities besieged by xenophobia. The Russian Democracy Act, legislation which I authored and which passed the House unanimously last week, earmarks at least $50 million for activities designed to support Russian civil society at all levels. I respectfully ask the Administration and the State Department to extend all possible support to the Bay Area Council so that the Council may expand and continue its grassroots efforts at combating xenophobia and promoting civil society in Russia.

TIME TO RATIFY THE CTB

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. MARKEY. Mr. Speaker, I rise today to express my concern over recent reports that the administration is considering the development of so-called "low-yield" nuclear weapons. While these mini-nukes are allegedly being considered to promote a longstanding nonproliferation goal of destroying buried stockpiles of chemical and biological weapons, testing these weapons would break a 9-year moratorium on nuclear testing and would have grave implications for nonproliferation. This action would continue to undermine the future of the Comprehensive Test Ban Treaty (CTBT), which is already under assault in this administration.

The CTBT is the culmination of a series of incremental efforts to stop the threat of nuclear war following the explosion of two nuclear weapons during World War II. The radioactive fallout from hundreds of test explosions in the 1950's and the near catastrophe of the Cuban Missile Crisis strengthened support for a cessation of nuclear explosions. These events led to the Limited Test Ban Treaty of 1963, which prohibited all nuclear explosions in the atmosphere, in space, and under water. Next came the Threshold Test Ban Treaty of 1974, which limited the explosive force of underground tests, and the Peaceful Nuclear Explosions Treaty of 1976, which extended that limit to nuclear explosions for "peaceful purposes". These two treaties were ratified in 1990 but fell short of limiting all nuclear explosions.

The end of the Cold War and the thawing of U.S.-Russia relations reinvigorated efforts to seek a total ban of nuclear test explosions. In 1994, I cosponsored H. Con. Res. 235, which lauded the President for maintaining a moratorium on testing nuclear weapons and for being supportive of a comprehensive test ban. With strong international support, the CTBT was finally opened to signature in September 1996 and was promptly signed by the President. The ball then moved to the Senate's court. In September 1997, I cosponsored H. Res. 241, which urged the Senate to give its advice and consent to ratification of the CTBT. Despite certification by the President that there were no safety or reliability concerns about the nuclear arsenal that required underground tests, consideration of the Treaty was held hostage by politics and, in 1999, was rejected by the Senate.

Now we come to the present day when 162 States have signed the treaty and 87 have ratified it. The Treaty has still not entered into force, however, and the United States is not among the ratifiers. The current administration has emphatically refused to consider a comprehensive test ban and did not even send a representative to the Conference.

The administration's rejection of the CTBT and withdrawal from the Anti-Ballistic Missile Treaty send the wrong message to the international community about our commitment to nonproliferation. Our whole nonproliferation stance is linked to the CTBT, since it signals our intention to meet the expectations of the Nuclear Nonproliferation Treaty (NPT). Under the NPT, nuclear weapons States pledged to work in good faith toward total disarmament in exchange for an agreement by non-nuclear weapons States to limit their use of nuclear technology to peaceful applications. Cessation of testing new weapons is a vital part of any serious disarmament plan. If the United States won't even agree to consider a test ban, and is clearly signaling its intention to go forward with development of nuclear missile defense, how can we possibly persuade other nations to forego their weapons programs?

In this age of heightened concern over terrorist threats we need the CTBT now more than ever. Much work remains to be done to reduce the threat of terrorists obtaining and using weapons of mass destruction. A ban on all nuclear explosions limits the ability of terrorists to develop their own nuclear weapons or to acquire them from hostile nonnuclear weapons States. The CTBT should be an integral part of our anti-terrorism efforts and I urge my colleagues to support its ratification. When the President comes to Congress to get the 1994 ban on the development of new nuclear weapons lifted I urge my colleagues to vote no to the President's request.

REMARKS ON ACCELERATED DEPRECIATION

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. GONZALEZ. Mr. Speaker, I would like to express my strong support for efforts to increase the depreciation deduction. In my view accelerated depreciation is one of the most efficient and effective ways for Congress to spur business investment in our country.

Mr. Speaker, as you know this year has seen a dramatic drop off in business investment. Business investment was one of the foundations of the economic boom that our nation enjoyed during the Clinton Administration. It is therefore critical that Congress does what it can to restart the capital investment engine that has propelled our nation's economy to extraordinary heights over the last decade.

Mr. Speaker, in addition to reductions in interest rates and balancing the budget, one of the most important things the Federal Government can do to increase business investment, in my view, is to accelerate the depreciation schedule for business purchases. Depreciation schedules reflect the Federal Government's own somewhat arbitrary calculation of what is the economic life of capital. Accelerating the depreciation allowance for new capital investments provides a direct and immediate incentive for businesses to build factories, purchase new equipment, and generally expand operations. This inevitably creates jobs and results in a long term improvement in the productivity rates of American industry. Additionally, unlike many other proposed tax incentives, accelerated depreciation is directly tied to business investment. A business-person can not enjoy this tax incentive unless he or she commits to a capital expenditure.

Mr. Speaker, it is for these reasons, I firmly believe that the long term economic benefits of accelerated depreciation far outweigh the immediate revenue loss consequences of any such tax cut. It is my hope than in the 2002 session of the 107th Congress we will pass into law an acceleration of the depreciation allowance.

IN RECOGNITION OF JESUS BURCIAGA

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. BECERRA. Mr. Speaker, it is with utmost honor and pleasure that I rise to recognize Mr. Jesus Burciaga, a gifted leader and outstanding firefighter from La Habra, California. Today, Jesus achieves another milestone in an already storied career. In the process, he affirms our belief that devotion, determination, and discipline still pay handsome dividends in life.

This 20th of December, the Los Angeles County Fire Department elevates Jesus to the rank of Deputy Fire Chief, third in command of the second largest fire protection agency in America. His promotion highlights a career of exceptional public service which began more than a quarter century ago.

As a young man who once shined shoes on the corner of First Street and Gage Avenue in East Los Angeles, Jesus saw his hard work and perseverance take him from the lowest position in the Los Angeles County Fire Department, suppression aid, to fire fighter, then inspector, to Captain by 1984. Five years later he was promoted to Battalion Chief, and by 1994 he had become Assistant Fire Chief, serving for a time as Los Angeles County Fire Marshal.

Chief Burciaga has accomplished many "firsts." He became one of the youngest firefighters to qualify for Captain at the age of twenty-five. He became the first Fire Marshal of Latino descent in the County's history. And he is certainly the first fortyseven year old father of five daughters whom I have witnessed retain not only his hair but its natural dark color.

I met Jesus more than thirteen years ago at a "Career Day" session at a local elementary school where we both were presented before a class of fifth graders. Captain Burciaga was dressed in uniform; I, Deputy Attorney General Becerra, wore my suit. There was no contest: he glittered, I gawked. He told the kids of his battles with fire, I battled to keep their eyes on me. It would not surprise me if some of those young students today are firefighters.

Chief Burciaga has a passion for service and a devotion to our youth. As President of the United Hispanic Scholarship Fund he has helped raise $500,000 to make the dream of college a reality for more than one thousand students. He volunteers his "spare time" to support his brethren internationally, delivering surplus but valuable firefighting vehicles and equipment and teaching the latest fire fighting techniques to firefighters in countries like Mexico.

But, without question, his greatest passion and devotion, which has earned him our undying respect and affection, belongs to his family. Ana Burciaga has fought every one of her husband's fires. In her eyes you see the values that have made the Burciaga family so strong. Ana and Jesus and their five accomplished daughters—Elenor, Catherine, Luz, Natalie and Sarah—have every right to be proud today.

Mr. Speaker, on this day, December 20, 2001, family, friends and colleagues gather at Descanso Gardens in La Cánada, Flintridge, California to witness the official appointment of Jesus Burciaga as Deputy Fire Chief for the County of Los Angeles and to celebrate 28 years of courage, integrity, and consummate professionalism. It is with great pride that I ask my colleagues in this beloved House of Representatives to join me today in saluting Jesus Burciaga, an exceptional man and cherished friend.

WILKES-BARRE NATIVE HONORED FOR ROLE IN BOMBER CREW RESCUE

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of the House of Representatives to the dedication of the team from the USS *Russell* who rescued the four member-crew of an Air Force B–1B bomber that crashed on December 12th in the Indian Ocean. In particular, I would like to highlight the role of Boatswain Mate 1st Class Stephen Lyons, a native of my District.

In addition, Mr. Speaker, I would like to note that I am proud of him and all the military personnel from Northeastern and Central Pennsylvania and grateful for their willingness to serve America.

I would now like to enter into the record the following article about Boatswain Mate 1st Class Lyons from the December 17th edition of the Wilkes-Barre Citizens' Voice:

CITY NATIVE INVOLVED IN INDIAN OCEAN RESCUE

(By Gene Skordinski and Tom Venesky)

A Wilkes-Barre native was one of the members of the USS *Russell* who rescued the four member-crew of an Air Force B-1B bomber that crashed Wednesday in the Indian Ocean.

Boatswain Mate 1st Class Stephen Lyons, 38, operated one boat that rescued the crew.

The rescue boats were launched from the destroyer USS *Russell* after the jet crashed on its way to bomb targets in Afghanistan.

The $280 million bomber went out of control and fell into the ocean about 60 miles north of Diego Garcia after taking off from the British island, government sources reported.

It was the first manned, fixed wing U.S. aircraft lost in the Afghanistan campaign.

Crew members ejected from the plane at 15,000 feet and were in the water about two hours during the night.

Lyons, who is on the USS *Russell*, was driving one search and rescue boat that responded to the crash.

All four crew members were in good condition, said officials.

Lyons Joined the Navy following his graduation from Meyers High School in 1983.

During his Navy career, he has served aboard the USS Guam for five years as well as the USS Savannah. He has served in Beirut, Somalia and the Gulf War. He has also completed several six-month tours of sea duty in the Mediterranean Sea and the Indian Ocean.

Lyons was responsible for collecting personal items from sailors on the USS Guam as well as the embassy personnel during the evacuation of the embassy in Somalia.

Aside from operating search and rescue craft, Lyons drives the captain's launch, a boat used to shuttle the ship's captain to and from shore.

He has also served at Norfolk, Va.; Pax River, Md.; Kings Bay, Ga., and Pearl Harbor.

While at Pax River, he worked in the testing of hovercraft and with the David Taylor Research in Norfolk.

He is the son of Harold and Jean Lyons, 160 Wood St., Wilkes-Barre. Boatswain Mate 1st Class Lyons is married to the former Sharon Gula, formerly of Edwardsville. They have two sons, Stephen, 13, and Justin, 11, and the family resides in Pearl Harbor. His grandmother, Lucy Machinshok, resides in the Pocono area.

His mother said he is currently on his fourth six-month cruise since joining the Navy in 1984. He is set to return after Easter.

Although his exact location is classified, she said she keeps in touch with her son through e-mail.

"He e-mails me three times a week," she said, adding it can be difficult not knowing where he is.

"You worry and wonder and thank God when you hear from him that it's good news," she said. "He can't tell us where he is or even where he's going."

Mrs. Lyons explained that the long months away from his family are accepted as part of her son's job.

Although it can be difficult to be gone for extended periods of time, she said her son is doing what he loves.

"He's happiest when he's on the ocean. There's a certain calm about it that he enjoys while he's on the ship," she explained.

Mr. Speaker, I am pleased to call to the attention of the House of Representatives the service to our nation of the crew of the USS *Russell*, including Boatswain Mate 1st Class Stephen Lyons, as well as all the military personnel from Northeastern and Central Pennsylvania, and I send my best wishes to them and their families.

INTRODUCTION OF THE ELECTRONIC MARKETPLACE OWNERSHIP DISCLOSURE ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mrs. MALONEY of New York. Mr. Speaker, today I introduced the Electronic Marketplace Ownership Disclosure Act. This legislation requires operators of Internet sites that match buyers and sellers to disclose whether they have financial relationships with parties involved in transactions that take place on their sites. Some Internet sites portray themselves as disinterested third parties that simply host a site matching buyers and sellers. The Electronic Marketplace Ownership Disclosure Act requires companies hosting such sites to affirmatively disclose corporate relationships they have with companies offering goods or services on their site.

Many consumers now rely on Internet marketplace sites to compare prices and buy goods. They should have the right to know who really owns an Internet exchange purporting to provide a neutral marketplace. The Electronic Marketplace Ownership Disclosure Act will enable consumers to make more informed purchasing decisions. In the long term, the continued growth of Internet commerce depends on the medium's integrity as a marketplace. This legislation will support the Internet's continued growth by increasing public confidence.

There is a tangible need for this legislation. Last year, Money magazine disclosed that QuickenInsurance.com, a site owned by Intuit Corporation, claimed to provide the "best prices from America's top insurance and loan companies." However, according to the article, Quicken does not disclose on their site that they receive a commission from every insurance policy they arrange.

The American people deserve honesty, whether they are shopping online or in person. For too long, some Internet retailers have avoided telling consumers the truth about who they are owned by and who benefits for special arrangements that may do harm to consumers. The Electronic Marketplace Ownership Disclosure Act let American consumers know the whole truth. This bill is good for consumers, it is good for businesses, and it will benefit the Internet.

TRIBUTE TO MR. MITCHELL ROBINSON

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. DUNCAN. Mr. Speaker, on December 10th my good friend Mr. Mitchell Robinson passed away after a lengthy illness. He was someone who made a difference and dreamed the American Dream, and he truly represented what this country is all about. The following is a tribute to my friend.

Mr. Robinson, a Knoxville native for 77 years, founded Modern Supply Company in 1949. He devoted his life to family, business and philanthropy. He was married to Natalie Levison Robinson for 50 years.

Mr. Robinson was a lifelong member of Heska Amuna Synagogue and was a leader as chairman and longtime board member. He also chaired the Knoxville Jewish Federation. He established the Sylvia Robinson Memorial Fund and endowed the A.J. and Sylvia Robinson Chapel at the synagogue in memory of his parents.

Mr. Robinson, who served as president of the Southern Wholesalers Association and a Director of the American Supply Association, pioneered the concept of bath and kitchen showrooms in East Tennessee.

He was also active in the Knoxville business community, where he was a charter member of the Midtown Sertoma Club. He was a loyal supporter of the University of Tennessee, contributing to the Departments of Judaic Studies and Athletics.

A World War II veteran, Mr. Robinson served as a flight controller in the U.S. Air Corps Radar Unit in the Pacific.

His beloved family also includes children Rabbi Rayzel and Dr. Simcha Raphael of Philadelphia, A.J. Robinson and Dr. Nicole Ellerine of Atlanta, and Pace and Karen Robinson of Knoxville; grandchildren Yigdal and Hallet Raphael; Micaela, Ethan and Nathaniel Robinson, and Asher and Eli Robinson; sister and brother-in-law Fay and Bob Gluck of Boynton Beach, Fla.; brother-in-law Gilbert Levison of Knoxville; brother- and sister-in-law Jarvin and Deanne Levison of Atlanta; and many nieces, nephews, cousins and friends.

Mitchell spent most of his 77 years in Knoxville, Tennessee. He was part of a generation that had a significant impact on Knoxville and the surrounding area. He came back from World War II with no money, no business, and a limited education. But he had enduring self-confidence, determination, and a desire for accomplishment that stayed with him his entire life right up to the end.

He was part of that "greatest generation" that we read so much about today, and who Tom Brokaw has made so famous. Men and women who have impacted and enriched all of our lives over the last half of the 20th century.

But as many of you know, and as Sinatra sings, Mitch did it his way . . . whether it was in his business, in his synagogue, or the various other circles he traveled. Everyone was a part of his empire, family, friends, customers, and employees alike. He shared the good and the bad with everyone.

The child of immigrant parents, he created his own style, his own flair in everything he did and everybody he touched.

He had style in his clothes, in his cars, in his hats, in his dancing, in the showrooms at Modern Supply, in the "Pitch from Mitch" stationary, in the incentive trips for his customers that he so tediously planned and enjoyed. He bought things in a big way whether it was a truckload of sinks, shirts for himself, or smoked turkeys for gifts. He was able to charm about anyone he met, particularly the females. He had an appetite for food and people that was enormous.

Mr. Robinson was a leader, perhaps not always knowing where he was going, but knowing he was going somewhere. His devotion to his business was inspiring. His family's contributions to the religious community in time and money are in the record books.

Members of the community called on him when something was needed for those who were less fortunate. He was always there. He was generous to a fault and has set a standard for all of us to follow.

In a Yom Kippur Sermon several years ago, Rabbi Joseph Weinberg, said:

"Always we are commanded to seize the day, to create a life which will be remembered as a blessing. Not how long, but how well did I live? Not how many honors did I obtain, but how honorable was my life. Not how many things did I acquire, but how much was I able to give."

This quote is very fitting for the life of Mitchell Robinson. I would like to offer my deepest sympathy to the Robinson family. Our Nation and our community have suffered a great loss.

HONORING DAVID SAYLES ENGLISH

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. OSE. Mr. Speaker, I rise today to honor David Sayles English of Arlington, Virginia, as he joins the Arlington County Police Department.

Throughout most of his adult life, David English has devoted himself to the safety and protection of others. A 1989 graduate of Yorktown High School in Arlington, Virginia, Mr. English attended Western Maryland College prior to serving in the United States Army. His service in the military, most notably at Fort Greely, Alaska and Fort Detrick, Maryland, gave him a unique insight into helping his fellow man.

Following his honorable discharge from the military, Mr. English put his medical knowledge to work as an Emergency Medical Technician (EMT) while earning his paramedic's license. Shortly after earning his license, David returned to his hometown to work as a firefighter at Fire Station #8 in Arlington County, Virginia. As it has been his lifelong dream to work in law enforcement, David joined the Arlington County Police Department earlier this year.

Tomorrow morning, December 21, 2001, David Sayles English will graduate from the Arlington County Police Academy, officially becoming a Police Officer in Arlington, Virginia. He joins an illustrious group of men and women throughout our nation of whom I am proud. Let me extend my personal thanks to those who serve in uniform. If the efforts of our civil servants taught us anything on September 11, 2001, it is that this badge is a symbol of heroism and honor. I know that he will wear it with pride.

HONORING COPELAND AND WINONA GRISWOLD ON THEIR 50TH WEDDING ANNIVERSARY

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. MILLER of Florida. Mr. Speaker, it is my distinct pleasure to announce to you and the other members of this distinguished body, that on December 21, 2001, my in-laws, Copeland and Winona Griswold of Chumuckla, Florida, will celebrate their 50th wedding anniversary.

Copeland and Winona were married on December 21, 1951. They met in Chumuckla, Florida during grade school and later became high school sweethearts and valedictorians of their senior classes. They have lived in Chumuckla these past 50 years, and have shared their love with their children Marty, Von, Vicki and Paul, and their many grandchildren and great grandchildren.

The Griswolds were agricultural pioneers in the State of Florida. They were named the Farm Family of the Year for Santa Rosa County in 1985, and Copeland was inducted into the Florida Agriculture Hall of Fame in February of this year.

Their love story is one that is still in progress. I can tell you firsthand their love for each other has grown even stronger through the years and serves as an inspiration to us all.

Love has flourished between these two hearts, and I wish them continued happiness and love for years to come.

On behalf of the United States Congress and the people of Northwest Florida, I extend our sincere congratulations to Copeland and Winona Griswold, whose love stands as a shining example to an entire community.

IN HONOR OF THE ACHIEVEMENTS OF THE DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY MEMBERS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. NORTON. Mr. Speaker, as Congress prepares to end this session, unique in our history, I ask the House to recognize the work of nine Washingtonians who have just completed a uniquely important public service for our nation's capital, and therefore for our nation. The nine served the District of Columbia on the District of Columbia Financial Responsibility and Management Assistance Authority. They are the two chairs, Andrew Brimmer and Alice Rivlin, the vice chairs, Stephen Harlan and Constance Berry Newman, and the members, Eugene Kinlow, Darius Mans, Joyce Ladner, Edward Singletary, and Robert Watkins. They are very distinguished Americans and among the most distinguished and most accomplished residents of the District of Columbia.

This year, the Authority completed six years that have brought the District of Columbia out of the worst financial crisis in a century. To cope with this crisis, Congress passed the District of Columbia Financial Responsibility and Management Assistance Authority Act in 1995. The city had followed several others—Philadelphia, New York, and Cleveland among them—to junk bond status indicating an inability to borrow, or insolvency. As with the cities that preceded them, the District required a "control board" or Authority in order to continue to borrow the necessary money to function. Unlike other cities, however, the nation's capital reached this point not only because of local mismanagement, but also because it is a city without a state and a city that carried the full complement of state functions and costs. To the credit of the prior administration of President Bill Clinton, which designed a package relieving the city of the most costly state functions and of the Congress, which approved it, the District has had a remarkable recovery.

Working countless hours with the Mayor and the City Council, the Authority helped the District achieve investment grade bond status by the third year of the control period, rather than in four years; create a budget reserve of $150 million and left the city well on its way to creating a 7-percent cash reserve three years ahead of schedule; repay all borrowings from the U.S. Treasury; eliminate the accumulated deficit; and post four years of balanced budgets with surpluses, two years ahead of the congressional mandate to do so.

Elected officials, who continued to run the city throughout, deserve credit for this improvement. However, they would doubtlessly agree that more than any single group or individuals, the Financial Authority deserves the credit for the four-year rapid recovery of the District. It was the credibility of the individuals on the Authority and the extraordinary job they did that enabled the District to borrow in its own name. The city never had to have the Authority borrow for the District. It was the Authority that worked hand in glove with D.C. elected officials to assure that the finances and the management of the D.C. government would proceed apace to improve. And it was the Authority that gave Congress the confidence that the city would be ready for the sunset of the Authority on September 30, 2001.

It would be difficult to overestimate the importance of these Washingtonians to the recovery of the city or the difficulty of the work they were called upon to do—and did. The District could never have purchased from experts of their special competence what each gave to the city as a contribution of unique expertise, endless hours, extraordinary effort, and plain, priceless wisdom.

The city the Authority found had been wracked with many years of overspending and an accumulated deficit as well as a dysfunctional government of city agencies. The city they have left has had four straight years of balanced budgets plus surpluses and a much improved fully functioning city government. At the end of the last fiscal year, the District had a larger surplus than Maryland and larger than Virginia, which had no surplus. The bottom line that is expected of every jurisdiction of living within its budget, credit to assure borrowing and clean audits has been achieved. The huge task of restructuring and reforming each city agency is proceeding with many notable improvements. The Authority, working with elected officials has improved the most critical agencies, including public safety and education, where resident concern was pronounced. These financial and management improvements are among the many rich features of the Authority's legacy,

However, the Authority also left an important warning not only for the city but for Congress about the future of the city. Despite remarkable city improvements and the Revitalization Act's assumption of $5 billion in pension liability and some state functions, the Authority warned of a structural deficit not of the city's making that urgently needs congressional attention. Next session, I will introduce a bill to meet the structural problem the Authority has left Congress to remedy.

Today, however, let us be grateful that the most difficult part of the job of revitalizing the nation's capital has not been left to Congress. It has been done by nine extraordinary citizens who asked nothing from Congress, not pay, and not even praise. Yet, considerable praise is the least they are due from the Congress of the United States. It is praise and honor that I ask this House to give to these nine Washingtonians today from a grateful Congress and a grateful nation.

THE DISTRICT OF COLUMBIA FINANCIAL MANAGEMENT AND ASSISTANCE AUTHORITY

FIRST AUTHORITY

Andrew Brimmer (Chair)

Dr. Andrew Brimmer served as the first chair of the Authority. Mr. Brimmer, the first African American to serve on the Federal Reserve Board, has long been recognized as a distinguished economist. Among his many posts and achievements is service as an economist at the Federal Reserve Bank of New York and posts teaching economics at Michigan State University, the Wharton School, the University of Pennsylvania, and other colleges and universities. Dr. Brimmer is the President of Brimmer and Company.

Dr. Brimmer became the chair of the Authority when the city was at its lowest point of financial and management disrepair. He led the Authority as it took on very large and intractable fiscal and operational problems and managed them with skill and determination.

Stephen Harlan (Vice Chair)

Stephen Harlan served as vice chair for the first term of the Authority. He was the chair of H.G. Smithy Company, a specialized real estate firm providing mortgage banking, finance and investment, and multi-family property management services. He previously served as vice chairman of KPMG Peat Marwick.

Mr. Harlan successfully led the Authority's public safety revitalization at a time when crime was the primary concern of District residents and officials.

Joyce Ladner

Dr. Joyce Ladner has served as Interim President of Howard University, Vice President for Academic Affairs, and professor of sociology at the Howard University School of Social Work. She is currently a Senior Fellow of Government Studies at the Brookings Institution.

Dr. Ladner successfully concentrated on improving public schools when education was the primary concern of the Authority.

Constance Berry Newman

Constance Berry Newman, one of the most versatile officials in the public life of the country, served as vice chair during the second term of the Authority and is the only member that served both terms. She has been appointed by Presidents of the United States four times to major federal posts and has been a Woodrow Wilson Visiting Fellow, and a member of the adjunct faculty at the Kennedy School at Harvard University and a trustee of the Brookings Institution. Ms. Newman has served as Undersecretary of the Smithsonian Institution, Director of the Office of Personnel Management, and consultant to foreign governments and international organizations, among other posts. Ms. Newman is currently the Assistant Administrator for the Bureau for Africa for the U.S. Agency for International Development.

Ms. Newman successfully led a number of areas for the Authority, ranging from public schools to procurement.

Edward Singletary

Edward Singletary is a retired business executive with experience in accounting, budgeting, financial planning, finance operations and telecommunication. He worked in the telecommunications industry for nearly 30 years. During his business career, he served the city as chair of the Washington Convention Center, a member of the D.C. Retirement Board, and President of the Washington Convention and Visitors Association.

While on the Authority, Mr. Singletary successfully worked on government-wide administrative issues for the city, including technology and procurement.

SECOND AUTHORITY

Alice Rivlin (Chair)

Dr. Alice Rivlin, one of the country's most respected economists, served as chair of the Financial Authority for its second term. She has had one of the most distinguished public service careers in the nation as Vice Chair of the Board of Governors to the Federal Reserve, Deputy Director, then Director of the Office of Management and Budget, and as the first director of the Congressional Budget Office, among others. Dr. Rivlin is currently a Senior Fellow in Economic Studies at the Brookings Institution.

Dr. Rivlin was the chair of a landmark commission on the District government and its finances that bears her name and that predicted the problems of the city years considerably before they resulted in the crisis that brought on the need for the Authority she led. When Dr. Rivlin became chair of the Authority in September 1998, she led the detailed financial work on government operations necessary to manage a careful transition of control of the District to the Mayor and City Council.

Constance Berry Newman (Vice Chair—see above)

Eugene Kinlow

Eugene Kinlow is a native Washingtonian with exceptionally strong community ties, including service as a former chair of the D.C. Board of Education. He is a retired Deputy Assistant Secretary for Human Resources in the Department of Health and Human Services and a recipient of the highest award for federal executives, the Presidential Distinguished Rank Award. He previously served as a staff statistician at the U.S. Commission on Civil Rights, and worked as the Housing Research Director. Mr. Kinlow's 30 years of community service in the Anacostia area led to his determined work as the Authority's lead member on revising health care for the District.

Darius Mans

Dr. Darius Mans was a manager for compensation policy and administration at the World Bank. Prior to his work at the World Bank, Dr. Mans was an economist for the Federal Reserve System Board of Governors. He is currently Country Director at the World Bank for several large African nations.

Dr. Mans' strong institutional and academic financial background was very useful to the Authority's work on D.C.'s finances.

Robert Watkins, III

Robert Watkins, a distinguished lawyer, has been a partner at Williams and Connolly since 1977. His background includes leadership posts in the Office of the U.S. Attorney for the District of Columbia when he was an Assistant U.S. Attorney and work in the Civil Rights Division of Justice Department.

Mr. Watkins successfully worked on justice issues and the Metropolitan Police Department during a period when the Department underwent substantial reform and crime was reduced.

MONROE TOWNSHIP CELEBRATES THE CAREER OF RETIRING COUNCIL VICE PRESIDENT LEONORA FARBER

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. HOLT. Mr. Speaker, I rise today in recognition of retiring Monroe Township Council Vice-President, Leonora Farber.

For many years, Councilwoman Farber has made invaluable contributions to the Township of Monroe and to the State of New Jersey through her exceptional commitment to civil service, education, and the arts.

Throughout her career Lee Farber has selflessly contributed her time and energy to her community and has embodied the spirit of public service that we in Congress hold so dear. She began her career of service as a public school teacher after receiving her Masters Degree in Secondary School Administration and Supervision from Hofstra University. Her unwavering support of education in New Jersey continued when she became the Chair of the New Jersey Training School for Boys Citizens Review Board.

In her efforts to advance the interests of her neighbors, Councilwoman Farber has also served as Whittingham's representative to the Adult Communities Advisory Board, as a member of the Executive Board of Greenbriar at Whittingham Residents Association, and of the Executive Board of U.F.T. Retirees.

Lee Farber has passionately supported women's rights and has provided a voice to the concerns of the disabled as a member of the League of Woman Voters and as Council representative to the Americans with Disabilities Committee.

An outspoken advocate of environmental issues, Councilwoman Farber is the former chairperson of Monroe's Environmental Commission where she helped protect New Jersey's air, water, and land from pollution and degradation. An arts patron and enthusiast, Councilwoman Farber also currently serves as Council Liaison to the Cultural Arts Commission.

Lee Farber has led a distinguished career of public service in New Jersey that sets an important example for us all. I hope my colleagues will join with me in honoring her.

OBITUARY OF EVA LOU BILLINGSLEY RUSSELL

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. HILLIARD. Mr. Speaker, Eva Lou Billingley Russell, also affectionately known as "Grandma Rap", 82 of Birmingham, died on Friday, December 14, 2001. Mrs. Russell was the owner of Fraternal Café in downtown Birmingham for more than 20 years. She was a Civil Rights activist most noted for feeding the local as well as national civil rights movement for many years. In addition, Mrs. Russell operated feeding programs for the homeless and poor, years before, attention was given to this problem in our communities.

She spent considerable time encouraging young people to get an education and to stay away from drugs. Many times this message was "rapped" to the children. It is not uncommon to pick up a magazine and find one of her poems or to hear a child reciting one of her poems in a church or at a school throughout the city. She is the author of the book "Golden Threads"—A Collection of Poems About About the Black Family. She also has three other manuscripts of books that are yet unpublished.

Mrs. Russell has received numerous awards throughout her life. A few of these include: Channel 13 Hometown Hero—1991, WENN Radio Favorite Person, Beautiful Activist Award, SCLC Humanitarian Award, Crystal Diamond Award for Community Service; Awards from: University of Alabama, Birmingham, Lawson State Community College, Booker T. Washington Business College, and Miles College. She has also received numerous awards from elementary, middle and high schools in the Birmingham area.

She was very active at Saint Joseph Baptist Church where she has been a member for a number of years. Most recently, she was a deaconess, Chair of the Pastor's Aide Board, and worked with the Missionary Society, Homeless Committee, Willing Workers and served in numerous other capacities of leadership throughout her membership at the church; including Vice President of the St. Joseph Day Care Center, Youth Supervisor and Chair of the Deaconess Board.

Mrs. Russell leaves the following survivors: Three sons: Joseph Russell (Ida), Sacramento, CA., Leonard Russell (Juanita)-Birmingham, Carl Russell (Constance), Pembrook Pines, FL.; Two daughters: Birmingham, Sandra Russell Jackson, Carolyn Russell Todd (Walter); son-in-law-Jerome Huguley, Atlanta, GA. And a daughter-in-law, Rosa Mae Russell, Birmingham; Two brothers and one sister from Cleveland, OH: Richard Billingsley, Simon Billingsley (Eula) and Johnnie Billingsley; a sister Hattie Riddle (Will), Knoxville, TN; a sister-in-law, Margaret Billingsley, Columbus, OH. Mrs. Russell also had 17 grand children, 21 great grand children, a God daughter and son and a host of nieces, nephews, relatives and friends.

The, Home Going Service for Mrs. Russell will be Saturday, December 22, 2001 at Saint Joseph Baptist Church, 500 9th Avenue North, Birmingham. Roberts Central Park Chapel directing. Visitation is scheduled for Thursday, December 20, from 11 a.m. to 7 p.m. and Friday, December 21, from 4 to 9 p.m.

YOUTH COURT: CIVIC ENGAGEMENT AND CHARACTER EDUCATION THROUGH JUVENILE ACCOUNTABILITY

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. HASTERT. Mr. Speaker, I rise to praise the efforts of the Constitutional Rights Foundation and the Constitutional Rights Foundation Chicago, Their work encourages schools, youth programs, attorneys, judges, and police departments to work together to form and expand diversionary programs.

These programs, known as Youth Courts, are where juveniles, under the supervision of representatives from the education and legal communities, determine sentencing for first time Juvenile offenders who are charged with misdemeanors or minor infractions of school rules.

The program displays that as a sentencing option, community service can serve both the offender and the community.

TRIBUTE TO FERRIS BELMAN

HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise to pay tribute to a distinguished constituent and public servant whose more than 30 years of service will come to a close at the end of this month.

Ferris Belman of Stafford County, one of the jurisdictions within the 1st District of Virginia, is a retired businessman who has devoted much of his adult life to serving the people of both the city of Fredericksburg and Stafford County.

For 13 years he was a member of the Fredericksburg City Council and has served as a member of the Stafford Board of Supervisors for 18 years, twice as a board chairman. He was also just recently the President of the Virginia Association of Counties.

Mr. Belman has served on numerous committees and commissions over the years and played a leading role in promoting economic growth and development in both in the city and county.

Ferris is a man of great honesty and character who has worked diligently on behalf of the people of Virginia. As Stafford County Administrator C.M. Williams notes, Ferris Belman helped insure that Ferry Farm in Stafford, the boyhood home of George Washington, would be preserved intact. He was also largely responsible for the county's acquisition of Government Island, the site of quarries that provided the stone for construction of the United States Capitol building and the White House.

Ferris Belman will leave office with the grateful appreciation of the thousands of people whose lives he has touched through his service. He will be remembered as a public official who always found time to listen to the concerns of his constituents, and went the extra mile to do all he could for those he represented. Ferris, who once owned several grocery stores, always said he thought of himself not as a politician but "an apple peddler working for the people."

I would like to thank Ferris Belman for a job well done. His selflessness and devotion to his constituents and Virginia are to be commended, and his service will be missed.

STATEMENT ON H.R. 3525

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. ORTIZ. Mr. Speaker, the Rio Grande Valley thanks the House for this economic stimulus package for the border . . . our economic opportunities were severely curtailed this fall when the extension of a deadline to obtain new border crossing cards was held up for three months.

The efforts of the House Border Caucus have borne fruit with the inclusion of the extension of the deadline to replace old Border Crossing Cards (BCCs) with new "laser visas."

This is the perfect Christmas present to the Southwest Border from the United States Congress.

In the aftermath of the September 11 terrorist attack, the increased vigilance at the border has also translated into a rougher tone in the Congress with regard to what should have been a pro forma extension of the deadline.

The Southwest border has seen extensive economic damage as a result of the deadline not being extended, as expected, in September.

I encourage the Senate to expedite consideration of the bill since the House has overcome the objections now.

As the Co-Chairman of the House Border Caucus, I thank the House for including this provision so important to the Rio Grande Valley.

I am also pleased that the bill authorized funding for additional staff and training to increase our border security.

I am particularly pleased that the bill includes a more complete monitoring program of foreign students, as since September 11 it is glaringly apparent that data and reporting gaps must be filled.

A HOLIDAY MESSAGE ABOUT UNITY

HON. HENRY J. HYDE

OF ILLINOIS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. CONYERS. Mr. Speaker, in this holiday season we are grateful for the familiar traditions of each of our faiths that comfort us and connect us with others. We are also thankful for the unprecedented unity of the Congress, the country, and the larger global community in its shared determination to aid the victims of September 11, and to defeat the forces of terrorism.

To maintain and strengthen that unity for the work that lies ahead, we need to find new ways to solve conflict and to overcome the suspicions that arise from differences in culture, race, religion, economic condition and political ideology. Establishment of shared traditions that promote intercultural contact will help.

On December 15, 2000, the 106th Congress unanimously approved a measure that calls for annual worldwide commemoration of the successful "One Day in Peace January 1, 2000" with shared meals, inter-cultural exchange, pledges of non-violence, and gifts to the hungry.

One Day in Peace provides an unparalleled example of global cooperation that is both instructive and inspiring. On that first day of the new millennium several billion people and nearly every government in the world acted responsibly, cooperatively and with astonishing success to avert the combined threats of unruly crowds, terrorism and fears of Armageddon—as well as feared panic and hoarding related to expected computer failures. The "OneDay" movement, begun by children and eventually pledged by one hundred countries, 1000 organizations in 135 countries, 25 U.S. governors and hundreds of mayors worldwide surely helped. The result could be called the world's first deliberate day of peace.

We believe this collective achievement by much of humankind is worth remembering and repeating each year. The United Nations General Assembly agrees. It recently adopted a resolution (56/2) "inviting all Member States, and all people in the world to celebrate "One Day in Peace 1 January 2002, and every year thereafter."

At this season, as we enjoy the time-honored holiday traditions of our separate faiths, let us also celebrate a new tradition with a simple, world-wide all-faith holiday observance (comparable to our American Thanksgiving) that demonstrates our mutual resolve to create a future world of peace and sharing.

The schoolchildren who brought the concept of the "OneDay" holiday to Capitol Hill (some of the youngest and most energetic lobbyists we've seen) urge all Americans to celebrate OneDay by pledging non-violence to one another on January first. They also ask us to seek out someone of another culture and share a meal together, then match or multiply the cost of that meal with a gift to the hungry at home or abroad, in tangible demonstration of our desire for increased friendship and sharing.

We think these young peacemakers have a good idea. Happy holidays, both old and new!

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INDUSTRIAL DEVELOPMENT BOND PROMOTION ACT OF 2002

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. HOUGHTON. Mr. Speaker, I am pleased to be joined by my colleagues, Mr. NEAL and Mr. ENGLISH, in introducing the "Industrial Development Bond Promotion Act of 2002." While retaining the dollar limit on the tax-exempt issue itself, the bill broadens the pool of manufacturers who may be eligible to take advantage of the benefits of qualified small issue bonds.

Qualified small issue bonds play an important role in creating and sustaining a vibrant manufacturing sector in rural communities. Today, however, the so-called "$10 million limit" impedes many growing manufacturers from taking advantage of the benefits of qualified small issue bonds. This rule states that the aggregate face amount of the issue, together with the aggregate amount of certain related capital expenditures during a six-year period beginning three years before the date of issue and ending three years after that date, must not exceed $10 million. This $10 million limit was imposed in 1978. It does not consider changes in the economy, inflation, or the increased costs associated with the construction of manufacturing facilities. Even in small rural communities like those in the district, industrial development authorities have projects that routinely exceed this $10 million limit and are therefore ineligible for this type of financing.

The Industrial Development Bond Promotion Act of 2002 would permit capital expenditures of $30 million to be disregarded in determining the aggregate face amount of certain qualified small issue bonds.

Given today's global economy and proof that U.S. manufacturers are not adverse to building and manufacturing offshore, it is most important that the calculation of the limit be changed. Across the country, manufacturing jobs are declining. The manufacturing sector's share of all U.S. jobs slipped from 17 percent ten years ago to 13 percent today. Small issue bonds are a valuable tool to local economic development authorities and go a long way toward creating and maintaining investment in manufacturing facilities in communities throughout our country.

We encourage our colleagues to join us in cosponsoring this legislation.

HAROLD BENGSCH AWARDED 2001 HUMANITARIAN OF THE YEAR

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. BLUNT. Mr. Speaker, I rise to honor a dedicated civil servant who is working daily to improve the health of residents in the Seventh Congressional District of Missouri.

Earlier this month, Harold Bengsch, the Director of the Springfield-Greene County, Missouri Health Department, was awarded the 2001 Humanitarian of the Year Award, established by the Community Foundation of the Ozarks. The recognition comes with a $5,000 cash award that is to be divided between the recipient and the charities of their choice. Mr. Bengsch, true to the reasons why he was so honored, gave the entire amount to charity.

Harold received the award for three decades of outstanding work improving the area's public health. His dedication and vision were instrumental in cutting the number of children testing positive for elevated blood lead levels in Greene County from 28 percent to 15 percent. Under his leadership, immunization rates for children at two years of age has increased from less than 50 percent to more than 90 percent. As director of the local health department, Harold has conducted research, had his studies published in professional journals and is responsible for the ongoing management of the ever growing city-county public health programs. These programs include disease control, preventive and environmental health and medical services.

Harold is a proven problem solver. He is a master at bringing people together—those who need the service and those who provide it. His soft-spoken manner, intelligence and broad experience in public health issues makes Harold Bengsch an invaluable resource to his community and well respected throughout the state of Missouri.

The unreasonable actions of government bureaucrats are regularly criticized on the Floor of the House. In this case I want my colleagues to know there is at least one bureaucrat who is doing an outstanding job of serving the public. I can assert without hesitation that the public health of Springfield Greene County and Southwest Missouri is better today because of the work, effort and vision of Harold Bengsch.

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PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. OXLEY. Mr. Speaker, I was absent from the House floor during yesterday's rollcall votes on H. Res. 320, H.R. 3529, and the motion to recommit H.R. 3529. Had I been present, I would have voted "aye" on H. Res. 320 and H.R. 3529, and "nay" on the motion to recommit H.R. 3529.

H.R. 3295, HELP AMERICA VOTE ACT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. UDALL of New Mexico. Mr. Speaker, today, the House is considering H.R. 3295, the "Help America Vote Act of 2001," an election reform proposal that seeks to address many of the problems with our national electoral system. It has been over a year since the 2000 Presidential Election, which brought many of these problems to light. Although it is not perfect, this legislation is long over-due, and I urge my colleagues to support its passage.

I won't rehash the events of the 2000 Campaign, as we are all too familiar with hanging chads, the flawed butterfly ballot, and the countless ballots in Florida—and elsewhere—that were discarded and not tallied. That was a national tragedy. We've had a year to do something here in the House, and I am glad we are finally acting. I hope we can use this important legislation to address many of the shortcomings of our national voting system. H.R. 3295 is just a first step in our ongoing effort to restore our constituents' trust in the system of how we conduct our elected officials. Our constituents deserve to have that trust restored.

This bill authorizes $400 million for one-time payments to states or counties to replace punch card voting systems in time for the November 2002 general election. These are the infamous ballots used in Florida and elsewhere.

H.R. 3295 also creates a bipartisan Election Assistance Commission, which is intended to be a national clearinghouse for information and to review the procedures used for Federal elections.

It authorizes $2.25 billion to help states improve their voting systems. Specifically, this bill will help states establish and maintain accurate voter lists; encourage voters to get out and vote; improve voting equipment; improve the processes for verification and identification of voters; recruit and train poll workers; improve access for voters with disabilities; and finally, educate voters about their rights and responsibilities.

Most importantly, H.R. 3295 will establish minimum federal standards for state election systems regarding voter registration systems, provisional voting, the maintenance of accuracy of voter registration records; overseas absentee voting procedures, permitting voters with disabilities to cast a secret ballot, and allow voters an opportunity to correct errors.

Now, as I said earlier, this bill is not perfect. In fact many well-respected organizations in the civil rights community oppose this legislation. I understand and share some of their frustrations. However, I believe that by passing this bill today, we can move the process forward in hopes that the bill that comes back from the Senate will have many improvements.

I commend my colleagues Mr. NEY of Ohio and Mr. HOYER of Maryland for their hard work in crafting this legislation. I encourage them, however, to work with Mr. CONYERS of Michigan and Senator DODD to ensure that if there is a conference on this bill, we can vote for an even better bill.

Vote yes on H.R. 3295.

PUBLIC HEALTH SECURITY AND BIOTERRORISM RESPONSE ACT

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. SHIMKUS. Mr. Speaker, as a sponsor of H.R. 3448, which was introduced in the House on December 11, 2001, I would like to include for the record the following description of the bill:

Section 302 would provide the Secretary authority to administratively detain any article of food where FDA has credible evidence or information indicating that such article "presents a threat of serious adverse health consequences or death to humans or animals." The "serious adverse health consequences" standard, which is used consistently in Title III of this Act, relates to the situation in which there is a reasonable probability that the use of, or exposure to, a violative product will cause serious adverse health consequences or death. This corresponds to FDA guidance pursuant to Title 21, Section 7.3 of the Code of Federal Regulations.

The authority provided under Section 302 may not be delegated by the Secretary to any official less senior than the FDA district director in which the article is located. Under this authority, the article may be detained for a reasonable period, not to exceed 20 days, unless the Secretary requires up to an additional 10 days. Because there is potential for food of limited shelf life to be detained, the "reasonable period" may, depending upon the perishability of the food, be significantly shorter than 20 days. The Secretary is required to institute rulemaking to establish expedited procedures for the detention of perishable foods, such as fresh produce, fresh fish and seafood products. The Secretary should promptly complete that rulemaking.

Within 72 hours of filing an appeal the Secretary is required to provide opportunity for an informal hearing and render a final decision regarding the appeal. The Secretary's decision regarding the appeal is subject to judicial review consistent with the Administrative Procedure Act, Title 5, Section 706, of the United States Code. There is great need for timely review of an administrative detention order and the Secretary should assure that appeals are resolved in a timely manner. The value of perishable foods may be lost entirely, and even the value of foods that have considerable shelf life may be reduced substantially if administrative and judicial review are inappropriately delayed.

While an article of food is subject to administrative detention, the Secretary may order that it be held in a secure facility. Detention of the food in a secure facility is not a requirement. The Secretary should ensure that the food would be held under commercially appropriate conditions of cleanliness, temperature, humidity and whatever other considerations are reflected in industry practice regarding holding the article of food under detention. Conditions of the secure storage facility should not erode the safety or quality of a detained article. The Secretary should also take reasonable precautions to protect against an inappropriate release of a detained food. Secured storage requirements should apply if there is a reasonable apprehension that the article of detained foods are likely to be inappropriately released. This section does not impose any obligation on the owner of a detained food to bear the cost of the secure storage facility.

This section also permits the Secretary to order a temporary hold for a reasonable period of time, but not longer than 24 hours, of food offered for import if an FDA official is unable to inspect the article at the time it is offered for import and where the Secretary already has "credible evidence or information indicating that such article of food presents a threat of serious adverse health consequences or death to humans or animals;" the same standard employed for administrative detention under this section. The period of the hold is intended to allow the Secretary sufficient time to dispatch an inspector to the port of entry in order to conduct the needed inspection, examination or investigation. The authority to temporarily hold an article of food is not provided to facilitate mere administrative convenience. Instead, it is intended to reflect the physical absence of an inspector at the port of entry, or other situations, that render inspection impossible at the time of entry. The authority to temporarily hold an article of food under this section should not delay or unnecessarily disrupt the flow of commerce, and both the authority to detain foods and the authority to temporarily hold foods under this section are intended to be used to deter bioterrorism and therefore apply to specific instances where particular items of food meet the standard for detention.

Section 303 provides authority to the Secretary to debar from importing articles of food, any person that is convicted of a felony relating to food importation, or any person that repeatedly imports food and who knew, or should have known, that the food was adulterated. This section would authorize debarment following a felony conviction regarding food importation. In the great majority of situations permissive debarment authority will be employed in situations involving a felony conviction. In addition, this section includes authority that would allow debarment of a person without a relevant criminal conviction. This authority is intended to bolster efforts to deter bioterrorism. The Secretary should primarily use this authority to debar bad actors that repeatedly and knowingly import food that seriously threatens public health.

Most forms of adulteration do not pose a serious threat to public health and many forms of adulteration pose no public health threat at all. When food adulteration occurs, food importers are often innocent purchasers of the food. This debarment authority should not be used against innocent purchasers of food, nor is this authority to be used as an administrative shortcut to act against an importer where criminal prosecution is not sustainable.

Section 304 provides the Secretary the authority to inspect and copy all records relating to an article of food if the Secretary has credible evidence or information indicating that an article of food presents a threat of serious health consequences or death to humans or animals. This provision excludes farms and restaurants and is subject to certain limitations including limitations to ensure the protection of trade secrets and confidential information.

Section 304 authorizes the Secretary to issue a regulation requiring maintenance of additional records that are needed to trace the source and chain of distribution of food, in order to address credible threats of serious adverse health consequences to humans or animals. This provision excludes restaurants and farms, and the Secretary is provided the authority to take into account the size of the business when imposing any record keeping requirements and tailor the requirements to accommodate burden and costs considerations for small businesses.

Section 304 authorizes the issuance of regulations to require the maintenance of so-called "chain of distribution" records that would enable the Secretary to trace the source and distribution of food in the event of a problem with food that presented a threat of serious adverse health consequences or death to humans or animals. This authority may not be used to require a business to maintain records regarding transactions or activities to which it was not a party. The Secretary has indicated that chain of distribution records that document the person from whom food was directly received, and to whom it was directly delivered, would sufficiently enable adequate tracing of the source and distribution of food.

This records access would not extend to the most commercially sensitive or confidential records, including recipes, financial data, pricing data, personnel data, research data, or sales data (other than shipment data regarding sales). This authority would not permit access to any records regarding employees, research or customers (other than shipment data). Nor does it permit access to marketing plans.

Under Section 304 the Secretary must take appropriate measures to prevent the unauthorized disclosure of trade secret or confidential information obtained by the Secretary pursuant to this section. The Secretary shall ensure that adequate procedures are in place to ensure agency personnel will not have access to records without a specific reason and need for such access, and that possession of all copies of records will be strictly controlled, and that detailed records regarding all handling and access to these records will be kept.

Section 305 requires all facilities (excluding farms) that manufacture, process, pack or hold food for consumption in the United States to file with the Secretary, and keep up to date, a registration that contains the identity and address of the facility and the general category of food manufactured, processed, packed or held at the facility. This section authorizes the Secretary to exempt certain retail establishments only if the Secretary determines that the registration of such facilities is not needed for effective enforcement. The purpose of registration under this section is to authorize the Secretary to compile an up-to-date list of relevant facilities to enable the Secretary to rapidly identify and contact potentially affected facilities in the context of an investigation of bioterrorism involving the food supply.

Enforcement of Section 305 would be delayed 180 days from the date of enactment, and this section requires the Secretary to take sufficient measures to notify and issue guidance within 60 days identifying facilities required to register. This section also requires the Secretary to promulgate adequate guidance, where needed, to enable facilities to determine whether and how to comply with these registration requirements. The Secretary is encouraged to utilize the notice and comment process as an appropriate method for notifying potential registrants of their obligation to register and to receive advice and assistance from registrants on how best to develop a registration system that is both workable and cost-effective. In many instances, additional steps may be needed since the notice and comment may not be adequate to inform small businesses and other importers who may not have the resources or capabilities to research and track federal regulatory notices in a timely manner prior to the expiration of the 180-day enforcement bar.

This section does not impose a registration fee, and calls for a one-time registration. In other words, once a facility is registered it will only have to amend its original registration in a timely manner to reflect any changes. This section also allows and encourages electronic registration to help reduce paperwork and reporting burden, but registration would also be permitted using a paper form. The Department should work in a cooperative manner with facilities in terms of their obligations to register, and should be reasonable in situations where facilities are making good faith efforts to comply.

Registration should be made as simple as possible (such as permitting both electronic and paper registration, as well as permitting a headquarters to register on behalf of all establishments of a company) and the Secretary shall promptly complete a rulemaking regarding exemption from registration requirements for various types of retail establishments. As part of this rulemaking the Secretary should look broadly at the various types of the food establishments in order to ascertain whether they should be exempted and shall exempt from registration those facilities that are not necessary to accomplish the purpose of this section. The Secretary should assure that implementation of this section does not unnecessarily disrupt the flow of commerce.

Section 306 requires the Secretary to promulgate a rule to provide for prior notice to the Secretary of food being offered for import. The prior notice is to occur between 24 and 72 hours before the article is offered for import. In circumstances where timely prior notice is not given, the article is to be held at the port until such notice is given and the Secretary, in no more than 24 hours, examines the notice and determines whether it is in accordance with the notice regulations. At that time, the Secretary must also determine whether there is in his possession any credible evidence or information indicating that such article presents a threat of serious adverse health consequences or death to humans or animals. This determination by the Secretary should not delay or unnecessarily disrupt the flow of commerce.

Section 306 is not intended as a limitation on the port of entry for an article of food. In some instances, such as inclement weather, routine shipping delays, or natural disasters, a shipment of food may arrive at a port of entry other than the anticipated port of entry provided on the notice. When such situations arise, arrival at a port other than the anticipated port should not be the sole basis for invalidating a notice that is otherwise in accordance with the regulations. Also, the importer of an article of food is required to provide information about the grower of the article of food, if that information is known to the importer at the time that prior notice is being provided in accordance with the regulations. This provision only requires the importer to provide any information he has in his possession at the time that prior notice is being provided. The Secretary shall closely coordinate this prior notice regulation with similar notifications that are required by the U.S. Customs Service with the goal of minimizing or eliminating unnecessary, multiple or redundant notifications.

PERSONAL EXPLANATION

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. FORD. Mr. Speaker, regrettably, I was not present for the vote on final passage of H.R. 3529, the Economic Security and Worker Assistance Act, or the preceding motion to recommit.

Had I been present, I would have voted "Yea" on rollcall vote number 508, the motion to recommit, and "Nay" on rollcall vote 509 final passage of H.R. 3529.

UNITED STATES FOREST SERVICE AND FISH AND WILDLIFE SERVICE REPORTS

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. NETHERCUTT. Mr. Speaker, the recent published reports about the planting of false evidence by biologists with the United States Forest Service and the United States Fish and Wildlife Service are alarming.

An internal Forest Service investigation has found that the science of the habitat study had been skewed by seven government officials: three U.S. Forest Service employees, two U.S. Fish and Wildlife Service officials and two employees of the Washington Department of Fish and Wildlife.

These officials, according to published reports, planted three separate samples of Canadian lynx hair on rubbing posts used to identify existence of the creatures in the two national forests. Had the deception not been discovered, the government likely would have banned many forms of recreation and use of natural resources in the Gifford Pinchot National Forest and Wenatchee National Forest in Washington State. The restrictions would have had a real-life devastating impact on the economy of Washington State.

Today I join with many of my colleagues in demanding that these employees, upon evidence of their guilt is established, be immediately terminated. It is unacceptable that these employees have simply been counseled for their planting of evidence. Federal employees should be held accountable for their actions—period.

Further, I support a complete review of the lynx study as well as a review of any other projects on which these employees may have worked. The integrity of these agencies and our future efforts to protect threatened and endangered species depends on these reviews. As a member of the Interior Appropriations Subcommittee, I intend to make sure that this kind of activity never happens again and that the agencies involved are not perpetrating a fraud on the American people. That is my highest responsibility.

BEST PHARMACEUTICALS FOR CHILDREN ACT

SPEECH OF

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mr. STUPAK. Mr. Speaker, I rise tonight to urge Members to vote against the pediatric exclusivity bill, S. 1789. It is the product of a flawed negotiating process, a flawed legislative process, and a flawed regulatory process. which was instituted back in 1997.

First approved in 1997, pediatric exclusivity granted drug companies an extra six-month extension on their patent if they would conduct a study to determine what the effects were on young people. The FDA sends a written request for a pediatric study to the drug company. Upon completion of the study, FDA grants a six month extension of the patent monopoly—the "pediatric exclusivity"—which the drug companies then use as a marketing tool to promote and increase the drug's sales.

What I find horrifying is the grant of exclusivity takes place after the drug company does its study but before anyone knows what is included in the results of the study. Nothing is said to the general public—which includes parents and pediatricians—or prescribing physicians about the safety, effectiveness, or dosage requirements. Under S. 1789, there is no requirement to change the labeling on the drug to reflect the changes that may be needed when the drug is dispensed to young people. There is no label to tell doctors, patients, and their families the proper dosage, or how to dispense or use the drug.

My argument has always been this: before you grant pediatric exclusivity to a pharmaceutical company and before this exclusivity is then marketed as being FDA approved for pediatric use, shouldn't you at least know what is the effect of the drug on young people?

Under current law—and this bill would extend current law after the study is completed, exclusivity is granted, but whether the drug helps or hurts young people remains a secret and is not disclosed to the doctors, patients, and their families for an average of 9 months. Shouldn't this information get out to these people before they ingest this medicine?

I have a chart, which I have used on the floor before. It highlights the problems with S. 1789, which does not require labeling changes until 11 months after the drug is being used in the pediatric population. How many of you would give your child a drug and not know whether it helps or harms your child until 11 months later?

There have been 33 drugs granted pediatric exclusivity. Only 20 have been re-labeled to reflect the results of the pediatric study, and even those label changes have taken an average of 9 months.

For 9 months, doctors, patients, and their families have no idea if the child is receiving the proper dosage or even if the drug is really safe!

Now why can't doctors, patients, and their families know this information before the grant of pediatric exclusivity is given? I was not allowed a chance to offer my amendment before the full House. My amendment is very simple and very commonsense: before pediatric exclusivity is granted, all drugs must be labled especially for pediatric use.

Under other prescription drug patent extension programs, labeling is an absolute prerequisite to receiving patent extension. But not pediatric exclusivity. Why would we treat our children any differently?

For the love of me, I cannot understand why the majority does not want doctors, patients, and their families to know the effect of drugs may have on children!

What is the proper dosage? What is the efficacy? What is the safety level for our children?

Why do we wait an average of 9 months before we see proper labeling? Why must we wait to find out if a child has received the proper dosage?

Let us defeat this legislation. I urge a no vote.

UNITED STATES SECURITY ACT

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. COSTELLO. Mr. Speaker, I rise today in support of the Democratic Caucus' Homeland Security bill, the United States Security Act (USA Act).

This legislation is a collaborative effort crafted by my democratic colleagues on the Homeland Security Task Force. I was honored to have served as the vice chair of the Transportation Security task force with my friend, BOB BORSKI, who chaired the task force.

The USA Act addresses funding needs to improve our homeland security in the following areas: public health, transportation, physical and informational infrastructure, law enforcement and the military. As the attacks of the 11th clearly and unfortunately demonstrated, our nation is vulnerable to attack. This bill goes a long way to minimize those vulnerabilities.

In the past five years—and prior to the 11th—there have been international events which highlighted potential weaknesses in our transportation systems. In Tokyo, Japan, individuals caused harm by releasing sarin gas in the subway system. The USGS *Cole* was attacked in a seaport that, although in Yemen, was considered safe. While these attacks occurred overseas, they could have taken place here in the States.

With the passage of the Aviation Security Act earlier this year, significant improvements to aviation security were mandated. However, other modes of transportation could still be susceptible to attack. This legislation authorizes funds to secure bridges, tunnels, dams, seaports, rail, and public transit.

Specifically, the bill provides $3.6 billion to strengthen bridge and tunnel structures, improve inspection facilities and the inspection of Hazmat materials on highways, supply the traveling public with real-time information about availability roads and bridges if terrorist attacks were to occur again, and improve security for locks and dams. It also provides $992 million to enhance security at our seaports by increasing coast guard personnel, establishing a sea marshal program, requiring transponders for foreign vessels in U.S. waters, and screening ship cargo by x-ray. To improve security on transit systems, $3.2 billion is authorized. Funds would be used to hire additional security personnel, improve communications and refine mass transit evacuation plans. With the appropriation of funds, the security of these transportation systems will markedly improve.

The USA Act also authorizes funds to strengthen communities responses to emergency incidents. This is done by increasing the number of firefighters, providing grants to communities and first responders and improving technology so that important information can be more readily shared between local, state and federal governments. Our nation's first responders are an integral component in response to a terrorist attack, and we must ensure that they are well prepared.

In addition, the bill also takes major steps towards improving the preparedness of the military to effectively fight terrorism and preventing the proliferation of weapons of mass destruction. We have the best military in the world; however, the war on terrorism is unlike any we've ever fought, and enhancement of current training is important.

Mr. Speaker, I believe that we have produced a good bill. This legislation addresses many real needs in enhancing the security of the United States. I urge my colleagues to join me in support of the legislation.

HONORING THE DEDICATED SERVICE OF DANIEL HARTER

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. GORDON. Mr. Speaker, I rise today to bid farewell to Daniel Harter, an intern with my office. Daniel has provided a unique perspective along with legal expertise as a member of my staff for the past three months, and became an invaluable resource.

Daniel started with me shortly after completing law school, wanting to learn as much as possible about the workings and intricacies of Capitol Hill. Despite being confronted with challenges and pressures most would fold under, Daniel persevered and became a valued part of my Washington, DC, office.

Like so many capable and hard working young congressional staff members, Daniel is moving on to work as an attorney. Although my staff and I are saddened to see him leave, Daniel's commitment to the legal process, his passion for public service, and his vigorous pursuit of perfection will serve his clients and his profession well.

Daniel tackled every task head on, from helping with day-to-day operations, to aiding with the daunting legislation and constituent demands of post-September 11 life on the Hill. His contribution to our office and his work for the people of Middle Tennessee will be missed.

U.S. HAS LONG TRADITION OF HELPING MUSLIMS, AS SHOWN BY 1952 EMERGENCY ASSISTANCE TO NEARLY 4,000 MECCA PILGRIMS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of the House of Representatives to the fact that our nation has a long history of helping Muslims. While we are familiar with the actions America has taken in recent years to intervene for the benefit of Muslims in Somalia, Bosnia and Kosovo, among numerous other locations around the world, America is hardly new to coming to the aid of people of the Islamic faith.

In particular, I would like to call the attention of the House to an instance brought to my attention by an alert constituent, Mr. Leonard Mulcahy of Wyoming, Pennsylvania. In light of recent events, Mr. Mulcahy recalled seeing an article in the July 1953 issue of National Geographic magazine about the U.S. Air Force assisting nearly 4,000 Muslims in 1952, and he was kind enough to provide me with a copy of that issue of the magazine.

Mr. Speaker, the article states that in August 1952, "with the opening of the hadj only a few days away, nearly 4,000 desperate Moslems found themselves in Lebanon . . . with air tickets but no reservations. Commercial lines, flooded with applications, could take only a few." As you may know, Mr. Speaker, the hadj is the annual pilgrimage to Mecca which each Muslim is expected to undertake at least once in his or her life if possible.

The article continues, "To help in the emergency, American Ambassador Harold B. Minor asked the United States Air Force to fly 14 C–54s from Libya and Germany. Quickly a shuttle service was set up; in 75 flights 3,763 pilgrims were transported 900 miles from Beirut to Jidda in time to begin their hadj. In gratitude, the Mufti of Lebanon ordered prayers for Americans in all mosques, and King Abdul Aziz al Saud presented Arab robes to 86 airmen."

The article also states, "The Air Force accepted no money for the pilgrim passages. Fares collected by commercial airlines, for flights they were unable to complete, went to Moslem charity."

Mr. Speaker, I would again like to thank Leonard Mulcahy for making sure that America's assistance to the Muslim pilgrims in 1952 is not forgotten. Despite our imperfect history, Americans can be proud that ours is a generous and tolerant nation, and I believe the fact that we provided this type of assistance to thousands of Muslims nearly half a century ago helps to illustrate that fact.

FEDERAL LEGISLATION TO PROTECT THE VOTING RIGHTS OF ACTIVE DUTY MILITARY MEMBERS WHOSE HOME OF RESIDENCE IS AMERICAN SAMOA

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introduce federal legislation to protect the voting rights of active duty military members whose home of residence is American Samoa.

Since 1977, active-duty service members serving overseas or on the United States mainland have been excluded from fully participating and voting in both general and runoff Federal elections in American Samoa due to several factors, including local law that requires active duty military members to register in person, limited air and mail service between the U.S. mainland and American Samoa, and delays in the preparation of new ballots in the case of runoff elections.

However, under the provisions of 42 U.S.C, 1973ff–1, Federal law states that:

Each State shall—

(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special primary, or runoff elections for Federal office;

(2) . . .

(3) permit overseas voters to use Federal write-in absentee ballots . . . in general elections for Federal office."

American Samoa law requiring uniformed service voters to register to vote in person is contrary to the Uniformed and Overseas Citizens Absentee Voting Act. The Uniformed and Overseas Citizens Absentee Voting Act recognizes that there is a considerable cost involved for a service member, and often a spouse, to travel to his/her home of residence to register to vote. Federal law also recognizes that active duty service members have little to say about where they are stationed. Yet, wherever they are sent, and whatever dangers they may encounter, Federal law recognizes that our service members are fundamentally entitled to the right to vote.

Mr. Speaker, the discrepancy that exists between Federal and territorial law must be addressed. Soldiers from American Samoa serving in the active-duty military should be afforded a fair opportunity to vote in American Samoa as required by federal law.

The fact of the matter is our military men and women place their lives on the line to protect our freedoms. The least we can do is ensure that their fundamental right to vote is also protected. Now more than ever, when our country is at war, and our nation is in crisis, we should make every effort to afford our service members and their dependents the right to vote.

To ensure that American Samoa's election laws comply with Federal law, I have suggested that a division should be created within our local election office to deal specifically with absentee ballot and registration procedures. I also believe that the territory needs to reconsider matters pertaining to run-off elections.

Under territorial law, it is nearly impossible for absentee voters to cast votes in a run-off election because local law mandates the run-off election to be held two weeks after the general election. This local mandate discriminates against active service members and other absentee voters. To address this problem in terms of Federal elections, I believe the best solution is to establish non-partisan primary elections during an election year in the event that there are three or more candidates running for Congress.

Primary elections in the summer followed by general elections in the fall will afford all of our qualified voters an equal opportunity to cast their ballots. This will also ensure that our active duty service members are afforded the same rights and privileges as every other American serving in the U.S. Armed Services.

Mr. Speaker, I urge my colleagues to support this legislation and I look forward to its timely passage.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. OWENS. Mr. Speaker, because I had to return to my district to handle very urgent business, I missed a number of rollcall votes. Had I been present, I would have voted 'yea' on rollcall votes 505 and 508. On rollcall votes 506, 507 and 509, I would have voted "nay".

INTRODUCTION OF THE SPECIES PROTECTION AND CONSERVATION OF THE ENVIRONMENT (SPACE) ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. RAHALL. Mr. Speaker, the United States is an economic powerhouse. We work to keep the economy strong and to maintain a high standard of living for the people who reside here. Yet we have a drain on the economy estimated to be $137 billion annually, a drain that goes unchecked and relatively unpublicized because it is not a "glamorous topic." This drain is spreading, continually invading our natural spaces and crowding out our native flora and fauna.

In this regard, I am referring to harmful nonnative species, invasive species; an issue which is not yet fully in the public's eye. Even if a person has little concern with native fish and wildlife and the habitats they live in, even if that person resides in a city where the major wildlife is found only in alleys, the fact remains that invasive species are a drain on our economy. Included in the $137 billion figure I referred to earlier are the negative impacts on agricultural production, control costs, and costs in lost land and water resources and uses. This number is too large to ignore, particularly when trends suggest that the number will only go up over time.

For example, my home State of West Virginia is a relatively small in terms of land mass, but here are only a few of the impacts felt from harmful nonnative species:

The balsam fir tree, on the state list of rare plants, is being infected by a small insect, the balsam wooly adelgid, which sucks the sap, killing the tree. This tree is a unique species for the State, and unless drastic measures are taken, it will be completely wiped out by this insect.

Shale barrens, one of the most unique natural plant habitats in West Virginia, have been invaded by many non-native species over the years, but two of the most problematic are spotted knapweed and barren bromegrass. These plants out-compete native species and slowly eradicate them from these unique ecosystems.

In a continuation of the plight of the Great Lakes, the zebra mussel has found its way to West Virginia. So far, the zebra mussel is responsible for the federal listing of five species of mussel in the Ohio River, not to mention economic damage from its clogging of water pipes.

These are only three of the over 150 harmful non-natives that currently affect West Virginia. In my view, we have an obligation to our native species to protect, conserve and restore them from the introduction of harmful invasive species.

For these reasons, today I along with the gentleman from Maryland, WAYNE GILCHREST, and the gentleman from Guam, ROBERT UNDERWOOD, are introducing a bill to protect, conserve and restore our native fish, wildlife and their habitats by addressing the threat of these space invaders, harmful invasive species. Maryland, for example, has a nutria problem, too many nutria, and the veined rapa whelk, both of which I know Mr. GILCHREST has great concern with. Mr. UNDERWOOD has chosen to be an original cosponsor because of the enormous impacts the brown tree snake has on Guam, its power lines and native bird species.

The Species Protection and Conservation of the Environment Act, or SPACE Act, would provide the missing link in existing efforts to combat the pernicious and destructive space invasion of some of our most valuable natural areas by:

1. Providing incentive money to States to write State-wide assessments to study exactly where their native species are being threatened by harmful nonnative species;

2. Providing incentives for projects to implement the State assessments;

3. Encouraging the formation of partnerships among the Federal government and non-Federal land and water owners and managers;

4. Addressing harmful nonnative species' migratory pathways;

5. Implementing specific recommendations of the National Strategy written by the National Invasive Species Council;

6. Creating a Federal-level rapid response capability; and

7. Tasking the National Invasive Species Council to develop standard monitoring requirements for projects combating harmful nonnative species.

Using a two-pronged approach, the SPACE Act would provide resources to States and U.S. territories, including Indian Tribes, to address real problems and real solutions. The first prong is a grant program to provide resources to States, territories and tribes to develop assessments to control their harmful nonnative species. Participation in the program would be voluntary, but once this bill becomes law we believe that all States, territories and tribes will want to take advantage of this opportunity and the benefits it can bring to them, aiding them in the organization, prioritizing and specific actions with regards to their harmful non-native species problems and allowing them to apply for what the bill refers to as Aldo Leopold Grants. Technical assistance would also be available to the States, territories and tribes through the National Invasive Species Council to ensure that all assessments would be effective and include the recommendations of the Council's overarching Management Plan.

The second prong is implementing the assessments through what would be known as Aldo Leopold Native Heritage Grant Program, which would be available on a 75% federal, 25% non-federal cost sharing basis. Through a variety of partnerships land and water owners and managers would be eligible to receive grants administered by the Secretary of the Interior. The approved assessment would serve as a guide for developing projects with partners, including Department of Interior and Forest Service lands, working together to control or eradicate harmful nonnative species on the lands and waters under their governance. With the assessment as the foundation for all projects, this legislation would encourage addressing all problems at the ecosystem level and including all land and water owners. To support the use of innovative methods and technologies, grants would be available on an 85% federal, 15% non-federal basis if new techniques are used. Reporting and monitoring requirements are mandated by the grant, allowing for the creation of a database which would track the methods and results of each project, both over the short and long term.

To facilitate and demonstrate how these relationships between federal and other public and private lands and waters should work, the SPACE Act would also create a demonstration program with the National Wildlife Refuge System. This program would implement cooperative projects to be carried out on lands and waters of the National Wildlife Refuge System and their adjacent neighbors, demonstrating cooperation and helping to address the operations and maintenance backlog of the Refuge System. Because this is a demonstration project, the non-Federal lands involved would not have to have a State assessment yet in place. These projects would be the first to operate under this Act, and the results would be reported to the Council for inclusion in a database.

Finally, this legislation would create a rapid response capability under the National Invasive Species Council. The Governor of a State experiencing a sudden invasion of a harmful nonnative species may apply to the Secretary for monetary assistance to eradicate the species or immediately control it. All assistance would be given by the Secretary in consultation with the Council, and each rapid response project would have the same monitoring and reporting requirements as an Aldo Leopold Grant project.

Mr. Speaker, while there are a number of initiatives already in place aimed at combating invasive species, there is a void in existing statute as no current law is designed to directly protect and conserve our native species from harmful non-native species at the federal or any other level. There are laws directly addressing harmful nonnative species, but mainly through prevention. These include the Nonindigenous Aquatic Nuisance Prevention and Control Act, the Alien Species Prevention and Enforcement Act, the Federal Plant Pest Act, the Plant Protection Act, and the Federal Noxious Weed Act.

In the development of this legislation, we have worked with a number of organizations including the Wildlife Management Institute, the National Wildlife Federation, Defenders of Wildlife, the National Audubon Society, the Aldo Leopold Foundation, the National Wildlife Refuge Association, the Izaak Walton League, the Wildlife Society, the American Fisheries Society and Trout Unlimited. Also consulted were the National Fish and Wildlife Foundation, the National Invasive Species Council, the Northeast Midwest Institute, the International Association of Fish and Wildlife Agencies, The Nature Conservancy, the Natural Resources Defense Council, the American Birding Association and the Wildlife Conservation Society.

I look forward to working with all interested parties as well as the members of the Resources Committee to facilitate the enactment of this bill.

HONORING REVEREND WILLIAM H. HARGRAVE

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. ROTHMAN. Mr. Speaker, I rise today to pay tribute to a remarkable friend and spiritual leader—Reverend William Holt Hargrave. For more than 25 years, Reverend Hargrave served with distinction as the Pastor of the Ebenezer Baptist Church in Englewood, New Jersey. As a former Mayor of Englewood, I have had a wonderful opportunity to see him lead his congregation, and to experience his warmth and kindness firsthand.

The members of the Ebenezer Baptist Church are some of the most patriotic and spiritually uplifting people that I have ever had the pleasure of knowing. The congregation is filled with decent, honest, God-loving people who have a tremendous sense of community. Certainly, Reverend Hargrave's leadership has had a tremendous impact on all of their lives.

As a voice of comfort and reason, Reverend Hargrave committed himself to the church and provided guidance and wisdom to those in his congregation and community. Anyone who has ever known Reverend Hargrave knows full well that his heart is filled with love, compassion, and faith. His presence always put everyone at ease.

I wish Reverend Hargrave and his family all the best. We all thank him for his service and commitment to the Ebenezer Baptist Church and all the people of the great and good city of Englewood.

COMMEMORATING THE CENTENNIAL ANNIVERSARY OF THE 4-H CLUB

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. SHUSTER. Mr. Speaker, I rise today to honor the centennial anniversary of one of America's foremost youth organizations, the 4–H Club. In February, the 4–H Club will celebrate their centennial by holding a "National Conversation on Youth Development in the 21st Century," the results of which will be reported to the President and Congress.

Since its founding in 1902, the National 4–H Club has helped in the education and development of our nation's youth. While 4–H started agricultural in nature, it has since evolved to include a variety of different educational programs for children in rural as well as urban areas, ranging from environmental preservation to career exploration and workforce preparation.

I congratulate the 4–H Clubs of Pennsylvania on their commitment to our nation's leaders of tomorrow. The past 100 years have proven the necessity for the 4–H Club and other similar educational organizations, and I wish for their continued success for many years to come.

TRIBUTE TO DAN RAMIREZ

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mrs. MYRICK. Mr. Speaker, there are a lot of good things going On in our communities that you don't necessarily hear about in the news. Recently, a friend in Charlotte, Dan Ramirez, went above and beyond the call of duty to help a young man, dying of leukemia, get home to his family. Greyban Saenz, a 24 year old native of Honduras, wanted to be with his family. The Buddy Kemp Cancer Caring House in Charlotte contacted Dan the Monday before Thanksgiving to see if there was anything that he could do to help. Dan didn't think twice. He jumped right in to help find an affordable flight and someone to accompany Greyban on that flight. He worked through Thanksgiving, and got Greyban a flight, met him at the airport, made sure he was safely on the plane, and he even translated the doctor's discharge papers' into Spanish. Dan did all this for a man he had only known for 5 days. Greyban flew home to his family the Saturday morning after Thanksgiving. Dan later said that as sick as Greyban was, he was animated and excited that morning. Glad to going home. I'm thankful for people like Dan Ramirez who go the extra mile to help someone in need. It's people like that make America strong.

TRIBUTE TO CREDIT UNIONS' ASSISTANCE TO AFFECTED BY FIGHT AGAINST TERRORISM

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. JONES of North Carolina. Mr. Speaker, in the aftermath of the September 11 terrorist attacks, many of our financial institutions have gone the extra mile to be of assistance to those affected by the incidents and their aftermath.

I rise today to pay particular tribute to the CEOs and volunteer board members of North Carolina credit unions.

Representatives of those credit unions, and of the North Carolina Credit Union League and CUNA, recently made the trip to Washington to visit my office not long after September 11.

While they had thought of canceling the trip out of respect for the larger issues stemming from the tragedy, they instead came to offer their support to this Congress. They also pledged that their credit unions will remain committed to serving the changing financial needs of their members and the citizens of North Carolina during this period of economic uncertainty.

For example, Mr. Speaker, the 3rd District of North Carolina is home to three major military bases—Camp Lejuene, Cherry Point Marine Corps Air Station, and Seymour Johnson Air Force Base—all of which are served by a credit union. These credit union employees help military personnel and their families with the money challenges that they face during these difficult times, and have committed to safeguarding the financial well being of our service men and women deployed overseas.

For instance, the staff of First Flight Federal Credit Union in Havelock, NC, has been working with the base legal department at the Marine Corps Air Station at Cherry Point to ensure that family members have the appropriate authority to conduct financial transactions on behalf of the service member while they are deployed.

Another example is the Seymour Johnson Federal Credit Union in Goldsboro, NC, which has established a call center hotline to provide support and answer questions from family members whose spouses have been deployed.

Mr. Speaker, time does not permit me to list all the great things that these credit unions are doing to assist their members—both military and civilian during these difficult economic times. But their efforts deserve our praise and our thanks.

I urge my colleagues to speak with the credit unions and other financial institutions in their own districts to learn about all the ways they are helping their customers during this time of need. Through the efforts these financial institutions, and others, we will not only weather this storm but we will be economically stronger for it.

REMARKS BY RABBI MICHAEL MILLER

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. WEINER. Mr. Speaker, this past month, the Queens community of Belle Harbor was shaken by the crash of American Airlines flight 587. As many of you know, this neighborhood had already been hit particularly hard by the attacks of September 11, as dozens of Belle Harbor residents lost their lives to the attacks, many of them firefighters. A number of us have struggled to find the appropriate words to articulate our emotions during these times of unfathomable loss. At the memorial service for flight 587 the Sunday after the crash, Rabbi Michael Miller managed to find those words. I wanted to share his eloquence with my colleagues, and that is why I ask unanimous consent that these remarks be inserted into the RECORD. I hope that my colleagues will find them as comforting as inspiring as I have.

REMARKS AT A PRAYER SERVICE FOR THE VICTIMS OF THE CRASH OF AMERICAN AIRLINES #587, SUNDAY, NOVEMBER 18, 2001, 2:00 PM, RIIS PARK, QUEENS, NY

In our Jewish tradition it is proper to express appreciation to one's hosts. And it is within that spirit that I thank Mayor Giuliani for convening this service, and for his determined and compassionate leadership, along with Governor Pataki, Senators Schumer and Clinton, and Congressman Anthony Weiner during these difficult times.

[PSALM 121]

Last Monday morning, hundreds of people, men, women and children, the young and the old, woke up before dawn and rose from their beds. A trip was to be taken to the Dominican Republic.

In apartments, houses and hotel rooms last Monday morning, there was the predictable last minute rush. The checklist of things to take. Packing that extra shirt, a pair of stockings, a gift for family in Santo Domingo . . .

And, no doubt, last Monday morning, there was the presence of that anxiety which accompanies travel. Tickets. Passports. Would the car service come on time? Will we get to the airport with minutes to spare? Do we have too much baggage? Too little?

Inevitably, last Monday morning, or maybe it was last Sunday night, there was the farewell. Fathers, mothers; wives, husbands; sons, daughters; sisters, brothers; grandmothers, grandfathers; friends, lovers.

The farewell: a kiss; an embrace, A shake of the hand, or a wave. A "so long" over the phone, "have a good trip."

A farewell. But not a goodbye.

And for those in Belle Harbor, not even that.

And then . . . And then tragedy.

Close to 300 individuals, some as families, some as couples, some as friends, some alone. Gone.

Tragedy, finality, shock and tears.

How do we cope? How can we cope? So much sadness. So much grief. So many questions. So few answers. So much emptiness.

In the second chapter of the Book of Lamentations, *Eicha*, we read: "*Horidi chanachal dim'a yomam valayla.*" Shed tears like a river, day and night.

What binds us together today, as what has bound us together at the Ramada, at the Javits Center, and while even at home, are the tears. A river of tears, day and night.

Tears are not shed in English. Tears are not shed in Spanish. Tears are not shed in Hebrew. The tears themselves are a common language. Crying itself is a language of grief.

We shed rivers of tears for the children whose lives had been so fresh, whose promise had been so abounding, whose future had been so bright.

We shed rivers of tears for the mothers and fathers, wives and husbands, who had longed to watch their children grow, who had worked so hard to make a better life, who had given so much love to each other and to so many.

We shed rivers of tears for brothers and sisters, friends and lovers whose companionship had been torn away so suddenly.

We shed rivers of tears, day and night, for never having the opportunity to share a last hug, a kiss, a smile; to say goodbye; I'm sorry; I love you.

We shed rivers of tears, day and night, and we pray.

As the liturgy for the closing *Ne'ilah* prayers of the Jewish Day of Atonement, *Yom Kippur*, reads: "Yehi ratzon milfanecha shomaiya kol bechiyot shetasim dimoteinu benodcha l'hiyot." May it be Your will, You who hears the sound of weeping, That You place our tears in Your flask for safe keeping.

And we pray, O Lord, that the waters of our tears, like the incoming tide, draw the souls of these innocents close to You.

Lord, protect them, guard them, watch over them, and bless them—now and for eternity. "*V'yanuchu b'shalom al mishkavam.*"

May their repose be peace.

And let us say—Amen.

INTRODUCTION OF THE MEDICARE SUBSTITUTE ADULT DAY CARE SERVICES ACT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. KLECZKA. Mr. Speaker, today Mr. STARK from California and I are introducing the Medicare Substitute Adult Day Care Services Act. This critical legislation would expand home health rehabilitation options for Medicare beneficiaries while simultaneously assisting family caregivers with the very real difficulties in caring for a homebound family member.

Specifically, this bill would update the Medicare home health benefit by allowing beneficiaries the option of substituting some, or all, of their Medicare home health services for care in an adult day care center (ADC).

The ADC would be paid the same rate that would have been paid for the service had it been delivered in the patient's home. In addition, the ADC would be required, with that one payment, to provide a full day of care to the patient at no additional cost to the Medicare program. That care would include the home health benefit as well as transportation, meals, medication management, and a program of supervised activities.

The ADC is capable of providing these additional services at the same payment rate as home health care because there are additional inherent cost savings in the ADC setting. In the home care arena, a skilled nurse, a physical therapist, or any home health provider must travel from home to home providing services to one patient per site. There are significant transportation costs and time costs associated with that method of care. In an ADC, the patients are brought to the providers so that a provider can see a larger number of patients in a shorter period of time.

It is important to note that this bill is not an expansion of the home health benefit. It would not make any new people eligible for the Medicare home health benefit. Nor would it expand the definition of what qualifies for reimbursement by Medicare for home health services.

To be eligible for this new ADC option, a patient would still need to qualify for Medicare home health benefits just like they do today. They would need to be homebound and they would need to have a certification from a doctor for skilled therapy in the home.

This legislation simply recognizes that adult day care facilities can provide the same health services with the added benefits of social interaction, activities, meals, and a therapeutic environment, in which a group of trained professionals can treat, monitor and support Medicare beneficiaries who would otherwise be monitored at home by a single caregiver. Rehabilitation is enhanced by such comprehensive care.

Not only does ADC aid in the rehabilitation of the patient, it provides an added benefit to the family caregiver. When a beneficiary receives the Medicare home health benefit in the home, the provider does not remain there all day. They provide the service they are paid for and leave to treat their next patient.

Because many frail seniors cannot be left alone for long periods of time, this prevents the caregiver from having a respite or being able to maintain employment outside of the home. If the senior could utilize ADC services, they would receive supervised care for the whole day and the caregiver would have the flexibility to maintain a job and/or be able to leave the home for longer periods of time.

Adult day care centers are proving to be effective, and often preferable, alternatives to complete confinement in the home. I urge my colleagues to cosponsor and support this important legislation.

PROTECTING OUR COMMUNITIES FROM PREDATORY LENDING PRACTICES ACT

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. WATERS. Mr. Speaker, today I rise to introduce the "Protecting Our Communities From Predatory Lending Act," much needed legislation to prevent predatory lending. This year, my home state of California became the third state in the nation to pass a law regulating predatory lending practices. Reverse redlining or predatory lending encompasses a number of lending practices that target minority communities, employing interest rates and service fee charges that are significantly higher than those prevailing in white communities. Such predatory lending practices are prevalent in many areas across the country and federal action in this area is long overdue.

Home equity loans have historically been the privilege of the middle class and wealthy, who generally have high credit ratings, income, and home equity. However, beginning in the 1980s, non-depository finance companies—lending institutions other than commercial banks, thrifts, and credit unions—began to provide home-equity loans to lower-income communities, which were not served by mainstream lenders.

Persons in low-income communities typically have little disposable income, but may have substantial home equity as a result of paying down their mortgages or through the appreciation of their property values. This equity can secure sizable loans. While offering loans to low-income and minority communities can benefit these communities, predatory lending practices, which oftentimes use the borrowers' home as collateral, have milked the last drops of wealth from many of these neighborhoods, leading to increased poverty and public dependence.

My bill adds important protections to the law that will save many people from losing their homes. My legislation would prohibit the industry from making false, deceptive or misleading statements or engaging in unfair or deceptive acts or practices, and prohibit blank terms in credit agreements that are filled in after the consumer has signed. In addition, it would prohibit prepayment penalties and the financing of credit insurance.

My bill will prohibit the "flipping" of consumer loans, in which the borrower refinances an existing loan when the new loan does not have a reasonable, tangible benefit to the consumer. This practice of flipping often costs the consumer thousands of dollars in fees and frequently leads to foreclosure. My bill will eliminate the practice of charging fees for services or products not actually provided. It will also prevent collusion between lenders and appraisers or home improvement contractors by prohibiting direct payments to home improvement contractors without a consumer cosignature and prohibits creditors from influencing the judgement of an appraiser.

My legislation will remove the shroud of secrecy that currently surrounds the application process by requiring that a consumer receive disclosure of his or her credit score and an explanation of the methodology used to calculate the credit score, if one is used by the lender.

My legislation will impose restrictions on late payments and apply additional safeguards by lowering the threshold for high cost mortgages.

Finally, my legislation will prohibit steering consumers into loans with higher risk grades than the consumer would qualify for under prudent underwriting standards. This is merely the latest in a long line of practices that have targeted minorities and low and moderate income families, shutting them out of the American Dream of homeownership.

This problem is getting worse, not better. According to an ACORN study, Separate and Unequal 2001: Predatory Lending in America, which was released last month, African-American homeowners who refinanced in the Los Angeles area were 2.5 times more likely to receive a subprime loan than white homeowners were and Latinos were 1.5 times more likely to receive a subprime refinance loan. And this is not merely a function of income: Upper-income African-Americans and middle-income African-Americans were more likely to receive a subprime loan than low-income white homeowners when refinancing. Middle-income Latinos were also more likely to receive a subprime refinance loan than low-income whites.

We must continue to scrutinize predatory lending practices and protect American consumers who are easy targets for the predatory lending industry. Congress and federal agencies must recommit our efforts to ensure that greater opportunity to credit access means an increase in quality of life, not an increase in predatory lending and foreclosure. I will continue fighting on the federal level until predatory lending is eliminated and the term will only have relevance in history books. I encourage my colleagues to support my legislation and look forward to working with you to eliminating this blight from our communities.

TRIBUTE TO K. ROSS CHILDS ON THE OCCASION OF HIS RETIREMENT AS COUNTY ADMINISTRATOR FOR GRAND TRAVERSE COUNTY, MICHIGAN

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. STUPAK. Mr. Speaker, I rise tonight to pay tribute to a dedicated public servant, K. Ross Childs, who is retiring after serving as County Administrator for Grand Traverse County, Michigan, since 1976. Ross will be honored on January 5 at a special celebration in Traverse City by the many friends and colleagues he has touched in his long career.

A review of Ross' professional resume reveals an individual who acquired a broad base of skills that ably suited him for the job of county administrator. A Canadian citizen by birth, he did his undergraduate studies in the community of Owen Sound, Ontario. He came to the U.S. in 1955 to earn an engineering degree at the University of Michigan, and his postgraduate studies included courses in engineering, business administration and public administration at U. of M. and Detroit's Wayne State University.

This resume also reveals an administrator who recognized that being in charge of a diverse and growing county required close coordination with local public and private organizations. At various times Ross has served as a member or officer of, among others, the Michigan Leadership Institute, the Grand Traverse Commons Redevelopment Corporation, Leadership Grand Traverse, the Traverse Bay Economic Development Authority, the Traverse City Convention and Visitors Bureau, the Traverse City Area Chamber of Commerce, National City Bank, Blue Cross Blue Shield, and Munson Medical Center. Ross has also been extremely active in Rotary International and will serve as district governor for 2002–2003.

But, Mr. Speaker, when I worked with Ross Childs, I wasn't working with a resume or a list of titles. I worked with a dedicated public servant, a man who was a consumate advocate for his Grand Traverse County, whether he was laboring on behalf of an individual or for the county's largest employer, Munson Healthcare.

I have worked with Ross on numerous issues, including funding for a new airport terminal at Cherry Capital Airport, funding for roads in the county, and projects at the Coast Guard air station in Traverse City. In between dealing with major projects or problems, I always knew that when the National Association of Counties met in Washington, D.C., Ross would arrive with a list of county issues for me to work on.

Ross and his wife Helen have two daughters, Mary and Susan. As a change from our usual meetings in Washington, it was a pleasure for my staff and me to be able to show Ross, Helen and Susan some of the sights of this great city when they came here on a family visit.

That doesn't mean we haven't had our differences, Mr. Speaker. I ask you to recall that Ross in an alumni of the University of Michigan, a school he not only attended but represented on the hockey rink. Waving those Michigan school colors of maize and blue in front of a Michigan State supporter like me is like waving the proverbial red flag in front of a bull.

Mr. Speaker, let me add a personal note of appreciation. Ross and Helen lost their son Scott, a hockey player like his father, in an auto accident some years ago. When my own son BJ died last year, Ross was there at the funeral to lend his support. We share a profound loss that never quite heals, and I will always remember and appreciate his true expression of sympathy and genuine concern.

So, Mr. Speaker, K. Ross Childs is giving up the reins of power in Grand Traverse County, and in one of his final acts as administrator he has helped hire and mentor Dennis Aloia, who comes from Marquette in the Upper Peninsula of Michigan. As a U.P. resident myself, I am pleased to see that Ross has learned what a great value and resource the U.P. can be for Grand Traverse County.

While Ross may be leaving his post as county administrator, he will remain active in northern Michigan as regional governor of Rotary, a organization to which he has been extremely dedicated for many years.

I ask you, Mr. Speaker, and our House colleagues to join me in congratulating this public servant on a job well done and in wishing Ross and Helen Childs the best in their retirement years.

CONGRATULATIONS TO MR. AND MRS. FLORENIO BACA

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. BACA. Mr. Speaker, it is my privilege to announce to you and to the rest of my esteemed colleagues, that on January 5, 2002, Flornio and Escolastica Baca will celebrate their 50th wedding anniversary. The couple will renew their wedding vows in a ceremony at Mt. Saint Joseph's Catholic Church in Barstow, California.

Florenio and Escolastica were both born in New Mexico. Florenio was one of thirteen children born to Seledon and Isabeleta Baca, while Escolastica was only one of two children born to her parents, Rafael and Eufelia Garcia. Eufelia, now 89 years old, is the couple's only surviving parent.

Florenio and Escolastica married on January 28, 1951 in La Joya, New Mexico, and shortly afterwards the pair moved to Barstow, California. Florenio worked for the Santa Fe Railway and later went to work for a civil service position only to return to the Santa Fe Railway until his retirement. A hardworking couple, Florenio and Escolastica were pioneers of the dual income family as Escolastica worked a variety of jobs until her retirement from a civil service position in Nebo, California. All the while, Florenio and Escolastica raised a loving family.

The couple was blessed with three children, Gilbert, Sally and Evelyn. Today their children are grown and married. Florenio and Escolastica's family now includes Gilbert's wife, Tracy Marcum, Sally's husband, Scott Stapp, and Evelyn's husband, Joe Bensie. Their children have given the Baca's eight grandchildren, Lindsay, Courtney, Brandy, Larry, Erica, Adrian, Ryan and Mathew, and one great-grandchild, Brooklyn.

I commend Florenio and Escolastica for demonstrating their commitment to marriage and family. The couple has provided love and ongoing support to their children, grandchildren and great-grandchild playing an active role in all of their raising.

Today the Baca's spend most of their time relaxing at home and visiting their family. Escolastica remains very active at Mt. Saint Joseph's Catholic Church.

Mr. Speaker, on behalf of the United States Congress and the people of California, I extend our sincere congratulations to Mr. and Mrs. Florenio Baca.

TRIBUTE TO DR. BRENDA DAVIS, OUTGOING PRESIDENT, CORONA CHAMBER OF COMMERCE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication to the community and to the overall well-being of my hometown of Corona, CA, is exceptional. The City of Corona has been fortunate to have dynamic and dedicated business and community leaders who willingly and unselfishly give time and talent to making their communities a better place to live and work. Dr. Brenda Davis is one of these individuals.

On January 5, 2002, Dr. Davis will be honored as the outgoing 2001 President of the Corona Chamber of Commerce. Currently Provost of the Norco Campus at Riverside Community College, Brenda provides great leadership, administration and supervision over her faculty and students. A person with passion and principles, who has strived to have a positive effect upon her local community, Dr. Davis' leadership has been instrumental in strengthening the bonds between the cities of Corona and Norco, along with their business and educational communities.

Dr. Brenda Davis holds a Doctor of Education degree in Curriculum and Teaching, a Master of Education Degree in Psychiatric—Mental Health Nursing and Bachelor of Science in Nursing all from Teachers College, Columbia University in New York. Dr. Davis is recognized as a very effective administrator and has held several administrative positions at Riverside Community College, including Director, Department Chairperson of Nursing; Dean, Nursing Education; Dean, Grant and Contract Services.

Brenda's tireless, engaged action have propelled the City of Corona forward in a positive and progressive manner. Her work to promote the businesses, schools and community organizations of the City of Corona make me proud to call her a fellow community member, American and friend. I know that all of Corona is grateful for her contribution to the betterment of the community and salute her as she departs. I look forward to continuing to work with her for the good of our community in the future.

ON INTRODUCING THE ANTI-TERRORISM CHARITY PROTECTION ACT

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. ISRAEL. Mr. Speaker, I rise today to introduce the Anti-Terrorism Charity Protection Act, a bill that will not only ensure that organizations supporting terrorism are denied the benefits of an American tax deduction, but will protect innocent citizens from donating well-intentioned contributions to organizations that misappropriate funds to support terrorism.

Mr. Speaker, since September 11th, we have learned a great deal about Osama bin Laden and the al Qaeda terrorist network. Bin Laden apparently is rich, with a personal fortune of over $300 million. In addition, a complex global financial network exists to supplement his personal fortune. Alarmingly, evidence suggests that organizations in the United States and abroad have cloaked themselves as charitable groups to help funnel funds to al Qaeda.

The President has already frozen the assets of the Wafa Humanitarian Organization, the Al Rashid Trust, the Makhtab al-Khidamat and the Society of Islamic Cooperation. These were groups that were supposedly charitable organizations, but were mere conduits for raising money for the treacherous acts of September 11 and other acts of terrorism around the world.

On December 3rd, the Administration froze the assets of the Holy Land Foundation for Relief and Development, a foundation based in Richardstown, Texas. According to a December 5th article in The New York Times:

> Mr. Bush and Treasury Secretary Paul O'Neill said today that they believe many Muslims who contributed to the Holy Land Foundation did not know where their money was going. "Innocent donors who thought they were helping someone in need deserve protection from these scam artists," Mr. O'Neill said at the White House. The Treasury also announced action against the Al Aqsa Bank and the Belt al Mal Holdings Company, a bank that it described as "direct arms of Hamas."

I ask that the full text of the article follow my remarks.

It seems clear that the Holy Land Foundation for Relief and Development is an organization that serves as the fundraising arm of Hamas, which is responsible for hundreds, if not thousands, of terrorist deaths in Israel over the years, with a recent surge of murder of innocent young people in Jerusalem, Tel Aviv and Haifa.

I do not believe that the American people, especially American Muslims, are intentionally giving money to support terror. In fact, I am sure that the vast majority of contributors to this organization believed that their money was going to support the legitimate humanitarian concerns that Americans have about the situation in the Middle East.

The facts, however, indicate that these contributions were being used to finance bombs targeted at innocent civilians.

Mr. Speaker, Americans trust the IRS to determine what is and what is not a charity. If there is an organization that is designated by the IRS to allow contributions to be tax deductible, almost all of our citizens would automatically assume that the group was legitimate. The IRS does an excellent job applying its regulations very stringently. Unfortunately, according to the IRS, the Holy Land Foundation did receive these benefits.

Currently, the IRS by internal regulation denies charities affiliated with terrorism a tax deduction. This is all well and good, but the fact is that this could be challenged in court. I believe that the IRS needs a stronger tool. I believe that this restriction must be in the law.

Finally, Mr. Speaker, during consideration of the Financial Anti-Terrorism Act, I introduced an amendment on this issue that Chairman OXLEY, Mr. LAFALCE, and the Committee on Financial Services were gracious enough to accept, though it did not make it through conference. The amendment asked that Treasury study how terrorist organizations may use charities to fund their operations. I am gratified to see that the Department of the Treasury and Secretary O'Neill seem to be focusing on this issue and would encourage them to continue doing so.

Mr. Speaker, if we are going to win the War on Terrorism, we must fight the war on every front. The financial front is one important battleground and we must do everything we can to ensure that our soldiers—not only in Afghanistan behind rifles but here in America in front of computer screens—have the weapons they need to defend America.

[From the New York Times, Dec. 10, 2001]

BUSH FREEZES ASSETS OF BIGGEST U.S. MUSLIM CHARITY, CALLING IT A DEADLY TERROR GROUP

(By David E. Sanger and Judith Miller)

WASHINGTON, DEC. 4—President Bush significantly broadened his counterattack on terrorist groups today, freezing the assets of the largest Muslim charity in the United States. Mr. Bush accused the charity of supporting Hamas, the Palestinian militant group that took responsibility for three suicide bombings in Israel over the weekend.

Mr. Bush's announcement was a strong demonstration of solidarity with Prime Minister Ariel Sharon of Israel, who has urged that Hamas be treated with the same severity as Al Qaeda's terrorist network.

White House officials said they had planned to move against the charity and two banks that helped finance Hamas later this month, but sped up the action after the bombings, which killed 25 people and wounded almost 200, many of them teenagers.

Treasury officials said the charity, the Holy Land Foundation for Relief and Development, based in Richardson, Tex., had been under investigation since 1993.

In a statement the charity denied allegations that it provides financial support to terrorists. It said "the decision by the U.S. government to seize the charitable donations of Muslims during the holy month of Ramadan is an affront to millions of Muslim Americans."

A senior official said the administration had delayed acting for fear of harming the F.B.I. investigation of the charity. Search warrants were executed today when federal officials seized documents at the charity headquarters and other offices.

International political considerations were also in play, other administration officials said. The White House debated whether moving against Arab extremist groups could weaken the coalition Mr. Bush has assembled in the war on Afghanistan. "The bombings changed the politics of this considerably," a senior administration official said.

Speaking in the Rose Garden this morning, Mr. Bush appeared to side with Mr. Sharon in his characterization of Hamas. "Hamas is one of the deadliest terror organizations in the world today," he said, adding that it "has obtained much of the money it pays for murder abroad right here in the United States."

The statement was something of a turnaround for the administration. Its first list of terrorist groups subject to American action, released days after the Sept. 11 attacks, made no reference to Hamas. A second list released in October called Hamas and some 20 other militant groups terrorist organizations, but said few had assets in the United States.

It is difficult to assess how effective the administration's new campaign will be in slowing Hamas. Officials said the group relied on American charities that solicit funds in many mosques around the country for tens of millions of dollars each year. Hamas has long said that the money goes to social causes, easing the suffering of Palestinians. The Treasury and F.B.I. say they have evidence the money is siphoned to the organization's terrorist arm.

The State Department says that Hamas also receives some funding from Iran, but even more from wealthy patrons in Saudi Arabia and Palestinian expatriates in the gulf. The success of the Bush administration's crackdown will depend largely on its ability to persuade those countries to follow suit.

Mr. Bush and Treasury Secretary Paul O'Neill said today that they believe many Muslims who contributed to the Holy Land Foundation did not know where their money was going. "Innocent donors who thought they were helping someone in need deserve protection from these scam artists," Mr. O'Neill said at the White House. The Treasury also announced action against the Al Aqsa Bank and the Beit al Mal Holdings Company, a bank that it described as "direct arms of Hamas."

So far, a half dozen banks in the United States have frozen $1.9 million of the Holy Land Foundation's assets, Treasury officials said today.

In Richardson, F.B.I. agents and local police officers stood guard outside the Holy Land Foundation offices as movers removed items such as file cabinets, office furniture and computers in accordance with President Bush's order.

Movers using a tractor-trailer arrived with the seizure notice at about 8 a.m. and worked into the night.

Steven Emerson, an expert in Islamic terror networks, said that the United States knew as early as 1993 that Hamas leaders were "meeting in America and using Holy Land Foundation as a conduit to raise money for terrorism, recruit support, and undermine the U.S.-sponsored peace process."

RECOGNIZING THE ACHIEVEMENTS OF MESA

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Ms. SOLIS. Mr. Speaker, I rise today to congratulate Mathematics, Engineering, Science Achievement (MESA) of the University of California for being selected as one of the five most innovative public programs in the country by Innovations in American Government, a project of the John F. Kennedy School of Government at Harvard University, the Ford Foundation, and the Council for Excellence in Government.

I have long supported MESA, which helps educationally disadvantaged students to excel in math and science. MESA encourages students to develop an academic path to college and attain baccalaureate degrees in math and science fields. Parents are encouraged to become involved and learn that college can be a reality for their children. In addition, MESA brings in industry representatives in science fields to introduce the students to science-based career options.

Eighty-five percent of MESA's graduating high school seniors go on to college, compared to only fifty percent of California's graduating high school seniors overall. Seven other states have established programs based on California's MESA model. Today, more than twelve percent of the nation's historically underrepresented students who attain baccalaureate degrees in engineering are MESA students.

The Innovations in American Government program identifies outstanding problem-solving and creativity in public sector programs. This year 1,200 programs were nominated for the award. These programs underwent an extremely rigorous assessment process before Innovations determined its winners.

I applaud MESA on its accomplishments and wish the program continued success in helping California students succeed.

HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS ACT OF 2001

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mrs. MINK of Hawaii. Mr. Speaker, I want to express my support for S. 1793, the HEROS Act, which will help provide relief from student loan deadlines and administrative requirements to victims and their families of the September 11 terrorist attacks, and for members of the military who are called up for active duty in response to those attacks. S. 1793 provides the Secretary of Education with the authority to waive specific aspects of the student aid programs to make sure that these people are not adversely affected financially by being victims of these attacks or being on active duty.

S. 1793 is similar to H.R. 3086, which passed the House in October by a vote of 415–0. The authority granted by the HEROS Act is similar to authority granted during Desert Storm, and expires on September 30th, 2003. The HEROS Act addresses issues of loan repayment for individuals directly affected by the attacks, and the student aid eligibility for these individuals, while ensuring the integrity of the student loan programs. The Secretary may help such individuals by reducing or delaying monthly student loan payments, or by lifting obligations for repayment by military students, or other actions that help such borrowers avoid inadvertent technical violations or defaults.

The HEROS Act would also allow the Secretary to help institutions and organizations participating in the Federal student aid programs that are affected by the attacks so that they may receive temporary relief from certain administrative requirements. For such institutions, some administrative requirements may be rendered unreasonable to meet as a result of the September 11 attacks.

Congress will also have the opportunity to learn about the effectiveness of these waivers, as the Secretary will be required to report on the waivers granted and make recommendations for any statutory or regulatory changes that may help provide these students relief in the future.

As we all know, September 11 had a devastating impact on our Nation and our economy. The HEROS Act will provide crucial relief to those students who were victims of this horrible event, and will also protect the eligibility of students serving in the military. By helping military students remain eligible for student aid, we can help ensure that our next generation of leaders is properly prepared to face an increasingly interconnected global environment, and can help rebuild our nation and protect against future attacks. The HEROS Act thus is looking to the future, while helping those burdened by our recent past and I support S. 1793.

REGARDING MONITORING OF WEAPONS DEVELOPMENT IN IRAQ

SPEECH OF

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Ms. LEE. Mr. Speaker, I rise today in opposition to this resolution.

I want to be very clear: I strongly support inspection of Iraqi weapons facilities. This resolution, however, is not the best way to accomplish that goal.

We clearly stand at a moment in history when we must reinvent our foreign policy to meet new challenges. Renewed arms inspections of Iraq should be part of that new matrix, but smarter sanctions and humanitarian engagement must also be undertaken.

Engagement is crucial. We should work with our allies to forge a policy that strengthens the cause of peace and stability in the Middle East.

There are some who call for an invasion of Iraq. I am strongly opposed to such a step.

Opposition to a United States assault on Iraq is found not only in the capitals of the Middle East but throughout much of the rest of the world as well.

International leaders such as United Nations Secretary General Kofi Annan and former South African President Nelson Mandela have strongly voiced their opposition to such an attack, arguing that the only lasting solutions lie in collective international efforts.

As Kofi Annan said earlier this month, "Any attempt or any decision to attack Iraq today will be unwise and could lead to a major escalation in the region." President Mandela warned that bombing Iraq would be a disaster that would inject "chaos into international affairs."

Therefore, I must oppose this resolution not because I oppose inspections but because I believe it is too inflammatory and will make inspections less likely, not more likely.

This is the wrong resolution at the wrong time. At this moment we face a crisis in the

Middle East as the Israeli-Palestinian conflict threatens to spin out of control. That must be the epicenter of our concern right now. Yes, we want inspections, but this is not the best way to achieve them.

TERRORIST BOMBINGS CONVENTIONS IMPLEMENTATION ACT

SPEECH OF

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Ms. KILPATRICK. Mr. Speaker, while I support the ratification and implementation of the International Conventions for the Suppression of Terrorist Bombings and the Suppression of the Financing of Terrorism in H.R. 3275, I cannot support the overall bill. I am concerned that bill includes controversial language that will jeopardize future enforcement of these Conventions.

I believe that the provision in title I that authorizes the imposition of the death penalty for the offenses set forth in section 102.2 is superfluous and unnecessary. Our experience with other nations, as it pertains to the U.S. death penalty, should guide our actions on the floor today. Courts in Canada and France have refused to extradite criminals to the United States, citing our continued insistence on the imposition of the death penalty. A South African Constitutional Court ruled that a suspect on trial in Manhattan in connection with the bombing of the American Embassy in Tanzania should not have been turned over to United States authorities without assurances that he would not face the death penalty.

At a time when we are seeking the cooperation of nations to bring international criminals to justice, it makes no sense to authorize this death penalty provision, which may, in fact, impede the extradition of criminals to U.S. jurisdiction. The administration acknowledges that capital punishment is not required to implement the Conventions. Yet, even while admitting that the provision is unnecessary to implement the Convention, the administration justifies the inclusion of this new death penalty provision by claiming that it simply tracks current law.

This justification is without merit. Under U.S. law, the death penalty is justified for its deterrent effect. Surely in this case there is no punitive or deterrent basis for the death penalty. In this instance, those that the Conventions target are willing to commit suicide for their criminal causes. In this instance, it cannot be argued in good faith that fear of the death penalty will prevent terrorists from carrying out acts of terrorism.

TERRORIST BOMBINGS CONVENTION IMPLEMENTATION ACT OF 2001

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Ms. JACKSON-LEE of Texas. Mr. Speaker, the International Convention for the Suppression of Terrorist Bombings was initiated by the United States in the wake of the 1996 bombing of Khobar Towers in Saudi Arabia. It requires signatories to criminalize terrorist bombings aimed at public, governmental, or infrastructure facilities and to prosecute or extradite those responsible. The United States has not yet ratified the convention, which went into force in May of this year. The legislation before us, H.R. 3275, implements the International Convention for the Suppression of Terrorist Bombings,

Specifically, H.R. 3275 makes it a Federal crime to unlawfully deliver, place, discharge or detonate an explosive device, or to conspire or to attempt to do so, in a public place, public transportation system, or in a State or Federal facility. It provides penalties of up to life in prison, or death for perpetrators if the bombing resulted in fatalities, and also provides for the prosecution or extradition of perpetrators who commit crimes outside of the United States, but who are subsequently apprehended in this country.

Additionally, H.R. 3275 implements the International Convention for the Suppression of the Financing of Terrorism, which requires signatories to prosecute or extradite people who contribute to, or collect money for, terrorist groups.

It also makes it a Federal crime to directly or indirectly provide or collect funds to carry out , in full or in part, specific acts of terrorism. It also makes it a crime for any U.S. national or entity, both inside and outside the country, to conceal or disguise the nature, location or source of any funds provided or collected to carry out terrorist acts. It also provides for the prosecution or extradition of perpetrators who commit these crimes outside of the United States, but who are subsequently apprehended in this country.

Finally, provisions in the bill make the crimes of terrorist bombings and terrorist financing "predicate offenses" under U.S. wiretap laws and included on the list of Federal crimes of terrorism.

Mr. Speaker, I fully support prompt ratification and implementation of the International Conventions for the Suppression of Terrorist Bombings and the Suppression of the Financing of Terrorism. However, I am concerned that H.R. 3275 includes controversial changes to U.S. domestic law that go well beyond those changes required to bring our laws into conformity with the requirements of those agreements.

Specifically, we must avoid the redundancy of ancillary provisions relating to the death penalty, wiretapping, money laundering, and RICO predicates. To this end, during the recent Judiciary Committee markup of this I joined my colleagues, Mr. SCOTT and Mr. DELAHUNT in their opposition to certain ancillary provisions of this bill in relation to treaty approval.

While I fully support the efforts of our law enforcement professionals in light of the recent attacks against this Nation, I am concerned that prosecutors should be limited in the extent to which they can cast the widest possible net, often to the great detriment of those who were not initially target by Congress when the legislation was enacted.

Many of these provisions have already been included in the anti-terrorist bill which has since been passed into law on October 26, 2001. Therefore, to include the same provisions in H.R. 3275 would be redundant and would serve no purpose. As a matter of fact, Mr. Chertoff of the Department of Justice stated recently that these provisions are not even required in order to implement the treaties.

Moreover, most party states to the Conventions do not tolerate the death penalty, but are still in compliance with the treaty. This could have a profound effect on extradition and result in an inordinate burden on our criminal justice system.

These necessary changes could have easily have been facilitated on the floor by allowing amendments, and I regret that we were not allowed to address these issues due to the suspensions calendar.

Despite these concerns, it is in our best interest, as well as in the interest of the international community, that we comply with the treaty. Our message that we will not tolerate terrorism in any way, shape, or form, must be strong and clear.

I believe that this bill fulfills this obligation.

CONFERENCE REPORT ON H.R. 3061, DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. BENTSEN. Mr. Speaker, I rise in strong support of H.R. 3061, the Fiscal Year 2001 Labor, Health and Human Services, and Education Appropriations bill. This legislation would provide $395 billion for the Departments of Labor, Health and Human Services, and Education, and related agencies. This $395 billion funding level represents an 11 percent increase above last year's budget. I am especially pleased that this legislation would provide a 15 percent increase for education funding and 15 percent increase or $23.3 billion for biomedical research conducted through the National Institutes of Health (NIH).

With regard to education, I am pleased that this bill would dramatically increase funding, for education programs by providing $6.8 billion or 15 percent over FY 2001 levels and $3.9 billion above the President's request. Over the last five years, the average annual rate of new educational investment has been 13 percent. This legislation would increase the education investment to 17 percent—the highest in a decade. While the bill does not include separate funding for the class-size reduction initiative, I am pleased that the program was redirected into teacher quality state grants. Under this legislation, these state grants will receive a $2.9 billion increase to help schools reduce class size and provide professional development for teachers and other school employees. Additionally, the committee's inclusion of $975 million for the President's Reading First initiation will enable schools to bring proven, research-based reading programs to students in the critical early learning years. The $1 billion increase for 21st Century After School Centers will provide students with a quality after school programs. And for students continuing on to higher education, the increase in the Pell Grant maximum grant to $4,000 will enable low-income students to meet today's ever-increasing educational costs. Additionally, the bill wisely rejects proposed enrollment cuts to Head Start, preventing possible cuts for as many as 2,500 children from this critically important program.

I am also pleased that the committee included a 18 percent increase in the federal share of special education costs. This agreement provides $8.7 billion for educating children with disabilities, $1.3 billion more than this year's funding. In 1975, Congress passed Public Law 94–142, the Individuals with Disabilities Education Act (IDEA), which committed the federal government to fund up to 40 percent of the educational costs for children with disabilities. However, the federal government's contribution has never exceeded 15 percent, a shortfall that has caused financial hardships and difficult curriculum choices in local school districts. According to the Department of Education, educating a child with a disability costs an average of $15,000 each year. However, the federal government only provides schools with an average of just $833. While I believe the funding increase in this legislation represents a step in the right direction, I believe we must abide by our commitment to fund 40 percent of IDEA costs, and I am hopeful that we will consider greater funding increases in the next fiscal year.

While the overall bill is a good one, there are many important programs that were level-funded or eliminated under this legislation. To that end, I look forward to working with my colleagues to continue funding for these programs at adequate levels, or in the case of school modernization, to work for its reinstatement. In total, though, this bill makes important investments in education, and will provide America's children with the resources they need to succeed and be productive members of our society.

As a Co-Chair of the Congressional Biomedical Research Caucus, I am pleased that this legislation provides $23.3 billion for the National Institutes of Health (NIH), an increase of 15 percent or $3 billion more than last year's budget. This $23.3 billion NIH budget is our fourth payment to double the NIH's budget over five years. Earlier this year, I organized two bipartisan letters in support of a $3.4 billion increase for the NIH. I am a strong supporter of maximizing federal funding for biomedical research through the NIH. I believe that investing in biomedical research is fiscally responsible. Today, only one in three meritorious, peer-reviewed grants which have been judged to be scientifically significant will be funded by the NIH. This higher budget will help save lives and provide new treatments for such diseases as cancer, heart disease, diabetes, Alzheimer's, and AIDS. Much of this NIH-directed research will be conducted at the teaching hospitals at the Texas Medical Center. In 2000, the Texas Medical Center received $289 million in grants from the NIH.

In addition, I support the $4.3 billion budget for the Centers for Disease Control, a $431 million increase above last year's budget. The CDC is critically important to monitoring our public health and fighting disease. Of this $4.3 billion CDC budget, $ 1.1 billion will be provided to address HIV/AIDS programs and to combat tuberculosis. This CDC budget also provides $627 million to provide immunizations to low-income children. In Texas, there are many children who are not currently receiving the immunizations that they need to stay healthy. This CDC program will help to monitor and encourage low-income families to get the immunizations that will save children's lives and reduce health care costs. Investing in our children is a goal which we all share.

I also want to highlight that this agreement provides $285 million for pediatric graduate medical education (GME) programs. As the representative for Texas Children's Hospital (TCH), which is one of the nation's independent pediatric training facilities, I am pleased that this bill fully funds this critically important program. This $285 budget is $50 million more than last year's budget and is the same level which has been authorized for this program. Under current law, independent children's hospitals such as TCH can only receive Medicare GME funding for those patients which they treat who are Medicare beneficiaries. Since many of TCH's patients are not Medicare eligible, current GME programs fall to help to pay for the cost of training our nation's pediatricians. Last year, TCH received approximately $8 million from this program, which is more than half of the cost of training physicians, residents and fellows at TCH. This bill is an important step in the right direction to ensure that all hospitals receive assistance to help defray the cost of training physicians.

I am also pleased that this agreement includes funding for several projects which I have spearheaded. This bill provides $440,000 for the Center for Research on Minority Health (CRMH) at the University of Texas M.D. Anderson Cancer Center. This $440,000 budget is the third installment in my effort to examine cancer rates among minority and underserved populations. The CRMH is a comprehensive cancer control program to address minority and medically underserved populations.

I urge my colleagues to support this legislation and vote for this important health, education and labor funding measure.

CONFERENCE REPORT ON H.R. 3061, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mrs. LOWEY. Mr. Speaker, I rise today in strong support of the conference report and I urge its adoption. I want to thank the Ranking Member, Mr. OBEY, for yielding me this time and for his strong and forceful leadership not only on this bill, but also for the American people.

I want to recognize the Chairman of our Subcommittee, Mr. REGULA. He has been an absolute pleasure to work with and has gone out of his way to ensure that the bill was crafted in a bipartisan manner and that the concerns of Members on both sides of the aisle were considered.

Mr. Speaker, this conference report provides tremendous increases for health, education and worker safety and training. We've been able to follow up on the promises we made on this floor last week when we passed the ESEA conference report in this bill. Increases in Title I funding will ensure that our most disadvantaged children have access to a quality education. Pell Grants will reach a maximum of $4,000 per student, giving low-income students a helping hand in paying for college. Overall, the bill boosts education funding by over $1 billion, to its highest level ever.

In health programs, the bill continues to provide an unprecedented level of funding for medical research. We are in an age of tremendous discovery in medical research, and the resources provided to NIH will help find treatments and cures for many diseases. There are increases for mental health research and treatment, HIV/AIDS programs, and programs for the elderly. And, we address the growing threat of bioterrorism by giving the CDC, our leader in this fight, greater resources to help keep our nation secure.

Even with these vast increases for so many programs, we know that next year will be very different. The surpluses we've enjoyed have disappeared. And, the President's tax cuts will take up more and more of the federal budget as we go forward. We're just beginning to fund education and healthcare at the levels they deserve. I am concerned, as are many of my colleagues, that we will not be able to provide this same level of funding next year.

I want to mention one area of critical importance—the need to combat obesity in this country. The Surgeon General reported last week that two out of three American adults are overweight. In fact, he estimates that obesity will cause more deaths than smoking in the coming years. Reducing the rate of obesity can prevent unnecessary illness and death. We've been so successful in convincing people to quit smoking, and this should be the next big fight for public health.

I know that Chairman REGULA and Mr. OBEY will be very interested in that effort, and I want to again thank the Chairman and Ranking Member for their tireless efforts in putting this bill together. I urge adoption of the conference report.

LIVING AMERICAN HERO APPRECIATION ACT

SPEECH OF

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. EVANS. Madam Speaker, the remarks that I made in support of H.R. 2561 were made in the context of the measure as it was originally introduced by my colleague, the gentleman from Pennsylvania, CURT WELDON. The measure passed by the House under suspension of the rules, however, was an amended version of H.R. 2561. As amended, H.R. 2561 did not embody certain provisions that had been included in the original bill.

With regard to H.R. 2561 as amended, I want to express my strong support for this legislation that demonstrates our continued commitment to recipients of the Medal of Honor. In the name of the Congress, the President presents the Medal of Honor. It is the highest honor that can be bestowed upon any American citizen. Only 3,455 Americans have been awarded Medals of Honor, and today only 149 of them are living.

As the Ranking Democrat on the Veterans' Affairs Committee, as a senior member of the Armed Services Committee, and as a United States Marine, I feel strongly that these heroes deserve special recognition and consideration. Their valiant contributions must be honored and supported by all Americans.

Accordingly, I am pleased that H.R. 2561 would increase from $600 to $1,000 the monthly amount paid to recipients of the Medal of Honor and provide for retroactive, lump-sum payments to such recipients to reflect this increase. In addition, the bill would provide an additional medal for use in display or exhibits to those recipients who desire one, and increase the criminal penalties associated with the unauthorized purchase or possession of a Medal, or with the false representation of its awarding.

Madam Speaker, I am proud to be an original cosponsor of H.R. 2561 and I strongly urge my colleagues to join me in supporting our Medal of Honor recipients.

NURSE REINVESTMENT ACT

SPEECH OF

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. FOLEY. Mr. Speaker, I want to thank all the members of this chamber for passing H.R. 3487, the Nurse Reinvestment Act. This bill will provide immediate relief to a sector of the healthcare industry in desperate need of our support. The nursing shortage is approaching critical levels and it is clearly affecting patients throughout our Nation.

These men and women who work on the front lines of our healthcare system everyday face tremendous hurdles. I have met with nurses and their representatives who have thoroughly explained the problems with mandatory overtime, the need for staffing standards, and protection for those employees who report unsafe conditions or practices in the facilities in which they work.

H.R. 3487 is a step in the right direction. It will provide for funding public service announcements to recruit nurses, loan repayment programs, and scholarship programs. It also requires the GAO to report to Congress on several key issues in the nursing arena—including nursing faculty shortages and disparities among hiring practices of nurses between not for profit and for profit entities.

Again, I thank my colleagues for their support of this very important piece of legislation.

CONFERENCE REPORT ON H.R. 3061, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Ms. JACKSON-LEE. Mr. Speaker, I am pleased with the bipartisan bill passed out of the House Labor–HHS–Education subcommittee and brought to the floor by unanimous consent. The bill generally makes sure that we continue our commitment to education and health care, preserves our most important worker protection programs, and includes the largest increase in new educational investment in a decade. This is good news for the American people.

However, I am extremely disappointed that this $123.8 billion appropriation does not include a greatly needed provision to expand insurance coverage for mental illness. This provision, known as "mental health parity" would have required group health plans offering mental health coverage to make that coverage available at the same level as insurance coverage for physical illness.

This was a crucial social issues issue that was included in the Senate version of the spending bill (H.R. 3061) that should have been adopted by the conferees. The adoption by the conferees of an amendment offered by Representative RANDY "DUKE" CUNNINGHAM that would keep the Wellstone-Domenici Mental Health Parity Act of 1996 (P.L. 104–204) in effect for another year is notable, but should not replace the responsibility of the conferees to address this important issue to protect all Americans from disparities in insurance coverage.

According to the Wall Street Journal, the cost to American businesses of untreated mental illnesses is $70 billion per year, and the National Institute of Mental Health estimates that the cost to society is $300 billion per year. These costs are reflective of the 23% unemployment rate among American adults who suffer from depression, and the fact that four of the ten leading causes of disability in America are mental disorders.

The mental health parity provision would have addressed these issues while increasing the levels of productivity in the American workforce. It is a seriously missed opportunity that this provision was not included in this appropriation.

Having said that, I am pleased that this appropriation includes $48.9 billion for the Department of Education, roughly $4.4 billion more than President Bush originally requested. However, as Chair of the Congressional Children's Caucus, I am disappointed that funding for elementary and secondary education programs fell short of the levels in the reauthorization of the Elementary and Secondary Education Act (ESEA; H.R. 1) which would authorize $26.5 billion for elementary and secondary education programs, and which awaits the President's signature.

I am also disappointed that the conferees failed to keep in the bill $925 for elementary and secondary school renovation, particularly in light of the current state of disrepair that we find our schools in.

I am pleased with the large increase to $7.5 billion in special education funding, raising spending roughly 19 percent higher than the $6.8 billion in fiscal 2001. I am also pleased with the increases in spending for Pell Grants to $10.3 billion from roughly $8.8 billion in fiscal 2001, raising grants from $3,750 to $4,000.

Americans will also be well-served by the other increases such as: the 18% increase to $1 billion for after school centers, the $1.6 billion (18%) increase to $10.35 billion for Title 1 grants, the 45% increase to $665 million for Bilingual Education, the 31% increase to $2.85 billion for Teacher Quality grants, and the 15% increase to $1.1 billion for Impact Aid.

This appropriation also increases funding to the Department of Labor by 3%, or about $12 billion, rather than cut by 3% as proposed by the President. This is a $310 million increase over fiscal 2001 spending and provides growth in the major employment, training and worker protection programs. It also targets $54.2 billion to the Department of Health and Human Services, increasing $5 billion over fiscal 2001 and $2.5 billion over the President's initial request.

However, much more should have been done to help displaced workers, particularly in light of those recently displaced by the September 11 attacks on America , including more than 100,000 airline employees have lost their jobs. These attacks radically altered the prospects of workers and business in every community in America.

Unfortunately, by all indicators, the recession is upon us and it seems clear that we have not yet hit bottom. So while hard working Americans continue to loose their jobs through no fault of their own, we must do all that we can to provide them with the benefits and safety net that they need and deserve.

That's why I was proud to join Representative HASTINGS and over 150 other members of the House in co-sponsoring H.R. 2946, the Displaced Workers Relief Act of 2001. This bill served as the companion bill to S. 1454, which was introduced in the Senate by Senator JEAN CARNAHAN of Missouri. It would have provided those who lost their jobs in the wake of the attacks of September 11 with the ability to pay rent, put food on their table, buy school books for their children, while trying to get by in these difficult times.

Specifically, the bill extended unemployment benefits from 26 to 78 weeks, provided 26 weeks of unemployment insurance benefits for workers who would not otherwise qualify, extended Job Training Benefits from 52 to 78 weeks, provided up to 78 weeks of federally subsidized COBRA premiums, and provided temporary Medicaid coverage for up to eighteen months to those workers without COBRA coverage. Many of these benefits would have served Americans well had they been included in this Conference Report.

I am, however, pleased with the large increase to the National Institutes of Health by targeting $23.3 billion, which helps meet our pledge to double fiscal 1998 spending on NIH by fiscal 2003.

The bill addresses the new threats that the nation faces by increasing the Centers for Disease Control (CDC) by increasing funding 11% above last year. Also, it maintains the Low-Income Home Energy Assistance Program (LIHEAP) at the FY 2001 level, an increase of $300 million over the President's request. Finally, it rejects proposed enrollment cuts to Head Start, preventing potential cuts of as many as 2,500 children from the program. Finally, the support I received for Houston in fighting prostate and breast cancer—with $290,000 for minority testing centers and $150,000 for Sisters Network—will help save lives.

Overall, this bill, while not perfect, addresses many of the problems that we currently face and fulfills our obligations to the American people. I support it, and I urge my colleagues to also support it.

THE NATIVE AMERICAN BREAST AND CERVICAL CANCER TREATMENT TECHNICAL AMENDMENT ACT OF 2001

SPEECH OF

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. UDALL of New Mexico. Mr. Speaker, let me begin by thanking Chairman TAUZIN for allowing S. 1741, introduced by my good friend Senator JEFF BINGAMAN, to be considered by the House. I have appreciated working with him to bring S. 1741 to the floor and know that the issue of early detection and prevention holds a personal closeness to the both of us and to other members of this body.

On April 3, 2001, I introduced H.R. 1383, the companion to S. 1741, along with Representatives WATTS, HAYWORTH, SHERROD BROWN, CAMP, DELAURO, KENNEDY, KILDEE and over one hundred bi-partisan co-sponsors.

The consideration of this legislation today represents the diligent and bi-partisan work over the last month and within the past few weeks and hours, by several Members of Congress and their staffs. The work of these individuals ensures that a simple but very important technical correction to the Breast and Cervical Cancer Treatment and Prevention Act of 2000 (P.L. 106–354) will allow coverage of breast and cervical cancer treatment to Native American women.

Mr. Speaker because of a technical definition in P.L. 106–345, American Indian and Native Alaskan women were and currently are excluded from this law's eligibility for treatment. And, as states determine whether to expand their Medicaid programs to provide breast and cervical cancer treatment as an optional benefit, passage of this legislation will ensure Native American and Alaskan Women are included to receive treatment.

It is estimated that during 2001, almost 50,000 women are expected to die from breast or cervical cancer in the United States despite the fact that early detection and treatment of these diseases could substantially decrease this mortality. While passage of last year's bill made significant strides to address this problem, it failed to do so for Native American women and that is why we are here today.

Mr. Speaker, I want to thank my colleagues, especially Representatives WATTS, SHERROD BROWN, WAXMAN, CAMP, and HAYWORTH for working with me to bringing S. 1741 to the floor today. I especially want to thank Jack Horner of Representative J.C. WATT's Republican Conference staff, Tim Westmoreland of HENRY WAXMAN's office, Katie Porter of SHERROD BROWN's office, and Tony Martinez and Mike Collins of my office for their vigilant and diligent work to ensure that this legislation did not fall victim to the end-of-the-year crunch.

Mr. Speaker, I urge all my colleagues to support this bi-partisan and important legislation so that we may send it to the President for his signature to ensure that Native American and Native Alaskan women are not denied life-saving breast and cervical cancer treatment.

ESTABLISHING FIXED INTEREST RATES FOR STUDENT AND PARENT BORROWERS

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mrs. MINK of Hawaii. Mr. Speaker, I want to express my support for S. 1762, which will provide students with low interest rates on Federal student loans, while preserving the health of the student loan industry by ensuring the current and future participation of lenders in this market. By helping lenders stay in the student loan markets, we are making sure that qualified students will have access to a higher education, regardless of their financial background.

S. 1762 represents a carefully brokered compromise between those representing the needs and interests of students, and those representing the lending industry. This compromise essentially fixes a problem that would have arisen in 2003 in the student loan interest rate formula that, according to the lending community, would have dried up resources for students needing funds for college by potentially reducing returns for such loans below the cost of issuing such loans. The fix that was worked out preserves the current interest rate formula that determines how much lenders receive from the Federal government, while locking in today's very low interest rates for students.

The formula will change in 2006 so that the interest rate students pay will be fixed at 6.8 percent, which is an historically low interest rate for students, and will eliminate confusion among borrowers of student loans regarding changing interest rates and formulas. With the changes in S. 1762, students benefit by getting guaranteed low interest rates, and by having the availability of funds for loans, and the stability of the student loan industry ensured.

As I mentioned, S. 1762 is supported by groups representing students and lenders alike, as well as student financial aid administrators. We have received letters of support from the United States Student Association, the State Public Interest Research Groups, the National Association of Student Financial Aid Administrators, the American Council on Education, the Consumer Bankers of America, and the Education Finance Council.

Passage of S. 1762 is crucial for ensuring the availability of funds for qualified students to go to college. As we know, more and more students are going to college these days, and more are doing so with the help of student loans. S. 1762 will mean that more students can go on to college and will be more able to participate in the 21st century.

I urge a "yes" vote for S. 1762.

ECONOMIC SECURITY AND WORKER ASSISTANCE ACT OF 2001

SPEECH OF

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. COYNE. Mr. Speaker, I rise today in opposition to this second deeply flawed economic stimulus bill.

The measure before us today represents a modest improvement over the first stimulus bill, but it is still inadequate. While the bill would extend unemployment benefits for an additional 13 weeks, it does nothing to help part-time and low-wage workers.

And while this version of the Republicans' partisan stimulus bill appears to provide more assistance to laid-off workers so that they can keep their health insurance, it would, in fact, provide them and their families with little help. Serious concerns have been raised about the administration of the proposed 60 percent refundable tax credit for health insurance premiums, but even if such assistance could be smoothly administered, it would in many cases not provide enough help to many families—who would still be unable to afford to pay their health insurance premiums. Such premiums cost, on average, about $220 a month for an individual and $580 a month for a family. Moreover, concerns have been raised that enactment of such a credit could undermine our country's existing system of predominantly employer-provided health insurance.

In addition, the legislation before us still provides an inadequate level of funding to States to help them deal with the crisis. The National Governors' Association estimates that the combined budget shortfall for all 50 States could exceed $50 billion in 2002. Some provisions in the bill before us would actually exacerbate the fiscal challenge facing many states—the proposal to allow larger tax write-offs for purchases of new equipment, for example, which has been estimated to reduce state revenues by more than $5 billion next year alone.

Finally, this latest bill still allocates much of its "economic stimulus" to tax cuts for corporations and upper-income households. While this Republican stimulus bill would not repeal the corporate alternative minimum tax, it would effectively eviscerate it. This latest stimulus bill would also speed up the phase-down of marginal tax rates for taxpayers in the upper tax brackets—just like the first stimulus bill. Moreover, while the argument for these tax cuts is that we need to spur additional investment in businesses and factories, this argument rings hollow given that businesses are currently struggling to eliminate the excess capacity that exists in many industries. I believe that the most effective stimulus the federal government can provide at this time is to expand demand for goods and services—and that the most effective way to expand that demand is to make up some of the lost income in households that have been hit by recent lay-offs.

In short, I believe that, like the first economic stimulus bill rammed through the House by the Republican leadership in October, this legislation is both unfair and unwise. It does too little to help the people who have been laid off and too Much to help the people who are well off. Moreover, it does too little to stimulate the economy in the coming year and loses too much revenue in subsequent years. I urge my colleagues to vote against this poorly crafted legislation.

HUMANITY'S GREATNESS IN A TIME OF PERIL

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mrs. CAPPS. Mr. Speaker, I rise to bring to the attention to my colleagues, a thoughtful article by Frank Kelly that appeared in the Santa Barbara News-Press, entitled "Humanity's Greatness in a Time of Peril" on November 25, 2000.

Mr. Frank K. Kelly has been a journalist, a speechwriter for President Truman, Assistant to the Senate Majority Leader, Vice President of the Center for the Study of Democratic Institutions, and Vice President of the Nuclear Age Peace Foundation.

Mr. Speaker, I submit the following article:

[From the Santa Barbara News-Press, Nov. 25, 2001]

VOICES—HUMANITY'S GREATNESS IN A TIME OF PERIL

(By Frank K. Kelly)

In a time of trouble and sorrow, with fears of terrorism shadowing the future, 500 human beings gathered in Santa Barbara on Nov. 9 to honor two young leaders who have shown courage and compassion in lives of high achievement. The gathering was described as "An Evening for Peace," but it was far more than that. It was a celebration, a tremendous manifestation, of the creative powers of humanity.

Two Peace Leadership Awards were presented that evening by the Nuclear Age Peace Foundation. One went to Hafsat Abiola, founder of the Kudirat Initiative for Democracy, a dauntless advocate for human rights throughout the African continent. A beautiful young woman with a delicate face, she spoke of the struggles she had endured and the triumphs that had been achieved. When she finished, the people in the banquet room rose to their feet in a spontaneous ovation.

The second Peace Leadership Award was given to Craig Kielburger, founder of the Free the Children organization, who initiated a movement that led to the release of thousands of children from conditions of labor enslavement. He created it when he was 12 years old, stirred by the tragic fate of a boy from Pakistan who was sold into bonded labor and killed when he protested against the treatment of children in his country. When Kielburger, now 18, completed his speech, he also received an ovation.

Bursts of affection and admiration flashed around that enormous room in wave after wave. When the two young leaders expressed their confidence in humanity's future, it was evident that their experiences had increased their awareness of the goodness and generosity existing in so many members of the human species. They had a glow of love and respect around them.

There were hundreds of students in that huge room, students from high school and colleges, students with a wide range of gifts and ambitions, students from many ethnic backgrounds. Their faces were shining with excitement. They were clearly inspired by the two young leaders who were being acclaimed.

I was among the hundreds of older persons who participated in that gathering of glorious beings. I lived through four wars and I had witnessed terrible sufferings. Yet I also witnessed noble acts in many places. In spire of wars and other calamities, in spite of terrorism and all the threats that existed, I was sure that human beings would go from height to height, achieving more in each generation.

The celebration on Nov. 9 convinced me again that Thomas Merton was right when he asserted in one of his books that it is "a glorious destiny to be a human being." I saw the light of that glory in the faces of the young and the old when they leaped to their feet to respond to a Nigerian woman and a Canadian man.

I was grateful for the privilege of being in that room on that marvelous night. I was grateful for the work of the Nuclear Age Peace Foundation in bringing so many wonderful persons together. I was grateful for the fact that I had participated in founding it and supporting it for 20 years.

I felt an exultance, which reminded me of the surge of joy I had felt when I took part in the liberation of Paris in August of 1944. I had never expected to ride into that city as a member of a victorious army. I had never expected to be embraced by so many people, to be hailed as a liberator. It was an ecstasy I had not earned. It was one of many gifts showered upon me in a fortunate life.

On the night of Nov. 9, I felt the exaltation that comes when many people are celebrating the mystery and the wonder of being human. We rejoiced together, we felt the endless possibilities for greatness that can occur when people acknowledge their unity in the spirit of love. We became fully aware that hatred and cruelty can be overcome, and there can be peace and justice in this world for all.

I strongly believe that every one who was in that room that night will carry the starburst of that celebration in their lives through all the pains and problems of the coming years. I thrill to the hope that a tremendous Age of Fulfillment is dawning for the whole human family.

CENTRAL NEW JERSEY HONORS WORLD TRADE CENTER VICTIM MR. FOX WITH A POEM WRITTEN BY HIS DAUGHTER JESSICA

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. HOLT. Mr. Speaker, I rise to honor and recognize Plainsboro, New Jersey resident and World Trade Center victim, Jeffrey L. Fox with a poem written by his thirteen year old daughter, Jessica. Jessica asked that I share her poem with the world and I am honored to do so:

A PLACE OF MEMORIES

The gleaming towers stood in the sky,
Majestic looking and up so high.
The sun shines down on towers so great,
No one knowing about their awful fate.

Without a warning a plane hit hard.
New York would be forever scarred.
Minutes later, another plane crashed,
Leaving the second tower extremely smashed.

The towers crumbled down to Earth
Because two planes crashed in their berth.
People beneath the towers ran.
Now the towers no longer stand.

The rescue workers worked non-stop,
Searching the rubble bottom to top.
People pulled out became less and less
And using their strength became a test.

The gleaming towers stood in the sky,
Majestic looking and up so high.
Where the twin towers used to be
Is now a place of memory.

At this time in our Nation's history, when we struggle to find solace and draw lessons from acts of terror against us, we gain strength and perspective from those families these atrocious acts left behind. We find strength in the memory of Jeffrey Fox and in the words of his brave and courageous daughter.

Mr. Speaker, again, I rise to honor the Fox family and I ask my colleagues to join me in recognizing their legacy to our community and New Jersey.

HONORING THE HARD WORK AND PATRIOTISM OF THE CITIZENS OF VIDALIA, TOOMBS COUNTY, GA

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. KINGSTON. Mr. Speaker, in response to the terrorist attacks on September 11th, the people of Vidalia, GA took it upon themselves to undertake a project to show their support for America. The town of 10,000 did not have an American flag that stood in the middle of town, and they were driven to raise over $3,000 to erect a flag pole which will permanently display the American flag in the center of town.

SPECIAL ORDER FOR VIDALIA FLAG POLE

Mr. Speaker, I rise today to share with you the dedication and hard work of some remarkable Americans; the citizens of Vidalia, GA. September 11th, 2001 affected every single one of us, and the 3 month anniversary of this tragedy served to remind us of that infamous day. All over the country people from different states, neighborhoods, and backgrounds have come together under a common bond as Americans. It has been no different in my home state of Georgia, and I would like to share with you today, Mr. Speaker, the dedication and patriotism of the good people of Vidalia. Vidalia is not a very large city having a population of 10,000. Yet many people may have heard of a particular crop that comes from Vidalia, the famous, sweet Vidalia Onion. However, Mr. Speaker, it is time that these fine folks be known for more than just their onion.

In the aftermath of September 11th, the people of Vidalia took it upon themselves, to erect and commemorate a flag pole and American flag to fly over their town. Under the direction of Mrs. Lynette Reid and the local Daughters of the American Revolution, the people of Toombs' county seat went out and raised money from local citizens and companies to make this dream a reality. As a result of the hard work of its citizens, the city of Vidalia, GA now has an American flag that flies 24 hours a day, and is illuminated at night. It serves as a constant reminder of what we believe in and who we are. It is my honor to acknowledge them here today, and commend them for their quick work.

Mr. Speaker, it is actions like these that make me proud of our nation. Stories like these have occurred all across the country, and I want to thank each and every one who have been a part of America's response. I would especially like to thank the people of Vidalia, GA. The patriotism, devotion, and determination that they have demonstrated embodies some of the best American qualities.

I am also pleased, Mr. Speaker, in closing to submit some articles from the Vidalia Advance-Progress about this patriotic project.

[From the Advance-Progress, Nov. 14, 2001]

FLAG STAFF DEDICATED IN DOWNTOWN PARK

(By Kathy D. Bradford, Staff Reporter)

It may be considered by some as nothing short of a miracle.

A special ceremony was held Sunday afternoon in the Meadows Street Park to dedicate a 35-ft. illuminated flag staff and an American flag. An impressive gathering of citizens witnessed the patriotic event.

The desire to erect the flag staff originated in the October 3 meeting of the Vidalia Chapter Daughters of the American Revolution. Less than two months after actually soliciting community support, the idea came to fruition.

"This program is designed to dedicate this flag staff and flag to the heroes of September 11," said Mrs. R. Hugh Reid, coordinator of the event.

"Remember, this is the 11th day, of the 11th month," she said. "This Veterans Day also coincides with the second month anniversary of the tragedy currently facing our nation."

Mrs. William F. Ledford, Past Regent of Vidalia DAR Chapter, and John Kea of the Downtown Vidalia Association, opened the ceremony with 11 tolls of the bell in the gazebo in the park, followed by the Color Guard of American Legion Post 97 presenting the flag of the United States of America.

All stood at attention as the flag was unfurled, raised to the top of the staff, lowered to half-staff and then raised again. As if on cue, the wind began to pick up and the flag, with all its glory, began to color the sky with red, white and blue.

Involving the youth of the area, Girl Scout Troop #355, Mrs. John Tyson, Troop Leader, led the Pledge of Allegiance, and the local Boy Scout Troop, Mr. Allen Rice, Scout Master, responded with the American's Creed.

A unison of voices filled the air as Mr. and Mrs. Jerome Toole led "The National Anthem" accompanied by the Vidalia Comprehensive High School band under the direction of Mr. Tim Quigley.

And then it came time for special recognition of the men and women who helped create the minor miracle. Noting the contributions of local citizens who have worked diligently to see the event culminate on such a special day, Mrs. Reid named organizations and others who have played a role.

"We really appreciate our young people for their assistance," she said. "Dr. Tim Smith was very receptive to the idea." In his absence, students represented the local school system and included Victoria Waring and John Carroll, J.D. Dickerson Primary School; Tiffany Fowler, Sally D. Meadows Elementary School; Regan Morgan and Evander Baker, J.R. Trippe Middle School; and Matt Stanley, Student Government Association, and Blake Tillery, Senior Class President, Vidalia Comprehensive High School.

Gifts from organizations included American Legion Post #97, Mr. Hershel C. Connell, Commander, American Legion Post #97 Auxiliary, Ms. Denise Pitman, President; Downtown Vidalia Association, Mrs. Linda Clarke, President; Vidalia Lions Club, Mr. Joel Garrett, President; and Vidalia Women's Club, Mrs. Joe Brice, President.

Mrs. Reid further admonished the in-kind services of Harry Moses, Harry Moses Construction Company, Ron Lambert of Georgia Power Company and Jerry Fields of Vidalia-Lyons Concrete Company, all of whom worked together to erect the staff. One other company, who elected to remain anonymous, as a local electrician and Vietnam veteran who donated the equipment and installing the lighting necessary to keep the flag lit at night.

A bronze plaque will be embedded at the base of the flag staff. The plaque will be inscribed in dedication to the "victims and heroes of September 11, 2001," and designated that it was dedicated on November 11, 2001.

Congressman Jack Kingston was unable to attend the ceremony. In absentia, he forwarded the following to Mrs. Reid:

"Dear Friends: It is with great pleasure that I send my warmest greetings to you. Let me be the first to congratulate you on your initiative and patriotism during these days following September 11th. I am very proud of all that you have accomplished and I commend your hard work.

The money that you all have helped raise is a standing tribute to our country, and I can think of no better way to show this pride than the flag pole which you are dedicating today. I wish to thank each and every one of you for making this communitywide event possible and again want to express my gratitude to everyone in the 1st District. We have all been affected by September 11th, but we also have become a stronger nation. May God bless you, and may God bless America."

The ceremony concluded with everyone attending signing "God Bless America."

The eight-by-twelve foot flag will be flown day and night to display the patriotism and love of the United States as made evident by the rapid response of local citizens in making the project a reality.

IN RECOGNITION OF MICHAEL WYLIE SLATER

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mrs. MALONEY of New York. Mr. Speaker, I rise to pay tribute to Michael Wylie Slater, a beloved environmentalist and activist, who passed away on December 8, 2001. Michael Slater was a compassionate, dedicated and active member of his community, located in the 14th Congressional District, which I represent. His passing is truly a loss to us all.

Michael Slater's commitment to environmental issues ultimately defined his career and his life. As President of the Friends of the Earth Foundation he had the opportunity to work on those environmental issues closest to his heart. Following his tenure as President, he continued his activism on environmental issues.

Michael Slater graduated from Stanford University. He began his career as an investor, but felt deeply connected to those issues which affect our Earth. He believed, correctly, that those issues which affect the earth affect all of us. Therefore, he devoted himself to working to make the Earth a better, safer and healthier place for us all to live. For this reason, he has been cited by many as not only an environmentalist, but a humanitarian; a fitting label for someone so committed to valuing and preserving humanity.

He shared his love of the environment and commitment to environmental issues with his wife of 34 years, Teri. Along with her work on environmental issues she has worked tirelessly as a preservationist to save precious landmarks and to ensure that important pieces of our history are maintained. A day rarely went by in which the two of them did not take in the beauty of flowers, plants and other natural wonders. They passed their appreciation and passion for the environment on to their two sons, Eric and Edward. Michael and Teri would often travel to wilderness locations together.

Michael Slater believed it was his obligation—and the obligation of all of us who are here today—to ensure that what we have today will be here for the next generation to enjoy tomorrow. These are the words Michael Slater lived by.

Mr. Speaker, I salute Michael Wylie Slater today and I ask my fellow Members of Congress to join me in honoring the life and legacy of this member of the community who will be so deeply missed.

INTRODUCTION OF LEGISLATION TO EXPAND THE EARNED INCOME TAX CREDIT

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. COYNE. Mr. Speaker, since its inception in 1975, the Earned Income Tax Credit, or EITC, has been an important part of the Federal Government's "safety net" of programs for Americans living in poverty. Its effect on children is especially significant. Over the years, the EITC has succeeded in lifting more children out of poverty than any other government program.

The EITC was conceived as a "work bonus" alternative to a proposal to provide cash welfare to low-income two-parent families. It was also seen as a way to lighten the burden of Social Security taxes on low-income workers. Over the years, the credit has been expanded and increased. This program demonstrates the way in which government can improve the lives of its citizens in a meaningful way.

However, notable pockets of poverty remain in our country. For instance, 29 percent of all children in families having three or more children subsist at incomes below the poverty level. This is more than double the poverty rate among children in smaller families. Nearly three of every five poor children in this country live in families with three or more children.

Recently the General Accounting Office (GAO) determined that 4.3 million eligible households did not claim the EITC in 1999, forgoing $2.6 billion in credits. The preponderance (about 81 percent) of the $2.6 billion in unclaimed credits would have gone to households with three or more children. Households with no eligible children would have received most of the remainder. The non-participation rates for these two groups, 37 percent for households with three or more children and 55 percent for childless households (as compared to roughly 95 percent for all other households), are convincing evidence that more needs to be done to expand and simplify the EITC program.

The current structure of the EITC fails to help larger families, with three or more children, since the highest level of credit is given to families with two or more children. Combining these larger families with families having two children ignores the unique needs of large families, which have experienced more difficulty in moving from welfare to work due to increased family expenditures such as child care costs.

Today I am introducing legislation to remedy this problem by creating a new EITC benefit level for families with three or more children. This new level, with a credit percentage of 45 percent, will provide a higher benefit for these families than what they currently receive under the "two or more children" category (which has a 40 percent credit rate).

My bill also will double the credit percentage for workers with no qualifying children from 7.65 percent to 15.3 percent. This change recognizes the fact that there is virtually no safety net for people in this category, who face high federal tax burdens. The 15.3 percent credit percentage is the amount needed to offset the full amount of the payroll tax, including the employer's share. In his paper, "should the EITC for Workers Without children be Abolished, Maintained, or Expanded?" Robert Greenstein, of the Center on Budget and Policy Priorities, notes that single workers are the only group in the United States who begin to owe federal income tax before their income reaches the poverty line; the federal income tax codes taxes them somewhat more deeply into poverty. Besides offsetting the full amount of the payroll tax (which most economists believe is borne by workers in the form of lower wages), Mr. Greenstein states that expanding the credit might also serve two other beneficial purposes—it might draw more single workers into the labor force and it should raise the incomes of some poor, non-custodial fathers, thereby increasing their ability to pay child support.

In addition, the bill will increase EITC benefits for all family categories by raising the maximum creditable earnings used to calculate the credit. For all eligible individuals with children, this amount for the year 2002 will be $10,710, the annual wages of a full-time worker earning the minimum wage. Isabel Sawhill and Adam Thomas, of the Brookings Institution, in their paper "A Hand Up for the Bottom Third: toward a New Agenda for Low-Income Working Families," note that those who work full-time at a low wage job do not necessarily qualify for more benefits than do those who work less than full-time. They suggest that extending the maximum creditable earnings to the level corresponding with a full-time, minumum-wage salary would be in keeping with the EITC program's goal of "making work pay." In other words, workers could be expected to work more hours if the income eligibility range for the EITC were extended or if the credit earned were increased. For childless workers, the maximum creditable earnings will rise to $6,000, approximately 60 percent of those wages.

Taken together, in 2002, these changes would provide the following maximum EITC amounts: Household with no qualifying children $918 (an increase of $542); household with 1 child $3,641 (an increase of $1,135); household with 2 children $4,284 (an increase of $144); household with 3 or more children $4,820 (an increase of $680).

In order to balance program costs, my bill increases the phaseout rates for all categories to allow benefits to phase out at the same income level as is the case under current law.

Finally my bill makes two important changes to the administration of the EITC—it eliminates the investment income disqualification test and it simplifies the rules for an abandoned spouse to qualify for the credit.

At at time when our country is undergoing so much change, we must not forget that our low-income families continue to remain at the margins of our economy and could be the first to suffer the effects of the current economic downturn. Their needs existed before the tragic events of September 11 and probably have only worsened since then.

I believe that the creation of the additional EITC category involving three or more children will benefit approximately 3.2 million households, thereby further reducing poverty among larger families. In addition to helping larger families to make ends meet, this new benefit level will provide these families with funds for upward mobility and asset building capabilities. Even a moderate increase in income will assist these families to improve their circumstances and work toward escaping poverty.

This bill also will benefit the U.S. economy by providing additional incentives for more people, especially low-income women, to join the work force. The economic stimulus function of my bill cannot be overlooked, especially at a time when we are providing inducements for corporations and higher income earners.

The Center on Budget and Policy Priorities supports this legislation as a "bill that would better reward and encourage work, reduce poverty among the working poor, and simplify the EITC." They further state "This is one of the most worthy initiatives policymakers could pursue."

I urge my colleagues to join me in this effort to further enhance the highly successful EITC by supporting this legislation, and, in doing so, by supporting a respectable income level for those Americans who are, and have been, left behind.

A PROCLAMATION IN MEMORY OF JEREMY W. KIDD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. NEY. Mr. Speaker, Whereas, Jeremy W. Kidd is lovingly remembered by his parents, family and friends;

Whereas, Jeremy made each day of his life full of excitement and goodness;

Whereas, Jeremy always had a smile on his face and brought smiles to the faces of all those he came in contact with; and

Whereas, Jeremy's kindness and consideration to others will always be remembered by all whose lives he touched;

Therefore, I invite my colleagues to join with me and the citizens of Ohio in mourning the loss of Jeremy W. Kidd, yet celebrating his life and his memory.

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. HOSTETTLER. Mr. Speaker, I was unavoidably absent from the House of Representatives on December 5 through December 13, 2001, due to the illness and subsequent death of my dear mother. Although I received the appropriate leave of absence from the House, I would like my constituents in the 8th District of Indiana to know how I would have voted if I were present on Roll Call votes #469 through #498. For the record, I would have voted in the following ways:

Hostettler Vote

Rollcall Nos.: 498 Yea; 497 No; 496 Yea; 495 Yea; 494 Yea; 493 Yea; 492 Yea; 491 Yea; 490 Yea; 489 No; 488 No; 487 Yea; 486 Yea; 485 Yea; 484 Yea; 483 Yea; 482 Yea; 481 No; 480 No; 479 Yea; 478 Yea; 477 Yea; 476 Yea; 475 Yea; 474 Yea; 473 Yea; 472 Yea; 471 No; 470 Yea; 469 Yea.

IN RECOGNITION OF KEN MILLS AND NIKI STERN OF THE LEXINGTON DEMOCRATIC CLUB

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mrs. MALONEY of New York. Mr. Speaker, I rise to pay tribute to Ken Mills and Niki Stern, leaders of the Lexington Democratic Club in New York City. The Lexington Democratic Club has been such a vibrant part of the community in which I live and represent. It is a pleasure to pay tribute to two of its most illustrious leaders.

After graduating Phi Beta Kappa and Magna Cum Laude from Princeton University, Ken Mills went on to make his mark in the field of communications. After working for many years in the private sector, including a tenure as Vice-president and Director of Promotion and Communications for The Katz Agency, in 1978 he was appointed Director of Communications for the New York City Office of Economic Development by Mayor Ed Koch. In 1981, he was appointed Director of Public Information for the New York State Banking Department. He was then named Vice-president and Director of Media Relations for The Chase Manhattan Bank. In 1994 he founded Ken Mills Communications which he continues to operate today.

Ken Mills first joined the Lexington Democratic Club during John F. Kennedy's 1960 campaign for President. After serving on the Club's Executive Committee he was elected its president. He then went on to become a District Leader, serving in that position until 1978. In 1995 he began another tenure as Lexington Democratic Club President, a position he held until early this year. Ken, who also serves on Manhattan Community Board 8 is not only an effective leader, but one who has earned the respect and admiration of professional and political colleagues. In recognition of his many outstanding achievements, we pay tribute to Ken Mills today.

Niki Stern has long demonstrated a commitment to social and political causes. A long time community activist, she worked extensively on behalf of the Peace Movement in Westchester County, New York in the 1960's. She remained actively involved upon moving to New York City and in 1979 began working as a Community Liaison for Assemblyman Mark Alan Siegel and for New York City Comptroller Harrison J. Goldin. She was also appointed to Community Board 8.

She also joined the Lexington Democratic Club where she was elected to many offices, culminating in her 1993 election as president. Working with Ken Mills, since 1995, as Executive Vice-president, she initiated the Club's annual mid-winter receptions and dinners and many other innovations which helped restore the Lexington Democratic Club to its position as the largest political organization on Manhattan's East Side. They have made the Lexington Democratic Club an invaluable part of the political landscape of New York City.

Mr. Speaker, I salute Ken Mills and Niki Stern and I ask my fellow Members of Congress to join me in recognizing the great contributions of both of these tremendously dedicated community leaders.

AMERICA THE BEAUTIFUL

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. HOLT. Mr. Speaker, I'm sure everyone agrees that we now live in troubled times—times of anxiety, of uncertainty, of struggle. But we also live in a time of incomparable national unity. You could look around the country and easily spot superficial signs of unity, such as the plethora of American flags displayed outside homes and businesses or a crowd at a sports game chanting "U-S-A!" but the real truth is that the river of our national spirit runs much deeper than flag-waving could ever show. And in the fight against the evil that now confronts us, the American people are united like never before.

More than a century ago, an English Literature Professor from Wellesley College named Katharine Lee Bates penned what has become the theme song for this extraordinary unity. On a trip to Colorado, Bates ascended Pike's Peak and basked in the wonder of the "purple mountain majesties" and "spacious skies" she saw. This scene inspired her to write "America the Beautiful."

Returning to Wellesley, Bates sent the four stanzas of "America the Beautiful" to the Congregationalist, where they first appeared in print, appropriately, on July 4th, 1895. The hymn garnered immediate popularity and was initially set to music by Silas G. Pratt.

But the attention Bates' hymn drew prompted her to rewrite it in 1904, making it more simple and direct. After a few more changes over the next several years, the final version, the one so many Americans know today, was finished in 1913 and set to the tune of Samuel A. Ward's "Materna." In true American spirit, Bates gave countless hundreds of free permissions for the use of "America the Beautiful."

Today we turn to Bates' timeless words for comfort and for a reminder of our nation's strength. These words remind us of the heroism of the firefighters and policemen who responded to the attacks on the World Trade Center and the Pentagon; of the soldiers, sailors and flyers fighting the war on terrorism; and of the cavalcade of heroes who have fought over the years for civil rights, voting rights, and workers' rights—those "heroes prov'd/In liberating strife/Who more than self their country loved." They remind us that the "thoroughfare of freedom" we so often take for granted has been blazed by pioneering pilgrims working even up to today. They remind us of the incredible resolve of New York, one of the "albaster cities" that "gleam/Undimmed by human tears." But most of all, Bates' words remind us of the indomitable American spirit that stretches high and proud, "from sea to shining sea."

Perhaps the most expressive theme of "America the Beautiful" is that we Americans constantly seek to be uplifted—that we invoke divine help to mend our "ev'ry flaw," that we know even our "golden" characteristics can be further refined. That is a sign of far greater strength than simply waving a flag and chanting "U-S-A!"

Mr. Speaker, in a testament to our national unity, I ask unanimous consent that the complete lyrics of "America the Beautiful" be entered into the RECORD.

AMERICA THE BEAUTIFUL

(By Katharine Lee Bates)

O beautiful for spacious skies,
For amber waves of grain,
For purple mountain majesties
Above the fruited plain!
America! America!
God shed his grace on thee
And crown thy good with brotherhood
From sea to shining sea!

O beautiful for pilgrim feet
Whose stern, impassioned stress
A thoroughfare for freedom beat
Across the wilderness!
America! America!
God mend thine every flaw,
Confirm thy soul in self-control,
Thy liberty in law!

O beautiful for heroes proved in liberating strife.
Who more than self the country loved
And mercy more than life!
America! America!
May God thy gold refine
Till all success be nobleness
And every gain divine!

O beautiful for patriot dream
That sees beyond the years
Thine alabaster cities gleam
Undimmed by human tears!
America! America!
God shed his grace on thee
And crown thy good with brotherhood
From sea to shining sea!

DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE PROGRAMS ENHANCEMENT ACT OF 2001

SPEECH OF

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. SMITH of New Jersey. Mr. Speaker, the "Department of Veterans Affairs Health Care Programs Enhancement Act of 2001" reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs reached on certain provisions of a number of bills considered by the House and Senate during the 107th Congress, including: H.R. 2792, a bill to make service dogs available to disabled veterans and to make various other improvements in health care benefits provided by the Department of Veterans Affairs, and for other purposes, by the House Committee on Veterans' Affairs on October 16, 2001, and passed by the House on October 23, 2001 [hereinafter, "House Bill"]; S. 1188, a bill to enhance the authority of the Secretary of Veterans' Affairs to recruit and retain qualified nurses for the Veterans Health Administration, and for other purposes, reported by the Senate Committee on Veterans' Affairs on October 10, 2001, as proposed to be amended by a manager's amendment [hereinafter, "Senate Bill"]; S. 1576, a bill to amend section 1710 of title 38, United States Code, to extend the eligibility for health care of veterans who served in Southwest Asia during the Persian Gulf War; and, S. 1598, a bill to amend section 1706 of title 38, United States Code, to enhance the management of the provision by the Department of Veterans Affairs of specialized treatment and rehabilitation for disabled veterans, and for other purposes, introduced on October 21, 2001.

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of the compromise bill, H.R. 3447 (hereinafter referred to as the "Compromise Agreement"). Differences between the provisions contained in the Compromise Agreement and the related provisions in the bills listed above are noted in this document, except for clerical corrections and conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

TITLE I—ENHANCEMENT OF NURSE RECRUITMENT AND RETENTION AUTHORITIES

Subtitle A—Nurse Recruitment Authorities

Current Law

Several VA programs under existing law are designed to aid the Department in recruiting qualified health care professionals in fields where scarcity and high demand produce competition with the private sector. The Department is authorized to operate the Employee Incentive Scholarship Program (hereafter EISP) under section 7671 of title 38, United States Code. Under the EISP, VA may award scholarship funds, up to $10,000 per year per participant in full-time study, for up to 3 years. These scholarships require eligible participants to reciprocate with periods of obligated service to the Department. Currently, enrollment in the scholarship program is limited to employees with 2 or more antecedent years of VA employment. Statutory authority for this program terminates December 31, 2001.

The Department is authorized to operate the Education Debt Reduction Program (hereafter EDRP) under section 7681 of title 38, United States Code. Under the EDRP, the Department may repay education-related loans incurred by recently hired VA clinical professionals in high demand positions. Statutory authority for this program, a program not yet implemented by the Department, terminates on December 31, 2001. If implemented, the program would authorize VA to repay $6,000, $8,000, and $10,000 per year, respectively, over a 3-year period, in combined principal and interest on educational loans obtained by scarce VA professionals.

Under sections 8344 and 8468 of title 5, United States Code, the Department is authorized to request waivers of the pay reduction otherwise required by law for re-employed Federal annuitants who are recruited to the Department in order to meet staffing needs in scarce health care specialties.

Senate Bill

Section 111 would permanently authorize the EISP; reduce the minimum period of employment for eligibility in the program from 2 years to 1 year; remove the award limit for education pursued during a particular school year by a participant, as long as the participant had not exceeded the overall limitation of the equivalent of 3 years of full-time education; and, extend authority to increase the award amounts based on Federal national comparability increases in pay.

Section 112 would permanently authorize the EDRP; expand the list of eligible occupations furnishing direct patient care services and services incident to such care to veterans; extend the number of years to 5 that a Departmental employee may participate in the EDRP, and increase the gross award limit to any participant to $44,000, with the award payments for the fourth and fifth years to a participant limited to $10,000 in each; and provide limited authority (until June 30, 2002) for the Secretary to waive the eligibility requirement limiting EDRP participation to recently appointed employees on a case-by-case basis for individuals appointed on or after January 1, 1999, through December 30, 2001.

Section 113 would require the Department to report to Congress its use of the authority in title 5, United States Code, to request waivers of pay reduction normally required from re-employed Federal annuitants, when such requests are used to meet its nurse staffing requirements.

House Bill

The House bill has no comparable provisions.

Compromise Agreement

Sections 101, 102, and 103 follow the Senate language.

Subtitle B—Nurse Retention Authorities

Current Law

Section 7453(c) of title 38, United States Code, guarantees premium pay (at 25 percent over the basic pay rate) to VA registered nurses who work regularly scheduled tours of duty during Saturdays and Sundays. However, licensed vocational nurses and certain health care support personnel, whose employment status is grounded in employment authorities in title 5 and title 38, United States Code, are eligible for premium pay on regularly scheduled tours of duty that include Sundays. Saturday premium pay for these employees is a discretionary decision at individual medical facilities.

At retirement, VA registered nurses enrolled in the Civil Service Retirement System receive annuity credit for unused sick leave. This credit is unavailable, however, for registered nurses who retire under the Federal Employee Retirement System.

Senate Bill

Section 121 would mandate that VA provide Saturday premium pay to employees specified in Section 7454(b).

Section 122 would extend authority for the Department to provide VA nurses enrolled in the Federal Employee Retirement System the equivalent sick-leave credit in their retirement annuity calculations that is provided to other VA nurses who are enrolled in the Civil Service Retirement System.

Section 123 would require the Department to evaluate nurse-managed clinics, including those providing primary and geriatric care to veterans. Several nurse-managed clinics are in operation throughout the VA health care system, with a preponderance of clinics operating in the Upper Midwest Health Care Network. The evaluation would include information on patient satisfaction, provider experiences, cost, access and other matters. The Secretary would be required to report results from this evaluation to the Committees on Veterans' Affairs 18 months after enactment.

Section 124 would require the Department to develop a nationwide clinical staffing standards policy to ensure that veterans are provided with safe and high quality care. Section 8110 of title 38, United States Code, sets forth the manner in which medical facilities shall be operated, but does not include reference to staffing levels for such operation.

Section 125 would require the Secretary to submit annual reports on exceptions approved by the Secretary to VA's nurse qualification standards. Such reports would include the number of waivers requested and granted to permit promotion of nurses who do not have baccalaureate degrees in nursing, and other pertinent information.

Section 126 would require the Department to report facility-specific use of mandatory overtime for professional nursing staff and nursing assistants during 2001. The Department has no nationwide policy on the use of mandatory overtime. This report would be required within 180 days of enactment. The report would include information on the amount of mandatory overtime paid by VA health care facilities, mechanisms employed to monitor overtime use, assessment of any ill effects on patient care, and recommendations on preventing or minimizing its use.

House Bill

The House bill has no comparable provisions.

Compromise Agreement

Sections 121, 122, 123, 124, 125, and 126 are identical to the provisions in the Senate bill.

The Committees are concerned about VA's current national policy requiring VA nurses to achieve baccalaureate degrees as one means of quality assurance. VA has issued directive 5012.1, a directive that requires VA's registered nurses to obtain baccalaureate degrees in nursing as a precondition to advancement beyond entry level, and to do so by 2005. This policy is effective immediately for newly employed nurses.

At a time of looming crisis in achieving adequacy of basic clinical staffing of VA facilities, the Committees express concern over whether such a policy guiding nurse qualifications may work against VA's interests and responsibilities to protect the safety of its patients by creating unintended shortages of scarce health personnel. The Committees urge the Secretary to consider the implications of continuing such a policy in the face of future shortages of nursing personnel. The American Association of Community Colleges has reported that, each year, more than 60 percent of new US registered nurses are produced in two-year associate degree programs. The Department's current qualification standard for registered nurses may dissuade these fully licensed health care professionals from considering VA employment.

Subtitle C—Other Authorities

Current Law

Section 7306(a)(5) of title 38, United States Code, requires that the Office of the Under Secretary for Health include a Director of Nursing Service, responsible to the Under Secretary for Health.

Section 7426 of title 38, United States Code, provides retirement rights for, among others, nurses, physician assistants and expanded-function dental auxiliaries with part-time appointments. These employees' retirement annuities are calculated in a way that produces an unfair loss of annuity for them compared to other Federal employees. Congress has made a number of efforts since 1980 to provide equity for this group, many members of whom are now retired. These individuals, appointed to their part-time VA positions prior to April 6, 1986, under the employment authority of title 38, United States Code, have been penalized with lower annuities by subsequent Acts of Congress that addressed retirement annuity calculation rules for other part-time Federal employees appointed under the authority of title 5, United States Code.

Section 7251 of title 38, United States Code, authorizes the directors of VA health care facilities to request adjustments to the minimum rates of basic pay for nurses based on local variations in the labor market.

Senate Bill

Section 131 would amend section 7306(a)(5) of title 38, United States Code, to elevate the office of the VA Nurse Executive by requiring that official to report directly to the VA Under Secretary for Health.

Section 132 would amend section 7426 of title 38, United States Code, to exempt registered nurses, physician assistants, and expanded-function dental auxiliaries from the requirement that part-time service performed prior to April 7, 1986, be prorated when calculating retirement annuities.

Section 133 would modify the nurse locality-pay authorities and reporting requirements. The section would clarify and simplify a VA medical center's use of Bureau of Labor Statistics (BLS) information to facilitate locality-pay decisions for VA nurses. Additionally, section 133 would clarify the Committees' intent on steps VA facilities would take when certain BLS data were unavailable, thus serving as a trigger for the use of third-party survey information, and thereby reducing current restrictions on the use of such surveys.

House Bill

The House bill contains no comparable provisions.

Compromise Agreement

Sections 131, 132, and 133 follow the Senate bill.

Subtitle D—National Commission on VA Nursing

Current Law

None.

House Bill

Section 301 would establish a 12-member National Commission on VA Nursing. The Secretary would appoint eleven members, and the Nurse Executive of the Department would serve as the twelfth, ex officio, member. Members would include three recognized representatives of employees of the Department; three representatives of professional associations of nurses or similar organizations affiliated with the Department's health care practitioners; two representatives of trade associations representing the nursing profession; two would be nurses from nursing schools affiliated with the Department; and one member would represent veterans. The Secretary would designate one member to serve as Chair of the Commission.

Section 302 would authorize the Commission to assess legislative and organizational policy changes to enhance the recruitment and retention of nurses by the Department and the future of the nursing profession within the Department. This section would also provide for Commission recommendations on legislation and policy changes to enhance recruitment and retention of nurses by the Department.

Section 303 would require the Commission to submit to Congress and the Secretary a report on its findings and conclusions. The report would be due not later than 2 years after the date of the first meeting of the Commission. The Secretary would be required to promptly consider the Commission's report and submit to Congress the Department's views on the Commission's findings and conclusions, including actions, if any, that the Department would take to implement the recommendations.

Sections 304 and 305 would delineate the powers afforded to the Commission, including powers to conduct hearings and meetings, take testimony and obtain information from external sources, employ staff, authorize rates of pay, detail other Federal employees to the Commission staff, and address other administrative matters.

Section 306 would terminate the Commission 90 days after the date of the submission of its report to Congress.

Senate Bill

The Senate bill has no comparable provisions.

Compromise Agreement

Sections 141, 142, 143, 144, 145 and 146 follow the House bill, with certain modifications to the membership of the Commission.

The Committees expect the National Commission on VA Nursing to concern itself with the full spectrum of occupations involved in nursing care of veterans in the Veterans Health Administration, with specific reference to registered professional and licensed vocational nurses, clinical nurse specialists, nurse practitioners, nurse managers and executives, nursing assistants, and other technical and ancillary personnel of the Department involved in direct health care delivery to the nation's veterans. In addition to statutory requirements, the Committees expect the Secretary to appoint members to the Commission to reflect the wide variety of occupations and disciplines that constitute the nursing profession within the Department.

TITLE II—OTHER MATTERS

PROVISION OF SERVICE DOGS

Current Law

None.

House Bill

Section 101 would amend section 1714 of title 38, United States Code, to authorize the Department to provide service dogs to veterans suffering from spinal cord injury or dysfunction, other diseases causing physical immobility, or hearing loss (or other types of disabilities susceptible to improvement or enhanced functioning) for which use of service dogs is likely to improve or enhance their ability to perform activities of daily living or other skills of independent living. Under the provision, a veteran would be required to be enrolled in VA care under section 1705 of title 38, United States Code, as a prerequisite to eligibility. Service dogs would be provided in accordance with existing priorities for VA health care enrollment.

Senate Bill

Section 201 would authorize the Secretary to provide service dogs to service-connected veterans with hearing impairments and with spinal cord injuries.

Compromise Agreement

Section 201 follows the House provision.

Any travel expenses of the veteran in adjusting to the service dog would be reimbursable on the same basis as such expenses are reimbursed under Section 111, title 38, United States Code, for blind veterans adjusting to a guide dog.

MANAGEMENT OF HEALTH CARE FOR CERTAIN LOW-INCOME VETERANS

Current Law

Section 1722(a) of title 38, United States Code, places veterans whose incomes are below a specified level—in calendar year 2001, $23,688 for an individual without dependents—within the definition of a person who is "unable to defray" the cost of health care. The section includes two other such indicators of inability to defray: evidence of eligibility for Medicaid, and receipt of VA nonservice-connected pension. Veterans in these circumstances are adjudged equally unable to defray the costs of health care; as such, they are eligible to receive comprehensive VA health care without agreeing to make co-payments required from veterans whose incomes are higher. Under current law, a single-income threshold (with adjustments only for dependents) is the standard used.

House Bill

Section 103 would amend section 1722(a) of title 38, United States Code, to establish geographically adjusted income thresholds for determining a non-service-connected veteran's priority for VA care, and therefore, whether the veteran must agree to make co-payments in order to receive VA care. The section's purpose would be to address local variations in cost of care, cost-of-living or other variables that, beyond gross income, impinge on a veteran's relative economic status and ability to defray the cost of care.

In section 103, low-income limits administered by the Department of Housing and Urban Development (HUD) for its subsidized housing programs would establish an adjusted poverty-income threshold to be used in the ability-to-defray determination. The actual threshold for determining an individual veteran's ability to pay would be the greater of the current-law income threshold in section 1722 of title 38, United States Code, or the local low-income limits set by HUD.

Section 103 also would include a 5-year limitation on the effects of adoption of the HUD low-income limits policy on system resource allocation within the Veterans Health Administration. Such allocations would not be increased or decreased during the period by more than 5 percent due to this provision.

The provision would take effect on October 1, 2002.

Senate Bill

Section 202 would amend section 1722 of title 38, United States Code, to include the HUD income index in determining eligibility for treatment as a low-income family based upon the veteran's permanent residence. The current national threshold would remain in place as the base figure if the HUD formula determines the low-income rate for a particular area is actually less than that amount. The effective date of this change would be January 1, 2002, and would apply to all means tests after December 31, 2001, using data from the HUD index at the time the means test is given.

Compromise Agreement

Section 202 retains the current-law income threshold, but would significantly reduce co-payments from veterans near the threshold of poverty for acute VA hospital inpatient care. The HUD low-income limits would be used to establish a family income determination within the priority 7 group. Those veterans with family incomes above the HUD income limits for their primary residences would pay the co-payments as otherwise required by law. Veterans whose family incomes fall between the current income threshold level under section 1722, title 38, United States Code, and the HUD income limits level for the standard metropolitan statistical area of their primary residences, would be required to pay co-payments for inpatient care that are reduced by 80 percent from co-payments required of veterans with higher incomes. The effective date for this change would be October 1, 2002.

MAINTENANCE OF CAPACITY FOR SPECIALIZED TREATMENT AND REHABILITATIVE NEEDS OF DISABLED VETERANS

Current Law

Section 1706 of title 38, United States Code, requires VA to maintain nationwide capacity to provide for specialized treatment and rehabilitative needs of disabled veterans, including those with amputations, spinal cord injury or dysfunction, traumatic brain injury, and severe, chronic, disabling mental illnesses. To validate VA's compliance with capacity maintenance, section 1706 includes a requirement for an annual report to Congress. The reporting requirement expired on April 1, 2001.

House Bill

Section 102 would modify the mandate for VA to maintain capacity in specialized medical programs for veterans by requiring the Department and each of its Veterans Integrated Service Networks to maintain capacity in certain specialized health care programs for veterans (those with serious mental illness, substance-use disorders, spinal cord injuries and dysfunction, the brain injured and blinded, and those who need prosthetics and sensory aids); and, would extend the capacity reporting requirement for 3 years.

Senate Bill

S. 1598 similarly would modify current law with regard to VA's capacity for specialized services, but would require that medical centers maintain capacity, in addition to geographic service areas; require that VA utilize uniform standards in the documentation of patient care workload used to construct reports under the authority; require the Inspector General on an annual basis to audit each geographic service area and each medical center in the Veterans Health Administration to ensure compliance with capacity limitations; and, prohibit VA from substituting health care outcome data to satisfy the requirement for maintenance of capacity.

Compromise Agreement

Section 203 is derived substantially from the House bill, with addition of provisions from the Senate bill, including a requirement that VA utilize uniform standards in the documentation of workload; a clarification that "mental illness" be defined to include post-traumatic stress disorder (PTSD), substance-use disorder, and seriously and chronically mentally ill services; a prohibition from substituting outcome data to satisfy the requirement to maintain capacity; and, a requirement that the IG audit and certify to Congress as to the accuracy of VA's required reports.

PROGRAM FOR THE PROVISION OF CHIROPRACTIC CARE AND SERVICES TO VETERANS

Current Law

Public Law 106–117 requires the VA to establish a Veterans Health Administration-wide policy regarding chiropractic care. Veterans Health Administration Directive 2000–014, dated May 5, 2000, established such a policy.

House Bill

Title II would establish a national VA chiropractic services program, implemented over a 5-year period; authorize VA to employ chiropractors as federal employees and obtain chiropractic services through contracts; establish an advisory committee on chiropractic care; authorize chiropractors to function as VA primary care providers; authorize the appointment of a director of chiropractic service reporting to the Secretary with the same authority as other service directors in the VA health care system; and provide for training and materials relating to chiropractic services to Department health care providers.

Senate Bill

Section 204 of the Senate Bill would establish a VA chiropractic services program in VA health care facilities and clinics in not less than 25 states. The chiropractic care and services would be for neuro-musculoskeletal conditions, including subluxation complex. The VA would carry out the program through personal service contracts and appointments of licensed chiropractors. Training and materials would be provided to VA health care providers for the purpose of familiarizing them with the benefits of chiropractic care and services.

Compromise Agreement

Section 204 would follow the Senate bill but would replace its reference to 25 states with a reference to VA's 22 Veterans Integrated Service Networks (referred to as "geographic service areas" in the section). Also, the agreement would include an advisory committee to assist the Secretary of Veterans Affairs in implementation of the chiropractic program. Under the agreement, the advisory committee would expire 3 years from enactment.

FUNDS FOR FIELD OFFICES OF THE OFFICE OF RESEARCH COMPLIANCE AND ASSURANCE (ORCA)

Current Law

The Under Secretary for Health has provided funding for ORCA field offices from funds appropriated for Medical and Prosthetic Research.

Senate Bill

Since field offices of ORCA directly protect patient safety, section 205 would authorize VA to fund them from the Medical Care appropriation.

House Bill

The House bill has no comparable provision.

Compromise Agreement

Section 205 follows the Senate bill.

The Committees are concerned about the need for ORCA to maintain independence from the Office of Research and Development. The Committees have concluded, on the strength of hearings and reports on potential conflicts of interest, that funding for ORCA field offices should be statutorily separated from the Medical and Prosthetic Research Appropriation and associated with the Medical Care Appropriation. ORCA advises the Under Secretary for Health on matters affecting the integrity of research, the safety of human-subjects research and research personnel, and the welfare of laboratory animals used in VA biomedical research and development. ORCA field offices investigate allegations of research impropriety, lack of compliance with rules for protection of research participants and scientific misconduct. The ORCA chief officer reports to the Under Secretary for Health.

MAJOR MEDICAL FACILITY CONSTRUCTION

Current Law

None.

Senate Bill

Fiscal year 2002 appropriations are available for an emergency repair project at the VA Medical Center, Miami, Florida. Section 205 of the Senate Bill authorizes $28.3 million for this project, in accordance with section 8104 of title 38, United States Code.

House Bill

The House bill has no comparable provision.

Compromise Agreement

Section 206 follows the Senate bill.

SENSE OF CONGRESS ON SPECIAL TELEPHONE SERVICES FOR VETERANS

Current Law

None.

House Bill

Section 104 would require the Secretary to assess special telephone services for veterans (such as help lines and "hotlines") provided by the Department. The assessment would include the geographic coverage, availability, utilization, effectiveness, management, coordination, staffing, and cost of those services. It would require the assessment to include a survey of veterans to measure satisfaction with current special telephone services, as well as the demand for additional services. The Secretary would be required to submit a report to Congress on the assessment within 1 year of enactment.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 207 contains a Sense of the Congress Resolution on the Department's need to assess and report on special telephone services for veterans.

RECODIFICATION OF BEREAVEMENT COUNSELING AUTHORITY AND CERTAIN OTHER HEALTH-RELATED AUTHORITIES

Current Law

Chapter 17 of title 38, United States Code, contains various legal authorities under which VA provides services to non-veterans. These provisions, that authorize bereavement and mental health counseling, care for research subjects, care for dependents and survivors of permanently and totally disabled veterans, and emergency humanitarian care, are intermingled with authorities for the care of veterans in various sections of chapter 17.

House Bill

Section 105 of the House bill would in a new subchapter consolidate and reorganize without substantive change all of the legal authorities under which VA provides services to non-veterans. It would reorganize section 1701 of title 38, United States Code, by transferring one provision (pertaining to sensorineural aids) to section 1707.

Section 105 would create a new Subchapter VIII in Chapter 17 of title 38, United States Code, to incorporate provisions concerning bereavement-counseling services for family members of certain veterans and active duty personnel. A new section 1782 would provide counseling, training, and mental health services for immediate family members.

Section 105 would place in the new subchapter the current dependent health care authorities known as "Civilian Health and Medical Programs—Veterans Affairs" (CHAMPVA), transferred from current section 1713 to the new section 1781. A new provision would specify that a dependent or survivor receiving such VA-sponsored care would be eligible for bereavement and other counseling and training and mental health services otherwise available to family members under the subchapter.

The existing authority to provide hospital care or medical services as a humanitarian service in emergency cases would be moved to this new subchapter from its current location in section 1711(b).

Section 105 would also make various technical changes to accommodate the subchapter reorganization. These changes would recodify the existing provisions, and consolidate and clarify the existing statutory authority to provide care to non-veterans.

Senate Bill

The Senate bill has no comparable provisions.

Compromise Agreement

Section 208 follows the House bill.

EXTENSION OF EXPIRING COLLECTIONS AUTHORITIES

Current Law

Section 1710(f)(2)(B) of title 38, United States Code, authorizes VA until September 30, 2002, to collect nursing home, hospital, and outpatient co-payments from certain veterans. Section 1729(a)(2)(E) of title 38, United States Code, authorizes VA until October 1, 2002, to collect third-party payments for the treatment of the nonservice-connected disabilities of veterans with service-connected disabilities.

House Bill

Section 106 would extend until 2007 VA's authority to collect means test co-payments and to collect third-party payments.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 209 follows the House bill.

PERSONAL EMERGENCY RESPONSE SYSTEM FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

Current Law

None.

House Bill

Section 107 of the House bill would require the Secretary to carry out an evaluation and study of the feasibility and desirability of providing a specialized personal emergency response system for veterans with service-connected disabilities. It would require a report to Congress on the results of this evaluation.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 210 follows the House bill.

HEALTH CARE FOR PERSIAN GULF WAR VETERANS

Current Law

Section 1710 of title 38, United States Code, defines eligible veterans for whom the Secretary is required to furnish hospital, nursing home, and domiciliary care. Section 1710(e)(1)(C) of title 38 authorizes the Secretary to provide health care services on a priority basis to veterans who served in the Southwest Asia Theater of operations during the Persian Gulf War. Section 1710(e)(3)(B) of title 38 specifies that this eligibility expires on December 31, 2001.

Senate Bill

The Senate Bill would amend section 1710 of title 38, United States Code, to extend health care eligibility for veterans who served in Southwest Asia during the Gulf War, to December 31, 2011.

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 211 follows the Senate bill but extends the health care eligibility to December 31, 2002.

STEELWORKERS' APPEAL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. KUCINICH. Mr. Speaker, on December 12th, hundreds of Americans came to the Capitol to implore their elected representatives to help them. They are steelworkers, living in Ohio, Indiana, Illinois, Minnesota and Pennsylvania. They work for LTV Steel Company, which is in bankruptcy after enduring years of unfair competition from foreign imports.

The steelworkers testified before a hearing of the Congressional Steel Caucus. They spoke poignantly and eloquently. They expressed the key principles upon which our Republic was founded: liberty and justice for all. They have made the reasonable demand that we, their elected representatives, uphold those principles in a global economy.

I am entering into the RECORD the testimony from that hearing, so that all of my colleagues may hear their appeal.

STATEMENT OF TONY PANZA, LTV STEELWORKER, UNITED STEELWORKERS OF AMERICA, LOCAL 1157, CLEVELAND, OHIO

Hello. My name is Tony Panza. I'm 36 years old and have been employed by LTV Steel Company in Cleveland, Ohio since 1988. During my first ten years, I worked in the power house of the mill. I later joined the apprenticeship program and became a millwright in 1998. I had a good job and expected to work in this job until I retired some day. I am a third generation steelworker. I am married and my wife and I have two daughters, Isabel, age four, and Rosalie, age 10.

In late 2000 when LTV first declared bankruptcy after suffering from the surge of foreign dumped steel, I joined the SOS (Save Our Steel) Committee to try to get Congress to stop illegally-dumped foreign steel before it destroyed any more American steel companies. Unfortunately, we have been unsuccessful up to this point. Some 29 American steel companies, including LTV, have been forced into bankruptcy. Several of those companies have been forced to shut down completely. One of the reasons is the snail's pace of the process in getting a loan from the Emergency Steel Loan Guarantee Board. It is my understanding that this program was established for circumstances just like what we face at LTV. The system seems to be working against us. By the time we can get help, it may be too late.

I urge the Steel Caucus to do whatever you can in order to see that this program fulfills its duties under the law. Also, I'd like to stress to everyone here the devastating effect a permanent shutdown of LTV Steel would have not only upon our steelworkers, but also all of our retirees. It seems the only growth industry in this country is health care. Prices for health care, including prescription drugs, far exceed any increase in wages or benefits. If LTV permanently shuts down, not only will our retirees get reduced pensions from the PBGC and become a burden on the government, they will also be forced to bear this great additional cost on their fixed incomes.

Growing up in this country, I was always taught to respect and care for my elders. It would seem that some in our government have forgotten this basic lesson. To allow those that invested so much of their blood, sweat, and tears in an industry and a company to make this country strong to be thrown to the wolves would make them victims to the policies of their own government. With the current economic situation in this country, the devastating effects a permanent shutdown of LTV would have would only make it harder on America to pull out of the current recession. It will only create a bigger burden on city, state, and Federal governments. Worse than that is the loss of self-respect of the people who helped to make this a great nation.

My brothers and sisters and I are not asking for riches. We are not sports stars or movie stars. We are only asking to have the right to earn decent wages and benefits through the sweat of our labor so that we can buy a house, educate our children, and some day retire in dignity. The people here in Congress and in this administration have the ability to make that happen.

Do not let the American dream die from neglect. I urge you in the strongest possible terms to get the Emergency Steel Loan Board to approve the $250 million loan guarantee to LTV Steel.

Thank you.

STATEMENT OF BOB RANKIN, LTV STEELWORKER, UNITED STEELWORKERS OF AMERICA, LOCAL 188, CLEVELAND, OHIO

Thank you for the privilege of appearing today to speak about the future of LTV Steel and the future of steelworkers like myself and thousands of others.

My name is Bob Rankin. I worked as a production worker at LTV's mill in Cleveland, Ohio. I have worked for LTV since 1978. My job was to inspect steel products being manufactured on the line.

I have a 10-year old son born with a brain injury. When he was two years old, the doctors told us that he probably would not be able to speak or communicate with other people. We found a hospital in Philadelphia called the Institute for Child Development. He was put in 12 to 14 hours a day of therapy. Our insurance paid for 85 to 90 percent of the costs. The cost for one week of care is approximately $18,000. Our son was in this program for three years and he has achieved remarkable success during that time. He is now walking and talking and going to a regular school. Without our insurance, this would never have happened.

He still receives physical therapy today which helps him to have a better quality of life. If it were not for my insurance, the cost of his care in a public hospital setting would have been enormously more expensive and probably would not have improved his medical condition.

My wife and I are not unique in wanting the best life possible and the best medical care for our child. There are many other workers at LTV who face similar challenges in providing health care for their loved ones, whether it is a spouse or children.

As I see it, the emergency steel loan guarantee is the next step in helping to save LTV Steel and our jobs and health care benefits. The Steelworkers union has actually already taken the first step in cooperation with the company's unsecured creditors by developing a plan which includes work rule concessions by the steelworkers.

Our members work hard every day. Many, like myself, have devoted years to making LTV Steel succeed. Unfortunately, over the past five years, we have witnessed a literal flood of foreign-made steel coming into the U.S. market. This has depressed steel prices here in the U.S. and is largely responsible for the circumstances which have forced LTV Steel and 29 other U.S. steel companies into bankruptcy.

Congress created the Emergency Steel Loan Guarantee Board for precisely this situation; to help a domestic American company that has been ravaged by cheap foreign steel to get back on its feet and survive. We have seen in the news where the IMF and the World Bank have allowed loans to foreign countries, including China, so that they can build up their own steel industries. Our own government has backed these loans. Yet when we are pleading for our survival, we are kept waiting and wondering whether we will have jobs.

I urge you not to wait any longer. Please contact the Emergency Loan Guarantee Board and ask them to approve the $250 million loan guarantee for LTV Steel. We need this guarantee to save our jobs and to save our families.

Thank you.

STATEMENT OF RICHARD DOWDELL, LTV STEELWORKER, UNITED STEELWORKERS OF AMERICA, LOCAL 1011, INDIANA HARBOR, INDIANA

Thank you for the opportunity to appear before you today to speak about the crisis facing myself and over 8,000 other employees of LTV Steel.

My name is Richard Dowdell. I serve as a Unit Co-chairperson of the Chicago coke plant. I began working at LTV Steel in March, 1964 as a stove tender. I joined the mechanical apprenticeship program and became a millwright in 1966. I am married and have two children.

LTV has arbitrarily decided it is better for the employees working in its steel mills to no longer have a job. They actually told the bankruptcy court judge that it is better for us to have finality in this matter and to get on with our lives. But I have invested 37 years of my life working for LTV Steel and I am not willing to go without fighting to save my company and my job. The Steelworkers union and the unsecured creditors have put forward a modified labor agreement that can and should be accepted. The sacrifices being offered by our steelworkers will give us at least a fighting chance to save LTV Steel if they are approved by the bankruptcy court.

The termination of our contract would mean that thousands of steelworkers and retirees could lose their health insurance. My wife has an existing medical condition where she has a microvalve in her heart which requires expensive medication. If we were to lose our health insurance, I do not know how we would be able to afford her medication. There are some 69,000 LTV retirees, many of whom are in similar circumstances and are relying on the company providing their health insurance. If we were to lose our health insurance, there may not be anywhere for us to go, especially for those like my wife who have serious, pre-existing medical conditions that require expensive medication.

LTV's asset protection plan does not protect two of their most important assets: the company's two coke plants, one in Chicago and the other in Warren, Ohio. These facilities may be worth $300 million. Instead, the company has chosen to permanently shut down these facilities. These facilities, unlike the hot mills, are not subject to the court's recent December 5th order providing for hot idle shutdown. The coke facilities are subject to being permanently closed now unless the judge modifies his order.

The steelworkers and retirees of LTV Steel ask you to do all that you can to ensure that the Emergency Steel Loan Board moves quickly to approve the $250 million loan to save LTV Steel. Please act now before it is too late.

Thank you.

STATEMENT OF COUNCILMAN ROOSEVELT COATS, CITY OF CLEVELAND, OHIO

Thank you Mr. Chairman and members of the U.S. House of Representatives Steel Caucus for receiving my testimony today concerning the future of LTV Steel. My name is Roosevelt Coats and I am a member of the City Council from Ward 10 in the city of Cleveland, Ohio. I have served on the City Council since 1987. Prior to that time, I was a Union Representative for the United Steelworkers of America.

I share the concerns of Congressman Dennis Kucinich, Congresswoman Stephanie Tubbs-Jones, the people of Cleveland, and many in this room about the future of LTV Steel Company.

The research done by the City of Cleveland about the possible loss of LTV Steel is devastating to our city and to the lives of tens of thousands of people who live in our city. The loss of LTV Steel would mean the loss of 3200 steelworkers' jobs in the City of Cleveland. It would also result in the loss of another 7500 steelworkers' jobs in the states of Ohio, Indiana, Illinois, Michigan, and Minnesota. 40,000 additional jobs would be affected nationally, and 69,000 families nationwide would have pensions and health care benefits either reduced and/or eliminated.

The prospect of losing your health insurance, especially if you are an older person who is retired, living on a fixed income, and facing mounting costs for health care and prescription drugs is nothing short of frightening. Where can an 80-year old retiree with preexisting medical conditions go to get health insurance if they lose their insurance? How can current workers afford health insurance for their children, their spouse, and themselves if they lose their insurance? These are the key questions which trouble thousands of my constituents today.

Needless to say, the loss of 3200 jobs would have a tremendous impact upon the City of Cleveland, mainly because of the city losing the tax revenue from these family-supportive jobs. LTV also pays millions of dollars a year in property taxes to the City of Cleveland. This is revenue to our city which is vital in paying for police, fire, education, public health, and other vital functions of our local government. Such a significant loss of local tax revenue would necessarily lead to either cutbacks in city services, layoffs of public personnel, or increases in taxes to maintain services, or perhaps a combination of all three options. It would also lead to an erosion of our city's infrastructure as we know it today. There is no doubt that the loss of LTV will lead to a diminished quality of life for people in Cleveland. We saw what happened twenty years ago when the steel industry was in crisis, how entire communities in Pennsylvania, Ohio, Indiana, Minnesota, and elsewhere were devastated when steel mills shut down and workers were suddenly displaced.

The cost of allowing LTV Steel to go under will ultimately fall upon every taxpayer in Ohio and in America in the form of taxes to pay for unemployment insurance, food stamps, health care, job training and placement, and other services. These additional costs to our city and to state government will come at the very moment when we are in a recession and state and local tax revenues are plummeting.

The environmental cleanup which would be necessary if this plant closes down would also create a tremendous burden for the City of Cleveland. The vendors who serve LTV Steel and the company's customers would also be negatively impacted by the loss of jobs in a shutdown of LTV Steel.

LTV, like all other American steel manufacturers, has become a victim of unfair and unbalanced trade policies which have permitted a flood of foreign steel, much of it "dumped" illegally, into the U.S. market. This flood of foreign steel has depressed prices so severely that no one can make money in this industry in America. With 29 companies, including LTV Steel, in bankruptcy we know that time is running out. We do not want to see LTV join the ranks of those steelmakers who have shut down permanently.

On behalf of the workers and retirees of LTV Steel Company, I implore you in the Congress and the Administration to do all that you can to save LTV Steel.

Thank you.

PROPOSED RESOLUTION NO. 2002–24
PRESERVATION OF U.S. STEEL INDUSTRY

Whereas, the United States steel industry is in the midst of a serious crisis that impacts not only steel producing states, but the security and economic well-being of the entire nation; and

Whereas, since the United States is experiencing a recession and, as a result of the tragedy of September 11, 2001, is embroiled in international military action, the loss of the capability to produce steel domestically will pose a threat to national security and the nation's ability to retain a manufacturing base; and

Whereas, America's crumbling infrastructure needs to be rebuilt and domestically produced steel could be used to assist in the rebuilding of our cities and towns; and

Whereas, suppliers of raw materials from areas such as Minnesota, Michigan, West Virginia and Pennsylvania, and consumers such as automobile manufacturers in Michigan and aerospace manufacturers in Washington would be severely impacted if the domestic steel industry is permitted to erode; and

Whereas, by way of example, 3,200 steel industry-related jobs would be lost in Cleveland, 7,500 jobs would be eliminated in Ohio, Illinois and Indiana, 40,000 additional jobs would be affected nationally and 50,000 families nation-wide would have pension and health benefits reduced; and

Whereas, foreign steel imports have spiked to 40 percent of the U.S. market, up from 20 percent just two years ago, by selling steel at prices that are significantly below the cost of production; and

Whereas, the U.S. Trade Commission has determined that illegal dumping of foreign-made steel has occurred and the administration is currently considering an appropriate remedy for this practice;

Now, therefore, be it resolved, That the National League of Cities urges the President to consider action under international trade law to determine whether there has been dumping of foreign-made steel in the U.S.

Be it further resolved, That the National League of Cities urges Congress and the Administration to consider federal programs to assist U.S. steel makers in gaining resources that would be used for reinvestment, retooling and restructuring.

STATEMENT OF BRUCE SIMON, COUNSEL TO UNITED STEELWORKERS OF AMERICA

Good afternoon.

My name is Bruce Simon. I am a partner in the firm of Cohen, Weiss and Simon, and we are Counsel to the United Steelworkers of America in the LTV Steel matter.

I'd like to start with a brief review of one of the key findings of the Emergency Steel Loan Guaranty Act of 1999; an overview of employment in the steel industry; an update on LTV itself, including the status of the bankruptcy proceeding, and then deal with the loan application now pending before the Emergency Steel Loan Guaranty Board. I will conclude with a suggestion about what the Steel Caucus, and the United States Congress can do about it.

First, a little congressional history:

1. [Sec. 101(b)(6)] of the Emergency Steel Loan Guaranty Act of 1999, provides: "Congress finds that (6) a strong steel industry is necessary to the adequate defense preparedness of the United States in order to have sufficient steel available to build the ships, tanks, planes and armaments necessary for the national defense". And that was before September 11, 2001.

2. Congress's findings in the 1999 law also recited the loss of 10,000 steelworkers jobs in 1998, and 3 medium-sized steel bankruptcies (ACME, LaClede, Geneva).

Since then, literally tens of thousands more steelworkers have lost their jobs. Just last Friday, the Bureau of Labor Statistics reported that in the last 12 months alone, 17,600 Steelworkers lost their jobs—not including the 6,000 so far at LTV.

And, of course, we now have 28 steel companies in bankruptcy, including two of the very largest, LTV and Bethlehem.

SNAPSHOT OF LTV

1. 6,800 employees, + 2000 at LTV Tubular
2. 70,00 Retirees, surviving spouses and dependents on Retiree Health
3. Legacy costs $1.5B
4. Pension underfunding—$1/2 B

LEGAL STATUS

Last week, on December 5, the Bankruptcy Court in Youngstown, Ohio issued an order which carried out an agreement made in Chambers—between the Company, its secured lenders, its noteholders, the Creditors Committee and the Steelworkers. I should note that Members Kucinich and Latourette were very effective witnesses on behalf of Steelworkers. The Court's Order, in effect, put LTV on a limited life support system, on a respirator, in the intensive care unit. The Order provides:

(a) the Company's integrated steel units are to be maintained in a form of hot idle until the President issues Section 201 remedies by March, 2002

(b) the coke plants in Warren, Ohio and Chicago are to be held alive for 3 weeks

(c) the Company is to support and cooperate in continuing efforts to secure the Byrd loan, and to report back to the Court on December 19—next Wednesday

Where do we stand with the Emergency Loan Board?

Let me start with a conclusion, and work backwards from there.

The power to save LTV, and the power to bury LTV rests in one place—the Emergency Steel Loan Guaranty Board.

Now, the question for the day is—what can the Steel Caucus do, what can the Congress of the United States do, to move the Loan Board to exercise its power to let LTV live—and not exercise its power to pull the plug?

There has been a considerable amount of finger-pointing and blame assessment over the past few months—and there are many, many candidates for the role of accessory-before-the-fact. But with all due respect, the United Steelworkers of America believes this not the time to pin the tail on the donkey for the closing of LTV.

This is the time, perhaps the last time, that something can be done to avoid the catastrophic consequences of the closing of LTV that you have just heard about from the steelworker members of this panel.

I'm going to spend a few minutes to support my conclusion—that the focus now is on the Loan Board—and then propose a course of action—immediate action—for the Steel Caucus to take.

Here's where we are today.

There is pending on the desk of the Emergency Steel Loan Guaranty Board an application by the National City Bank, and Key Bank, on behalf of LTV, for a $250 million loan guaranty.

The application is supported by an analysis by the big 5 Accounting Firm of Deloitte Touche, for the Official Creditors Committee of LTV, appointed by the Bankruptcy Court, which states that the second, historic, labor agreement negotiated between LTV's creditors and the Steelworkers provides the following—and I quote: (1) "the Company is able to fully repay the Byrd Loan by the end of 2005," (2) "the Company is projected to maintain positive liquidity over the five year period with a low point of $35M in 2002".

Thus, the Loan Board has been told by one of the most highly respected Accounting firms, one of the "big 5", that its primary concerns have been met—that, if the $250M loan is made, it will be paid back as the law requires; and the Company will have the liquidity, the cash on hand, to carry on its business.

Until now, there has been buck passing. From Management of LTV to its banks; from the Byrd Bill banks to the DIP lenders; then to the Union. And back and forth. Now, buck passing is over, and there is one—and only one, focus. The Loan Board has the power to keep LTV alive, so that efforts already under way to help the entire industry (by addressing the illegal dumping, by addressing legacy costs) have a chance to click in. If the Board fails to act, it will have pulled the plug before the doctor has had a chance to operate.

Finally, what must be done? The Steel Caucus, and the other members of Congress, must convey to the members of the Emergency Steel Loan Guaranty Board, that the will and intent of Congress in the Emergency Steel Loan Guaranty Act of 1999 was that instances like LTV are precisely the instances where guaranty should be issued. The Board must be told, forcefully, that the time to act is now, and that the Guaranty should be issued forthwith.

ELIGIBILITY OF CERTAIN PERSONS FOR BURIAL IN ARLINGTON NATIONAL CEMETERY

SPEECH OF

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2001

Mr. SIMPSON. Madam Speaker, I rise today in support of H.R. 3423, which extends burial eligibility at Arlington National Cemetery to those reservists who retire before age 60—the age at which they become eligible for retired pay.

H.R. 3423 also makes eligible for in-ground burial at Arlington a member of a reserve component who dies in the line of duty while on active or inactive duty training. To me as a layperson, active duty for training and inactive duty training is a distinction without a difference.

Either way, a life was given to protect the freedoms of all the rest of us.

Earlier this year, a military plane crashed in Georgia. On board were Guardsmen returning home from active duty for training. All on board died. Yet none was eligible for burial at Arlington because they were on training status as opposed to mobilized status.

Their military classification at the time of death made no difference to the widows and children left without a husband and father. The fact of the matter is that these soldiers died in the line of duty.

Madam Speaker, this bill is yet another testament to Chairman SMITH's commitment to our servicemembers, veterans, and their survivors.

In the wake of the September 11 attacks on Americans, I thank Chairman SMITH for taking the initiative to introduce and bring this bill to the floor before we adjourn for the year.

I urge my colleagues to support H.R. 3423.

PUBLIC HEALTH SECURITY AND BIOTERRORISM RESPONSE ACT OF 2001

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. GILLMOR. Mr. Speaker, as Chairman of the Environment and Hazardous Materials Subcommittee of the House Energy and Commerce Committee, which has jurisdiction over the Safe Drinking Water Act, I am taking this opportunity to elaborate on and clarify the provisions of the legislative text of Title IV of H.R. 3448, the Public Health Security and Bioterrorism Response Act of 2001. Because this legislation was considered under suspension of the Rules and without the filing of a report by the House Energy and Commerce Committee, I want to provide and more detailed explanation of Title IV for the RECORD.

SECTION 401: AMENDMENT TO SAFE DRINKING WATER ACT

Title IV of the Public Health Security and Bioterrorism Response Act of 2001 requires community water systems serving over 3,300 individuals to conduct vulnerability assessments and to prepare or revise emergency response plans which incorporate the results of the vulnerability assessment. The legislation, however, also recognizes that many community water systems have conducted or will be in the process of conducting vulnerability assessments at the time of enactment. Title IV is thus explicitly drafted not to create a regulatory program which could slow down ongoing efforts or to require systems that have completed vulnerability assessments to undertake another such assessment. The title only requires that systems certify that an assessment has been completed by a specific date, not that the assessment was initiated and/or completed before or after the date of enactment.

Title IV does not create a regulatory role for the Environmental Protection Agency (EPA) in defining what is or is not an "acceptable" vulnerability assessment. EPA is provided no regulatory authority in this regard; instead, the Agency is only to provide information once to community water systems (by March 1, 2002) regarding what kinds of terrorist attacks are probable threats. EPA is to coordinate its efforts with other agencies and departments of government who have expertise in this area, to compile information readily available or already developed, and to promptly distribute this information. The statute does not provide a continuing duty for EPA in this area past the date specified in the legislation.

In this regard, vulnerability assessments are defined in statute only to the extent that they include a review of certain specified items. These items are those which make up the physical structure of a public water system (as defined in section 1401 of the SafeDrinking Water Act (SDWA)), electronic, computer or other automated systems, physical barriers, the use, storage, or handling of various chemicals and the operation and maintenance of a drinking water system. Title IV recognizes that there are many different types and sizes of community water systems (CWS) and gives CWS wide discretion to devise and conduct a vulnerability assessment. EPA is not given any rulemaking or other authority to define further what is or is not a vulnerability assessment meeting the requirements of section 1433. Nor does Title IV require that a community water system utilize any particular vulnerability assessment tool, or conduct any specific type of analysis. Community water systems are not required to determine the consequences of intentional acts or terrorist acts, analyze their use of specific chemicals, including chlorine, as opposed to other chemicals, or to characterize the risk of any offsite impacts. Further, the term "physical barriers" does not necessarily include "buffer zones" or any other area around physical structures.

Title IV does not contain any requirement that the EPA or any other governmental body receive for review vulnerability assessments conducted by water systems. Nor does Title IV contain any requirement that community water systems provide such information to EPA or to any other person or governmental entity. It only requires that community water systems certify that they have completed an assessment. Community water systems are to coordinate with local emergency planning committees (LEPCs) in the preparation or revision of emergency response plans for the purpose of avoiding duplication of effort and taking advantage of previous information developed by the LEPCs for first responders and local government response. There is no requirement that community water systems disclose any of the information developed by the vulnerability assessments to the LEPCs.

Vulnerability assessments could contain very sensitive information about a drinking water system which would be of assistance to a terrorist or an individual contemplating an attack. Therefore, Title IV was explicitly and intentionally drafted to avoid triggering any requirement under the Freedom of Information Act (FOIA) (Section 552 of Title 5, United States Code) to disclose any information developed in connection with a vulnerability assessment. The President should carefully consider whether assessments and related materials should be exempted from the FOIA by executive order.

The legislation authorizes EPA to provide financial assistance to CWS for several specified purposes. EPA may provide assistance for vulnerability assessments, for developing or revising emergency response plans and for expenses and contracts designed to address basic security enhancements of critical importance and significant threats to public health. Title IV does not define either "basic security enhancements of critical importance" or "significant threats to public health." However, existing SDWA programs which provide assistance to water systems have not provided assistance for continuing expenses such as operations and maintenance or personnel expenses. This legislation does not change this long-established public policy.

Finally, Title IV clarifies that EPA has discretion to act under Part D, Emergency Powers, of the Safe Drinking Water Act (SDWA) when the Agency has received information about a specific threatened terrorist attack or when the Agency has received information concerning a potential terrorist attack (but not necessarily a specific, identified threat) at a drinking water facility. In exercising this discretion, the EPA should only rely upon substantial, credible information. EPA should not interpret "potential terrorist attack" to mean that there is merely some possibility or statistical probability of a terrorist attack. Neither should EPA interpret a general warning, general announcement or general condition to be sufficient information of a threatened or potential terrorist attack. Specific, credible information is required, and all other elements of section 1431 must be met, including the existence of an imminent and substantial endangerment to the health of persons, that appropriate State and local authorities have not acted to protect the health of persons served by the drinking water system, and that the EPA Administrator has consulted with State and local authorities regarding the correctness of the information regarding both the specific threat and the actions which the State or local authorities have taken. The authority granted to EPA in section 1431 is a limited, case-by-case, contingent emergency power.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, December 11, 2001.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Energy and Commerce has requested that the House take up the Public Health Security and Bioterrorism Response Act of 2001, H.R. 3448. While the bill primarily contains provisions related to the matters in the jurisdiction of the Committee on Energy and Commerce, I recognize that section 135, which amends the Stafford Act (42 U.S.C. §§5121, et seq.), to require release of emergency plans, falls under the jurisdiction of the Committee on Transportation and Infrastructure.

Allowing this bill to move forward in no way impairs your jurisdiction over that provision, and I would be pleased to place this letter and any response you may have in the Congressional Record when the bill is considered on the floor. In addition, if a conference is necessary on this bill, I recognize your right to request that the Committee on Transportation and Infrastructure be represented on the conference with respect to the provision amending the Stafford Act.

Sincerely,

W.J. "BILLY" TAUZIN,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND *Infrastructure,*
Washington, DC, December 11, 2001.

Hon. W.J. BILLY TAUZIN,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding The Public Health Security and Bioterrorism Response Act of 2001, H.R. 3448. As you know, this bill contains a provision related to matters in the jurisdiction of the Committee on Transportation and Infrasturcture. Specifically, Section 135 of the bill amends the Stafford Act (42 U.S.C. §§5121, et seq.), which is under the jurisdiction of the Committee on Transportation and Infrastructure.

In the interest of expediting consideration of the bill, the Committee will not seek a referral of this legislation and will support your request to schedule floor action on the bill. This action should not, however, be construed as waiving the Committee's jurisdiction over future legislation of a similar nature.

Thank you for your cooperation on this matter.

Sincerely,

DON YOUNG,
Chairman.

TRIBUTE TO BISHOP SAMUEL C. MADISON ON THE 75TH ANNIVERSARY OF THE UNITED HOUSE OF PRAYER FOR ALL PEOPLE'S CONVOCATION, HIS 61ST ANNIVERSARY AS MINISTER, AND 10TH ANNIVERSARY AS BISHOP AND CHURCH LEADER

HON. MELVIN L. WATT

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. WATT of North Carolina. Mr. Speaker, I rise today to honor an exemplary leader, Bishop S.C. Madison, who is celebrating the 75th anniversary of the United House of Prayer for All People's Convocation, his 61st anniversary as minister and his 10th anniversary as bishop of the United House of Prayer. Bishop Madison is an exceptional leader who has championed the causes of eliminating poverty, inadequate and unaffordable housing, unemployment, illiteracy, economic disparities and spiritual depravation. The magnitude, depth and substance of his contributions to improve human welfare and social reform have brought him national acclaim.

The leadership of Bishop C.M. Grace, Bishop W. McCollough and Bishop S.C. Madison has had a positive impact on the growth of the United House of Prayer since its earliest existence in tents and storefront locations. Currently, under the leadership of Bishop Madison, there has been expansion to 135 congregations in 26 states. The church's massive, nationwide building program has resulted in construction of over 800 units of low and moderate income housing. These housing complexes are located in New Haven, CT; Washington, DC; Norfolk, VA; Charlotte, NC; Augusta, GA; Savannah, GA; and Los Angeles, CA. More than 100 units have been developed for senior citizens.

The extraordinary success of Bishop Madison has led to numerous honors and awards from national, state, and local organizations. Academic institutions have presented honorary degrees to him acknowledging his outstanding achievements in helping to overcome deplorable conditions that plagued people and cities. He has received Doctor of Humane Letters from the Saturday College of Washington, DC and Bowie State University of Bowie, MD.

Bishop Madison continues to demonstrate outstanding leadership, dispense an abundance of love and philanthropy and support causes for young people and the elderly. Bishop Madison's ministry promotes higher education, exercises business acumen, improves the spiritual fiber of society and maintains the United House of Prayer as a beacon of light for those who need inspiration and a safe haven from the harsh realities of life.

It is my pleasure to stand before the House to pay tribute to Bishop S.C. Madison as he marks 61 years in the ministry and 10 years of service as the outstanding role model and leader of the United House of Prayer for all people.

DEBT-FOR-NATURE AGENDA OF BANK REGULATORS AT THE FDIC AND OTS

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 2001

Mr. DOOLITTLE. Mr. Speaker, in the 106th Congress, I chaired a Task Force formed by then-Chairman DON YOUNG to examine whether bank regulators at the FDIC and OTS used their powers to leverage privately owned redwood trees, known as the Headwaters Forest in California, from an individual.

The task force, which included Representatives POMBO, THORNBERRY, BRADY, and RADANOVICH, undertook an 8 month review of the debt-for-redwoods matter. We held one terribly long hearing on the subject on December 12, 2000.

In the 107th Congress, Chairman HANSEN continued work on the subject and dedicated staff to draft a staff report to summarize the evidence of the FDIC and OTS redwoods debt-for-nature scheme and conclusions drawn from the oversight work. The report exposes how banking regulators took on an unauthorized, political agenda of leveraging redwood trees.

A member of the Task Force, Representative POMBO, inserted the text of the staff report into the RECORD on June 14, 2001. Just as important as the report itself, is the collection of evidence and documents, appended to the report. Those documents validate the accuracy of information presented in the report. Today, for the benefit of my colleagues, I have put those appendices into the RECORD. The Financial Services Committee should review this information as they deal with re-authorizing the FDIC and the OTS. These entities are clearly out of control, and I want to summarize why this is so.

Bank regulators at the FDIC and OTS have very specific statutory charges. They are to recover money from the owners of banks and thrifts when the institutions fail. This system keeps depositors whole through federally-backed insurance funds and collects money from the banks' owners if they failed to properly manage the bank. I emphasize, bank regulators are to recover money.

We found boxes of evidence that clearly showed that the bank regulators at the FDIC and OTS deviated from their statutory charge and actually concocted a scheme, in concert with the Office of the Secretary of the Interior, to obtain redwood trees from an owner of the failed bank. The scheme was initiated, promoted, and lobbied by radical EarthFirst! ecoterrorists. It was embraced by FDIC lawyers and facilitated by FDIC's outside counsel, and it was sanctioned at the highest levels of the agency.

The cornerstone of the scheme was to bring legal and administrative actions that the regulators believed and knew would fail against Mr. Charles Hurwitz, a 24-percent owner of a failed bank called United Savings of Texas. The bank regulators own written analysis of their claims said if the redwoods were not involved, their lawyers would have "closed out" the case. That means they would have dropped the case, period.

Instead, the bank regulators and their lawyers synthesized the redwood for bank claims scheme with politicians in Congress and with outside environmental groups. They then met, at a critical juncture, with the Office of the Secretary of the Department of the Interior where the shocking and incredible realization was noted by one participant in the meeting: if we drop the suit we "undercut everything."

Even before this startling evidence was uncovered by the task force, a U.S. District Court judge, the Honorable Lynn Hughes compared the tactics of the FDIC and OTS to that of the mafia.

Since the time when the report was placed in the RECORD by Mr. POMBO, the OTS administrative proceeding has been decided by the OTS administrative judge. In a 200 plus page opinion after reviewing 29,000 pages of transcripts and 2,400 pages of exhibits for over seven years, the OTS judge ruled against the agency on every single claim.

This ruling validates the inescapable conclusion that the bank regulators at the OTS and the FDIC still fail to acknowledge: their claims totally lack of merit and were brought for the political reason of obtaining "the trees"—the redwoods—at no cost to the government. The staff report sets out the evidence supporting this conclusion.

This is an atrocious abuse of governmental power, and one that my colleagues and the agency should understand. For that reason, I have placed the evidence we collected—in its raw form—into the RECORD today.

I am doubly disturbed about what the bank regulators did, because the Committee on Resources and the Congress have the legal authority to decide what land is acquired and what the conditions of the acquisition should be, not banking regulators. Bank regulators clearly brought their claims for the environmentalists, for the Department of the Interior, and for the White House, not in furtherance of banking laws. Their decision was political and the disposition by the OTS judge again proves the point. These documents are even further validation.

When we asked the bank regulators at our hearing if their banking claims had anything to do with redwoods, they said, "No." The staff report documents just how the bank regulators were deeply involved in the redwoods agenda—and how they cooperated to get "the trees." The report shows how they switched their recommendation after meeting with the Department of the Interior. Right before they were to decide whether to pursue the claims, they obviously understood, "If we drop [our] suit, [it] will undercut everything." Those are words are from the notes of a meeting between the FDIC and the Department of the Interior. Those words put the bank regulators squarely inside the redwoods agenda.

The bank regulators were thick into redwoods early in the process. They hired outside counsel based on the supposed expertise to handle a "unique" settlement involving the redwoods. Their outside counsel even acted as a conduit between FDIC lawyers and the environmental groups that lobbied for the redwoods.

There is so much evidence detailed in the staff report, which is why I am grateful that my colleague, Representative RICHARD POMBO, put the text of the report into the RECORD on Thursday, June 14, 2001. I want my colleagues to know that copies of the appendices to the report are also public record. The Task Force made them public at the close of its hearing on December 12, 2000. By my motion, they were released:

Mr. DOOLITTLE. . . . We've gone now for 5 hours. We haven't had a lunch break, and we're not going to have time to get into some of the other details. But I think there's enough revealed here that's very troubling, and it needs further examination, and therefore, I make the following motion: I move that all the documents we utilized in today's hearing be included in the hearing record and that all of the documents produced by the Department of the Interior be included as part of today's hearing record; and I furthermore move that any documents not included in the above categories that are necessary to document a staff report or analysis of the situation be released with such staff report. Hearing no objection. . . . So ordered.

Now that they are in the RECORD, my colleagues can see them in the context of the staff report.

CONGRESS OF THE UNITED STATES,
WASHINGTON, DC,
June 6, 2001.

Hon. JAMES V. HANSEN,
Chairman, Committee on Resources, House of Representatives.

DEAR MR. CHAIRMAN: Transmitted with this letter is the Staff Report entitled Redwoods Debt-For-Nature Agenda of the Federal Deposit Insurance Corporation and the Office of Thrift Supervision to Acquire the Headwaters Forest that you and Chairman Young requested.

The report composed of evidence, testimony, documents, records, and other material reviewed and analyzed by staff of the Committee on Resources during the 106th and 107th Congress. It follows the work of the Committee Task Force that reviewed the matter through December 2000.

The analysis concludes that there was a redwoods debt-for-nature scheme pursued by the bank regulators at the FDIC and the OTS beginning in at least February 1994. The scheme used almost meritless banking claims against Mr. Charles Hurwitz (stemming from his minority ownership of a failed savings and loan) as leverage for the federal government to obtain a large grove of redwood trees owned by the Pacific Lumber Company, a separate entity that Mr. Hurwitz owned and controlled.

It is clear that the scheme evolved as the FDIC grew to understand the importance of its (and the OTS') potential claims as the leverage for the redwoods during an unprecedented meeting it held in early 1994 with a Member of Congress. At that meeting, the investigation of the claims against Mr. Hurwitz and the redwoods debt-for-nature scheme were discussed in detail, a highly inappropriate action that launched the bank regulators into a hot political issue.

Immediately after the meeting, the goal of obtaining the redwoods was shared by the FDIC with the OTS, and the OTS was then hired by the FDIC to pursue a parallel administrative action against Mr. Hurwitz. The coordinated purpose of that strategy was to provide more leverage to get "the trees," according to the notes of the FDIC lawyers.

The intense lobbying campaign by environmental groups, including Earth First!, directed at the FDIC, its outside counsel, the OTS, the Administration, the Department of the Interior, the White House, and Members of Congress was why ordinary internal operating procedures that would have closed out the case against Mr. Hurwitz were not followed.

The scheme to obtain redwoods overrode the initial internal conclusion that the claims against Mr. Hurwitz were losers for the bank regulators and should not have been bought under the written policy of the agency. In fact, the FDIC met with the top staff from the Office of the Secretary of the Department of the Interior to discuss the scheme just a few days prior to the stunning reversal of the internal staff recommendation not to sue Mr. Hurwitz. The FDIC notes from the meeting say, "If we drop suit, [it] will undercut everything." Of course "everything" was the just-discussed scheme to leverage redwoods from Mr. Hurwitz.

The FDIC (and its agent, the OTS) were indeed an integral part of the redwoods debt-for-nature scheme. They willingly injected themselves into the issue through actions such as meetings with politicians and debt-for-nature advocates, internal analysis of debt-for-nature urgings by environmental advocates, and meetings with Department of the Interior officials promoting a redwoods debt-for-nature scheme. They did these things well before their claims were authorized to be filed by the FDIC board, and it became clearer and clearer to the bank regulators that there would be no "debt" and therefore no redwoods nature swap, if the claims were not brought or at least threatened.

The evidence of the FDIC's participation in the debt-for-nature scheme is overwhelming and contradicts the testimony offered by the witnesses at the December 12, 2000, hearing of the Committee Task Force that reviewed the matter. That testimony was that banking claims or the threat of banking claims against Mr. Hurwitz involving USAT were not brought as leverage in a broader plan to get the groves of redwoods from Mr. Hurwitz. The weight of the documentation does not buttress that conclusion at all; it contradicts it.

Indeed, these actions of the bank regulators, in particular the FDIC and by extension (then directly) the OTS, are an alarming display of how "independent" government agencies are not necessarily independent, have agendas, and do engage in politics when not controlled. What staff of such agencies often seem to forget is that the only authority they have is that which Congress gives to them by law. What staff of these agencies either did not know or forgot is that there is not authority in law for them to pursue the redwoods debt-for-nature scheme that they pursued. These agencies seemed to realize this well after the pursuit began and their claims were polluted with the illegitimate redwoods agenda.

The cost of this improper, illegal engagement—on a loser claim that would have been "closed out" if it were the normal situation—is upwards of $40 million to Mr. Hurwitz. If the federal government can conspire and get away with doing this to someone with the capacity and resources to defend himself, then imagine what the federal government can do this to a person who does not have the means or capacity to defend himself or herself.

The U.S. District Court Judge, The Honorable Lynn Hughes, who was assigned the FDIC case, after learning of just a fraction of what the FDIC and OTS had done to strongarm Mr. Hurwitz, concluded that the agencies used tools equivalent to the cosa nostra (essentially a mafia tactic). Judge Hughes was absolutely correct, and the documentation in this report provides additional basis that validates Judge Hughes conclusion. No one—whether he or she is a millionaire industrialist or a laborer in a factory—should be subject to the unchecked tools of an out of control "independent" agency like the FDIC or the OTS, not in our republic.

The report makes the following conclusion: "The Directors of the FDIC and OTS should take corrective action and withdraw the authorization for the FDIC lawsuit and OTS administrative action against Mr. Hurwitz for matters involving USAT. The integrity of the bank regulatory system demands nothing less."

I hope that the information in this staff report assists the Committee.

Sincerely,

DUANE R. GIBSON,
COUNSEL.

CONGRESSIONAL RESEARCH SERVICE,
June 29, 2001.

MEMORANDUM

To: Hon. DON YOUNG.

From: Morton Rosenberg, Specialist in American Public Law, American Law Division.

Subject: Propriety of the Establishment of an Investigative Task Force by a Committee Chairman and the Release and Publication in the Congressional Record of a Staff Report and Documents Gathered by the Task Force, and Related Questions.

You have submitted seven questions that inquire as to the legal propriety or basis for the establishment by the House Resources Committee of a task force and certain actions taken by that task force and its members. Our response is based on the following facts and circumstances which you have provided, which may be briefly summarized.

On August 15, 2000, as Chairman of the House Committee on Resources and acting through the authority vested in you by Rule 7 of the Committee's rules, you established the Task Force on the Headwaters Forest and Related Issues, which had a termination date of no later than December 31, 2000. The purpose of the Task Force was to review and study actions by the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS) which were alleged to have been undertaken by those agencies to improperly exert pressure on private parties so that the federal government could obtain parcels of land in northern California containing groves of redwood trees adjacent to the Headwaters Forest. Those parcels belonged to the Pacific Lumber Company which was owned by Mr. Charles Hurwitz. Mr. Hurwitz was a minority owner of a failed Texas savings and loan bank against whom a civil suit (by the FDIC) and an administrative action (by the OTS) were brought alleging professional liability bonding claims. The legal actions were said to have been brought as leverage to persuade Mr. Hurwitz to swap the redwood parcels for a settlement of these proceedings.

Following a period of preliminary investigation, which included requests for production of documents by FDIC, OTS, and the Department of Interior and private parties, and the issuance of subpoenas for withheld documents, the Task Force held a hearing on December 12, 2000. At the conclusion of the hearing the chairman of the Task Force, Mr. Doolittle, made the following motion, which was adopted by unanimous consent:

I move that all the documents we utilized in today's hearing be included in the hearing record and that all of the documents produced by the Department of the Interior be included as part of today's hearing record; and I furthermore move that any documents not included in the above categories that are necessary to document a staff report or analysis of the situation be released with such staff report."

On June 6, 2001, a staff report on the Task Force's inquiry was transmitted to the current chairman of the Resource Committee, Mr. James V. Hansen, and to members of the Task Force. Mr. Richard W. Pombo, a member of the Task Force, requested and received permission of Chairman Hansen to publish the staff report in the CONGRESSIONAL RECORD, which occurred on June 14, 2001. See 147 Cong. Rec. E 1123–E1136.

We will respond to your questions in the order submitted. Where questions appeared to be closely related, they are answered together.

1. Was the creation of a task force a valid exercise of Committee Rule 7 authority?

House rules have vested broad powers in committees and their chairs to conduct oversight and investigative proceedings without telling them how they are to do so. House Rule X.2(b)(1) directs that "Each standing committee . . . shall review and study, on a continuing basis, the application, administration, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that Committee . . . in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated". House Rule XI.1(b) provides that "Each committee is authorized at any time to conduct such investigations and studies as it may consider necessary and appropriate in the exercise of its responsibilities under Rule X". The various House committees and subcommittees have their own rules, procedures and practices. Different inquiries by different committees may follow their own individual paths. Committees may decide among themselves, by precedent or newly devised procedures, how to conduct any particular inquiry. A committee can even adopt rules requiring committee votes before initiating major inquiries, as the House Un-American Activities Committee (HUAC) did in the 1960's, and the House Permanent Select Committee on Intelligence has done in recent years. If such a rule is adopted, "it must be strictly observed". Gojack v. United States, 384 U.S. 702, 708 (1966). Both committees had special reasons for adopting such a rule—HUAC's stemming from the controversial nature of its investigations, the Intelligence Committee because of the sensitivity of its inquiries—but the vast majority of committees have not perceived a need to adopt such a rule.

In the instant situation, Rule 7 of the Resources Committee's rules authorizes the Chairman, after consultation with the Ranking Minority Member, "to appoint Task Forces, or special or select Subcommittees, to carry out the duties and functions of the Committee." The Chairman's August 15, 2000 charter of the Task Force vested it with authority "to carry out the oversight and investigative duties and functions of the Committee" regarding the Headwaters Forest matter initiated by the Chairman's letter of June 16, 2000. The Task Force's duration was limited to less than six months so that assignment to the Task Force would not count against the limitation on Subcommittee service under House Rule X.5(b)(2)(c). This section of the House Rules also recognizes and contemplates the creation by standing committees of task forces by its definition of "subcommittee" to include "a panel . . ., task force, special subcommittee, or other subunit of a standing committee. . ."

But even without such a rule, the ordinary procedures by which chairmen commerce inquiries—through inquiry letters, scheduling of hearings, or staff studies and interviews—are proper without committee votes in advance or minority party participation in their formulation or conduct. In furtherance of the responsibility to engage in continuous oversight under Rule X.2(b)(1), it has been traditionally proper for the chairman of committees and subcommittees to initiate preliminary reviews and studies, i.e., inquiries which in a general sense may be termed "preliminary investigations" to be undertaken by the committee and subject to the ultimate control and direction of the committee. It is seen as essential, for example, that a chairman's preliminary inquiry be able to minimize the possibility of the destruction of documents pending their formal incorporation as committee files. In this regard, the courts have held that the legal obligation to surrender documents requested by the chairman of a congressional committee arises at the time of the official request, and have agreed in construing 18 U.S.C. 1505, a statute proscribing the obstruction of congressional proceedings, that the statute is broad enough to cover obstructive acts in anticipation of a subpoena. See, e.g., United States v. Mitchell, 877 F.2d 297, 300–01 (9th Cir. 1979); United States v. Tallant, 407 F. Supp. 878, 888 (D.N.D Ga. 1975).

The Mitchell ruling is particularly pertinent to the question under consideration here. In that case the appeals court upheld a conviction for obstructing an investigation by the House Committee on Small Business. The court said of the obstruction statute that "[t]o give section 1505 the protective force it was intended, corrupt endeavors to influence congressional investigations must be proscribed *even when they occur prior to formal committee authorization*." 877 F.2d at 301 (emphasis supplied). The court explained the factual background as follows:

Applying these principles to the case at hand, all of the circumstances surrounding this investigation point to the conclusion the appellants' corrupt endeavor was directed towards a legitimate House investigation. *The investigation was instigated by the chair of a House Committee* that unquestionably has jurisdiction over the subject matter of the inquiry. The letter from Congressman Mitchell to the SHA expressly said that "[t]his Committee is presently conducting an investigation" and referred to the Small Business Act for its authority to do so. Furthermore, the investigation was handled by the chief investigator of the Small Business Committee on a continuing basis for several months. * * * *[T]his was a congressional investigation. Accordingly, we hold that the investigation instigated by Congressman Mitchell was an investigation by the Small Business Committee* of the House that was protected by §1505]". *Id.* (emphasis supplied).

The appeals court quite clearly was approving the notion that a chairman can initiate a proper committee investigation and identifying two classic indicia of a chairman-initiated investigation: the writing of a letter and the handling of the investigation by a committee staffer (the "chief investigator of the Small Business Committee"). See also, United States v. North, 708 F. Supp. 372, 374 notes 3 and 4 (D.D.C. 1988). United States v. North, 708 F. Supp. 380, 381–82 (D.D.C. 1988).

In sum, the Chairman's creation of the Task Force is well founded in Committee and House rules and congressional practice.

2. Can a Committee on Resources task force generally have the powers and duties of a subcommittee?

3. Did the task force have the power and authority under its charter and the applicable rules to discharge the duties and functions of the committee—such as holding hearings, receiving testimony, compiling staff reports and analyses, and releasing records and documents (into hearing records and publicly to document staff reports)?

A congressional committee is a creation of its parent House and only has the power to inquire into matters within the scope of the authority that has been delegated to it by that body. Thus, the enabling rule or resolution which gives the committee life is the charter which defines the grant and limitations of the committee's power. In construing the scope of a committee's authorizing charter, courts will look to the words of the rule or resolution itself, and then, if necessary to the usual sources of legislative history such as floor debate, legislative reports, past committee practice and interpretations. Jurisdictional authority for a "special" investigation may be given to a standing committee, a joint committee of both houses, or a special subcommittee of a standing committee, among other vehicles.

As indicated in the above discussion, House Rules X and XI clearly vest oversight authority, including the holding of hearings and the issuance of subpoenas, in its standing committees and their subcommittees, and the creation by standing committees of subunits, such as task forces, that would carry out particularized oversight tasks. The Headwaters Forest Task Force was formally established pursuant to Committee Rule 7 and the Task Force's authority was particularly defined in its charter of August 15, 2000: "[T]o carry out the oversight and investigative duties and function of the Committee regarding the oversight review specified in the June 16, 2000 letter (attached hereto)" and to "hold hearings on matters within its jurisdiction" which are expressly delineated in the charter. Such hearings are made "[s]subject to the Rules of the House of Representatives and the Rules of the Committee on Resources" and had to be approved by the chairman prior to their announcement.

In light of this, it is likely that viewing court would find that the Task Force was properly constituted and could validly exercise all the powers of a subcommittee including holding hearings, receiving testimony and documents and making such documents part of the hearing record, directing the preparation of staff reports and analyses, and authorizing the release of such staff reports together with supporting documentary evidence gathered by the Task Force.

4. Regarding the unanimous consent request by Chairman Doolittle on December 12, 2000, is it, coupled with the permission of Chairman Hansen, valid authority to release of the report?

5. Does the unanimous consent request, coupled with the release of the report into the Congressional Record also cover the release of the records contained in the appendices to the report? Generally, is a vote of the Full committee required in order to release such subpoenaed documents and records? Was it in this situation?

Task Force Chairman Doolittle's unanimous consent request adopted at the conclusion of the December 12, 2000 hearing had the effect of making two categories of documents—documents utilized during the hearing and those produced by the Department of Interior—part of the record of the hearing. It also authorized the use of documents received by the Task Force which are not within those two categories to be utilized in the preparation of a staff report where necessary to buttress the analysis and the release of those documents upon the release of the staff report.

Public release of documents gathered in the course of a legitimate committee investigation, including those introduced at a hearing, is well supported by the House rules, committee practice and relevant judicial precedent. Under House Rule XI, 2, "all committee' hearings, records, data, charts, and files . . . shall be the property of the House and all Members of the House shall have access thereto." There is no restriction on the use of evidentiary material, gathered by a committee and presented in a hearing, unless that "evidence" is taken in executive session. In those circumstances the evidence may not be "used in public sessions without the consent of the committee." Rule XI, 2(k)(7). We are advised that the subject material was not received in executive session.

A Committee has a right to utilize the documents it has received in any manner that enables it to perform its legitimate legislative functions. In the absence of a countervailing constitutional privilege or a self-imposed statutory restriction upon its authority, Congress and its committees have virtually plenary power to compel information needed to discharge their legislative function from executive agencies, private persons, and organizations. McGrain V. Daugherty, 272 U.S. 135, 177 (1927); Watkins v. United States, 354 U.S. 178, 187 (1957); Barenblatt v. United States, 360 U.S. 109, 111 (1959); Eastland v. United States Servicemen's Fund, 421 U.S. 491, 504 n. 15 (1975), and with certain constraints, the information so obtained or maybe made public, Doe v. McMillan, 412 U.S. 706, 313 (1973); Doe v. McMillan, 556 F. 2d 713–16 (D.C. Cir. 1977), cert. denied 435 U.S. 969 (1978).

Thus, for example, where a statutory confidentiality or non-disclosure provision barring public disclosure of information is not explicitly applicable to the Congress, the courts have consistently held that agencies and private parties may not deny Congress access to such information on the basis of such provisions. FTC v. Owen-Corning Fiberglass Corp., 626 F2d 966, 970 (D.C. Cir. 1980); Exxon Corp. v. FTC, 589 F.2d 582, 589 (D.C. Cir. 1978), cert. denied, 441 U.S. 943 (1979); Ashland Oil Corp. v. FTC, 548 F.2d 977, 979 (D.C. Cir. 1976); Moon v. CIA, 514 F. Supp. 836, 849–51 (SDNY) 1981). Nor may a court block congressional disclosure of information obtained from an agency or private party, at least when disclosure would serve a valid legislative purpose. Doe v. McMillan, 412 U.S. 306, 312 (1973); FTC v. Owens-Corning Fiberglass, supra, 626 F.2d at 970.

Since none of the documents in question were received in an executive session of the Task Force, no vote of the Task Force or the full Committee was necessary to release them, and all the documents and records of the Task Force were available for inspection by any member of the House. Chairman Hansen's authorization to Mr. Pombo was sufficient (although probably not necessary) to permit him to insert the entire staff report in the Congressional Record.

6. Please review the section in the report entitled "Use of Records and Documents" and comment on whether it is accurate and whether it is correct with respect to utilization of allegedly privileged documents by a committee in a staff report under the circumstances contained in this memo.

7. Do litigation privileges apply to constrain release of records in such a staff report by the Task Force or the Committee on Resources in the House? If records are used in a staff report under the circumstances explained in this memo and the use impacts litigation, is there any bar to the utilization or release of records that document a staff report? If documents that are compelled to be produced are produced under a subpoena to a federal entity and such documents are used in hearings or staff reports, is a judicial privilege generally waived by the federal entity?

The Staff Report indicates that FDIC and OTS have suggested that public release of certain documents may jeopardize the agencies' pending civil and administrative proceedings and would also waive judicial litigation privileges that may be available. Neither contention is likely to be upheld by a reviewing court.

With respect to effect of pending civil or criminal litigation on the ability of a congressional committee to conduct an oversight investigation of an agency, the Supreme Court has long held that refusals to provide testimony or evidence based on an ongoing or potential litigation would not be recognized. In Sinclair v. United States, 279 U.S. 263 (1929), the Court upheld the contempt of Congress conviction of a witness in the face of such a contention, holding that neither the laws directing such lawsuits be instituted, nor the lawsuit themselves "operated to divest the Senate, or the Committee, of power further to investigate the actual administration of the laws." 279 U.S. at 295. The Court further explained: "It may be conceded that Congress is without authority to compel disclosures for the purpose of aiding the prosecution of pending suits; but the authority of that body, directly or through its committees, to require pertinent disclosures in aid of its own constitutional power is not abridged because the information sought to be elicited may also be of use in such suites.' Id. In other words, those persons having evidence in their possession, including officers and employees of executive agencies, can not lawfully assert that because lawsuits are pending involving the government, "the authority of the [the congress], directly or though its committees, to require pertinent disclosures" is somehow "abridged." Id.

The courts have recognized that disclosures at congressional hearings may have the effect of jeopardizing the successful prosecution of civil and criminal cases, but in no instance has any court suggested that this provides a constitutional or legal limitation on Congress' right to conduct an investigation. See, e.g., Delaney v. United States, 195 F. 2d 107, 114 (1st Cir. 1952). Commenting on Congress' power in this regard, Independent Counsel Lawrence E. Walsh, who saw successful prosecutions judicially overturned because of public testimony at congressional hearings, observed that "[t]he legislative branch has the power to decide whether it is more important perhaps even to destroy a prosecution rather than to hold back testimony they need. They make that decision. It is not a judicial decision or a legal decision but a political decision of the highest importance." See Walsh, "The Independent Counsel and the Separation of Powers," 25 Hous. L. Rev. 1,9 (1998). See also "Investigative Oversight: An Introduction to the Law, Practice and Procedure of Congressional Inquiry, 4, 23–29, CRS Report No. 95–464A, April 7, 1995 (CRS Report).

Similarly, precedents of the House of Representatives and the Senate, which are founded on Congress' inherent constitutional prerogative to investigate, establish that acceptance of common law testimonial privileges, such as attorney-client or work product privileges, rests in the sound discretion of a congressional committee regardless of whether a court would uphold the claim in the context of litigation. See, CRS Report a pp. 43–56. Indeed, Resources Committee Rule 4(i) specifically provides that: "Claims of common-law privilege made by witnesses at hearings, or by interviewees or deponents in investigations or inquiries, are applicable only at the discretion of the Chairman, subject to appeal to the Committee."

Next, we turn to the question whether publication of the documents received during the course of your investigation will have the effect of waiving any privileges that might otherwise be asserted in any pending or future litigation. Our review of the applicable case law, and the constitutional principles underlying congressional oversight and investigations, lead us to conclude that a reviewing court is not likely to find that disclosure by your Committee, under the circumstances now obtaining, would effect a waiver of any privileges that might be asserted in a related court proceeding.

More particularly, once documents are in congressional hands, the courts have held that they must presume that the committees of Congress will exercise their powers responsibly and with due regard for the rights of effected parties. FTC v. Owens-Corning Fiberglass Corp., 626 F. 2d 966, 90 (D.C. Cir. 1980); Exxon Corp. v. FTC, 589F. 2d 582, 589 (D.C. Cir. 1978), cert denied, 441 U.S. 943 (1979); Ashland Oil Corp. v. FTC, 458 F. 2d 977, 979 (D.C. Cir. 1976). Nor may a court block congressional disclosure of information obtained from an agency or private party, at least where disclosure would serve a valid legislative purpose. Doe v. McMillan, 412 U.S. 306 (1973); FTC v. Owings-Corning Fiberglass Crop., supra, 626 F. 2d at 970.

It is also well established that when the production of privileged communications is judicially compelled, compliance with the order does not waive the applicable privilege in another litigation, as long as it is demonstrated that the compulsion was resisted. See, e.g., U.S. v. De La Jara, 973 F. 2d 746, 749–50 (9th Cir. 1992) ("In determining whether the privilege should be deemed waived, the circumstances surrounding the disclosure are to be considered. Transamerica Computer, 573 F. 2d at 650.") Westinghouse Electric Corp. v. Republic of the Philippines, 951 F. 2d 1414, 1427, 1427 n. 14 (3d Cir. 1991) ("We consider Westinghouse's disclosure to the DOJ to be voluntary even those it was prompted by a grand jury subpoena. Although Westinghouse originally moved to quash the subpoena, it later withdrew the motion and produced the documents pursuant to the confidentially agreement. *Had Westinghouse continued to object to the subpoena and produced the documents only after being ordered to do so, we could not consider the disclosure to do so to be voluntary*") (emphasis supplied); Jobin v. Bank of Boulder (In re M&L Business Machines Co.), 167 B.R. 631 (D. Colo. 1994) ("Production of documents under a grand jury subpoena does not automatically ciliate the attorney-client privilege, much less in an unrelated civil proceeding brought by a non-governmental entity. This is especially true in a case such as this, where the record demonstrates that the Bank has consistently sought to protect its privilege."). Some courts have even refused to find waiver when the client's production, although not compelled, is pressured by the court. Transamerica Computer Corp. v. IBM, 576 F. 2d 646, 651 (9th Cir. 1978). Similarly another court found that a client's voluntary production of privileged documents during discovery did not effect a waiver because it was done at the encouragement of the presiding judge. Duplan Corp. v. Deering Milliken, Inc., 979 F. supp. 1146, 1163 (S.D.S.C 1974) (finding no waiver "where voluntary waiver of some communications was made upon the suggestion of the court during the course of the in camera proceedings.").

Moreover, at least two federal circuits have held that disclosures to congressional committees do not waiver claims of privilege elsewhere. See, Florida House of Representatives v. Dept. of Commerce, 961 F. 2d 941, 946 (11th Cir. 1992); Murphy v. Department of the Army, 613 F. 2d 1151, 1155 (D.C. Cir. 1979).

As we understand it, documents about which FDIC and OTS have raised concerns are ones that were withheld and had to be subpoenaed. On the basis of the above-delineated precedents, the agencies could make a plausible arguments that they raised sufficient resistence to demonstrate that the disclosure was involuntary and thus not a waiver or privilege.

Finally, it may be noted that publication of the staff report and attached documents is ultimately protected by the Speech or Debate Clause of the Constitution, Art I, sec. 6, cl. 1, and that such publication, since it does not contain classified material, is unlikely to be sanctioned under the ethics rules of the House.

The purpose of the Speech or Debate Clause, which provides that "for any Speech or Debate in either House, (Members] shall not be questioned in any other place," is to assure the independence of Congress in the exercise of its legislative functions and to reinforce the separation of powers established in the Constitution. Eastland v. United States Servicemen's *Fund*, supra, 421 U.S. at 502–03 (1975). The Supreme Court has read the clause broadly to effectuate its purposes. Eastland supra; see also, United States v. Swindall, 971 F.2d 1531, 1534 (11th Cir. 1992). The clause protects "purely legislative activities", including those inherent in the legislative process. Chastain v. Sundquist, 833 F.2d 311, 314 (D.C. Cir. 1987) (quoting U.S. Brewster, 408 U.S. 501, 512), cert. denied, 487 U.S. 1240 (1988). The protection of this clause is not limited to words spoken in debate. "Committee reports, resolutions, and the act of voting are equally covered, as are things generally done in a session of the House by one of its members in relation to the business before it." Powell v. McCormack, 395 U.S. 486, 502 (1969). Thus, so long as legislators are "acting in the sphere of legitimate legislative activity," they are "protected not only from the consequences of litigation's results but also from the burden of defending themselves." Tenney v. Brandhove, 341 U.S. 367, 376–377 (1951). The clause has been held to encompass such activities integral to the lawmaking process as circulation of information to other Members, Doe v. McMillan, 412 U.S. 306, 311–312 (1973); Gravel v. United States, 408 U.S. 606, 625 (1972), and participation in committee investigative proceedings, and reports. DOE v. McMillan, supra; U.S. Servicemen's Fund v. Eastland, supra; Dombrowski v. Eastland, 387 U.S. 82 (1967); Tenney v. Brandhove, supra.

But the clause does not protect activities only casually or incidentally related to legislative affairs. Thus newsletters or press releases circulated by a Member to the public are not shielded because they are "primarily means of informing those outside the legislative forum." Hutchinson v. Proxmire, 443 U.S. 111 (1979). The key consideration in such cases is the act presented for examination, not the actor. Activities integral to the legislative process may not be examined, but peripheral activities not closely connected to the business of legislating do not get the protection of the clause. Walker v. Jones, 733 F.2d 927, 929 (D.C. Cir. 1984). Thus, dissemination directly to the press of the documents themselves or of staff reports that contain information that describes or quotes from the documents, may not come under the protection of the Clause. But dissemination of staff reports to Members of the Committee and their staff, or the inclusion of such reports, or the documents themselves, in the record of public sessions of the hearings, or the Congressional Record, are functions that are likely to be held "integral" to the legislative process and protected by the Clause. Indeed, since Gravel and the revelation of the classified Pentagon Papers on the floor of the Senate by Senator Gravel, the disclosure of less sensitive proprietary matter in legislative forums such as the floor or in hearings is unlikely to be successfully challenged. A review of ethics proceedings in the House since 1978 conducted by the House Committee on standards of official conduct indicates that there have been only two instances involving matter inserted in the Congressional Record. In one, Rep. Thomas L. Blanton (TX) was censured on October 22, 1921 for publishing a document in the Congressional Record that contained "indecent and obscene language." In 1977 a compliant against Rep. Michael J. Harrington (MA) for leaking classified information in the Record was dismissed upon finding that the information had not been properly classified. See Committee on Standards of official conduct, "Historical Summary of Conduct Cases in the House of Representatives," April 1992.

United States House of Representatives
Committee on Resources Staff Report

REDWOODS DEBT-FOR-NATURE AGENDA OF THE FEDERAL DEPOSIT INSURANCE CORPORATION AND THE OFFICE OF THRIFT SUPERVISION TO ACQUIRE THE HEADWATERS FOREST, JUNE 6, 2001

The records, documents, and analysis in this report are provided for the information of Members of the Committee on Resources pursuant to Rule X 2.(a) and (b) of the Rules of the House of Representatives, so that Members may discharge their legislative and oversight responsibilities under such rules. This report has not been officially adopted by the Committee on Resources and may not therefore reflect the views of its members.

PREFACE

Documentation References

Documentation is referenced in parentheticals throughout the text of this report. References to "Document A" are references to documents that were incorporated into the hearing record by unanimous consent by the Task Force on Headwaters Forest and Related Matters on December 12, 2000. These documents are contained in the files of the Committee and those that are referred to are reproduced in Appendix 1. Documentation referenced as "Record 1," "Record 2" etc. is documentation found in Appendix 2. Much of this documentation was not introduced as part of the hearing record, and it is provided for reference to substantiate key facts referenced in this report. References to "Document DOI A," "Document DOI B," etc. are references to documents that were incorporated into the hearing record by unanimous consent of the Task Force on December 12, 2000. These documents were produced to the Committee from the Department of the Interior. Appendix 4 contains the correspondence between the Committee and the bank regulators.

All documentation referenced in this report and attached in an appendix is necessary to contextually verify the information and conclusions reached in this report on subjects within and related to the jurisdiction of the Committee on Resources. The records, documents, and analysis in this report are provided for the information of Members pursuant to Rule X 2.(a) and (b) of the Rules of the House of Representatives, so that Members may discharge their responsibilities under such rules.

Role of the Committee on Resources: The Headwaters Forest Purchase and Management

Ordinarily, one would think that the Committee on Resources does not regularly interact or have jurisdiction over bank regulators. It is important to understand that the Committee on Resources has jurisdiction over the underlying law that initially authorized the purchase of the Headwaters Forest by the United States and management of the land by the Bureau of Land Management. That law was enacted in November 1997 and is P.L. 105–83, Title V, 111 Stat. 1610. That legislation was incorporated in an appropriations bill that funded the Department of the Interior.

Several conditions constrained the Headwaters authorization. One of those conditions was that any "funds appropriated by the Federal Government to acquire lands or interests in lands that enlarge the Headwaters Forest by more than five acres per each acquisition shall be subject to specific authorization enacted subsequent to this Act." This clause in the authorizing statute is commonly referred to as the "no more" clause, because it prohibits federal money from being used to expand the Headwaters Forest after the initial federal acquisition. This was part of the agreement between the Administration and the Congress when funds were authorized and appropriated for the purchase of the Headwaters Forest. The federal acquisition actually took place on March 1, 1999, the final day of the authorization, at which time all federal activity to acquire additional Headwaters Forest should have been dropped. Thus, the FDIC's lawsuit and the OTS's administrative action should be dropped.

This statute, including the "no more" clause, is part of the Committee's basis to compel bank regulators to provide documents and testimony about subjects related to the Headwaters Forest, debt-for-nature, redwoods, and related subjects. The sheer volume of material possessed by the banking regulators on subjects related to the Headwaters Forest, possible acquisition of Headwaters Forest, and redwoods debt-for-nature schemes provide more than adequate basis for the Committee's jurisdiction over these agencies about these subjects. Additionally, the banking regulators have submitted themselves, properly, to the jurisdiction of the Committee.

Use of Records and Documents

The FDIC and the OTS will undoubtedly complain that use of some of the records and documents disclosed in this report will jeopardize their case against Mr. Hurwitz, and that certain litigation privileges or a court seal apply to the documents; however, as stressed above, all documentation in this report and attached in an appendix is necessary to contextually verify the information and conclusions reached in this report. The documentation directly bears on subjects within and related to the jurisdiction of the Committee on Resources.

The records, documents, and analysis in this report are provided for the information of Members. Informing Members has legal basis in Article I of the Constitution and is implied because Members of Congress need accurate information to legislate. Indeed, the Committee has legislated on the Headwaters Forest. Informing members also has legal basis under rule X 2.(a) and (b) of the Rules of the House of Representatives. Members will be better able to discharge their responsibilities under such rules after reviewing the infomation in this report.

Some may believe that litigation privileges might prohibit use of the records not already part of the Task Force hearing records. However, litigation privileges do not generally apply to Congress. They are created by the judicial branch of government for use in that forum. Assertions of any litigation privileges by the FDIC or the OTS or Mr. Hurwitz related to documents that are disclosed in this report may still be made in the judicial forum.

Committee staff has redacted sensitive information (for example information unrelated to redwoods or debt-for-nature and information involving legal strategy) of certain records and documents to preserve the integrity of the judicial and administrative proceedings. It is expected that the FDIC and OTS may erroneously say that disclosure of certain documents and records will undercut their litigation position. While many of the documents and records disclosed may be quite embarrassing to the bank regulators, embarrassment is no basis for keeping the information about the unauthorized redwoods debt for nature scheme secret. Some sunshine will expose the unauthorized redwoods agenda of the bank regulators in this case and sanitize the system in the future.

Background and Summary

On December 12, 2000, the Task Force on Headwaters Forest and Related Matters held a hearing that exposed an evolving redwoods "debt-for-nature" scheme undertaken by bank regulators—the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS). Presented at that hearing was substantial documentation and testimony showing how federal banking regulators, swayed by an intensive environmentalist lobbying campaign, willingly became integral to a "debt-for-nature" scheme to obtain redwood trees.

In short, banking regulators provided the otherwise unavailable leverage for a federal plan to extort privately owned redwood trees. The leverage used was the threat of "professional liability" banking claims against Mr. Charles Hurwitz, a minority owner of United Savings Association of Texas (USAT), a failed Texas savings and loan.

Mr. Hurwitz was a favorite target of certain environmental activists who wished to obtain the large grove of redwood trees in northern California, redwoods that belonged to a company, the Pacific Lumber Company, also owned by Hurwitz. The environmental interests pressured Congress, the Administration, and the banking regulators to bring the banking actions against Mr. Hurwitz and USAT. The idea was that the actions or threat of actions would lever or even force Mr. Hurwitz into transferring redwood trees to the federal government.

The FDIC suit (Federal Deposit Insurance Corporation, as manager of the FSLIC Resolution Fund v. Charles Hurwitz, Civil Action No. H–95–3956) and the OTS administrative action (In the Matter of United Savings Association of Texas and United Financial Group, No. WA 94–01) against Mr. Hurwitz actually became what the environmentalists and political forces sought: the legal actions were the leverage for redwoods.

The bank regulators knew that their actions would be the leverage for such a debt-for-nature transaction. Between late 1993 and when the actions were initiated, the bank regulators became more and more enmeshed with the environmental groups, the Department of the Interior, and the White House in the redwoods debt-for-nature scheme. In the end, they ignored every prior internal analysis indicating that they would lose the USAT suit, so them teamed up and brought it administratively and in the courts.

Ultimately, the FDIC suit and their hiring of OTS to bring the separate administrative action forced Mr. Hurwitz to the negotiation table. The bank regulators, in concert with the Department of the Interior and the White House, actually baited Mr. Hurwitz into raising the redwoods issue first, so it would not appear that the bank regulators were seeking redwood trees. Indeed the bank regulators still try to propogate the fiction that Mr. Hurwitz somehow raised the issue first, but they can point to no document written evidence prior to September 6, 1995, when Mr. Hurwitz finally submitted and broached the possibility of swapping redwoods for bank claims.

After an intense banking regulator effort to get the redwoods that lasted from 1993 through 1998, the federal government and the State of California switched the plan and purchased the redwood land owned by Mr. Hurwitz's company. They did so as authorized by Congress (P.L. 105–83, Title V, 111 Stat. 1610).

After the federal purchase, the residue was: (1) fatally flawed banking claims that lacked merit; (2) bank regulators standing alone having been used politically by the White House and Department of the Interior; (3) a group of environmentalists still screaming "debt-for-more-nature;" (4) a federal judge who compared the tactics of the bank regulators to those of hired governments and the "Cosa Nostra" (the mafia); and (5) Mr. Hurwitz who was required to spend upwards of $40 million to fight the scheme. In short, the residue was a big mess.

However, not until the oversight review and December 12, 2000, hearing of the Task Force did the banking regulators' redwoods "debt-for-nature" motivation, which stumped their own negative evaluation of the merits of their case, become more fully understood. It was clear after the hearing that the "professional liability" claims would have been administratively closed—never even brought to the FDIC board by FDIC staff for action—had Mr. Hurwitz not owned Pacific Lumber Company and the Headwaters Forest redwood trees.

Instead, intense political pressure, intense environmental lobbying, and White House pressure to pursue the banking claims as leverage for redwoods outweighed the standard operating procedure to administratively close the USAT case, because there was no USAT case. Two sets of banking regulators—the FDIC and the OTS—became willing instruments and partners in the debt-for-nature scheme as they violated their own test for bringing "professional liability" claims. Bank regulators brought the claims against Mr. Hurwitz even though they were more likely than not to fail and were not cost effective.

The banking regulators' own assessment was that their action would have a 70% likelihood of failure on statute of limitation grounds alone. Even if the claims survive the statute of limitation challenges, their own cerebral assessment put less than a 50% likelihood of success on the merits of their claims. These are not the conclusions of the Task Force, although some Members may well agree with them; they are the conclusions of the bank regulators themselves.

Moreover, the bank regulators (OTS and FDIC) held numerous meetings about the redwoods debt-for-nature scheme, and at a critical juncture right before they reversed their recommendation to the FDIC board, they met with DOI. The bank regulators walked away from that meeting knowing that [i]f we drop [our] suit, [it] will undercut everything." (Record 21). This is the meeting that most likely ensured that the leverage for the redwoods desired by the DOI and the Clinton Administration would become real through filing legal and administrative actions.

These contacts were far outside of normal operating practice for banking regulator and were described by the former Chairman of the FDIC as "shocking" and "highly inappropriate" (Hearing Transcript, 43–44).

In addition, the former FDIC Chairman told the Task Force that environmental reference to redwoods does not have "any relevance whatsoever [on] whether or not you [the FDIC] sue[s] Charles Hurwitz and Maxxam over the failure of United Savings. Whether they own redwood trees or not is absolutely, totally irrelevant." (Hearing Transcript, page 45). This stinging rebuke from a past FDIC Chairman is a fitting assessment of the actions of an agency caught up in a debt-for-nature agenda that was too big, too political, and too unrelated to its statutorily authorized purpose.

While there were many factors that nudged the FDIC, and by association the OTS, into the debt-for-nature scheme—its own outside counsel, the law firm of Hopkins & Sutter—provided early and direct links into the environmental advocates who lobbied and advocated for federal acquisition of the Headwaters Forest through a debt-for-nature scheme. In fact, they were selected over as outside counsel other firms because of their environmental connections and ability to handle a redwoods debt-for-nature swap.

In addition, the predisposition of the legal staff of the FDIC and OTS, the strong desires of Department of the Interior and the White House, the creative lobbying of the Rose Foundation and the radical Earth First! protesters (whose effect was felt and noted in the FDIC Board Meeting discussions during consideration of the USAT matter) all allowed the redwoods debt-for-nature scheme to pollute FDIC and OTS decision-making about the potential claims over USAT's failure. Very little if any documentation provided to the Task Force justified, on a substantive basis, the decision to proceed with the banking actions against Mr. Hurwitz and the other USAT officers and directors.

Redwoods and "debt-for-nature" were not part of banking regulators decision-making or thought process early in the investigation of possible USAT banking claims—from December 1988 through about August 1993. The notion was first introduced to the FDIC in November 1993, when the redwoods debt-for-nature proposal sent to them by Earth First! was "reviewed" by FDIC lawyers. The first Congressional lobbying of bank regulators promoting redwoods debt-for-nature occurred by letter on November 19, 1993. The first known in-person lobbying of bank regulators by a Member of Congress about potential claims of bank regulators being swapped for redwoods occurred in February 1994. The tainting of any possible legitimate banking claims began with the occurrence of that very unusual meeting.

The documents and records show how the redwoods debt-for-nature notion ultimately permeated bank regulators decisions while they developed and brought their claims against Mr. Hurwitz. As the claims were kept active during fourteen tolling agreements between bank regulators and Mr. Hurwitz as the leverage against him for redwoods using those claims was applied. And when the claims were authorized and then filed on August 2, 1995, the claims became more leverage.

In the end, the evidence is clear that, but for the environmentalists pressure to get redwoods through debt-for-nature and, but for Congressional pressure to get leverage on Mr. Hurwitz to submit and give up his redwoods to the government, the banking claims would not even have been brought.

Interestingly, it was unknown early in that process whether a settlement for potential USAT claims would be viable at all or include redwoods, or whether the government would possibly purchase the redwoods. In any case, the threat of and actual FDIC and OTS claims brought Mr. Hurwitz to the negotiating table. Prior to the claims being filed, the FDIC conspired with the White House and the Department of the Interior about the importance and role of the banking claims to advance the debt-for-nature redwoods agenda. The OTS was present during some of those meetings and was reportedly "amenable" to the redwoods debt-for-nature strategy.

Even after the outright federal acquisition, which was by purchase, the call became "debt for more nature," through a continued use of the bank regulators leverage of suits that were in process already. The claims continued to be used by the federal government to lever Mr. Hurwitz for more nature, at that juncture arguably in violation of the authorizing statute.

What remained at the end of the day were filed claims that would not have been brought under ordinary circumstances had Mr. Hurwitz not owned redwoods. The bank bureaucracy, with its reason for bringing the claims in the first place having evaporated, continued the fiction: they continued propagating the false notion that redwoods and debt-for-nature had nothing to do with their bringing the USAT claims. Mr. Hurwitz raised it first, they said, even as the FDIC told Department of the Interior that they needed an "exit strategy" from the redwoods issue. If redwoods had nothing to do with bringing or pursuing the claims in the first place, then there would be no need for an "exit" strategy from the redwoods issue.

The documentation discovered by Chairman Young and Task Force Chairman Doolittle, which is explained in this report, dispels the notion that Mr. Hurwitz raised the redwoods debt-for-nature first. To the contrary, the federal government, bank regulators included, actually baited Mr. Hurwitz into raising it, and they became uncomfortable when he had not raised it nearly a year after the FDIC suit was filed and months after the OTS suit was brought.

This report synthesizes records and information about the redwoods "debt-for-nature" scheme of banking regulators, the information subpoenaed from the FDIC and OTS, and the information collected at the December 12, 2000, hearing of the task force.

Ordinary Role of the FDIC and OTS; Regulate Banks and Recover Money

As a starting point, it is helpful to understand the ordinary and authorized role of bank regulators when financial institutions fail. The FDIC is the independent government agency created by Congress in 1933 to maintain stability and public confidence in the nation's banking system by insuring deposits. The FDIC administers two deposit insurance funds, the Bank Insurance Fund for commercial banks and other insured financial institutions and the Savings Association Insurance Fund for thrifts.

Other than its deposit insurance function, the FDIC is the primary regulator for banks. It supervises, monitors, and audits the activities of federally insured commercial banks and other financial institutions. The FDIC is also responsible for managing and disposing of assets of failed banking and thrift institutions, which is what it did concerning USAT, 24 percent of which was owned by Mr. Charles Hurwitz. In connection with its duties associated with failed banks, the FDIC manages the Federal Savings and Loan Insurance Corporation Resolution Fund, which includes the assets and liabilities of the former FSLIC and Resolution Trust Corporation.

The OTS is the government agency that performs a similar functions to that of the FDIC for thrifts insured through a different insurance fund. The OTS is the primary regulator for thrifts. The responsibilities of the FDIC and OTS overlap in certain instances. The OTS has explained how the two agencies divide those shared responsibilities: the FDIC "seek[s] restitution from wrongdoers associated with failed thrifts" and the OTS "focus[es] on preventing further problems." The USAT case is an exception to these stated policies of federal institutions.

Nowhere in the statutes authorizing the OTS or the FDIC is there authority to pursue "professional liability" claims or other claims for purposes of obtaining redwood trees or "debt-for-nature" schemes. The sole purpose of such actions with respect to failed institutions is to recover funds or cash—not trees and not nature.

The mission of recovering cash was acknowledged by the OTS and FDIC. See, Hearing Transcript, page 63, 64, Ms. Seidman (OTS) answered: "Our restitution claim is brought for cash." Ms. Tanoue (FDIC) answered: "[T]he FDIC considered all options to settle claims at the encouragement of Mr. Hurwitz and his representative agency, looked at trees, but the preference has always been for cash.") Indeed, this may be why the FDIC and the OTS have consistently maintained that Mr. Hurwitz was the first to bring the notion of redwood trees to them. It is the only position they can take that is consistent with their underlying authority. This being the case, there should have been few, if any, records concerning redwoods produced to the Committee. To the contrary, the records produced were voluminous—and redwoods were even a topic discussed by the FDIC board when it reviewed whether to bring suit regarding USAT.

Chronological Facts and Analysis Regarding the FDIC and OTS Pursuit of USAT Claims

1986: Mr. Hurwitz Buys Pacific Lumber Company and Its Redwood Groves

Mr. Charles Hurwitz owns Pacific Lumber Company. He acquired it in a hostile takeover on February 26, 1986, using high yield bonds. Pacific Lumber Company owned the Headwaters Forest, a grove of about 6,000 acres of old redwood trees. That property became desired by environmental groups because of the redwood trees.

After Mr. Hurwitz bought Pacific Lumber Company, he and the company became a target of several environmental groups when the company increased harvest rates on its land. Harvests were still well within sustainable levels authorized under the company's state forest plan, but harvest rates were generally greater than prior Pacific Lumber Company management undertook.

Environmentalist publicly framed the Hurwitz takeover of Pacific Lumber Company, as that by a "corporate raider" who floated "junk bonds" to finance a "hostile takeover" of the company to simply cut down more old redwood trees. It is unclear whether framing this issue in such a way had more to do with intense fundraising motivations aligned with certain environmental groups described in the recent Sacramento Bee series about financing the environmental movement (*www.sacbee.com/news.projects/environment/20010422.html*) or more to do with ensuring that trees are not cut.

At this juncture, Mr. Hurwitz and Pacific Lumber Company were targets of environmentalists, but his opponents had little leverage to stop the redwood logging on the company's land other than the traditional Endangered Species Act or State Forest Practices Act mechanism.

1988: Hurwitz's 24% Investment in Texas Savings and Loan is Lost

Mr. Hurwitz also owned 24% of USAT, a failed Texas-based thrift bank. The bank failed on December 30, 1988, just like 557 banks and 302 thrifts failed in Texas between 1985 and 1995 resulting from the broad-based collapse of the Texas real estate market. As a result of the failure, the banking regulators say they paid out $1.6 billion from the insurance fund to keep the bank solvent and secure another owner. That number has never been substantiated by documentation.

Because Hurwitz owned less than 25% of the bank, and because he did not execute what is known as a "net worth maintenance agreement," he was not obligated to contribute funds to keep the bank solvent when it failed. Such agreements (or obligations when a person owns 25 percent or more of an institution) are enforced through what is known as a "professional liability" action brought by bank regulators.

In certain cases, the FDIC and OTS are authorized by law to bring to recover money is for the "professional liability" against officers, directors, and owners of failed banks. The idea is to recover restitution—money—it took to make failed institutions solvent. This type of claim was brought against Mr. Hurwitz by the bank regulators at OTS after they were hired to do so by the FDIC. The nature of "professional liability" claims are explained well in bank regulator's publication as follows: "Professional Liability [PL] activities are closely related to important matters of corporate governance and public confidence. . . . [They] strengthen the perception and reality that directors, officers, and other professionals at financial institutions are held accountable for wrongful conduct. To this end, the complex collection process for PL claims is conducted in as consistent and fair a manner possible. Potential claims are investigated carefully after every bank and savings and loan failure and are subjected to a multi-layered review by the FDIC's attorneys and investigators before a final decision is rendered on whether to proceed. . . ." (Managing the Crisis: The FDIC and the RTC Experience 1980–94, published by FDIC, August 1998, page 266)

Indeed, the bank regulators at the FDIC undertook an investigation of USAT beginning when USAT failed on December 31, 1988, to determine what claims they might have against USAT officers, directors, and owners.

1989-September 1991: Investigation Continues

The investigation of USAT proceeded, and interim reports were issued by law firms investigating potential USAT claims for the FDIC. Environmentalists initiated various non-banking campaigns to block redwoods timber activities of Pacific Lumber Company on their Headwaters land.

October 1991-November 1993: Bank Regulators Find No Fraud, No Gross Negligence, No Pattern of Self-Dealing

By October 1991, the bank regulators determined that there was no "intentional fraud, gross negligence, or pattern of self-dealing" related to officer, director or other professional liability issues related to the failure of USAT (Document B, page 7). They also determined that there was "no direct evidence of insider trading, stock manipulation, or theft of corporate opportunity by the officers and directors of USAT." (Document B, page 7). They also determined that there was "no direct evidence of insider trading, stock manipulation, or theft of corporate opportunity by the officers and directors of USAT." (Document B, page 14). Bank regulators said that the USAT "directors' motivation was maintenance of the institution in compliance with the capitalization requirements and not self gain or violation of their duty of loyalty." (Document B, page 17). There being no wrongful conduct, bank regulators concluded that they had no valid basis to pursue banking claims against the owners of USAT to recover money for its failure.

In spite of the determination that there was no basis to file a claim regarding USAT, a determination that was unknown to Mr. Hurwitz or the other potential defendants at the time, the banking regulators and Hurwitz made numerous agreements beginning November 22, 1991, expiring July 31, 1995, to toll the statute of limitations. This gave the bank regulators more time to investigate while they withheld filing of a claim. These agreements are fairly routine in complex cases like USAT.

Beginning in August 1993 while the statute was still tolled, several actions to attempt to acquire the Headwaters Forest were taken in Congress and urged by environmental groups. For example, on August 4, 1993, Rep. Hamburg introduced a bill to purchase 44,000 acres (20 percent) of the Pacific Lumber Company's land and make it into a federal Headwaters Forest. In August 1993, the first contact between the Rose Foundation (the primary environmental proponent of advancing USAT claims against Hurwitz to obtain Pacific Lumber redwoods) and attorneys for the FDIC was made.

As early as November 30, 1993, FDIC attorneys were aware of the Hamburg Headwaters bill and "materials from Chuck Fulton re: net worth maintenance obligation" (Record 3A). The handwritten FDIC memo from Jack Smith to Pat Bak notes that the professional liability section "is supposed to pursue that claim." It reminds her not to "let it fall through the crack!" And if the claim is not viable, the banking regulators "need to have a reliable analysis that will withstand substantial scrutiny." (Record 3A).

Pressure to advance claims against Hurwitz in connection with the redwoods in a debt-for-nature swap came in a variety of forms to the FDIC. It first came from Congress on November 19, 1993, in a letter to the FDIC Chairman from Rep. Henry B. Gonzalez, Chairman of the House Committee on Banking (Record 2). Numerous written Congressional contacts with the banking regulators, most urging FDIC or OTS to bring claims against Hurwitz occurred in late 1993 when the debt-for-nature scheme was framed and subsequently over the years.

On the same day, Bob DeHenzel, an FDIC lawyer, got an e mail about a "strange call" regarding USAT (Record 1). It was received by Mary Saltzman from a Bob Close, who claimed to be "working with some environmental groups" and wished to talk to whoever was investigating the USAT matter. He had detailed knowledge about the $532 million claim related to USAT and Charles Hurwitz. He made the comment that "people like Hurwitz must be stopped." He said he was working with an environmental group called EPIC in Northern California. Paul Springfield, an FDIC investigator, documented a conversation he had with DeHenzel that day (Friday, November 19, 1993) about the call from Bob Close. Mr. Springfield verified that the FDIC lawyer, Mr. DeHenzel, was familiar with a Hurwitz connection to forest property: "He [DeHenzel] had some knowledge of the nature of the inquiry [by Mr. Close] as well as the attorney Bill Bertain disclosed by Close. DeHenzel stated that this group was involved in fighting a takeover action of some company by Hurwitz involving forest property in the northwestern United States. Apparently they are trying to obtain information to utilize in their efforts." (Record 1).

Then on November 24, 1993, Mr. DeHenzel, faxed a November 22, 1993, memo he received on November 22, 1993, from the radical group Earth First! to another FDIC staff member. That memo laid out the "direct connection between the Savings and Loans, the FDIC and the clearcutting of California's ancient redwoods." (Document E). The memo introduced the concept that the USAT "debt" (which were only potential claims that FDIC internal analysis had already concluded had no basis) should be traded for Pacific Lumber Company redwoods. An excerpt of the memo lays out the scheme: "Coincidently, Hurwitz is asking for more than $500 million for the Headwaters Forest redwoods. So if your agency can secure the money for his failed S&L, we the people will have the funds to buy Headwaters Forest. Debt-for-nature. Right here in the U.S. That's where you come in. Go get Hurwitz." (Document E)

The FDIC apparently took Earth First! seriously. Within one month, the FDIC lawyers reported to the acting chairman in a memo that they were "*reviewing a suggestion by 'Earth First' that the FDIC trade its claims against Hurwitz for 3000 acres of redwood forests owned by Pacific Lumber, a subsidiary of Maxxam,*" (emphasis supplied) (Document G, December 21, 1993, Memorandum to Andrew Hove, Acting Chairman, From Jack D. Smith, Deputy General Counsel). The handwritten note on the top of the page indicates that the acting chairman Hove was orally briefed about the USAT situation prior to the memo.

Thus, well before Mr. Hurwitz raised the issue of redwoods and debt-for-nature directly with the FDIC in August or September 1996 with the bank regulators, its lawyers had received written proposals from the radical group Earth First!, and the FDIC was undertaking a review of the proposals. These were proposals making the connection between Hurwitz, the redwoods, and USAT bank claims.

Then in the close of 1993, a press inquiry report to Chairman Hove on debt-for-nature and the redwoods was received and documented from the Los Angeles Times. The press question was whether FDIC lawyers have considered whether "we could legally swap a potential claim of $548 million against Charles Hurwitz (stemming from the failure of United Savings Association of Texax) for 44,000 acres of redwood forest owned by a Hurwitz controlled company." (Record 3B)

The redwoods debt-for-nature scheme had been introduced via these various venues during 1993. At the same time FDIC's own analysis had shown absolutely no basis for a banking claim lawsuit involving USAT. However, it was not until early 1994 when the FDIC and their agent, the OTS, adopted the redwoods debt-for-nature scheme, and it became inextricably intertwined in its USAT bank claims. Ironically, it was political forces that inticed the bank regulators, who are supposed to act on bank claims without political influence, into wholesale and willing adoption of the redwoods debt-for-nature scheme.

1994: Undisclosed Congressional Meetings Lobbying on the Redwoods "Debt-For-Nature" Plan

By February 2, 1994, the FDIC attorneys knew the weakness of several of its net worth maintenance claims and it acknowledged that it "can point to no evidence showing that either UFG or Hurwitz signed a net worth maintenance agreement" (Record 5, page 6). They acknowledged the weakness in a status memo (Record 5).

As a result, the FDIC teamed up with the OTS to have OTS attempt to construct an "administrative" net worth maintenance claim against Mr. Hurwitz and his company that owned the redwoods. They believed (but offered no proof that) "the actual operating control of [MCO, FDC, and UFG] was exercised by Charles Hurwitz." (Record 5, page 9). In short, FDIC did not have a claim, but the OTS may be able to bring an action in an administrative forum that was much more conductive to bank regulators, so the FDIC would hire the OTS.

The net worth maintenance claim was important because if it could be established on the facts (i.e., if Mr. Hurwitz owned 25 percent of USAT or he was somehow in control of USAT) it could mean he would be liable for that percentage of the USAT loss, which totaled $1.6 billion. In that way the bank regulators could conceivably get into Mr. Hurwitz's assets, including his holding company assets which included the redwoods.

However, in written correspondence and at the Task Force hearing on December 12, 2000—the FDIC and the OTS denied that the litigation concerning USAT and Mr. Hurwitz had anything to do with redwoods. They also denied that their discovery tactics were improper or for the purpose of "harassment." One exchange at the hearing between Mr. Kroener, the FDIC's General Counsel and Chairman Doolittle, however, typifies the response to the question of whether the bank regulators' litigation had anything to do with redwoods or leveraging redwoods:

Mr. DOOLITTLE. . . . Did this litigation or discovery tactic [harassment through discovery] have anything to do with redwoods or the desire to create a legal claim to leverage redwoods?

Mr. KROENER. It did not. . . .

(Hearing Transcript, page 99)

While they have publicly denied any linkage, their own written words show the opposite. There was indeed a scheme involving politicizing bank claims against Mr. Hurwitz. Mr. Kroener's answer and the repeated denials of a linkage is purely wrong.

A superb example of just how wrong Mr. Kroener's answer was is contained in the previously unreleased meeting notes from a February 3, 1994, meeting between FDIC legal and Congressional staff and a U.S. Congressman. The redwoods debt-for-nature linkage was the point of the meeting.

The high ranking FDIC lawyers working on the redwoods case—Mr. Jack Smith, FDIC Deputy General Counsel, and Mr. John Thomas—and a Rep. Dan Hamburg met on February 3, 1994, to discuss to potential banking claims targeting Mr. Hurwitz. (Record 2A).

The fact that the meeting occurred at all—especially that it occurred eighteen months prior to the USAT claim being authorized or filed—and the notes from the meeting evince that leverage for redwoods was promoted by FDIC lawyers. The notes also show that the FDIC knew claims targeting Hurwitz were invalid and probably could not be used as leverage (Record 2A). Highlights of the Spittler (Record 2A, page ES 0509) meeting notes are as follows:

Rep. Hamburg had "an immediate interest in the case," probably because he had a bill pending to purchase the Headwaters, and the proposal from environmentalists in his district to swap the Hurwitz banking claim "debt" for redwoods had been generally floated. (Record 8A, The Humboldt Beacon, Thursday, August 26, 1993, Earth First! Wants 98,000; 4,500 Acres Tops, PL Says.)

According to Spittler's notes, which are (Record 2A), Rep. Hamburg said he was "interested enough over potential filing of the complaint to ask what is about to proceed." And Hamburg [r]ealized that this possible avenue would be lost." The "avenue" he was referring to was applying leverage against Mr. Hurwitz for a redwoods debt-for nature swap, and Jack Smith obviously understood this. According to Spittler's notes, Smith replied, it is "very difficult to do a swap for trees," which means Smith knew that the authority of the FDIC to recover restitution in trees was difficult or impossible.

Smith then told Hamburg about the USAT investigation: "The investigation has looked at several areas. [One c]laim [is] on the net worth maintenance agreements." (Record 2A) The other FDIC attorney present, Mr. John Thomas, acknowledged the fatal flaw of FDIC's claim: "[There] have been attempts to enforce this, [referring to the net worth maintenance agreement." Thomas then said, "we can't find signed agreement [between] FSLIC [and USAT/Hurwitz]. We never found the agreement." (Record 2A) Thomas was absolutely correct—because there never was a net worth maintenance agreement signed by Mr. Hurwitz.

Besides the highly irregular nature of any communication between the FDIC and anyone about a case under investigation this communication is incredible for two reasons. First, it shows the willful manner in which FDIC volunteered to get involved in a political issue and mix potential claims with the redwoods issue. The meeting notes prove that the FDIC lawyers actually secretly briefed a Congressman about the specifics of an ongoing investigation that would become mixed with a political issue.

Second, the timing of the Congressional strategy session was eighteen months before the FDIC board had not even approved filing a claim against Mr. Hurwitz—and its lawyers were then discussing the specifics their investigation of a potential claim in the context of the scheme that would use the potential claim to obtain redwood trees. The highly irregular nature of this early meeting injected a political dynamic to a case still under investigation. This was obvious to former FDIC Chairman, Bill Isaac. He testified to the Task Force that the—"discussions that occurred between FDIC staff and people outside the Agency prior to and during litigation were inappropriate. The fact that those discussions occurred exposes the FDIC and the OTS to the charge that the motivation for their litigation was to pressure Charles Hurwitz and Maxxam to give up their private property, the redwood trees owned by Pacific Lumber. . . . [T]heir repeated contacts with parties with whom they have no business discussing this litigation, congressional and administrative officials and environmental groups, leaves them open to whatever negative conclusions one might care to draw." (Hearing Transcript, pages 15–16).

Mr. Isaac noted the impropriety later again in the hearing. "—that really would have shocked me as chairman to see the FDIC staff having meetings with people outside the Agency about the redwood trees, and . . . congressional officials about a possible litigation we're thinking about bringing involving redwood trees; you know, somehow tying these redwood trees into it, and getting that mixed up in our decision as to whether to bring a suit over the failure of a bank." (Hearing Transcript, page 44–45).

The content of the meeting between Hamburg, Smith (as opposed to the fact that the meeting even occurred), is even more appalling considering Jack Smith's next comment. According to Spittler's notes, he said "If we can convince the other side [Hurwitz] that we have claim[s] worth $400 million & they want to settle, could be a hook into the holding company." Of course, the "convincing" about valid claims was the leverage, and the "hook" into the holding company was getting company assets, including redwood trees. This was redwoods debt-for-nature. FDIC was part of the redwoods scheme.

Not only does this show that the idea about debt-for-nature was real to the FDIC lawyers, it shows when they promoted it at a congressional meeting in February 1994, more than 18 months before the FDIC lawsuit against Hurwitz was even authorized by the board and 17 months before, according to Mr. Kroener's testimony, Mr. Hurwitz "indirectly" raised the debt-for-nature swap with the FDIC through the Department of the Interior. Contrary to Mr. Kroener's representations to the Task Force, the FDIC legal staff was deeply ensconced in the redwoods debt-for-nature scheme well before Mr. Hurwitz raised redwoods with bank regulators.

The contents of the meeting shows irresponsible ends-driven government, from almost any perspective. Mr. Smith was not even talking about investigating and bringing valid legitimate bank claims. He was only talking about "convincing" Mr. Hurwitz that "we have claims." This may even be unethical, because he implied that an invalid, unviable claims (the net worth maintenance claim) may be used as leverage to get redwoods from Mr. Hurwitz.

The FDIC is supposed to be an "independent agency," that is, it is supposed to insulate itself from political pressure and disputes. FDIC legal staff suddenly injected themselves into a political issue of emerging national prominence (redwood trees and debt-for-nature using banking claims), an issue beyond the normalcy of banking recovery actions. The meeting notes show that the FDIC attorneys engaged to promote the issue of a debt-for-nature swap, and that the design was to merely "convince the other side" that the FDIC had claims worth $400 million that the agency knew it did not have. This is a sad, sad statement from an "independent" government agency, and it is only the early part of the slide for the FDIC.

Buttress what the FDIC lawyers said in the February 1994 meeting to Rep. Hamburg about trees and claims, against what Mr. Kroener and the other bank regulators told the Task Force in sworn testimony.

Mr. POMBO. Ms. Seidman and Ms. Tanoue, the FDIC and the OTS have repeatedly said to the public and the Congress, including this morning, that what the agency wanted from USAT claims was cash, is that correct?

Ms. SEIDMAN. Yes. Our restitution claim is brought for cash. As to any further discussions both relating to the decision to bring the claim that way and subsequent settlement discussions, none of which I took part in, I would defer to Ms. Buck.

Ms. TANOUE. I will also say that the FDIC considered all options to settle claims, at the encouragement of Mr. Hurwitz and his representative agency, looked at trees, but the preference has always been for cash. . . .

At a minimum, Ms. Tanoue is misleading. Eighteen months prior to even having a claim to settle or having a claim authorized or having a claim filed, her agency's top lawyers were sitting in a Congressional office talking about "convincing the other side" that "we have claims worth $400 million" and getting "hook" into a holding company that owns redwoods.

Mr. POMBO. At what point did you start looking at the other options, and you mention trees?

Ms. TANOUE. Much of this discussion occurred before my tenure. I turn to Mr. Kroener for elaboration on that point.

Mr. KROENER. . . . We were first offered trees or natural resources assets by representatives of Mr. Hurwitz indirectly in July of 1995.

There had obviously been a huge public debate going on regarding this forest. We were not part of that but we had lots of communications, other got lots of communications, . . . [and our chairman and general counsel] had responded to inquiries of Congress that were mindful that trees could come into play in our claims, but our claims didn't involve trees; they involved cash. (Hearing Transcript, pages 63–65)

Obviously their claims involved cash, because by law their mission is to replenish the insurance fund with money. Mr. Kroener was wrong when he said their claims did not involve trees, and trees certainly came into play as evidenced by the February 1994 the e Rep. Hamburg-Smith-Thomas meeting. Indeed trees were the motivating force that led the FDIC to promote net worth maintenance claims to the OTS.

The clear implications of Ms. Tanoue's answer is that Mr. Hurwitz was the first to bring the redwoods into a possible settlement, but we know that FDIC lawyers were scheming in February 1994 with a Member of Congress to get a banking claim "hook" into the redwoods holding company owned by Mr. Hurwitz. Mr. Hurwitz was not the one who first brought the redwoods into banking claim issue—the environmental groups, FDIC lawyers, and certain Members of Congress had already done so by that point.

Perhaps Mr. Kroener did not read the meeting notes that he provided to the Task Force about the February 1994 meeting between FDIC lawyers and Rep. Hamburg when he told the Task Force that FDIC claims did not involve trees until July 1995 when Mr. Hurwitz raised the redwoods to the FDIC indirectly through the Department of the Interior. The claims did involve trees—convincing the "other side" that there is a $400 million claim and they may "want to settle," which gets the FDIC into the Hurwitz holding company that has the redwood trees.

As to Ms. Seidman, she stated a fact—that the OTS claim was for cash, which is technically all that it could be for. What she omits is that the FDIC had imparted the redwoods debt-for-nature agenda directly to the OTS on the heals of the February 3, 1994, meeting between FDIC and Rep. Hamburg—and the FDIC did so because its claims were too weak and too small to provide enough leverage for the redwoods (See, Record 33, Record 35 and accompanying discussion infra).

It took less than 24 hours following the FDIC-Rep. Hamburg meeting for the FDIC Deputy General Counsel, Jack Smith, to write to Carolyn Lieberman (now Carolyn Buck), the top lawyer at OTS. (Record 6). The letter (1) forwarded legal analysis of the net worth maintenance claim against the Hurwitz's holding company that owned the redwoods; (2) admitted that FDIC had no net worth maintenance claim; (3) prodded OTS to review whether it could administratively bring a net worth maintenance claim; and (4) in an incredible admission of purpose and intent, the letter notified OTS about the redwoods debt-for-nature scheme. The last paragraph of the one page letter reads: "You should be aware that this case has attracted public attention because of the involvement of Charles Hurwitz, and environmental groups have suggested that possible claims against Mr. Hurwitz should be traded for 44,000 acres of North West timber land owned by Pacific Lumber, a subsidiary of Maxxam. Chairman Gonzales has inquired about the matter and we have advised him we would make a decision by this May. After you have reviewed these papers, please call me or Pat Bak (736-0664) to discuss the next step and to arrange coordination with our professional liability claims." (Record 6)

Clearly, this action, immediately after the FDIC strategy meeting with Rep. Hamburg constitutes direct engagement of the FDIC to promote the claim that would become the leverage for the redwood debt-for-nature scheme.

It is worth stressing that the FDIC that wrote this letter on the heals of the Rep. Hamburg meeting is the same FDIC that testified to the Task Force that their litigation did not have anything to do with trees. How could it not when the FDIC told the OTS that it promised Rep. Gonzalez that the agency "would advise him of its decision" about an environmental group suggestion "that possible claims against Mr. Hurwitz should be traded for 44,000 acres of North West timber land owned by Pacific Lumber."

This is debt for nature. It was real in February 1994. It ultimately overrode the fact that the FDIC knew its claim was weak and it led almost immediately to the FDIC hiring the OTS to promote the net worth maintenance claim against Mr. Hurwitz.

This letter was sent three months prior to FDIC hiring OTS to pursue the net worth maintenance claim that FDIC knew it did not have. Importantly, it was sent immediately after the Rep. Hamburg meeting—the meeting that tied Mr. Hurwitz's holding company's redwood trees to the USAT net worth maintenance claim against Mr. Hurwitz. The FDIC prompted and then paid the OTS to pursue this claim by supposedly using its independent statutory authority.

In effect, the FDIC scheme beginning at least in February 1994, polluted the OTS action. What was a "hook" into the "holding company" that owned the redwoods for FDIC, was a "hook" into the holding company for the OTS. In fact, without the FDIC money (which by 1995 totaled $529,452 and by 2000 totaled $3,002,825), OTS's five lawyers and six paralegals advancing the claims against Mr. Hurwitz would have been unfunded—and probably not advanced the claim. And without the net worth maintenance claim—by far the largest claim—there would be no hook into Mr. Hurwitz, therefore no hook into his redwoods.

It is helpful to understand why Mr. Smith told Rep. Hamburg that it is "very difficult to do a swap for trees." It was very difficult for two reasons. First, the claims would not ordinarily be brought because they would fail on the merits, so it would be difficult to exchange a claim that would not have been ordinarily brought. The bank regulators manual explains their policies from 1980 through 1994 for bringing claims as follows: "No claim is pursued by the FDIC unless it meets both requirements of a two-part test. First, the claim must be sound on its merits, and the receiver must be more than likely to succeed in any litigation necessary to collect on the claim. Second, it must be probable that any necessary litigation will be cost-effective, considering liability insurance coverage and personal assets held by defendants." (Managing the Crisis: The FDIC and the RTC Experience 1980-94, published by FDIC, August 1998, page 266)

Second, the claims would be for restitution, and the FDIC could not accept trees in settlement. The FDIC even admits that they would need "modest" legislation to accept trees, which is an admission that their purpose in seeking redwoods is indeed unauthorized.

However, it was political pressure, such as that applied by environmental groups in 1993 and Rep. Hamburg beginning in 1994, that led the willing FDIC (and ultimately its agent, the OTS, after FDIC began paying OTS in May 1994) into ignoring the mission of recovering money on cost effective banking claims.

Instead the FDIC adopted unauthorized missions of providing leverage through lawsuits that are unsound on the merits and would "convince" (the word used by Mr. Smith) Mr. Hurwitz that FDIC had a claim of "$400 milllion" so that they could get a "hook into the holding company" and settle the claim for redwood trees. This was exercise of leverage pure and simple.

February 2 through 4, 1994, were important redwoods debt-for-nature days for the FDIC's legal team. There was the FDIC memo admitting that it had no net worth maintenance claim. Then there was the meeting with Rep. Hamburg about the redwoods scheme. Then there was an odd, but revealing e mail sent by FDIC's congressional liaison, Eric Spittler, to Jack Smith on February 4, 1994, about a conversation he had with Smith on February 3, 1994, the same day as the Rep. Hamburg meeting. The message was about the selection of an outside law firm to act as counsel on the USAT matter: "Jack, I thought about over conversation yesterday. My advice from a political perspective is that the "C" firm [Cravath] is still politically risky. We would catch less political heat from another firm, *perhaps one with some environmental connections*. Otherwise, they might not criticize the deal but they might argue that the firm [Cravath] already got $100 million and we should spread it around more." (emphasis supplied) (Document I)

Indeed, "environmental connections" were a factor in selection of the outside counsel for the USAT matter. A February 14, 1994, memo about "Retention of Outside Counsel" for the USAT matter (Record 15) from various FDIC lawyers to Douglas Jones, FDIC's acting General Counsel, trumpets the ability of the firm ultimately selected, Hopkins & Sutter, to handle a redwood debt-for-nature settlement: "The firm [Hopkins & Sutter] has a proven record handling high profile litigation on behalf of the [FDIC] and, drawing on its extensive representation of the lumber industry, will be able to cover all aspects of any potentially unique debt for redwoods settlement arrangements." (Record 15, page 8).

The FDIC was clearly planning—even in February 1994 with the selection of an outside counsel—for a redwoods debt-for-nature swap as part of a settlement! This was before they even knew if their potential claims were really claims, and before the FDIC Board had authorized filing of any claims. From the FDIC's perspective, an outside counsel law firm with "environmental connections" that can "cover all aspects of any potentially unique debt for redwoods settlement" is the only choice. (Record 15).

So in February 1994, the FDIC—which denies to this day its litigation against Mr. Hurwitz has any linkage to a redwoods debt-for-nature scheme—selected the outside counsel for the USAT matter because it could handle a debt for redwoods settlement. This firm was an ideal choice for a bank regulator with an agenda to get a "hook" into a holding company that has redwood tree assets that might be traded for bank claims—if they can "convince" the other side that they have valid claims. Mr. Hurwitz's redwood trees were targeted a year and a half before the bank claims were authorized to be filed and seventeen months before he supposedly raised the issue of redwoods "first" with the FDIC.

The FDIC, its lawyers and acting chairman knew of the linkage between bank claims and redwoods, as did their outside counsel, Hopkins & Sutter, which even facilitated numerous contacts, information exchanges, strategy sessions, and meetings during the remainder of 1994 between the bank regulators and environmentalist proponents of a Hurwitz debt-for-nature redwoods swap.

But Ms. Tanoue and Mr. Kroener testified that redwoods had nothing to do with the litigation, hardly an accurate proposition in light of the fact that the FDIC's outside counsel was selected because of their environmental connections and ability to handle a "unique debt for redwoods settlement." (Record 15)

Indeed, Hopkins & Sutter's "environmental connections" paid off—to the environmentalists advocating a redwoods debt-for-nature scheme. F. Thomas Hecht, the lead partner at Hopkins & Sutter on the USAT matter, in a memo copied to FDIC attorney's summarized the "intense lobbying effort [beginning in about March 1994] by certain environmental activists led by the Rose Foundation of Oakland, California[, whose] principal concern has been to conserve an area of unprotected old-growth redwoods in northern California known as the Headwaters Forest." (Document N, page 1)

The memo (Document N, page 3-4) details the following contacts:

"On June 17, 1994, Thomas Hecht met with Jill Ratner of the Rose Foundation in San Francisco for an initial meeting at which Ms. Ratner outlined her groups' concerns.

"On October 4, 1994, Hecht, Jeffrey Williams, Robert DeHenzel and the Rose Foundation and its lawyer participated in a teleconference at which the claims prepared by the Rose Foundation were presented in more detail.

"On January 20, 1995, Dehenzel and Hecht met with Julia Levin of the Natural Heritage Foundation ("NHF"), a group closely associated with the Rose Foundation. The NHF is conducting much of the lobbying effort on behalf of the Rose Foundation and other environmental activists on this issue.

"In addition to these more formal encounters, Williams, DeHenzel and Hecht have each been contacted repeatedly by the Rose Foundation and its attorneys to explore the theories in more depth and to urge the FDIC to take action. In each of these meetings and in subsequent telephone conversations and correspondence, the Rose Foundation and its allies have urged three general approaches to the problem including: (a) the imposition of a constructive trust over Pacific Lumber's redwoods, (b) the seizure of redwoods using an unjust enrichment theory, and (c) obtaining rights to the forest or, at a minimum, an environmental easement, as part of a negotiated settlement. They have also urged Congressional action, filed a Qui Tam proceeding in the Northern District of California and threatened the FDIC with proceedings under the Endangered Species Act." (Document N, page 3-4)

This is just a sampling of the many instances where the bank regulators own notes and memos show integration between what were still possible bank claims and the redwoods. All of these occurred beginning 18 months before the USAT claims against Mr. Hurwitz were authorized or filed. Record 8 contains several examples of outside contacts between bank regulators and environmental groups about different mechanisms to leverage redwoods using potential banking claims.

1995: The Federal Government Is Defined—"High Profile Damages Case" In Which Redwoods Are "A Bargaining Chip"

The relationship between the possible banking claims and the redwoods is not just implied by the number of meetings or the extensive evaluations by bank regulators and their lawyers throughout 1994, it was directly stated in the March 1995 memo by F. Thomas Hecht, FDIC's outside counsel: "As their theories have become subject to criticisms, certain counsel for the Rose Foundation have shifted (at least in part) from argument compelling the seizure of the redwoods to urging the development of an aggressive and high profile damages case in which redwoods become a bargaining chip in negotiating a resolution. This, indeed, may be the best option available to the environmental groups; its greatest strength is that it does not depend on difficult seizure theories. This approach would require that both the FDIC and OTS undertake to make the redwoods part of any settlement package." (footnote not in original) (Document N, page 8)

Thus, the FDIC's outside counsel explained and evaluated the best course of action for the environmental groups (never mind the FDIC or the government). The fact is that a high profile damage claim where redwoods were leveraged from Mr. Hurwitz—the environmentalist's best option—is exactly how the FDIC proceeded, particularly after the DOI and the White House engaged with the bank regulators. They swallowed the redwoods debt-for-nature scheme—hook, line, and sinker (as the old saying goes)—beginning in 1994 and continuing into 1995, even though their own analysis showed that their potential claims would not stand.

In spite of these facts, the FDIC has consistently insisted since late 1993 that "there is no direct relationship between USAT and the Headwaters Forest currently owned by Pacific Lumber Company . . . [however], if such a swap became an option, the FDIC would consider it as one alternative . . . " (Record 28). Indeed, this is exactly what the banking regulators have told the Committee in writing: they have always been open to the idea, but they prefer cash. The documentation outlined above shows that the banking regulators actively pursued a redwoods debt-for-nature agenda using their claims as urged by certain Members of Congress and by environmental groups. However, by this point, the Department of the Interior and the White House had yet to engage. That changed in early of 1995.

In February 1995, a host of environmentalists proposed an acquisition of the Headwaters redwood trees to President Clinton, and Leon Penetta (Chief of Staff) wrote back to them saying that budget constraints would not permit outright acquisition (Record 16A). He suggested that they push a debt-for-nature swap or land exchange instead. That action served to lower expectations for appropriated funds for the redwoods, and focused the proponents on continuing to push the redwoods debt-for-nature scheme.

By April 3, 1995, FDIC lawyers were openly attempting to leverage Mr. Hurwitz into settling claims that were still yet to be filed for redwood trees. The redwoods debt-for-nature scheme was alive and active at the FDIC as indicated by the words in this e mail to Mr. Jack Smith from Mr. Bob DeHenzel: "Jack: Just a note regarding our brief discussion on Charles Hurwitz and exploring creative options that may induce a settlement involving the sequoia redwoods in the FDIC/OTS case: . . ." (Record 9)

In these words the FDIC's attorneys were indeed leveraging redwoods by sing their banking claims—at least three months before FDIC says that Mr. Hurwitz raised the redwoods-debt-for nature idea through his "representative agency" (presumably the DOI), attorneys, four months before the FDIC board authorized the suit against Mr. Hurwitz, and about five months before the FDIC maintains Mr. Hurwitz raised the redwoods swap idea directly with the bank regulators.

Thus, well before the notion of the redwoods debt-for-nature deal was introduced to the FDIC by Mr. Hurwitz (as the bank regulators religiously maintain) the bank regulators were indeed targeting Mr. Hurwitz's redwoods and using their potential claims as leverage to "induce" a settlement. The repeated statements and the sworn testimony of Ms. Seidman, Ms. Tanoue, and Mr. Kroener to the Task Force (the Mr. Hurwitz introduced the redwoods into settlement discussions) is yet another example that directly contradicts what the FDIC lawyers were doing as evidenced by their own writing.

The notes of FDIC attorneys about what they were seeking and why the FDIC and the OTS were cooperating also contradict the testimony of the bank regulators when they say that redwoods had nothing to do with the litigation against Mr. Hurwitz. Sometime in mid-1994 (but before July 20, 1994), FDIC wished to continue studying their claim and "a possible capital maintenance claim by OTS against Maxxam." In illuminating candor, the handwritten memo articulates why the FDIC lawyers wanted to hire the OTS and double team Mr. Hurwitz: "Why? (1) Tactically, combining FDIC & OTS' claims—if they all stand scrutiny—is more likely to produce a large recovery/the trees than is a piecemeal approach." (Record 10, bates number JT 000145)

So, the senior FDIC lawyer, Mr. John Thomas, contemporaneously wrote that their strategy with OTS would be more likely to produce "the trees." But their Chairman, their General Counsel, and the OTS Director repeatedly told the committee that the litigation had nothing to do with trees. Were the FDIC and OTS management and their board members so ill-informed about what their attorneys were seeking to achieve? "The trees" is not cash, period.

The other very alarming notion is how integral OTS is to the strategy to "produce" "the trees," according to the FDIC attorneys. The strategy to "combine" FDIC's weak claims with possible OTS claims on net worth maintenance further explains the February 4, 1994, letter from FDIC's lawyers to OTS's lawyers (Record 6).

It transmitted the net worth maintenance claim to the OTS and introduced the notion that the FDIC was considering a redwoods debt-for-nature swap scheme. The FDIC told OTS that they were about to report to Rep. Gonzalez about the potential for the swap. The implication was that viable claims against Mr. Hurwitz (brought directly by the FDIC or indirectly through the OTS) would allow the FDIC to report back to Mr. Gonzalez that they could help get "the trees" because a swap would be more viable. Without the OTS, the FDIC would not have enough leverage to produce "the trees," because by its own analysis, the FDIC claims were losers.

The repeated intra-government lobbying of FDIC and OTS also pushed the bank regulators into the political redwoods debt-for-nature acquisition scheme. This intra-government lobbying began indirectly by at least May 19, 1995, and is first evidenced by notes (Record 11) from a phone call by Ms. Jill Ratner, who runs the Rose Foundation to Mr. Robert DeHenzel. (Record 11 is a copy of Mr. DeHenzel's notes from that conversation.)

The notes (Record 11) indicate that Ms. Ratner told Mr. DeHenzel about the Department of the Interior (DOI) players who are "very interested in debt-for-nature swap": Mr. Alan McReynolds, a Special Assistant to the Secretary of the DOI, Mr. Jeff Webb, with DOI congressional relations, Mr. George Frampton, the Assistant Secretary for Fish and Wildlife and Parks at DOI, and Mr. Jay Ziegler, an assistant to Mr. Frampton were all discussed as redwoods debt-for-nature advocates. And Record 11A illustrates that the Rose Foundation had done substantial work regarding various mechanisms to transfer the redwoods to the federal government.

The notes indicate that Mr. McReynolds had flown over Headwaters during the week of May 8, 1995, with Ms. Ratner a primary advocate of various plans to acquire the Headwaters forest. This was the first indication that DOI was engaging on the redwoods debt-for-nature scheme and probably Mr.

McReynolds' first exposure to the concept that bank claims could provide the leverage for the redwoods scheme. There is no mention in the notes that Mr. Hurwitz requested DOI to raise the issue of a redwoods swap or look into it: "Interior is . . . discussions will continue. Webb & Zeigler will continue doing prelim[inary] work to explore whether debt-for-nature would work." (Record 11)

By the time that the DOI engaged in May 1995, the FDIC lawyers were well aware of the "'debt-for-nature' transaction that various environmental groups have been advocating to resolve the claims involving Hurwitz and USAT." (Record 12) They were also apparently intimidated by the environmentalists as shown by the two page FDIC memo about a redwoods debt-for-nature letter to FDIC referencing the Oklahoma City bombing and a "call to defuse this situation" by doing a swap (Record 12). The following excerpt of the memo shows detailed knowledge about the debt-for-nature scheme and a perceived threat of violence related to environmentalists who had pushed the FDIC into it: "As you know, the above-referenced investigation has resulted in attracting the attention of organizations and individuals that have interests in environmental preservation. This has arisen as a result of Charles Hurwitz's acquisition (through affiliates) of Pacific Lumber, a logging company in Humbolt County, California, that owns the last stands of old growth, virgin redwoods. It has been widely reported that the company has been harvesting the virgin redwoods in a desperate attempt to raise cash to pay its and its holding company's Maxxam, Inc.'s substantial debt obligations.

"The environmentalist's issues are centered on preserving the old growth redwoods through a mechanism of persuading Hurwitz to settle the government's claims involving losses sustained on the USAT failure by, in part, transferring the redwood stands to the FDIC or other federal agency responsible for managing such forest lands. FDIC has received thousands of letters urging FDIC to pursue such a transaction."

"The environmental movement, like many others, is not homogeneous and contains extreme elements that that have resorted to civil disobedience and even criminal conduct to further their goals. As a result of the recent tragedy in Oklahoma City, everyone appears more sensitive to the possibility that people can and do resort to desperate depraved criminal acts. Accordingly, we take any references to such conduct, even ones that appear innocent, more seriously." (Record 12)

This excerpt shows that FDIC attorneys were (1) probably somewhat intimidated and (2) already well-versed in the debt-for-nature scheme when Ms. Ratner told Mr. DeHenzel who the DOI players supporting the redwoods debt-for-nature scheme were. The FDIC was keen to the motivations and methods of those who fed the scheme to them. Perhaps the intimate knowledge by the FDIC of the interests and desires of the environmental community came through the numerous pieces of correspondence and legal memos from the Rose Foundation to the FDIC through Hopkins & Sutter. The material showing the constant pummeling of FDIC by these advocates (and the willing acceptance by the FDIC and its outside law firm with "environmental connections") is too voluminous to reproduce. It is contained in the Committee's files.

With the FDIC primed, the Department of the Interior directly engaged with the FDIC. The first known direct contact was a 5:00 p.m. call on July 17, 1995, from Alan McReynolds to Robert DeHenzel. The notes taken by DeHenzel (Record 16) indicate that McReynolds, a special assistant to the Secretary of the Interior, asked about the "status of our [FDIC] potential claims and how OTS is organized, etc." He needed "someone to describe our [FDIC] claims and FDIC/OTS roles." He said that the DOI is receiving "calls almost daily from members of Congress and private citizens." McReynolds pressed for a meeting that week (the week of July 17, 1995) because of his vacation and travel schedule. At that juncture, DeHenzel's notes say that McReynolds had not spoken to Jack Smith yet.

The following day, DeHenzel consulted about the McReynolds inquiry with "JVT," John V. Thomas, the same FDIC lawyer who attended the Rep. Hamburg meeting in November 1993. Mr. Thomas told him to talk to Jack Smith and Alice Goodman. The notes say that "JVT's reaction—Smith & Goodman should be there with us" (Record 16) for the meeting with McReynolds.

Then the unexpected occurred. On July 20, 1995, Mr. Hurwitz refused to extend the statute of limitations tolling agreement with the FDIC (Record 17, See, footnote 1 on page 2). He had last done so on March 27, 1995, and that extension was to expire on July 31, 1995. As a result, any lawsuit by FDIC regarding USAT claims against Mr. Hurwitz were required to be filed by August 2, 1995, just thirteen days later. It was just three days after Mr. McReynolds contacted the FDIC for a meeting about the potential FDIC and OTS actions against Mr. Hurwitz that the FDIC was told that Mr. Hurwitz would not extend the tolling agreement.

The FDIC was unprepared for this action. They had enjoyed six years and eight months of discovery during which they were lobbied by outside groups and Members of Congress on the completely unrelated issue of pursuing the redwoods debt-for-nature swap. However, the agency had failed to be it job and cobble together enough evidence supporting a banking claim involving USAT and Mr. Hurwitz. They were not ready to file a compliant or drop the case on their own volition, even though Mr. Hurwitz provided voluminous records to the agency in the discovery process, records that defined the facts and illuminated issues raised by the FDIC.

As a result, the FDIC was facing two issue—the request for a meeting with the Office of the Secretary of the DOI and the need to address the fact that they did not have the USAT case prepared after more than six years of investigation.

They addressed these issues internally in a July 20, 1995, meeting between "Mr. Jack Smith, JVT [John V. Thomas, FDIC lawyer], MA [Maryland Anderson, FDIC lawyer], JW [Jeff Williams, FDIC lawyer], and Robert DeHenzel." (Record 18)

It is clear from this meeting that the FDIC lawyers were not anxious to recommend a lawsuit against Hurwitz. They did not have a case, because it did not meet their internal standards. Instead they preferred to hinge their action on whether OTS brought the administrative action, the action that they prompted and paid OTS to bring against Hurwitz. This is an odd trigger for an agency that does admits it does not have a case, disavows it seeks redwoods, and is only interested in receiving "cash."

Thus, the FDIC lawyers' behavior is somewhat schizophrenic—on the one hand they know their internal policies will not let them bring a suit, but on the other had they want to sue Mr. Hurwitz (and not other potential defendants). They then begin constructing the justification for doing so around the notion that the potential claims against Mr. Hurwitz are somehow special—not "ordinary." They also apparently talk of telling Mr. McReynolds what they will do—evidence of further improper coordination with the DOI outside of normal FDIC operating parameters. Mr. Thomas' notes from the internal FDIC meeting (Record 18) explain:

> Re: McReynolds—Kosmetsky-Hurwitz-Tolling
>
> Jack [Smith]—we will not go forward if OTS files a case
>
> —if OTS does not file suit, we still have to decide our case on the merits before tolling expires
>
> *Memo to the GC [General Counsel] to Chairman—update status of case & recommends that we let Kozmetsky out.
>
> If suit against Hurwitz—we sue only him and not others.
>
> Find out if Hurwitz will toll
>
> Write a memo on case status to GC 10 page memo should do it!
>
> continue tolling
>
> sue or let them go
>
> If ordinary case, we do not believe there is a 50% chance we will prevail therefore, we cannot recommend a lawsuit.
>
> McReynolds—handle same as the Hill presentation (Record 18)

Clearly, the thinking coming out of the July 20, 1995, meeting was that the FDIC lawyers were not ready to make a recommendation on the merits of the case. Continued tolling was not an option because Mr. Hurwitz refused to sign a tolling extension, so the options "sue or let them go" were the only viable options. If it were an ordinary case the preference at that point would be to close the case out—that is let them go.

FDIC lawyer, Mr. John Thomas' later notes outlining some points for that memo to the General Counsel tell us why this was not the "ordinary" case: "[G]iven (a) visibility—tree people, Congress & press . . . we thought you—B[oard]d—should be advised of what we intend to do—and why—before it is too late." (Record 22)

What Mr. Thomas was saying is that the staff intends to close out the case, and if the FDIC board wants to do otherwise before the case is closed (administratively by the staff or by virtue of the statute of limitations running), then the Board must intercede.

Importantly, the FDIC lawyers deviated from ordinary operating procedures because of the intense lobbying campaign for the redwoods debt-for-nature swap. Clearly, the intense lobbying effort by the environmental groups, by their outside counsel, by the DOI, by the White House, and by other federal entities was effective! At that point the bank regulators bought the redwoods scheme, but were unprepared then to totally disregard their what they knew they should do under their rules and guidelines, so the staff punted the issue to the board.

The FDIC had already injected itself into a political issue. Their dilemma was summed up by Mr. Thomas in notes preparing for a discussion on the USAT claims with the board apparently scribed a few days later:

> Dilemma (why they [the FDIC Board] get paid the big bucks)—take:
>
> Hit for dismissed suit
>
> Hit for walking based on staff analysis of 70% loss of most/all on S of L [statute of limitations]
>
> (Record 23)

The action by the FDIC of treating this case differently than the "ordinary" case and the concerted manipulation of hiring the OTS to pursue parallel claims to be used as leverage sends the strong message: if someone wants to influence bank regulators on an entirely collateral issue, and politically manipulate the bank regulators, they can successfully do it.

All that must be done to use the bank regulators to achieve a collateral issue is to pursue two year public relations campaign aimed at them, swamp the bank regulators with cards and letters about the collateral issue, write and submit various legal briefs for them that link the collateral issue, meet with the bank regulators about the collateral issue, organize congressional letters advocating the collateral issue, hold secret meetings with Members of Congress bout the collateral issue, hold "protest" rallies outside of their meetings, and do whatever else it takes so that at the end of the day, bank regulators do not follow ordinary procedures.

Indeed, the redwoods debt-for-nature swap became linked to USAT and Mr. Hurwitz just as the environmental groups wished. This was not the ordinary case—it was going to the FDIC Board even though the FDIC admitted their case had a 70 percent chance of being dismissed because of the statute of limitations, and was more likely than not of falling on the merits if they were reached.

Apparently, the FDIC legal staff was prepared to tell McReynolds and "the Hill" [Congress] the same thing—their course of action described in the July 20, 1995, meeting notes (Record 18). This modified procedure still left the door open for the board to act against staff recommendations and authorize the suit anyway—something that may not have been ideal from Mr. McReynolds perspective, but would still leave open the possibility of the leverage that DOI desired against Mr. Hurwitz.

Then something else changed on July 21, 1995, which was the day following the internal FDIC meeting on their potential claims against Mr. Hurwitz. The change caused the entire approach of the FDIC lawyers to evolve again. What changed was not any new information about the facts of the potential claims against Mr. Hurwitz related to USAT. What changed was not any favorable development in law that strengthened their potential claims against Mr. Hurwitz related to USAT. What changed was not any analysis about the nature or strength of the potential claims against Mr. Hurwitz. All of these things remained the same.

What changed was the realization by the FDIC lawyers, as communicated by a senior DOI official, that (1) the Clinton Administration and the DOI, had adopted and embraced the redwoods debt-for-nature scheme and they wanted the scheme to be successful, and (2) the FDIC's potential banking claims were critical to pulling off that redwoods debt-for-nature scheme. The potential banking claims—the same claims that the FDIC lawyers would have dropped using "delegated authority"—were the leverage that were critical to making the redwoods debt-for-nature scheme work.

That realization occurred when the FDIC lawyers met with Mr. McReynolds on Friday, July 21, 1995, at 11:00 a.m. (Record 19), just as he had requested on Monday, July 17, 1995. Meeting notes indicate that background about the redwoods and endangered species issues associated with Mr. Hurwitz's redwoods were initially discussed (Record 20). Other background about Governor Wilson's task force and the willingness of California to participate in the deal were discussed, as were Mr. Hurwitz's valuations of the property (Record 20). Apparently, McReynolds laid out some of the basics about the redwood acreage. He was familiar with the issue from first hand experience because he had flown over the redwoods with Jill Ratner during the week of May 8, 1995 (See, Record 11): "H[urwitz] values 8K [acres] at $500 m. Interior wants to deal it down. H[urwitz] really wants $200m total. Calif. Deleg[ation] is really putting pressure on." Dallas/Ft Worth—Base closure.

The FDIC also told McReynolds about the meeting that FDIC lawyers had set for the following Wednesday, July 26, 1995, with the OTS to discuss the USAT matter. They told Mr. McReynolds about the fact that they were doing the memo to the Chairman (the 10 page memo they concluded they needed in their July 20, 1995, meeting amongst the FDIC lawyers, See Record 18). The entry regarding this in Record 20) is reproduced below: "Wed [July 26] 10:30 mtg w/OTS. Memo for Chairman." (Record 20)

Eric Spittler's notes from the July 21, 1995, meeting add helpful details, and they are reproduced below:

$400,000 expenses on OTS

Have not decided whether to bring case—won't decide for months.

Alan Reynolds—Adm[inistration] want to do deal

Gov. Wilson w/DOI had task force of 6 groups

Told to find a way to make it happen

CA will trade $100m in CA [California] timber

Adm[inistration] might trade mil[itary] base

Had call from atty. Appraisal on prop[erty] for $500m. Said they want to make a deal. Don't know how much credence we have from them about a claim. At same time telling them to get rid of claim. He can't cut them down.

If we drop suit, will undercut everything. (emphasis supplied) (Record 21)

So, the FDIC knew—according to the meeting notes—that if the FDIC dropped the suit by letting the statute of limitations run, "it will undercut everything" related to the redwoods scheme that was just discussed with McReynolds. In other words, letting the statue of limitations expire—the "ordinary" procedure and recommendation of the FDIC lawyers at the time—meant the leverage for the redwoods debt-for-nature deal would evaporate, as would the scheme to get Hurwitz's redwoods. Thus, the notes confirm a redwoods debt-for-nature scheme and that FDIC did not really know whether Mr. Hurwitz believed that the FDIC had a valid claim—further evidence of the fact that the claims were indeed weak substantively and procedurally.

In this context—where the FDIC knew its claims (and the claims it was paying OTS to pursue) were the essential leverage for the redwoods—the FDIC lawyers began drafting the memo. Clearly, the agency was struggling with the fact that dropping the claims was inconsistent with what the DOI and the Administration needed to accomplish the redwoods debt-for-nature swap.

The handwritten outline of Mr. John Thomas (Record 22) reviewed the major points in the contemplated memo to the Chairman. The outline reiterated the linkage between FDIC and OTS, and it reinforced staff conclusion that the USAT claims against Mr. Hurwitz should be left to expire otherwise the court would dismiss them. Mr. John Thomas' outline clearly show that if this case were "ordinary" it would be closed. Pressure for redwoods was the justification for informing the Board of the staff's intent to close out the case, and the option of pursuing the case for purposes of leverage was therefore left open. Mr. Thomas' outline, which appears to be composed for the 2:00 p.m. briefing of the Chairman on July 26, 1995, (Record 22) is partially reproduced below—

May recall briefed re OTS—[FDIC is] paying [the OTS]—some months ago.

OTS is making progress, but not ready. Thus, tolling again.

OTS staff hopes to have draft notice of charges to Hurwitz, et al. Aug./Sept.

(Apologize for short fuse)—we thought we would be able to put off a final decision until OTS acted. Hurwitz refused to toll.

Normal matter, we would close out under delegated authority w/o [without] bringing it to your Bd's attention.

However, given

(a) visibflity—tree people, Congress & press

(b) [OMITTED]

we thought you-Bd-should be advised of what we intend to do—and why—before it is too late.

* * *

Bottom line: likely to lose on S of L [statute of limitation]—let it go or have ct. dismiss it.

Continue to fund OTS

We'd also write Congress re what & why rather than awaiting reaction

Redwood Swap—

Interior/Calif.

Forest—[military] base—FDIC/OTS claim(?)

(Record 22)

This outline reinforces the approach and dilemma described by FDIC lawyers in their July 20, 1995, meeting. First, there was coordination with the OTS claims to get redwoods. That's because FDIC's possible claims were losers on substantive and procedural (statute of limitations) grounds. Second, ordinary procedures to close out the matter were circumvented due to "visibility" from the redwoods debt-for-nature campaign of the "tree people" (Earth First! and the Rose Foundation), Congress, and the press. Third, the Department of the Interior's "Redwood Swap" was taking shape and FDIC lawyers were beginning to coordinate with DOI staff.

All these factors combined to override the normal course of action, which was to close out the case. Instead, the Board would get the decision. All of this confirmed in John Thomas' own handwritten outline (Record 22), and all of it adding up to show that the redwoods debt-for-nature scheme had a real impact on the approach of the FDIC's lawyers. It had yet to skew the FDIC's final judgment based on early versions of the memo to the Chairman (Document X), but the final version dated July 27, 1995, would reflect skewed judgment.

The memo was drafted, and a version reflecting Mr. Thomas' notes and all of the prior internal staff discussions was produced and dated July 24, 1995. The drafts are Document X, and the final before the reversal is Document X, pages ES 0490–0495. It contains an unsigned signature block. Highlights of this memo are reproduced below and they tell exactly what the FDIC lawyers would advise the FDIC Board: "We had hoped to delay a final decision on this matter until after OTS decides whether to pursue claims against Hurwitz, et al. However, we were advised on July 12, 1995 that Hurwitz would not extend our tolling agreement with him. Consequently, if suit were to be brought it would have to be filed by August 2, 1995. We are not recommending suit because there is a 70% probability that most or all the FDIC cases would be dismissed on statute of limitations grounds. Under the circumstances the staff would ordinarily close out the investigation under delegated authority. However (evidenced by numerous letters from Congressmen and environmental groups), we are advising the Board in advance of our action in case there is a contrary view." (emphasis supplied) (Document X, page ES 0490)

And in discussing the merits, the memo again advised: "The effect of these recent adverse [court] decisions is that there is a very high probability that the FDIC's claims will not survive a motion to dismiss on statute of limitations grounds. We would also be at increased risks of dismissal on the merits. Because there is only a 30% chance that we can avoid dismissal on statute of limitations grounds, and because even if we survived a statute of limitations motion, victory on the merits (especially on the claims most likely to survive a statute of limitations motion) is uncertain given the state of the law in Texas, we do not recommend suit on the FDIC's potential claims." (emphasis supplied) (Document X, page ES 0493–0494)

The memo then discusses the redwood forest matter, an interesting notion given the fact that the FDIC has consistently maintained that the redwoods were not at all connected to their litigation: "The decision not to sue Hurwitz and former directors and officers of USAT is likely to attract media coverage and criticism from environmental groups and member of Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging our D&O [director and officer] claims for the redwood forest. Only July 21, we met with representatives of the Department of the Interior, who informed us that they are negotiating with Hurwitz about the possibility of swapping various properties, plus the possibility the FDIC/OTS claim, for the redwood forest. They stated that the Administration is seriously interested in pursuing such a settlement. This is feasible with perhaps some new modest legislative authority . . . We plan to follow up on these discussions with the OTS and Department of [the] Interior in the coming weeks. . . . When the Hurwitz tolling agreement expires, we would recommend that we update those Congressmen who have inquired about our investigation and make it clear that this does not end the matter of Hurwitz's liability for the failure of USAT because of the ongoing OTS investigation." (Record X, pages ES 0493–0494).

It is helpful to understand that there were four major versions of this memo drafted and revised. The drafts of this memo are all typedated July 24, 1995, and they all reference discussions with the Department of the Interior. These drafts are Document X, which was made part of the Task Force hearing record by unanimous consent.

However, one version of this memo contains numerous handwritten changes, including a date that was changed from July 24, 1995, to July 27, 1995 (Document X, pages PLS 000192–000195). The changes amount to the complete and total reversal in approach to the USAT claims related to Mr. Hurwitz. The July 27, 1995 version is the text that was incorporated into the Authority to Sue (ATS) cover Memorandum that was itself dated July 27, 1995. It, with the ATS memo (Document L, EM 00123–00135), went to the FDIC Board, and it recommended the suit against Mr. Hurwitz be brought.

The July 27 final version rolled into the ATS memo also discusses the "Pacific Lumber-Redwood Forest Matter" (Document L, page EM 00129). Therein, it notes the July 21, 1995, FDIC meeting with "representatives of the Department of the Interior [McReynolds], who informed us [the FDIC] that they are negotiating with Hurwitz about the possibility of swapping various properties, plus the possibility of the FDIC/OTS claim, for the redwood forest." (Document L, page EM00129). The memo also says that the "Administration is seriously interested in pursuing such a settlement."

Note what the memo does not say. It does not say Mr. Hurwitz raised the issue of redwoods and linked them in any way to the banking claims. It says that the Administration is negotiating a swap of possible properties, plus the banking claims. When the bank regulators learned of this (probably from Mr. McReynolds on July 21, 1995), the bank regulators should have been very uncomfortable. They had already voluntarily injected themselves into a political dynamic with other government agencies—one of which had apparently taken their statutory obligation to recover cash by using claims that belonged to the FDIC and were not even brought yet. At this juncture Mr. Hurwitz had not raised the prospect of such a scheme with the FDIC.

The only other intervening event between the July 24, 1995, memo draft and the July 27, 1995, reversal is a meeting on July 26, 1995, at 10:30 a.m. between the FDIC and OTS. Record 26 is the only set of meeting notes from that meeting, and the notes reiterate the discussion between FDIC lawyers and Mr. McReynolds on July 21, 1995. This puts the OTS squarely inside the redwoods debt-for-nature scheme.

The notes are very helpful to show the degree of coordination between the FDIC and OTS about redwoods and the linkage between the potential claims and redwoods. They also show how the FDIC polluted the OTS decision-making with the same political dynamic it had been part of for more than a year. The FDIC staff summed up the situation and briefed OTS about all of the important redwoods developments related to Mr. Hurwitz:

J. Smith'

Hurwitz won't sign tolling agreement with FDIC—need to file lawsuit by 8/12

J. Thomas-chances of success on stat. Limitations is 30% or less

will continue discussions with Helfer

Pressure from California congressional delegation to proceed

Dept. of Interior—Alan McReynolds

Administration interested in resolving case & getting Redwoods

Pete Wilson has put together a multi-agency task group

Calif would put up $100 MM of Californai timberland

Hurwitz wants a military base between Dallas & Fort Worth—Suitable for commercial development

Hurwitz also wants our cases settled as part of the deal

Two weeks ago-Hurwitz lawyer called Teri Gordon at home & told him he should not be turned off by the $500 MM appraisal

What is OTS' schedule? How comfortable is OTS w/ giving info to Interior?

(Record 26)

None of the records reviewed contains any banking law rationale for the reversal in the staff recommendation July 24, 1995, (which was to notify the board that they would close out the potential claim against Mr. Hurwitz by letting the statute of limitations run) and the July 27, 1995, approach (which recommended a lawsuit against Mr. Hurwitz). The only explanation for the reversal is the meeting with Mr. McReynolds where the DOI and Administration's desire for leverage was communicated and understood by the FDIC coupled with the meeting with OTS where bank regulators from both agencies discussed the Administration's desire for the redwoods debt-for-nature scheme to succeed. At this juncture, the thinking was that there would be no money for an appropriation for the Headwaters, so a swap of some sort was the only way to acquire the redwoods.

The FDIC board only saw the July 27, 1995, memo. In their meeting they discussed the redwoods scheme when the discussed bringing the action against Mr. Hurwits (Record 27). As part of his briefing, Mr. John Thomas elaborates on the redwood scheme to the FDIC board:

Mr. THOMAS. This is, of course, a very visible matter. It is visible for something having no direct relationship to this case, but having some indirect relationship. Mr. Hurwitz, through Maxxam, purchased Pacific Lumber. Pacific Lumber owns the largest stand of virgin redwoods in private hands in the world, the Headwaters. That has been the subject of considering—considerable environmental interest, including the picketing downstairs of a year or so ago. It has been the subject of Congressional inquiry and press inquiry. So we assume that whatever we do will be visible.

Interior, you should also be awar—aware, the Department of Interior is trying to put together a deal to the headlines [sic] [Headwaters] trade property and perhaps our claim. They had spoken—they spoke to staff a few days ago about that and staff of the FDIC has indicated that we would be interested in working with them to see whether something is possible. We believe that legislation would ultimately be required to achieve that. But again, if it's the Board's pleasure, we would at least try to find out what's happening and pursue that matter and make sure that nothing goes on we're not aware of—we're not part of. (Record 27, page 11–12)

Later, Chairman Helfer raised the issue of whether bringing suit enhances the prospect of settlement of non-banking issues, that is the redwoods:

Chairman HELFER. . . . does the FDIC's authorization to sue enhance the prospect—the prospects for a settlement on a variety of issues associated with the case?

Mr. THOMAS. It might have some marginal benefit, but I don't think it would make a large difference. I think the reality is that the FDIC and OTS staff have worked together, expect to continue to work together, and so, I don't think it would have a major impact. It might make some difference, but I think particularly any effort to resolve this with . . . a solution that involves the redwoods would be extremely difficult. (Record 27, page 16)

These exchanges in the FDIC board meeting about the redwoods are troubling simply because they occurred. They injected factors that had nothing whatsoever to do with the validity of banking claims against Mr. Hurwitz. The advice and recommendations on July 27, 1995, deviated so widely from the approach of staff that would have ordinarily taken to close the case administratively. They deviated even more from the approach they would have taken before the McReynolds meeting on July 21, 1995, where they came to understand that the Administration needed the leverage for the redwoods swap.

The deviation is likely a result of that meeting, coupled with the OTS meeting on July 26, 1995, where they coordinated on the claims they were paying the OTS to pursue and conspired about the need for leverage to get the redwood claims. The FDIC understood at that point that OTS's claims may not be brought for months (or perhaps at all) and they certainly knew that if "we drop our suit, [it] will undercut everything." (Record 21)

The day following filing of the suit, FDIC lawyers sent a memo to their communications department reiterating the congressional and environmental interest due to the redwoods issue. (Record 28) The memo explained conspiracy with the Department of the Interior and how the department had been negotiating for the redwoods using the FDIC and OTS claims. The memo also indicated that it was the Administration that was "seriously interested in pursuing such a settlement." (Record 28, page 2) In addition, as if the FDIC lawyers knew they were doing something wrong, the memo emphasized that "All of our discussions with the DOI are strictly confidential." (Record 28, page 2)

Then the memo went on to suggest that the FDIC should not disclose these discussions or deviate from the prior public statement about redwoods. Basically that statements was that if a redwood "swap became an option, the FDIC would consider its as one alternative and would conscientiously strive to resolve any pertinent issued." (Record 28, page 2)

The work on a redwoods swap by the FDIC and the Department of Interior then grew as indicated by the volume of notes from meetings where other federal entities were drawn into the scheme. There was an August 2, 1995, DOI Headwaters acquisition strategy paper drafted by Mr. McReynolds. It reports the FDIC and the OTS "are amendable to [a debt for nature swap] if the Administration supports it." (Document DOI B). This is blatant evidence of just how political the FDIC's July 27, 1995, reversal was.

There was the August 15, 1995, meeting between DOI, FDIC (Smith), and OTS (Renaldi and Sterns) (Document DOIC, page 2) where it was reported that "FDIC and OTS are wondering why DOI is not being more aggressive with Hurwitz and is permitting [Governor] Wilson's task force to take force to take the lead" (Document DOIC, page 2). This is a stunning indictment of the political motivation of the FDIC and OTS staff.

There was coordination with Congressional offices (Document DOID).

There was endorsement from the Assistant Secretary of DOI of using the FDIC and yet to be filed OTS claims in exchange for the redwoods (Document DOIE).

There were multi-agency meetings that included the White House OMB and CEQ (Document DOI F and H)

The Vice President was lobbied by Jill Ratner for his support of the redwoods scheme as was the White House (Document DOI G), and bi-weekly conference calls were occurring between the FDIC, the OTS, and the DOI to coordinate on the redwoods scheme by September 1995.

There was the October 1995, memo to the General Counsel of FDIC about a scheduled meeting that was to occur on October 20, 1995 with Vice President Gore about the FDIC and OTS claims and their integral linkage to leveraging redwoods. Mr. Kroener, testified that the meeting never occurred, but the information in the memo is nonetheless illuminating, and it contradicts FDIC's statements that they were not after redwood trees.

The memo verifies that Mr. Hurwitz was not interested and had not raised the notion of a redwood swap for FDIC or OTS claims. The memo says OTS met with Hurwitz's lawyer and "no interest in settlement has been expressed to OTS." (Record 33, page 2). The memo says that FDIC "has had several meetings and discussions with Hurwitz counsel prior to the filing of the lawsuit. Hurwitz has never, however, indicated directly to the FDIC a desire to negotiate a settlement of the FDIC claims." (Record 33, page 2).

This puts to rest the notion that Mr. Hurwitz was or had been interested (or had raised) the notion of a redwoods swap for the OTS or FDIC claim up to that point. Apparently, the FDIC relied on erroneous representations of Mr. McReynolds to the contrary.

Then, in an incredible self-indictment, the FDIC observes that it is "inappropriate to include OTS" in the meeting to discuss possible settlement with Hurwitz because the OTS claim was not approved for filing, and discussions may be perceived as "an effort by the executive branch to influence OTS's independent evaluation of its investigation" (Record 33, page 2). What exactly, then, did the FDIC think its February 1994 meeting with Rep. Hamburg would do to its independent judgment? What did the FDIC think repeated contacts with environmental groups since 1993 would do? What did the FDIC think that its meetings with Mr. Reynolds right before their staff recommendation changed in July 1995 would do? Why did the FDIC and the OTS meet and have phone briefings with DOI in July, August, September 1996. All of these contacts were just as inappropriate then as they were when FDIC staff wrote the briefing memo for Vice President Gore's meeting. Did the FDIC lawyers take an ethics class sometime between February 1994 and October 1995?

In fact, the FDIC intended to help the Administration force Mr. Hurwitz into trading his redwoods for the FDIC and OTS claims. They wanted to induce a settlement, and their words say it. There meeting with the Vice President was an important meeting, and the memo to Mr. Kroener to prepare for the meeting (Record 33) was remarkable candid: "FDIC has no direct claim against Pacific Lumber through which it could successfully obtain or seize the tree or to preserve the Headwaters Forest."

* * * * *

"FDIC's claims alone are not likely to be sufficient to cause Hurwitz to offer the Headwaters Forest, because of their size relative to a recent Forest Service Appraisal of the value of the Headwaters Forest ($600 million); because of very substantial litigation risks including statute of limitations, Texas negligence—gross negligence business judgment law, and Hurwitz role as a de factor director, and the indirect connection noted above, including the risk of Hurwitz facing suit from Pacific Lumber securities holders if its assets were disposed of without Pacific Lumber being compensated by either outsiders, or Hurwitz or entities he controls." (record 33, page 3) (emphasis supplied)

Two things are clear after reading this passage. First, FDIC staff intended the claim to operate as an inducement, along with the OTS claim for trees. Second, that there is no other rational, after reading this evaluation, for the FDIC lawyers to have switched their recommendation between July 24 and July 27, 1995—except that they intended all along to help the Administration by playing a part in inducing a settlement.

After reading this passage, one wonders why the FDIC still attempts to propagate the obviously false notion that their claims had nothing to do with redwoods.

There was the October 22, 1995, meeting that included a cast from DOI, OMB, FDIC, DOJ, and the Department of Treasury "at which we [CEQ] initiated discussions on a potential debt-for-nature swap." (Document DOI H) That meeting led to FDIC attorney Jack Smith compiling a lengthy memorandum to Kathleen McGinty, the Chairman of CEQ. The memo reviews issues and answers about the feasibility of various legal mechanisms that might be used to facilitate the redwoods debt-for-nature scheme. (Record 30).

Then in late 1995, Judge Hughes, the U.S. District Court judge who was assigned the FDIC's lawsuit discovered what the FDIC and OTS had done to team up using overlapping authority to harass Mr. Hurwitz (Record 37 and document A) and the banking regulators' redwood debt-for-nature scheme began to be exposed.

At the same time (November 28, 1995) FDIC lawyers met with Katie McGinty (CEQ), Elizabeth Blaug (CEQ), and John Girimundi (DOI) where it was decided that there would be "no formal contacts until OTS file," (Record 38) and it was acknowledged that "after the administrative suit is filed is time for opening any discussions." However, the FDIC had already had several discussions with OTS about the redwoods swap, as had DOI staff beginning in July 1995, even before the FDIC claim was filed.

The notes from meetings between the FDIC and/or the OTS and environmental groups, government agencies, federal departments, the White House, from September 1995 through March 1996. (Record 31)

1996: FDIC Lawyers Cannot Find Their Way Out of the Forest—help, "we need an exit strategy from the Redwood"

By January 6, 1996, the redwoods scheme had come together as planned. John Thomas reported to Jack Smith in a weekly update. "United Savings. OTS has filed their notice of charges. The statute has been allowed to run by us [FDIC and OTS] on everyone other than Hurwitz. We have moved to stay our case in Houston, and are awaiting a ruling. . . . and there is question of whether a broad deal can be made with Pacific Lumber." (Record 36)

Shortly thereafter, on January 19, 1996, the fact that Mr. Hurwitz had not directly brought the issue of the redwoods into settlement discussions became a problem. OTS apparently refused to join the meetings led by CEQ about Headwaters, and an FDIC lawyer reported the refusal to CEQ: "I advised Elizabeth Blaug about this yesterday afternoon. I said that if Hurwitz wanted to have global settlements with OTS and FDIC involved, he would have to ask for them." (Record 36A)

In other words, the ex parte agency discussions (without Mr. Hurwitz) about FDIC and OTS banking claims were at least improper, and the impropriety was not realized; however, it was too late.

By March 1996, the FDIC and OTS were deeply involved with promoting the redwoods debt-for-nature scheme, but they had still yet to receive any direct communication from Mr. Hurwitz proposing a redwoods swap for their claims. About March 3, 1996, the FDIC attorneys must have begun to realize that the agency should not be involved in the redwoods scheme. He made the following note on what appears to be a "to do" list:

APPENDIX 1

DOCUMENT A

United States District Court—Southern District of Texas

FEDERAL DEPOSIT INSURANCE CORPORATION AND OFFICE OF THRIFT SUPERVISION, PLAINTIFFS.

versus

CHARLES P. HURWITZ, DEFENDANT.

CIVIL ACTION H-95-3956

OPINION ON DISMISSAL OF THE OFFICE OF THRIFT SUPERVISION

1. Introduction.

The Federal Deposit Insurance Corporation sued Charles Hurwitz for improprieties as corporate officer that led to the failure of a bank Hurwitz's corporation owned. While the suit was in its preliminary stages, the FDIC procured the Office of Thrift Supervision to use its powers to bring a parallel administrative action against the officer. Over the OTS's objection, this court joined the OTS as an involuntary plaintiff in this suit since it had decided to affect the outcome. Now, the FDIC has amended its pleadings to abandon its claims that duplicate those in the OTS's action; although this is yet another manipulation of the court system by the FDIC, the OTS will be dismissed.

2. Claims.

Charles Hurwitz was a member of the board of three different corporations that had an interest in United Savings Association of Texas. After United's failure in 1988, the FDIC began investigating Hurwitz. Cooperating with the government, Hurwitz signed a succession of agreements to extend the deadline for the government to act. After eight years of investigation by the FDIC and the OTS with no resolution in sight, Hurwitz declined to extend the statute of limitations again. The FDIC sued Hurwitz on a variety of claims arising from the operation of United. When distilled, the claims are that

- Hurwitz failed to maintain the net worth of United, and
- Hurwitz mismanaged United's mortgage-backed security portfolios.

Three months later, the OTS notified Hurwitz that it intended to file an administrative "notice of charges" on substantially the same claims in addition to violations of banking regulations. The court joined the OTS to minimize duplicative and—as it turns out—duplicitous proceedings and to avoid inconsistent findings about the same transactions.

3. Joinder.

The OTS was properly joined as a party. A party may be joined as an involuntary plaintiff when it claims an interest in the subject matter of the suit and its absence would leave another party at risk of incurring multiple or inconsistent obligations, Fed. R. Civ.P. 19(a)(2)(ii).

The government argues that this court may not join the OTS because it lacks jurisdiction. It says that the statute creating the OTS specifically divested district courts of jurisdiction. The statute say that a district court may not issue an order that affects the administrative process. The government, reading its protection from independent examination broadly, says that any action taken by this court in this case will necessarily affect the OTS's administrative proceedings, making it barred. See 12 U.S.C. §1818(I)(1).

The scope of the statutory prohibition of court intervention is limited to actions by the court to impede the issuance or enforcement of a notice or order of the OTS; every determination of law affects the OTS.

The government claims more for its precedents than a reading of them will support. Certainly, none of the cases indicates that a federal court has no authority to join the OTS as an involuntary plaintiff. Compelling the OTS to participate in a case is far different from preventing it from continuing its own case. See Board of Governors of Federal Reserve System v. MCorp Fin. Corp., 502 U.S. 31 (1992); Board of Governors of Federal Reserve System v. DLG Fin. Corp., 29 F.3d 993 (5th Cir. 1994). RTC v. Ryan, 801 F. Supp. 1545 (S.D. Miss. 1992). Only when a court seeks to enjoin, not merely join, might the court exceed its jurisdiction. In fact, federal courts have exercised jurisdiction over the OTS when, as here, the relief sought does not prevent the OTS from pursuing its administrative proceedings. See, e.g., Far West Fed. Bank v. OTS, 930 F.2d 883, 886, 890–91 (Fed. Cir. 1991).

4. One Government.

These two agencies insist that they serve different statutory purposes and should not be compelled to work together. Despite the currently popular usage of the label "Independent agency," no agent can be independent; without a principal, there can be no agent. Here two limited agents of the United States government claim to be wholly unrelated. They are both parts of the executive branch. It is one entity, operating under a restrictive charter and for an ultimate principal.

This bureaucratic shell game is aggravated by each sub-unit's active misrepresentations about the role each has played and the direct, total unity of financial interest. The government lawyers insisted that, although the investigations were perhaps parallel, the two sub-units were acting completely independently from each other. That turns out not to be true.

The FDIC has hired the OTS. The OTS declined to use its resources to pursue these claims, so the FDIC bought it by agreeing to pay its costs. Instead of exercising regulatory judgment about America's interest, the OTS is hammering citizens at the direction of the FDIC.

Although the FDIC knew that an OTS administrative proceeding was imminent, it initiated this suit in federal court. The FDIC and OTS worked in concert on the investigations, and the FDIC funded both investigations. The same parties and the same actions are involved. The money recouped by either agency will go to the FDIC.

Hurwitz is not seeking to enjoin the OTS, directly or effectively, or to "affect by injunction or otherwise" the administrative proceedings. Furthermore, this is not Hurwitz's suit. The FDIC initiated this action, knowing that it had bought the initiative of the OTS.

In January 1997, during a pre-hearing conference with the hearing officer, the FDIC and OTS stated "the bottom line" is that joining the OTS as a party to this suit "does not affect [the administrative] proceeding." The government has judicially admitted what it now seeks to contradict.

The law does not support the government's position, and it has admitted that joining the OTS as a party in this case does not interfere with the administrative proceeding. The statutory limitation, therefore, does not apply to this case, and this court had jurisdiction to join the OTS as an involuntary plaintiff. See 12 U.S.C. §1818.

5. Amended Complaint.

The FDIC has given up its case against Hurwitz in this court and delivered it to the OTS, getting an administrative forum in Washington and avoiding the public rigor of a court of law. In all important respects, the FDIC's original complaint and the OTS's notice of charges are the same. Both agencies essentially make two complaints: (a) the defendants failed to maintain the net worth of a bank and (b) the bank's mortgage-backed security portfolios were managed improperly. The underlying facts of both complaints are the same. The legal determinations in both would have been redundant. If United stockholders owe no net worth maintenance obligation, Hurwitz owes the government no money regardless of the forum. Further, if Hurwitz is found to have had no operational role in the bank's mortgage-backed securities portfolios, Hurwitz would have no liability to a government agency.

In the amended complaint, the FDIC's claims varnish. The FDIC drops its discussion of the connection between Hurwitz and Drexel—a public relations ploy—and its complaints about the mismanagement of the mortgage-backed securities, allegations occupying two-thirds of its original complaint.

The only claim remaining is a contingent one. The FDIC argues that, if the OTS determines Federated and Maxxam owed a duty to maintain the net worth of the bank, then Hurwitz breached his fiduciary duty to the bank by not compelling them to honor it. The FDIC makes its claim not only contingent on a favorable resolution in the OTS proceeding but also contingent on the OTS's lack of success in "collect(ing)" from Federated and Maxxam. The FDIC now abandons entirely the bulk of its claims and abates its remaining claim. Having hired the OTS so it had another forum, the FDIC is content to leave the resolution of liability to the "independent" regulatory process.

The OTS will be dismissed not because it was improperly joined, for its joinder was clearly permissible, but because its presence in this suit is no longer relevant. The OTS was joined to prevent duplicative proceedings, wasting precious judicial resources, harassing the respondent citizens, and risking conflicting findings of fact and law. Now that the FDIC has dropped almost its entire case, these risks are no longer present.

7. Conclusion.

The OTS was properly joined. Its presence in this case would not have "affected by injunction or otherwise" the ongoing administrative proceeding. The OTS will be dismissed as a party because there is no longer a risk of duplicative proceedings. The FDIC has abandoned its principal case in this court.

Hired governments and systematic falsehood are the tools of cosa nostra not res publica.

Signed October 23, 1997, at Houston, Texas.

LYNN N. HUGHES,
United States District Judge.

Document A2

United States District Court—Southern District of Texas

Federal Deposit Insurance Corporation, Plaintiff.
versus
Charles E. Hurwitz, et al., Defendant.
Civil Action H–95–3956

Opinion on Production of FEIC Report

1. Introduction.

The Federal Deposit Insurance Corporation sued Charles Hurwitz for his acts as corporate officer because a bank the corporation owned failed. In the pretrial discovery, the agency has refused to disclose its document authorizing the lawsuit, commonly called an authority to sue letter. It asserts its privileges not to disclose attorney-client communications or attorney's work preparing the suit. The document must be disclosed.

2. Background.

Hurwitz was a member of the board of three different corporations with interests in United States Association of Texas. After United failed in 1988, the FDIC began investigating Hurwitz. The agency asked Hurwitz to waive his protection under the statute of limitation: he did for seven years. In 1995 he declined to extend the time for the FDIC to bring its charges. The agency sued him in district court in Texas.

Hurwitz asked for access to the agency's authority to sue letter since it is an administrative predicate for the lawyers' acts and might reveal admissible evidence. The agency refused. This court ordered it to disclose the report after it excised the privileged matter. Hurwitz asked for the full report because even the limited disclosure revealed admissions against interest, including active material misrepresentations of fact to the court. The report was produced for court inspection, after the FDIC moved to have another judge read it and rule on the disclosure. The court—having read the report, compared the deletions, considered the legal authorities, and reflected on the record—decides that disclosure is imperative.

3. The Report.

As the expiration of the last waiver approached, the officers prepared a report to the board of directors. The report to the board was written by two officers of the FDIC—a deputy general counsel and an associate director for operations. These officers, signatures are supplemented by the concurrences of the general counsel and director.

The report discussed the factual background, regulatory context, legal positions, public interest, and agency policy, then it requested permission to sue Hurwitz. It recommended a lawsuit and requested authority to sue. Technically the report covers numerous people and companies, but the principal thrust is on Hurwitz individually and Maxxam Corporation, a holding company. For simplicity, Hurwitz is used as a synonym for all the defendants.

4. Attorneys, Clients and Privileges.

A communication is privileged from compulsory disclosure in litigation when:

The client asserts the privilege.

A lawyer acting as the client's lawyer had communicated to the client.

The lawyer communicated legal advice.

The lawyer prepared a legal opinion in anticipation of litigation.

The communication had no unlawful purpose.

See Fed. R. Civ. P. 26(b)(1), (3); Fed. R. Evid. 501; e.g., Rhone-Poulenc Rorer, Inc. v. Home Indem Co., 32 F 3d 851 (3rd Cir. 1994).

5. Operating Lawyers & Counseling Operators.

In traditional analysis, legal counsel is a staff function, but directing operations is an operating function. In a governmental agency sometimes the entire operation looks like staff, but when one of the functions of the agency is collecting claims owned through its defunct insureds, management of receivables and referral to legal counsel are operating decisions. The policy decision whether it is in the public interest to use litigation is ultimately an operating decision.

The authors of this report were both the legal and operations departments. The approvals were by both departments. Neither the assistant director who co-authored the recommendation and request nor the director who concurred was acting as counsel to the board. Rather, they were non-lawyers reporting their findings to the board.

This report is not a lawyer's opinion letter; it is an ordinary internal operating document. The subject of the report is claims and regulatory action, litigation and probable recovery, but that does not make it advice of counsel. Because the FDIC was not very good at its underwriting-review or supervisory-assistance functions, it is now in the liquidation business. Everything about a failed bank is about claims; the FDIC's stock in trade is debits and credits of uncertain value in a litigious society.

A client that obtains its advice in a mixed form—twisting the roles—must be able to disentangle the two strands clearly and reliably, or it loses its privilege as it would with any confusion or accession. The legal analysis in the report was commingled with everything from malicious gossip to historic data.

6. Exclusions.

In disclosing the part of the report that it knew was not privileged, the FDIC excised the parts that it concluded were privileged as an attorney's advice to his client. Having read the whole document, the nature of the excisions demonstrates the agency's bad faith.

The agency cut a personal description of Hurwitz as a "corporate raider."

The agency cut an admission that the FDIC had already paid $4 million to its outside counsel and expects to pay another $6 million.

The agency cut the admission that the savings and loan was hopelessly insolvent when it was sold by the FDIC to Hurwitz's company.

The agency cut the OTS's involvement in discussions about "pursuing these claims."

The agency cut the regulatory background and general history.

The agency cut the discussion of the wholly unrelated matters about Maxxam's indirect holding of Pacific Coast redwood forests.

The agency cut the discussion of Hurwitz's control of companies. These things have no relation to the legitimate categories of attorney-client confidences. There are some exclusions that were estimates of success and descriptions of defects in the claim, but the bulk of the exclusions were simply a lack of candor.

7. Estoppel & Unitary Government

The FDIC says that it is fully independent from the rest of the government. It makes this argument to avoid the complaint from Hurwitz that he is being attacked by the same the government of the United States in the case and in an action by the Office of Thrift Supervision for the same act. Moments later, the FDIC argues that it is all one government; it must make this argument because it has disclosed its analysis and strategy to the Office of Thrift Supervision, which disclosure destroys the pretense of an attorney-client confidence.

The Office of Thrift Supervision is a mid-level function within the Department of Treasury, it was created by federal law to supervise the operation of savings associations—a function parallel to the FDIC's with banks. Among other things, the director of the OTS has the responsibility to enforce part of the Federal Deposit Insurance Corporation Act.

Another federal statute created the Federal Deposit Insurance Corporation. The FDIC insures deposits of banks and savings associations by charging premiums. Although it has a corporate name, it is merely an agency of the federal government. The president appoints the five-member board of directors of the FDIC. The director of OTS is automatically a member of the FDIC board.

Because its insurance is mandatory under federal statutes, the FDICs revenues are undistinguishable from ordinary taxes. In court it maintained that it was separate from the congressional appropriations process, except for some tens of billions of dollars it used to pay its insurance losses in the eighties.

8. Manipulation of the Legal Process.

The report furthers a misrepresentation to the court. The FDIC has represented to the court that the Office of Thrift Supervision is proceeding entirely separately from this case. The FDIC never disclosed that it had actually hired the OTS to front for it in attacking Hurwitz administratively.

In November of 1996 the FDIC was telling this court that the proceedings were entirely separate, even to the point of trying not to admit that the director of the OTS sits on the FDIC's board. In August, the FDIC's chairman had reported to a congressman: "We are coordinating the investigation and our claims against Mr. Hurwitz with the Office of Thrift Supervision."

Not disclosing the report at this juncture would be allowing the FDIC to attempt fraud and, when it fails, to hide behind a privilege earned by responsible conduct.

The FDIC asked this court to have another judge examine the report so that it would not prejudice this court in the progress of this action. For eight years the FDIC has been "studying" this complex transaction, and it would like a judge not familiar with it at all to examine the report. That is a transparent dodge. Will the contents of the FDIC report bias the court? A conclusion reached on an impartial consideration of the facts is not prejudice. The FDIC—no less than other litigants—does not get the option to misbehave until caught and then ask for a clean slate elsewhere. A Freudian would say that the FDIC is projecting in its concern about tainted process.

9. The Board Resolves.

After the report was presented to the board of directors of the FDIC, the board adopted the report as its resolution. The board resolution served to authorize this lawsuit. The board could have authorized legal action against Hurwitz by a separately written resolution; and that resolution would have needed to contain no attorney's advice, but the board chose the expedient of adopting as its resolution the whole text of the report, making it a formal statement of public policy.

While the board may not have intended that Hurwitz or the public know of its decision in this form, its practices made its staff legal advice into an operating document, totally unprivileged. The resolution is not a client asking for legal advice nor an attorney giving advice, rather it is the embodiment of a governmental agency's final decision about public business.

An analogy: A report of advice from the general counsel of the senate foreign relations committee to its chairman may be privileged, but if the committee adopts the report as its resolution, no privilege survives. This report is like one that was written jointly by the architect of the capitol and committee counsel and then was adopted by the public works committee.

DOCUMENT B

CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED COMMUNICATIONS—REPORT AND LITIGATION RECOMMENDATIONS ON DIRECTOR, OFFICER AND PROFESSIONAL LIABILITY CLAIMS ARISING OUT OF THE UNITED SAVINGS ASSOCIATION OF TEXAS RECEIVERSHIP

[Prepared by: Brill, Sinex & Stephenson, a Professional Corporation]

I. BACKGROUND OF INSTITUTION

United Savings of Texas ("USAT") was closed on Friday, December 30, 1988, upon the determination by the Federal Home Loan Bank Board that the institution was insolvent and had engaged in unsafe and unsound lending practices. The institution failed as a result of excessive growth, substandard underwriting practices and internal controls; poor investment strategies and portfolio management regarding the mortgage-backed securities portfolio; the failure of USAT's holding company, United Financial Group, Inc., to maintain sufficient minimum regulatory capital in USAT; and the severe economic slump in the Houston/Galveston area.

USAT was a state chartered, federally insured savings association located in Houston, Texas. The association was a wholly owned subsidiary of a savings and loan holding company called United Financial Group, Inc. ("UFGI"). UFGI's principal shareholders were corporations controlled by Charles Hurwitz, who has a national reputation as a "corporate raider." UFGI and USAT were managed by virtually the same core group of individuals.

From 1983–1986, as the oil industry declined and the value of real estate in the Houston market slipped, USAT changed its income strategy from traditional real estate based lending to high profile investments in real estate and different types of securities and venture capital projects. In addition, USAT attempted to diversify its real estate portfolio into other areas of Texas (for example, San Antonio, Austin and Fort Worth).

At October 31, 1988, USAT reported negative capital of $272,791,000. At September 30, 1988, USAT reported assets of $4,646,240,000, and total liabilities of $4,849,373,000. An initial review indicates that since June 30, 1987, there had been a market loss in the MBS portfolio of $213,000,000. In addition, the estimated commercial real estate loan losses exceeded $500,000,000. Demand was made by the supervisory agent upon UFGI to honor its agreement to maintain the regulatory net worth of USAT; however, no new capital infusion was made.

Ownership of USAT

On the date it was closed, USAT was solely-owned by UFGI. According to the UFGI stock records, dated September 9, 1988, UFGI was owned by: (1) Cede & Co. (42.3%); (2) Hurwitz-controlled entities (23.29%); and (3) Drexel (9.7%). The Hurwitz-controlled entities consisted of Federated Development Company ("Federated"), MCO Holdings ("MCO") and Maxxam Group, Inc. ("Maxxam"). These three organizations, as well as Pacific Lumber, KaiserTech and many others, comprised Hurwitz's domain. The following are brief descriptions of the primary businesses.

MCO held a controlling interest of approximately 45.7% of the outstanding voting stock of Maxxam, according to its 10-K filing for the year ended December 31, 1987. Maxxam owned approximately 13.5% of the outstanding Common Stock and approximately 93.5% of the outstanding Series D Convertible Preferred Stock of UFGI. On March 21, 1988, MCO stockholders approved the merger of MCO with Maxxam. Maxxam is involved in forest products operations, real estate management and development, and aluminum products.

Federated, a New York business trust, owned approximately 9.8% of the outstanding shares of UFGI. It is solely-owned by Hurwitz and certain members of his immediate family and trusts for the benefit thereof. Federated owned approximately 28.2% of MCO's Common Stock and 91.3% of its Class A Preferred Stock.

Acquisition of UFGI by Hurwitz and Creation of USAT

USAT was chartered in 1937 as the Mutual Building and Loan Association, Fort Worth, Texas. In 1946, it became the Mutual Savings and Loan Association. The association was acquired in 1970 by Southwestern Group Financial, Inc., a wholly-owned subsidiary of Kaneb Services, Inc. In 1978, five savings and loan subsidiaries of Southwestern Financial Group, Inc. merged to form United Savings Association of Texas. In 1981, Southwestern Financial Group, Inc. changed its name to United Financial Group, Inc. That same year, Kaneb spun off UFGI by distributing its shares to the holders of its common stock.

Hurwitz began his acquisition in 1982, as reflected by the Joint Proxy Statement and Prospectus, dated March 24, 1983. Federated Reinsurance Corporation, an insurance company licensed under the laws of the State of New York, and Federated Development Company, a New York business trust, filed a joint 13–D statement reporting ownership of more than 5% of the outstanding shares of UFGI Common. On February 18, 1982, PennCorp (the previous parent of First American Financial of Texas) distributed 2.4 million shares of First American Common to its stockholders, in accordance with a special dividend. The remaining 20%, 603,448 shares, was deposited by PennCorp in trust, in connection with a 10-year warrant to purchase the common stock of PennCorp issued to Great American Insurance Company. The Merger Agreement and the Modification Agreement between the parties were executed on August 27, 1982. 13–D amendments filed by Federated, on December 10, 1982, state that it held approximately 53.8% of the MCO Holdings, Inc. total voting power. Federated, MCO and "certain others" filed a 13–D amendment to increase their UFGI ownership to 19.25%. Approximately one week later, MCO and American Financial Corporation executed a purchase and sale agreement which set forth the purchase by MCO of 603,448 shares of First American from American Financial Corporation. The Merger Agreement and the Modification Agreement were amended on January 10, 1983.

From November 23, 1982, until March 4, 1983, MCO Holdings acquired 60,200 shares of First American Common on the open market. At the same time, American Financial Corporation owned 20.18% of First American Common. Ten days later, according to an agreement of purchase and sale dated December 27, 1982, MCO Holdings purchased 603,448 shares of First American from American Financial Corporation.

By Bank Board Resolution 83-252, dated April 29, 1983, approval was given to merge First American Financial of Texas into UFGI and merge their subsidiary savings associations into USAT. This approval was conditioned on UFGI stipulating to maintain the regulatory net worth of USAT.

Sale of Branches to Independent American

In 1984, USAT sold several branches to Independent American Savings. When Independent American purchased the branches, it assumed liabilities of $1 billion in deposits. In order for Independent American to do so, USAT issued cash flow bonds in five series, labeled A–E, with coupon rates at 10%. Since the market price was at a yield of 15%, the spread between the two was a "paper gain" in fair market value. Although the gain was in paper, it had time value. The total "paper gain" was $90 million. The bonds were collateralized by mortgages. As mortgages under the bond paid down, the proceeds of the collateral were paid to the bond.

Following the branch sale to Independent American and the booking of the paper gain, a $32 million dividend payment was made to UFGI. The regulators approved a dividend for a certain percent of the amount, if the institution was profitable. The dividend was maintained in an USAT certificate of deposit.

Change in Real Estate Investment Strategy and Start-Up of Securities Trading Activity

It is apparent that United changed directions in 1982 after it was acquired through a purchase of its holding company, UFGI, by Charles Hurwitz and his related corporations. Prior to that time, United was a traditional savings association making residential and commercial real estate loans, primarily in the Houston market. In an attempt to remedy the problems caused by the Texas real estate depression and cope with the pressures of deregulation and interest rate fluctuation, the association changed its lending policies and began investing in securities. In hindsight, it appears that United's staff was not equipped for a transition from the lending activity of a traditional savings and loan under a regulated industry to a deregulated industry, utilizing high profile commercial lending and securities investments.

David Graham and Gem Childress are examples of this situation. Both were highly respected by the United staff and the thrift industry and had extensive experience in commercial real estate lending. Each held the position of executive vice-president in charge of real estate lending at the time of their departure in July, 1987. A new lending policy was created in 1983 directed toward high profile, glamorous commercial loan transactions, together with sophisticated securities investments. Some of the individuals who fit this high profile image were Jenard Gross, Mel Blum and Stanley Rosenberg. Employees like David Graham and Gem Childress who were oriented toward traditional saving and loan real estate lending were eventually terminated.

While Jenard Gross was considered a part of the high profile group, his knowledge of commercial real estate and his reputation with United staff was very high. He was a real estate developer, but appeared to be well respected by all who came in contact with him.

The high profile direction apparently led United into lending or investment relationships with which it was unfamiliar and not qualified internally to deal with. This is true in regard to loans or investments outside the Houston market. For example, United's staff relied on contacts such as Stanley Rosenberg, apparently a close friend of Charles Hurwitz, for development loans in San Antonio, Texas.

United, its subsidiaries, and its parent, UFGI, were apparently run by a small core group of individuals who participated in all activities. For example, it appears that the senior commercial loan staff was not included in the overall planning or direction of United. Once policy was made, the staff merely presented for approval applications that they felt had merit to the senior loan committee and ultimately the board of directors. Senior lending employees did not appear to have any real insight as to the overall direction of United or its serious financial condition. However, the core group, including Berner, Gross, Crow and Hurwitz, had knowledge of United's serious financial difficulties but continued to approve large commercial transactions in an attempt to generate new income form riskier loans.

United was in a relatively strong financial condition at the end of 1984. Total assets of the association were $3.9 billion, most of which consisted of single family residential home loans and a portfolio of construction and consumer loans of approximately $450 million. Liabilities consisted of branch deposits of $2.3 billion and reverse repos of $59 million. Investment activities were confined to treasuries and a small mortgage-backed securities ("MBS") portfolio. At the time, in part because of real estate losses, emphasis shifted from real estate loans to securities investments. The various securities activities included equity arbitrage, high-yield securities ("junk bonds") and MBS. Each of the portfolios is discussed in more detail in the following discussion.

High Yield Securities

Since its inception in 1985, the high yield securities area had four portfolio managers. Originally the portfolio was managed by Joe Phillips and Ron Huebsch. Subsequently, the program was managed by Terry Dorsey, then Eugene Stodart. Junk bonds were executed in United's account(s), with a small portfolio of warrants held by United Financial Corporation ("UFC"). Commercial bonds are debt instruments and were carried as commercial loans. Therefore, USAT could invest directly in junk bonds, but equity securities had to be held by its subsidiary, UFC. The portfolio was generally limited by policy to 11% of the total assets of United, 10% of which were included in the commercial loan section. The portfolio was not hedged with options because 70%–75% were fixed assets. The USAT liquidity investments, which generally consisted of government securities, were also handled by Stodart.

Our review has indicated that the junk bond department carried a modest net profit on the securities it traded. Because USAT booked the bonds at cost, the actual value of the bonds, which would vary from day to day, was not reflected. The estimated unrealized losses for 1987 were $47.9 million. Our focus has been on the trading strategies, the theft of corporate opportunities, and the possibility of insider trading and stock manipulation.

Equity Arbitrage

The equity arbitrage area was managed from inception in 1985 through January 6, 1989 by Ron Huebsch. The trading strategy involved the purchase of stock in a corporation which was undergoing a merger, acquisition, or tender offer. Profit or loss was based on the market movement or sale of the securities. The portfolio consisted of 95%–97% cash and 3%–5% preferred securities, debentures or debt securities. Our review has shown that equity arbitrage activities were profitable for 1985 and 1986, 2.5% and 5.7% respectively. Although equities profited in 1987, the "market crash" in October resulted in a $75 million loss over a two day period. Because of the profit prior to October, the overall net profit or loss for the year was even. While the equity trading was profitable, our reconstruction of equity transactions in 1987 show an additional $26.5 million in unrealized losses.

Mortgage-Backed Securities

Aside from the small portfolio previously held, MBS activity was initiated approximately in early 1985 by United. UMBS was formed in 1987. The MBS portfolio had three managers since inception. Joe Phillips managed the portfolio originally and was replaced by Sandra Laurenson around October 1986. Laurenson resigned prior to February 1988 and was replaced by Dominic Bruno who resigned in January 1989.

Our review to date indicates that two basic MBS phases occurred. The initial program was initiated in 1985. United purchased MBS for use assets and borrowed the funds from various broker/dealers (reverse repos) to finance the securities using the same securities as collateral. The spread between the MBS and the reverse repos was approximately 200 basis points. The maturity of the short-term financing was extended through interest rate swaps and "dollar rolls." When interest rates fell, the securities with higher coupon rates were sold which resulted in a profit. However, when the money realized from the sale of those securities was reinvested, the new securities yielded a lower rate while the cost of funds remained fixed. Thus, the spread was reduced or eliminated dramatically. Regular accounting did not require an adjustment of value of the securities to market and the securities were carried on the books at cost. Therefore, unrealized losses existed as the value of the securities fell. The unrealized loss at that time, based on the market value of the MBS portfolio and hedges, was in excess of $200 million.

In early 1987, the second phase of trading began, which was called risk control arbitrage ("RCA"). RCA is a growth, leveraging strategy which consists of purchasing MBS and its derivatives financed by short-tern liabilities, unusually reverse repos or dollar rolls. Since an interest rate risk exits between the long-term MBS and the short-term financing, hedges in financial futures, financial options, interest rate swaps, caps, collars and repos are utilized.

When interest rates declined in the initial phase described above, the association realized a profit on the assets over the cost of short-term funding. However, when interest rates increased, the association did not realize the losses. In addition, the risk of the lower coupon rate MBSs was not adequately hedged. Without discussing in detail each of the securities and financing types and how each related to the portfolio, the total unrealized loss at year-end for 1988 was in excess of $300 million.

II. DESCRIPTION OF INVESTIGATION

A. Scope of Investigation

The investigation of USAT began on December 31, 1988 with Hutcheson & Grundy ("H&G") and Brill, Sinex & Stephenson ("BS&S") acting as joint fee counsel on behalf of FSLIC. Brill, Sinex & Stephnson conducted the investigation arising out of commercial loan transactions, joint ventures and professional liability such as attorneys, accountants and appraisers. H&G investigated directors and officers liability issues arising out of securities transactions, including mortgage-backed securities and junk bond acquisitions by USAT.

The bulk of the investigation performed by H&G and BS&S was conducted in the first half of 1989. Thirty, sixty and ninety-day snapshot reports were issued by H&G and BS&S updating FSLIC on the status of the investigation. The preliminary conclusion from the initial investigation as to officers', directors', and other professionals' liability was that there did not appear to be any intentional fraud, gross negligence, or patterns of self-dealing. The most serious criticism of the officers and directors, in general, was that they exercised poor business judgment and were negligent in the management of the institution.

After mid-1989, several investigations have done forward on a case-by-case basis, and in some instances, litigation was initiated. The separately-handled matters, which will not be addressed in detail in his report, include: the Chapel Creek Ranch litigation, on the investigation of auditors and attorneys arising out of the Couch Mortgage transactions, litigation relating to the executive employee bonus plans, the dispute regarding UFGI's obligation to maintain the regulatory net worth of USAT, and the inter-company receivable due to USAT by UFGI on account of a tax refund.

The following is a summary of the work done by H&G and BS&S in conducting the professional liability investigtin of USAT.

In the initial investigation, we completed the review of offices and the control of files and documents of the association. In addition, an initial review of criticized loan and investment transactions was completed. We reviewed all relevant exam reports and supervising or correspondence, including the examination dated January 19, 1989 from the 10th District Examiners. We analyzed all board, executive, loan, and investment committee minutes. To the extent that other committees were pertinent, those minutes were reviewed. We interviewed all officers of the association down to the senior vice president level and two of the directors. Because of the potential litigation with UFGI, other directors have not consented to an interview. We also interviewed the supervisory agent, examiners, internal auditors and a variety of other United Savings employees. In addition, we met with the former attorneys for the association. These firms, Mayor, Day & Caldwell, and Schlanger, Cook, Cohn, Mills & Grossberg, were generally cooperative in all matters.

We inventoried over 400 lawsuits filed against United Savings and intervened on behalf of the FSLIC in lawsuits where appropriate. Where actions were not filed in federal court, we removed those cases. In each case, we prepared motions to dismiss and for summary judgment and have now achieved dismissal in almost all those cases. We also reviewed the allegations in the various lawsuits to determine if any issues were raised that would reflect on professional liability. We did not discover any issues that appeared to have substantial factual support.

The association had a fidelity bond policy issued by Victoria Insurance Company ("Victoria"). However, the association did not have an errors and omissions policy at the time of closing. As we have previously advised, the fidelity bond was subject to an indemnity agreement between the association and Victoria secured by a letter of credit at the Federal Home Loan Bank—Dallas. Thus, no third party coverage existed and we recommended the execution of a mutual release with Victoria. This release has been executed by the FSLIC and Victoria and the letter of credit at the Federal Home Loan Bank—Dallas securing the indemnity agreement has expired.

We have investigated the outside auditor for United Savings, the national accounting firm of Peat, Marwick & Main ("PM&M"). PM&M, formerly known as Peat, Marwick & Mitchell, had audited United Savings' financial statements from December 31, 1981 through December 31, 1987. We interviewed various individuals in connection with that investigation. In addition, we reviewed certain portions of PM&M's work papers for their audits of United Savings' financial statements for the periods December 31, 1983 through December 31, 1986, as well as selected audit plans of PM&M for those years. We also obtained and reviewed an investigative report conducted by the trustee for Couch Mortgage Company; and, to a lesser extent, we reviewed certain work papers of the national accounting firm of Ernest & Whinney ("E&W"), the independent auditors for Couch Mortgage Company. The results of our investigation of the auditors are contained in a report submitted to the FDIC on September 20, 1991.

FDIC Drexel Task Force

In the fall of 1989, we noted a pattern of activity in the investment area of USAT. This pattern involved the potential use of USAT by Hurwitz and Milken/Drexel as part of a network. On December 19, 1989, we wrote to Thomas Loughran at Finkelstein, Thompson and Lewis and Marta Berkley regarding this matter. At that time, we provided Loughran with various initial organizational documents including: (1) Pacific Lumber initial debt securities purchasers; (2) high-yield securities portfolio review of unrealized losses as of September 19, 1988; (3) directors and officers timeline; and (4) USAT chronology.

In September, 1990, we were contacted by the FDIC Drexel Task Force regarding the securities activity at USAT. Our initial meeting was with Frank Sulger, Gari Powder and Bill Carpenter of Thacher, Proffitt and Wood, Gary Maxwell of Kenneth Leventhal and Company, and Jamey Basham of the FDIC. During the meeting we discussed the possible ponzi scheme, the daisy chain network, and the "grand conspiracy" pertaining to the use of financial institutions by the corporate raiders. We also supplied the Task Force with the following: (1) expanded selected names mention list; (2) Drexel Burnham Lambert deal manager products charts; (3) 1986 and 1987 securities portfolio reconstruction charts and the related securities portfolio listings for 1986–1988; (4) possible quid pro quo analysis of Pacific Lumber note purchasers; (5) high-yield securities portfolio review of unrealized losses as of September 19, 1988; (6) high-yield securities purchase recommendation review; (7) interview recaps for Russell McCann, Eugene R. Stodart and Mary Mims; (8) materials regarding Transcontinental Services Group/TSG Holdings, Inc.; and (9) a memorandum regarding the credits chosen for sale in the autumn sales program. Subsequent to the meeting, the following items were given to Jamey Basham: UFGI ownership interests breakdown and chart, directories of USAT files, and a list of files removed from USAT by Berner.

In October, 1990, we were contacted by Cravath, Swaine and Moore. We discussed with Julie North and Veronica Lewis the same issues discussed in our earlier meeting in September. At this time, we provided photocopies of the exhibits to the USAT "S" memorandum. We also sent Cravath photocopies of the original documents produced to the Task Force in September. Additional documents provided to the Task Force include: Art Berner biography; a memorandum to Connell and Crow regarding the reasons for certain credits chosen for the autumn sales program; interview recaps for all of the officers/directors interviewed; Charles Hurwitz and related entities flow chart; review of certain UFGI shareholders; UFGI ownership interests; joint proxy statement—UFGI and First American Financial of Texas, Inc.; UFGI proxy statement excerpts, dated March 31, 1987; MCO Holdings, Inc. 1986 10-K excerpts; chronology of UFGI—First American merger; several newspaper articles; interview recaps pertaining to the January 12, 1989, interview of Brenda Bese, Michael Cline and Diane Buckshnis (FHLB-Seattle); Leonard Lepedis report; consent agreement, dated November 7, 1988; Caywood-Christian document evidencing the establishment of a managed account; high-yield and MBS speed call lists; consultant records pertaining to Walter Muller; MCO Holdings, Inc. and Maxxam Group, Inc. excerpts dated February 12, 1987; Drexel ownership interests information; minutes of the meetings of the board of directors of USAT for June 29, 1983, January 25, 1984, August 29, 1984, May 16, 1985, August 15, 1985 and February 19, 1987; Securities Market Oversight and Drexel Burnham hearings before The Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, House of Representatives, April 27–28, 1988; summary of minutes of the meetings of the executive committee of UFGI 1987–1988; summary of minutes of the meetings of the executive committee of the board of directors of USAT 1984–1988; summary of the minutes of the meetings of the board of directors of UFC 1983–1988; summary of the meetings of the board of directors of USAT 1983–1987; summary of the minutes of the meetings of the board of directors of UFGI 1985–1987; Corporate Takeovers, hearings before The Subcommittee on Oversight and Investigations of The Committee on Energy and Commerce, House of Representatives, October 5, 1987; Maxxam's answers to questions raised by The Subcommittee on Oversight and Investigations, appendix A; documents entered into the record by The Subcommittee on Oversight and Investigations, appendix B; and possible quid pro quo and Drexel/Milken connection analysis chart.

FDIC Directors and Officers Investigation Unit-Dallas

In May, 1990, we provided Floyd Robinson a set of the original organizational charts pertaining to the securities transactions at USAT. These documents included: selected names mentioned list; materials involving Transcontinental Services Group; possible quid pro quo analysis of Pacific Lumber note purchasers; high-yield securities portfolio review of unrealized losses as of September 19, 1988; USAT and related entities securities transactions reconstructions; and Drexel deal-manager products charts.

In October, 1990, we were contacted by Richard Boehme regarding the USAT D&O investigation being conducted at the FDIC in Dallas. We produced to Mr. Boehme the same documents which were originally produced to the Drexel task force. In addition, we sent the asset review reports, USAT snapshot investigation reports dated January 31, 1989, March 17, 1989, and April 10, 1989, and correspondence, dated September 19, 1989, to Thomas J. Loughran.

The following documents have also been sent to the investigative unit at the FDIC: possible quid pro quo and Drexel/Milken connection analysis chart (sent to Richard Boehme); inventories of the original and photocopied corporate USAT documents located in our office and in off-site storage (sent to Bruce Dorsey); a revised expanded selected names mentioned list (sent to Mike Wysocki); USAT snapshot investigation reports dated January 31, 1989, and March 17, 1989, correspondence, dated December 19, 1989, to Thomas Loughran, correspondence, dated December 19, 1989, to Marta Berkley, correspondence and report on potential auditor's claim arising out of the USAT receivership, dated July 11, 1989, prepared by Brill, Sinex and Hohmann, "S" memorandum recommendation, USAT/UFGI time line, segregated time lines for United MBS Corporation, United Capital Management Corporation, United Financial Group Inc., United Financial Corporation and USAT; and memoranda, dated January 24, 1989 and March 7, 1989, from Ami Hohmann regarding utilization of the time lines (sent to Gene Golman).

We have also been contacted by Sandra Northern at the FDIC in Washington who requested and received copies of the following documents: UFGI ownership interests, Hurwitz-related entities flow-chart, Hurwitz asset search report, and excerpts from the Columbia Savings and Loan Complaint, dated December 12, 1990, evidencing allegations relating to Hurwitz and USAT.

B. Completion of the Investigation

In April 1991, the FDIC attorney-in-charge of the professional liability investigation, Robert J. DeHenzel, Jr. requested that we complete the investigation and provide a written report and litigation recommendations. In completing the investigation, we conducted several more interviews, including the former Vice-President and General Counsel of USAT and UFGI, Arthur Berner. We also completed the analysis of the commercial loan and joint venture transactions, most notably by obtaining title company documents on the Park 410 loan transaction. We then reviewed, analyzed and coordinated all data obtained from the earlier investigation to the present. Finally, H&G and BS&S attorneys met to coordinate the results of their respective portions of the investigation and to reach a consensus on conclusions and recommendations.

III. CLAIMS AGAINST OFFICERS AND DIRECTORS

A. Applicable Standards

The standards applicable to the directors of USAT require a showing of gross negligence or worse, a breach of fiduciary duty, violation of statutory duty, or the receipt of an unlawful benefit. The officers are held to the ordinary corporate duty of care and loyalty. Section 212(k) of FIRREA (18 U.S.C. 1821(k)) provides that a director or officer of an institution may be held personally liable for damages for "gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence), including intentional tortuous conduct, as such terms are defined and determined under applicable State law. Nothing in this paragraph shall impair or affect any right of the Corporation under other applicable law."

Under FIRREA, therefore, an officer or director is liable for those standards imposed by the common law of the applicable jurisdiction, or in the absence of a higher standard, gross negligence or worse conduct as defined by state law. The Supreme Court of Texas defines gross negligence as "that entire want of care which would raise the belief that the act or omission complained of was the result of a conscious indifference to the right or welfare of the person or persons to be affected by it." Williams v. Steves Industries, Inc., 699 S.W.2d 570, 572 (Tex. 1985), quoting, Burk Royalty Co. v. Walls, 616 S.W.2d 911 920 (Tex. 1981). the court went on to say that

"[The] plaintiff may prove a defendant's gross negligence by proving that the defendant had actual subjective knowledge that his conduct created an extreme degree of risk. In addition, a plaintiff may objectively prove a defendant's gross negligence by proving that under the surrounding circumstances a reasonable person would have realized that his conduct created an extreme degree of risk to the safety of others." Id. at 573.

Effective August 31, 1987, Texas adopted a statute allowing an institution organized under the Texas Savings and Loan Act, Article 852a of the Texas Revised Civil Statutes, to limit the liability of directors. That statute, Tex. Rev. Civ. Stat. Ann. art. 1302-7.06B (Vernon Supp. 1991), provides:

"The articles of incorporation of a corporation may provide that a director of the corporation shall not be liable, or shall be liable only to the extent provided in the articles of incorporation, to the corporation or its shareholders or members for monetary damages for an act or omission in the director's capacity as a director, except that this article does not authorize the elimination or limitation of the liability of a director to the extent the director is found liable for:

"(1) a breach of the director's duty of loyalty to the corporation or its shareholders or members;

"(2) an act or omission not in good faith that constitutes a breach of duty of the director to the corporation or an act or omission that involves intentional misconduct or a knowing violation of the law;

"(3) a transaction from which the director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director's office; or

"(4) and act or omission for which the liability of a director is expressly provided by an applicable statute."

In February, 1988, USAT, a Texas chartered savings and loan, amended its Articles of Association to track the statute in large part and provide that:

"No director of this Association shall be liable to the Association or its shareholders or members for monetary damages for an act or omission in such director's capacity as a director except for the acts or omissions set forth below:

"1. A breach of the director's duty of loyalty to the Association or its shareholders or members;

"2. An act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law;

"3. A transaction from which the director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director's office;

"4. An act or omission for which the liability of the director is expressly provided for by statute; or

"5. An act related to an unlawful stock repurchase or payment of a dividend.

"If the Texas Miscellaneous Corporation Laws Act or other applicable law (herein collectively referred to as the "Act"), hereinafter is amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Association, in addition to the limitation on personal liability provided herein, shall be limited to the fullest extent permitted by the Act as so amended. No amendment to or repeal of this Article EIGHTH shall apply to or have any effect on the liability or alleged liability of any director of the Association for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal."

We found no Texas case law addressing the applicability of this statutory liability limitation provision. However, the utilization of the statute by directors who may be the targets of claims is clearly contemplated by the statute. In its original enactment, the 1987 statute stated that the limitation did not apply to acts or omissions occurring before the effective date of the Act. Accordingly, it could be argued that the liability of the directors of USAT is not limited as to acts occurring either before the effective date of the statute (August 31, 1987), or even before the date that USAT amended its Articles to incorporate the limitations (February 1988).

The standards applicable to officers continue to include good faith and prudence in the performance of their duties which must be carried out with ordinary care and diligence, First State Bank v. Metropolitan Casualty Ins. Co., 79 S.W.2d 835, 839 (Tex. 1935), and which may not be delegated to strangers. Brand v. Fernandez, 91 S.W.2d 932, 939 (Tex. Civ. App.—San Antonio 1935, writ dism'd).

In summary, while officers are held to an ordinary standard of reasonable care, it could be argued that a claim against a director must allege at least gross negligence or breach of fiduciary duty (duty of loyalty), self-dealing (receipt of improper benefit), or violation of a statutory duty.

The defenses commonly raised in actions against directors and officers are application of the business judgment rule, reliance on counsel or consultants or management, lack of causation, contributory negligence, or failure to mitigate. The business judgment rule, a common-law principle recognized in Texas, provides that an officer must discharge his duties with the care of an ordinary prudent man under similar circumstances. Therefore, honest mistakes of judgment are not actionable.

B. Securities Investment and Trading

The directors and senior officers of USAT were primarily people who understood the savings and loan industry in Texas when it was based on the local real estate market. After the collapse of the real estate market and the refocus of the institution on the securities markets, the directors and officers were unprepared to meet the challenge of adequately directing and supervising investments in the incredibly complex and sophisticated securities available and marketed to the savings and loan industry. We focused primarily on those senior officers and directors who had ties to UFGI and Hurwitz, including Gross, Berner, Crow, Heubsch and Munitz. We also looked specifically for evidence of speculative trading, theft of corporate opportunity, insider trading, and stock manipulation. While we did find evidence of speculative trading as outlined below, we found no direct evidence of insider trading, stock manipulation or theft of corporate opportunity by the officers and directors of USAT. We did find evidence that Charles Hurwitz may have used USAT in connection with insider trading or stock manipulation, and those findings have been turned over to the appropriate task force in Washington.

Specifically, our review disclosed evidence of acts and omissions which could form the basis of negligence, breach of fiduciary duty or fraud claims, which are fully outlined in the *Interim Report on the Securities Investigation of United Savings Association of Texas* dated April 29, 1991. First and foremost among those possible claims is the apparent relinquishment of direction and control of the investment policy of USAT to Charles Hurwitz, evidenced by:

1. the statements of Mike Crow, Mike Canant, and Jeff Gray;

2. the views of the financial world at the time;

3. the fact that James Paulin, who established the investment department at USAT, was not a USAT employee, but an employee of Hurwitz controlled Federated, Inc.;

4. the location of the securities trading area as well as the offices of Mike Crow, Financial Vice President, Bruce Williams and Jim Wolfe on the twenty-second floor of MCO Plaza, the same floor which housed Hurwitz, the corporate offices of Federated, Inc., and other Hurwitz controlled entities while other upper level management was located on the sixth floor of MCO and in Phoenix Tower;

5. the employment by USAT of Hurwitz employees and associates, and dual employment of certain officers and key personnel by USAT and UFGI or Hurwitz controlled entities;

6. the lack of control or supervision of the equity arbitrage transactions completed by Ron Huebsch for the USAT subsidiary, United Financial Corporation, and for Maxxam and other Hurwitz controlled entities;

7. the fact that the Investment Committee minutes were created after the fact and were not an accurate reflection of the deliberations or actions of that Committee;

8. the fact that the Investment Committee was a joint USAT and UFGI committee;

9. the Transcontinental Services Group transaction.

To the extent it is acknowledged at all, the officers and directors justify their willingness to consult with Hurwitz on the basis of Hurwitz's expertise in the securities area and his status as the ultimate controlling shareholder. While circumstantial evidence of this delegation is good, the testimony of the witnesses will vary as to the extent of Hurwitz's influence. Given the actual or perceived necessity of turning from traditional investments in real estate to the fast paced, more complicated securities arena and the lack of expertise on the part of the directors, the fact that Hurwitz, who was Chairman of the sole shareholder, was allowed to fill the gap does not seem to pose an extreme degree of risk to the institution or its creditors. Nor does the officers' willingness to rely on available expertise of a party they have every reason to believe has no conflict with the institution necessarily violate the prudent man rule.

Secondly, our review disclosed that the officers and directors approved transactions designed to defeat or evade safety and soundness regulations. Our investigation disclosed that the officers and directors of USAT authorized and directed a profit-taking strategy requiring significant speculative trading, and allowed the accounting department to book the securities as investment accounts rather than trading accounts. Since the securities booked as investments were carried at cost rather than market value, the books of USAT failed to reflect the true value of USAT's assets. Perhaps more importantly, the officers and directors not only authorized but demanded gains trading, i.e., the taking of profits in the portfolios and holding unrealized losses at cost, regardless of future income stream loss, to meet the capital requirements at each quarter end. USAT's outside auditors, Peat Marwick & Mitchell raised concerns about the amount of activity in the investment account, but eventually approved the USAT accounting procedures. The officers and directors have justified the trading activity on the basis of the volatility of the market in which they were investing. Investigation and reconstruction of the trades indicate that as of 1987, there were approximately $74.4 million in net unrealized losses in high-yield and equity portfolios alone. Obviously, as of any particular date, there would be unrealized losses even in a properly managed investment portfolio carried at cost on the books. Determination of actual damages will require the development of an economic model by an economist to determine the proper investment strategy had the institution not been taking profits to maintain capital requirements. In view of the consultation and reliance on outside auditors, it will be hard to prove gross negligence or breach of duty unless there was actual fraud and we have been unable to find such evidence.

Third, the officers and directors failed to establish and follow safe and sound investment policies, failed to properly institute and monitor internal controls on investments and the investment department, and failed to hire and maintain employees with requisite experience and knowledge to handle the complex and risky investments undertaken by the institution. These failures are evidenced by:

1. The gains trading or profit taking activity conducted without regard to ultimate effect on investment portfolio;
2. Post execution approval of transactions and approval without sufficient information as to beneficial owners or control persons;
3. Lack of control or supervision of trading in equity arbitrage area, including daily removal of files;
4. High turnover of employees in each securities area;
5. Employment of inappropriate people without thrift experience, such as Sandra Laurenson, a trader from Solomon Brothers, to manage an investment portfolio;
6. Failure to investigate default rate on given bonds and adequately reserve for losses;
7. Employment of advisors such as Caywood-Christian Capital Management, Walter Muller, and others;
8. Participating in risky mortgage backed securities or derivative transactions without adequate capitalization or funding;
9. Retaining poor investments because sales would require disclosure of losses;
10. Failure to recognize the effect on the market of the monopolies of Solomon Brothers in MBS and Drexel in junk bonds;
11. Investment by officers in companies in which USAT's subsidiary, United Capital Ventures, also held interests.

The proof indicates more than anything else that the directors and senior management found themselves trying to keep the institution afloat and play an entirety new ball game at the same time. While the profit taking strategy is well established, the directors' motivation was maintenance of the institution in compliance with the capitalization requirements and not self gain or violation of their duty of loyalty. The business judgment rule will be the primary defense to this cause of action. It will be difficult to show gross negligence on the part of the directors, and the efforts at control undertaken by the officers may not be far from that which would have been undertaken by reasonably prudent persons faced with the same volatile market.

Finally, we found some evidence of self dealing, or misappropriation of funds. Under the Texas statute, the directors would be liable only for transactions which resulted in "improper benefits" to individual directors.

Specific directors who benefitted from questionable payments included Jenard Gross, Barry Munitz and Robert Kuhn. The payments each have some ostensible purpose and the totals for those payments we discovered are small, amounting to approximately $50,000. We do not feel this is a strong claim.

There were also significant salary increases for officers between 1987 and 1988, as well as unusually substantial bonus packages. These increases and bonuses have been justified as necessary to retain the officers for the benefit of the institution and will be discussed later in this report.

We also carefully reviewed the securities transactions to determine if the relationship between USAT and Hurwitz and UFGI resulted in the diversion of USAT opportunities available to other Hurwitz entities. Although Heubsch traded equities for numerous Hurwitz entities and we believe Hurwitz directed certain purchases to further his takeovers, we found no evidence of direct diversion of opportunities. Heubsch often bought the same securities for several Hurwitz companies and when there were differences, they were generally related to the status of the other investments in the portfolio.

We found that several of the officers and directors had invested in the same entities as USAT's venture capital arm, but there was no evidence that the benefits would have otherwise accrued to USAT. Our investigation did not disclose a sufficient basis for a claim of theft of corporate opportunity.

We also reviewed the relationship between the traders and the securities industry to determine if there were payments, prizes or rewards which could constitute commercial bribery, but the few items we found were insufficient to support a claim.

In summary, the best claims against the directors and officers involve their delegation of their duty to manage and direct to Hurwitz, and the authorization of speculative trading and accounting procedures which did not reflect the true value of the institution. While it is extremely difficult to evaluate these claims at this time, we believe the likely percentage of success on liability issues is in the 40–60% range.

C. Compensation Arrangements

We received the significant salary increases which the officers and directors provided to the officers as well as the substantial bonus arrangements. These compensation arrangements are the subject of separate lawsuits and are not addressed in this report except as evidence of other claims which could be brought.

D. Real Estate Transactions

After investigating transactions which represent 85% of the value involved with substandard loans, no clear trends have emerged to reveal any pattern of self-dealing with respect to real estate lending and joint ventures. Various federal regulations were given particular scrutiny; those regulations include:

12 U.S.C. §84—Loans to a single borrower in excess of 15% of capital;

12 U.S.C. §375a—Limits on loans to executive officers;

12 U.S.C. §375b—Prohibition on preferential loans to directors of subsidiaries and holding companies. Limits on loans to executive officers and shareholders of 10% or more;

12 U.S.C. §1828(j)—Prohibition on preferential loans to officers and directors;

12 CFR §563.9-3—Loans to one borrower;

12 CFR §563.17—Safe and sound management practices;

12 CFR §563.40—Prohibition on affiliated person from receiving fees or other compensation with their procurement of a loan;

12 CFR §563.41—Places restrictions on real property transactions with affiliated person; and

12 CFR §571.7—Deals with conflicts of interests.

The following are summaries of our investigations and recommendations:

1. Park 410. The transactions involving Mr. Stanley Rosenberg were strongly criticized by the FHLB examiners, particularly the Park 410 transaction in San Antonio, Texas. Mr. Rosenberg is related to USAT because he is a shareholder and director of MCO Holding, Inc. which owns the largest single shareholder interest (13.5%) in UFG, the parent company of USAT. M. Rosenberg is a close personal friend of Charles Hurwitz, who is also a shareholder and director of MCO Holding, Inc. and a director of UFG. Mr. Rosenberg can be considered an affiliated person for purposes of conflict of interests (12 CFR §571.7), unearned transactions (12 CFR §563.41). It is our preliminary opinion that Mr. Rosenberg would be an affiliated person who indirectly acting in concert with other shareholders of UFG, the parent company of USAT, controlled the election of directors of USAT. As such, Mr. Rosenberg should not have received unearned fees or participated in transactions in which he would have conflicts of interest.

The Park 410 loan transaction had a number of deficiencies. First the loan was approved by the Senior Loan Committee of USAT even thought e appraisal did not support the full $80 million loan amount. Second, the loan was secured by letters of credit. In addition, the letters of credit were renewable yearly but the note term was for five years. Thus USAT ran the risk that the letter of credit would not or could not be renewed in the future.

Third, Stanley Rosenberg received $400,000 directly from the USAT loan proceeds at closing as a fee for the "service" of securing the USAT loan. The fee was not disclosed in the loan application made by the borrower's agent, Gulf Management Resources, Inc. In addition, the loan funds a quarterly management fee ($75,000 per quarter for the first three years of the loan, $50,000 per quarter in the fourth year, and $37,500 per quarter in the fifth year), payable to Gulf Management Resources, Inc., which in turn pays Stanley Rosenberg 25% of that fee, apparently for no present or future services. All of these unearned fees were paid to Mr. Rosenberg in violation of 12 CFR §4563.40, if Rosenberg is in fact an affiliated person.

Fourth, disbursements made at closing were not fully disclosed, as there was no reconciliation of proceeds disbursed directly to borrower and no discussion of disbursement to C.R. McClintock of funds paid directly to Alamo Savings Association by USAT. There was a very large sum of money which C.R. McClintock and/or Alamo Savings and Loan made from selling the land to Park 410 West Joint Venture, which is difficult to tract. Also, the closing statement shows the amount of $2.915 million was disbursed by the title company to Park 410 West Joint Venture, the borrower, for reimbursement of expenses, but it is unknown where these funds then went. There are indications that Mr. Rosenberg may have gotten these funds since his own limited partnership agreement reflected that he had advanced $2.198 million into the initial Park 410 Venture. The documents we reviewed at the title company and Alamo Savings shed no further light on this situation.

Finally, in addition to an extremely deficient file on the collateral and credit information on the loan, the appraisal prepared by Edward Schulz for USAT failed to provide an appropriate analysis of values under the three approaches, violating R41b(3).

The probability of success in respect to Mr. Rosenberg being considered an affiliated person is good, but not necessarily without question. Mr. Rosenberg also has a large personal guaranty in respect to the Park 410 transaction with USAT. A settlement proposal has been made by the borrowers to FDIC to work out the Park 410 loan. At this time, it is not known how much the losses will be on this loan, if any.

2. Gateway Joint Venture. This transaction also involved Stanley Rosenberg but primarily as a Guarantor for the top 25% of this $920,000.00 obligation. The makers on the note were E. John Justenia, Gordon A. Woods and Lee R. Sandoloski, Stanley Rosenberg's son-in-law.

The appraisal of the property which was the collateral used in this transaction appears to have been competently researched and prepared, although slightly optimistic.

The structure of the loan provided for a rate 1.5% over prime with a 24 month term. United was granted a 15% net profits interest, and it was anticipated the loan would roll into a "mini-perm" with a five year maturity. The funding of the "mini-perm" gave United a 40% net profits interest. In November of 1988 United requested that FHLBB allow refinancing of the subject note since cash-flow was below projected rates for Gateway. The request was granted on December 8, 1988, with the following terms:

1. Extension of note term to January 1, 1991;
2. Per annum interest under note to be 10.5%;
3. Effective December 1, 1988, through December 1, 1990, borrower pays only interest as it accrues;
4. Payment of monthly installment of accrued and unpaid interest in excess of 8.5% per annum may be deferred until maturity; and
5. Borrower to provide operating statements, rent rolls, year-end operating statement and annual audited financial statements.

We understand from USAT that there have been no losses recognized on the Gateway loan.

3. Park 10. This loan, in the amount of $16,000,000.00 was made by way of a non-revolving line of credit loan agreement dated December 17, 1986. The interest rate is Texas Commerce Bank's prime rate plus 1.75% with interest payments to be made monthly. This loan was primarily granted to provide funds for the payment of interest of outside debts. The maker of the note was Park 10 Limited which is a Texas limited partnership. The general partner is Park 10 Corporation which is wholly owned by Neil C. Morgan. Morgan is also the limited partner of Park 10 Ltd.

Morgan executed a Continuing Limited Guaranty which provides that he is personally liable to a maximum of $3,000,000.00 which is declining with each monthly interest repayment. As of this year, Morgan's guaranty has been exhausted. park 10 Ltd. was then placed in bankruptcy with a loan balance due to USAT of in excess of $16 million. However, it is our understanding from USAT that Morgan is making arrangements to satisfy this debt.

Collateral on the loan is "Park 10 Development". The repayment of the loan is based solely on the sale of this collateral property.

There does not appear to be any evidence of payments which could be classified as fraudulent transfers, kickbacks, or forms of disguised compensation. The substandard classification of this loan was necessarily based on the liberal structure of the loan, the declining limited personal guarantee of the principal and the lack of a demonstrated market for the collateral property as well as the uncertainty of the timing and source of repayment. The the stock of Yellow Cab. The transaction was apparently structured as a subordinated loan with warrants using a second-tier subsidiary in order to allow USAT to avoid the equity risk investment and loans to affiliates rules contained in 12 C.F.R. Sections 563.9-8 and 563.43. Yellow Cab, at its option, had the right to cause WMI to exercise its warrants in payment of the $2,200,000 loan.

The documentation does not support the concept of a standard loan transaction. Yellow Cab did not have cash flow sufficient to service the debt incurred in acquiring the Eagle stock, no payments are required or even permitted on the $2,200,000 note prior to 1990, and Yellow Cab has the option to cause WMI to convert the warrants to stock at Yellow Cab's option.

The interest rate on the $2,200,000 loan was 15% per annum, and no due date is specified on the note, despite a one-year term which is specified in the Purchase Agreement. The stated purpose of the $2,200,000, according to a memorandum in the file, was to allow WMI to make an equity investment in Equus Transportation, Inc., without violating the equity risk investment and loans-to-affiliates rules. Equus was perceived as a candidate for an initial public offering of its stock which would allow USAT the opportunity to obtain a "significantly enhanced return" on its investment.

Almost from inception, Yellow Cab experienced cash flow problems. In order to meet additional cash flow requirements, WMI loaned Equus an additional $500,000, evidenced by a promissory note dated July 1987 and received warrants to purchase 400,000 additional shares of Equus' common or preferred stock at a purchase price of $1.25 per share. The interest rate on this $500,000 loan was also 15% per annum, and again, no due date was specified in the note. Equus has the right to roll over principal and accrued interest on the first through fourth anniversary dates and, on the fifth anniversary date to the extent that WMI's exercise of the additional warrants, if any, has not fully discharged the $500,000 note, Equus has the right to give WMI a five-year term note bearing interest at 15% per annum, principal and interest of which are to be paid monthly.

USAT's participation in the Yellow Cab transaction appears to evidence poor business judgment at best and possibly gross negligence. USAT performed almost no underwriting or analysis on the loan and the files do not even contain a loan application. USAT's obligation to loan funds to WMI was open-ended and USAT pledged its own assets as collateral for WMI's obligation on the $4 million letter of credit. Corporate formalities were not followed as all employees of WMI were employed and paid by USAT.

We did not uncover, however, any evidence of any insider relationship to the transaction or any self-dealing by officers and directors with respect to the transaction. USAT has not yet provided us with loss figures for this transaction, and the losses may not yet be fully known.

6. Jerald Turboff Transactions. Prior to November 1985, Jerald Turboff had been involved in a number of loan transactions with United Savings Association of Texas which appear to have been made at arm's length and did not result in any losses to USAT. In November 1985, Turboff approached USAT with a business proposal that resulted in four distinct but related transactions. On its face, Turboff's proposal appeared advantageous to both parties; however, because of declining property values and Turboff's cash flow problems, the transactions ultimately resulted in losses for USAT.

The Turboff transactions are described in detail in the BS&S Interim Report. We concluded there that the transactions appeared to have a legitimate business purpose and that no evidence of misconduct was uncovered. USAT's actual losses on these transactions has not yet been determined because they all involved the sale of USAT REO which it eventually got back. Because these were non-income producing properties, we do not believe that the aggregated losses were that significant. Again, these transactions are more easily criticized in hindsight as evidencing poor business judgment.

7. Warwick Towers Venture. The Warwick Towers loans were originated in 1983. An $11,840,500 loan was made by Warwick Towers Venture and guaranteed by the John W. Mecom Company. The Warwick Towers Venture was also the maker on an additional non-recourse loan for $16,995,000. The original loans were made with very poor underwriting analysis and with very favorable terms to the borrower. When the project did not perform as expected, USAT entered into a settlement agreement with the borrower and guarantor, again with little underwriting analysis. USAT released the obligations of the borrower and the guarantor in exchange for an assignment of units in the condominium project and an assignment of a $10 million promissory note payable to the New Orleans Saints. Stanley Rosenberg was one of the guarantors of the $10 million note, but we were unable to discover any other connection Mr. Rosenberg had to the transaction.

The $10 million promissory note was paid, however, USAT lost money on the sale of the condominium units. Concerns have been raised regarding the unusual method by which the units were marketed, involving a sale and lease-back of the units by USAT. However, during the time period in which the units were marketed, 1985–1986, Houston had an extremely soft market for luxury high-rise condominium units.

No wrongdoing or self-dealing was discovered in this transaction, but there were several violation of regulations,

including 12 C.F.R. §563.17 (failure to obtain appraisals prior to making the loan).

8. North Lake (f/k/a Westgate). This was a joint venture of USAT's subsidiary, UFG,

and was carried on the general ledger accounts. The date of the loan was August 1, 1984, and the maker on the note was United Financial Corporation. Principal was to be repaid when land was sold.

The stated purpose of the joint venture was to develop tracts of land totalling 272.4 acres located in the northeastern portion of San Antonio, Texas. United Financial Corporation was obligated to fund all principal and interest in this transaction, which was originally estimated to have run $7.5 million on top of $7.5 million needed to service the first, second and third liens against the subject property. An appraisal was prepared by Love & Duggen, M.A.I., of San Antonio, Texas, and indicates that the property had a "developed" value of $17,800,000 and an "as-is" value of $14,840,000 as of January 13, 1987. No analysis of UFC's credit was revealed in a search of the files and is unlikely to exist, as UFC owns the property 100%.

There is no collateral in the usual sense of the word, as UFC owns 100% of the property. There have been no land sales and therefore no repayment.

Stanley Rosenberg, who served on the board of UFC, is a partner in the law firm that performed $9,500 worth of work on this project; and he is also president of Blazers, Inc., the project's managing partner. The structure of this transaction wherein UFC owns the property calls into play restrictions on real property transactions and loans to affiliated persons addressed in 12 C.F.R. Sections 563.41 and 43.

9. Eagle Hollow. This loan was dated September 16, 1982, and was in the principal amount of $9.7 million. The makers of the note were Eagle Hollow Partners, Ltd., Walter B. Eeds, David C. Hetherington, and The Greystone Group. The term of the note was eight years at an interest rate of 12.75% plus 50% of cash flow and 50% of profits due at sale or time of refinancing. The stated purpose of the loan was to provide a portion of the funds necessary to refinance the acquisition of real property consisting of 10.003 acres which was located 12 miles west of downtown Houston adjacent to Shell Oil Company's facility at Dairy Ashford and Interstate 10. There were to be 351 units in 21 separate buildings with 280,718 net rental square feet. The loan was to be non-recourse except for $2.2 million that was to be guaranteed by Walter B. Eeds and David C. Hetherington jointly and severally. An appraisal was conducted by Edward Schuly & Company on two separate occasions. On January 16, 1981, the property appraised for $10 million. An April 14, 1982, the property appraised for $11,500,000. An appraisal was also ordered for May 1986 but was cancelled at the request of USAT.

10. The Market at Hunting Bayou. This transaction involved two separate loans, approved in February 1985, one for $7,050,000, which was for the retail portion of the Market at Hunting Bayou, and a $2 million loan for an adjacent tract of land. Makers on the note were Larry Schulgen and the Market at Hunting Bayou, Ltd. Guarantors were Larry Schulgen, Leo Womack, George Gilman and Dan Sharp. The $7,050,000 loan was approved for the acquisition of 12.603 acres of land and to develop a shopping plaza. The $2 million loan was approved for the acquisition of 13.41 acres of land and 2.4973 acres of leasehold interest with the term of that lease being 99 years. The land and leasehold interest which were collateralizing the $2 million loan were contiguous to the 12.603 acres previously purchased for the development of the shopping plaza.

The approval of the total loan package of $9,050,000 was subject to an appraisal indicating a maximum loan-to-value ratio of 80%. The original appraisal for USAT was completed by Edward B. Schulz & Company on January 31, 1985. The appraiser, Lot Braley, issued an opinion based on the fair market value of the land and the proposed shopping complex. The appraised value of the land and proposed shopping center was estimated to be $11,300,000. The appraiser's report was issued to USAT; and, based on that report, USAT recommended a loan ratio of 80%. The total loan package of $9,050,000 was proposed by the Senior Loan Committee of USAT and accepted by the Market at Hunting Bayou, Ltd. The construction loan checklist makes reference to the compliance with R. 41b, but this is the only notation of compliance with the Regulations. There was no other mention in any of the Senior Loan Committee reports about the accuracy and/or adequacy of the appraiser's report and compliance with the standard set down in 12 C.F.R. Section 563.17–1a.

At the time the Senior Loan Committee was anticipating an amendment to the project at the Market at Hunting Bayou, it requested an appraisal from Cushman & Wakefield. The appraisal was completed by Paul Smith. On October 18, 1985, he appraised the property and improvements to be valued at $9,820,000. Based on this reduced appraisal value and the increasing softness of the general retail market, the Senior Loan Committee approved the proposal submitted by L. Schulgen to develop the tract into sites for miscellaneous uses such as restaurant pads, office, medical arts center, and to establish release prices based on an allocation of the loan to these proposed sites. At the time of the proposal, the borrowers were negotiating the sale of a 1.15-acre restaurant pad and had received interest in two additional sites.

After the Market at Hunting Bayou filed bankruptcy on August 7, 1986, the bank requested an investigation into the maker and guarantor's financial standing. This investigation was conducted by Pinkerton Investigation Service. The report is dated November 4, 1988. Prior to the financial problems of the Market at Hunting Bayou and in an attempt to keep the loans viable and to give the project a chance to succeed, USAT granted a $180,000 loan on January 6, 1986, to pay delinquent interest on the $2 million loan and accepted a $20,000 promissory to pay the origination fee on the $180,000 loan. After repeated demand letters for satisfaction of the debt and threatened foreclosure against the properties and shopping center, USAT entered into an agreement with the borrowers. There continued to be problems with the loans, and letters continued to be exchanged between USAT and Schulgen.

USAT files indicate that the Market at Hunting Bayou filed bankruptcy in the Southern District Bankruptcy Division in Houston. The case number is 87-07584-H-11. The plan contemplates that certain payments to other creditors will be made out of the cash flow before distributing net revenues to United Savings. The plan is unclear as to the amount of the debt that will be allowed to USAT. It does not appear from the loan file that these loans were related to any other loans or transactions held by USAT.

11. Woodcreek Apartments Phase II. The date of this loan is shown as being June 5, 1987, with the maker on the note being Woodcreek on the Bayou Phase II Apartments Partnership. There were no guarantors for the note, but the nominees are the general partners, Paul C. Jacobson, Allen P. Jacobson, Gene P. Jacobson, and Evan K. Jacobson. The face amount of the non-recourse note was $1,665,000, and the due date on the principal is June 15, 1997. The stated purpose of the loan was the sale of REO. The Loan Workout Committee for REO sales approved the sale and loan to the partnership on May 7, 1987. The structure of the transaction called for Woodcreek on the Bayou Phase II Apartments Partnership to purchase the property by assuming a note with a remaining balance of $1,665,000 and placing a second lien against the property for $203,000. The terms of repayment provided for interest only in years 1 through 5 and principal and interest in years 6 through 10. Amortization was to be on a 30-year schedule with a balloon payment due at the end of the tenth year. Interest was to be set for 3% in year 1 and increase by 1% in years 2 through 5. Then beginning in year 6, the interest rate would go to 10% and remain at that rate until final payment.

The property was appraised on June 23, 1986, by William L. Behas, M.A.I.—S.R.P.A. of Behas & Associates. The land was valued at $912,235, and the improvements after rehabilitation were appraised to be valued at $1,462,765 for a fair market value of $2,375,000. Rehabilitation of the improvements, however, were expected to total $595,000, leaving a fair market value at the time of the appraisal of $1,780,000. The appraisal was done on behalf of United Savings Association of Texas.

12. Northpoint Square. The date of the loan is July 26, 1987, and the maker on the note is Northpoint Square Apartments Partnership, Paul C. Jacobson, general partner. There were no guarantors for this transaction. The face amount of the note is $3,105,000 and the due date of the principal is June 26, 1997, the last payment being a balloon payment. The loan was approved by the Loan Workout Committee, and the transaction was structured so that Northpoint Square Apartments Partnership would purchase the property for $3,405,000, which included the partnership's promissory note for $3,105,000. The terms of repayment provided for interest only in years 1 through 5, and principal and interest in years 6 through 10. Amortization was to be on a 30-year schedule with a balloon payment due at the end of the tenth year. Interest was to be set for 3% in year 1, and increase by 1% in years 2 through 5. Then beginning in year 6, the interest would go to 10% and remain at that rate until the final payment.

The property was appraised on February 18, 1987, by William Murphy, M.A.I., S.R.P.A., of Murphy, Kirby & Associates and was valued at $2,500,000. An analysis of credit did not appear in the materials provided for our review; but shortly after the sale closed, the partnership fell behind in its payments and remained so until foreclosure in 1988. USAT made loans to various entities which, like the borrower in this instance, were controlled by Allan P. Jacobson, Gene P. Jacobson, Paul C. Jacobson, and Evan K. Jacobson. However, it does not appear that the loan-to-one borrower rule would be violated due to the size of USAT.

13. Cinco Ranch. Cinco/Watson J.V. was formed as a joint venture of United Savings Association of Texas and Dempsey Watson for the purpose of investing in real estate. Cinco/Watson purchased 22 commercial tracts totalling 379.83 acres within Cinco Ranch for a purchase price of $33,345,434. Twenty percent of the total purchase price was paid as a down payment, and a non-recourse note was executed in the amount of

$26,676,347. Makers on the note were Cinco/Watson Joint Venture, and the payee was Cinco Ranch Venture. Accrued interest was to be paid on June 10 and December 10 of each year, commencing on June 10, 1985, and continuing through and including June 10, 1990. The purpose of the transaction was to acquire approximately one-half of the commercial reserve tracts within Cinco Ranch. USAT was expecting a profit of $26,482,000 as it shared the joint venture's profits. The joint venture proposed was to be between USAT or an affiliate and Dempsey Watson, with 75% of income gain and loss attributed to USAT and 25% to Watson. Watson was to be liable for his pro rata share up to a maximum liability of $1 million. The memorandum detailing the joint venture also outlined that Watson would manage the day-to-day affairs of the venture but that ultimately all decisions in connection with the venture would be made by USAT. Dempsey Watson's annual management fee was to be $100,000, plus an additional 5% of profits generated by the venture. The interest rate on the note was to be the prime interest rate, plus 2% with a maximum interest rate of 15%.

An appraisal dated March 17, 1986, appears in the files from Murphy, Kirby & Associates. The appraisal was for the market value of the fee simple title to 379.83 acres of vacant land as of February 11, 1986, and a valuation was placed on the property of $40 million.

The loan in this transaction was a non-recourse loan. In a file at the MCO Plaza offices of USAT, it is noted that Dempsey Watson is the son-in-law of Walter Mischer, who is president of the Mischer Corporation, which was one of the joint venturers in Cinco Ranch. No wrongdoing can be presumed from these facts alone, but once again, it reflects USAT's continued involvement with "high rollers" within the Houston economy.

14. Remington Partners. Remington Partners acquired the Remington Hotel from Rosewood Hotels, Inc., in 1985. Seventy percent of the purchase money was borrowed from United Savings Association of Texas, which placed a first lien against the hotel. Makers on the note were Remington Partners, a Texas joint venture, William T. Criswell, IV, venturer, Waverly Development Limited Partnership, a venturer, by I.S.R.P. Limited Partnership, by Isaac Stein, sole general partner. The promissory note is in the principal amount of $25,300,000 and was for a term of three years at a fixed rate of 14% interest. Interest payments were to be made the first day of every third month, beginning August 1, 1985, with accrued interest and the principal being due on May 13, 1988.

To further assure that note payments were made, an escrow fund was established in the amount of $9,083,251. This amount represented the interest payments due between May 13, 1985, and May 13, 1988. USAT was allowed to draw upon the escrow fund when each of the interest payments became due.

An appraisal of the Remington Hotel was conducted by Edward B. Schulz & Company. The purchase price of the Remington Hotel was $32 million, and Schulz appraised the property at $33 million. Schulz stated that the appraisal was made in accordance with contemporary appraisal techniques that met the requirements in guideline R. 41b of the Federal Home Loan Bank Board.

The only credit history found in the files were financial statements submitted by the Criswells and Isaac Stein. Bill and Sharon Criswell are principals in Criswell Development Company, which in 1985 ranked among the 25 largest diversified development companies. Isaac Stein was then serving as president of Waverly Associates and managed its investment partnerships. Waverly Development Limited Partnership and Criswell Development Company had been successful in past ventures, including a majority equity interest in the Dorchester Hotel in London.

The Remington Hotel opened in November 1982 and was built by Rosewood Hotels, Inc., in conjunction with the Caroline Hunt Trust Estate at a cost of $48 million. Cost for the building and property totalled more than $65 million. Additional collateral securing the note included a tract of land in Tarrant County, Texas, of 57.9374 acres and stock certificates for 300 shares of National Tubular Systems, Inc., a privately held company controlled by Crest Holdings, Inc., a Cayman Island corporation controlled by Isaac Stein.

The loan performance history on this transaction was excellent until 1988 due to the fact that $9,083,251 were held in escrow by USAT on which to draw the interest payments. Remington Partners, however, did not repay the principal in a timely manner. A lawsuit was filed and then settled out of court on December 21, 1988. Releases on the underlying promissory note and deed of trust were executed by USAT on December 22, 1988.

E. Couch Mortgage

The background of the Couch Mortgage transactions is described in detail in the BS&S Report of September 20, 1991 to the FDIC. The September 20, 1991 Report focuses only on the liability of third parties for the Couch Mortgage losses. A case could certainly be made that the officers and directors of USAT were negligent in entering into and monitoring the Couch transactions. In the course of investigating the Couch transactions, we have found no evidence of wrongdoing or complicity on the part of any USAT officers, directors or employees.

If the FDIC decides to pursue its claims against third parties for the Couch Mortgage losses, then it would seem to be counterproductive to at the same time allege that USAT officers and directors were negligent with regard to the transactions. In fact, it is highly likely that the third parties sued will attempt to raise as a defense the negligence of USAT's officers and directors.

Because of the lack of evidence of affirmative wrongdoing and the much greater likelihood that damages could be recovered from third parties, we do not recommend initiating litigation against officers and directors of USAT for the Couch losses. It is possible that some of those individuals could be joined as third-party defendants if FDIC elects to sue others for the Couch losses.

F. Authorization of Dividend to UFGI

In 1984, USAT sold several branches which resulted in significant increase in capital. According to Mary Mims ("Mims"), operations manager of the treasury department in 1984, the branches were sold because the previous merger created a branch overlapping situation. However, an October 1984 Texas Business article regarding Hurwitz states "Hurwitz has devised an innovative plan to sell off up to 48 bank branches (including deposit liabilities and all branch properties). If he pulls it off, the deal would augment United's net worth by about $150 million, more than doubling equity in one shot."

The branches were sold to Independent American Savings. According to Crow, Independent American paid a "ridiculously high price" for the USAT branches—15% premium. According to Wolfe, when Independent American purchased the branches, it assumed liabilities of $1 billion in deposits. In order for Independent American to do so, USAT provided it an asset of cash flow bonds with a coupon rate at 10%. Since the market price was at a yield of 15%, the spread between the two was a "paper gain" in fair market value. Although the gain was in paper, it had time value. The total "paper gain" was $90 million. USAT issued a cash flow bond to Independent American Savings which contained five series, labeled A–E, in the amount of the total customer balances. As mortgages under the bond paid down, the proceeds of the collateral were paid to the bond. Crow stated that the objective of the sale was to build equity. Although the sale did not result in any cash, it created a "paper gain" of approximately $90 million.

Following the branch sale to Independent American, a $32 million dividend payment was made to UFGI. The dividend payment was handled by C.E. Bentley, Jim Pledger and Gerald Williams. The regulators approved a dividend for a certain percent of the amount, if the institution was profitable. According to Crow, USAT was profitable in 1985 solely because of the branch sale. The FHLBB was upset because it was not made aware, at the time of the regulatory approval, of the utilization for the capital.

Mims stated in her interview that the treasury department maintained the dividend in an USAT certificate of deposit. She added that had the funds from the branch sale not been available, based on the cash flow at the time, UFGI would have been bankrupt within one to two years after the merger. The funds were utilized by UFGI to begin its equity arbitrage activities and to pay the PennCorp debt from the 1983 merger.

Because this dividend payment was made three years before the institution was closed and because it was approved by the appropriate regulatory agency, we believe it will be difficult to prove gross negligence on the part of the directors. It would be less difficult to prove a lack of prudence on the part of the officers, but we cannot estimate the probability of success on the liability issues at greater than fifty percent (50%). We are also unable to make an assessment of actual damage to the institution from payment of the dividend. Certainly, additional capitalization may have allowed the institution to slow its gains trading activity, but we cannot make an estimate of the possible damages at this time.

IV. CLAIMS AGAINST HURWITZ AND UFGI

A. Corporate Raider Scheme

The primary conclusion we have drawn from our investigation of the securities area is that Charles Hurwitz used USAT as a deep pocket or source of funds for favors to facilitate his own corporate raider activities. We have outlined our theories and the available documentation in prior recommendations, including the *Interim Report* of April 29, 1991. In our investigation we were unable to find evidence of securities transactions which directly benefitted Hurwitz, such as purchases of Hurwitz entities' junk bonds or equities. We do believe, however, that Hurwitz, together with a group of corporate raiders, traded favors and participated in a scheme or conspiracy to manipulate the market and that USAT was used by Hurwitz in whatever way was necessary to make that scheme work. We have been working with the Drexel task force for over a year and have provided them with substantial analyses and documentation, such as the quid pro quo analyses and the names mentioned list providing information on every player in the network, as well as continual updates. It is our understanding that these sorts of claims against Hurwitz will be handled by the task force and this report will make no recommendation on those claims.

B. Dividend to UFGI

It is our understanding that the claim against UFGI for payment of the dividend is being separately handled in negotiations with UFGI.

C. Tax Reform Claim

We understand the tax refund claim is being separately handled in negotiations with UFGI.

D. Lack of Capital Infusion

MCO Holdings indicated in several SEC filings that it and Federated filed an application with the Federal Home Loan Bank Board ("FHLBB") on June 29, 1983, for approval to acquire more than 25% of the outstanding shares of common stock in order to become savings and loan holding companies. The application was approved by the FHLBB on December 6, 1984, subject to a capital infusion requirement. For as long as MCO and Federated controlled USAT, both entities were to contribute their pro rata share of any additional capital infusion required for USAT to maintain its regulatory net worth. If in excess of 50% of the voting shares of UFGI were acquired by MCO and Federated, they were required to contribute 100% of any additional capital. Subsequent to the application approval, MCO Holdings and Federated held discussions with the FHLBB concerning the possible modification of the condition.

The FHLBB granted MCO and Federated extensions in order to acquire additional shares of UFGI's common stock. The extension was granted so that MCO, Federated and the FHLBB could continue discussions regarding the modification of the capital infusion guarantee. The last extension granted by the FHLBB expired on December 22, 1987. The MCO 10K states that it had no intention to infuse capital into UFGI at the time of the filing. Also, it acknowledges that UFGI agreed to maintain USAT's capital requirements above the minimum level established by the FSLIC. However, it stated that UFGI did not have sufficient assets to contribute capital to USAT in order to maintain its minimum capital requirement.

The Federal Home Loan Bank of Dallas ("FHLB-Dallas") directed the UFGI Board of Directors, on May 13, 1988, to infuse capital into USAT. Although the directors acknowledged the receipt of the letter, capital was not infused and UFGI did not respond to the letter. On December 8, 1988, the FHLB-Dallas again directed UFGI to infuse additional equity capital into USAT. UFGI did not make such infusion. According to Connell, Hurwitz will assert that he infused approximately $100 million of capital into USAT as a result of the Weingarten Realty transactions.

This claim is being pursued separately by other fee counsel.

E. Advances by USAT for the Benefit of Affiliates

We reviewed the payments made by USAT on behalf of UFGI and other affiliates and found evidence of:

a. payment of salaries and bonuses by USAT when a substantial part of the employee's job included work for UFGI or other Hurwitz entities, such as Ron Heubsch;

b. advances of affiliates' expenses which were carried on USAT's books as receivables but remained unpaid.

There is evidence that UFGI repaid these advances late in 1988 and we were consistently told that repayment was always contemplated. We do not feel that we have strong proof of misappropriation of USAT funds through payment of affiliates' expenses. However, the outstanding amount should be recouped and we understand these claims are being separately handled in negotiations with UFGI.

V. CLAIMS AGAINST THIRD PARTIES

A. Accountants

An investigation of the potential liability of the auditor of USAT was conducted by BS&S. The results of our investigation is included in a Report submitted to the FDIC on September 20, 1991. The Report focused on the liability of USAT's auditor, Peat, Marwick & Mitchell (now known as KPMG Peat Marwick), for general auditing negligence issues, as well as issues relating directly to the Couch Mortgage transactions. That Report also included our opinion on the liability of Couch Mortgage's auditor, Ernst & Whinney (now known as Ernst & Young), for its failure to disclose the ongoing fraud being committed by Couch. Please refer to the September 20, 1991 report for detailed conclusions and litigation recommendations.

B. Lawyers

Potential professional liability claims against attorneys were considered in connection with all of the other investigations mentioned in this report. Attorney liability issues have been addressed in the September 20, 1991 report on Potential Professional Liability Claims, as well as in the Chapel Creek Ranch litigation. In the course of investigating real estate and loan transactions, securities activities, and other director and officer liability issues, the possibility of attorney negligence was explored. Other than what has been discussed in earlier reports, we did not discover any apparent instances of attorney malpractice. USAT utilized a number of different law firms for its legal work, the two who received most work being the Houston firms of Mayor, Day & Caldwell and Schlanger, Cook, Cohen, Mills & Grossberg. No law firm seemed to act as "general counsel" for the institution. It appears from USAT's records that Arthur Berner, in-house general counsel for USAT, gave legal advice regarding the most strongly criticized activities of the institution, including the golden parachute employment agreements, the 1988 executive bonus plan, the inter-company receivable between USAT and UFG, and the failure of UFG to infuse additional capital into USAT.

C. Appraisers

Other than the Chapel Creek Ranch litigation and the Couch Mortgage transactions, our investigation has not revealed any apparent problems relating to appraisers involved in loan and real estate investment transactions. There were numerous instances of USAT failing to obtain appraisals in violation of the regulations, and a few instances of appraisals that did not comply with Rule 41b. However, these issues go more to the negligence of officers and directors in approving transactions with insufficient or no appraisals. In summary, other than what has been previously reported, we did not find any appraiser errors or omissions.

D. Real Estate Brokers

USAT entered into contracts with various real estate brokers who were employed to dispose of real estate owned by USAT. These contracts were reviewed, as were the lists of properties on which the realtors earned commissions. No wrongdoing was discovered, although it was noted that many of USAT's deals seemed to be "broker-driven," with the broker dictating the terms of the transaction. Again, this reflects on the negligence of the officers and directors in failing to maintain and enforce prudent lending practices. No litigation is recommended against brokers.

E. Securities Industry

Early in the investigation we thoroughly reviewed the role of Solomon Brothers in the sale of MBS products to USAT. Mortgage-backed securities were developed and perfected by Lew Ranieri at Solomon Brothers and the firm had a virtual monopoly on the product until 1986 when other firms began to lure its traders away and develop their own programs.

Several people told us that the initial MBS portfolio was sold to United as a sure thing. We were told there was inadequate explanation of the risk. Unfortunately, the written documents do not bear out this claim, and we were unable to find any evidence of misrepresentations or misleading statements other than the self-serving statements of Crow and others. In light of this and the fact that USAT had been sold to a Ranieri partnership, in consultation with the FSLIC attorney at the time, we did not pursue the investigation any further.

We also reviewed the relationship of USAT and Drexel Lambert and Bear Stearnes & Co. The Drexel relationship was referred to the task force as described above and we found no irregularities in the transactions with Bear Stearnes & Co.

VI. SUMMARY AND PROBABILITIES OF SUCCESS

A. Claims Against Officers and Directors of USAT

In summary, we believe the following claims could be made against the directors and controlling officers of USAT:

Gross negligence—failure to institute and require compliance with prudent lending practices; violation of federal regulations relating to lending and investment transactions; failure to implement policies or supervise the securities investment department of the institution; and allowing the institution to. . . .

DOCUMENT E

MEMORANDUM

To: All the good, hardworking employees of the FDIC.

From: The people of the United States of America.

Re: Redwood Forests and Failed S & L's.

Date: November 22, 1993.

You may not be aware that there is a direct connection between the Savings and Loans, the FDIC and the clearcutting of California's ancient redwoods, but there is and we'd like to fill you in and ask for your help. It just so happens that a man named Charles Hurwitz, who took over the Pacific Lumber redwoods in 1985 through a Drexel Burnham junk bond buyout, also was responsible for the collapse of United Savings Association of Texas (USAT). In fact, Drexel-Burnham helped Hurwitz take over 200,000 acres of magnificent redwood forest in exchange for Hurwitz's United Savings buying over billion dollars' worth of Drexel's junk bonds. The bank later failed and the redwoods are still crashing. Your agency did outstanding work in nailing Drexel's Michael Milken on this very scam. The FDIC has even gone so far as to state that Hurwitz's bank owes the taxpayers $548 million for misappropriating depositors' funds. But for some reason, the FDIC hasn't gotten around to issuing criminal or civil charges against Charles Hurwitz for his end of this devil's bargain.

Meanwhile, back in Washington, DC, the U.S. Congress has been kind enough to introduce a bill, the Headwaters Forest Act, which would protect 44,000 acres of redwoods which Hurwitz is currently clearcutting, a process in which every living thing is cut down. All to pay off a junk bond debt! It's great that we're going to protect this land from Hurwitz, but we don't want federal dollars to go into his pocket while he owes the taxpayers $548 million. Coincidentally, Hurwitz is asking for more than $500 million for the Headwaters Forest redwoods. So if your agency can secure the money for his failed S & L, we the people will have the funds to buy Headwaters Forest. Debt for nature. Right here in the U.S. That's where you come in.

Go get Hurwitz. He and people like him have been traitors to this country, ripping apart the very economic and environmental fabric of this country for personal gain. Now our nation is on the verge of collapse, thanks to guys like Hurwitz. For five years your agency has had this $548 million dollar claim against Hurwitz's United Financial Group, the holding company for United Savings Association of Texas. The statute of limitations runs out at the end of 1993. He can actually get away with this robbery if your agency doesn't act soon. Justice delayed is justice denied. After five years of waiting it's time to say: "Charley Hurwitz, your time is up!"

Here's what you can do: Write and talk to your policy makers at the FDIC, in particular your Chairman, Andrew C. Hove, Jr., and ask them to re-prioritize your case against Hurwitz's United Financial Group. Talk amongst yourselves, too. Offer new, creative strategies of protecting the economy and ecology of this precious land of ours. Write to your Congressional Representative and Senators in Washington, DC and ask them to support the Headwaters Forest Act (HR2866). Lastly, we'd like to invite you to come out to the redwoods and see trees taller than you office building and as wide around as a room in your house. Give us a call at 707/468-1660 in California. We'd love to show you around the magnificent redwood forest, as well as show you the appalling clearcuts Hurwitz is performing. Don't delay. The junk bond traitors must be brought to justice. Debt for Nature and Jail for Hurwitz. Thank you.

NATIONAL AUDUBON SOCIETY,
Washington, DC.

The National Audubon Society strongly supports the Headwaters Forest Act, H.R. 2866, introduced by Dan Hamburg (D–CA) and Pete Stark (D–CA), authorizing the purchase of 44,000 acres of Redwood forest to be added to the Six Rivers National Forest in Northern California. This legislation would acquire the largest unprotected ancient redwoods groves in the world. Home to a great array of species, from mountain lion and black bear to giant salamanders and flying squirrels, the Headwaters Forest is composed of gigantic trees up to 2000 years old. Also found in its interior recesses are several threatened and endangered species including spotted owls, marbled murrelets, goshawk and a host of salmon species.

This land had been managed on a sustainable forestry basis by the Pacific Lumber Co. until a recent takeover by Charles Hurwitz, CEO of Maxxam. In order to pay off junk bonds used to buy off the lands, Maxxam has more than doubled the cut of the ancient redwoods. Over 40,000 acres have been liquidated already. HR 2866 provides for a restoration program and gives full protection to the old growth and wilderness designation for the 3,000 acre Headwater Grove.

Please write your representative today and ask him/her to support HR 2866. Maxxam is beginning to log off this great tract of giant redwoods; Court injunctions have halted logging in the virgin groves, but the stays are only temporary. Unless there is a serious legislative effort to acquire this forest, Hurwitz will assure that all the knowledge and wonder inside this area will be lost forever.

EARTH FIRST!,
Garberville, CA.

Rally Today, Monday at FDIC in DC & NY to Demand that Redwood Raider Hurwitz Pay S & L Debt

CHAIR OF HOUSE BANKING COMMITTEE SENDS LETTER ASKING FDIC TO PURSUE HURWITZ

Animals and activists from the redwood forest will rally outside the Headquarters of the Federal Deposit Insurance Corporation (FDIC), 550 17th Street NW in Washington, DC this Monday, November 22 at 1 pm to insist that an existing $548 million claim against redwood raider Charles Hurwitz's failed S & L be vigorously pursued before the statute of limitations runs out at year's end. A companion rally will take place at the FDIC's public relations department in New York at 452 Fifth Avenue at 10 am. The animals will be delivering a memorandum to FDIC employees, including Chairman Andrew C. Hove, Jr., asking that the man who has been hacking down their ancient redwood homes be indicted for his treachery against the American taxpayers.

In a separate but related development, Rep. Henry Gonzalez (D–San Antonio), Chairman of the House Banking Committee, faxed a letter last Friday to FDIC Chairman Hove, calling on the agency to act on the claim against Hurwitz, which has languished for five years without any criminal or civil action being pursued. Hurwitz, a junk bond raider who tripled the logging rate of the Pacific Lumber Company after his MAXXAM Corporation took it over in 1985 and incurred a $750 million debt, is also responsible for the failure of United Savings Association of Texas (USAT). USAT cost the taxpayers $1.6 billion to bail out in 1988, making it America's fifth largest failed S & L according to Fortune. The $548 million claim stands against USATs holding company, United Financial Group, and stems from the failure of Hurwitz to fulfill an agreement with the FDIC to maintain a minimum net worth of that amount in the bank.

This activity takes place in light of the Headwaters Forest Act (HR 2866) moving smoothly through the House of Representatives. The bill, introduced by California Congressmen Dan Hamburg and Pete Stark, along with over 90 co-sponsors, would authorize the federal government to purchase 44,000 acres of redwood forest. It has the thumbs up from President Clinton. However, Earth First! activists, who originated this issue in 1986 by hiking, mapping, naming and promoting the Headwaters Forest, are concerned that Charles Hurwitz could receive federal dollars for the ancient redwoods before he has paid back his S & L debt to the American taxpayers. "We seek justice for the American people as well as justice for the forest animals," said Darryl Cherney, a Northern California Earth First! organizer who has traveled to Washington to organize this rally. "Hurwitz's $500 million asking price for Headwaters conveniently approximates his S & L debt. With the legality of the PL takeover and the S & L failure in question our . . .

The Failure of United Savings Association of Texas (USAT): Fact Sheet

1. The FDIC has an outstanding claim against United Financial Group, holding company for the failed USAT, for $548 million dollars. (United Financial Group 10–K Report, year ending Dec. 31, 1992, p. 1 and Wall Street Journal, "United Financial Found Liable by FDIC," May 22, 1992).

2. Five years have passed since this claim was asserted in 1988, and while the FDIC has extended the statute of limitations through tolling agreements, the current statute of limitations ends on December 31, 1993 (UFG, 10–Q Report, Quarter ending June 30, 1993, p. 6).

3. When it was seized in 1988 by the FDIC, USAT was a wholly-owned subsidiary of UFG, whose controlling shareholders at the time of the collapse were Charles Hurwitz-run companies MAXXAM, MCO, and Federated Development Corp. Also, Drexel Burnham Lambert was a 9% shareholder (Washington Post, "Thrift Regulations Slipping . . ." by Allan Sloan, 4/16/91; MAXXAM Prospectus, 1988; and FDIC vs. Milken, 1/18/91, pp. 82–84).

4. From 1985 to 1988, USAT purchased over $1.3 billion worth of Drexel-underwritten junk bonds. During that same period of time, according to an FDIC lawsuit against Michael Milken, "the Milken group raised about $1.8 billion of financing for Hurwitz's takeover ventures," which included the 1985 takeover of Pacific Lumber Company, the world's largest private owner of old growth redwood (FDIC vs. Milken, 1/18/91, pp 82–84).

5. The failure of USAT constituted the fifth largest failed S & L Bailout, as of 1990, costing the taxpayers $1.6 billion (Fortune, Sept. 10, 1990).

6. Hurwitz has been sued by the Securities & Exchange Commission in 1971 for alleged stock manipulation; charged by New York State regulators in 1977 with looting Summit Insurance Co.; sued by investors for alleged fraud in the takover of Pacific Lumber; sued by U.S. Labor Dept. and employees for investing PL's pension fund with now failed-Executive Life Insurance in return for their junk-bond financing of the PL takeover; sued by MAXXAM shareholders for a land swindle in Rancho Mirage, CA; and sued (8 times) by EPIC of Garberville, CA and Sierra Club for violations of California Forest Practices Act; etc., etc., etc. (Wall Street Journal, "For Takeover Baron, Redwood Forests Are Just One More Deal," August 6, 1993).

MAXXAM GROUP INC.
Los Angeles, California, February 11, 1988.

Interest of MCO in MAXXAM

MCO owns a controlling interest in MAXXAM. See "Information Concerning MAXXAM—Business of Maxxam."

Interest of MCO in United Financial Group, Inc.

MCO owns 1,104,098 shares of UFG's common stock (approximately 13.5% of the outstanding shares) which is acquired in 1982 and 1983. Federated owns 801,941 shares of UFG's common stock (approximately 9.8% of the outstanding shares). Pursuant to a rights offering made by UFG to the holders of its common stock, MCO and Federated purchased 688,824 and 47,702 shares, respectively (approximately 91.2% and 6.3% respectively, of the outstanding shares), of UFG's Series C Convertible Preferred Stock ("Series C Stock") in 1984. Each share of Series C Stock was convertible into two shares of UFG common stock at any time after June 15, 1987. Effective May 4, 1987, UFG entered into an agreement with MCO and Federated whereby MCO and Federated exchanged their 736,526 shares of Series C Stock for an equal amount of new Series D Convertible Preferred Stock ("Series D Stock") issued by UFG. The Series D Stock has the same conversion and other rights as the Series C Stock, except that it is convertible at any time after June 15, 1988. In December 1985, MCO entered into an option agreement with Drexel Burnham with respect to 300,000 shares of the common stock of UFG. In the event MCO does not exercise the option during a 30-day period commencing July 1, 1988, MCO has agreed to grant Drexel Burnham an option to sell such shares to MCO during a 30-day period commencing August 1, 1988. The purchase price in either event is $8.59 per share. MCO paid a fee of $683,000 to Drexel Burnham for the purchase option. Two of UFG's eight directors are also directors of MCO. UFG is a savings and loan holding company and conducts business primarily through its wholly-owned subsidiary, United Savings Association of Texas ("USAT"). In addition, other subsidiaries of UFG provide mortgage lending, reinsurance and venture capital services. The carrying value of MCO's investment in UFG's common stock and Series D Stock was $12.7 million at September 30, 1987. The closing price of UFG's common stock on December 31, 1987 was $7/16 per share.

Federated owns approximately 28.2% of the MCO Common Stock and 91.3% of the MCO Class A Preferred Stock. On June 29, 1983, MCO and Federated filed an application with the Federal Home Loan Bank Board (the "FHLBB") for approval to acquire more than 25% of the outstanding shares of common stock of UFG and thereby become savings and loan holding companies. Such application was approved by the FHLBB on December 6, 1984, subject to compliance with several conditions, including that so long as MCO and Federated control USAT, they shall contribute their pro-rate share (based on their holdings of UFG) of any additional infusion of capital that may be necessary for USAT to maintain its regulatory net worth. In addition, if MCO and Federated acquire in the aggregate in excess of fifty percent of the voting shares of UFG, they would be required to contribute one hundred percent of any additional capital that may be required to maintain the regulatory net worth of USAT. Subsequent to the approval of the application, MCO and Federated held discussions with the FHLBB concerning the possible modification of the condition relating to the maintenance of USAT's regulatory net worth.

The FHLBB originally granted MCO and Federated 120 days from December 6, 1984 within which to consummate the acquisition of additional shares of UFG's common stock. This period was extended by the FHLBB in order to provide sufficient time for MCO, Federated and the FHLBB to continue discussions regarding the requested modification of net worth guarantees. The last extension granted by the FHLBB expired on December 22, 1987. Federated and MCO anticipated submitting a new application with updated financial information, while continuing to discuss with the FHLBB the possible modification of the condition relating to the maintenance of USAT's regulatory net worth. Although the instruments governing MCO's indebtedness do not prohibit or restrict MCO from infusing capital into UFG, MCO has no intention of doing that at the present time.

UFG files periodic reports with the Commission and its common stock is traded in the over-the-counter market and reported on the NASDAQ reporting system.

Thrift Regulators Slipping and Tripping Over One Another's Feet

(By Allan Sloan)

There are days when you wonder whether the federal government:s right hand knows what its left hand is doing—or even whether the government has two left feet, which is why it keeps tripping over itself.

Consider, if you will, the federal deposit insurance bureaucracy's schizophrenic dealings with Charles Hurwitz, the Houston-based entrepreneur who controls Maxxam Group, a conglomerate that's into aluminum, redwood and real estate. Although Kaiser Aluminum is Maxxam's biggest holding, Hurwitz is best known for the 1986 takeover of Pacific Lumber, the first major hostile takeover funded by junk bonds. Hurwitz's name is also immortalized in newspaper libraries because he's constantly attacked for allegedly devastating Pacific Lumber's redwood forests to pay off the bonds. But today we're talking about deposit insurance, not trees.

One part of the deposit insurance bureaucracy is hot to sell Maxxam some properties seized from dead savings and loan associations. Another part of the bureaucracy is chasing United Financial Group, a company of which Hurwitz is the biggest stockholder and the former chairman, to recovery part of the $2 billion or so it cost to bail our depositors of a United-owned S&L that failed in 1988.

Let's start with the Resolution Trust Corp., which liquidates dead S&Ls. The RTC, which had bad loans for foreclosed properties up the kazoo, is doing something intelligent by trying to sell them in bulk. Last month, the RTC announced that Maxxam had put in the highest bid, $130.1 million in cash, for a batch of foreclosed properties and stinko loans. The deal is scheduled to close by June 16.

But at the same time that the TRC wants to sell these things to one Hurwitz company, the Federal Deposit Insurance Corp., a sister agency run by the same board that controls the RTC, is trying to collect damages from the United Financial Group, owner of the failed United Savings Association of Texas. Although Hurwitz didn't technically control United Financial or its S&L, he was chairman of United Financial until 10 months before the S&L failed. He remains United Financial's biggest shareholder, which means he had more than a little to say about how the place was run.

The FDIC wants United Financial to fork over some dough because, its says, United Financial agreed to keep the now-defunct United Savings Association of Texas adequately capitalized. United Financial denies that United Savings was closed at a stated cost to the deposit insurance fund of $1.37 billion and an actual cost that's probably much higher.

United offered the FDIC $6.25 million cash and a note that could produce $4 million more. The idea was to make the FDIC go away, reorganize United Financial and use the tax loss created by the seizure of United Savings to shelter income from new and profitable acquisitions. The proposal settlement was canceled by the FDIC, according to United Financial.

In a logical world, you try not to do business with people who have already cost you money. As they say. "Fool me once, shame on you. Fool me twice, shame on me." And in fact, the S&L bailout bill contains a provision that seems to bar anyone who has stiffed deposit insurance funds for more than $50,000 from doing business with the agencies administering the bailout.

However, the law, as interpreted by RTC spokesman Stephen Katsanos, is that anyone who cost the deposit insurance agencies $50,000 or more can't be a contractor to the bailout folks, but it can buy property from them. That apparently includes Hurwitz, "Absent his being charged with wrongdoing, his money is good," Katsanos said. Katsanos said that the RTC knew about Hurwitz's involvement with United Financial, but that was no reason not to take his money.

Maxxam spokesmen were more than a little upset when they heard that I planned to tie Hurwitz's pending deal with the RTC to the failure of United Savings. One spokesman stressed that Hurwitz owned only 23.3 percent of United Financial and wasn't an officer of the failed S&L. Regulators couldn't possibly have been unhappy with Hurwitz, the spokesman said, because when United Savings was failing, the regulators asked another Hurwitz company—Maxxam—to put in a bid. (A competing bidder won.)

Maxxam spokesman said that the unconventional investments—among them junk bonds and a part ownership in a Houston taxi company—that Hurwitz recommended made money for United Savings. He also said that the S&L failed not because of wrongdoing, but because many of its borrowers lost their jobs and couldn't pay their mortgages. "This is a human tragedy caused by economic conditions," he said.

Interestingly enough, the RTC had a chance to take a $181.5 million Maxxam note containing escape clauses, but opted instead for $130.1 million cash. So, you see, deposit insurance regulators are indeed uncoordinated. But I never said they were stupid.

Document F

Federal Deposit
Insurance Corporation,
Washington, DC, December 3, 1993.

Memo to: Chairman Hove.
From: Alan J. Whitney, Director.
Subject: Significant Media Inquiries and Related Activities, Week of 11-29-93.

REGULATORY CONSOLIDATION: Several news organizatons have asked what the FDIC's position is on the agency consolidation proposal unveiled last week by Treasury. They were told you believed that with Board appointments imminent, it would be inappropriate to take an agency position until the full board is in place.

THRIFT CONVERSIONS: Crain's New York Business, Philadelphia Inquirer and *American Banker* newsletters inquire about the thrift mutual-to-stock conversion policy that the FDIC is currently developing, specifically when our position on this subject will be published. The calls came after *American Banker* ran an article in the Nov. 26 edition reporting on Rep. Gonzalez' legislation to limit thrift management profits from the conversions. We also received several inquiries about our response to Cong. Neal's letter of November 22 to you on the same subject, to which we have not yet responded.

O'MELVENY & MYERS: On Monday, the Supreme Court agreed to hear this case, involving the FDIC's ability to sue attorneys who represented banks that failed. The decision to hear the case prompted a flurry of press inquires about similar cases past and present. We provided some statistical data and limited information about the Jones Day case, which is still active.

FIRST CITY BANCORPORATION: Bloomberg Business News, Houston Bureau, called regarding possible settlement in the First City Bancorporation's claims case. It seems someone is talking, because the reporter asked about a December 14 FDIC Board meeting to discuss the settlement. The reporter wanted to know: If the FDIC committee working on the agreement approves the plan, does that mean the Board will "rubber stamp" it? We advised the Board does not rubber stamp anything. *The Houston Chronicle* also made several inquiries about a possible settlement in this case, all of which we answered with the standard response that we do not comment on ongoing litigation.

LOS ANGELES TIMES: Michael Parrish asked whether FDIC lawyers have considered whether we could legally swap a potential claim of $548 million against Charles Hurwitz, (stemming from the failure of United Savings Assn. of Texas) for 44,000 acres of redwood forest owned by a Hurwitz-controlled company. We advised Parrish we're not aware of any formal proposal of such a transaction. However, we noted that a claim can be satisfied by relinquishing title to assets, assuming there is agreement on their value. We didn't go any further with Parrish, but Dough Jones notes that even if Hurwitz satisfied our claim by giving us the redwoods, it wouldn't result in what Earth First! (the folks who demonstrated in front of the main building last month) apparently is proposing, i.e., that we then deed the redwoods property to the Interior Department. That would require some extensive legal analysis and, since any claim we might assert against Hurwitz would be a FRF matter, would likely entail Treasury Department concurrence.

Document G

Maxxam, Inc., is a publicly traded company with market capitalization, as of November 16, 1993, of $288 million and total assets of $3.5 billion. We are also reviewing a suggestion by "Earth First" that the FDIC trade its claims against Hurwitz for 3000 acres of redwood forests owned by Pacific Lumber, a subsidiary of Maxxam.

Document I

Jack, I thought about our conversation yesterday. My advice from a political perspective is that the "C" firm is still politically risky. We would catch less political heat for another firm, perhaps one with some environmental connections. Otherwise, they might not criticize the deal but they might argue that the firm already got $100 million and we should spread it around more.

Those are just my unsolicited thoughts.

Document L

ATTORNEY CLIENT PRIVILEGE

ATTORNEY WORK PRODUCT

Memorandum To: Board of Directors, Federal Deposit Insurance Corporation
From: Jack D. Smith, Deputy General Counsel: Stephen N. Graham, Associate Director (Operations)
Date: July 27, 1995
Subject: Authority to Institute PLS Suit; Institution: United Savings Association of Texas, Fin #1815; Proposed Defendants: Former directors and officers, de facto director and controlling person Charles Hurwitz.

In addition to presenting the attached authority to sue memorandum for Board action, this memorandum reports on the status of the continuing investigation of the failure of United Savings Association of Texas ("USAT"), the separate investigation of USAT being conducted by the Office of Thrift Supervision (OTS), current tolling agreements, and settlement negotiations with United Financial Group, Inc. (UFG), USAT's first tier holding company.

We were advised on July 21, 1995 that Charles Hurwitz would not extend our tolling agreement with him. Consequently, if suit is to be brought it must be filed by August 2, 1995. We had hoped to delay a final decision on this matter until after OTS decides whether to pursue claims against Hurwitz, *et al*. However, Hurwitz's actions have precluded that possibility. Thus the Board must now decide whether to authorize suit. While we would only sue Hurwitz at this time, rather than dividing the memo and, possibly, having to bring it back to deal with other individuals at a later time, the attached ATS seeks authorization to sue all of the individuals against whom we would expect to assert claims. In addition to the claims asserted against the group of defendants, Hurwitz would be sued individually for failure to cause compliance with certain net worth maintenance (NWM) agreements.

Recommendation: That the FDIC, as receiver of United Savings Association of Texas (USAT), Houston, (with assets of $4.6 billion and loss to the FDIC of $1.6 billion) authorize suit for approximately $300 million in damages against the proposed defendants identified on Exhibit A.

In our view, Hurwitz and the other proposed defendants were grossly negligent. However, we also estimate a 70% probability that most or all of the conventional claims that could be made in the FDIC's case would be dismissed on statute of limitations grounds. Hurwitz's failure to cause compliance with the NWM agreements has a better probability on the statute of limitations issue, but there are numerous obstacles to successful prosecution of that claim. Nonetheless, we believe the litigation risks are worth taking because of the egregious character of the underlying behavior in this case which caused enormous losses, and to further our ongoing efforts to shape the law evolving in this area.

I. Background

USAT was placed into receivership on December 30, 1988. After a preliminary investigation into the massive losses at USAT, the FDIC negotiated tolling agreements with UFG, controlling person Hurwitz and ten other former directors and officers of USAT/UFG who were either senior officers or directors that were perceived as having significant responsibility over the real estate and investment functions at the institution.

In May 1994, after a series of meetings with the potential defendants and the exchange of considerable documents and other information, we prepared draft authority to sue memorandum recommending that we pursue claims against Hurwitz and certain USAT former officers and directors for losses in excess of $200 million. The recommended claims as then proposed involved significant litigation risk. Most notably, the principal loss causing events occurred more that two years prior to the date of receivership, and were therefore at risk of dismissal on statute of limitations grounds. In light of the Fifth Circuit's opinion in Dawson, a split of authority in the federal trial courts in Texas on the level of culpability required to toll limitations and the Supreme Court's refusal to consider whether a federal rule should be adopted under which negligence by a majority of the directors would toll the statute of limitations, our strategy at that time was to assert that gross negligence was sufficient to the toll the statute of limitations. After briefings with the Deputies to the Directors and further discussion with the potential defendants, we decided to defer an FDIC decision on whether to assert our claims, in order to further investigate the facts, give time for the Texas law on adverse dominations to take more concrete shape and ascertain the views of OTS. Therefore, the tolling agreements were continued.

II. OTS's Involvement

Prior to deferring a decision on the FDIC's cause of action, we had begun to discuss with OTS the possibility of OTS pursuing these claims (plus a net worth maintenance agreement claim) through administrative enforcement proceedings. After several meetings with senior staff of the OTS Office of Enforcement, we entered into a formal agreement with the OTS, who began an independent investigation into the activities of various directors and officers of USAT, Hurwitz, UFG, as well as USAT's second tier holding company Maxxam, Inc, a publicly traded company that is largely controlled by Hurwitz. The FDIC is paying OTS's costs in connection with this matter.

The OTS has reviewed extensive documentation and has recently conducted a series of administrative depositions. We have been informed that OTS staff is currently preparing a broad-based draft Notice of Charges against Hurwitz and others, including Maxxam, for substantial restitution for unsafe and unsound practices and for enforcement of a net worth maintenance agreement. Under the terms of our agreement with OTS, FDIC will be the beneficiary of any recovery from the OTS enforcement action through settlement or litigation against the proposed respondents. All the potential respondents in the OTS investigation, including Hurwitz, have signed tolling agreements with OTS which expire on December 31, 1995. OTS staff's current expectation is that they will seek formal approval for this case before the tolling agreements expire on December 31, 1995.

III. Significant Caselaw Developments Have Further Weakened the Viability of Suit by the FDIC

Although we have continued to investigate and refine our potential claims during the pendency of the OTS investigation, two significant court decisions, and the failure of Congress to address the statute of limitations problems, have further weakened the FDIC's prospects for successfully litigating our claims in the United States District Court for the Southern District of Texas.

A. Statute of Limitations

In the recent decision of RTC v. Acton, 49 F.3d 1086 (5th Cir. 1995), the Fifth Circuit held that under Texas law, only self-dealing or fraudulent conduct, and not gross negligence, is sufficient to toll the two year statute of limitations under the doctrine of adverse domination. As a result of this opinion, we cannot rely on an argument that gross negligence by a majority of the Board members is sufficient to toll the statute of limitations. There is very little, if any, evidence of fraud or self-dealing. Most, if not all, of the affirmative acts that would form the basis for an FDIC suit occurred more than two years before USAT failed.

B. The Merits

The law has also moved against us on the merits of the claims. The claims against Hurwitz are more difficult than usual because he was not an officer or director of USAT. We believe that his involvement rose to the level of a de facto director, and for some purposes a control person, but his status presents a notable hurdle.

Texas case law has essentially eliminated liability for negligence in the name of applying a very expansive business judgment rule defense. We believe the conduct here constitutes gross negligence as that term is normally defined. The law of gross negligence in Texas is currently unsettled, but a recent decision by the Texas Supreme Court announced a new standard of gross negligence that will be very difficult to meet if it is applied to D&O cases. In Transportation Insurance Company v. Moriel, 879 S.W.2d 10 (Tex. 1994), the Texas Supreme Court defined gross negligence as constituting two elements: (1) viewed objectively from the standpoint of the actor, the act or omission must involve an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and (2) the actor must have actual, subjective awareness of the risk involved, but nevertheless proceed in conscious indifference to the rights, safety, or welfare of others. That case involved a bad faith claim against an insurer but the language of the opinion is very broad. This new standard, if applied, would make it very difficult, if not impossible, to prove our claims.

The effect of these recent adverse decisions is that there is a very high probability that much or all of the FDIC's conventional claims will not survive a motion to dismiss on statute of limitations grounds. We would also be at increased risk of dismissal, or loss at trial on the merits.

IV. The Pacific Lumber—Redwood Forest Matter

Any decision regarding Hurwitz and the former directors and officers of USAT is likely to attract media coverage and comment from environmental groups and members of Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging our D&O claims for the redwood forest. On July 21, 1995 we met with representatives of the Department of the Interior, who informed us that they are negotiating with Hurwitz about the possibility of swapping various properties, plus possibly the FDIC/OTS claim, for the redwood forest. They stated that the Administration is seriously interested in pursuing such a settlement. We plan to follow us on these discussions with the Department of Interior in the coming weeks.

If the Hurwitz tolling agreement expires without suit being filed, we would recommend that we update those members of Congress who have inquired about our investigation and make it clear that this does not end the matter of Hurwitz's liability for the failure of USAT because of the ongoing OTS investigation.

Theory of suit: The claims are for gross negligence, breach of fiduciary duty and breach of the duty of loyalty. The claims are:

(1) USAT officers and directors, and Hurwitz as a de facto officer and director, were grossly negligent in failing to act to prevent $50 million of additional losses from USAT's first MBS portfolio. The positions were in place more than two years before failure. Our analysis indicates that they should have begun to cut their losses, and wind down this set of positions, starting two years before failure.

(2) USAT officers and directors, and Hurwitz as a de facto officer and director, were grossly negligent in causing USAT to invest approximately $180 million in its subsidiary, United MBS, leveraging the investment into $1.8 billion of mortgage backed securities ("MSBS") and losing approximately $97 million, including interest, when USAT had already suffered disastrous results in its first MBS portfolio and was in a critically weakened financial state. Approximately $80 million of the $180 million was advanced within two years of the failure.

(3) Hurwitz, as a de facto officer and director and controlling person of USAT, breached his duties of loyalty to USAT by failing to insist that UFG and Maxxam honor their net worth maintenance obligations. While this breach may have first occurred more than two years before failure, it was a breach that continued and escalated within two years of failure.

Finally, the Park 410 loan, in which USAT lost approximately $57 million, is included in the authority to sue memo for informational purposes. This claim is based both on repeated regulatory warnings and on actual approval, before funding of a grossly imprudent loan that benefitted a Maxxam insider. The claim on this transaction against bank counsel, a long time Hurwitz business associate, is for professional malpractice and breach of fiduciary duty and aiding and abetting breaches of fiduciary duty. We believe that it is a good claim on the merits, but we see no viable basis under existing law for avoiding a statute of limitations defense. Thus, we recommend against asserting this claim.

Assessment of Defenses: We expect business judgment rule and standard of care defenses and serious statute of limitations issues based on recent Fifth Circuit and other Texas case law. Absent a change in the law, there is at least a 70% chance that much or all of the claims relating to mortgage backed securities and derivatives trading will be dismissed based on the net worth maintenance agreements be honored is more likely to survive statute of limitations motions, but raises a series of different merits issues.

Suit Profile: The suit will attract media and Congressional attention because of Hurwitz's reputation in corporate takeovers, and his ownership of Pacific Lumber, which is harvesting redwoods. Environmental interests have received considerable publicity, often suggesting exchanging these claims for trees. The Department of Interior recently informed us that the Administration is seriously interested in pursuing such a settlement.

Timing and cost-benefit analysis: We intend to use Hopkins & Sutter (Chicago/Dallas) and the minority firm Adorno & Zeder (Miami). The estimated cost of litigation by outside counsel is $4 million up to trial, and an additional $2 million through trial. We have incurred outside counsel fees and expenses of $4 million to date. In-house costs to date are approximately $600,000. No insurance coverage appears to be available. The proposed defendants have a combined net worth of approximately $150 million (Exhibit A). If the case survives the statute of limitations challenge, we still face significant adverse caselaw in Texas on the standard of care and the business judgment rule. For these reasons, there is no better than a 50% probability of obtaining a substantial judgment even if we survive statute of limitations defenses in tact it would have an estimated settlement value of $20–40 million.

If suit is authorized we would expect to offer Hurwitz one final opportunity to toll. We would not sue the other proposed defendants during 1995 if they leave their tolling agreement with us and OTS in place.

Contacts: Jeffrey Ross Williams, Counsel, (202) 736–0648; Robert J. DeHenzel, Jr, Counsel, (202) 736–0685, PLS; Betty Shaw, Investigations Specialist, Southwest Service Center, (214) 851–3042.

Concurrence:

Date: July 27, 1995.

WILLIAM F. KROENER III,
General Counsel.
JOHN F. BOVENZI,
Director, DDAS.

EXHIBIT A—PROPOSED DEFENDANTS

Name	Positions	Net Worth
Charles Hurwitz	Director of UFG (11/10/83–2/11/88)	$140MM
	UFG Executive Committee (1983–2/11/88)	
	President and CEO of UFG (8/84–11/14/85)	
	Chairman of the Board of UFG (8/84–11/14/85)	
	UFG/USAT Strategic Planning Committee (1986 and 1987)	
Barry Munitz	Director of USAT (8/26/82–1988)	$3.4MM
	USAT Executive Committee (1982–1988; Chairman, 1985–1988)	
	USAT Executive Compensation Committee (1982–1985)	
	USAT Investment Committee 8/8/86–5/19/87; Chairman, 1986)	
	UFG/USAT Strategic Planning Committee (1986 and 1987)	
	Director of UFG (1983–1988)	
	Chairman of UFG board (1988)	
	Chief Executive Officer and President of UFG (1988)	
	UFG Executive Committee (1983–1988; Chairman, 2/14/85–1988)	
	UFG Investment Committee (1987)	
	UFG Compensation Committee (1983–1988)	
Jenard Gross	Chairman of the Board of USAT (2/14/85–1988)	$7MM
	CEO of USAT (2/14/85 to 1988)	
	President of USAT (1/8/87 to 1988)	
	USAT Executive Committee (1986–1988)	

EXHIBIT A—PROPOSED DEFENDANTS—Continued

Name	Positions	Net Worth
Michael Crow	USAT Audit Committee (11/10/87–1988)	Unknown
	Chairman of USAT Investment Committee (5/8/86–1988)	
	USAT/UFG Strategic Planning Committee (1986–1987)	
	Director of UFG (1985–1988)	
	President and CEO of UFG (11/14/85–1988)	
	UFG Executive Committee (1985–1988)	
	Executive VP (Fin/Adm) and Chief Financial Officer of USAT (12/83–1988)	
	Senior Executive VP (Fin/Adm) of USAT (1/8/87–1988)	
	USAT Executive Committee (1988)	
	USAT Investment Committee (5/8/86–1988)	
	USAT/UFG Strategic Planning Committee (1986 and 1987)	
	Director of UFG (1988)	
	CFO of UFG (1984–1988)	
	Senior VP of UFG (12/83–1988)	
	Net Worth Total	$150MM
	Available Insurance	$0
	Total Recovery Sources	$150MM

PRIVILEGED AND CONFIDENTIAL ATTORNEY WORK PRODUCT

Chairman Helfer, Vice Chairman Hove, Director Ludwig, Acting Director Fiechter, Mr. Geer, Mr. Mason, Mr. Hood, Mr. Zemke, Mr. Jones, Mr. J. Smith, Mr. Rose, Mr. Thomas, Mr. Graham, Mr. Newton, Mr. Whitney, Mr. O'Keefe, Mr. Taylor, Ms. Anderson, Mr. Monahan.

Memorandum to: Board of Directors, Federal Deposit Insurance Corporation

From: Jeffrey Ross Williams, Counsel, Professional Liability Section

Robert J. DeHenzel, Jr., Counsel, Professional Liability Section

Subject: United Savings Association of Texas Houston, Texas—In Liquidation Request for Authority to Initiate Litigation

I. Introduction

United Savings Association of Texas ("USAT") presents a graphic picture of what can happen when: two hopelessly insolvent thrifts are combined (resulting in USAT); regulators/insurers (FHLBB, FSLIC and FHLB-Dallas) lack resources to close the thrift; regulatory and general accounting rules allow, if not encourage, financial reporting that does not reflect economic reality, and there is a controlling person (Charles Hurwitz ("Hurwitz")) who (a) understands the foregoing, (b) can obtain control of the thrift by investing a nominal percentage of his assets ($7.8 million to control $3.3 billion), (c) has substantial personal and corporate incentives to keep USAT open and under his control regardless of its actual condition (e.g., to maintain his ability to buy massive quantities of Drexel junk bonds with no funding concerns or real risk to himself and aid him in obtaining an $8 million bonus from another Hurwitz controlled entity, Maxxam, Inc. ("Maxxam), and (d) could, and did, recruit and motivate enough officers and directors (the "core group") for USAT to assure that his goals were promoted despite their cost to USAT—and, ultimately, the American taxpayers.

In addition to self-inflicted wounds, USAT was the victim of a multimillion dollar fraud (by Couch Mortgage), and suffered the effects of holding a portfolio of real estate loans and investments in the collapsing Texas economy.

Under Hurwitz's control, USAT made a large number of, at best, questionable real estate loans, both made and lost money on its junk bonds, and suffered huge losses on two successful attempts to create paper profits through trading mortgage backed securities ("MBS") *and* instruments that supposedly hedged the MBS.

We recommend three basic claims: the first for $97 million in (net) losses in the second MBS trading scheme, the second for approximately $50 million in additional losses which could have been avoided but were incurred with respect to the institution's first MBS portfolio, and the third for in excess of $150 million for failure to comply with net worth maintenance obligations of USAT. While we believe that some additional claims (involving losses on the first MBS portfolio, a patently imprudent $32 million dividend by USAT, grossly excessive salaries, and commercial lending losses) could pass the Rule 11 test for good faith pleadings, our conclusion based on the facts now known to us is that ultimately we could expect to lose on those additional claims under a gross negligence/Texas business judgment rule standard. Consequently, such additional claims are not recommended. We have also negotiated an agreement in principle with United Financial Group, Inc. ("UFG"), USAT's first tier holding company, to settle a separate tax claim for approximately $9.6 million, which we hope to finalize within the next 90 days.

II. Background

In 1982, Hurwitz, a well-known Houston investor active in leveraged corporate acquisitions, acquired USAT in connection with a merger of two Houston savings and loan holding companies, namely, UFG which owned 100 percent of USAT, and First American Financial of Texas ("First American"). From the outset of the Hurwitz regime, USAT was in serious financial trouble. It struggled with a portfolio of under-performing and non-performing loans; it had the burden of $280 million in goodwill as a non-income producing intangible asset; and it had severe internal control problems. USAT survived only by taking gains from extraordinary and high risk transactions.

Hurwitz's acquisition of USAT obtained for him the financial leverage available in a federally insured deposit institution such as USAT and the assistance it would provide to his takeover activities. He acquired control over USAT's approximately $3.3 billion in assets through entities owned and controlled by him for a $7.8 million investment. Hurwitz's $7.8 million investment constituted *0.2%* of USAT's initial assets; the American taxpayers lost $1.6 billion—*48%* of USAT's initial assets and 200 times Hurwitz's investment. Hurwitz dominated the affairs of both USAT and the holding company, leveraged the institution heavily, and, ultimately, engaged in a series of grossly imprudent transactions—all at little or no risk to himself.

On December 30, 1988 USAT failed. At failure the Association had assets of $4.6 billion; the loss to the FDIC is estimated at $1.6 billion.

This memorandum requests authorization to initiate litigation against Hurwitz and three former directors and officers of USAT. The proposed lawsuit seeks approximately $300 million in losses incurred as a result of gross negligence, breach of fiduciary duties of loyalty and care, knowing participation in and aiding and abetting breach of fiduciary duty and professional negligence. There is no directors and officers' liability policy. The proposed defendants have an aggregate net worth of approximately $150 million.

Absent a change from the current state of the law in the Fifth Circuit on the statute of limitations, there is at least a 70% chance that most or all of the case will be resolved adversely to the FDIC on summary judgment or on a motion to dismiss. If, the claims survive the statute of limitations challenge, the odds of a favorable outcome remain marginal at best because of adverse caselaw on the standard of care and the business judgment rule.

The admittedly high cost, high risk claims against Hurwitz and the former directors and officers outlined in this memorandum may result in a significant recovery. After balancing the merits of the claims, the likely recovery sources, and the fact that the statute of limitations defense may be be tested early in the litigation, thus reducing the likely cost if the litigation is ultimately unsuccessful on that basis, we recommend that these claims be pursued.

III. Theory of the Claims

The proposed litigation consists of three claims which are summarized briefly below and set out in more detail in Section V, *infra*.

A. Claims Against Hurwitz and the Core Group

The claims against Hurwitz and the proposed officer and director defendants will be based upon losses resulting from USAT's decision to engage in two significant transactions, each grossly imprudent: the investment of $180 million in a USAT subsidiary, United MBS ("UMBS"), to facilitate what were billed as risk controlled arbitrage activities (with losses of approximately $97 million) and its failure to act to prevent further losses in USAT's first MBS portfolio (with losses of approximately $50 million). The third claim is against Hurwitz only for failure to maintain the net worth maintenance obligations of USAT.

1. The $180 Million Investment in United MBS

The claims against the proposed defendants for UMBS losses are predicated upon strong warnings from regulators and USAT's outside auditor concerning USAT's securities investments, the defendants' knowledge of USAT's deep financial trouble and USAT's disastrous mismanagement of and demonstrated inability to control its MBS investment portfolio. The theory of the claims against most of the proposed defendants is twofold. First, the USAT Board was grossly negligent in abdicating its supervisory role over the investment affairs of the institution by failing to carefully analyze, approve, and assure adequate controls on the investment in UMBS. Second, certain directors and senior officer members of the Executive Committee, Investment Committee and Strategic Planning Committee (including Hurwitz) were grossly negligent by virtue of their having orchestrated the formation of UMBS, actively directed the investments in UMBS and caused substantial USAT funds to be lost due to UMBS's high risk trading strategies. Hurwitz, as a *de facto* director and an active participant on the Strategic Planning Committee, is liable under both theories. The claims against Hurwitz, in addition to those set forth above, are based on his knowing participation in and aiding and abetting the officers and directors in the breach of their duties.

2. Failure To Prevent Further Losses From USAT's First MBS Portfolio—Joe's Portfolio

The claim against the proposed defendants arising from USAT's first portfolio—Joe's Portfolio—is based on the failure to take action in early 1987 to prevent exposing USAT to further losses. Joe's Portfolio itself has been described by one USAT analyst as a disaster. USAT set up the portfolio without hedging against the risks of declining interest rates and, when interest rates declined, USAT was left with interest rate swap agreements requiring fixed interest payments well in excess of the short term interest rate payments USAT received in return. Rather than recognizing the loss inherent in the swap agreements, USAT engaged in a "roll down" strategy, replacing higher coupon MBSs with more stable current coupon issues. The result was that USAT ended up with MBSs yielding substantially less than the rates USAT was required to pay on its swap agreements.

By December 31, 1986, it was obvious that USAT's strategy for Joe's Portfolio made no sense. The portfolio had a negative spread and the low coupon MBSs exposed USAT to substantial risk of loss in the event that interest rates increased. Peterson Consulting has analyzed the portfolio and concludes that USAT should have terminated the swaps and sold the MBSs in January 1987. If it had done so, the ultimate losses USAT suffered as a result of Joe's Portfolio would have been reduced by approximately $50 million.

The same members of the Investment Committee involved with the UMBS claim, as well as Hurwitz, would be defendants on the Joe's Portfolio claim and the legal theories would mirror those on the UMBS claim.

3. Net Worth Maintenance Obligation

By virtue of his position as a de facto officer and director and controlling person of USAT, Hurwitz owed to USAT a duty of loyalty and a duty to protect and care for the interests of the institution. By virtue of his position as a Board member and officer at UFG and MCO (two of USAT's holding companies), and as a director and control person of Federated Development Company ("FDC"), Hurwitz was in a position to cause these entities to honor their net worth maintenance obligations to USAT. Hurwitz intentionally disregarded these duties and, indeed, devoted considerable efforts to helping UFG, MCO and FDC avoid these responsibilities. The loss attributable to his breaches of duty is in excess of $150 million.

* * * * *

While we believe the entire USAT Board was grossly negligent with respect to the UMBS investigation and Joe's Portfolio, we do not and cannot recommend suit against all Board members. Early in the course of the investigation of the case, tolling agreements were entered into with officers and directors who were perceived at the time to be key players. Other officers and directors who were perceived to be of less significance were not presented with tolling agreements. With respect to those individuals with whom we have tolling agreements, the selection of parties as defendants in the UMBS and Joe's Portfolio claims has been governed, principally, by four factors. The first is the degree to which the proposed defendant was involved in the transactions at issue. The second is the knowledge of the affairs of the institution attributable to the proposed defendant. The third is the extent to which the proposed defendant was a member of the Hurwitz "core group". The fourth factor is the degree to which pursusing a defendant against whom legitimate claims now exist and is cost effective. The application of those four factors to individual defendants is set forth in Section V infra. Finally, we did not propose suit against certain directors who were not part of the "core group," did not personally benefit, and were otherwise in the same position as others as to whom we had previously allowed the statute of limitations to expire. We believe this result is fair and that it is unlikely to change the economics of the claim.

IV. History and Regulatory Background

A. Hurwitz's Control Over USAT

Charles Hurwitz exercised control over most of the activities of the Association. He was the key decision make at the institution although he had not formal title at USAT. In addition to the control conferred by his stock ownership in UFG, Hurwitz acted as a de facto officer and director of USAT—he was Chairman of UFG, which had virtually no operations independent of USAT, and caused USAT to hold joint USAT/UFG Board meetings, which he attended; he attended certain Senior Loan Committee ("SLC") meetings (including the Park 410 meetings) and selected Investment and Executive Committee meetings; and he was a member of the UFG/USAT Strategic Planning Committee. Together with other officers and directors of FDC and MCO (the Hurwitz entities which held a substantial stock interest in UFG), Hurwitz devised and approved USAT business strategies. He worked with other MCO/FDC employees to direct USAT's securities investments.

Further, Hurwitz hand-picked certain prior business and social friends for key positions at USAT to carry out his plans for USAT, and hired others, paying them excessive salaries despite their limited experience in the savings and loan industry. The relationships these individuals had with Hurwitz and the salaries USAT paid them compromised their loyalty to the institution. This group of Hurwitz associates—the "core group"—included Crow, Munitz, Kozmetsky, Gross, Berner, and Huebsch. Each of them held positions not only with USAT but also the holding company, UFG, and with MCO/FDC.

B. The Drexel Connection

A principal motive for Hurwitz's acquisition of USAT was the potential assistance it could provide for his takeover activities. The initial plan called for using USAT as a merchant bank which would directly participate in hostile takeovers. The first such effort was the attempted takeover by MCO, FDC and USAT, of Castle & Cook ("C&C") in late 1983. The use of federally insured funds in connection with this activity resulted in litigation, unfavorable publicity and criticism from FHLBB regulators. Ultimately, Hurwitz abandoned the C&C takeover and thereafter utilized USAT to support his takeover activities through less direct means.

In 1984, Hurwitz entered into what appeared to be a quid-pro-quo arrangement with Drexel Burnham Lambert, Inc. ("Drexel") pursuant to which Drexel would assist Hurwitz's takeover activities in exchange for USAT's investment in Drexel underwritten junk bonds. This conclusion is supported by the timing and nature of the trades and financings at USAT and is consistent with Drexel's work with other lending institutions. In 1992, USAT Director and Executive Committee member Barry Munitz stated in an interview that an ongoing relationship with Drexel was important to Hurwitz. According to Munitz, Hurwitz needed to keep USAT open and free from regulatory intervention in order to maintain his "ticket-to-ride" with Drexel, and refused to have other entities he owned or controlled acquire a junk bond portfolio because of the risk. We believe that many of the accounting driven gains taken by USAT to artificially maintain net worth were undertaken to avoid regulatory intervention and to ensure that USAT would continue to provide Hurwitz with access to Drexel—even at the cost of operating the institution at a loss. USAT eventually became the eighth largest purchaser of Drexel-underwritten junk bonds among all savings and loans nationwide. By December 1986, 69% of USAT's entire junk bond portfolio, valued at $444 million, was Drexel underwritten.

During this period, Drexel arranged junk bond funding for Hurwitz's takeover activities and USAT purchased junk bonds and other investments from Drexel. From 1984 through 1988, Hurwitz obtained approximately $1.8 billion in junk bond financing through Drexel for his takeover activities, and USAT purchased approximately $1.8 billion of Drexel junk bonds, and other Drexel brokered securities.

Drexel also assisted Hurwitz's efforts to insulate his key entities FDC and MCO from USAT net worth maintenance obligations. In June 1983, FDC and MCO filed an application with the FHLBB to acquire a controlling interest of as much as 35 percent of UFG and thus to become a savings and loan holding company ("SLHC") for USAT. In December 1984, the FHLBB approved the FDC/MCO application subject to the condition that FDC/MCO maintain the net worth of USAT. That condition was unacceptable to hurwitz, who engaged in extensive negotiations with the FHLBB to attempt to eliminate or modify that condition. These negotiations continued from December 1984 through at least 1987, but never resulted in an agreement. During their pendency, Hurwitz, nonetheless, appears to have increased FDC/MCO's control over USAT. At December 31, 1984, Drexel appears for the first time as a substantial shareholder of UFG, holding 585,371 shares (or 7.2 percent).

In December 1985, Drexel and MCO entered into an option with respect to 300,000 of the UFG shares held by Drexel. Drexel had a right to put the shares to MCO in 1988 at a premium over market. Drexel also received a substantial option fee for entering into the transaction. Documents produced by MCO's successor, Maxxam, indicate that the transaction was structured to avoid the 25% ownership threshold which would have obligated

MCO/FDC to maintain USAT's net worth. The agreement was extended in 1988 for no consideration, to avoid Drexel putting UFG shares to MCO when USAT already had admitted that it failed to meet minimum net worth requirements. Drexel did not exercise its right to put the shares to MCO until 1989, after USAT failed.

C. The Economic Context For The Claims Against Hurwitz and the Core Group

The conduct of the defendants which will be the subject of the proposed litigation must be evaluated in the context of USAT's overall financial condition. From the outset of Hurwitz's involvement with USAT, the institution faced enormous financial challenges. Although its financial statements reported capital in compliance with regulatory requirements, the institution had a non-earning asset—goodwill—on its books arising from the First American merger. This large (more than $280 million) intangible asset exceeded USAT's total reported capital, leaving USAT with no tangible capital on a liquidation basis. Moreover, the need to amortize USAT's goodwill over time created a drag on earnings for the foreseeable future. In addition to the challenge presented by USAT's goodwill, by the mid-1980's the institution also faced the impact of the decline in the Texas real estate market, which threatened earnings from USAT's real estate related assets and subjected the Association to repeated increases in loan loss reserves.

USAT management was well aware of the challenges it faced. A memorandum from USAT's president, Gerald Williams, to Hurwitz, dated April 12, 1985, stated that the "biggest road block to operational profit improvement" was the approximately $241 million of non-earning intangible asset of goodwill. A memorandum from USAT's Chief Financial Officer, Michael Crow, dated August 21, 1985, stated that "we need to put together a slide show . . . for Mr. Hurwitz as to why we cannot make money at United Savings. . . . [explaining] why our profitability is impaired by such things as goodwill amortization, below market mortgage loans etc."

1. The Branch Sale and $32.6 Million Dividend

With that as prologue, in 1984, USAT sold approximately half of its branch network with the stated intention of moving toward a "wholesale strategy" which would rely less on traditional core deposits and home mortgage lending and more on brokered deposits and other "wholesale" activities. The branch sale resulted in a reported profit of $81 million. Rather than either offsetting this gain against goodwill (which was presumably based in large part on the franchise value of the branch network) or leaving the additional capital in USAT to absorb future goodwill amortization or operational losses, USAT declared and paid a dividend of $32.6 million to UFG. The Federal Home Loan Bank Board's Supervisory Agent in Dallas expressed "no supervisory objection" to the dividend because it fell within the limits of the Bank Board's December 6, 1984 resolution, which provided that UFG would not cause USAT to pay a dividend that exceeded 50% of USAT's net income. The $32.6 million was 50% of profits after USAT's $17 million operation loss was offset against this extraordinary gain.) However, the Supervisory Agent stated that "this office is very concerned with the Association's practice of selling branch offices to fund upstream dividends, particularly in view of the Association's $17.4 million net operating loss for fiscal year 1984". The Supervisory agent also stated that ". . . we will continue to closely monitor the Association's performance and will take action if the Association's earnings and net worth position begin to deteriorate."

2. Liability Growth in 1985

USAT used the remaining 50% of its branch sale profit (and the resulting increase in net worth) to support additional growth during 1985. As USAT described the situation in mid-1985, the increased net worth from the branch sale provided "a foundation upon which to build a new United." The assets acquired by the "new United" principally consisted of mortgage-backed securities ("MBSs") and "corporate securities"—most of which were junk bonds. By June 30, 1985, USAT had acquired $489 million of MBSs funded by reverse repurchase agreements and $288 million of "corporate securities" funded with brokered deposits.

USAT's growth during the first half of 1985 resulted in an increase in total liabilities in excess of the annualized 25% rate for which prior approval by USAT's Principal Supervisory Agent was required under 12 CFR §569.13–1(a)(1). USAT failed to obtain prior approval. USAT's liability growth led to a request by the Supervisory Agent on October 22, 1985 that USAT's Board execute a Supervisory Agreement under which the association would be obligated to comply with the liability growth regulation and provide a monthly report concerning liability growth. After extended negotiations, USAT agreed to limit its liabilities on December 31, 1985 to $4.68 billion. USAT's Board adopted a resolution expressing the agreement and a February 18, 1986 memorandum from a FHLBB of Dallas Subvisory Agent to the Bank Board's Director of Enforcement stated that "United was in compliance at December 31, 1985."

3. The Mortgage Backed Security Losses

In 1985–1986 USAT engaged in a series of securities transactions which seriously impaired the institution. These transactions illustrated that the institution did not have the desire, intent, or expertise to manage such a securities portfolio properly.

Even under the best of circumstances (i.e., the prospect of earning a net spread of approximately 100 basis points on the MBS portfolio), the MBS investment strategy could not possibly have had a substantial impact on USAT's existing and deepening problems due to its enormous goodwill carry and its escalating losses on its non-performing real estate portfolio. In practical terms, a 100 basis point spread on a $500 million portfolio would yield an annual profit of $5 million. Before economic reality caught up with reported results, USAT has reported extraordinary profits in this portfolio of approximately $70 million through the end of 1986—while the ultimate result from this portfolio was an approximately $190 million loss (approximately $110 million in swap losses and $80 million in MBS losses) to USAT. USAT's goal was simple—make every effort to deflect regulatory concern by generating as much extraordinary profit as possible, while deferring losses, in order to keep the institution alive. Hurwitz's motive in directing this strategy was that so long as the institution survived, it could purchase junk bonds and Drexel could continue to facilitate his other financial objectives.

a. USAT Mortgage Finance

Although USAT may have been in compliance with its liability growth limit at the end of 1985, it achieved this result by moving its growth to subsidiaries for which USAT reported only its investment, not the individual assets and liabilities of the subsidiaries. One of these subsidiaries, USAT Mortgage Finance, Inc., was formed in late 1985 to acquire $500 million of MBSs funded by reverse repurchase agreements. Potential defendants state that USAT formed USAT Mortgage Finance to be a "finance subsidiary" with the understanding that its assets and liabilities would not have to be reported on USAT's books. They further assert that USAT quickly learned that the regulatory treatment it anticipated would not be available and therefore sold $350 million of the subsidiary's MBSs, paying off a like amount of reverse repurchase agreement liabilities.

The sale of USAT Mortgage Finance's MBSs resulted in a realized $9.3 million gain in 1985, without which USAT would have incurred a loss for the year. However, in real economic terms, USAT's sale of the MBSs resulted in a loss because USAT had acquired interest rate swaps to extend the duration of the reverse repurchase agreement liabilities. The $9.3 million gain on the MBS sales was matched by a larger unrealized locked in loss ($14.7 million) in the value of the swap agreements. USAT did not recognize the loss inherent in the swap agreements, but instead redesignated the swaps in order to justify deferring the loss, and permit regulation of it over the life of the agreements as payments were made under the swaps. According to the workpapers of USAT's outside auditors, Peat Marwick & Mitchell ("Peat Marwick"), "the forced sale of securities left an" "imbalance" between the securities portfolio and the swap agreements. USAT explained to Peat Marwick that it had then entered into a "mirror swap" with respect to $230 million of the swaps in order to offset some of the imbalanced position. The mirror swap locked in the negative spread that USAT would have to pay over the life of the agreements, provided they were not terminated (and the loss taken) at an earlier date.

USAT's transactions in USAT Mortgage Finance and its accounting enabled USAT to report a gain from the transaction without recognizing the corresponding loss on the interest rate swap agreements. This highly aggressive (and disputed) accounting treatment was approved by Peat Marwick. FDIC retained Peterson Consulting to evaluate the transaction and calculate the loss inherent in the swap agreements. Peterson Consulting concluded that the "implied market value loss" on the $230 million mirrored swap agreements was $9.6 million and that, if the remaining $120 million of swap agreements had been terminated, and transaction costs taken into account, a loss of $5.1 million would have resulted. If these losses had been recognized in 1985, they would have caused USAT to report a $1,436,000 loss for the year and to report net worth of $172,129,000, approximately $347,000 below the association's required net worth at the end of the year.

Thus, USAT entered 1986 with the knowledge that it had narrowly avoided reporting a loss for 1985; that in economic terms, it had incurred a loss on its swaps that, if recognized, would have reduced its net worth to slightly less than its regulatory requirement; and that its goodwill and other real estate problems persisted and meant that, absent extraordinary transactions, in the words of USAT's Chief Financial Officer, "we cannot make money at United Savings.".

b. The "Roll Down" of Joe's Portfolio

In 1985, USAT itself made substantial investments in MBSs in what became known as "Joe's Portfolio," referring to Joe Phillips, USAT's junk bond analyst who during this period also had responsibility for managing the MBS investments. After presentations by various investment banking firms engaged in the business of selling such transactions to savings and loans, USAT acquired MBSs, funded them with reverse repurchase agreements, and entered into interest rate swap agreements to effectively lengthen the maturity and duration of the reverse repurchase liabilities. USAT's description of the program in an October 28, 1985 letter to USAT's Principal Supervisory Agent at the FHLB of Dallas noted that the asset/liability match "virtually locks in a spread between United's asset yield and funding cost."

USAT's program was seriously flawed from the beginning. The interest rate swaps locked in a funding cost of approximately 11%, which generated a positive spread when compared with the original MBSs in the portfolio having a yield of slightly over 12%. But the home mortgages underlying the MBSs were subject to prepayment at the option of the mortgagors. Shortly after USAT acquired the MBSs for Joe's portfolio, interest rates plunged, with the five year Treasury rate falling from 10.88% in April, 1985 to 7.14% in April 1986, giving homeowners an incentive to refinance their mortgages. As a result, USAT found that the MBSs were prepaying at a much faster rate than had originally been estimated, depriving USAT of the high yielding assets which were needed to cover the 11% funding cost on the interest rate swaps.

USAT reacted to the accelerating prepayments by attempting to sell the high yielding MBSs at a gain before they prepaid and purchasing replacement MBSs at current coupon rates. The theory of this "roll down" strategy apparently was to acquire more stable MBSs that would be less likely to prepay, eroding the assets in the portfolio. However, USAT continued this roll down strategy long after it ceased to make sense. As interest rates declined USAT continued to sell MBSs at a gain and to reinvest in current coupon MBSs, even though the new MBSs yielded less than the locked in funding cost on the interest rate swaps. When interviewed about the events of early 1986, Joe Phillips did not recall that USAT had continued the roll down strategy after it had become futile, but conceded that rolling down to MBSs which yielded a negative spread (after taking into account the gains realized) made no sense.

USAT's decision to roll down to lower coupon MBSs, rather than to "unwind" Joe's Portfolio may have been a conscious decision to expose USAT to a risk of even larger losses in the future in order to avoid immediate recognition of the losses inherent in the interest rate swap agreements USAT had entered into in connection with Joe's Portfolio. Had USAT admitted its error in structuring Joe's Portfolio and decided to unwind it, using the proceeds from MBSs to repay reverse repurchase agreement lenders, it would have been left with the adverse interest rate swap agreements alone. There were large imbedded losses in these swaps that would have to have been recognized if they had been terminated.

4. Notice of Significant Problems To The Board Members and Senior Officers

From 1984 through 1986 the officers and directors of USAT were clearly advised by regulators and outside auditors of significant problems at USAT. They took no steps, however, to assert control over the institution. Thus:

The Board as a whole was advised early in USAT's history of significant problems in the Association's real estate portfolio. In January 1985, the entire Board was advised by Texas regulators that (a) scheduled items had grown dangerously and exceeded the Association's net worth ($153.7MM in scheduled items constituting 105% of net worth and 4.4% of assets), (b) the appraisal practices at USAT were suspect, and (c) "significant" increases in loss reserves would be forthcoming.

In February 1985, the Board acknowledged receipt of the Texas Savings and Loan Department's warnings concerning the growth of scheduled items at the Association and promised to monitor such matters more closely. Yet, in the same month, the Board, for the first time, delegated loan approval up to $70 million to the SLC in an act of remarkable abdication of control over USAT's real estate lending.

From 1984 through 1986, the Board and the Audit Committee of the Board were repeatedly advised by the Association's outside auditors that the ADC lending was a significant problem at the Association and that the Association's appraisal practices were deficient. Indeed, on the very day the Park 410 loan was approved by the Board, the Audit Committee met with outside auditors and were advised again of problems with the Association's appraisal practices.

Throughout 1985 and 1986 Board packets forwarded to members of the Board for quarterly meetings clearly indicated the growing danger that ADC lending posed to the institution and the rapidly rising rate of foreclosures in the portfolio.

Throughout 1986 the Board was advised by either Peat Marwick or by the Investment Committee (Board members received copies of Investment Committee minutes) that the significant increase in securities trading had yielded serious internal control problems, and that the MBS portfolio was seriously distressed.

Board members were advised in February 1986 that the income of the UFG Group was plummeting and that the accounting gains taken by USAT from MBS trading may not reflect "real" results.

The April 1986 Texas Examination and the May 1986 FHLB Examination reported that the institution had significant securities investment problems, a staggering substandard assets problem, and was as much as $20 million below its regulatory capital requirements. These findings were not formally communicated to USAT's Board until 1987, but regulators had periodic discussions with senior management on these items during the summer of 1986.

The claims against Hurwitz and the core group must be viewed against this background. By 1986 it was readily apparent to the officials of USAT that the institution's viability was in doubt. Yet within a four month period in 1986 (May to August) USAT approved major transactions with extraordinary and unacceptable risk. These activities evidence blatant disregard for the officers' and directors' duties to the institution and illustrate the degree to which certain members of the Board deferred to the interests and goals of Charles Hurwitz. Both of the transactions underlying our proposed claims display a common thread—namely, the willingness of USAT's officials to commit substantial resources regardless of obvious long term risk of loss so long as there was a potential for reporting short term gains. The decisions to make the Park 410 loan, to invest in UMBS and the failure to act with respect to Joe's Portfolio each results in substantial losses and cannot be defended as business judgments.

V. Discussion of Claims

A. MBS Transactions

1. Formation and Operation of UMBS

In late 1986 USAT decided to form a subsidiary—UMBS—to engage in what was billed as leveraged MBS "risk" controlled arbitrage." Either the attempts to hedge the portfolio were grossly deficient *or* there were a series of largely unhedged rolls of the dice *or* UMBS was used to put on a massive—almost $2 billion—straddle. That is, UMBS was set up so that no matter how interest rates moved there would be large gains *and* large losses in its portfolio. UMBS took its profits—to allow USAT to report profits—and let its losses run. The reported profits were approximately $60 million through December 1988, while actual accounting losses at liquidation were approximately $125 million.

USAT invested approximately $180 million in the UMBS, leveraged the investment into a $1.8 billion portfolio of MBSs and ended up losing about $97 million, taking into account the cost of the funds invested. Although we do not recommend naming all the Board members as defendants, we believe the entire Board abdicated its responsibility to adequately supervise USAT when it failed to consider, approve, or control the risk inherent in the $100 million investment in UMBS. The decision by certain directors and officers to invest in UMBS and engage in these activities was grossly negligent. The risk of the UMBS investment was especially obvious and totally imprudent in light of USAT's disastrous experience with its first "risk-controlled" MBS portfolio, particularly in light of USAT's weakened financial condition. The decision was a breach of the defendants' fiduciary duties of loyalty because its purpose was to extend the life of USAT for the benefit of Hurwitz's interests regardless of cost or risk. Moreover, once the investment was made, USAT's Investment Committee authorized UMBS to engage in speculative strategies, gambling that large profits could be achieved, without hedging to protect USAT's investment in the event that the strategies failed. The authorization of these strategies was grossly neglient and a breach of the defendants' fiduciary duty of loyalty.

USAT's Board members were advised by Peat Marwick in early 1986 of internal control problems and a steep rise in securities activities. They were also advised through Investment Committee minutes that USAT's MBS trading was in a confused and troubled state. Remarkably, despite this, and in what appears to be another total abdication of responsibility, the Board never considered or voted upon resolutions authorizing the investment of any specific amount in UMBS, much less the $100 million initially invested in UMBS. The failure of Board members Munitz and Gross (who were members of Hurwitz's core group) to act to protect USAT from these investment strategies, to take steps to control USAT's MBS activities and to prevent the initiation of a new, even larger phase of such activities, warrants proceeding against them. Although Kozmetsky was a Board member and a member of Hurwitz's core group, we do not recommend naming him as a defendant.

The formation of UMBS was approved by USAT's Executive Committee at a meeting on August 7, 1986 but there was no recorded discussion at the meeting of the size of the investments to be undertaken by USAT in UMBS. Certain Hurwitz core group members, however, were aware of the magnitude of the UMBS investment by early September. Materials prepared and distributed for a September 15, 1986 Strategy Meeting (attended by Hurwitz, Gross, Munitz, Crow and others) include a recommendation to increase assets through service corporations which will purchase MBSs and hedge against interest rate risk. The materials mention a $100 million advance to a service corporation (presumably UMBS) and a related asset increase of $1 billion. A memorandum dated October 6, 1986 to Crow, Phillips, Sandy Laurenson (who was hired to manage the UMBS portfolio) and others (with copies to Gross and others) states that a new subsidiary had been established and capitalized at $100 million to be utilized for Sandy Laurenson's new MBS arbitrage activities. Thus, Hurwitz, Gross, Munitz and Crow, as well as lower level officials at USAT, knew by October 6, 1986 that a $100 million investment was contemplated and Hurwitz, Gross, Munitz and Crow must have by then reached the decision to make the investment.

This decision was made at a time when USAT was in extreme financial difficulty. The materials distributed at the September 15, 1986 Strategy Meeting contain projections that, with no changes in interest rates, USAT would lose between $40 million and $60 million in each of the next three years and that USAT had a negative liquidation value of $431.2 million. The materials further concluded that growth and capital were both needed "to restore the viability" of USAT and that, before 1987 (when capital rules were to change), growth "must occur through subsidiaries." Shortly before he left USAT, in a memorandum dated November 24, 1986, Gerald Williams wrote to Hurwitz, Gross and Crow stating that USAT's "base operation" was losing money at a rate of $77 million a year, up from $40 million in 1985.

We propose to also file suit against Munitz, Gross, Hurwitz and Crow on the theory that the decision to invest in UMBS was grossly negligent given USAT's enormous losses from based operations (making new high risk investments inappropriate), given the adverse financial consequences USAT experienced from its investment in Joe's Portfolio and which were at high risk of being repeated by UMBS, and given the fact that USAT was no longer viable at the time of the investment, Hurwitz, Munitz, Gross and Crow were present at the September 15 strategy meeting when the magnitude of the investment—$100 million—was revealed and presumably approved. De facto director Hurwitz encouraged the UMBS activities and knowingly participated in and aided and abetted the other defendants' violations of their duties.

After UMBS was formed, USAT's Investment Committee supervised the investment, authorizing the various high risk strategies that exposed USAT's investment to loss. Munitz, Gross and Crow were senior executives of USAT and members of the Investment Committee that approved these strategies. The Investment Committee also failed to follow USAT's stated goals for the UMBS investment. USAT's stated goal for the UMBS portfolio, as indicated by an attachment to the November 12, 1986 Investment Committee minutes, was to "[b]uy high coupon FHLMC's (10's—12's) and hedge assets and financing for 1 to 2 years." A formal Statement of Purpose for UMBS indicates that the arbitrage investment had a "a two year time horizon" and that GNMA put options would be used to hedge "the potential cash shortfall if the asset disposal does not cover the liability retirement." Despite these statements, Sandy Laurenson, who was hired to manage UMBS, has admitted that USAT did not follow the Statement of Purpose for the subsidiary. Instead, with the full knowledge and approval of the Investment Committee, USAT, through Laurenson, engaged in a leveraged "roll of the dice" in her management of UMBS. The principal goal was to take the risks necessary to generate substantial profits which would maintain USAT's capital. That goal was pursued even though it exposed USAT to capital losses when interest rates increased, and jeopardized the positive spread the portfolio was supposed to generate.

Records concerning the operations of UMBS bear out Laurenson's statements. Contrary to the Statement of Purpose, UMBS did not purchase enough GNMA puts options to protect the value of its MBSs in the event that interest rates increased, as they did from April through September 1987. The GNMA puts options UMBS acquired were apparently exercised for a gain of $3.6 million—much less than the loss on the MBSs. The GNMA put options were replaced with additional asset hedges—Treasury note futures options—but they were either acquired too late or in an insufficient amount to offset the loss on the MBS assets. The result of UMBS's inadequate asset hedges was a loss in market value of the assets of UMBS of approximately $140 million. Because the liquidation took place within the approximate time frame outlined by USAT for the investment—2 years—and hedges adequate to protect the value of the MBSs were not in place, USAT incurred losses on its investment in UMBS of at least $64.9 million (plus interest).

The UMBS operation involved enormous risks, which Laurenson understood and which she says she disclosed to members of the Investment Committee and Hurwitz in their weekly meetings. The decision to undertake those risks was reckless and grossly negligent. The result was that, when USAT's investment in UMBS was finally terminated by subsequent management, $172,171,894 of USAT cash was invested in UMBS's operations and USAT recovered only approximately $107,330,000 of cash, resulting in an "out of pocket" loss of $64,997,000. If the cost of financing USAT's investment in UMBS at the average rate paid on USAT's deposits is added to this "out of pocket" loss, USAT incurred a loss of $97,645,000.

2. Failure to Prevent Further Losses From Joe's Portfolio

The decision to invest in Joe's Portfolio without hedging against the risks of declining interest rates left USAT with interest rate swap agreements requiring fixed interest payments well in excess of the short term interest rate payments USAT received in return. Rather than recognizing the loss inherent in the swap agreements, USAT engaged in its "roll down" strategy with the result that USAT acquired MBSs yielding substantially less than the rate USAT was required to pay on its swap agreements. Peterson Consulting has analyzed USAT's portfolio and the roll down strategy and has concluded that, by the end of 1986, USAT had a negative spread on Joe's Portfolio, even taking into account the gains realized from the sales of high coupon MBSs.

Although USAT's internal systems did not produce comprehensive reports reflecting the status of Joe's Portfolio and the risks it presented, numerous internal USAT memoranda reflect the knowledge of senior executives by mid-1896 that Joe's Portfolio had turned into a major problem posing substantial risks for the future. A January 24, 1986 memorandum from Gross to Gerald Williams questioned whether the MBS sales were "honest to goodness sales that still leave us with the same yield that we had before" or whether "we have penalized our profits for the next five to ten years on our portfolio to take that profit." Gross wrote to Huebsch and Gerald Williams on February 6, 1986, noting that if you replace a 12½% MBS with an 11½% MBS "and still have to match it up with the same swaps that you originally had on, it appears to me that you have worsened your position."

By July 1986, it should have been clear to all of USAT's senior management that something was seriously wrong with Joe's Portfolio. USAT had engaged Smith Breeden as outside consultants to analyze the interest rate sensitivity of USAT. The preliminary conclusion was that USAT had positioned itself so that, whether interest rates increased or decreased, USAT was certain to lose money. Peterson Consulting has reviewed USAT's report of Smith Breeden's analysis and concludes that it demonstrates the failure of USAT's investment, trading and hedging strategies. USAT had produced a portfolio that would generate a negative interest spread and that would lose money whether rates went up or down. According to Peterson Consulting, a successful program would have produced a positive spread while at the same time protecting USAT from loss in the event of significant changes in interest rates.

By virtue of reports from USAT's outside auditors Peat Marwick and performance reports from senior management, by the fall of 1986, the full USAT Board also should have known that something was wrong with USAT's MBS portfolio which merited close attention. In January 1986, the Board of Directors was advised by Peat Marwick that there had been a significant increase in securities trading in 1985. Peat Marwick warned that the increased activity and addition of a trading room had caused deficiencies in internal accounting controls, including (i) policies and procedures with respect to such activity had not been established; (ii) internal trading tickets were not completed properly; and (iii) timely listing of the Association's securities positions were not properly maintained. In October 1986, the Audit Committee was advised by the auditors that the investment in mortgage backed securities at the Association had grown exponentially and that "significantly" all MBS securities had been sold and replaced with lower yielding securities "with slower pre-payment experience to better match the maturities of the Association's liabilities." Indeed, through a May 2, 1986 performance report to the Board, the Board was apprised of the fact that the yield on higher coupon mortgage backed securities had deteriorated relative to that of lower coupon mortgage backs because of increasing speed of prepayment on the higher coupon securities. Management informed the Board that, in order to protect unrealized gains on the mortgage backed securities, the Investment Group had sold the higher coupon securities and replaced them with lower coupon securities, thus reducing net interest spreads. By a performance report dated August 5, 1986, the Board was informed that net interest income of $3.6 million fell short of the planned $7.2 million primarily because of the reduced spread on mortgage backed securities. In November and December 1986, performance reports to the Board reported posted losses for October and November of $7.2 million and $16.5 million, respectively, and increase in year to date interest rate swap expenses of $28.7 million and $32.5 million, respectively.

By December 31, 1986, USAT's problems with its swaps and low coupon MBSs were so obvious that Hurwitz and his core group of executives and directors should have addressed them. Peterson Consulting has analyzed the status of Joe's Portfolio as of December 31, 1986 and concludes that steps could have been taken that would have reduced the losses USAT ultimately incurred.

By December 31, 1986, USAT held relatively low yielding MBSs and high cost swaps. By holding the low yielding MBSs, without any hedges to protect against loss in the event that interest rates increased, USAT exposed itself to losses in the future if interest rates increased. In fact, rates did increase beginning in April 1987, and the ultimate sale of the MBSs from Joe's Portfolio resulted in a loss of $107 million. Even after deducting $12 million of gains USAT extracted from the portfolio after December 31, 1986, and taking into account the spread between the yield on the MBSs and the repos funding them, USAT still lost about $80 million on the MBSs from Joe's Portfolio. If the MBS portfolio had been sold on December 31, 1986, a gain of approximately $9 million would have resulted. Thus, USAT's failure to act on December 31, 1986, increased USAT's MBS losses by about $89 million.

When both the swaps and the MBSs from Joe's Portfolio are taken into account, the net loss incurred by USAT as a result of its failure to liquidate Joe's Portfolio on or about December 31, 1986, was about $51 million. Peterson Consulting has concluded that the swap agreements could have been terminated at a cost of $149 million on December 31, 1986. By not terminating the agreements, USAT ended up making $52 million of net payments on the swaps until they were terminated at a cost of about $59 million, or a total loss after December 31, 1986 of about $111 million. Arguably the failure to terminate the swaps on December 31, 1986 reduced USAT's swap losses by approximately $38 million. Even after taking into account that the swap loss would have been $38 more had USAT liquidated the portfolio and terminated the swaps on December 31, 1986, the MBS loss would have been $89 million less, resulting in net losses of $51 million attributable to USAT's refusal to face up to the problem of Joe's Portfolio.

We propose to assert a claim against Investment Committee members and attendees Hurwitz, Gross, Munitz and Crow for gross negligence for failure to address the problems with Joe's Portfolio on or about December 31, 1986. We will also contend that their failure to address the problem was a breach of their fiduciary duty of loyalty because it was intended to extend the life of USAT by forestalling the regulatory intervention that might have resulted if the swap loss had been recognized on December 31, 1986 or early in 1987. We will allege that Hurwitz is liable as a de facto director and that he aided and abetted the other defendants in the violations of their duties.

2. Net Worth Maintenance: Breach of the Duty of Loyalty Aiding and Abetting Breach of the Duty of Loyalty a. Hurwitz Owed A Duty Of Loyalty To USAT

By virtue of his position as a de facto officer and director and controlling person of USAT, Hurwitz owned to USAT a duty of loyalty and a duty to protect and care for the interests of the institution. By virtue of his position as a Board member and officer at UFG and MCO (two of USAT's holding companies), and as a director and control person of Federated Development Company ("FDC"), Hurwitz was in a position to cause these entities to honor their net worth maintenance obligations to USAT. Hurwitz intentionally disregarded these duties and, indeed, devoted considerable efforts to helping UFG, MCO and FDC avoid these responsibilities.

b. UFG's, MCO's and FDC's Net Worth Maintenance Obligation

In early 1982 Hurwitz began to acquire UFG shares through companies he owned and controlled, including MCO Holdings, Inc. ("MCO") and Federated Development Company ("FDC") or by having close colleagues acquire the stock. By mid year, Hurwitz owned effective control of UFG, but held slightly less than 25% of its outstanding shares. In August 1982 UFG agreed to merge with First American Financial of Texas. The Bank Board approved the merger effective April 29, 1983 and First American's insured subsidiary was merged into USAT. As part of the merger, UFG, as USAT's holding company, was required by the Bank Board to enter into an agreement whereby UFG agreed to maintain the net worth of USAT as required by federal regulation. Resolution No. 83-252 of the FHLBB, imposed the following terms, among others, on UFG:

> [T]he subject acquisition [is] hereby approved, provided that the following conditions are complied with in a manner satisfactory to the [FHLBB's] Supervisory Agent at the Federal Home Bank of Little Rock ("Supervisory Agent"):
>
> "6. Applicant shall stipulate to the [Federal Savings and Loan Insurance Corporation] that as long as it controls the Resulting Association [United Savings], Applicant shall cause the net worth of the Resulting Association to be maintained at a level consistent with that required by Section 563.13(b) of the Rules and Regulations for Insurance of Accounts, as now, and hereafter in effect, of institutions insured 20 years or longer and, as necessary, will infuse sufficient additional equity capital, in a form satisfactory to the Supervisory Agent, to effect compliance with such requirement."

On October 31, 1983 USAT and UFG caused to be delivered to the Federal Home Loan Bank a written net worth maintenance commitment. The commitment was signed by the Chairman of the Board of UFG and stated:

> "[The] Chairman of United Financial Group, Inc., [does] hereby stipulate that as long as United Financial Group, Inc. controls United Savings Association of Texas, it will cause the net worth of United Savings to be maintained at a level consistent with that required by Section 563.13(b) of the Rules and Regulations for Insurance of Accounts, as now or hereafter in effect, of institutions insured 20 years or longer, and, as necessary, will infuse sufficient additional equity capital, in a form satisfactory to the Supervisory Agent, to effect compliance with such requirement."

Pursuant to the commitment, UFG agreed that it would infuse equity capital in a form satisfactory to the Supervisory Agent to maintain compliance with regulatory net worth requirements.

On June 29, 1983, MCO and Federated filed an application with the Bank Board for approval to acquire control of USAT through the acquisition of up to 35% of UFG's shares. On December 6, 1984, the Bank Board granted conditional approval of the application of MCO and Federated to acquire control of USAT. The condition the Bank Board imposed on MCO's and Federated's acquisition of control was that; "for so long as they directly or indirectly control United Savings, [MCO and Federated] shall contribute a *pro rata* share based on their UFG holdings, of any additional infusion of capital . . . that may become necessary for the insured institution to maintain its net worth at the level required by the Corporation's Net Worth Regulation."

In 1985 MCO entered into an option agreement with Drexel Burnam Lambert Group ("Drexel"), which gave UFG the right to "call" and Drexel the right to "put" the 7 percent of UFG's stock held by Drexel. When combined with its other holdings, control of this additional stock caused its total holding in UFG to exceed the 25% threshold. We believe that this transaction made the net worth maintenance obligation of the Board's resolution applicable to MCO (a predecessor of Maxxam) and FDC. Our understanding of Maxxam's position is that (1) since neither it nor its predecessor ever signed a separate net worth maintenance agreement it had no such obligation, and (2) because it did not become the legal owner of this Block of stock until after USAT failed, it never exceeded the 25 percent threshold.

c. Hurwitz Dominated USAT, UFG, MCO and FDC

Hurwitz was the controlling force of USAT, UFG, MCO and FDC. He was Chairman of the Board of MCO and it largest stockholder. He was the Chairman of the Board of UFG. He also served as UFS's President and Chief Executive Officer. He was a member of UFG's Executive Committee and the UFG/USAT Strategic Planning Committee. Hurwitz was also a *de facto* director and senior officer of USAT. He functioned as an active member of the Board, if not its *de facto* director and senior officer of USAT. He functioned as an active member of the Board, if not its *de facto* chairman. He directed and controlled USAT's investment activity; he regularly attended Board and Committee meetings; he selected USAT officer and directors; he controlled and dominated virtually all of USAT's activities. No significant decision concerning USAT's affairs was undertaken without his approval.

Hurwitz controlled the affairs of USAT both through direct particpation and through the actions of a core group of USAT officers or directors ("the core group"), which included Barry Munitz (USAT Director), George Kozmetsky (USAT Director), Jenard Gross (USAT 's Chief Executive Officer), Michael Crow (USAT's Chief Financial Officer), Arthur Berner (USAT's Executive Vice President and General Counsel) and Ronald' Huebsch (USATs Executive Vice President for Investments). Many members of the core group held positions not only with USAT but also with UFG and MCO. Barry Munitz ("Munitz") was a director of MCO. He was also a director of UFG from 1983 through 1988 and served on UFG's Executive Committee from 1983 and 1988. He was Chairman of the UFG Executive Committee from February, 1985 through 1988. Jenard Gross ("Gross") was a member of the UFG Board of Directors from 1985 through 1988. He was President and Chief Executive Officer of UFG during the same time period. Michael Crow ("Crow") was a director of UFG in 1988 and the Chief Financial Officer of UFG from 1984 through 1988. Arthur Berner ("Berner") became director of UFG in 1988 and served on UFG's Executive Committee. George Kosmetsky was a director of MCO and UFG. He also served on UFG's Audit Committee.

d. USAT's Net Worth Deficiency

From the outset of Hurwitz's involvement with USAT, the institution was deeply troubled. Under his control, it grew steadily worse. As the institution's financial health plummented and its net worth declined, USAT Board members serving at his request undertook greater and greater risks. Rather than recognize USAT's problems and confront them constructively, Hurwitz, through these USAT officers and directors (a) dramatically increased the liabilities of the Association in violation of federal law, (b) gambled on large, cumbersome real estate projects with no realistic chance of success, and (c) invested in complex financial instruments which investments were manipulated to produce reported profits while in fact generating multimillion dollar losses to USAT.

To avoid being called upon to comply with the obligation of UFG, MCO and FDC to maintain the net worth of USAT, Hurwitz and his colleagues covered up the true state of the Association by a pattern of deceptive financial reporting and balance sheet manipulation. Gains were taken on certain securities transactions, while losses were left imbedded in the portfolio; subsidiaries were used to skirt liability restrictions; losses on real estate investments were repeatedly understated; and maturity matching credits were manufactured. The effect was to artificially maintain the reported net worth of USAT to protect the assets of UFG, MCO and FDC at the expense of USAT.

Throughout much of 1987 and throughout 1988, even USAT's reported capital did not meet minimum regulatory standards. This resulted, in substantial measure, from the gross mismanagement of USAT for which Hurwitz was responsible. On May 13, 1988, the Bank Board advised USAT and UFG that USAT did not meet its regulatory capital requirements as of December 31, 1987. The Bank Board directed UFG and UFG's Board to infuse capital sufficient to meet those requirements. UFG refused to abide by the written commitment to maintain USAT's net worth. Similarly, MCO failed to infuse additional capital in accordance with its obligation.

Hurwitz took no steps to encourage or compel UFG, MCO or FDC to honor their commitments although he had the power, in fact, to do so. On December 30, 1988, the Bank Board reiterated its request that UFG honor its net worth maintenance obligation. Again, UFG refused; Hurwitz did nothing. As of December 30, 1988, USAT's reported capital was $534 less than the stipulated minimum. UFG is responsible for that full amount, but its ability to respond may have been limited at that time to the $35 to $40 million dollar range. Maxxam's obligation, as interpreted by OTS, is roughly 30 percent of the $534 million, i.e., Maxxam's percentage of UFG's stock times the capital deficiency, or roughly $160 million. Maxxam's current reported capital is in the $140 million range.

As part of his duty of loyalty to USAT, Hurwitz had an obligation to cause UFG, MCO and FDC to make such contributions. As a UFG, MCO and FDC director, officer, and control person, Hurwitz was in a position to take such action. He intentionally refused to do so, thereby breaching his duty of loyalty to USAT. The consequent loss is in excess of $150 million.

VI. USAT's Park 410 Loan [For Information Purposes]

In April 1986, USAT made an $80 million non-recourse loan to an entity which was owned by Stanley Rosenberg, a prominent San Antonio attorney and close friend and business colleague of Charles Hurwitz. The loan was grossly imprudent. It was made without any significant underwriting in a declining real estate market when USAT officials and the borrowers knew that the project was doing poorly and had little chance of success. The loan was also made despite warnings from regulators. For example, in January 1985, the Texas Savings and Loan Department advised the Board and senior management that USAT's lending portfolio was seriously flawed and that scheduled items constituted 105% of net worth. While many of the scheduled items noted in the Texas examination predated the Hurwitz regime, the comments represented a warning to the institution about the fragile nature of its portfolio. Added to these regulatory warnings were repeated comments by USAT's outside auditor, Peat Marwick, prior to the approval of the loan, that USAT's real estate lending was creating substantial problems for the institution, that appraisals in numerous loan files were deficient, and that foreclosures and delinquencies were rising rapidly. USAT's Board and senior officers chose to ignore these warnings, in part, because the making of the loan generated immediate fees, i.e. reported income of $2.5 million, for USAT. The loan was kept from default by interest reserves of $17 million. Hurwitz, the Board, the SLC, and Stanley Rosenberg all share in the culpability for this transaction which caused $57 million in losses to the institution.

1. Potential Defendants

USAT's Board members who served on the SLC were grossly negligent in their failure to supervise USAT properly with respect to its real estate lending practices. In abdication of its responsibility in this known problem area, the Board set a $70 million lending limit for USAT's SLC in the face of repeated warnings from regulators and Peat Marwick that its lending practices and procedures were flawed and, in particular that its ADC lending had severe problems. Given the institution's lending experience, such delegation amounted to a total abdication by the Board of its responsibility to review and supervise the institution's lending activities. Indeed, it appears that the Board allowed the entire real estate lending and investment activity of USAT to operate with nominal internal controls and no oversight. Thus, the Real Estate Investment Committee committed USAT to a substantial initial investment in Park 410 ($35 million), apparently without Board knowledge or approval and in violation of its authority. The SLC increased the commitment to $70 million—$80 million if the Board ratified the decision. Then the Board approved funding $80 million—all without apparent concern that the project was not a bankable credit. The Board was grossly negligent in both its failures of supervision and in actually approving the park 410 loan on terms extremely favorable to Rosenberg based on a cursory presentation by the SLC. Only Board member Winters voted to disapprove the loan.

Officers and directors who served on the SLC will also be charged with gross negligence because they knew about both regulatory criticism and Peat Marwick's warning and that USAT's lending activities (particularly ADC loans) had caused severe losses to the institution. Despite this, the SLC gave the Park 410 transaction only a cursory review and relied instead on the borrower's economic analysis and on a defective appraisal that was delivered orally before funding, but not submitted in writing until after the loan closed. The SLC allowed Hurwitz's influence to compromise its deliberations and the proper exercise of its duties.

Absent statute of limitations problems, FDIC would also propose to sue Stanley Rosenberg for the damages incurred by USAT in the Park 410 loan transaction. Rosenberg was both counsel to USAT and a participant in the transaction. Knowing the significant risks inherent in the loan, he nevertheless facilitated and encouraged USAT to complete the transaction. FDIC would allege that Rosenberg used his conflict position with USAT for his personal benefit and financial gain and that he aided and abetted the officials of USAT in the breach of their fiduciary duties.

2. Narrative Description of the Claim

Park 410 was a 427 acre tract of vacant and unimproved real estate located in western San Antonio near the proposed site for Sea World. This general area had attracted considerable developer interest and many competing office/retail/residential developments were being proposed. Its large size and location made Park 410 a "high profile" project of the type in which Hurwitz wanted USAT to be involved.

On October 10, 1984, USAT received a signed, non-binding letter of intent from Park 410 West, Ltd. ("Limited"), a partnership consisting of Alamo Savings ("Alamo") and developers Robert Arburn and C. R. McClintick, offering to sell USAT the Park 410 property for $42.5 million, with 75% seller-financing on a non-recourse basis. Although USAT's David Graham believed he had reached an agreement with Limited as to the material terms of the transaction, the deal collapsed soon after USAT retained, as its legal counsel, long-time Hurwitz friend (and Maxxam director) Stanley Rosenberg to represent the Association in finalizing the transaction with Limited. On November 20, the same day Limited returned, unexecuted, USAT's letter of intent to purchase the property for $38 million, 80% seller-financed, Rosenberg's law partner Kenneth Gindy began negotiations with Limited's agent to sell the property to a different client of Rosenberg's firm—Gulf Management Resources, Inc. ("GMR"). Indeed, Limited ultimately agreed to sell the property to GMR on terms more favorable to the purchaser and less favorable to Limited than those previously offered by Limited to USAT. Soon thereafter, Rosenberg became GMR's 50% partner in Park 410 West JV ("Joint Venture"), the entity formed to purchase the property.

In the Spring of 1985, and prior to the closing with Limited, USAT accepted Rosenberg's invitation to become his partner and agreed to pay all of Rosenberg's financial obligations to Joint Venture in exchange for half of Rosenberg's 50% interest in Joint Venture. In other words, USAT agreed to fund at least 50% of the projected $65 million acquisition, development and holding costs in exchange for a one-fourth interest in the project. The Real Estate Investment Committee ("REIC") with Hurwitz in attendance made the investment decision based on little, if any, independent due diligence. Instead, the REIC relied on wildly optimistic profit projections prepared by GMR (Rosenberg's client and partner) and a totally distorted appraisal that gave a cumulative, undiscounted market value of $72.5 million only *if* (and when) the property was subdivided and ready for development. The REIC described the appraisal as being "on an as is basis", but the appraisal expressly warned that it "does not represent the present as is market value of the land," such a valuation being "beyond the scope" of the appraisal. Hurwitz's influence was evident from the beginning of USAT's involvement with the Park 410 property. Two members of Hurwitz's core group served on the REIC—Gross and Crow.

Outside director James R. Whatley confirmed in his interview that the Park 410 investment decision committing USAT to $35 million was never presented to the Board of

Directors. The REIC's authority to commit the institution to an investment, without prior Board approval, was limited to $2.5 million. The Board took no steps to exercise scrutiny over real estate investment decisions or, indeed, to even monitor what the REIC was doing. The fact that a commitment of such magnitude could be made without Board approval or awareness demonstrates the Board's lack of care and its conscious indifference to the need to establish effective internal controls. USAT's indefensible investment in Park 410 set the stage (and perhaps the excuse) for it to more than double its financial exposure in the Park 410 project. In the Spring of 1986, and a few months after closing the purchase from Limited, USAT committed to become the lender for the entire project, with an exposure of up to $80 million dollars.

Graham (the SLC chairman) now admits that the Park 410 project "got off to a slow start," that the project was "too big, too difficult," that there was trouble in the San Antonio real estate market, and that Joint Venture could not get outside funding to develop the project. In the Fall of 1985, Joint Venture applied to USAT for a $77.8 million loan to pay off the acquisition debt still owed Alamo and McClintick, to provide funds for development and to pay the holding costs of the project (taxes, interest, etc.). Again, Hurwitz was involved from the start. Crow recalls Hurwitz presenting the loan proposal to Graham and Childress. Graham reported directly to Hurwitz, as well as to members of the SLC concerning negotiations in late 1985 and early 1986, and Hurwitz and Rosenberg participated directly in some of the negotiations. Hurwitz also participated in the 12/9/85, 1/6/86 and 3/17/86 SLC meetings where the loan was discussed and ultimately approved. SLC member Jeff Gray recalls it being widely known and understood among senior officials that Hurwitz wanted USAT to make the Park 410 loan.

Despite adverse comments from its Texas regulator regarding its real estate lending problems and in the face of Peat Marwick's repeated warnings in August 1984, February 1985 and October 1985 that ADC loans were a problem for USAT and that real estate markets were declining, the SLC approved the loan on March 17, 1986, and thereby agreed to lend the Joint Venture $80 million, but made its obligation to advance funds beyond $70 million contingent upon first receiving Board approval. Hurwitz and the SLC approved the loan despite knowledge that Joint Venture had been unable to secure financing from any other lender and in the face of significant deterioration of the San Antonio real estate market.

When the SLC approved the loan it had not yet received the appraisal which was intended to be, but was not, in compliance with R41–b. Instead, Hurwitz and the SLC based their analysis and approval on the borrower's (GMR) sales projections and on a distorted preliminary appraisal by a Houston appraiser having no apparent prior experience in San Antonio that gave a cumulative, undiscounted market value of $88 million. GMR's projections assumed sales of more than 65 acres per year, a rate of absorption even higher than its projection of a year earlier and at higher prices. In fact, it would be more than four years before the first acre was sold at Park 410.

The final narrative appraisal sent to USAT after the SLC approved the loan was grossly deficient. It relied upon stale comparables made a year earlier when the market was stronger, failed to quantify or explain adjustments to comparables, failed to consider the impact of the glut of similar projects in the area and failed to contain all three approaches to value. Not surprisingly, both state and federal examiners strongly criticized the appraisal.

The loan closed on April 17, 1986, with USAT making an initial advance of $45.6 million. Three weeks later on May 8, 1986, the loan was approved by USAT's Board of Directors, with Hurwitz, Kozmetsky, Gross and Munitz in attendance. The Board package for this meeting contained the five page loan proposal approved by the SLC. This proposal provided, at best, a cursory analysis of a loan of this size and complexity. The minutes of the meeting reflect no presentation or discussion of the loan prior to Board approval. According to the minutes, outside director Wayne C. Winters voted against the loan because of concerns about the loan amount and the value of the property. According to Graham, while Hurwitz did not force USAT to make the loan, everyone on the SLC and on USAT's Board knew that Rosenberg was a close friend of Hurwitz and that Hurwitz was enamored with putting USAT in play on a big real estate deal in San Antonio.

Hurwitz, the SLC and the Board permitted the loan to be made on terms very favorable to Rosenberg and GMR, but adverse to USAT. If it was going to be involved at all, as the lender of "last resort" for the borrowers, USAT could have (and should have) dictated terms which provided maximum protection for the institution. Instead, the loan was non-recourse to the borrower, and guarantees were for only 25% of the loan and took effect only after foreclosure and the declaration of a deficiency. The guarantors were also allowed to credit their personal guarantees for any amounts drawn against their $10 million letters of credit. In addition, various improper disbursements were made (without objection from USAT) out of the loan proceeds, including a $400,000 "loan fee" to Rosenberg and an undisclosed management fee to Rosenberg of $62,500 at closing and $75,000 per year thereafter. The transaction allowed the borrowers to avoid or minimize virtually all immediate "hard dollar" commitment to the project.

The deficiencies described above and the actions and inactions of USAT's Board and SLC provide ample support to assert claims for gross negligence and breach of fiduciary duty. Clearly the Board's conduct constituted conscious indifference to the financial safety and soundness of the Association, particularly in view of the fact that (i) this was the largest loan ever made by USAT and, in the face of the warnings from Peat Marwick and state regulators, required careful scrutiny (ii) SLC members knew that other lenders had refused to finance the project (iii) the financial projections were wildly optimistic and the appraisals flawed (iv) market conditions were getting worse not better and, (v) USAT could have walked away from its initial "investment" in the project for $4.5 million. Instead, the SLC and the Board (in large part because of Hurwitz's influence) chose to commit up to $80 million to a project which they knew or should have known had a high probability of failure.

As noted above, if there were no statute of limitations problem with this claim, FDIC would also propose to sue Stanley Rosenberg for his role in the transaction. Without question, Rosenberg was at the core of Park 410 and influenced many of USAT's actions or inactions through his relationship with Hurwitz. Rosenberg was originally USAT's counsel in the transaction. However, he failed to close a transaction in which USAT, his client, would have had 100% of the benefits in exchange for 100% of the risk. Instead, he negotiated a series of deals which resulted in Rosenberg himself having 25% of the profit potential (plus $462,500 of USAT's cash), another client had a 50% interest in the profits, and Rosenberg's client USAT had 50% of the downside risk but only 25% of the upside potential.

Given his knowledge, Rosenberg should have counseled USAT not to pursue the Park 410 investment. Rosenberg breached his professional duty as an attorney by not warning USAT that it was on the verge of becoming a victim of a potentially illegal Texas land flip (i.e., paying Alamo and McClintick three times what they paid for the property less than a year before), that the market was deteriorating and that no other financial institution would finance the deal. He failed to protect USAT's interests as he was obligated to do. He compounded that breach by enticing and encouraging USAT into a deal that he knew potentially would benefit him by placing USAT at enormous risk. For this he is liable for malpractice and for this same conduct—irrespective of Rosenberg's status as USAT's attorney—he is liable for aiding and abetting USAT officers in the breach of the officers' duties. Rosenberg and his law firm received $462,000 from the loan proceeds and undisclosed management fees.

3. Serious Statute of Limitations on the Parks 410 Loan

Because the Park 410 loan closed in April 1986, more than two years before USAT's failure, there is a serious statute of limitations problem on this claim that we do not believe we can overcome. In light of the Fifth Circuit's opinion in *Dawson*, the Supreme Court's refusal to consider whether a federal rule should be adopted under which negligence by a majority of the directors would toll the statute of limitations, the failure of Congress to address the statute of limitations problems through legislation, and the Fifth Circuit's recent opinion in *Action*, we do not believe there is a basis under existing law for defeating a statute of limitations motion based on Park 410. Consequently, we do not recommend going forward with claims arising out of Park 410.

VI. Applicable Legal Theories and Defenses

We recommend pursuing these claims with the following legal theories: (A) breach of fiduciary duty of loyalty, (B) gross negligence and breach of fiduciary duty of care, and (C) knowing participation in and aiding and abetting breach of fiduciary duty. Our reasons are summarized below.

A. Breach of Fiduciary Duty of Loyalty

Because of the role that USAT played in maintaining Hurwitz's relationship with Drexel, the financial interest and net worth maintenance exposure that UFG, MCO and FDC had in USAT, and the business relationship with Rosenberg from which the benefitted personally, Hurwitz profited the most from the actionable transactions and stood to lose the most had the plug been pulled on USAT sooner. Similarly, the other proposed individual defendants were so closely tied to Hurwitz and his business interests that they compromised their ability to place USAT's interests ahead of Hurwitz's. Munitz, Gross, and Crow were dual UFG/USAT directors and received generous compensation from USAT. All but Crow had other business connections with Hurwitz that fostered divided loyalties. Munitz was also an officer and/or director of MCO and FDC at various times. Gross had an equity interest in FDC. As a consequence of these relationships, UFG and Hurwitz profited at USAT's expense.

B. Gross Negligence and Breach of Fiduciary Duty of Care

Many of our claims against Hurwitz and the other proposed individual defendants will be based on allegations of gross negligence and breach of fiduciary duty of care. Recent federal court decisions in Texas interpreting Texas law preclude recovery for simple negligence. Therefore, we will have to contend that the defendants were guilty of gross negligence—a more rigorous standard. Although we believe that the decisions to make the Park 410 loan and the UMBS investment, and those with respect to Joe's Portfolio, were grossly negligent, a recent decision by the Texas Supreme Court announced a new standard of gross negligence that—if applied—will make it much more difficult to prove our claims.

C. Knowing Participation in and Aiding and Abetting Breach of Fiduciary Duty

Under Texas law, secondary liability theories, such as knowing participation in or aiding and abetting breach of fiduciary duty, can be used to reach the activities of culpable persons, like Hurwitz or Rosenberg, who were neither officers nor directors of USAT. Hurwitz can be held liable for the breaches of duty of Munitz, Gross, and the others where he had knowledge that the others were breaching their duty to USAT and provided substantial assistance, direction or encouragement. Based on the facts, Hurwitz should be sued for his knowing participation in breaches of fiduciary duty by the officer and director defendants.

D. Anticipated Defenses

Business Judgment Rule The defendants will contend that the decisions we challenge were business judgments for which they cannot be held liable under Texas law. Recent decisions in federal courts in Texas suggest that the business judgment rule will be applied liberally to protect directors and officers from claims for bad management decisions, even when large losses result. The presence of ulterior motives, such as Hurwitz's relationship with Drexel, his desire to avoid net worth maintenance claims, and his relationship to Mr. Rosenberg would be relevant in our effort to avoid application of the business judgment rule.

The defendants will contend that the decision to invest in UMBS was a reasonable business decision under the circumstances. They will argue that the absence of alternative investments, given the downturn in the Texas real estate market, and USAT's need for earnings, made a leveraged investment in MBS risk controlled arbitrage completely appropriate. They will point out that UMBS had a positive spread and reported profits from its formation until the date a receiver was appointed for USAT, with reported 1986 earnings of $906,398, 1987 earnings of $37,479,283 and 1988 earnings of $20,251,468. They presumably will contest Laurenson's account that the Investment Committee gave its approval for a "dice roll." They will argue that it is inappropriate to evaluate their investment strategy based on the results of a forced liquidation of the portfolio after the receivership appointment, particularly because, if the MBSs had been held for a longer time, they might have been sold at a profit after interest rates declined.

Nonetheless, there is a substantial risk that the decisions we challenge will ultimately be held to constitute business judgments for which we cannot recover losses.

Pre-Insolvency Duty. The defendants will argue that until USAT became insolvent, the fiduciary duties of directors and officers ran only to the institution's equity holders, not to its creditors and depositors. Because USAT was not reporting insolvency at the time of the actions we challenge, the defendants will argue that they had a duty to undertake any and all lawful means to keep the institution open for as long as possible, even if that course of conduct aggravated the losses to the FDIC, depositors and creditors.

We believe that this argument is without merit and that the duties of directors and officers run to the corporation, not to its shareholders. We will contend that directors of financial institutions have very broad fiduciary duties to persons other than the shareholders, including depositors. We will also contend that no director or officer may breach the fiduciary duty of loyalty, regardless of the solvency of the institution. We will argue that the defendants engaged in speculative transactions to extend the life of USAT when the viability of USAT was tenuous, at best, and there was no reasonable expectation that it could continue in business.

Standing/UMBS—The defendants will argue that the FDIC as USAT's Receiver does not have standing to challenge the investment activities of UMBS, a subsidiary. They will argue that the Receiver does not own those claims. The UMBS claims, however, are based upon claims arising out of USAT activity, i.e., USAT's loss of $97 million as a result of the decision to invest $180 million of USAT money in UMBS without proper controls and protection. The Receiver clearly has standing to challenge such decisions. Furthermore, UMBS's day to day investment decisions were controlled and directed by the USAT defendants, thus making the line between the two entities for purposes of investment decision-making non-existent.

Statute of Limitations—The defendants will argue that the statute of limitations has expired on our proposed claims. Texas law requires claims of negligence, grow negligence and breach of fiduciary duty to be commenced within two years of accrual, unless limitations are tolled by equitable principles. In the Dawson case, the Fifth Circuit decided that the statute would not be tolled on an "adverse domination" theory unless a majority of the directors were guilty of more than negligence in approving the challenged corporate action, or in failing to discover wrongful conduct by others. The federal trial courts in Texas had split on the actual level of culpability required, with some courts holding that gross negligence by a majority of directors is sufficient to toll the statute and others holding that more culpable conduct, such as fraud, is required. The Supreme Court refused to consider in Dawson whether a federal rule should be adopted under which negligence by a majority of the directors will toll the statute. This question has been answered in the Fifth Circuit by the recent decision in RTC v. Acton, 49 Fd.3 1086 (5th Cir. 1995), holding that under Texas law, only self-dealing or fraudulent conduct, and not gross negligence, is sufficient to toll the statute of limitations under the doctrine of adverse domination.

The first $100 million of USAT's equity interest in UMBS was recorded on the books of UMBS in November and December, 1986—more than two years before a receiver for USAT was appointed. After December 30, 1986 and before May 31, 1987, USAT raised its equity contribution in UMBS by a total of $80 million. In March 1987, USAT's equity in UMBS increased from $100 million to $150 million. In May 1987, it increased from $150 million to $180 million. We evaluated whether a claim could be made for USAT investments in UMBS after December 30, 1986—within the Texas two year statute of limitations. We will have to establish that losses resulted from the investments USAT made in UMBS in 1987. Because the net "out of pocket" loss on the entire $180,000,000 equity contribution was only $64,997,000, we would have to argue that the last money invested was the first money to be lost. The logic of that position may not be accepted by a court. If it is not, it appears that our claim will fail because, arguably, USAT recovered its entire 1987 investment when UMBS was liquidated and the "loss" suffered was a loss of $64,997,000 of the contribution it made before December 30, 1986, prior to the two year statute of limitations.

Regulatory Approval—The defendants also are likely to contend that the regulators knew about or approved USAT's investment activities in MBSs. Regulators did not prohibit MBS investments, but neither did they direct or authorize USAT to do what it did. Moreover, the evidence will show that USAT did not affirmatively disclose (1) the losses inherent in its interest rate swaps from USAT Mortgage Finance in late 1985 or from USAT's "Joe's Portfolio" in early 1986, (2) the fact that its "roll down" program for "Joe's Portfolio" resulted in a negative spread between the income on the MBSs and the cost of the swaps, and that the swap problem could have been handled less expensively and with less risk for USAT, (3) the fact that $100 million was invested in UMBS despite the disastrous experience with "Joe's Portfolio," which could only be understood if one knew about the swap dimension of the problem and (4) the fact that an additional $80 million was invested in UMBS in 1987 after the initial investment had already begun to turn sour.

Hurwitz's Involvement—Hurwitz will assert that he cannot be held liable because he was never an officer or director of USAT. He will also argue that even as a director of UFG, he did not exercise authority or control over USAT and did not knowingly participate in breaches of fiduciary duty by USAT's officers and directors. Because Hurwitz, in fact, was actively involved in virtually every aspect of USAT's business, and especially in the management of its securities portfolio, we have a reasonable chance to overcome this defense.

VII. Cost Effectiveness and Assessment of Proposed Litigation

If approved, a lawsuit against the proposed defendants would be filed in the U.S. District Court for the Southern District of Texas, Houston, seeking approximately $300 million in damages. We propose using the law firm of Hopkins & Sutter and the minority owned firm of Adorno & Zeder. Both firms have Legal Services Agreements with the FDIC and do not exceed any fee cap.

Potential recovery sources include the proposed defendants, who have an aggregate net worth of $150 million. In addition, the bylaws of MCO (now Maxxam), provide for the indemnification of any person who serves as an officer or director of a subsidiary (which would include UFG and possibly USAT) or, at the request of MCO, serves as an officer or director of any other corporation. Thus, Munitz (who was an officer and director of MCO and/or FDC), may be entitled to indemnification from Maxxam for his wrongful acts as a USAT director and officer. Hurwitz may also be entitled to indemnification for his wrongful acts as a director and officer of UFG and because of his activities at USAT as a member of the UFG/USAT Strategic Planning Committee. Maxxam is a publicly traded company with market capitalization, as of March 15, 1994, of $223 million and total assets of $3.2 billion.

The claims described in this memorandum arising out of the misconduct of officers and directors are large and complex. They are also subject to a number of recent adverse decisions by the Fifth Circuit Court of Appeals, the Southern District of Texas and the Texas Supreme Court which restrict substantive liability and FDIC's ability to reach significant claims accruing prior to December 1986. As a consequence, FDIC's Complaint will be vigorously challenged and appears vulnerable to motions to dismiss and motions for summary judgment. There is at least a 70% chance that these claims will be disposed of adversely to the FDIC on such motions relating to the statute of limitations. If, however, the claims survive summary judgment and proceed to jury trial, the odds of a favorable outcome (by settlement or verdict) improve, but do not exceed 50%. These variables make it difficult, if not impossible, to quantify the chances of success overall.

It is estimated that pursuing this matter to trial will cost approximately $4 million in fees and expenses, including expert witness fees, and an additional $2 million in fees and expenses will be incurred through trial. Our downside risk is limited somewhat by the likelihood of an early statute of limitations motion. It is thus likely that we will incur substantially less than the full cost of a trial if we are not going to prevail on the statute of limitations issue. To date we have incurred approximately $4 million in fees and expenses for the investigation by outside counsel, approximately $400,000 by the Office of Thrift Supervision and approximately $600,000 for in-house investigation and in-house attorney costs. Claims of this nature and magnitude are very difficult to value. That noted, if the case survived statute of limitations defenses, the estimated settlement value would be $20–$40 million.

July 28, 1995

Memorandum to: Catherine L. Hammond, Office of the Executive Secretary.

From: Robert J. DeHenzel, Jr., Counsel, Professional Liability Section.

Subject: Authority to Institute PLS Suit, Institution: United Savings Association of Texas, Fin #1815, Proposed Defendants: Former directors and officers, defacto director and controlling person Charles Hurwitz.

The enclosed memorandum requesting authority to institute a PLS suit is on the Board agenda for Tuesday, August 1, 1995. Because Mr. Bovenzi is out of town and has not had the opportunity to sign, we are not enclosing the original with the distribution today. We anticipate securing his signature on Monday morning, and will then promptly have the original forwarded to your office.

The Deputies to the Directors and the General Counsel are aware that Mr. Bovenzi has not had the opportunity to sign and have no objection to this procedure.

Please call me if you have any questions whatsoever.

JACK D. SMITH
RICHARD ROMERO

RESOLUTION

Whereas, pursuant to authority contained in the Federal Deposit Insurance Act and/or pursuant to applicable state or federal law, the Federal Deposit Insurance Corporation ("FDIC"), acting as conservator or receiver or in its corporate capacity has the authority to bring civil actions for monetary damages against directors or officers, outside professionals, or fidelity bond companies (or their successors, heirs or assigns) of insured depository institutions who fail to fulfill their responsibilities ("professional liability claims"); and

Whereas, the FDIC has investigated and evaluated professional liability claims that it may have arising from the failure or conservatorship of United Savings Association of Texas, Houston; and

Whereas, based on such investigation and evaluation, the Legal Division and the Division of Depositor and Asset Services believe there is a sufficient basis to prosecute such claims; and

Whereas, the Legal Division and the Division of Depositor and Asset Services have recommended that the Board of Directors ("Board") of the FDIC authorize the filing of a lawsuit seeking damages based on such claims.

Now, Therefore, Be It Resolved, that the Board hereby approves the filing of a lawsuit against former directors and officers Barry Munitz, Jenard Gross and Michael Crow and controlling person Charles Hurwitz, arising out of the failure of United Savings Association of Texas and authorizes the General Counsel (or designee), on behalf of the FDIC, to take all actfons necessary or appropriate to prosecute such lawsuit, including any additional litigation necessary to protect or assure the viability or collectibility of the claims to be prosecuted in such lawsuit.

DOCUMENT M

DRAFT

To: William F. Kroener, III, General Counsel.

Subj: Meeting with Vice President Gore on Friday, Oct. 20, 1995, at 11:00 a.m.

DISCUSSION POINTS

I. Background

1. United Savings Association of Texas, Houston, Texas ("USAT"), was acquired in 1983 by Charles E. Hurwitz. Hurwitz leveraged the institution through speculative and uncontrolled investment and trading in large mortgage-backed securities portfolios, without reasonable hedges, to $4.6 million in assets. Investments lost value and USAT was declared insolvent and placed into FSLIC receivership on December 30, 1988. Loss to the FSLIC Resolution Fund is $1.6 billion.

2. While Hurwitz was a controlling shareholder and de facto director of USAT he acquired, through a hostile takeover and with the strategic and financial assistance of Drexel Burnham Lambert, Inc., Pacific Lumber Company, a logging business based in northern California. As a result, Hurwitz came to control the old growth, virgin redwoods that are the principal focus of the Headwaters Forest.

II. FDIC Litigation

1. On August 2, 1995, FDIC as Manager of the FSLIC Resolution Fund filed a lawsuit against Mr. Hurwitz seeking damages in excess of $250 million.

a. Complaint contains three claims:

*Count 1 alleges breach of fiduciary duty by Hurwitz as de factor director and controlling shareholder of USAT by failing to comply with a New Worth Maintenance Agreement to maintain the capital of USAT;

*Counts 2 and 3 allege gross negligence and aiding and abetting gross negligence in establishing, controlling and monitoring two large mortgage-backed securities portfolios.

2. FDIC has authorized suit against three other former directors of USAT that we have not yet sued; a tolling agreement with these potential defendants expires on December 31, 1995. The court may order FDIC to decide to add them as defendants prior to that date.

3. Status of FDIC Litigation: Pursuant to the Federal Rules of Civil Procedure, the parties—through counsel—have met and exchanged disclosure statements that list all relevant persons and documents that support our respective positions. Moreover, the parties have agreed to a scheduling order that reflects a quick pre-trial period. All discovery is to be concluded by July 1, 1996. The court has set a scheduling conference to discuss all unresolved scheduling issues for October 24, 1995; and a follow-up conference on November 28, 1995.

III. Settlement Discussions

1. FDIC has had several meetings and discussions with Hurwitz' counsel prior to the filing of the lawsuit. Hurwitz has never, however, indicated directly to FDIC a desire to negotiate a settlement of the FDIC's claims.

2. As a result of substantial attention to Pacific Lumber's harvesting of the redwoods by the environmental community, media inquiries, Congressional correspondence, and the state of California, Pacific Lumber has issued various press releases stating it would consider various means of preserving the redwoods.

IV. OTS Investigation

1. Since July 1994, the Office of Thrift Supervision has been investigating the failure of USAT for purposes of initiating an administrative enforcement action against Hurwitz, five other former directors and officers, and three Hurwitz-controlled holding companies. The OTS may allege a violation of the Net Worth Maintenance Agreement and unsafe and unsound conduct relating to the two MBS portfolios and USAT's real estate lending practices. If OTS files its administrative lawsuit, it may allege damages that total more than $250 million.

2. OTS has met with Hurwitz' counsel; no interest in settlement has been expressed to OTS.

3. OTS is likely to formally file the charges within 45 days.

4. Appears to FDIC inappropriate to include OTS representatives in the meeting to discuss possible settlement of its claims against Hurwitz since OTS has not yet approved any suit against Hurwitz or his holding companies and OTS' participation at such meeting may be perceived by others as an effort by the Executive Branch to influence OTS's independent evaluation of its investigation.

V. FSLIC Resolution Fund ("FRF") Issues

1. The Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") (enacted Aug. 9, 1989), accord special treatment to certain savings & loan associations that failed prior to its enactment. The FRF obtains its funds from the Treasury and all recoveries from the assets or liabilities of all FRF institutions are required to be conveyed to Treasury upon the conclusion of all FRF activities. The statute does not establish a date for the termination of the FRF. FRF fund always in the red due to huge cost of these thrift failures.

2. To date, FRF owes the Treasury approximately $46 billion.

3. FDIC has decided that if Hurwitz offered the redwoods to settle the FDIC claims, we would be willing to accept that proposal. Because any assets recovered from FRF institutions are required to eventually be turned

over to Treasury, the trees (i.e. the land conveyance) could conceivably be transferred to Treasury.

4. May need legislation to assist in transfer of land and other details of such a conveyance. The mechanics of such a transfer is not a focus of FDIC's current efforts, which are to persuade Hurwitz of liability and to seriously consider settlement.

VI. Impediments to FDIC Direct Action Against Trees

1. FDIC has no direct claim against Pacific Lumber through which it could successfully obtain or seize the trees or to preserve the Headwaters Forest. Neither Maxxam, Inc. (which owns Pacific Lumber and is controlled by Hurwitz) nor Pacific Lumber are defendants in FDIC's suit. There is no direct relationship between Hurwitz' actions involving the insolvency of USAT and the Headwaters Forest owned by Pacific Lumber. Pacific Lumber was acquired by Maxxam but does not appear to have owned any interest in USAT or United Financial Group, USAT's first-tier holding company. Moreover, neither USAT nor UFG ever owned an interest in Pacific Lumber.

2. FDIC's claims alone are not likely to be sufficient to cause Hurwitz to offer the Headwaters Forest, because of their size relative to a recent Forest Service appraisal of the value of the Headwaters Forest ($600 million); because of very substantial litigation risks including statute of limitations, Texas negligence—gross negligence business judgment law, and Hurwitz's role as a de facto director; and the indirect connection noted above, including the risk of Hurwitz facing suit from Pacific Lumber securities holders if its assets were disposed of without Pacific Lumber being compensated by either outsiders or Hurwitz or entities he controls.

DOCUMENT N

HOPKINS & SUTTER,
CHICAGO, WASHINGTON, DALLAS,
March 24, 1995.

MEMORANDUM

To: File.
From: F. Thomas Hecht.
Re: Environmental Developments.
CC: Jeffrey R. Williams and Robert J. DeHenzel.

Over the past year the FDIC has been subject to an intense lobbying effort by certain environmental activists led by the Rose foundation of Oakland, California. Their principal concern has been to conserve an area of unprotected old-growth redwoods in northern California known as the Headwaters Forest, currently owned by Pacific Lumber, a wholly owned subsidiary of Maxxam, Inc. Because of the potential FDIC and OTS claims against both Maxxam and Hurwitz, the Rose Foundation and others have urged that the agencies take steps to protect the redwoods. They urge either a negotiated "debt for nature swap" in which the agencies' liability claims are traded away for the forest, or litigation to seize the assets of Pacific Lumber. More recently, a Qui Tam was filed in the United States District Court for the Northern District of California by Robert Martel, a free lance journalist and environmental activist, seeking to draw the government into litigation against Maxxam, Hurwitz and Pacific Lumber.

The purpose of this summary is to memorialize our contacts with these groups and to discuss the options they have urged upon the FDIC and OTS.

A. THE HEADWATERS FOREST AND PACIFIC LUMBER

The Headwaters Forest consists of about 44,000 acres of forest ecosystems, including approximately 3,000 acres of old growth redwoods. These are the last vestiges of the virgin redwood forest that once extended for 500 miles across Northern California and into southern Oregon. The Headwaters Forest is also a nesting area for certain endangered species. It is, by general agreement, an extraordinary natural resource. Pacific Lumber owns much of the Headwaters Forest and surrounding areas, including the old growth redwoods. For many years, Pacific Lumber utilized timber harvest techniques which emphasized preservation of much of the old growth redwood acreage. It appears that the company is now committed to harvest the timber more aggressively. This includes clear-cutting at least part of the unprotected redwoods. There are currently pending several lawsuits brought by environmental groups and residents of the area seeking to block some of the harvesting. The results have been mixed. However, most recently the United States District Court for the Northern District of California issued an injunction restraining Pacific Lumber from logging old growth redwoods in the Owl Creek area—about five miles from the Headwaters Forest. After a two week trial the Court held that Pacific Lumber's logging practices represented a threat to the nesting areas of the marbled murrelet. Among other matters, the case raises the issue of the ability of the Endangered Species Act to reach private holdings. Apparently, the decision will be appealed.

B. FDIC CONTACTS WITH THE ROSE FOUNDATION ET AL.

As noted above, the Rose Foundation and other environmentalists have repeatedly urged that the FDIC engage in a "debt for nature" swap as part of a negotiated settlement or undertake a course of litigation which would result in the seizure of Pacific Lumber's assets, namely the redwoods. Representatives of the FDIC and Hopkins & Sutter have met with representatives of the environmental groups to hear their presentations and to evaluate their claims. Thus:

On June 17, 1994, Thomas Hecht met with Jill Ratner of the Rose Foundation in San Francisco for an initial meeting at which Ms. Ratner outlined her groups' concerns.

On October 4, 1994, Hecht, Jeffrey Williams, Robert DeHenzel and the Rose Foundation and its lawyers participated in a teleconference at which the claims prepared by the Rose Foundation were presented in more detail.

On January 20, 1995, DeHenzel and Hecht met with Julia Levin of the Natural Heritage Foundation ("NHF"), a group closely associated with the Rose Foundation. NHF is conducting much of the lobbying effort on behalf of the Rose Foundation and other environmental activists on this issue.

In addition to these more formal encounters, Williams, DeHenzel and Hecht have each been contacted repeatedly by the Rose Foundation and its attorneys to explore the theories in more depth and to urge the FDIC to take action. In each of these meetings and in subsequent telephone conversations and correspondence, the Rose Foundation and its allies have urged three general approaches to the problem including: (a) the imposition of a constructive trust over Pacific Lumber's redwoods, (b) the seizure of redwoods using an unjust enrichment theory, and (c) obtaining rights to the forest or, at a minimum, an environmental easement, as part of a negotiated settlement. The have also urged Congressional action, filed a Qui Tam proceeding in the Northern District of California and threatened the FDIC with proceedings under the Endangered Species Act.

1. The Constructive Trust and Unjust Enrichment Theories

The possibility of acquiring Pacific Lumber's redwoods by the imposition of a constructive trust has been the centerpiece of the legal work presented to the FDIC by the Rose Foundation. The constructive trust theory proceeds on the following assumptions: (a) that Hurwitz and Maxxam controlled USAT; (b) that Hurwitz, with USAT's funds, entered into an improper quid pro quo arrangement with Drexel pursuant to which federally insured funds were used to invest in Drexel-underwritten junk bonds, (c) in exchange for USAT's investments, Drexel provided Hurwitz with financial assistance in the hostile takeover of Pacific Lumber; and (d) USAT's investment in the junk bonds caused significant damages to USAT including it insolvency. The argument is that the acquisition of Pacific Lumber was the fruit of certain fraudulent or improper conduct, namely, the quid pro quo arrangement, and that the FDIC, as successor to the failed USAT has standing to impose a constructive trust on Pacific Lumber as a result of the losses sustained.

This is a difficult case. First, although there was obviously a reciprocal course of conduct between Hurwitz and Drexel, it is not at all clear that such a course of conduct (or even a firm agreement) was improper in any legal sense. USAT's investment in junk bonds was authorized by federal regulation and approved by USAT's investment committee. Disclosure could be an issue, but Board minutes and examination reports indicate that both regulators and Board members knew of USAT's investment in Drexel underwritten bonds and knew of Hurwitz's takeover activities as well. Board members and regulators may not have known of the full extent of the quid pro quo and this could be used to develop claims further. This, however, is qualitatively different set of facts than those alleged by the Rose Foundation. Most importantly, the junk bond portfolio was not the cause of USAT's insolvency. Significant other problems dominated the Association including staggering losses from its mortgaged backed securities and related investments, unamortized "good will" and the deeply troubled real estate portfolio. What the quid pro quo provides, however, is the context for other USAT misconduct. For example, it helps explain the lengths to which the officers of USAT manipulated the finances of the institution in order to keep the doors of the institution open so that Hurwitz could continue to avail himself of Drexel contacts and resources.

The case law on constructive trusts raises additional concerns. It is not, as argued by the Rose Foundation, a generalized remedy for any wrongful or deceitful conduct. The remedy typically involves equitable imposition of a trust where one who is entitled to certain property (or the *res* of the "trust"), is deprived of that property by fraud, wrongdoing or false promise. Entitlement to constructive trust is defined, in significant part, by statute in California. Thus: "One who gains a thing by fraud . . . or other wrongful conduct . . . is an involuntary trustee of the thing gained for the benefit of the person *who would otherwise have had it.*" Calif. Civil Code §2224 (emphasis added). The case law identifies three preconditions for the imposition of the trust: (a) a discrete, identifiable *res*, (b) an entitlement to the *res* by the plaintiff of which he or she was deprived and (c) wrongful conduct by the defendant. See GHK Associates v. Myer Group, Inc.., 274 Cal.Rptr. 168 (Cal. Ct.App. 1991). The FDIC is not an entity "who would otherwise have had" Pacific Lumber or its hardwoods; the FDIC has no entitlement to the assets of Pacific Lumber of which the FDIC was deprived. This seriously impairs any claim for the imposition of a constructive trust over those assets. Nor is it clear what the *res* of such trust should be. To prevail, the Rose Foundation must argue that Pacific Lumber's forests or the company itself is simply a mutated form of USAT's investment in Drexel underwritten projects at the front end of the quid pro quo. But this represents very difficult problem of proof. The FDIC would have to establish a strong, if not direct one-to-one, correlation between USAT investments in Drexel underwritten securities, and the reinvestment of equivalent sums in Maxxam's takeover of Pacific Lumber by the third parties who issued those securities. Thus far in our investigations, such correlations have not been established.

The Rose Foundation and its attorneys, alternatively, argue that because Hurwitz and Maxxam were "unjustly enriched" quid pro quo, Pacific Lumber and its holdings should be seized. Unjust enrichment, however, is a factual circumstance—not a cause of action. It may, under appropriate circumstances, justify restitution and the imposition of a constructive trust, but it is not an independent basis for granting relief. Lauriedale Associates Ltd. v. Wilson, 7 Cal. App. 4th 1439, 9 Cal.Rptr. 2d 774 (First Dist. 1992). Unjust enrichment allegations are typically made in support of requests for constructive trust, not as an alternative to them. There is, however, case law which allows disgorgement of profits arising out of a breach of fiduciary duties which describes such profits as "unjust enrichment". This appears to be the theory upon which the Rose Foundation relies. See Heckmann v. Ahmanson, 168 Cal.App.3d 119, 214 Cal Rptr. 177 (1985). But in such litigation the profits must be clearly identifiable and closely tracked. As noted above, this would be difficult in this case—unless one assumes that the funds used for junk bond purposes translated dollar for dollar through various third parties at Drexel's behest and then to Maxxam for its acquisition of Pacific Lumber. No one who has looked at these relationships closely is willing to take that position.

2. The Redwoods As Subject of Negotiations

As their theories have become subject to criticisms, certain of the counsel for the Rose Foundation have shifted (at least in part) from arguments compelling the seizure of the redwoods to urging the development of an aggressive and high profile damages case in which the redwoods become a bargaining chip in negotiating a resolution. This indeed, may be the best option available to the environmental groups; its greatest strength is that it does not depend on difficult seizure theories. This approach would require that both the FDIC and OTS undertake to make the redwoods part of any settlement package. It is a strategy which would attract considerable attention if successful. It is, however, not without serious problems. For example, Maxxam is a publicly held corporation and Pacific Lumber is the only one of its holdings which is profitable. Minority shareholders may be reluctant to allow a substantial portion of the most profitable asset of the company to be traded away to satisfy debt—particularly debt associated with Charles Hurwitz and the operation of USAT. Moreover, Pacific Lumber and Maxxam have only limited ability to transfer funds or assets among one another. Maxxam could settle the case and be precluded from offering up the forests without the consent of Pacific Lumber's lenders. Pacific Lumber's and Maxxam's quarterly and annual reports indicate that lenders have required that the companies to enter into certain agreements restricting inter-company transfers. Any violation of these agreements would create significant additional legal problems for both Maxxam and Pacific Lumber.

This is not to argue that such an approach shouldn't be seriously explored. It is to suggest, however, that the negotiations will be difficult and involves a broad array of participants. It would be a complex transaction involving lenders, government agencies, the targeted principals and, potentially, Maxxam's minority shareholders.

3. The Status of Congressional Action

As the "debt for nature" issue attained a certain degree of public exposure, California's Congressional delegation became active in developing legislation which would facilitate such transactions. In August, 1993 California Congressman Dan Hamburg introduced H.R. 2866 which was to have empowered the government to obtain the old growth redwoods by "donation, purchase or exchange" but not condemnation. The Headwater Forest would become a designated wilderness area protected from clear cut harvesting. The bill authorized appropriations to affect the acquisition. Senator Barbara Boxer introduced virtually identical legislation in the Senate. The House bill survived hearings before the Agriculture Committee and the Natural Resources Committee without major alteration and was sent to the floor. In September 1994 it passed the House by a significant margin and was sent to the Senate. Initially, Pacific Lumber vigorously opposed the legislation. In mid-autumn, 1994, the Company changed its position and announced it would support the legislation in light of House amendments which clarified the voluntary nature of any such transfer. No hearings were held in the Senate on the House bill or on Boxer's parallel legislation; no vote was taken in the Senate.

In the aftermath of the November, 1994 elections, the prospects for this legislation passing either chamber are now very modest. Congressman Hamburg is no longer present to push the issue. His replacement, Congressman Riggs has not shown any interest in the legislation. The new Chairman of the House Natural Resources Committee, Don Young, apparently takes a dim view of the legislation. Senator Boxer has not re-introduced her bill in the 104th congress. It appears that if there is to be such legislation, it will follow—not precede—a negotiated resolution involving the redwoods.

4. The Qui Tam Action

On January 26, 1995, Robert Martel, as relator, filed an action in the United States District Court for the Northern District of California pursuant to the qui tam provisions of the False Claims Act. The essence of the action closely tracks the theories presented informally to the FDIC by the Rose Foundation and its allies. Martel argues that the deception and/or dishonesty inherent in the quid pro quo program ultimately amounted to a fraudulent depletion of the insurance fund and, therefore, fits within the reach of the False Claims Act. He seeks not only recovery for the fraud but the imposition of a constructive trust over Pacific Lumber and/or the redwoods and to restrain FDIC settlements unless environmental concerns are taken into account. There are two serious problems with the action. First, it fits very poorly within the framework of the False Claims Act which is designed to accommodate claims against persons or entities who submit fraudulent requests for payment. 31 U.S.C. §3729 There is no direct, fraudulently induced payment here. Whether more indirect items qualify remains to be seen. Second, such claims can only be based on public knowledge if the relator is the original source. See U.S. et rel. Gold v. Morrison-Knudsen Company, Inc., F.Supp. . 1994 WL 673690 (N.D. N.Y.) Here, the claims involve exclusively public information and Martel will have difficulty establishing himself as an original source.

Pursuant to the False Claims Act qui tam provisions, the government has 60 days within which to advise the court whether it wishes to intervene and take responsibility for the case or leave the case to the relators. 31 U.S.C. §3730(b)(2). During this time, the case will be kept under seal and held in camera. The defendants have not been served or advised of its existence. The United States Attorney has taken the position, in consultation with the FDIC, that more time is needed before the government can intelligently assess its options in the qui tam setting. Accordingly, papers have been submitted to the Court seeking an extension of an additional 90 days. The relator does not object to the extension.

There are several options available to the government, including:

(a) Intervene and stay the case pending negotiations and/or OTS administrative proceedings.

(b) Intervene and move to dismiss the case, given its failure to meet the requirements of the False Claims Act.

(c) Intervene and amend the Complaint to plead a more coherent case.

(d) Leave the case to the relators.

Whichever option is followed will be a function of discussions between the FDIC and the Department of Justice. These discussions are currently underway at the urging of Williams and DeHenzel. The Office of Thrift Supervision presently seeks little or no contact with the qui tam action. OTS will, however, be kept apprised of the proceedings as it develops its administrative proceedings.

5. The Endangered Species Act ("ESA")

In a November 18, 1994 letter, Richard De Stefano, on behalf of the Rose Foundation, raised for the first time the possibility that the Endangered Species Act may be used to challenge the FDIC's failure to initiate litigation against Maxxam and Hurwitz. De Stefano argues that since ESA mandates that ". . . all Federal agencies shall seek to conserve endangered species . . . and shall utilize their authorities in furtherance of the purposes [the Act], 16 U.S.C. §1531(c)(1), the FDIC must take into account the environmental impact on endangered species associated with Pacific Lumber's logging of the redwoods in the agencies decision to sue or not to sue. De Stefano argues, that the decision not to pursue recoveries of the redwoods when there is a legal basis to do so may be a violation of the Act. The cases cited by De Stefano in support of his position involve instances where the link between environmental action and agency action is much more direct See, for example, Pyramid Lake Paiute Tribe v. U.S. Dept. of the Navy, 898 F.2d 1410 (9th Cir. 1990) (challenge to Navy's agricultural leasing program which require irrigation as an improper diversion of waters containing endangered species).

It is unlikely that an ESA challenge to an FDIC failure to sue will succeed. First, although failures to act can be reviewable agency action, cases successfully arguing that position typically involve failure of an Agency to abide by clear regulation or law. The Supreme Court has repeatedly held that decisions to sue are discretionary and outside the realm of judicial review. Thus:

"This Court has recognized on several occasions over many years that an agency's decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency's absolute discretion. [citations omitted]. This recognition of the existence of discretion is attributable in no small part to the general unsuitability for judicial review of agency decisions to refuse enforcement.

"The reasons for this general unsuitability are many. First, an agency decision not to enforce often involves a complicated balancing of a number of factors which are peculiarly within its expertise. Thus, the agency must not only assess whether a violation has occurred, but whether agency resources are best spent on this violation or another, whether the agency is likely to succeed if it acts, whether the particular enforcement action requested best fits the agency's overall policies, and, indeed, whether the agency has enough resources to undertake the action at all. . . . The agency is far better equipped than the courts to deal with the many variables involved in the proper ordering of its priorities. . . . [A]n agency's refusal to institute proceedings shares to some extent the characteristics of the decision of a prosecutor . . . not to indict—a decision which has long been regarded as the special province of the [decision-market]." Heckler v. Chaney, 470 U.S. 821, 831–832 (1985).

Moreover, the standard of review in such circumstances is whether agency action is "arbitrary and capricious". Motor Vehicle Manufacturers Association v. State Farm Mutual Insurance Co., 463 U.S. 29 (1983). Given the careful deliberation by the FDIC as to whether to initiate litigation in California, Texas or elsewhere and given the problems associated with any such litigation, the decision not to proceed is simply not arbitrary and capricious. Environmental groups may disagree with the decision (if, indeed, the FDIC determines not to act) but a successful challenge will require much more.

DOCUMENT X

Attorney Client Privilege Attorney Work Product

Memorandum To: Board of Directors, Federal Deposit Insurance Corporation.

From: Jack D. Smith, Deputy General Counsel.

Date: July 24, 1995.

Subject: Status of PLS Investigation; Institution: United States Association of Texas, Houston #1815.

This memorandum reports on the status of the continuing investigation of the failure of United Savings Association of Texas ("USAT"), the separate investigation being conducted by the Office of Thrift Supervision ("OTS"), current tolling agreements, settlement negotiations with United Financial Group, Inc., ("UFG") USAT's first tier holding company, and our decision not to recommend an independent cause of action by the FDIC against the former officers and directors of USAT and controlling person Charles Hurwitz.

I. Background

As you know, USAT was placed into receivership on December 30, 1988 with assets of $4.6 billion. The estimated loss to the insurance fund is $1.6 billion. After a preliminary investigation into the massive losses at USAT, the FDIC negotiated tolling agreements with UFG, controlling person Charles Hurwitz and nine other former directors and officers of USAT/UFG that were earlier senior officers or directors that were perceived as having significant responsibility over the real estate and investment functions at the institution.

In May 1994, after a series of meetings with the potential defendants and the exchange of considerable documents and other information, we presented a draft authority to sue memorandum recommending that we pursue claims against Hurwitz and certain of the former officers and directors for losses in excess of $200 million. The proposed claims involved significant litigation risk, in that the bulk of the loss causing events occurred more that two years prior to the date of receivership, and were therefore subject to dismissal on statute of limitations grounds. In light of the Fifth Circuit's opinion in *Dawson*, a split of authority in the federal trial courts in Texas on the level of culpability required to toll limitations and the Supreme Court's refusal to consider whether a federal rule should be adopted under which negligence by a majority of the directors would toll the statute of limitations, our strategy was to assert that gross negligence was sufficient to the toll the statute of limitations. After briefings with FDIC deputies and further discussion with the potential defendants, we decided to defer formal FDIC approval of our claims and continue the tolling agreements.

At about the same time that we deferred formal approval of the FDIC cause of action, we developed a new strategy for pursuing these claims through administrative enforcement proceedings with the OTS. After several meetings with senior staff of the OTS Office of Enforcement, we entered into a formal agreement with the OTS, who began an independent investigation into the activities of various directors and officers of USAT, Charles Hurwitz, UFG, as well as USAT's second tier holding company, Maxxam, Inc, a publically traded company that is significally controlled by Hurwitz.

II. Significant Caselaw Developments Have Further Weakened the Viability of an Independent Cause of Action by the FDIC

Although we have continued to investigate and refine our potential claims during the pendency of the OTS investigation, two significant court decisions and the failure of Congress to address the statute of limitations problems has further weakened the FDIC's prospects for successfully litigating our claims in United States District Court for the Southern District of Texas.

In the recent decision of RTC v. Acton, the Fifth Circuit held that under Texas law, only self-dealing or fraudulent conduct, and not gross negligence, is sufficient to toll the statute of limitations under the doctrine of adverse domination. As a result of this opinion, we can no longer rely on any argument that gross negligence by a majority of the culpable Board is sufficient to toll the statute of limitations. Moreover, there is very little, if any, evidence of fraud or self-dealing that is likely to survive a motion to dismiss on statute of limitations grounds.

Even if we could overcome the statute of limitations problems, a recent decision by the Texas Supreme Court announced a new standard of gross negligence that will be very difficult to meet. In Transportation Insurance Company v. Moriel, 1994 WL 246568 (Tex.), the Texas Supreme Court defined gross negligence as constituting two elements: (1) viewed objectively from the standpoint of the actor, the act or omission must involve an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and (2) the actor must have actual, subjective awareness of the risk involved, but nevertheless proceed in conscious indifference to the rights, safety, or welfare of others. This new standard will make it very difficult, if not impossible to prove our claims.

The cumulative effect of these recent adverse decisions is that there is a very high probability that the FDIC's claims will not survive a motion to dismiss either on statute of limitations grounds or the standard of care. Because there is significantly less than a 50% chance that we can avoid dismissal, it is our decision not to recommend suit on the FDIC's proposed claims.

III. Debt for Nature Swap

Our decision not to sue Hurwitz and the former directors and officers of USAT is likely to attract media coverage and considerable criticism from environmental groups and Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber has attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging our claims for trees. We recently met with the Department of the Interior, who informed us that they are negotiating with Hurwitz about the possibility of a debt for nature swap and that the Administration is seriously interested in pursuing such a settlement. We plan to pursue these settlement discussions with the OTS in the coming weeks.

IV. Updated Authority to Sue Memorandum

We have attached an updated authority to sue memorandum for your review and consideration. It sets forth the theories and weaknesses of our proposed claims in great detail. It should be considered for Board approval only if the Board decides, as a matter of public policy, that it wants the Texas courts to decide the statute of limitations and standard of care issues rather than FDIC staff. The litigation risks are substantial and the probability of success is very low, but if the Board were to decide that it wants to go forward with the filing of a complaint, we need to be prepared to file the complaint in the Southern District of Texas, *on or before, Wednesday, August 2, 1995.*

We will be available to discuss this matter on very short notice.

1. USAT officers and directors were grossly negligent in causing USAT to invest approximately $180 million in its subsidiary, United MBS, leveraging the investment into $1.8 billion of mortgage backed securities ("MBS") and losing approximately $97 million (including interest) when USAT had already suffered disastrous results in its first MBS portfolio and was in a critically weakened financial state. Approximately $80 million of the $180 million was advanced within two years of the failure.

2. USAT officers and directors were grossly negligent in failing to act to prevent $50 million of additional losses from USAT's first MBS portfolio. The positions were in place more than two years before failure. Our analysis is that they should have begun to cut

their losses, wind down this set of positions, starting two years before failing fiduciary duty and aiding and abetting breaches of fiduciary duty. We believe that it is a good claim on the merits, but we see no viable basis under existing law for avoiding a statute of limitation. Thus, we recommend against asserting this claim.

ASSESSMENT OF DEFENSES: We expect business judgment rule defenses and serious statute of limitations issues based on recent Fifth Circuit and other Texas case law. Absent a change in the law, there is at least a 70% chance that much or all of the MBS claims will be dismissed based on the statue of limitations. The claim for failing to insist that the net worth maintenance agreements be honored is more likely to minimize statute of limitation motions but raised a . . . .

SUIT PROFILE: The suit will attract media and Congressional attention because of Hurwitz's reputation in corporate takeovers, and his ownership of Pacific Lumber, which is harvesting redwoods. Environmental interests have received considerable publicity often suggesting exchanging these claims for trees. The Department of Interior recently informed us that the Administration is seriously interested in pursuing such a settlement.

TIMING AND COST-BENEFIT ANALYSIS: We intend to use Hopkins & Sutter (Chicago/Dallas) and the minority firm Adorno & Zeder (Miami). The estimated cost of litigation by outside counsel is $4 million up to trail, and an additional $2 million through trail. We have incurred outside counsel fees and expenses of $4.

Attorney Client Privilege Attorney Work Product

Memorandum To: Board of Directors, Federal Deposit Insurance Corporation.
From: Jack D. Smith, Deputy General Counsel.
Stephen N. Graham, Associate Director (Operations).
Date: July 24, 1995.
Subject: Status of PLS Investigation, Institution: United Savings Association of Houston, Texas #1815.

This memorandum reports on the status of the continuing investigation of the failure of United Savings Association of Texas ("USAT"), the separate investigation being conducted by the Office of Thrift Supervision ("OTS") current tolling agreements, settlement negotiations with United Financial Group, Inc., ("UFG") USAT's first tier holding company, and our decision not to recommend suit by the FDIC against the former officers and directors of USAT and controlling person Charles Hurwitz and other USAT officers and investors. We had agreed to delay a final decision on this matter until after OTS decides whether to pursue claims against Hurwitz. However we were advised on July 21, 1995 that Hurwitz would not extend our tolling agreement with him. Consequently, if suit were to be brought it would have to be filed by August 2, 1995. We are taking that unusual step of advising the board of our conclusion that suit should not be brought.

As you know, USAT was placed into receivership on December 30, 1998 with assets of $4.6 billion. The estimated loss to the insurance fund is $1.6 billion. After a preliminary investigation into the massive losses at USAT, the FDIC negotiated tolling agreements with UFG, controlling person Charles Hurwitz and nine other former directors and officers of USAT/UFG that were either senior officers or directors that we perceived as having significant responsibility over the real estate and investment functions at the institution.

In May 1994, after a series of meetings with the potential defendants and the exchange of considerable documents and other information, we prepared a draft authority to sue memorandum recommending that we pursue claims against Hurwitz and certain of the former officers and directors for losses in excess of $200 million. The proposed claims involved significant litigation risk. Most notably, the bulk of the loss causing events occurred more that two years prior to the date of receivership, and were therefore at risk of dismissal on statute of limitations grounds. In light of the Fifth Circuit's opinion in *Dawson*, a split of authority in the federal trial courts in Texas on the level of (basically because we are likely to loose on statute of limitations grounds) because this matter has been—and is likely to continue to be—highly visible. Culpability required to toll limitations and the Supreme Court's refusal to consider whether a federal rule should be adopted under which negligence by a majority of the directors would toll the statute of limitations, our strategy at that time was to assert that gross negligence was sufficient to the toll the statutes of limitations. After briefings with the deputies to the Directors and further discussion with the potential defendants, we decided to defer FDIC decision on whether to assert our claims, and we continued the tolling agreements.

II. OTS's Involvement

At about the same time that we deferred a decision on the FDIC's cause of action, we met with OTS staff to discuss the possibilities of OTS pursing these claims, plus a net worth maintenance agreement claim, through administrative enforcement proceedings. After several meetings with senior staff of the OTS Office of Enforcement, we entered into a formal agreement with the OTS, who began an independent investigation into the activities of various directors and officers of USAT, Charles Hurwitz, UFG, as well as USAT's second tier holding company, Maxxam, Inc, a publically traded company that is largely controlled by Hurwitz. The FDIC is paying OTS's costs in connection with this matter.

The OTS has reviewed extensive documentation and has recently conducted a series of administrative depositions. We have been informed that OTS staff is currently preparing a broad base draft Notice of Charges against Hurwitz and others, including Maxxam, for substantial restitution or unsafe and unsound practices and for enforcement of a net worth maintenance agreement. OTS staff plans to seek formal approval for this case in the relatively near future. Under the terms of our agreement with OTS, FDIC will be the beneficiary of any recovery from the OTS enforcement action through settlement or litigation against the proposed respondent. All of the potential respondents to the OTS investigation have signed tolling agreements with OTC which expire on December 31, 1995.

III. Significant Caselaw Developments Have Further Weakened the Viability of Suit by the FDIC

Although we have continued to investigate and refine our potential claims during the pendency of the OTS investigation, two significant court decisions, and the failure of Congress to address the statute of limitations problems, has further weakened the FDIC's prospect for successfully litigating our claims in the United States District Court for the Southern District of Texas.

A. Statute of Limitations

In the recent decision of *RTC v. Acton*, the Fifth Circuit held that under Texas law, only self-dealing or fraudulent conduct, and not gross negligence, is sufficient to toll the two year statute of limitations under the doctrine of adverse domination. As a result of this opinion, we cannot rely on an argument that gross negligence by a majority of the culpable Board members is sufficient to toll the statute of limitations. There is very little, if any, evidence of fraud or self-dealing that is likely to survive a motion to dismiss on statute of limitations grounds.

A recent decision by the Texas Supreme Court announced a new standard of gross negligence that will be very difficult to meet if it is applied to D&O cases. In *Transportation Insurance Company v. Moriel*, 1994 WL 246568 (Tex.), the Texas Supreme Court defined gross negligence as constituting two elements: (1) viewed objectively from the standpoint of the actor, the act or omission must involve an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and (2) the actor must have actual, subjective awareness of the risk involved, but nevertheless proceed in conscious indifference to the rights, safety, or welfare of others. The case involved punitive damage issues, but the language in the opinion is sweeping. This new standard if applied would make it very difficult, if not impossible to prove our claims.

The effect of these recent adverse decisions is that there is a very high probability that the FDIC's claims will not survive a motion to dismiss on statute of limitations grounds. We would also be at an increased risk of dismissal on the merits. Because there is significantly less than a 50% chance that we can avoid dismissal on statute of limitation grounds and because victory the * * * we do not recommend suit on the FDIC's potential proposed claims.

IV. The Pacific Lumber—redwood forest matter

Our decision not to sue Hurwitz and the former directors and officers of USAT is likely to attract media coverage and criticism from environmental groups and members of Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging our D&O claims for the redwood forest. On July * * * we met with representatives of the Department of the Interior, who informed us that they are negotiating with Hurwitz about the possibility of swaping various * * * that the Administration is seriously interested in pursuing such a settlement. We plan to follow up on these settlement discussions with the OTS and Interior in the coming weeks.

V. Updated (Draft) Authority to Sue Memorandum

In light of the complexity of visibility of this matter, and the short time frames, we have attached for your information an updated, draft, authority to sue memorandum. It sets forth the theories (and weaknesses) of our proposed claims in some detail. Whether that memorandum sets out a viable claim on the merits should be considered by the Board if the Board decides that it wants the Texas District court to decide the statute of limitations issue rather than FDIC staff. If the Board were to decide to go forward with the filing of a complaint, we need to file the complaint in the Southern District of Texas, *on or before, Wednesday, August 2, 1995.*

We are available to discuss this matter at your convience.

A. Statute of Limitations

All of the affirmative acts that would form the basis for an FDIC unit occurred more than two years before USAT failed. Thus, the only claims that have any chance of moving a motion to discuss based on statute of limitations are ones based on USAT's failure to unwind some positions in mortgage backed securities and derivative instruments as soon as that should have been done. The statute of limitations risks in this argument are (1) all of the money was originally invested more than two years before failure and (2) if there is a claim based on USAT being late in unwinding these transactions (we think it should have been done by January 1, 1987), there is a real likelihood that they should have unwound them more than two years before failure.

B. The Merits

The law has also moved against us on the merits of the claims. The claims against Hurwitz are more difficult than usual because he was not an officer or director of USAT. We believe that his involvement rose to the level of a defacto director, but that is a notable hurdle.

Texas case law has essentially eliminated liability for negligence in the name of applying a very expensive business judgment rule defense.

We believe the conduct here constitutes gross negligence as that is normally defined. The law in Texas is currently unsettled, but

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Attorney Client Privilege Attorney Work Product

Memorandum To: Board of Directors, Federal Deposit Insurance Corporation.
From: Jack D. Smith, Deputy General Counsel. Stephen N. Graham, Associate Director (Operations).
Date: July 24, 1995.
Subject: Status of PLS Investigation, Institution: United Savings Association of Texas—Houston, Texas #1815.

This memorandum reports on the status of the continuing investigation of the failure of United Savings Association of Texas ("USAT"), the separate investigation of USAT being conducted by the Office of Thrift Supervision ("OTS"), current tolling agreements, settlement negotiations with United Financial. Group, Inc., ("UFG") USAT's first tier holding company, and our decision not to recommend suit by the FDIC against controlling person Charles Hurwitz and other USAT officers and directors.

We had hoped to delay a final decision on this matter until after OTS decides whether to pursue claims against Hurwitz, et al. However, we were advised on July 21, 1995 that Hurwitz would not extend our tolling agreement with him. Consequently, if suit were to be brought it would have to be filed by August 2, 1995. We are taking the unusual step of advising the Board of our conclusion that suit should not be brought basically because the FDIC is highly likely to lose on statute of limitations grounds because this matter has been—and is likely to continue to be—highly visible. We do not recommend suit.

I. Background

As you know, USAT was placed into receivership on December 30, 1988 with assets of $4.6 billion. The estimated loss to the insurance fund is $1.6 billion. After a preliminary investigation into the massive losses at USAT, the FDIC negotiated tolling agreements with UFG, controlling person Charles Hurwitz and ten other former directors and officers of USAT/UFG that were either senior officers or directors that were perceived as having significant responsibility over the real estate and investment functions at the institution.

In May 1994, after a series of meetings with the potential defendants and the exchange of considerable documents and other information, we prepared a draft authority to sue memorandum recommending that we pursue claims against Hurwitz and certain USAT former officers and directors for losses in excess of $200 million. The proposed claims involved significant litigation risk. Most notably, the loss causing events occurred more than two years prior to the date of receivership, and were therefore at risk of dismissal on statute of limitations grounds. In light of the Fifth Circuit's opinion in Dawson, a split of authority in the federal trials courts in Texas on the level of culpability required to toll limitations and the Supreme Court's refusal to consider whether a federal rule should be adopted under which negligence by a majority of the directors would toll the statute of limitations, our strategy at that time was to assert that gross negligence was sufficient to toll the statute of limitations. After briefings with the Deputies to the Directors and further discussion with the potential defendants, we decided to defer an FDIC decision on whether to assert our claims, and we continued the tolling agreements.

II. OTS's Involvement

At about the same time that we deferred a decision on the FDIC's cause of action, we met with OTS staff to discuss the possibility of OTS pursuing these claims (plus a net worth maintenance agreement claim) through administrative enforcement proceedings. After several meetings with senior staff of the OTS Office of Enforcement, we entered into a formal agreement with the OTS, who began an independent investigation into the activities of various directors and officers of USAT, Charles Hurwitz, UFG, as well as USAT's second tier holding company, Maxxam, Inc., a publicly traded company that is largely controlled by Hurwitz. The FDIC is paying OTS's costs in connection with this matter.

The OTS has reviewed extensive documentation and has recently conducted a series of administrative depositions. We have been informed that OTS staff is currently preparing a broad-based draft Notice of Charges against Hurwitz and others, including Maxxam, for substantial restitution for unsafe and unsound practices and for enforcement of a net worth maintenance agreement. OTS staff plans to seek formal approval for this case in the relatively near future. Under the terms of our agreement with OTS, FDIC will be the beneficiary of any recovery from the OTS enforcement action through settlement or litigation against the proposed respondents. All the potential respondents of the OTS investigation have signed tolling agreements with OTS which expire on December 31, 1995.

III. Significant Caselaw Developments Have Further Weakened the Viability of Suit by the FDIC

Although we have continued to investigate and refine our potential claims during the pendency of the OTS investigation, two significant court decisions, and the failure of Congress to address the statute of limitations problems, have further weakened the FDIC's prospects for successfully litigating our claims in the United States District Court for the Southern District of Texas.

A. Statute of Limitations

In the recent decision of *RTC v. Acton*, 49 F.3d 1086 (5th Cir. 1995), the Fifth Circuit held that under Texas law, only self-dealing or fraudulent conduct, and not gross negligence, is sufficient to toll the two year statute of limitations under the doctrine of adverse domination. As a result of this opinion, we cannot rely on an argument that gross negligence by a majority of the culpable Board members is sufficient to toll the statute of limitations. There is very little, if any, evidence of fraud or self-dealing.

All of the affirmative acts that would form the basis for an FDIC suit occurred more than two years before USAT failed. Thus, the only claims that have any chance of surviving a motion to dismiss based on statute of limitations grounds are claims based on USAT's failure to unwind some positions in mortgage backed securities and derivative instruments as soon as that should have been done. The statute of limitations risks in this argument are (1) all of the money was put at risk more than two years before failure, and (2) if there is a claim based on USAT being late in unwinding these transactions (we think it should have been done starting no late than January 1, 1987), there is a real likelihood * * * that they should have unwound them more than two years before failure.

In short, we have an argument for presenting some claims, but that argument is not likely to prevail.

B. The Merits

The law has also moved against us on the merits of the claims. The claims against Hurwitz are more difficult than usual because he was not an officer or director of USAT. We believe that his involvement rose to the level of a de facto director, but his status presents a notable hurdle.

Texas case law has essentially eliminated liability for negligence in the name of applying a very expansive business judgment rule defense. We believe the conduct here constitutes gross negligence as that term is normally defined. The law of gross negligence in Texas is currently unsettled, but a recent decision by the Texas Supreme Court announced a new standard of gross negligence that will be very difficult to meet if it is applied to D&O cases. In *Transportation Insurance Company v. Moriel*, 879 S.W. 2d 10 (Tex. 1994), the Texas Supreme Court defined gross negligence as constituting two elements: (1) viewed objectively from the standpoint of the actor, the act or omission must involve an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and (2) the actor must have actual, subjective awareness of the risk involved, but nevertheless proceed in conscious indifference to the rights, safety, or welfare of others. This new standard, if applied, would make it very difficult, if not impossible to prove our claims (3) further, through legislation Texas has attempted to compare, in essence, 'authorizations in FDIC claims.'

The effect of these recent adverse decisions is that there is a very high probability that the FDIC's claims will not survive a motion to dismiss on statute of limitations ground. We would also be at increased risk of dismissal on the merits. Because there is significantly less than a 50% chance that we can avoid dismissal on statute of limitations grounds, and because even if we survived a statute of limitations motion, victory on the merits (especially on the claims most likely to survive a statute of limitations motion) is uncertain given the state of the law in Texas, we do not recommend suit on the FDIC's potential claim.[4]

IV. The Pacific Lumber—Redwood Forest Matter

Our decision not to sue Hurwitz and the former directors and officers of USAT is likely to attract media coverage and criticism from environmental groups and members of Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging our D&O claims for the redwood forest. On July 21, we met with representatives of the Department of the Interior, who informed us that they are negotiating with Hurwitz about the possibility of swapping various properties, plus possibly the FDIC/OTS claim, for the redwood forest. They stated that the Administration is seriously interested in pursuing such a settlement. We plan to follow up on these discussions with the OTS and the Department of Interior in the coming weeks.

V. Updated (Draft) Authority to Sue Memorandum

In light of the complexity and visibility of this matter, and the short timeframes, we have attached for your information an updated (draft) authority to sue memorandum. It sets forth the theories (and weaknesses) of our proposed claims in some detail. Whether that memorandum sets out a viable claim on the merits should be considered by the Board if the Board decides that it wants the Texas district court to decide the statute of limitations issue rather than FDIC staff. If the Board were to decide to go forward with the filing of a complaint, we need to file the complaint in the Southern District of Texas, on or before, Wednesday, August 2, 1995.

We are available to discuss this matter at your convenience.

Attorney Client Privilege Attorney Work Product

Memorandum To: Board of Directors, Federal Deposit Insurance Corporation.

From: Jack D. Smith, Deputy General Counsel. Stephen N. Graham, Associate Director (Operations).

Date: July 27, 1995.

In addition to presenting the attached authority our memorandum for Board action, this memorandum reports on the status of the continuing investigation of the failure of United Savings Association of Texas ("USAT"), the separate investigation of USAT being conducted by the Office of Thrift Supervision ("OTS"), current tolling agreements, and settlement negotiations with United Financial Group, Inc. ("UFG"), USAT's first tier holding company.

We were advised on July 21, 1995 that Hurwitz would not extend our tolling agreement with him. Consequently, if suit is to be brought it would have to be filed by August 2, 1995. Hurwitz actions have precluded that possibility. Thus the Board must now decide whether to authorize suit. While we would only sue Hurwitz at this time, rather than dividing the memo and possibly, having to bring it back to deal with other individuals, the attached ATS seeks authorization to sue all of the individuals against whom we would expect to assert claims. In our view Hurwitz and the other proposal defendants were grossly negligent. There is a 70% probability that most or all the conventional claims that could be made in the FDIC's case would be dismissed on statute of limitations grounds. An additional claim against Hurwitz has a better probability on the statute of limitations issue, but there are numerous obstacles to successful prosection of that claim. Under these circumstances the Board must decide whether to authorize a case with these high litigations risks.

The attached authority to sue, memorandum is summarized at the end of this cover memorandum.

Background

As you know, USAT was placed into receivership on December 30, 1988. After a preliminary investigation into the massive losses at USAT, the FDIC negotiated tolling agreements with UFG, controlling person Charles Hurwitz and ten other former directors and officers of USAT/UFG who were either senior officers or directors that were perceived as having significant responsibility over the real estate and investment functions at the institution.

In May 1994, after a series of meetings with the potential defendants and the exchange of considerable documents and other information, we prepared a draft authority to sue memorandum recommending that we pursue claims against Hurwitz and certain USAT former officers and directors for losses in excess of $200 million. The proposed claims involved significant litigation risk. Most notably, the principal loss causing events occurred more than two years prior to the date of receivership, and were therefore at risk of dismissal on statute of limitations grounds. In light of the Fifth Circuit's opinion in Dawson, a split of authority in the federal trial courts in Texas on the level of culpability required to toll limitations and the Supreme Court's refusal to consider whether a federal rule should be adopted under which negligence by a majority of the directors would toll the statute of limitations, our strategy at that time was to assert that gross negligence was sufficient to the toll the statute of limitations. After briefings with the Deputies to the Directors and further discussion with the potential defendants, we decided to defer an FDIC decision on whether to assert our claims, in order to further investigate the facts, give time for the Texas law on adverse domination to take more concrete shape and ascertain the view of OTS. Therefore, the tolling agreements were continued.

II. OTS's Involvement

At about the same time that we deferred a decision on the FDIC's cause of action, we met with OTS staff to discuss the possibility of OTS pursuing these claims (plus a net worth maintenance agreement claim) through administrative enforcement proceedings. After several meetings with senior staff of the OTS Office of Enforcement, we entered into a formal agreement with the OTS, who began an independent investigation into the activities of various directors and officers of USAT, Charles Hurwitz, UFG, as well as USAT's second tier holding company, Maxxam, Inc., a publicly traded company that is largely controlled by Hurwitz. The FDIC is paying OTS's costs in connection with this matter.

The OTS has reviewed extensive documentation and has recently conducted a series of administrative depositions. We have been informed that OTS staff is currently preparing a broad-based draft Notice of Charges against Hurwitz and others, including Maxxam, for substantial restitution for unsafe and unsound practices and for enforcement of a net worth maintenance agreement. Under the terms of our agreement with OTS, FDIC will be the beneficiary of any recovery from the OTS enforcement action through settlement or litigation against the proposed respondents. All the potential respondents in the OTS investigation, including Hurwitz, have signed tolling agreements with OTS which expire on December 31, 1995. OTS staff's current expectation is that they will seek formal approval for this case before the tolling agreements, expire on December 31, 1995.

III. Significant Caselaw Developments Have Further Weakened the Viability of Suit by the FDIC

Although we have continued to investigate and refine our potential claims during the pendency of the OTS investigation, two significant court decisions, and the failure of Congress to address the statute of limitations problems, have further weakened the FDIC's prospects for successfully litigating our claims in the United States District Court for the Southern District of Texas.

A. Statute of Limitations

In the recent decision of *RTC v. Acton*, 49 F.3d 1086 (5th Cir. 1995), the Fifth Circuit held that under Texas law, only self-dealing or fraudulent conduct, and not gross negligence, is sufficient to toll the two year statute of limitations under the doctrine of adverse domination. As a result of this opinion, we cannot rely on an argument that gross negligence by a majority of the culpable Board members is sufficient to toll the statute of limitations. There is very little, if any, evidence of fraud or self-dealing.

B. The Merits

The law has also moved against us on the merits of the claims. The claims against Hurwitz are more difficult than usual because he was not an officer or director of USAT. We believe that his involvement rose to the level of a de facto director, and for some purposes a control person, but his status presents a notable hurdle.

Texas' case law has essentially eliminated liability for negligence in the name of applying a very expansive business judgment rule defense. We believe the conduct here constitutes gross negligence as that term is normally defined. The law of gross negligence in Texas is currently unsettled, but a recent decision by the Texas Supreme Court announced a new standard of gross negligence that will be very difficult to meet if it is applied to D&O cases. In *Transportation Insurance Company v. Moriel*, 879 S.W. 2d 10. (Tex. 1994), the Texas Supreme Court defined gross negligence as constituting two elements: (1) viewed objectively from the standpoint of the actor, the act or omission must involve an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and (2) the actor must have actual, subjective awareness of the risk involved, but nevertheless proceed in conscious indifference to the rights, safety, or welfare of others. This new standard, if applied, would make it very difficult, if not impossible, to prove our claims.

The effect of these recent adverse decisions is that there is a very high probability that much or all of the FDIC's conventional claims will not survive a motion to dismiss on statute of limitations grounds. We would also be at increased risk of dismissal, or loss at trial, on the merits.

IV. The Pacific Lumber—Redwood Forest Matter

Any decision regarding Hurwitz and the former directors and officers of USAT is likely to attract media coverage and comment from environmental groups and members of Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging our D&O claims for the redwood forest. On July 21, we met with representatives of the Department of the Interior, who informed us that they are negotiating with Hurwitz about the possibility of swapping various properties, plus possibly the FDIC/OTS claim, for the redwood forest. They stated that the Administration is seriously interested in pursuing such a settlement.* * * We plan to follow up on these discussions with the OTS and the Department of Interior in the coming weeks. * * * the Hurwitz tolling agreement * * expires, we * * *

DRAFT

Attorney Client Privilege Attorney, Work Product

Memorandum To: Board of Directors, Federal Deposit Insurance Corporation.

From: Jack D. Smith, Deputy General Counsel. Stephen N. Graham, Associate Director (Operations)—DAS.

Date: July 24, 1995.

Subject: Status of PLS Investigation, Institution: United Savings Association of Texas—Houston, Texas #1815.

This memorandum reports on the status of the continuing investigation of the failure of United Savings Association of Texas ("USAT"), the separate investigation of USAT being conducted by the Office of Thrift Supervision ("OTS"), current tolling agreements, settlement negotiations with United Financial Group, Inc. ("UFG"), USAT's first tier holding company, and our decision not to recommend suit by the FDIC against controlling person Charles Hurwitz and other USAT officers and directors.

We had hoped to delay a final decision on this matter until after OTS decides whether to pursue claims against Hurwitz, *et al.* However, we were advised on July 21, 1995 that Hurwitz would not extend our tolling agreement with him. Consequently, if suit were to be brought it would have to be filed by August 2, 1995. We are not recommending suit because there is a 70% probability that most or all the FDIC case would be dismissed on statute of limitations grounds. Under such circumstances the staff would ordinarily close out the investigation under delegated authority. However, because of the high profile nature of this case (evidenced by numerous letters from Congressmen and environmental groups), we are advising the Board in advance of our action in case there is a contrary view.

I. Background

As you know, USAT was placed into receivership on December 30, 1988 with assets of $4.6 billion. The estimated loss to the insurance fund is $1.6 billion. After a preliminary investigation into the massive losses at USAT, the FDIC negotiated tolling agreements with UFG, controlling person Charles Hurwitz and ten other former directors and officers of USAT/UTF who were either senior officers or directors that were perceived as having significant responsibility over the real estate and investment functions at the institution.

In May 1994, after a series of meetings with the potential defendants and the exchange of considerable documents and other information, we prepared a draft authority to sue memorandum recommending that we pursue claims against Hurwitz and certain USAT former officers and directors for losses in excess of $200 million. The proposed claims involved significant litigation risk. Most notably, the principal loss causing events occurred more that two years prior to the date of receivership, and were therefore at risk of dismissal on statute of limitations grounds. In light of the Fifth Circuit's opinion in *Dawson*, a split of authority in the federal trial courts in Texas on the level of culpability required to toll limitations and the Supreme Court's refusal to consider whether a federal rule should be adopted under which negligence by a majority of the directors would toll the statute of limitations, our strategy at that time was to assert that gross negligence was sufficient to the toll the statute of limitations. After briefings with the Deputies to the Directors and further discussion with the potential defendants, we decided to defer an FDIC decision on whether to assert our claims, in order to further investigate the facts, give time for the Texas law on adverse domination to take more concrete shape and ascertain the views of OTS. Therefore, the tolling agreements were continued.

II. OTS's Involvement

At about the same time that we deferred a decision on the FDIC's cause of action, we met with OTS staff to discuss the possibility of OTS pursuing these claims (plus a net worth maintenance agreement claim) through administrative enforcement proceedings. After several meetings with senior staff of the OTS Office of Enforcement, we entered into a formal agreement with the OTS, who began an independent investigation into the activities of various directors and officers of USAT, Charles Hurwitz, UFG, as well as USAT's second tier holding company, Maxxam, Inc. a publically traded company that is largely controlled by Hurwitz. The FDIC is paying OTS's costs in connection with this matter.

The OTS has reviewed extensive documentation and has recently conducted a series of administrative depositions. We have been informed that OTS staff is currently preparing a broad-based draft Notice of Charges against Hurwitz and others, including Maxxam, for substantial restitution for unsafe and unsound practices and for enforcement of a net worth maintenance agreement. OTS staff plans to seek formal approval for this case in the relatively near future. Under the terms of our agreement with OTS, FDIC will be the beneficiary of any recovery from the OTS enforcement action through settlement or litigation against the proposed respondents. All the potential respondents in the OTS investigation, including Hurwitz, have signed tolling agreements with OTS which expire on December 31, 1995.

III. Significant Caselaw Developments Have Further Weakened the Viability of Suit by the FDIC

Although we have continued to investigate and refine our potential claims during the pendency of the OTS investigation, two significant court decisions, and the failure of Congress to address the statute of limitations problems, have further weakened the FDIC's prospects for successfully litigating our claims in the United States District Court for the Southern District of Texas.

A. Statute of Limitations

In the recent decision of *RTC v. Action*, 49 F.3d 1086 (5th Cir. 1995), the Fifth Circuit held that under Texas law, only self-dealing or fraudulent conduct, and not gross negligence, is sufficient to toll the two year statute of limitations under the doctrine of adverse domination. As a result of this opinion, we cannot rely on an argument that gross negligence by a majority of the culpable Board members is sufficient to toll the statute of limitations. There is very little, if any, evidence of fraud or self-dealing.

All of the affirmative acts that would form the basis for an FDIC suit occurred more than two years before USAT failed. Thus, the only claims that have any chance of surviving a motion to dismiss based on statute of limitations grounds are claims based on USAT's failure to unwind some positions in mortgage backed securities and derivative instruments as soon as that should have been done. The statute of limitations risks in this argument are (1) all of the money was put at risk more than two years before failure, and (2) if there is a claim based on USAT being late in unwinding these transactions (we think it should have been done starting no later than January 1, 1987), there is a real likelihood of a court finding that they should have unwound them more than two years before failure.

In short, we have an argument for pursuing some claims, but that argument is not likely to prevail.

B. The Merits

The law has also moved against us on the merits of the claims. The claims against Hurwitz are more difficult than usual because he was not an officer or director of USAT. We believe that his involvement rose to the level of a de facto director, but his status presents a notable hurdle.

Texas case law has essentially eliminated liability for negligence in the name of applying a very expansive business judgment rule defense. We believe the conduct here constitutes gross negligence as that term is normally defined. The law of gross negligence in Texas is currently unsettled, but a recent decision by the Texas Supreme Court announced a new standard of gross negligence that will be very difficult to meet if it is applied to D&O cases. In *Transportation Insurance Company v. Moriel*, 879 S.W.2d 10 (Tex. 1994), the Texas Supreme Court defined gross negligence as constituting two elements: (1) viewed objectively from the standpoint of the actor, the act or omission must involve an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and (2) the actor must have actual, subjective awareness of the risk involved, but nevertheless proceed in conscious indifference to the rights, safety, or welfare of others. This new standard, if applied, would make it very difficult, if not impossible, to prove our claims.

The effect of these recent adverse decisions is that there is a very high probability that the FDIC's claims will not survive a motion to dismiss on statute of limitations grounds. We would also be at increased risk of dismissal on the merits. Because there is only a 30% chance that we can avoid dismissal on statute of limitations grounds, and because even if we survived a statute of limitations motion, victory on the merits (especially on the claims most likely to survive a statute of limitations motion) is uncertain given the state of the law in Texas, we do not recommend suit on the FDIC's potential claims.

IV. The Pacific Lumber—Redwood Forest Matter

A decision not to sue Hurwitz and the former directors and officers of USAT is likely to attract media coverage and criticism from environmental groups and members of Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging our D&O claims for the redwood forest. On July 21, we met with representatives of the Department of the Interior, who informed us that they are negotiating with Hurwitz about the possibility of swapping various properties, plus possibly the FDIC/OTS claim, for the redwood forest. They stated that the Administration is seriously interested in pursuing such a settlement. This is feasible with perhaps some new modest legislative authority because USAT is a FRF institution and therefore USAT recoveries redound to the benefit of the U.S. Treasury. We plan to follow up on these discussions with the OTS and the Department of Interior in the coming weeks. When the Hurwitz tolling agreement expires, we would recommend that we update those Congressmen who have inquired about our investigation and make it clear that this does not end the matter of Hurwitz's liability for the failure of USAT because of the ongoing OTS investigation.

V. Updated (Draft) Authority to Sue Memorandum

In light of the complexity and visibility of this matter, and the short timeframes, we have attached for your information an updated (draft) authority to sue memorandum. It sets forth the theories (and weaknesses) of our proposed claims in some detail. Whether that memorandum sets out a viable claim on the merits should be considered by the Board if the Board decides that it wants the Texas district court to decide the statute of limitations issue rather than FDIC staff. If the Board were to decide to go forward with the filing of a complaint, we need to file the complaint in the Southern District of Texas, on or before, Wednesday, August 2, 1995. If the Board has no objection to the proposed staff action to allow the tolling agreements to expire, the Board need take no formal action.

We are available to discuss this matter at your convenience.

Concur: William F. Kroener, III, General Counsel.

Concur: John F. Bovenzi, Director, DAS.

APPENDIX 2

RECORD 1

To: Robert DeHenzel.
Cc: Ben Groner, James Cantrell.
From: Paul Springfield
Subject: Strange Call—United S&L Houston, TX.
Date: Friday, November 19, 1993.

Bob, yesterday, Mary Saltzman sent an E-mail to Ben Groner and me regarding a call she received from an individual named Bob Close. I will also forward her E-Mail to you. Yesterday afternoon an individual who identified himself as Bob Close called me. His primary question was that he wished to speak to the individual who was investigating the United S&L failure. I asked him the reason for his request and who he was. His reponse was that he was working with some environmental groups and he understood that FDIC had a claim against United for $532 MM (I believe this is the amount stated) and he referred to Charles Hurwitz specifically and to Taxpayers money lost in the institution. Seems like the amount of loss stated was $1.9 Billion. He went on to say that people like Hurwitz needed to be "stopped". He also related that he was working with a group in New York identified as "Wetlands" and in Northern California a group called "EPIC". He gave the name this stood for which I do not recall, but it was environmental something. I asked him what was the source of his information and the purpose of his call. He was vague about the purpose but related the following names as sources of his information.

Attorney; Bob Bertain and Investigator; Bob Martell, both in Northern California. He also gave a telephone number where he could be reached later in the week * * *He indicated this was in Acadia California. He said he was currently in New York. He indicated this was in Acadia California. He said he currently in New York until today and could be reached through James Hansen * * *

Frankly, I do not know whether this individual is some kind of radical Tree Hugger on a mission to save the forest in California or someone seeking to confirm whether FDIC is in process of going after Hurwitz and United. I am a little suspicious, however, as to the motives stated by the individual, in light of the specific dollar figures he related in the conversation but I do not want to come across sounding paranoid. I did not relate to him who was assigned to the Investigation or that I worked in Investigations. Further, I did not ask him how he obtained my name and telephone #.

I do not know whether to ignore this situation or not but I feel certain the individual will call me again since he was my name and in the course of the convervation I related that I would need to look into his request to talk to the Investigator. This was simply a ploy to obtain information from him.

There is a possibility you may wish to speak to this individual to determine whether he may have information that is beneficial to our cause if he is who he says he is. If so, please advise and I will relate this to him; otherwise, I will do nothing and if he calls I will state that his request to speak to the Investigator cannot be granted. If you wish to discuss this further, call me at * * *

To: Mary Saltzman, Ben Groner.
Cc: Martha F. Boyles-Hance.
From: Paul Springfield.
Subject: United S&L—Strange Call.
Date: Monday, November 22, 1993.
Forwarded by: Paul Springfield.

Forwarded to: James Cantrell.
Forwarded date: Monday, November 22, 1993.
Comments by: Paul Springfield.
Comments: Jim. FYI.

[Original Message]

I had a conversation with PLS attorney Bob DeHenzel, Friday afternoon, 11-19-93, to devise an approach as to the appropriate manner to deal with the inquiry from Dan Close. We determined that Mr. Close was to pose his inquiry in written form and address it directly to DeHenzel. I related this information to Close via another party that answered the telephone # he had left.

DeHenzel indicated he had some knowledge about the nature of the inquiry as well as the attorney Bill Bertain disclosed by Close. DeHenzel stated that this group was involved in fighting a take over action of some company by Hurwitz involving forest property in the northwestern United States. Apparently they are trying to obtain information to utilize in their efforts.

Hopefully, this will close the book, at least from the Investigative perspective. Everyone, have a great holiday.

To: Paul Springfield.
Cc: Ben Groner.
From: Mary Saltzman.
Subject: re: Strange Call-United S&L Houston, Tx.
Date: Monday, November 22, 1993.
Forwarded by: Paul Springfield.

Forwarded to: James Cantrell.
Forwarded date: Monday, November 22, 1993.
Comments by: Paul Springfield.
Comments: Whoops. Sent the wrong one earlier.

Forwarded to: Ben Groner.
Cc: Martha F. Boyles-Hance.
Forwarded date: Monday, November 22, 1993.
Comments by: Paul Springfield.
Comments: Ben, the E-Mail being forwarded seems to indicate where the party obtained my name. You will receive another E-Mail from me that should conclude this matter, at least for now. Thanks.

[Original Message]

Thanks for fielding that one, Paul! I received the first call late on Thursday and checked the institution on DOLLAR$. His comments were too close to be comfortable, and with all the bad publicity we have had in the Scripps Howard papers lately I didn't feel I could pass him off to an ombudsman who might or might not understand the confidentiality of our claims. Anyway, at that hour I felt it was better to pass him directly on to you or to Ben so that you could deal with him. Sounds like you got some information from him. The excitement never ends. Haven't seen you in a while, hope all is well with you. Have a good Holiday. .MMS

RECORD 1A

[From the Trees Foundation, July 17, 2000]

A FINAL PUSH FOR DEBT FOR NATURE

(By the Rose Foundation)

For six years, the Rose Foundation has worked with other activists to save Headwaters Forest through a Debt for Nature land swap. Debt for Nature means resolving hundreds of millions in pending federal claims against Maxxam in exchange for public title to ancient redwoods and other sensitive habitat in the Headwaters Forest area. Rose has researched and documented the factual and legal basis for FDIC and Treasury Department suits against Maxxam and CEO Charles Hurwitz. The suits seek $800+ million restitution for the failure and taxpayer bailout of Maxxam/Hurwitz' Texas Savings and Loan. Maxxam credits Rose with catalyzing the suits. We also led shareholder campaigns for four years to reform Maxxam's corporate governance and forest management practices. In the most recent campaign (which Maxxam presented as "a referendum on Debt For Nature"), 80% of the shares outside of Hurwitz' control voted for our resolutions, and almost 50% voted to toss out Maxxam's Board in favor of our candidates.

It's now or never for Debt for Nature. The Treasury Dept. is all but concluded. This summer, the judge will make an advisory ruling to the director of the Treasury's banking regulatory division. The director will then issue a restitution order. We believe Treasury has proven its case, and a large restitution order is imminent. Maxxam has many reasons to settle, and to offer forestlands instead of cash:

A huge cash judgment could bankrupt Maxxam.

Some of Maxxam's largest investors tell us that they prefer debt for nature to a cash payment.

Debt for Nature is a win-win. Maxxam could trade forestlands which they can't cut profitably (but are environmentally priceless) in exchange for settling the federal claims and resolving some of Maxxam's most pressing and costly environmental disputes.

But FDIC & Treasury's position is that their mandate is to recover cash, not forest. If they took Headwaters forestlands in lieu of cash, their mandate would be to liquidate the property or demand an equal value exchange from Interior or BLM. An existing law (Coastal Barrier Resources Act) already allows banking regulatory agencies to transfer property they acquire which is adjacent to an existing reserve, to resource management agencies. Rose seeks an amendment which would clarify that the banking agencies could donate such property to resource management agencies—avoiding the unacceptable situation of forcing Interior to liquidate some other holdings in exchange for saving the Headwaters. FDIC (which has acknowledged that it is funding Treasury's case) would be much more aggressive in pursuing a Debt for Nature settlement if they had Congressional approval to donate recovered Headwaters forestlands to Interior. The amendment would also be good policy in its own right—our research has already uncovered four other examples where such a policy would have facilitated public acquisition of properties that Interior was already trying to conserve.

We need to make significant progress in this Congress to show FDIC/Treasury that Debt For Nature is worth considering. We also need to continue to keep the heat on Hurwitz through his stockholders to force Maxxam to agree to a Debt For Nature settlement.

It will not be an easy fight. Several Members of Congress, including House Majority Whip Tom DeLay (R–TX), and Resources Committee Chair Don Young (R–AK), have demanded access to all of FDIC and OTS' sensitive legal research and background information that is crucial to their case. More chilling from a constitutional and public liberty standpoint, Congressman Young is demanding all records of any communications with activists and organizations who support Debt For Nature—including specifically Rose, Trees Foundation, EPIC, Sierra Club, and many others. We believe Congressman Young's actions are a clear abuse of Congressional subpoena authority and a heavy-handed attempt to dissuade citizens from exercising their constitutional right to petition the government regarding issues of concern.

People can contact their Congressional and Senate representatives to ask them to support Debt for Nature and do everything in their power to ease a Debt for Nature swap for the agencies. It could help save the Headwaters today, and other valuable and threatened habitat tomorrow.

Record 2

In light of the magnitude of the losses and the FDIC's well considered evaluation of liability, I am particularly concerned that a formal action has not yet been filed. Although the FDIC has not publicly quantified the claim, the UFG's 10-K estimated the claim of $545 million failure to maintain the minimum net worth and failure to remit tax returns alone.

My concern about this matter has been heightened by my colleague Dan Hamburg, who recently introduced legislation to acquire ancient redwood forests owned by Pacific Lumber Company (PALCO). Principals in PALCO who acquired the company in 1985 with Drexel Burnham/Milken high yield bonds were also involved in the UFG/USAT transactions. Evaluation of their liabilities to the Federal government becomes particularly critical as the prospect of payment for property acquisition proceeds.

I would appreciate your earliest possible response.

Sincerely,

Harry B. Gonzalez,
Chairman.

The Failure of United Savings Association of Texas (USAT)

FACT SHEET

The FDIC has an outstanding claim against United Financial Group, holding company for the failed USAT in excess of $548 million dollars. (United Financial Group 10–K Report year ending 12/31/92).

Five years have passed since this claim was asserted in 1988, and while the FDIC has extended the statute of limitations through tolling agreements, the current statute of limitations ends on December 30, 1998. (UFG 10–K Report year ending 12/31/92).

When it was seized in 1988 by the FDIC, USAT was a wholly-owned subsidiary of United Financial Group whose controlling shareholders at the time of the collapse was Charles Hurwitz-run companies MAXXAM, MCO, and Federated Development Corp. Also, Drexel, Burnham, Lambert was a 8% shareholder (Washington Post, 4/16/91, MAXXAM Prospectus, 1988 and FDIC v. Milken).

From 1986 to 1988, USAT purchased over $1.3 billion worth of Drexel-underwritten junk bonds. During that same period of time, according to an FDIC lawsuit against Michael Milken, "the Milken group raised about $1.8 billion of financing for Hurwitz's takeover venture," which included the 1988 takeover of the Pacific Lumber Company, the world's largest producer of old growth redwood. (FDIC v. Milken).

According to Fortune, the failure of USAT constituted the fifth largest failed S&L bailout, as of 1990, costing the taxpayers $1.6 billion. (Fortune, 8/10/90).

Record 2A

Meeting with Rep. Hamburg

Hamburg—Wanted to have the meeting. Have an immediate interest in the case. Interested enough over potential filing of complaint to ask what is about to proceed. Realized that this possible avenue would be lost. Received letter from * * *. Hope to get decision by May '94.

What is status of investigation? What are key factors? Is there specific date by which intend to make decision? What other agencies involved? Who is working on case? Multiple attorneys? Reoccurring learning curve? Interesting to me as to why it takes so long on 5th largest S&L failure in country.

Smith—Failure in Dec. 1988. Very difficult to do a swap for trees. The investigation has looked at several areas. Claim on the net worth maintenance agents.

Thomas—Have been attempts to enforce this. We can't find signed agent before FSLIC. We've never found the agent. Are claims Hurwitz has signed * * * agent to 3/1.

J. Smith—We look for wrongdoing. Some might meet our standards. We look at is it a good case and is it cost efficient. Are looking claims that in most optimistic dreams of it would be.

If can convince other side that we have claim worth $400 million they want to settle. Could be a hook into the holding co.

Copy of testimony and *Dawson* case.

Dept. of Labor.

SEC Kate Anderton—Rep. Hamburg.

2/3/94

Congressman Hamburg; Kate Anderton; Kelsy Meek

Armando,—Tip us off about the law firm don't have $600/hr red flag.

39,000—cut over

5,000 acres—left old growth

Cutting of the groves is limited by endangered species

J. Thomas higher risk than most.

Civil money penalties—have any deposition been taken.

DOL—pension lawsuit Exec. Life against Exec. Life Maxxam

SEC—filings against Maxxam call

Record 5

February 2, 1994.

PRIVILEGED AND CONFIDENTIAL ATTORNEY WORK PRODUCT

Memorandum To: Jack D. Smith, Deputy General Counsel.

From: Patricia F. Bak, Counsel and Robert J. DeHenzel, Jr., Senior Attorney.

Subject: United Savings Association of Texas Net Worth Maintenance Claims.

This memorandum summarizes potential claims by the FDIC and the OTS against United Financial Group, Inc. ("UFG", for failure to maintain the net worth of United Savings Association of Texas ("USAT") as required by federal regulation. Based on our review, we conclude that the FDIC has no viable claim against UFG for failure to maintain USAT's net worth pursuant to a net worth maintenance ("NWM") stipulation. Although a number of federal courts have held that federal banking agencies acting as receivers for failed financial institutions do not have a private right of action for breach of NWM stipulations, the Court of Appeals for the Fifth Circuit has held that such regulatory commitments are enforceable in cease and desist proceedings, even post receivership. Accordingly, the OTS may be able to pursue a NWM claim against UFG for failure to maintain USAT's net worth, pursuant to 12 USC §1818(b)1. This administrative proceeding must be commenced on or before December 30, 1994, within six years of USAT's failure. It is unclear whether OTS has a viable claim against MCO Holdings, Inc. ("MCO") and Federated Development Corp. ("FDC"), which together owned at least 23% of UFG, although an argument could be made that MCO/FDC functioned as a de facto Savings and Loan Holding Company ("SLHC") and should be responsible for maintaining USAT's net worth.

I. Background

In 1982, Charles Hurwitz, a well-known Houston investor active in corporate acquisitions and divestitures, formulated a plan to combine two Houston-based savings and loans holding companies, UFG (which owned 100 percent of USAT) and First American Financial of Texas ("First American"). He effectuated the acquisition by acquiring 23.3% of UFG's stock through MCO and FDC, both of which he controlled, for approximately $7.6 million.

The FHLBB approved UFG's merger with First American on April 29, 1983 by Resolution No. 83–252 (the "Resolution"). First American was merged into UFG and First American's insured subsidiary was merged into USAT. Approval was conditioned upon

UFG maintaining the net worth of USAT at regulatory mandated levels and upon USAT not paying dividends exceeding 50 percent of USAT's yearly "net income."

The NWM commitment was contained in Paragraph 6 of the Resolution. It provided, in pertinent part, that UFG: "shall stipulate to the [FSLIC] that as long as it controls [USAT], [UFG] will cause the net worth of [USAT] to be maintained at a level consistent with that required by Section 563.13(b) of the Rules and Regulations of the [FSLIC] . . . . and, as necessary, will infuse sufficient additional equity capital, in a form satisfactory to the Supervisory Agent, to effect compliance with such requirement."

The Resolution also required UFG to file a certification with the Supervisory Agent, within 30 days of the acquisition, stating the effective date of the acquisition and that the acquisition had been consummate and in accordance with the provisions of all applicable law, and regulations. UFG and Hurwitz deny, and we have been unable to establish that they signed a NWM stipulation or a capital maintenance agreement with the FHLBB.

II. Utilization of USAT to Upstream Dividends to UFG

Hurwitz gained control of USAT for an initial investment of less than $8 million, yet in 1984, he caused USAT to sell off approximately one-half of its retail branch network, and on the basis of profits booked on these sales, USAT issued a cash dividend of $32,687,218 to UFG on March 18, 1985. Initially, this dividend was used to fund parent company operations and without it, UFG would have experienced serious financial problems. In June 1988, some of the remaining proceeds were used to retire a substantial part of UFG's acquisition debt.

The issuance of this dividend to UFG based on a one-time asset sale was imprudent. At the time of the dividend, USAT was unable to generate profit from continuing operations and the reduction in its regulatory net worth as a result of this transaction was likely to require capital infusions. Further, while USAT reported Regulatory Capital of $207 million at the time the dividend was declared, USAT was not reporting itself insolvent only because it had "goodwill" of $256 million on its books as a result of USG's acquisition of three other thrifts between 1981 and 1983. Absent goodwill, USAT would have had a negative net worth of $49 million at the time the dividend was paid.

Although regulators expressed "no supervisory objection" to the dividend before it was paid, there is evidence that they were misled by USAT. Moreover, beginning in late 1985, when USAT did, in fact, require additional capital, UFG declined to return this dividend to USAT through a capital infusion. When it became certain that the FHLB would demand that UFG contribute additional capital to USAT, Hurwitz obtained FHLBB approval for his plan to use UFG's assets, which included the dividend from USAT, to retire its acquisition debt. He obtained approval by using his purported willingness to contribute capital to USAT via a Southwest Plan transaction involving USAT.

USAT admitted a failure to comply with net worth requirements as of December 31, 1987. On May 13, 1988, the FHLB-Dallas directed UFG to infuse additional equity into USAT sufficient to meet minimum regulatory capital requirements. UFG did not comply. On December 8, 1988, the FHLB-Dallas issued a second written directive to UFG. UFG again refused to comply. On December 30, 1988, FSLIC was appointed receiver of USAT and continued to make net worth demands on UFG, which were not honored.

III. Potential Claims by the FDIC-Receiver

Federal Courts have uniformly held that the FDIC, the RTC and the FSLIC as receiver of failed financial institutions have no implied private or federal common law cause of action to enforce the terms of NWM agreements. *FSLIC v. Savers, Inc.*, No. LR-C-89-529 (E. D. Ark. 1989); *RTC v. Tetco*, 758 F. Supp. 1159 (W. D. Tex. 1990); and *In Re Conner Corp.*, 127 B. R. 775 (E. D. N. C. 1991). All three of these decisions relied upon *FSLIC v. Capozzi*, 855 F.2d 1319 (8th Cir. 1988), vacated on other grounds, 490 U.s. 1062 (1989), which held that implying a private right of action for violation of thrift regulations would not comport with the purposes of the underlying statutory framework; the court deemed those purposes to be prospective rather than compensatory.

In Savers, the court also found that a holding company's net worth maintenance commitment was not enforceable as a private contract because the holding company was required by law to comply with the net worth maintenance regulation, and therefore its commitment to abide by the regulation was not "bargained for" consideration which would support a contract.

While the bankruptcy court in *Conner* similarly held that a holding company's promise to maintain the net worth of a savings and loan association did not constitute legal consideration, the court also held that the NWM stipulation did not constitute "offer and acceptance" that would give rise to a legally binding contract.

The *Tetco* court did not agree with the Conner and Savers analysis of consideration. The Tetco court did, however, agree with Conner that a NWM condition in a resolution granting deposit insurance was a statement setting forth a regulatory condition, and a net worth stipulation was merely an acknowledgment of regulatory requirements—statements which did not constitute a legally binding contract. The court noted: "The terms of the net worth agreement and the regulatory approvals were never the subject of negotiations between the parties; their scope and effect were preordained to the letter by the regulators. The Court believes there is no genuine issue of material fact that the parties' intent was to fulfill the prerequisites of a regulatory blueprint. It was not to create independent contractual obligations. 758 F.Supp at 1162."

The court further concluded that the NWM commitment did not involve "the type of comprehensive agreement" that could, independent of the regulations, be said to create existing rights and obligations within the meaning of FIRREA or contract.

Finally, the court held that there is no private right of action to enforce a regulatory net worth maintenance condition, citing Amerlbanc Investors Group v. Zwart, 706 F. Supp. 1248 (E.D.Va. 1989) (holding that neither the Bank Holding Act nor the Change in Control Act, 12 U.S.C. §1730(q)(1) create a private right of action for damages caused by failure to comply with regulatory requirements).

In any event, quite apart from the weight of authority holding that no private right of action for breach of contract exists, as noted above, the FDIC can point to no evidence showing that either UFG or Hurwitz signed a net worth maintenance agreement.

IV. OTS Administrative Proceedings pursuant to 12 USC §1818(b)(1)

Although the FDIC cannot prevail on a direct claim against UFG for violation of the NWM stipulation, the OTS has the statutory authority to pursue a NWM claim against UFG in an administrative proceeding, pursuant to 12 USC §1818(b)1. See, Akin V. OTS, 950 F.2d 1180 (5th Cir. 1992) holding that NWM agreement is enforceable in cease and desist proceedings, and that attack on the validity of the agreement for lack of consideration must fail in light of Groos National Bank v. Comptroller of the Currency, 573 F.2d 889 (5th Cir. 1978)). In Groos, the court rejected an argument that a supervisory agreement was invalid because of a lack of consideration: "The statute provides that a cease and desist order may issue upon any violation of an agreement between the agency bank and says nothing of consideration. Nor is there any reason to import the common law of consideration, proper to private contractual relations, into the relationships between a regulatory agency and the entity it regulates. The Comptroller is authorized by statute to exercise extensive controls upon banks; the statute clearly contemplates that agreements may occur between the Comptroller * * * and if the Comptroller does enter such an agreement by way of attaining voluntary compliance, we will not introduce the trappings of common-law consideration to question that agreement. 573 F.2d at 896."

In Akin, the court noted that under 12 U.S.C. §1818(b), the OTS director has expansive authority to issue cease and desist orders to correct violations of regulations or written agreements between the agency and an institution affiliated party, including the power to seek reimbursement and restitution when a party has been unjustly enriched through the violation. The court noted that by failing to make capital infusions sufficient to cure the net worth deficiency, Akin was able to retain capital which otherwise would have been contributed to the financial institution. In affirming the director's order requiring Akin to pay over $19 million to restore the net worth deficiency of the institution, the court stated: "Read in its entirety, the statute manifests a purpose of granting broad authority to financial institution regulators. The statute suggest that unjust enrichment has a broader connotation than in traditional contract law. Akin voluntarily entered the Agreement with the FSLIC so that he could retain control over [the financial institution]. He gained the significant personal benefit of retaining and disposing of funds or property which he was otherwise obligated to contribute to [the institution] in compliance with his agreement to be personally liable for net worth deficiencies. Akin has failed to show that the director's conclusion that he was unjustly enriched is arbitrary and capricious. 950 F.2d at 1183."

The court, in dicta, appears to reject an argument that §1818 enforcement proceedings may only be initiated pre-receivership: "This interpretation belies congressional intent expressed to adopt broader cease and desist powers with the passage of the FIRREA. The FIRREA included an amendment to * * . (3), providing that the regulatory agency's jurisdiction to institute cease and desist proceedings continued beyond a party's separation from the regulated institution, as long as that party was served with notice within six years of separation from the institution. The amendments also encompassed separation from the institution. The amendments also encompassed separation effected through a closing, such as is the case here, of an institution. 950 F.2d at 1184."

Finally, the Akin court rejected the argument that post-closing exercise of cease and desist powers would unlawful usurp receivership authority. The court noted that in the absence of clear congressional intent to impose an automatic stay of cease and desist proceedings upon receivership, the court need only look to "whether the agency's [action] is based on a permissible construction of the statute." Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 842–43, 104 S. Ct. 2778, 2781–82, 81 L. Ed. 2d 694 (1984).

A. Involuntary Bankruptcy Petition Filed Against UFG

On November 25, 1992, UFG's preferred shareholders filed an involuntary bankruptcy petition against UFG seeking a reorganization under Chapter 11 of the Bankruptcy Code. If the bankruptcy petition is eventually heard on the merits and the court grants the petition in bankruptcy, the OTS may proceed on the NWM claim, if it deems it appropriate, by filing a motion in the bankruptcy court to require the trustee or debtor-in-possession to make good on UFG's commitment to maintain the regulatory capital of USAT. Section 365(o) of the Bankruptcy Code provides: "In a case under Chapter 11 of this title, the trustee . . . shall immediately cure any deficit under any commitment by the debtor to. . . the Director of the Office of Thrift Supervision . . . or its predecessors . . . to maintain the capital of an insured depository institution."

The purpose of Section 365(o) is "to prevent institution—affiliated parties from using bankruptcy to evade commitments to maintain capital reserve requirements of a federally insured depository institution." In re First Corp., Inc., 973 F.2d 243, 246 (4th Cir. 1992). By operation of this section, if the preferred shareholders are successful in their effort to force UFG into Chapter 11, USFP or the trustee would have to turn over assets to OTS in satisfaction of the capital maintenance commitment. If UFG does not make good on that commitment, Chapter 11 relief is not available. See Id. at 247.

If the adverse parties elect to proceed under Chapter 7, the OTS, in any event, should be able to claim a priority over general unsecured creditors as to "allowed unsecured claims based on any commitment by the debtors to maintain the capital of an insured depository institution. 11 U.S.C. §507(a)(8)."

V. Net Worth Maintenance Claim Against MCO/FDC

On December 6, 1984, pursuant to FHLBB Resolution 84-712, MCO and FDC received FHLBB approval to acquire more than 25% of UFG and thereby become a SLHC with respect to USAT. FHLBB approval was conditioned upon MCO/FDC maintaining the net worth of USAT. In late 1987, after extensive negotiations with the FHLBB, MCO/FDC refused to accept these conditions and no agreement was made. However, an argument could be made that MCO/FDC functioned as a *de facto* SLHC with respect to USAT from at least December 31, 1985, by virtue of the following:

(a) their 23% interest in UFG;

(b) Drexel's acquisition, in December 1984, of 7.2% of UFG's common stock—a date which coincides with FHLBB Resolution 84-712;

(c) a December 31, 1985 option agreement between MCO and Drexel, whereby MCO had the right to acquire from Drexel, and Drexel had the right to put to MCO, an additional 3% of UFG common stock;

(d) UFG's issuance to MCO/FDC, in 1985, of UFG preferred stock which was convertible to UFG common;

(e) common officers and directors among MCO, FDC and UFG, and

(f) the actual operating control of all three entities exercised by Charles Hurwitz.

RECORD 3B

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, December 3, 1993.

Memo To: Chairman Hove.
From: Alan J. Whitney, Director.
Subject: Significant Media Inquiries and Related Activities, Week of 11-29-93.

Regulatory Consolidation: Several news organizations have asked what the FDIC's position is on the agency consolidation proposal unveiled last week by Treasury. They were told you believed that with Board appointments imminent, it would be inappropriate to take an agency position until the full board is in place.

Thrift conversions: Crain's New York Business, Philadelphia Inquirer and American Banker newsletters inquired about the thrift mutual-to-stock conversion policy that the FDIC is currently developing, specifically when our position on this subject will be published. The calls came after *American Banker* ran an article in the Nov. 26 edition reporting on Rep. Gonzalez' legislation to limit thrift management profits from the conversions. We also received several inquiries about our response to Cong. Neal's letter of November 22 to you on the same subject, to which we have not yet responded.

O'Melveny & Myers: On Monday, the Supreme Court agreed to hear this case, involving the FDIC's ability to sue attorneys who represented banks that failed. The decision to hear the case prompted a flurry of press inquiries about similar cases past and present. We provided some statistical data and limited information about the Jones Day case, which is still active.

First City Bancorporation: Bloomberg Business News, Houston Bureau, called regarding possible settlement in the First City Bancorporation's claims case. It seems someone is talking, because the reporter asked about a December 14 FDIC Board meeting to discuss the settlement. The reporter wanted to know: If the FDIC committee working on the agreement approves the plan, does that mean the Board will "rubber stamp" it? We advised the Board does not rubber stamp anything. The Houston Chronicle also made several inquiries about a possible settlement in this case, all of which we answered with the standard response that we do not comment on ongoing litigation.

Los Angeles Times: Michael Parrish asked whether FDIC lawyers have considered whether we could legally swap a potential claim of $548 million against Charles Hurwitz (stemming from the failure of United Savings Assn. of Texas) for 44,000 acres of redwood forest owned by a Hurwitz-controlled company. We advised Parrish we're not aware of any formal proposal of such a transaction. However, we noted that a claim can be satisfied by relinquishing title to assets, assuming there is agreement on their value. We didn't go any further with Parrish, but Doug Jones notes that even if Hurwitz satisfied our claim by giving us the redwoods, it wouldn't result in what Earth First! (the folks who demonstrated in front of the main building last month) apparently is proposing, i.e., that we then deed the redwoods property to the Interior Department. That would require some extensive legal analysis and, since any claim we might assert against Hurwitz would be a FRF matter, would likely entail Treasury Department concurrence.

RECORD 3A

NOVEMBER 30, 1993.

To: Pat Bak
From: J Smith
Subject: Hurwitz

Here are some materials that have been sent to me.

(1) H.R. 2866—It may have a chance in Congress—talk to Mike DeLoose (sp?) in legis affairs. Passage would put millions more in Hurwitz's pocket.

(2) Materials from Chuck Fulton re net worth maintenance obligation. Evidently, PLS is supposed to pursue that claim. Don't let it fall thru the crack! If it's not viable we need to have a reliable analysis that will withstand substantial scrutiny.

H.R. 2866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Headwaters Forest Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) Redwoods are a significant national symbol and a defining symbol of the State of California.

(2) Old growth redwood trees are a unique and irreplaceable natural resource.

(3) Most of the Nation's old growth forests have been cut. Less than 5 percent of the original 2,000,000 acre Coast redwoods remain standing. The groves that are left are crucial to maintain habitat needed for survival of old-growth dependent species. The Headwaters Forest, for example, is home to one of California's three largest population of marbled murrelets, rare sea birds that nest only in coastal old growth trees; the Northern Spotted Owl; and native salmon stocks that spawn in the Forest's creeks.

(4) The remaining unprotected stands of old growth forests and old growth redwoods are under immediate threat of being harvested without regard to their ecological importance and without following Federal timber harvest guidelines.

(5) Significant amounts of old growth redwoods in the proposed National Forest additions are being cut at a pace that is based on paying high interest rates on poor quality bonds and not at a pace that is based on sound forest management practices.

(b) PURPOSE.—The purpose of this Act is to provide for the sound management and protection of old growth Redwood forest areas in Humboldt County, California, and to preserve and enhance habitat for the marbled murrelet, Northern Spotted owl, native salmon stocks and other old growth forest dependent species, by adding certain lands and water to the Six Rivers National Forest and by including a portion of such lands in the national wilderness preservation system.

SEC. 3. ADDITION TO SIX RIVERS NATIONAL FOREST.

(a) EXTENSION OF BOUNDARIES.—The exterior boundaries of the Six Rivers National Forest in the State of California are hereby extended to include the area comprising approximately 44,000 acres, as generally depicted on the map entitled "Six Rivers National Forest Addition proposed", dated June 1993. Such area shall hereinafter in this Act be referred to as the Six Rivers National Forest Addition. The map shall be on file and available for public inspection in the offices of the Forest Supervisor, Six Rivers National Forest, and in the offices of the Chief of the Forest Service, Department of Agriculture.

(b) ACQUISITION OF LAND.—(1) The Secretary shall acquire lands or interests in land within the exterior boundaries of the Six Rivers National Forest Addition by donation, by purchase with donated or appropriated funds, or by exchange for other lands owned by any department, agency, on instrumentality of the United States. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries, and any land so acquired and not utilized for exchange shall be reported to the General Services Administration for disposal under the Federal Property and Administrative Services Act of 1949 (63 Stat. 377). Lands, and interests in lands, within the boundaries of the Headwaters Forest which are owned by the State of California or any political subdivision thereof, may be acquired only by donation or exchange.

(2) The Secretary is authorized to accept from the State of California funds to cover the cost for acquiring lands within the Headwaters Forest, and notwithstanding any other provision of law, the Secretary may retain and expend such funds for purposes of such acquisition. Such funds shall be available for such purposes without further appropriation and without fiscal year limitation.

(c) LAND ACQUISITION PLAN.—The Secretary shall develop and implement, within 6 months after the enactment of this Act, a land acquisition plan which contains specific provisions addressing how and when lands will be acquired under section (b). The plan shall give priority first to the acquisition of lands within the boundaries of the Headwaters Forest Wilderness identified on the map referred to in section 3(a). The Secretary shall submit copies of such plan to the Committee on Natural Resources, the Committee on Agriculture, and the Committee on Appropriations of the United States House of Representatives and to the Committee on Energy and Commerce, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the United States Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 4. WILDERNESS AREAS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131–1136), lands in the State of California acquired under section 3 of this Act which are within the areas generally depicted on the map referred to in section 3 as the "Headwaters Forest Wilderness (Proposed)" shall be designated as wilderness and therefore as a component of the National Wilderness Preservation System, effective upon acquisition under section 3. Such lands shall be known as the Headwaters Forest Wilderness.

(b) MAP AND DESCRIPTION.—As soon as practicable after the inclusion of any lands in the Headwaters Forest Wilderness, the Secretary shall file a map and a boundary description of the area so included with the Committee on Natural Resources of the House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. The Secretary may correct clerical and typographical errors in such boundary description and such map. Each such map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture.

(c) BUFFER ZONES NOT INTENDED.—The Congress does not intend that designation of any area as wilderness under this section lead to the creation of protective perimeters or buffer zones around the wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(d) STATE AUTHORITY OVER FISH AND WILDLIFE.—As provided in section 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of California with respect to wildlife and fish in any areas designated by this Act as wilderness.

SEC. 5. ADMINISTRATION.

(a) MANAGEMENT PLAN.—The Secretary shall develop, within 1 year after the enactment of this Act, a comprehensive management plan detailing measures for the preservation of the existing old growth redwood ecosystems in the Six Rivers National Forest Addition, including but not limited to each of the following:

(1) Prohibition of sale of timber from lands within the old growth redwood groves as depicted generally on the map referred to in section 3(a). Timber sales in other areas shall be allowed consistent with the purposes of this Act and other applicable Federal laws and regulations.

(2) Measures to restore lands affected by previous timber harvests to mitigate watershed degraduation and impairment of habitat for the marbled murrelet, spotted owl, native salmon stocks, and other old-growth forest dependent species ("Restoration Measures").

The Management Plan shall be reviewed and revised every time the Six Rivers National Forest Land and Resource Management plan is revised or more frequently as necessary to meet the purposes of this Act.

(b) APPLICABLE LAWS AND POLICIES.—(1) The Secretary, acting through the Chief of the Forest Service, shall administer the lands acquired under section 3(b) in accordance with the Management Plan, this Act, and with the other laws, rules, and regulations applicable to such national forest. In addition, subject to valid existing rights, any lands acquired and designated as wilderness under section 4(a) shall also be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of acquisition of such lands under section 3 of this Act.

(2) To the maximum extent practicable, all work to implement the management plan's Restoration Measures shall be performed by unemployed forest and timber workers, unemployed commercial fishermen, or other unemployed persons whose livelihood depends on fishery and timber resources.

(3) In order to facilitate management, the Secretary, acting through the Chief of the Forest Service may enter into agreements with the State of California for the management of lands owned by the State or purchased with State assistance.

SEC. 6. PAYMENTS TO LOCAL GOVERNMENT.

(a) PILT.—Solely for purposes of payments made pursuant to chapter 69 of title 31 of the United States Code, all lands added to the Six Rivers National Forest by this Act shall be deemed to have been acquired for the purposes specified in section 6904(a) of such title 31.

(b) 10-YEAR PAYMENT.—(1) Subject to annual appropriations and the provisions of subsection (c), for a period of 10 years after acquisition by the United States of lands added to the Six Rivers National Forest by this Act, the Secretary, with respect to such acquired lands, shall make annual payments to Humbolt County in the State of California in an amount equal to the State of California Timber Yield Tax revenues payable under the California Revenue and Taxation Code (sec. 38101 et seq.) in effect as of the date of enactment of this Act that would have been paid with respect to such lands if the lands had not been acquired by the United States, as determined by the Secretary pursuant to this subsection.

(2) The Secretary shall determine the amounts to be paid pursuant to paragraph (1) of this subsection based on an assessment of a variety of factors including, but not limited to—

(A) timber actually sold in the subject year from comparable commercial forest lands of similar soil type, slope and such determination of appropriate timber harvest levels,

(B) By comparable timber size class, age, and quality.

(C) market conditions,

(D) all applicable Federal, State, and local news and regulations, and

(E) the goal of sustainable, even-flow harvest or renewable timber resources.

(c) CALIFORNIA TIMBER YIELD TAX.—The amount of State of California Timber Yield Tax payments paid to Humboldt County in any year pursuant to the laws of California for timber sold from lands acquired under this Act shall be deducted from the sums to be paid to Humboldt County in that year under subsection (b).

(d) 25-PERCENT FUND.—Amounts paid under subsection (b) with respect to any year shall be reduced by any amounts paid under the Act of May 23, 1908 (16 U.S.C. 500) which are attributable to sales from the same lands in that year.

SEC. 7. FOREST STUDY.

The Secretary shall study the lands within the area comprising approximately 13,620 acres and generally depicted as "Study Area" on the map referred to in section 3(a). The study shall analyze the area's potential to be added to the Headwaters Forest and shall identify the natural resources of the area including the location of old growth forests, old growth redwood stands, threatened and endangered species habitat and populations including the northern spotted owl marbled murrelet, commercial timber volume, recreational opportunities, wildlife and fish, watershed management, and the cost of acquiring the land. Within one year of the date of enactment of this Act, the Secretary shall submit a report with the findings of the study to the Committees on Natural Resources, and Agriculture of the United States House of Representatives and the Committees on Energy and Natural Resources, and Agriculture, Nutrition, and Forestry of the United States Senate.

RECORD 6

FEDERAL DEPOSIT INSURANCE
CORPORATION,
Washington, DC, February 4, 1994.

CAROLYN B. LIEBERMAN,
Acting General Counsel,
Office of Thrift Supervision, Washington, DC.
Re: United Savings Association of Texas

DEAR MS. LIEBERMAN: On September 2, 1992 I briefed Tim Ryan, Harris Weinstein and I believe Dwight Smith regarding possible claims stemming from the failure of United Savings Association of Texas (USAT). In conjunction with our investigation of professional liability claims arising out of that failure, our staff has reviewed potential claims against United Financial Group, Inc. ("UFG"), USAT's first tier holding company, for failure to maintain USAT's net worth. Our staff also reviewed the possible liability of MCO Holdings and its successor, Maxxam, Inc. and Federated Development Corp., for failure to maintain USAT's net worth. I am enclosing a copy of this memorandum for your independent review and consideration.

In summary, the staff has concluded that the FDIC has no viable claim against UFG based on an implied private or federal common law cause of action for failure to maintain USAT's net worth. However, the OTS may be able to pursue a NWM claim against UFG and perhaps others for failure to maintain USAT's net worth. It appears likely that any such administrative proceeding must be commenced on or before December 30, 1994, within six years of USAT's failure. See 12 U.S.C. §1818(i)(3).

I would appreciate it if you would review this analysis and provide me with your view and any proposals for further action. You should be aware that this case has attracted public attention because of the involvement of Charles Hurwitz, and environmental groups have suggested that possible claims against Mr. Hurwitz should be traded for 44,000 acres of North West timber land owned by Pacific Lumber, a subsidiary of Maxxam. Chairman Gonzales has inquired about the matter and we have advised him we would make a decision by this May. After you have reviewed these papers, please call me or Pat Bak (736-0664) to discuss the next step and to arrange coordination with our professional liability claims.

Sincerely,

JACK D. SMITH,
Deputy General Counsel.

Record 8

Rose Foundation—Conference Call

10/4/94

Tom Hecht * * * Hopkins & Sattler.
Jeff Williams & FTD, * * *

2—3:15 p.m.

Tom Lipp—Esq.

Kirk Byrd—Esq.,—and Dave Williams, Esq.

Jull Radner, Esq.—President—Rose Foundation.

Rick DeStefano, Esq.,—New Mexico—Real Estate & Litigator.

Who is doing what on the investigation? Who makes the decision and how are they made?

Tom Lippe—statutory mandates.

Constructive trust—"there is a lot to be explored there—perhaps it could work."

Currently three lawsuits pending that are protecting the oldest growth. Areas recently logged are adjacent to the oldest trees. Currently 18 timber harvest plans that include very old growth trees.

EPIC filed & agreed (10/3) a TKO to stop the cutting.

5,000–6,000 acres of virgin old growth left—all in litigation. Some cases are winding down and may be coming back to St. of CA to cause legal defects and allow logging to continue. In this case—logging may be permitted to continue in the next few months. EPIC and Rose are running out of resources to continue to fight the logging.

Habitat conservation plan may take 12 months to get Dept. of Interior/Fish and Wildlife Service to residual growth still very much at risk.

Kathy Lacy—Asst. to Feinstein—can tell us more about Headwater legislation.

We will not discuss theories and hypothical strategies with them.

Any published criteria for the FDIC's Board's deliberation and ultimate decision on how to proceed? No other * * * recommendations of FDIC staff.

Memorandum

To: File.
From: Steve Lambert.
Re: *Points for July 21, 1994 Conference.*

I. Background

A. History of old growth redwood preservation—RNP I; RNP II; State Park System; historical role of Pacific Lumber Company (PL) and change in 1986; expert witness "players"—WTS, HJW, Fleming, NRM (Miles; Rynearson). Primary valuation issues.

B. Current legislation not the first to deal with Hurwitz or with Headwaters/PL (severance tax proposal; elimination of section 631(a) benefits; refinancing).

II. HR 2866

A. *Summary of substance:* Adds 44,000 acres of timberland to the Six Rivers National Forest in Northern California (3,000 acres of virgin old growth, immediately adjacent 1,500 acres to protect the 3,000 acres, plus the rest for wildlife protection.)

In original bill, acquisition by donation, purchase or exchange. In House Natural Resources Committee—but not by condemnation. Authorizes appropriations to effect acquisition and allows acceptance of money from the State of California.

Requires FS to prepare a management plan for the acquired area, which would at least prohibit timber sales from the 3,000 acres and contain measures to restore the lands previously logged. Headwaters would become a Wilderness Area.

B. *Status of Bill:* 132 Cosponsors in House (124 Dem.; 8 Republican).

Of the Co-sponsors, 34 are on one of the Committees dealing with FDIC. 13 of 26 Democrats, including Chrm. Conyers on Gov. Ops. are Co-sponsors (plus 2 Rep. and 1 independent); 16 out of 30 Democrats on Banking, plus one Independent, are Co-sponsors.

8 out of 27 Democrats on Energy and Commerce are Co-sponsors. (Number don't add to total, since some are on two Committees.)

Referred to two committees (House Agriculture and House Natural Resources) in August, 1993. Hearings held in both Natural Resources Committee (October 12, 1993) and in House Agriculture Committee (October 13, 1993).

Reported out of House Natural Resources on May 11, 1994 (amended to add language relating to swap of Headwaters for surplus federal property.)

Bill marked up by House Agriculture Committee late July 13, 1994. Amended for technical corrections, to add language relating to swap of Headwaters for surplus federal property, to add sunset of acquisition authority—10 years, to clarify that until timberland is acquired the owner may have full "enjoyment" of the rights of owning the property.)

Ready for action by Rules Committee so that the two versions can be brought to the floor of the House. According to our information, Speaker Foley has a desire not to have this bill considered this year, and has "placed a hold on the bill". Kaiser Aluminum, which is a subsidiary of MAXXAM, INC. (87½%), is the largest employer in Speaker Foley's district. Speaker Foley is getting pressure from both sides (the conservationist organizations on the one side; local constituents on the other). Speaker Foley has long enjoyed the support of the conservationist community and has a "tougher than normal" race this fall. However, he currently is on the "outs" with the national leadership of some conservationist organizations because he recently refused to all a conservationist-supported amendment on the Foreign Operations spending bill for FY 1995. Our information is that until Speaker Foley acts, no "rule" will be forthcoming from the Rules Committee.

No companion bill in the Senate. Some indication that California Senators not supportive.

III. S. 2285

A. This bill was introduced on July 14, 1994 by Senator Boxer of California. It is similar, but not identical to the original H.R. 2866.

B. The bill was referred to three Committees (Energy, Environment, and Agriculture). No hearings have yet been scheduled.

IV. Major Issues

A. *Money.* FS appraisal (by Jim Fleming, based on HJW volumes) of the 4,500 acres is $500 million. Valuation data presented by Natural Resource Management Corporation (in response to inquiry from Congressman Hansen) would peg it over $600 million for same 4,500 acres. Funding through normal source (Land and Water Conservation Fund) seemingly not "doable". Ideas surfaced recently—pay some cash, get some from State of California, use some of the value to pay off "debt" to FDIC, pay in part with "chits" for excess government assets (like military bases, timber), pay in part by exchanges for other timberland.

B. *Valuation Issues*—many. Include market change (old growth redwood prices soaring—up at least 15% since Fleming appraisal); lack of true comparable sales (no old growth redwood sold "on the stump"; *effect of regulations (Cal. Bd. of Forestry; Endangered Species Act—marbled murrelets) on amount of "loggable timber"*. Normal issues relating to volume, quality. Right now seemingly no "discount" issue, since FS appraisal included no "discount for size/volume".

C. *No Condemnation Authority*—Bill requires a "willing seller", and PL not interested in selling more than 4,500 acres, although one account puts the acreage at 7,000 acres. PL would not allow Fleming on more than 4,500 acres. Seemingly interested in exploring sale at fair market value of the 4,500 acres for cash and other creative compensation.

D. *FDIC*—PL public position—there is no tie between Hurwitz/FDIC matter and PL Headwaters. The idea of a "debt-for-nature" swap is "ludicrous", according to PL. David Barr of the FDIC quoted as down-playing the viability of the plan—"How do we turn those trees into money to distribute to all those creditors." H&S role talked about in May 15, 1994 article in the Houston Chronicle.

E. *Politics*—Hamburg in a "Marginal seat". Switches back and forth from Democrat to Republican. Recent Democratic primary pitted Hamburg against Bosco (former Democratic congressman from same district on a $15,000/month legal retainer from PL). Hamburg won, but faces stiff Republican opposition in November from another former holder of this seat. Major issue will be "jobs vs. murrelets". Seemingly lack of support on Senate side to do anything now. Last year a state "environmental bond referendum" defeated. New one to be on ballot in near future. Questionable support from Administration (officially against the current legislation because of money, but in favor of the goal of preserving the trees and willing to work to see what can be done.)

Normal conservationist interest group support for the legislation, except that Save the Redwoods League seems to be opposed. Local government/politician opposition because of effect on jobs/tax base.

IV. QUESTIONS

A. Source of stated Congressional expectations regarding any lawsuit involving Hurwitz and USAT and/or United Financial Group.

B. *Ownership issues*—According to Moody's, end of 1992 MAXXAM ownership shows Hurwitz with 59.9% voting control, with 31.4% of common stock owned by him personally. The Pacific Lumber Company (owner of Headwaters) shown as a wholly-owned subsidiary. Hurwitz the Chairman, President and CEO of MAXXAM, Inc. Directors include: Hurwitz, S.D. Rosenberg, E.G. Levin, and R.J. Crinkshank.

C. Summary of history makes no mention of PL acquisition. Does mention acquisition of 1,104,098 shares of common stock of United Financial Group, Inc. during 1982 and 1983.

MEMORANDUM

To: Jill Ratner, The Rose Foundation.
From: Richard De Stefano.
Date: October 1, 1994.
Re: FDIC Claims Against MAXXAM And Hurwitz: Federal cases applying breach of fiduciary duty and constructie trust principles.

QUESTION PRESENTED

Assuming MAXXAM and Hurwitz are subject to liability under California or Texas law for breach of fiduciary duty to USAT's creditors, and assuming state law authorizes the remedy of constructive trust, do federal court decisions support the imposition by a federal court of a constructive trust over PL for the benefit of FDIC?

CONCLUSION

There is overwhelming authority for imposition of constructive trust by federal court, with dozens of new decisions every few years in complete harmony with the state court cases discussed in earlier memoranda. In fact, while states court constructive trust cases tend to arise in traditional state law domains, such as family law, decedents' estate and real property title disputes, the federal cases cover the spectrum of complicated commercial matters and are factually closer to the subject claims. A federal court will not hesitate to reach MAXXAM and Hurwitz, if their liability is established under state law; will not hesitate to unwind a complex series of transactions such as the quid pro quo described in the statement of facts; and will not hesitate to reach PL and its assets as the fruit of MAXXAM's and Hurwitz's wrongful conduct.

DISCUSSION

1. Whether applying state law or construing federal statutes and regulations, the Federal Court do not hesitate to impose constructive trust as remedies for breach of fiduciary duty, fraud, or unjust enrichment. For example, the Ninth Circuit applied California law in the diversity case *Lund v. Albrecht*, 936 F.2d 419 (9th Cir. 1991), to impose a constructive trust on the excess proceeds of sale of a partnership asset. The partners had agreed to dissolve their partnership, and had agreed on values and disposition of all assets. While the unwinding of the partnership was pending, one partner received an offer on an asset which was substantially higher than the agreed amount, and which he did not disclose to the plaintiff, but kept the secret profit for himself. The *Lund* Court clearly held that even a former partner has fiduciary obligations, and held that a constructive trust is the appropriate remedy for breach of those obligations, rejecting the defendant's argument that damages were adequate. See also *U.S. v. Pegg*, 782 F.2d 1986, upholding a constructive trust remedy for wrongful acquisition or detention of property belonging to another.

The Fifth Circuit is also willing to impose constructive trust in appropriate cases. The Court applied Texas law in *Matter of Carolin Parson Advertising, Inc.*, 938 F.2d 595 (5th Cir. 1991), and *Matter of Monnig's Dept. Stores, Inc.*, 929 F.2d 197 (5th Cir. 1991). The Fifth Circuit has also clearly embraced fiduciary liability principles as applied to a parent corporation liability for obligations of subsidiary. In *Gibraltar Savings v. L.D. Brinkman Corp.*, defendant holding company was held liable for the loan made to its now-insolvent subsidiary, despite the fact that defendant was not a guarantor, there were other guarantors who settled with the bank, and the subsidy was not insolvent at the time of the loan. Liability was based on defendant's actual control of the proceeds of the loan to the subsidiary which interfered with the sub's ability to repay. It is also clear from the opinion that the Fifth Circuit would have affirmed liability of the individual defendant Lloyd D. Brinkman if he had been held liable below, but the issue of individual shareholder liability was not before the Court.

Applying Illinois law, the Seventh Circuit upheld a constructive trust established by a state court. *In Re Teltroncis*, 649 F.2d 1236 (7th Cir. 1981), was a federal action by Debtor's bankruptcy trustee against the state court receiver. The Debtor's principal had fraudulently advertised watches for sale, collecting about $1.7 million in prepaid orders with no intent to deliver the goods, then absconding with about $1.3 million to parts unknown. There was about $800,000 in the Debtor's account which the Receiver seized per the state court order for the benefit of the defrauded purchasers. The bankruptcy trustee sought in federal court to make those funds part of the estate for all creditors. Held, the funds were not part of the estate but were in a constructive trust for the purchasers.

On the specific question of wrongfully obtained corporate stock as the res of a constructive, see *Matter of First Georgia Financial Corp.*, 120 B.R. 239 (Bkrtcy M.D.GA. 1980). There the Court endorsed the principle of the constructive trust remedy but refused to apply it to the Debtor on the facts. Claimant was the mother of the Debtor's sole principal, who had advanced funds to Debtor which used them to acquire stock. Held, Debtor's taking funds from the claimant was not fraudulent but was a loan from mother. (Here the Court applied Georgia law on the fraud question, but in Bankruptcy cases the remedy of constructive trust is specifically authorized by statute. 11 U.S.C.A. §550.) See also, *Voest-Alpine Trading USA Corp. v. Vantage Steel Corp.*, 919 F. 2d 206 (3d Cir. 1990), discussed below, which imposed a constructive trust over corporate stock.

It is clear that federal courts do not require a showing of fraud to justify imposition of a constructive trust, but unjust enrichment is sufficient. *Bush v. Taylor*, 893 F.2d 962 (8th Cir. 1990); *U.S. v. Pegg*, 782 F.2d 1498 (9th Cir. 1986).

Individuals controlling corporations are frequently held liable to the corporation's creditors in federal courts. Both *American Metal Forming Corp. v. Pittman*, 135 B.R. 782 (D. Md. 1992) and *In Re American Motor Club, Inc.* (Bkrtcy E.D.N.Y. 1990) involved constructive trusts over property wrongly acquired for the individual account of controlling persons of corporations, in breach of the fiduciary duties of the individuals to acquire the assets of corporations' accounts, the "corporate opportunity" doctrine.

Similarly, a constructive trust will be the remedy where an employee acquires property with funds embezzled from his employer. *MDO Development Corp. v. Kelly*, 726 F. Supp. 79 (S.D.N.Y. 1989).

2. Federal Courts will treat multiple, related transactions as a single transaction, will pierce corporate veils, and will regard the substance of transactions over their form, where equity so requires, in order to impose breach of fiduciary liability and the remedy of constructive trust on controlling persons who wrongfully benefit from complex, inequitable transactions.

In *Voest-Alpine Trading USA Corp. v. Vantage Steel Corp.*, 919 F. 2d 206 (3d Cir. 1990), the individual defendants were principal shareholders of an insolvent corporation ("XYZ") of which plaintiff was an unsecured creditor. These controlling shareholders induced a secured creditor to foreclose on substantially all XYZ's assets. Through several complex financings involving the same foreclosing creditor, the individuals formed a new corporation, defendant Vantage Steel, which purchased the assets, and opened for business, in the same business as XYZ, and with the individuals in sustantially the same roles. The main issue was the applicability of Pennsylvania's Fraudulent Conveyance statute (*Pennsylvania Uniform Fraudulent Conveyance Act*, 39 Pa. Stat. §§354–357), which generally prohibits transfers of assets or liens on assets either (1) with intent to defraud, or (2) for less than fair consideration and which renders the transferor insolvent. Defendant argued that the statute did not apply to a series of transactions where each step was lawful. The Court held that a group of transactions will be analyzed as a single transaction where equity so requires, and upheld a *constructive trust on the individual defendants' interest in the new corporation*, for the benefit of unsecured creditors of XYZ.

On the issue of "collapsing" multiple transactions for fraudulent conveyance analysis, the *Voest-Alpine* Court relied on the landmark Third Circuit decision in *U.S. v. Tabor Court Realty Corp.*, 803 F.2d 1288 (3d Cir. 1986). There the Court unwound a hideously complicated series of transactions comprising a major leveraged buy out ("LBO") of a financially distressed group of related coal mining companies ("RAYMOND") by its president, DURKIN, who formed a new buying company ("GREAT AMERICA"). The Court's recitation of facts runs for many pages, employing charts to track the relationships and the dollars involved; for this memo, the facts can be greatly condensed; RAYMOND was privately owned by wealthy individuals who employed DURKIN as a professional manager; the shareholders wanted out, and granted DURKIN an option to purchase all their shares, which option DURKIN assigned to GREAT AMERICA; RAYMOND pledged all its assets, including coal mines and substantial other real property, to SECURED LENDER for a loan of about $8.3 million; RAYMOND used the loan proceeds in part to pay preferred creditors, part as a reserve for interest payments, and lent the balance of about $4 million unsecured to GREAT AMERICA; GREAT AMERICA used the money (and additional funds borrowed against the same assets) to buy all the stock of RAYMOND, paying defendant shareholders about $6 million in cash (plus more debt); SECURED LENDER sold its mortgages to PAGNOTTI, who sold them to McCLELLAN; management could not turn the operations around, and so defaulted; McCLELLAN foreclosed and sold the assets to a group of related companies ("LOREE"—a separate company was formed for each major property, to redeem state and local property tax liens). When the financial dust settled, the former shareholders of RAYMOND got a lot of cash, LOREE got the mines, and the non-preferred creditors of RAYMOND got the shaft.

The largest such obligation of RAYMOND was to the IRS for about $20 million. The U.S. sued everyone involved in each transaction and everyone who received any of the loan proceeds (including the State of Pennsylvania and two Pennsylvania counties, for preferential payments of state employment taxes and county real property taxes) in several related actions which were consolidated for trial and appeal. After a 120-day trial, the District Court unwound the entire deal. (It is not clear from the opinion whether any defendants escaped liability or whether liability was limited to the amount of benefits received in any case.)

The primary issue was the District Court's treatment of all these transactions as a single fraudulent conveyance. In affirming, the *Tabor Realty* Court faced for the first time, and squarely rejected, the defense contention that LBO's were too big, too complex, and too important to big-time corporate finance, ever to be analyzed under fraudulent conveyance law. Although a damages case not involving a constructive trust, *Tabor Realty* is important because it extended traditional equitable principles to very complicated, modern financial transactions, and rejected the arrogant view that some transactions are so big, complicated, and important that they are beyond the reach of equity. The Court's reasoning applies not only to LBO transactions, but to their financial cousins engineered by Milken and Drexel.

It appears beyond doubt that federal courts will apply state law breach of fiduciary duty and unjust enrichment principles, will cut through tiers of related entities and multiple transactions to reach the real controlling persons and others who benefit from wrongful conduct, and will impose constructive trusts in appropriate cases.

THE ROSE FOUNDATION

October 12, 1994.

Tom Hecht,
Hopkins & Sutter, Counsel for the Federal Deposit Insurance Corporation, Chicago, IL.

DEAR TOM, I wanted to thank you again for arranging the October 4 teleconference with Bod DeHenzel and Jeff Williams. I also wanted to thank all three of you for taking the time to allow the Rose Foundation's legal team to present our arguments supporting imposition of a constructive trust on Pacific Lumber, and supporting a petition for injunctive relief halting or severely limiting logging on Pacific Lumber lands during the litigation of the FDIC's claims arising out of the failure of United Savings Associatiation of.

In response to your requests for more specific information on current logging within the greater Headwaters area, or Headwaters Forest Complex:

Jama Chaplin, at the Environmental Public Interest Center (EPIC), in Garberville, California, has agreed to prepare a list of pending and recently resolved litigation affecting Headwaters Forest, which she hopes to fax to your office this week.

Randy Ghent, also of EPIC, is preparing a map that indicates areas affected by the pending and recently resolved court cases, as well as areas that covered by active timber harvest plans (THPs) or by THPs currently pending before the California Department of Forestry (CDF).

The THPs on file with CDF contain some information concerning the character of the affected forest parcels, including, in at least some cases, the estimated number of old growth trees per acre within the parcels. Randy is willing to secure copies of the THPs that he has in his office. As a non lawyer (and someone generally opposed to unnecessary use of wood products), he would, however, like to know whether he should excerpt sections related to the character of the parcels or send the complete THPs, which he described as "extremely voluminous" to be copied. Please let me know which you would prefer.

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of stock in the savings and loan holding company, United Financial Group (UFG), which was the sole shareholder in the savings and loan, United Savings Association of Texas (USAT) (which percentage comes to well over 25% when the Drexel stock is added to the MAXXAM/Federated stock). MAXXAM nonetheless did not hold USAT stock directly. However, it appears clear from our review of the general corporate case law that so long as MAXXAM (or its predecessor, MCOH) exercised de facto control over the savings and loan it will be regarded as having the same duties and obligations as would be imposed on a controlling shareholder of the savings and loan itself.

If there is law specific to the savings and loan context that contradicts this general principle, we would be very greatful if you could direct us toward it, if it is possible for you to do so without compromising any confidentiality concerns.

Once again, thank you for your time and attention. Please let me know if we can be of service on this matter in any way. I will look forward to hearing from you.

Sincerely,

JILL RATNER,
ROSE FOUNDATION FOR COMMUNITIES AND THE ENVIRONMENT.

THE ROSE FOUNDATION,

October 14, 1994.

BOB DEHENZEL,
FDIC, Washignton, DC.

DEAR BOB, I am enclosing summaries of recent and pending cases affecting the Headwaters Forest (as well as a couple of older cases that seemed likely to be of interest). These are abstracted from a draft document that Jama, a volunteer at the Garberville Environmental Public Information Center (EPIC) faxed to me on Wednesday.

I hope this information is helpful.

Randy Ghent, who is also a volunteer with EPIC, is working on a map that will provide a sense of what specific areas are directly affected by the cases summarized.

Thanks again for your interest and attention.

Sincerely,

JILL RATNER,
ROSE FOUNDATION FOR COMMUNITIES AND THE ENVIRONMENT.

October 14, 1994.

TOM HECHT,
Hopkins & Sutter, Counsel for the Federal Deposit Insurance Corporation, Chicago, IL.

Dear Tom, I am enclosing summaries of recent and pending cases affecting the Headwaters Forest (as well as a couple of older cases that seemed likely to be of interest). These are abstracted from a draft document that Jama, a volunteer at the Garberville Enviornmental Public Information Center (EPIC) faxed on me on Wednesday.

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Thanks again for your interest and attention.

Sincerely,

JILL RATNER,
ROSE FOUNDATION FOR COMMUNITIES AND THE ENVIRONMENT.

PENDING CASES

MARBLED MURRELET V. PACIFIC LUMBER

This federal suit alleges that Pacific Lumber's (PL's) logging in Owl Creek Grove constitutes a "take" in violation of the federal and state Endangered Species Acts, either by significantly disrupting the murrelet's normal behavioral patterns or by actually injuring or killing murrelets.

Procedure: The suit was filed 4/16/93. It originally named as additional defendants the United States Fish and Wildlife Service (USFWS), Department of Fish and Game (DFG), Bureau of Forestry (BOF), and California Department of Forestry (CDF). On 9/1/93 the federal district court dismissed the Environmental Public Information Center's (EPIC's) claims against all parties except PL. Steve Volker of Sierra Club Legal Defense Fund (SCLDF) is currently appealing this dismissal for EPIC.

During discovery, PL was sanctioned by the Court and ordered to pay EPIC $6,275 for withholding information.

Trial was held August 15–24 and September 6–9, 1994 in San Francisco before Visiting Judge Louis Bechtle. Witnesses testified to PL's falsification of murrelet survey data and to other material misrepresentations by PL.

Status: awaiting ruling, anticipated in January of 1995. may be sooner.

EPIC Attorneys: Mark Harris, Macon Cowles, Susan O'Neill, Charles Steven Crandall, Brian Gaffney, Steve Wolker

EPIC Contacts: Cecelia Lanman, Charles Powell, Josh Kaufman, Jamie Romeo, Laurie Sarachek

EPIC V. CDF ("SEVEN THP'S")

EPIC challenged CDF's approval of seven Timber Harvest Plans (THPs) in residual old-growth areas of PL's Headwaters Forest area.

Procedure: TRO denied October, 1994.

Trial set for October 31.

EPIC Attorney: Brian Gaffney.

EPIC Contact: Cecelia Lanman.

EPIC V. CDF ("ALL SPECIES GROVE")

This involves a 186 acre THP in virgin old-growth redwood and fir habitat in PL's Headwaters Forest area, at the confluence of Bell and Lawrence Creeks. PL refused to conduct site-specific wildlife surveys and refused to accept some DFG mitigation.

Procedure: THP 1-90-069HUM approved 5/4/90. EPIC filed Petition 5/4/90, Humboldt Ct. #90CP0341. Judge Nelson issued a Temporary

Restraining Order 5/9/90. After trial 6/4/92, on 6/5/92 Nelson denied injunction and writ, holding in essence that the California Environmental Quality Act (CEQA) applies much more narrowly to THPs than the decision in EPIC's first successfully litigated case, EPIC v. Johnson, allows. Sierra Club v. CDF II (Hum. Ct. #90CPO405) was consolidated into this suit. The appeal has been briefed, but no date set for oral argument. For some time, Tom Lippe had believed that Appeals Court was waiting for the Supreme Court to decide Sierra Club v. BOF, which presented very similar issues. That case was decided July 21, 1994.

EPIC Attorney: Tom Lippe, R. Jay Moller, Kenneth Collins

EPIC Contact: Charles Powell

RECENTLY DECIDED

SIERRA CLUB V. BOARD OF FORESTRY

On July 21, 1994, the California Supreme Court unanimously affirmed a Court of Appeal judgment, holding that the California Board of Forestry (BOF) cannot approve a THP that does not include information requested by the CDF regarding the presence in the plan area of old-growth dependent species. Significantly, the Court held that in approving THPs the BOF must comply not only with the provisions of the Forest Practice Act, but also with the more extensive requirements of CEQA, thus affirming the standard previously imposed by the appellate court in EPIC v. Johnson.

The Supreme Court ruled that CEQA does vest CDF with authority to require information to expressly specified in the Forest Practice Act rules if the info requested is necessary to determine whether a THP will have a significant adverse environmental impact. Further, the BOF has implied that CDF has the *obligation* to determine whether a THP incorporates feasible mitigations. It must have information to do so. Therefore, approval of plans without the necessary information is held to violate both CEQA and the Forest Practice Act.

Conclusions by the DFG, the court held, as to *possible* effects of timber harvesting on wildlife *must* be considered by the BOF because *possible* destruction of old-growth dependent species and their habitat from harvesting of old-growth timber can fairly be described as significant and adverse. Thus, the BOF has an *obligation* imposed by CEQA to collect info regarding the presence of endangered species. The Court also rejected the BOF's rational that the extensive surveys to address wildlife effects were not appropriate because of the costs and time commitments such surveys would impose on forest landowners.

According to the evaluation by the DFG, logging these lands could have a significant impact on old-growth dependent species. Because DFG identified a potential significant impact, the Court held that the Registered Professional Forester (RPF) must discuss alternatives in the THP, suggest mitigations, and explain why feasible alternatives were rejected. The Supreme Court upheld CDF's requirement that PL provide wildlife surveys done by recognized wildlife professionals of old-growth dependent species in the THP area and in the general vicinity.

This case involves virgin old-growth redwood and fir in PL's Headwaters Forest area, on Lawrence Creek and Shaw Creek.

Procedure: THPs 1–88–65HUM and 1–88–74HUM, involving a total of 325 acres, denied by CDF 4/18/88 because wildlife information provided by PL determined to be inadequate. The BOF overturned CDF's denial on 6/8/88; EPIC filed petition 6/1/88 (Humboldt Ct. #82371, Judge Buffington). TRO denied 6/28; Appellate Ct. issued stay 7/1 and alternative writ 8/15. After trial 10/5/88, judge returned THPs to BOF for further findings. Trial Court denied Writ on 10/2/89 bases on BOF's finding of no significant impact to species or habitat. Appeal Court reversed and remanded for denial of both THPs on 9/23/91. Petitions for rehearing filed by Pacific Lumber and EPIC. Appellate Court re-decided case on 3/18/92, holding for EPIC. Appellate decision at 92 DAR 3711. California Supreme Ct. granted Pacific Lumber's petition for review. Status: final-California Supreme Ct. unanimous decision for EPIC on July 21, 1994.

EPIC Attorneys: Tom Lippe, Bruce Towner, Richard Jay Moller.

SELECTED CASES OF HISTORIC INTEREST

EPIC V. PACIFIC LUMBER (OWL II)

This THP, which is the same THP involved in *Marbled Murrelet v. Pacific Lumber*, was denied by CDF 1/30/91. CDF acknowledged the area as habitat for one of only three remaining California marbled murrelet populations, and PL refused to provide adequate murrelet surveys and mitigations. The murrelet was at the time a state "candidate" species. On appeal BOF approved THP over objections of CDF, DFG, the Attorney General, and their own counsel. At the BOF hearing PL was given 3 hours to speak, and EPIC's Cecelia Lanman was ejected and threatened with arrest for speaking slighly over five minutes.

Procedure: Petition filed 3/26/81, Humboldt Ct. #91CO244, alleging violations of CESA. 8/26/91 Ferroggiaro's Alternave Writ required the Board to reconsider the THP. 3/4/82 BOF re-approved THP with condition of adequate murrelet surveys.

On a weekend in June 1992, PL began logging in Owl Creek without approval of state or federal wildlife agencies, and was stopped only by EPIC's legal action. The cut netted over $1,000,000. EPIC obtained TRO in 9/92.

The murrelet was listed by the state as endangered on 3/12/92, and by the United States Fish and Wildlife Service (USFWS) as threatened on 10/1/92. Immediately, USFWS informed PL that the Owl Creek plan, if executed, would violate the Endangered Species Act. PL once again snuck into the grove, on Thanksgiving weekend of 1992. EPIC obtained an emergency stay from the Appeals Court. In March of 1993, PL removed the timber it had illegally cut in November, netting another million. EPIC filed a federal case on 4/15/93.

This case was eventually dismissed due to the procedural error that EPIC did not contest the BOF ruling within 90 days.

EPIC Attorneys: Julie McDonald, Joseph Brecher.

EPIC Contacts: Cecelia Lanman, Charles Powell.

EPIC V. MAXXAM I

This suit, EPIC's first against Pacific Lumber (PL) and its corporate parent, involved three THPs proposing to clearcut old-growth redwood and/or Douglas fir forests. Two were in the Headwaters Forest area in Little South Fork Elk River and Salmon Creek watersheds, and one at Sulphur Creek of the Mattole.

The suit resulted in a ruling that the CDF had not only "rubber-stamped" the THPs, but had intimidated the Department of Fish and Game (DFG) and the Regional Water Quality Control Board staff from making any comments critical of THPs. This suit resulted in a DFG policy shift to review some old-growth plans more carefully.

Procedure: THP 1–87–240 HUM, 1–87–241HUM, 1–87–230HUM approved May/June 1987. EPIC filed Petition 6/4/87 (Humboldt Ct. #79879, Judge Paterson). Status: final 2–4–88: THPs inadequate. PL appealed, but then abandoned its appeal. THP 87–230 later resubmitted and approved, but EPIC lacked resources to sue.

EPIC Attorneys: R. Jay Moller, Tom Lippe, Sharon Duggan, Thomas Petersen.

THE ROSE FOUNDATION,
October 14, 1994.

TOM HECHT,
Hopkins & Sutter, Counsel for the Federal Deposit Insurance Corporation, Chicago, IL.

DEAR TOM, I am enclosing summaries of recent and pending cases affecting the Headwaters Forest (as well as a couple of older cases that seemed likely to be of interest). These are abstracted from a draft document that Jama, a volunteer at the Garberville Environmental Public Information Center (EPIC) faxed to me on Wednesday.

I hope this information is helpful.

Randy Ghent, who is also a volunteer with EPIC, is working on a map that will provide a sense of what specific areas are directly affected by the cases summarized.

Thanks again for your interest and attention.

Sincerely,

JILL RATNER,
ROSE FOUNDATION FOR COMMUNITIES AND THE ENVIRONMENT

MEMO

From: Steven C. Lambert (SCL).
To: FTH, RWP.
Date: Wednesday, October 19, 1994 4:42 pm.
Subject: Rose Foundation Letter.

I received through inter-office mail a copy of an October 12th letter to Tom from Ms. Ratner.

In her letter, Jill treats several issues—only one about which I will comment here—her discussion about the timber resource. As I appreciate what she is suggesting (and, please understand, I'm not certain of the context in which this subject came up in your call with her), she suggests use of satellite photography in order to get an "accurate picture of the economic and environmental resources at stake".

I'd like an opportunity to discuss her suggestion with you before someone adopts her proposal. If the agency is interested in valuation information about the Headwaters and other PL holdings, I believe it first should look at valuation work already in the public domain—which was based at least in part on an on-the-ground inventory (called a cruise) of the property being appraised. The recent hearings before the House Committee provide some details about an appraisal conducted for the US Forest Service by Jim Fleming (an MAI from Sacramento, CA)—which I believe used cruise information from an Oakland, CA firm (Hammond, Jensen and Wallen) in valuing the 3000 acres of virgin redwood and surrounding 1,500 acres of residual/cutover/young growth forest in the Headwaters. Another valuation, as I recall accomplished at the request of a Congressman, was accomplished by Gary Rynearson of Natural Resources Management, Inc. It was based on similar volume information, but used State Board of Equalization values/MBF for "average standards similar to those being appraised."

You may recall that at our meeting in Chicago I summarized the results of both valuations for Mr. Williams. If you want me to summarize the already-public information in a memo, I'll be happy to do so.

I have some mis-givings, based on past experience, in trying to determine in any precise way, old growth redwood volumes/values by use solely of aerial photography such as she is describing. The only use for such technology of which I am aware relates to massive resource studies, where "preciseness" is not felt to be necessary for the purpose of the study. I know of no valuation of redwood based on such photography.

However, if the agency wishes to "go that route", then I could suggest several firms to consider. I suggest, though, given what I know about the technology and its use (or lack thereof) for valuation purposes, that we shouldn't be "recommending" that the agency rely on the type of photography Ms. Ratner is proposing. Rather, I would suggest that IF the agency needs more information than has already been accomplished for the Forest Service, then it should consider hiring someone in the timber appraisal profession to provide the information/opinions it needs. One note of caution: There aren't very many real qualified firms/individuals left who appraise redwood—because of the dwindling supply in private ownership, their is a dwindling supply of top-notch redwood cruisers/appraisers. As noted above, 3 firms are now "off-the-market" —so IF the agency really believes it will need independent valuation information (even if it is "down the road"), it might be well for them to consider retaining someone now before they, too, are "gobbled up" by Pacific Lumber Company, the Forest Service, the State of California or one of the environmental interest groups.

Please let me know if you need anything at this time. Thanks.

RICHARD DESTEFANO,
ATTORNEY AT LAW.
Taos, NM, November 18, 1994.

TOM HECHT,
Hopkins & Sutter, Chicago, IL 60602.
Re: United Savings Association of Texas.
Your client: Federal Deposit Insurance Corporation.
My Client: The Rose Foundation.

DEAR MR. HECHT: I write on behalf of The Rose Foundation in connection with its Headwaters Forest Legal Project, focusing on our efforts to urge the FDIC to seek recovery of the property as a remedy for the looting of United Savings Association of Texas ("USAT"). I participated in preparation of the Rose Foundation's memorandum directed to your colleague, Steve Lambert on September 29, 1994 ("Headwaters Memo"), and in the following conference call. Jim Ratner, Rose Foundation's president, has asked me to follow up on certain points by this letter.

1. Federal cases, generally. My research of California state court decisions and Mr. Camp's review of Texas state court decisions, was incorporated in the legal analysis in the Headwaters Memo. Subsequent research of federal cases strongly supports that analysis. My client has authorized me to provide you with a copy of my federal cases research memo to her dated October 1, 1994, which is enclosed. I conclude there:

"There is overwhelming authority for imposition of constructive trusts by federal courts. . . . A federal court will not hesitate to reach MAXXAM and Hurwitz, if their liability is established under state law; will not hesitate to unwind a complex series of transactions such as the quid pro quo described in the statement of facts; and will not hesitate to reach PL [short reference to Pacific Lumber and other MAXXAM subsidiaries which own and control the Headwaters Forest] and its assets as the fruit of MAXXAM'S and Hurwitz's wrongful conduct."

2. The quid pro quo. The Rose Foundation contends that Charles Hurwitz and MAXXAM in fact controlled USAT and its investment decisions, and therefore had fiduciary duties to USAT; and that in breach of their fiduciary duties, Hurwitz and MAXXAM entered into an illegal agreement with Michael Milken and Drexel Burnham Lambert ("Drexel"). Pursuant to that illegal agreement, Drexel underwrote a series of junk bond financings on the order of $800 million which enabled MAXXAM to acquire PL and the Headwaters Forest properties, and Hurwitz and MAXXAM caused USAT to invest in over $1 billion worth of very low grade, high risk securities underwritten by Drexel.

As set forth in the Headwaters Memo, these contentions are based on information in the public records, most notably the FDIC's allegations in the federal court action, FDIC v. Milken. In the Headwaters Memo and this letter we assume that the quid pro quo allegations are provable. While we believe the information in the public record is sufficient to establish the existence of a quid pro quo, at least prima facie, we further assume that the FDIC has developed evidence beyond that available to us from public records.

If the quid pro quo is proven, a Court will view investments by USAT as in effect having been directly made in junk bonds issued by MAXXAM, proceeds of which financed acquisition of PL. In essence the transaction constituted an unsecured loan made by USAT to MAXXAM for acquiring PL, which had it been made directly would have been prohibited by applicable Texas S&L regulations (discussed below). Whether these prohibited transactions damaged USAT or not, they unjustly enriched MAXXAM and Hurwitz (see discussion below), and form the basis for a claim to recover the property now via imposition of a constructive trust.

3. Role of Ron Huebsch and others. As detailed in the Headwaters Memo pp. 12–16, Ron Huebsch, Barry Munitz, and other Hurwitz associates were active as officers, directors, and investment advisors for USAT as well as other MAXXAM affiliates. Based on Hurwitz's testimony before the Dingell Committee, it appears that Huebsch was the primary buyer of Drexel-underwritten securities for USAT and other entities, including MAXXAM, MCOH, UFG, and PL. A factual inquiry that we assume the FDIC has pursued would be the method of allocating specific securities purchased by Huebsch among USAT and the others if, as we infer, Huebsch purchased "centrally" and then allocated the purchases afterwards. These facts tend to show not only de facto control of USAT by MAXXAM/Hurwitz, but would be another basis of breach of fiduciary duty liability if there appeared to be a tendency to allocate riskier issues to USAT.

4. Causation-in-fact of FDIC damages. MAXXAM may argue that the Drexel, underwritten junk bond investments of USAT were not the cause-in-fact of its demise, and if so it could be argued that the quid pro quo was not a cause of the FDIC's $1.3 billion loss in bailing out USAT depositors. We respond, first, that Louis Ranieri, who took over USAT in 1989, described its investment portfolio as "80% bologna", according to the New York Times, February 20, 1989 [Headwaters Memo, pp. 23–24].

Second, we suspect that this defensive argument is premised at least in part on arcane accounting principles that a court would reject. We lack the information, and probably the expertise, to specifically analyze the quality of the junk bond portfolio at the time of USAT's failure, but we assume the defense's argument would include:

that some junk bonds which had taken a huge hit in their market values, were never in default, and were paying premium returns; arguably, these did not cause any financial damage to USAT. To the contrary, we urge that a Court would hold that the market risk, even more than the risk of default, is why investment in low grade bonds is imprudent; and that this loss of asset value and net worth precipitated in substantial part the insolvency of USAT, and the FDIC losses.

that some junk bonds in default were later completely redeemed after their issuers were taken over or reorganized, and caused no loss to USAT. Same response.

If cause-in-fact of USAT's demise is disputed, the issue would be not whether junk bonds caused direct loss of principal and interest to USAT, but whether investment in junk bonds was a substantial factor in the insolvency of USAT. We believe the affirmative is true and provable.

Third, we understand that USAT's portfolio at its collapse included substantial Drexel-underwritten "mortgage backed securities", arguably these, as distinguished from junk bonds, were the cause-in-fact of USAT's demise. We urge that it makes no difference what particular investments, made to accommodate Drexel, actually caused the loss. To restate our third response parallel to the second, the issue is not whether quid pro quo investments caused direct financial loss to USAT, but whether the quid pro quo investments were a substantial factor in the insolvency of USAT.

5. Unjust enrichment. FDIC claims arising out of the USAT bailout are not dependent on proof even that the quid pro quo caused USAT's insolvency. FDIC is not a mere creditor of USAT, but now stands in place of USAT. FDIC is not limited to complaining about specific transactions which damaged FDIC's interest, but may assert any right or claim of USAT. Under Texas and California law a fiduciary is liable to his principal for any profits obtained in breach of fiduciary duty, even if the principal is not damaged at all, and federal courts do not hesitate to enforce the state substantive law, nor to impose constructive trust remedies.

Particularly instructive is First Nat'l Bank of La Marque v. Smith, 436 F. Supp. 824 (S.D. Tex. 1977). There, officers and principal shareholders of the plaintiff banks were profiting from insurance commissions and rebates generated in connection with credit life insurance which was required by the bank as a condition for certain loans. Federal and state regulators moved administratively to forbid the practice and to require that the commissions and rebates belonged to the banks and not the individuals. The Court specifically found that the banks were not damaged by the practice, yet ruled against the individuals on the grounds of breach of fiduciary duties to shareholders and depositors and unjust enrichment of the bank officers and principal shareholders. The Court stated:

"An officer, director or controlling owner of any business entity has a fiduciary duty to make certain that the economic rewards accruing from a corporate opportunity inure to all the owners of the enterprise. This obligation is even stronger in the case of a bank, both because of the fiduciary nature of banking and because of the duty to depositors." 436 F. Supp. at 830, 831 (emphasis added).

The La Marque Court cites several other cases for the proposition that controlling persons of banks have higher fiduciary duties than with other businesses. On this issue and the unjust-enrichment-without-economic-loss issue, the opinion seems very strongly to support an action by the FDIC against controlling persons of USAT. See also, Lund v. Albrecht, 936 F.2d 459 (9th Cir. [Cal] 1991) (constructive trust imposed on secret profit from sale of a partnership asset); U.S. v. Pegg, 782 F.2d 1498 (9th Cir. [Cal] 1986) (constructive trust for wrongful acquisition and detention of property belonging to the U.S.); Chien v. Chen 759 S.W.2d, 484 (Tex App. 1988) (secret profit by agent who purchased property through "front man", so seller was unaware of buyer's true identity as seller's agent and confidant); and Amalgamated Clothing and Textile Workers Union v. Murdock, 861 F.2d 1406 (9th Cir. 1988) (pension officials liable to disgorge from self-dealing despite lack of damage to plan members).

Outside of Texas and California, the rules are the same, that unjust enrichment of a fiduciary without actual damage to the principal, is sufficient for liability. Bush v. Taylor, 893 F.2d 962 (8th Cir. 1990). We have found no authority for the contrary position that damages are essential to a breach of fiduciary duty cause of action, or a constructive trust remedy, in any unjust enrichment scenario.

6. Texas Savings and Loan Regulations. In the Headwaters Memo, we have argued generally applicable principles of fiduciary liability and constructive trust relief, shying away from discussions of "banking law" because of our lack of expertise. We have, however, briefly reviewed Rules of the Texas Savings and Loan Department in effect in 1986. 7 Texas Administrative Code, Chapter 65, which seem to provide additional support.

6.1 Regarding the propriety of USAT's investment in Drexel-underwritten securities, §65.21, relating to investments in securities, permitted only conservative investments such as obligations of the U.S., the state of Texas, and Texas municipalities, and savings deposits in institutions insured by your client.

6.2 Throughout the regs, transactions with "affiliated persons" are prohibited outright or are limited in scope and require full disclosure to disinterested directors. See, e.g. §65.11 re loans to affiliated persons; and §65.19(5) regarding investments in real property. There is no specific prohibition on investments in securities issued by affiliated persons, but this is because the list of permitted issuers of securities is so limited.

6.3 The regs define "Affiliated Person" to include "controlling person", not just directors and officers (65.3). This would seem to be exclusively factual, and provable here.

6.4 The regs limit aggregate loans to one borrower (§65.4) to the net worth of the association. If the quid pro quo is viewed as, in substance, an unsecured loan to MAXXAM for acquisition of PL, compare the amounts of purchases of Drexel-underwritten securities in 1985–1987.with the net worth of USAT at year-end for those years:

Year; Purchases; Net Worth:

1985, $280 million, $163 million
1986, 688 million, 249 million
1987, 321 million, 63 million

6.5 Loans to affiliated persons are further restricted, requiring the approval of a majority of disinterested directors at a regular board meeting (§65.11).

6.6 "One borrower" is defined to aggregate loans made to affiliated entities where one hold only 10% of the other's stock (§65.3).

7. Full disclosure. If disclosure to the independent directors of USAT or United Financial Group of material facts relating to investment decisions of USAT, is germane to FDIC's potential challenge of those decisions, the disclosure must be complete and meaningful, and extend not just to the superficial facts about a particular investment, but to the existence and extent of the quid pro quo. It seems almost certain that the outside directors of USAT/UFG would contend that they had no knowledge of the quid pro quo, that they did not know that USAT's investments in Drexel-underwritten securities were used to finance MAXXAM's acquisition of PL, and if they had known, would have disapproved, and it also seems likely that these outside directors would be believed, and a Court would find that there was no adequate disclosure.

8. The endangered Species Act ("ESA") and the mission of FDIC. While the FDIC is primarily focused on recovering money's worth for its loss in USAT, we urge that all federal agencies are mandated to consider the impact of their decisions on endangered species. The Headwaters Forest is habitat for several endangered and threatened species, as detailed in the Headwaters Memo.

The ESA states that "[I]t is the policy of Congress that all Federal . . . agencies shall seek to conserve endangered species and shall utilize their authorities in furtherance of the purposes of this chapter". 16 U.S.C. §1531(c)(1)(emphasis added), and further requires that:

". . . all . . . Federal agencies shall, in consultation with the Secretary [of the Interior], utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered . . . or threatened species. . . ." (16 U.S.C. §1536(a)(1).

The "duty to conserve" is an affirmative obligation of all federal agencies. Pyramid Lake Paiute Tribe v. U.S. Dept. of the Navy, 898 F.2d 1410. The ESA further provides that:

". . . each Federal Agency shall . . . insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered . . . or threatened species or result in the destruction or adverse modification of habitat of such species which is determined . . . to be critical. . . ." (16 U.S.C. 1536(a)(2).

Accordingly we urge that the FDIC decision makers who will decide whether to seek recovery of the Headwaters Forest properties have an affirmative duty to conserve the endangered and threatened species who inhabit the forest, and further that the decision not to pursue recovery of the properties, if there is a reasonable legal basis to do so, may be in violation of the ESA.

9. Conclusion. We believe a federal court will view this case as involving related, illegal transactions, which destroyed USAT and benefitted Hurwitz and MAXXAM; and will hold that Hurwitz and MAXXAM had fiduciary duties to USAT (and therefore to the FDIC), breached those duties, and were unjustly enriched by their breach. The court will not see Hurwitz and MAXXAM as careful to walk just this side of liability, but rather as participants in the looting of a Savings and Loan who are now destroying the Headwaters Forest. We urge the FDIC to take immediate action to restrain logging the Headwaters Forest, and to proceed as swiftly as possible to recover this irreplaceable asset.

Very truly yours,
RICHARD DESTEFANO.

Record 8A

[From the Humboldt Beacon, Aug. 26, 1993]

EARTH FIRST! WANTS 98,000; 4,500 ACRES TOPS, PL SAYS

(By Glenn Franco Simmons)

Contrary to many published and televised reports, Congressman Dan Hamburg's bill if passed will affect nearly 60,000 acres—not 44,000 as Hamburg proposed.

Furthermore, Hamburg has proposed another 13,500 acres to be set aside as "study acres."

Earth First! has set its goal at 98,000 acres.

"It's too much," Bullwinkel said. "We can't afford to keep setting aside more productive timber land."

Hamburg has said that much of the land, if his bill succeeds, would still be open to "sustainable" logging.

"When has the federal government been able to do any job better than private industry?" asked Pacific Lumber Co. spokesperson Mary Bullwinkel.

She said PALCO does not believe the federal government can be a better steward of the forests than private timber companies.

What Is The Headwaters?

The freshman congressman's bill calls for the purchase or exchange of 44,000 acres of what appears to be mostly PALCO-owned land in the Headwaters area about 10 to 15 miles northeast of Fortuna, Bullwinkel said.

"The reason they named it the Headwaters Forest," Bullwinkel noted, "is because it's at the headwaters of two streams: Salmon Creek and the Little South Fork of Elk River."

"The Headwaters bill came from a very radical proposal put together by people who made the Headwaters an issue," said Earth First! spokesperson Alicia Little Tree. "They have been working on it for eight years: Earth First!, E.P.I.C. and other people who have been concerned about the well-being of Headwaters.

"They put together a proposal that calls for not only a debt-for-nature swap, but also an employee-stock-option plan for the businesses to restore the Headwaters . . . that has been decimated by these years of logging by Maxxam."

The activist said Hamburg picked up on the original proposal that she called "visionary."

"Hamburg, who is a first-year congressperson," Little Tree said, ". . . did pretty good to get through the shell of the proposal that he got through, which is about all we could get in a compromise situation.

"I think he has done all he can, and I appreciate his work. He should be congratulated for all he could do."

Despite having reservations, she said she didn't disagree with Hamburg's proposal.

"I think a lot more is needed to protect the Headwaters," she noted, "because the bill calls for willing sellers. Maxxam clearly stated that (it) is not willing to sell 4,500 acres.. Selling Headwaters as a 4,500 acre island doesn't do anything to protect the ancient-redwood ecosystem. It just creates an isolated island of old trees; kind of like a museum, except the trees die from the 'edge effect' and from being so fragmented. It dries out and kills it from the edges in."

She said examples of the edge effect can be found in Humboldt Redwoods State Park in Southern Humboldt. One example, she said, is just south of Stafford in the first old-growth redwood groves below Visa Point.

"You can just drive past them," Little Tree said. "There are blow downs; they are no longer regenerating."

PALCO has offered to negotiate for the fair-market-value sale of 4,500 acres of what it considers the Headwaters. About 3,000 acres of that is old growth and the 1,500-acre "buffer," has a mixture of old- and second-growth trees, Bullwinkel said.

The trees are primarily redwood, although there are some Douglas fir.

It will not only be PALCO that is affected by Hamburg's proposal.

"There are private ranches out there," Bullwinkel said, "as well as some Sierra Pacific and Simpson land and back in there."

No one seems to know what the boundaries of Hamburg's proposal are.

"Well, if you call Hamburg's office, they tell you that they really can't give you a map because they really don't have one because they say it 'is evolving'," Bullwinkel said. "Then you call the Forest Service and they say they have what they believe are the boundaries.

"But, do they realize how far the boundary of Hamburg's bill is from the boundary of the Six Rivers National Forest? There is this huge gap in there. How are they going to add this land to the national forest?"

Bullwinkel said that at this point, she does not know of any proposals other than the Earth First! proposal that calls for 98,000 acres.

However, she admitted it's a possibility.

"We don't know; there is always a potential that it could grow," she said, "but that would be devastating. The 44,000 acres is devastating enough. Let's talk disaster for Humboldt County. How much more land are we going to take out of production?"

EFI PROPOSAL

Little Tree said Earth First! wants more land set aside than is targeted in Congressman Dan Hamburg's bill to protect animal and plant species.

"A lot of the species that live in the old-growth forest are specifically old-growth species," Little Tree said. "So, if you have this little island, you get a very, very in-bred gene pool and they have no place to spread out.

"Earth First! is calling for a 98,000-acre wilderness complex, but not to lock-up the Headwaters forest but to create buffers and to put people back to work in the woods actually creating healthy ecosystems.

". . . We are calling for 98,000 acres to preserve the Headwaters grove and the four other old-growth groves that are inside the boundaries of the 'wilderness' complex," she continued. ""This would really mean taking it out of the hands of corporate control and putting it in the hands of our community. It would make it so our community can decide what will happen in the woods, so we can create long-term stability in our community."

Bullwinkel said 98,000 acres is too much.

"Well, that is outrageous—98,000 acres?" she said. "I think they are proposing that at this time to make it look more attractive, to make Hamburg's proposal look more like a compromise."

What about eminent domain, in which the government appropriates and pays "fair-market value" for property it deems as needing to be government-owned for the public good? In such cases, landowners have no choice but to "sell."

"Ultimately, our goal is to have community control of the acres in which we live and the areas in which we work—community control of the actual work and the actual jobs," Little Tree said. "There shouldn't be anyone who has to pick up and leave or be forced out of the area. And that is exactly what the government is calling for—a short-term mind-set that is going to create a deprived timber industry in which they clear-cut all the trees and (implement) even-aged management.

"I don't think the government can offer us any solutions. The solutions have to come from the community itself, from coming together and creating the solutions . . . The federal government has a lot to do and they are not really that concerned about the integrity of our communities."

Bullwinkel said eminent domain is always a concern, although she hasn't heard of a concrete proposal.

EARTH FIRST! GOALS

"I would just like to talk about our goals and objectives of this week." Little Tree said at a news conference held in Rio Dell on Monday. (See related story on page 1.) "Many people knew about Headwaters and the Headwaters proposal. It's outrageous that we have to file a bill in Congress to protect the last of the ancient redwoods from a man who stole them in the first place; that we have to buy them from Hurwitz who stole them with a junk-bond bailout.

". . . We want Hurwitz in jail. . . . We don't want to have to reward Hurwitz for stealing the Headwaters by paying him money.".

Bullwinkel said that demanding the arrest of Hurwitz is "ridiculous."

The second demand is an "exchange."

"We think it should be a debt-for-nature swap," Little Tree said," whether he (Hurwitz) should give Headwaters to the public and the money that would go to the purchase of it should go to creating stability and jobs in the community as far as restoration work and creating some sort of sustainable timber economy in our region."

"When has Earth First! ever brought any jobs to this area?" Bullwinkel asked in response.

The other demand is "an immediate moratorium on logging in the Headwaters wilderness complex area." Little Tree said.

Although the boundaries of Hamburg's proposal remain in limbo. Bullwinkel said Earth First! is mistaken if it believes that PALCO is logging in what it considers the Headwaters area.

RECORD 9

To: Jack D. Smith@LEGAL OGC Hdq@Washington
From: Jeffrey Williams@LEGAL PLS2@Washington
Subject: USAT/military bases
Date: Monday, April 3, 1995 10:14:39 EDT

Jack: Just a note regarding our brief discussion on Charles Hurwitz and exploring creative options that may induce a settlement involving the sequoia redwoods in FDIC/OTS case: I have reviewed the statutes and regulations regarding the closure and revitalization of military bases and other facilities. The pace of sales has not met the services' expectations and they are desparate to expedite and accommodate interested investors. I spoke with a Department of Defense official on the general means to acquire some property and there are numerous ways. Among them are: (1) preference is given to interest expressed by another federal agency for which the facilities may be transferred without cost (e.g., Army barracks to FDIC, FDIC interest transfers to Hurwitz-entity); (2) second preference is to a local economic redevelopment entity that involves municipal or country agency, which then can transfer to investors; (3) other creative options will be considered. The US government is responsible for environmental clean-up. It seems possible to devise a proposal that may interest Hurwitz and get the cooperation of DOD and local redevelopment group to work with FDIC and Hurwitz to come up with a viable plan, particularly in Texas where Hurwitz would get significant positive public exposure. I obtained from DOD list of all bases that are or will soon be closed that have facilities for sale or lease. I also am reviewing media articles that cover successful transfers of such property to investors and will keep you informed of any interesting developments.

If you have any questions or concerns, please let me know.

J.R. WILLIAMS.

RECORD 10

Easy thing for staff to do would be send the existing draft ATS to the Board and manually file suit. Also easy for entire counsel (remember, they always want to say). That is not what we recommend. We recommend continued work [w/defense counsel—] on (1) the merit of FDICs claim; (2) a possible capital maintenance claim by OTS against MAXXAM.

Why? (1) Tactically, combining FDIC & OTS claims—if they all stand scrutiny—is more likely to produce a large recovery/the trees than is a piecemeal approach; (2) Both sides are learning/developing their case. And I believe that counsel for both sides truly wants and needs a better understanding of the case than we currently have.

9 mos ago, I was prepared to go with a "straddle" theory and some other bits and pieces, eg,' dividend—not to be confused w/the RICO claim. Villa's submissions have been voluminous & instructive; they have also been advocacing—some "facts" have been stretched.

We have paid the case "back" to $200 million and we are very closer whether to sue Dr. Kozmetabi at all.

Options: (1) Defer it all, incl. OTS, until (probably) 4th quarter '94; (2) Authorize suit, but hold off filing; (3) Authorize and file around the edges; (4) Sue (or settle) UFG on tax and cognital maintenance, and option 1 or 2 on the rest; (5) Option 2 or 3 except defer on Dr. Kozmetabi.

If this wasn't public, the FDIC would do #1. Know as much-more as usual, but complex and both sides still learning. I think we should do it here—but complaints are likely (whatever we do).

5/19/95 PC—FROM JILL RATHER

Alan McReynolds—Asst to Sec. of Interior—
Jeoff Webb—Sec. Congressional Liaison
Jay Ziegeler—Asst to * * *

Jill did fly over Headwaters w/McReynolds last week. McReynolds—mostly interested in land for land swap. vis-a-vie military/or bases for trees.

McReynolds grew up with Hurwitz & their families still have contact with one another. Did base conversion with at *DOD*.

Levan met w/*McReynolds, Webb & Ziegeler*—this past Tuesday. Intention is that discussion will continue. Webb and Ziegeler will consider doing preliminary work to explore whether or not fax notice would work. There is no clear cutting going on outside of Headwaters but injunction was lifted yesterday.

To: Jill Ratner, Rose Foundation.
From: Natural Heritage Institute.
Re: Federal Inter-Agency Land Transfer Mechanisms.

Date: April 19, 1995.

I. INTRODUCTION

You have asked us to provide you with an analysis of the mechanisms under Federal law by which the Federal Deposit Insurance Corporation (FDIC), as title-holder of the Headwaters Forest, may be authorized to transfer the forest to a Federal, State, local, or private entity rather than disposing of it through sale.

Our research has uncovered six Federal statutory programs that allow property under the control of one Federal agency to be transferred to another Federal agency or into non-Federal hands. These programs may be characterized as either: (1) "exchange" programs, under which a Federal land-management agency trades some of its land for non-Federal lands of approximately equal value in order to carry out agency objectives; (2) "transfer" programs, under which property no longer required by one Federal agency is simply given to another Federal agency; or (3) "disposal" programs, under which Federal property no longer required by *any* Federal agency is transferred to a state, local, or private entity.

It is difficult to determine at this point which of these programs, if any, would best accomplish the Rose Foundation's goals. None of these programs specifically authorizes the precise type of transaction in question here, *i.e.*, the transfer of property acquired by the FDIC in settlement of a legal claim (as opposed to property acquired via normal appropriations and procurement procedures). Furthermore, there are no particular sets of circumstances under which transfers are mandatory under any of these programs. At the same time, none of the statutes or regulations or cases interpreting them specifically prohibits such a transaction. A review of these sources indicates that any decision by an agency to enter into any kind of land-transfer transaction will be, in fact, almost entirely discretionary, regardless of the program. Thus, the primary concern under each program will be to convince the appropriate agency that the transaction in question will serve both the public interest broadly, the agency's interest specifically, and relevant political factors.

Of all the programs analyzed, those involving the disposal of surplus Federal or military real property are probably the best candidates, as they do not categorically require reimbursement to the disposing agency. These programs are more restricted than the others, however, in that only certain agencies may receive surplus real property, and then only for certain enumerated purposes. Under these programs, therefore, an intermediary agency such as the Park Service would initially receive the surplus property for the disposing agency and then later transfer it to the FDIC in exchange for Headwaters with the understanding that Headwaters would be managed only for authorized uses. Thus, the disadvantage to these programs is that they will require an agreement between three parties instead of two, and this disadvantage may ultimately be preclusive. In addition, if pending legislation introduced by Congressman Rohrabacher (R-CA) is passed, it would prohibit the disposal of surplus military property for exchange purposes, thus precluding the type of transfer we are proposing for Headwaters insofar as military property is involved.

It would be imprudent to recommend pursuing one or more programs over all others until exploratory meetings with agency representatives are concluded. Given the discretionary nature of all of the programs, political considerations rather than legal and regulatory fineres will be of paramount concern. With the right amount of political will, however, we believe that Headwaters can be placed in the hands of an appropriate management entity without public expenditure or independent legislation.

II. ANALYSIS

When the FDIC, in its capacity as receiver for a failed institution, takes title to land held by another in satisfaction of a claim against that person arising from wrongdoing related to the failure of a financial institution, the FDIC forwards title to the land to its regional real estate sales division for disposal. Funds from the sale go into the appropriate receivership account to cover administrative costs, and then into the general insurance fund as reimbursement for funds expended in covering the deposits in the failed institution.

There does not appear to be any statutory or regulatory mechanism in place whereby the FDIC may dispose of assets acquired in satisfaction of a claim against a director of a failed institution without any reimbursement whatsoever. Such a transaction may, however, be provided for under internal FDIC policy guidelines, under the general receivership provisions of the bankruptcy laws, or under the FDIC's corporate powers, and further research on this issue may be warranted. The FDIC is authorized to settle claims by accepting property at less than market value, although any such settlement must be approved by the FDIC's board of directors.

The FDIC's primary interest is to restore to the general insurance fund any funds expended in satisfaction of a failed institution's depositors' claims pursuant to a bailout. We may assume, then, that it is immaterial to the FDIC whether one particular piece of property is sold in order to obtain those funds, as opposed to another piece of property, so long as the funds owned are actually recovered. Thus, if a mechanism exists whereby another Federal agency holding land of approximately equal value may exchange that land for land held by the FDIC for sale, the FDIC might raise no objection so long as the two parcels were in fact worth the same amount. Further research is required regarding the FDIC's corporate powers.

Since there are no internal means by which the FDIC may transfer assets it has recovered, via constructive trust or otherwise, to third-party public or private entities without reimbursement, it is necessary to examine the statutory and/or regulatory procedures under which real property held by a Federal agency may be transferred, without cash payment and without independent legislation, to other Federal agencies or to state and local bodies. Such procedures may provide for an exchange of lands between FDIC and another Federal agency, preferably one suited for management and control of Headwaters, whereby FDIC would take title to property belonging to the other agency in exchange for Headwaters. FDIC would then be free to dispose of the land it received in exchange in any manner it sees fit.

Our research has found six statutory procedures that may provide for such an exchange. These procedures are:

1. Transfer of "excess" property among Federal Agencies under the Federal Property and Administrative Services Act (FPASA).
2. Disposal of "surplus" Federal property to State or local governments under FPASA.
3. Disposal of surplus military property under the Base Closure and Realignment Act of 1990.
4. Disposal of surplus Federal and military property to state fish and wildlife agencies for wildlife conservation purposes under 16 U.S.C. §667b.
5. Land exchange under the Federal Land Policy and Management Act (FLPMA) as amended by the Federal Land Exchange Facilitation Act (FLEFA).
6. Disposal of public lands to state and local agencies or non-profit organizations for park and recreation purposes under the Recreational and Public Purposes Act (RPPA).

Each of these procedures provides for property in the jurisdiction or control of one Federal agency to be transferred either to another Federal agency, a state or local agency, or a private entity without a public sale and without cash payment. Some require compensation in the form of lands of approximately equal value (see section E of this memorandum, infra). Thus, working from the premise discussed in the above introduction, that FDIC would be authorized and willing to exchange Headwaters for land of proximately equal value, any of the programs discussed here could provide the statutory or regulatory basis for such an exchange.

Case law addressing these statutory land-transfer procedures is scant. In general, the few cases involving attacks on an agency's decision to undertake a specific transfer of land have primarily addressed questions of: plaintiffs' standing to sue the agency (*see, e.g., Rhode Island Comm. on Energy v. GSA (II)*, 397 F.Supp. 41 (1975)); the validity of an agency's determination that a proposed transfer is in the "public interest" (*see, e.g., National Coal Ass'n v. Hodel*, 617 F.Supp. 584 (1985)); the adequacy of transfer-related Environmental Impact Statements required under the National Environmental Policy Act (NEPA) (*see, e.g., Rhode Island Comm on Energy v. GSA (I)*, 561 F.2d 397 (1977)); and whether the amount of land acquired was larger than necessary to meet the transferee agency's needs (*see, e.g., U.S. v. 82.46 Acres of Land, etc.*, 691 F.2d 474 (1982)).

Thus, this memorandum focuses on the mechanics of these land-transfer procedures, analyzing the statutes themselves and their administering regulations.

A. Transfer of "excess" property under FPASA

The Federal Property and Administrative Services Act (FPASA) (40 U.S.C. §471 et seq.) governs the disposition of property under the jurisdiction and control of a Federal agency that no longer needs it. Under FPASA, when a Federal agency determines that property under its control is not required for its needs and the discharge of its responsibilities, such property is designated "excess property." 40 U.S.C. §472(e). FPASA then imposes a duty on all executive agencies to transfer their excess property to other Federal agencies whenever practicable, 40 U.S.C. §483(b), and, correspondingly, to obtain excess property from other Federal agencies rather than purchasing new property. 40 U.S.C. §483(c); 41 C.F.R. §101–47.203–2.

i. Procedure

Under FPASA, once an agency designates a particular piece of property as "excess," the agency must promptly inform the General Services Administration (GSA) of the property's availability for transfer. Id. at §483(b). GSA maintains records of all Federal property reported as excess. See 41 C.F.R. §101–47.202–3. Also under FPASA, when an agency (or a mixed-ownership Government corporation such as the FDIC) determines that it requires additional property to carry out an authorized program, it must likewise inform GSA. Id. at 483(c); 41 C.F.R. §101–47.203–3. Upon receiving notice from an agency that property is required, GSA will review its records of property reported excess, and its own inventory of excess property, to ascertain whether any such property may be suitable for the needs of the requesting agency. 41 C.F.R. §101–47.203–3 GSA must promptly notify the agency whether any available excess property is suitable. Id.

If after receiving such notice an agency determines that the excess property of another agency will suit its needs, the agency must prepare and submit "GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property." 41 C.F.R. §101–47.203–7(a). Then, upon determining that the requested transfer is "in the best interest of the Government and that the requesting agency is the appropriate agency to hold the property" (41 C.F.R. §101–47.203–7(b)), GSA may execute the transfer so long as the transfer is consistent with applicable GSA policy guidelines. 40 C.F.R. §483(a)(1); 41 C.F.R. §101–47.203–7(d), (e).

ii. Reimbursement

When a transfer of excess property is approved, FPASA authorizes GSA, with the approval of the Director of the Office of Management and Budget (OMB), to "prescribe the extent of reimbursement" for the transfer. 40 U.S.C. §483(a)(1). Although FPASA allows for transfers without reimbursement in certain situations 41 C.F.R. §101–47.203–7), reimbursement at "fair market value" as determined by GSA is required when a mixed-ownership Government Corporation, like the FDIC, is either the transferor or the transferee agency. 41 C.F.R. §101–47.203–7(f).

Although neither FPASA nor the Federal Property Management Regulations specifically provide for reimbursement in-kind in the form of property of equal value, neither do they specifically prohibit it. Given the Congressional intent to enable and facilitate land-exchanges under §484(a), see Section B, *infra*, as well as under other programs, however, a colorable argument exists that FPASA should be interpreted as allowing an agency to transfer its excess property to another agency and receive property of equal value in return. Thus, any excess property currently held by a Federal agency authorized to manage Headwaters should be conveyable to FDIC under 40 U.S.C. §483 in exchange for Headwaters, if the conveyed property is of approximately equal value.

B. Disposal of "surplus" property under FPASA

FPASA defines "surplus" property as "any excess property not required for the needs and the discharge of responsibilities of all Federal agencies, as determined by [GSA&]." 40 U.S.C. §472(g). GSA will generally declare surplus any excess property reported to it pursuant to 40 U.S.C. §483(b), supra, if it determines, after reviewing other agencies' requests for property pursuant to 41 C.F.R. §101–47.203–3, supra, that the property does not match the needs of any other agency. 41 C.F.R. §101–47.204–1. In other words, "excess" property is property no longer required by the agency holding it, while "surplus" property is property not required by *any* Federal agency.

i. GSA's disposal authority in general

FPASA authorizes GSA to dispose of surplus Federal property by sale, exchange, lease, permit, or transfer for cash, credit, or other property, upon such terms and conditions as it deems proper. *Id.* at §484(a), (c). FPASA further provides that "[a]ny executive agency entitled to receive cash under any contract covering the lease, sale or disposition of surplus property may in its discretion accept, in lieu of cash, any property determined by the President to be strategic or critical material at the prevailing market price thereof at the time the cash payment or payments became or become due." 40 U.S.C. §485(f). These two sections may therefore provide sufficient authority for GSA to transfer another agency's surplus property to FDIC in exchange for Headwaters, if the "President" determines that Headwaters constitutes "strategic or critical material."

ii. The "land for parks" program

Although the authority provided by §§484(a) and 485(f) should be thoroughly considered, a subsequent section of FPASA may ultimately prove more useful. FPASA specifically authorizes GSA to assign to the National Park Service (NPS) for disposal any surplus real property "as is recommended by the Secretary of the Interior as needed for use as a public park or recreation area." 40 U.S.C. §484(k)(2) [hereinafter, "the Lands to Parks Program"]. Subject to the disapproval of the GSA, NPS may then "sell or lease such real property to any State, municipality, or political subdivision for public park or recreational use." Id. at §484(k)(2)(A).

ii. Procedure under the Lands to Parks Program

The regulations enforcing the Lands to Parks Program provide that whenever GSA determines property to be surplus, GSA will provide notice by mail to all public agencies eligible to receive such property that the property has been declared surplus. 41 C.F.R. §101–47.303–2(b). In particular, a copy of this notice "shall be furnished to the proper regional or field office of the NPS or the Fish and Wildlife Service." 41 C.F.R. §101–47.303–2(d). In the case of real property that "may be made available for assignment to the . . . Secretary of the Interior for disposal under [the Lands to Parks Program]," GSA shall inform the appropriate regional office of the NPS three workdays in advance of the date the notice to be given simultaneously by NPS to additional interested public bodies of State and local government. 41 C.F.R. §101–47.303–2(e).

The regional NPS office then reviews such notices and informs interested state and local planners and park and recreation officials of site availability. Attachment B at p. 2. Any state or local agency wishing to acquire the property must notify NPS of their interest. Id. NPS will then work with the agency to develop an application for transfer of the land and forward the application to GSA, recommending its approval. Id.

GSA will advise NPS of any additional information required to process the state or local agency's application to procure the property. 41 C.F.R. §101–47.303–2(h). Upon receipt of the complete application for the property, GSA will consider and act upon it, either granting or denying the transfer. 41 C.F.R. §101–47.303–2(i).

iii. Reimbursement

In fixing the sale or lease value of property so disposed, the Secretary of the Interior must take into consideration "any benefit which has accrued or may accrue to the United States from the use of such property by any such State, political subdivision, instrumentality, or municipality." 40 U.S.C. §484(k)(2)(B). This subsection is interpreted as permitting the Secretary of the Interior to convey such property to eligible State or local agencies without consideration or reimbursement.

c. Disposal of surplus military property

The Defense Authorization Amendments and Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; codified as 10 U.S.C. §2687 note) provides that the Administrator of General Services shall delegate to the Secretary of Defense, with respect to excess and surplus real property and facilities located at a military installation closed or realigned, "the authority of the [GSA] to dispose of surplus property under [the Lands to Parks Program]." 10 U.S.C. §2687 note Section 2905(b)(1)(B). The Act further provides that the Secretary of Defense shall exercise this authority in accordance with all the regulations governing the disposal of surplus property propagated under FPASA, viz. the Federal Property Management Regulations, Title 41, Chapter 101 of the Code of Federal Regulations, supra. Id. at Section 2905(b)(2)(A)(i).

Thus, under the Act, the Department of Defense (DoD) is authorized to assign surplus military property to the NPS for disposal to State and local agencies for public park and recreational use in accordance with the Lands to Parks Program. The analysis of GSA's activities under the Lands to Parks Program thus applies equally to DoD's activities under Section 2905 of the Act, and may be incorporated here by reference.

i. Procedure

The regulations governing the disposal of surplus military property appear in Title 32 of the C.F.R. These regulations provide that in exercising the authority delegated to it by GSA to dispose of surplus property, DoD is to follow the same property disposal rules and procedures that the GSA follows, i.e., the Federal Property Management Regulations. 42 C.F.R. §91.7(a)(1). However, the DoD regulations further allow for an "expedited process" under which other DoD entities, other Federal Agencies, and providers of assistance to the homeless may identify military property they wish to acquire before the base closes, and forward requests to DoD. Id. DoD will then work with the other DoD Components, Federal Agencies, homeless providers and reuse planners early in the closure process, in order to sort out these requests. Id.

Military Departments must make the notices of availability available to Federal agencies, local redevelopment authorities, and State and local governments. 32 C.F.R. §91.7(a)(6). For a six-month period thereafter, the Military Departments shall consult with the local redevelopment authority and make appropriate final determinations whether a Federal agency has identified a use for, or shall accept transfer of, any portion of the property. 32 C.F.R. §(a)(7). If no Federal Agency requests the property during this period, the property is be declared surplus. Id.

This screening or DoD's excess real property to ascertain whether it matches property requests from other Federal Agencies must be completed within 6 months of the date of approval of the 1995 closures. 32 C.F.R. §(a)(4)(ii). This timeframe is meant to afford Federal Agencies sufficient time to assess their needs, submit initial expressions of interest to the Department of Defense, and apply for the property. 32 C.F.R. §(a)(5). During this period, Agencies sponsoring public benefit conveyances, such as NPS, should also consider the suitability for such purposes. Id. In the Notice of availability, the Military Departments must provide other Federal agencies with as full and complete information as practicable regarding the subject property. Id.; see 41 C.F.R. §101–47.303–2(b). Requests of transfers of property submitted by other Federal Agencies will normally be accommodated. Id. Decisions on the transfer of property to other Federal Agencies shall be made by the Military Department concerned in consultation with the local redevelopment authority. Id.

II. Limitations

The DoD's authority to transfer excess or surplus property to other Federal agencies may, however, be limited by the Act's provision authorizing the DoD to transfer real property located at a closed military installation to the local "redevelopment authority" organized to ameliorate the negative economic impacts of the base closure. 10 U.S.C. §2687 note Sec. 204(a)(4)(A). In addition, the transfer must be without consideration "in the case of any installation located in a rural area whose closure under this title will have a substantial adverse impact (as determined by the Secretary) on the economy in the communities in the vicinity of the installation and on the prospect for the economic recovery of such communities from such closure." Id., at Sec. 204(a)(4)(B)(ii)(A). This may hamper any effort to transfer surplus military property to an agency able to exchange it for Headwaters.

A potentially greater limitation is a rider bill (H.R. 1265) introduced by Congressman Rohrabacher (R–CA) to amend the surplus property disposal provisions of the Defense Authorization Amendments and Base Closure Realignment Act. The bill would prohibit DoD from transferring surplus military property to other Federal agencies unless the agency agrees not to use the property in any property exchange transaction. The bill is currently pending before the National Security Committee, and NHI will continue to track its progress.

iii. Return of lands transferred "temporarily" to the Department of Defense by the Department of the Interior

Unrelated to DOD's general authority to dispose of surplus military property, a further section of this regulation provides that any lands that have been transferred from the Department of the Interior to a Military Department for the latter's temporary use "are to be returned to the Secretary of the Interior" if they are still suitable for the programs of the Secretary of the Interior. 32 C.F.R. §91.7(a)(9)(i). The Military Department concerned will notify the Secretary of Interior, normally through the Bureau of Land Management (BLM), when withdrawn public domain lands are included within an installation to be closed. 32 C.F.R. §91.7(a)(9)(ii). BLM will then screen these lands within the Department of Interior to determine if these lands are suitable for return to the Department of Interior. 32 C.F.R. §91.7(a)(9)(iii). Thus, it should be ascertained whether BLM has transferred any land in California to DoD on a temporary basis. If so, the decision to return the property to BLM will be nondiscretionary, thus eliminating the need to persuade DoD to dispose of the property in a particular manner. After BLM retakes control of the property, it would be a question of orchestrating a land-exchange under FLPMA (see section E., infra.) Accordingly, NHI will attempt to identify military property in California that is owned by the Secretary of the Interior.

D. Disposal of surplus Federal and military property to state fish and wildlife agencies for wildlife conservation purposes under 16 U.S.C. §667b

Enacted in 1948, 16 U.S.C. §667b, authorizes GSA to dispose of surplus Federal property, both military and non-military, by transferring it to a state agency for wildlife conservation purposes. Specifically, the statute provides that upon request, surplus real property under the jurisdiction of a Federal agency which, in the determination of GSA, may be utilized for wildlife conservation purposes in the state where the property lies, may be transferred to the state's fish and wildlife agency. This differs significantly from the program provided by the Lands to Parks Program, in that such land may be transferred only to a State fish and wildlife agency such as the California Department of Fish and Game, and not to a county or municipality. Furthermore, the property may be utilized only for wildlife conservation purposes and not for parks or recreation purposes.

The Defense Authorization Amendments and Base Closure and Realignment Act authorizes GSA to delegate to DoD, in addition to the authority to dispose of surplus property under the Lands to Parks Program, "the authority of [GSA] to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with [16 U.S.C. §667b]." 10 U.S.C. §2687 note Section 7905(b)(1)(B).

The military departments are authorized to convey property that can be utilized for wildlife conservation purposes to the state fish and wildlife agency without reimbursement. 32 C.F.R. §644,439(a). If property is considered by the District Engineer to valuable for wildlife conservation purposes, or if interest has been shown in acquiring the property for that purpose, notice of availability should be given to the agency administering state wildlife resources and to the Federal Fish and Wildlife Service if the property has particular value in carrying out the national migratory bird program. 32 C.F.R. §644.429(b). Any state desiring to make application for property for wildlife conservation will be furnished copies of Application For Real property For the Conservation of Wildlife with accompanying instructions for preparation. In evaluating the application, the responsible District Engineer will request review of the application by the Regional Office of the Fish and Wildlife Service, Department of the Interior, and will obtain that Service's recommendation as to the value of the property for wildlife conservation purposes. 32 C.F.R. §644.429(c)

E. BLM Land Exchanges under FLPMA

The Federal Land Policy and Management Act of 1976 (FLPMA) as amended by the Federal Land Exchange Facilitation Act (FLEFA), 43 U.S.C. §1701 *et seq.*, authorizes the Secretary of the Interior to exchange federally-held public lands for non-federal lands if the Secretary of the interior determines that the public interest would best be served by the exchange. 43 U.S.C. §1716(a). In making this determination, the Secretary is required to consider Federal, state and local needs for "lands for the economy, community expansion, recreation, food, minerals, and fish and wildlife." Id. The Bureau of Land Management (BLM) exercises the Secretary of the Interior's authority under the land exchange provisions of FLPMA. 43 C.F.R. §2200.0–4.

i. The "equal value" requirement and "assembled land exchanges"

FLPMA requires that any lands exchanged under the Act be of equal value, or if they are not equal, that the values be equalized by payment of money to the grantor or BLM as circumstances require. 43 U.S.C. §1716(b). This equalization requirement may be waived, however, if BLM and the other party agree to the waiver, and BLM determines that the exchange will be expedited and that the public interest will be better served thereby. BLM may not waive cash equalization payments where the amount is more than 3% of the value of the federal lands being exchanged, or $15,000, whichever is less. Id.

If the non-Federal land sought to be acquired is worth substantially more than any single parcel of Federal land within the state (or vice versa), the parties may enter into an "assembled land exchange." An assembled land exchange is an agreement under which the parties agree to the consolidation of multiple parcels of land for purposes of one or more exchange transactions. 43 C.F.R. §2200.0–5(f); §2201.1–1. Thus, several parcels of Federal land may be exchanged for a single, valuable parcel of non-Federal land.

FLPMA also provides that if the non-federal land acquired by exchange is situated within the boundaries of an existing National Park, Forest, Wildlife Refuge System, Wild and Scenic Rivers System, Trails System, or Wilderness preservation system, the land will immediately become part of that unit without further action by the Secretary. 40 U.S.C. 1716(c).

ii. Procedure

Land exchanges under FLPMA are administered through guidelines contained in Title 43, Part 2200 of the C.F.R. At the outset, it is important to note that FLPMA land exchanges are entirely within BLM's discretion, and BLM is free to terminate an exchange proposal at any time unless the parties have entered into a legally-binding agreement. 43 C.F.R. 2200.0–6(a). Also, a land exchange may take place only after the appropriate BLM officer determines that it will "well serve" the public interest. 43 C.F.R. 2200.0–6(b). In making this determination, BLM must give full consideration to "the opportunity to achieve better management of Federal lands, to meet the needs of State and local residents and their economies, and to secure important objectives, including but not limited to: protection of fish and wildlife habitats, cultural resources, watersheds, wilderness and aesthetic values." BLM must also find that the resource values and the public objectives that the Federal lands or interests to be conveyed may serve if retained are not more than the resource values of the non-Federal lands and the public objectives they could serve if acquired. 43 C.F.R. §2200.0–6(b)(1). Once BLM accepts title to the non-Federal lands, the lands become and remain public lands, subject to BLM management. 43 U.S.C. §1715(c).

Exchanges may be proposed by BLM itself, or by "any person, State, or local government." 43 C.F.R. §2201.1. Initial exchange proposals are directed to the authorized officer responsible for the management of Federal lands involved in an exchange. Generally, the parties to an exchange bear their own costs. 43 C.F.R. §2201.1–3. However, if the BLM finds it to be in the public interest, it may agree to bear the other party's costs. Id. A flow-chart describing the entire BLM land exchange process appears as Attachment A to this memorandum.

iii. Three-party land exchanges

BLM regularly organizes what are called "three-party land exchanges" of Federal for non-Federal lands. Under a three-party exchange, the non-Federal land in question is sold initially to a third-party, usually a private land trust, for cash. The third-party then holds and manages the land pending BLM's identification of the parcel or parcels of Federal land to be exchanged, a process that can take years. Once the Federal lands are selected, BLM conveys them to the third-party in exchange for title to the non-Federal lands it holds. The third-party then may sell the lands conveyed to it to recover the cost of the initial purchase.

A narrative description of a three-party exchange upheld in the past appears as Attachment C to this memorandum.

iv. Restrictions

Restrictions on BLM land exchanges under FLPMA include: (1) a requirement that the Federal and non-Federal lands exchanged lie within the same state (43 U.S.C. §1716(b); 43 C.F.R. §2200.0–6(d)); (2) a requirement that an environmental analysis under NEPA be prepared after an agreement to initiate an exchange is signed (43 C.F.R. §2200.0–6(h)); and (3) a requirement of conformity with existing land use plans (43 C.F.R. §2200.0–g(g)).

F. U.S. Forest Service Land Exchanges Under FLPMA

In addition to authorizing BLM to enter into land exchanges, FLPMA (43 U.S.C. §1701 et seq.) authorizes the Secretary of Agriculture to exchange lands within the National Forest System (NFS) for non-Federal lands upon a determination that the public interest will be well served thereby. 43 U.S.C. §1716(a). The substantive provisions of FLPMA, including authorizations and limitations on authority, apply equally and identically to the Secretary of the Interior for public lands and the Secretary of Agriculture for National Forest lands. Thus, the analysis of FLPMA contained in Section E., supra, of this memorandum may be incorporated here by reference.

The Forest Service regulations governing exchanges appear in Title 36, Part 254 of the C.F.R. These regulations mirror the correlative regulations governing BLM land exchanges. The discussion of the latter regulations in Section E. applies equally and may also be incorporated here by reference. One key difference in the exchange procedure, however, is that NFS land exchanges may involve, in additional to outright land exchanges, "land-for-timber" (non-Federal land exchanged for the rights to Federal timber), or "tripartite land-for-timber" (non-Federal land exchanged for the rights to Federal timber cut by a third party on behalf of the parties to the exchange). 36 C.F.R. §254.1. Initial Forest Service land exchange proposals are directed to the Director of the applicable unit of the NFS. 36 C.F.R. §254.4.

G. The Recreation and Public Purposes Act

The Recreation and Public Purposes Act (RPPA) (43 U.S.C. §868 *et seq.*) authorizes the Secretary of the Interior to dispose of public lands to a State, county, municipality, or non-profit organization for any recreational or public purposes. Before the land may be disposed, however, it must be shown to satisfaction of the Secretary that it is to be used for a definitely proposed project, that the land is not of national significance, nor more than is reasonably necessary for its proposed use. 43 U.S.C. §868(a). No more than 25,600 acres may be conveyed for recreational purposes in any one State per calendar year. 43 U.S.C. §868(b)(1)(C).

Conveyances of lands for recreational purposes shall be made without monetary consideration, while conveyances for any other purpose shall be made at a price fixed by the Secretary of the Interior through appraisal or otherwise, after taking into consideration the purpose for which the lands are to be used. 43 C.F.R. §869–1(a). The Secretary may not convey lands reserved for National Parks, Forests, Wildlife Refuges, or lands acquired for specific purposes. 43 C.F.R. §2741.1(a). Potential applicants should contact the appropriate District Office of BLM "well in advance of the anticipated submission of an application." 43 U.S.C. §2741.3(a). Dependent on the magnitude and/or public interest associated with the proposed use, various investigations, studies, analyses, public meetings and negotiations may be required of the applicant prior to the submission of the application. 43 U.S.C. §2741.3(c).

"Omitted lands" and unsurveyed islands may be conveyed to States and their local political subdivisions under the Act as well. 43 C.F.R. §2742.1

III. CONCLUSION

As stated in the introduction, it is difficult to ascertain which of these programs, if any, would be best suited to the type of exchange the Rose Foundation seeks to orchestrate. Given the highly discretionary nature of all the programs, "scoping" meetings with the necessary agency personnel will be necessary to ascertain the degree of interest at the various decisionmaking levels of both the agency disposing of property, the agency initially receiving the property, and/or the FDIC. Before such meetings take place, we do not recommended that one or more programs be pursued to the exclusion of all others.

Based on legal analysis alone, however, the provision of the Military Base Closure and Realignment Act requiring the return of lands held by the Department of Defense "on loan" from the Department of the Interior may be a favorable option in light of the non-discretionary nature of the initial transfer. Under this provision, land *must* be transferred to the Department of the Interior, thus eliminating the need to convince the Defense Department to dispose of the property, in its discretion, in a particular manner in its discretion. As stated above, NHI will attempt to identify military property in California that is owned by the Department of the Interior.

Record 12

MEMORANDUM

To: Jack D. Smith, Deputy General Counsel

From: Jeffrey Ross Williams, Counsel, PLS

Date: 15 June 1995

Subj: United Savings Association of Texas, In FDIC Receivership, Investigation of Charles Hurwitz and Others.

We received a letter (from among the hundreds we received in the last 60 days) that discusses the "debt-for-nature" transaction that various environmental groups have been advocating to resolve the claims involving Hurwitz and USAT. It contains a reference to the Oklahoma City bombing and a call to "defuse this situation." I want to bring it to your attention.

As you know, the above-referenced investigation has resulted in attracting the attention of organizations and individuals that have interests in environmental preservation. This has arisen as a result of Charles Hurwitz's acquisition (through affiliates) of Pacific Lumber, a logging company in Humboldt County, California, that owns the last stands of old growth, virgin redwoods. It has been widely reported that the company has been harvesting the virgin redwoods in a desperate attempt to raise cash to pay its and its holding company's, Maxxam, Inc.'s, substantial debt obligations.

The environmentalists' issues are centered on preserving the old growth redwoods through a mechanism of persuading Hurwitz to settle the government's claims involving losses sustained on the USAT failure by, in part, transferring the redwood stands to the FDIC or other federal agency responsible for managing such forest lands. FDIC has received thousands of letters urging FDIC to pursue such a transaction.

The environmental movement, like many others, is not homogeneous and contains extreme elements that have resorted to civil disobedience and even criminal conduct to further their goals. As a result of the recent tragedy in Oklahoma City, everyone appears more sensitive to the possibility that people can and do resort to desperate, depraved criminal acts. Accordingly, we take any references to such conduct, even ones that appear innocent, more seriously.

Among the hundreds of letters we received last month is one that contains a reference to the Oklahoma City bombing that I want to bring to your attention. The author does not make any directly threatening statements but appears, at least to me, to have personal knowledge of the deep passions and divisions that various environmental activists harbor on these preservation issues. This is particularly evident when he states, "Do us all a favor and save the forest and defuse this situation." The author's hometown of Sebastopol, CA., happens to be a hot-bed of environmental activism and conflict since the 1960s.

In the event you believe this letter deserves greater scrutiny, it should be referred to the local office of the Federal Bureau of Investigation. I would be pleased to contact them if you deem it appropriate. I can always be reached at 736–0648 to discuss this matter further.

June 15, 1995—Told Wms to advise FBI and Rob Russell.

Record 13

The Rose Foundation

for Communities & the Environment

Please deliver, 43 pages including cover, to Steve Lambert

Please call (510) 658–0702 to report any problems in transmission

To: Steve Lambert, Hopkins & Sutter

From: Jill Rainer, Rose Foundation for Communities and the Environment

Steve:

Thank you for the opportunity to share our analysis of the case for imposition of a constructive trust on the assets of Pacific Lumber in connection with the FDIC's claims against MAXXAM, Inc. We hope the following memorandum will provide a useful starting point for a full and frank discussion of those issues presented.

Most of the lawyers who participated in the preparation of the memo will be available for a phone conference at 1:00 p.m., Pacific time, on Tuesday, the 27th. These include:

Kirk Boyd and Dave Williams, Boyd, Huffman and Williams, (415) 981–5500.

Tom Lippe (counsel for the Environmental Public Information Center), (415) 495–2800.

Peter Camp, of Camp, Von Kallenbach (206) 689–5613.

I can be reached at the Rose Foundation office, at (510) 658–0702.

Rick DeStefano, who has recently joined the team, is unable to attend.

We will be looking forward to talking with you and your colleagues.

INTRODUCTION

The MAXXAM Corporation, through its wholly owned subsidiaries Pacific Lumber

Company (Del), Scotia Pacific, and the Salmon Creek Corporation (Collectively "Pacific Lumber", or "PL", in this memorandum) currently controls and logs an area known as Headwaters Forest in Humboldt County, California. Headwaters Forest is a collection of forest lands that contain the last major unprotected stands of old growth redwood in the world. These stands of ancient trees, many of which are between 1000 and 2000 years old, are remnants of the great virgin redwood forest that once extended more than 500 miles from its southern tip to its northern boundary, blanketing the western coastal range from Big Sur to southern Oregon.

The Rose Foundation contends that MAXXAM's control of Pacific Lumber and the Headwaters Forest properties is unlawful and was wrongfully obtained, as a result of a prohibited transaction which breached of MAXXAM's fiduciary duty as a controlling shareholder of the thrift, United Savings Association of Texas (USAT), and which led to USAT's 1988 failure and bailout by the Federal Deposit Insurance Corporation (FDIC) which cost taxpayers more than $1.3 billion. We believe that the FDIC, as the party injured by the alleged breaches of fiduciary duty, has the authority to seek imposition of a constructive trust on the proceeds of the prohibited transaction and to compel MAXXAM's disgorgement of Pacific Lumber and all its assets.

The FDIC must act quickly to file an action against MAXXAM seeking disgorgement. While the statute of limitations has been extended by agreement in this matter, we respectfully point out that the policies behind the statute of limitations still hold true: recollections are fading; evidence is being lost; witnesses may soon become unavailable. Of particular concern in this matter is the age of the Texas State bank-examiner who played the central role in reviewing or supervising the review of USAT's records; it is our understanding that he is now more than seventy years old.

In addition, the FDIC must act quickly to protect the value of the res during litigation by positioning for a temporary restraining order and preliminary injunction to prevent any further irreparable harm such as has occurred as a result of recent intensive logging operations. These operations began September 15th and are, in all probability, continuing. The recent logging involves clearcutting residual old-growth in or near environmentally sensitive areas within the 44,000 acre area which is currently the subject of pending acquisition legislation in Congress (HR 2866, which passed in the House of Representatives September 21, 1994 and is currently under consideration in the Senate). We believe that these practices constitute the deliberate destruction and dissipation of irreplaceable assets.

The trees that are currently falling represent an irreplaceable resource. From a purely economic standpoint, the old-growth trees are an order of magnitude more valuable than second growth; one 1000 year old tree is worth more than $100,000 on the timber market. Top grade "clear redwood", which comes from the densest heartwood of old growth trees, has long been prized for its durability as well as its beauty. Such wood (when kiln dried) costs about $3.49 per board foot at the local lumber yard. Lower grades of redwood fetch from $.89 per board foot ($2.19 when kiln dried), for wood that is all "mirch" or sapwood, to $1.19 a board foot for "construction heart" grade, wood that is mostly heartwood, with some defects. A redwood tree must grow for more than 500 hundred years before it can be milled to produce substantial quantities of prime grade clear redwood.

From an environmental standpoint, the trees of Headwaters Forest represent an irreplaceable resource of another kind. The majestic ancient groves of Headwaters Forest represent one of the three remaining California nesting areas for the endangered seabird, the marbled murrelet, which requires closed canopy, virgin groves of old-growth trees for its nesting grounds. Headwaters is also home to spotted owl (listed as endangered by the State of California and as threatened by the Federal Fish and Wildlife Service), and home to the southern seet salamander (under consideration for listing by the Federal Fish & Wildlife Service as threatened; recommended for state listing as "threatened" by California Department of Fish & Game). Up to 10% of California's wild Coho Salmon, (which are under consideration for a Federal listing as threatened by the National Marine Fishery Service) spawn in the rivers that give Headwaters its name. The adjacent residual old growth provides buffer zones needed to keep the ancient groves intact and protect the vulnerable species. The 44,000 acre acquisition area, which ties isolated ancient groves together with each other and with other protected areas, incorporates significant residual old-growth as well as second growth and represents the area's best chance for overall habitat recovery.

The Scope of This Memorandum

This memorandum will summarize law and publicly available evidence supporting a imposition of a constructive trust and disgorgement of Pacific Lumber. It will also summarize the facts and law supporting a petition for a temporary restraining order severely limiting logging during litigation. Most of the facts and conclusions asserted in this memorandum must be known to and beyond contradiction by the FDIC, since the FDIC alleged essentially the same facts in the compliant filed in FDIC v. Milken.

There are many issues that are beyond the scope of this memorandum. It does not reach any issues related to the eventual disposition of Pacific Lumber's assets after disgorgement. While the writers believe legal mechanisms exist for transferring property acquired by the FDIC to other government agencies without specific authorizing legislation, the writers currently assume that the pending acquisition bill will create a willing buyer for many of these assets, i.e., the US Forest Service.

This memo does not reach any potential choice of laws issues; where potentially applicable, the writers will discuss both Texas and California law. It does not reach any specific issues of banking law, thrift regulation, or Federal securities law. Nor does it reach any issues related to the FDIC's responsibilities and obligations to the public to recover funds lost in the S&L bailout or to protect public resources.

This memo assumes that the location of the disposal property gives rise to jurisdiction in a Federal Court in the Northern District of California. The writers have not made any attempt to compare the Ninth Circuit and Fifth Circuit case law on relevant issues or to otherwise evaluate the desirability of one forum over another. However, barring any compelling reason to litigate outside of California, we believe that the public interest would be served best by bringing the action within the state most affected by its outcome.

FACTUAL SUMMARY

The factual basis for our argument can be stated quite simply:

(1) MAXXAM controlled and dominated United Savings Association of Texas (USAT), functioning, in actuality, as its controlling shareholder.

(2) Without providing full disclosure to USAT's disinterested directors, MAXXAM, and MAXXAM's CEO, Charles Hurwitz, used MAXXAM's position of trust and confidence as a controlling shareholder, to enter into a prohibited deal with Michael Milken and the firm of Drexel, Burnham, Lambert.

(3) Under the terms of that deal, or *quid pro quo*, MAXXAM caused USAT to purchase large amounts of Drexel under-written securities in return for Drexel arranging the financing for MAXXAM's takeover of Pacific Lumber.

(4) The *quid pro quo* worked very much to the benefit of MAXXAM and to the detriment of USAT in that MAXXAM acquired a valuable, asset-rich company, while USAT was left with over a million dollars of essentially worthless securities.

(5) The preponderance of these worthless Drexel securities in USAT's portfolio precipitated, or at least contributed in very significant part, to USAT's failure, and dictated the size of the FDIC's ultimate $1.3 + billion contribution to the S&L bailout.

(6) Drexel's role in the financing of the PL acquisition was critical to the takeover's success, because MAXXAM's strategy required cash for a 100% tender offer and MAXXAM could not get financing elsewhere.

A brief history of the MAXXAM Corporation

Although the MAXXAM Incorportated (MAXXAM) is publicly held, its fortunes and its business practices are almost inextricably intertwined with those of its controlling shareholder, President, CEO, and Chairman of the Board, Charles Hurwitz. In 1985, Charles Hurwitz owned 3% of the stock of the MAXXAM directly, and controlled 40.6% through related entities and through the ownership of family members, Hurwitz has served continuously on the MAXXAM Group's board since the MAXXAM Group was created as the successor to Simplicity Pattern Corporation in June of 1984.

MAXXAM Group, Inc. (MAXXAM Group of MGI) was created from Simplicity Pattern Corp (SPC) in June of 1984. MAXXAM Group began its corporate existence as a subsidiary of MCO Holdings (MCOII), (another Hurwitz controlled corporation, which acquired the Simplicity Pattern Corporation in 1982.

MAXXAM Group was formed as the result of a complicated set of interrelated transactions. Simplicity Pattern Corporation (SPC) first spun off its actual pattern operations as a production subsidiary, Simplicity Pattern Inc. (SPI). The parent corporation then sold the production subsidiary to another corporation known as the Triton Group Inc. (TGI) which simultaneously merged with yet another company, the Republic Corporation.

In the course of the the deal, Simplicity Pattern's parent corporation changed its name to MAXXAM Group, Inc. and renamed its real estate subsidiary, Twin Fair, which became MAXXAM Properties Inc (MPI). MPI simultaneously merged with Maxxus, another Hurwitz controlled company, Federated Development Company (FDC).

Throughout much of the period we will be discussing, MAXXAM continued to be a subsidiary of MCOH. In 1985, MCOII owned 37.2% of MAXXAM Group Inc. FDC (which, taken together with Hurwitz and his group, maintained 65.2% voting control of MCOH) owned an additional 4.5% of MAXXAM directly. The remaining MAXXAM stock was largely held by institutional investors.

There was also significant overlap of leadership among MCOH, MAXXAM and FDC. All five of FDIC's trustees and five of MCOH's seven directors (four of whom were were common to both MCOH and FDC sat on MAXXAM's ten member board. Charles Hurwitz, George Kozmetsky, Barry Munitz and Ezra Levin served on all three boards, and occupied positions of real leadership within the three organizations.

On September 24, 1986 a MAXXAM Group/MCOH merger was announced, which was completed in April of 1988, when MCOH emerged as the surviving parent corporation, renamed, however, as MAXXAM Incorporated. Through an exchange of stock in the two companies, MAXXAM Group, Inc. became a wholly owned subsidiary of MAXXAM Inc. In other words, MAXXAM succeeded to all of MCOH's interests and assets and to all the interests of MAXXAM Group, Inc., as well. It is entirely possible that, as is common practice, this merger was actually planned long before it was announced; this possibility should be explored in discovery.

In the years immediately prior to its renaming as MAXXAM, MCOH had served as the primary acquisition vehicle for the various Hurwitz related corporations; once acquired, Simplicity and then MAXXAM Group, joined in performing that function for the Hurwitz financial empire. MAXXAM played a significant role in the arguably coordinated acquisition campaigns and alleged green-mail activities of the various related companies in Hurwitz financial empire.

Charles Hurwitz and MAXXAM's Control of United Savings Association of Texas

During all of the relevant times, MAXXAM's CBO Charles Hurwitz and MAXXAM or MCOH exerted actual control over the affairs of United Savings Association of Texas. That control was exerted through and demonstrated by several mechanisms: 1) ownership and control of a substantial bloc of voting stock in the holding company that was the S&L's sole owner, coupled with ownership of options to acquire more voting stock and ownership of preferred stock which, in time, would have converted to voting stock had Hurwitz considered conversion desirable, 2) control of the boards of directors of the holding company and the S&L, 3) control of the executive committee of the S&L, 4) control of the S&L investment department and investment committee.

Stock Ownership

United Savings Association of Texas (USAT), a Texas state chartered savings and loan, was a wholly owned subsidiary of the savings and loan holding company, United Financial Group (UFG). According to the complaint in FDIC v. Milken, "In mid-1983, Hurwitz, through two companies he controlled, Federated Development Co. and MCO Holdings, Inc., acquired approximately 23% of UPG." In other words, when MAXXAM Group was created in 1984, its parent company, MCOH, already had a substantial interest in UFG, to which MAXXAM succeeded when MAXXAM Group and MCOH merged. In United Financial Group's 198810K report to the SEC, MAXXAM is described as owning, together with an affiliated entity (Federated Development Co.), 23.3% of UFG's common stock.

Drexel held another major bloc, between 7% and 9.7% of UFG stock. Again from the FDIC v. Milken complaint, "Drexel and Hurwitz were the largest shareholders of UFG during the entire period . . . together controlling more than 30% of UFG's outstanding stock from 1984 until 1988, when USAT failed." Since MAXXAM (through Hurwitz) and Drexel (through Milken) conspired to control the S&L for their own benefit and to the detriment of the USAT and ultimately the FDIC, for our purposes Drexel's stock ownership contributed to MAXXAM's contol as well, and the whole should be attributed to MAXXAM.

In addition to the outright ownership of common stock, MAXXAM's predecessor corporation and affiliates held various options and other convertible instruments that increased their ability to control UFG and USAT. In June, 1984, UFG–USAT issued Series C Convertible Preferred Stock. FDC–MCOH bought 97.5% of the issue. The series C was replaced (prior to its conversion date) by series D in June 1987 which was replaced (prior to its conversion date) by Series E, in June of 1988. The tactic of not actually exercising conversion rights but continuing to maintain those rights, was apparently engaged in at the direction of MAXXAM's Chairman of the Board, Charles Hurwitz, in order to prevent activation of net worth guarantees which would have been required by the Federal Home Loan Bank Board (FHLBB) had the percentage of voting stock attributable to MAXXAM's predecessors come to exceed 25% of the outstanding voting stock. In December 1985, MCOH bought a put-call option for 300,000 shares of UFG–USAT from Drexel, further increasing MAXXAM's predecessor's ability to exercise voting control if the need should arise.

At the end of 1985, Drexel's and MAXXAM's interests in USAT were:

	%Common	Total/ option	Total/ conversion
FDC–MCOH	23.3	26.97	41.97
Drexel	9.67	6.0	6.0
Totals	33.0	33.0	47.97

It is important to note that while the percentage of voting stock controlled by MAXXAM and Drexel (or MAXXAM's predecessors and Drexel) remained below 50%, even taking into account the conversion factor, it was never necessary for MAXXAM to control a majority of voting stock in order to exercise de facto control over the savings and loan. Records of UFG stock ownership for the year 1986 show that 43.02% of UFG's voting stock was held in trust by the brokerage firm of Cede and Co. With 43% in trust, and thus in all probability held by non-voting shareholders, MAXXAM (or its predecessor) and Drexel merely needed to control one share more than half of the remaining 57%, in other words to control slightly more than 28.5% of the holding company's voting stock—a test that they met handily.

Control of the Board of Directors

In 1982 Charles Hurwitz first hired Barry Munitz and placed him on the boards of FDC, UFG, MCOH and Simplicity as Hurwitz' representative. As a director of UFC, Munitz apparently was given the task of ensuring that MAXXAM and its predeccesor corporation retained actual control of the savings and loan without overstepping any statutory or regulatory boundaries that would have made such control indisputable. For Munitz, this meant continuing negotiations with the FHLBB to avoid confirming any agreements that would have situated MAXXAM or any of its affiliates as guarantors of the S&L's net worth. It also meant developing UFG–USATs internal decision making structure and board membership to mask the actual control exercised by MAXXAM and its affiliates.

Following the December 1982 merger of UFG/USAT and First American Financial of Houston (FAF) (which created UFG/USAT in the form it was to have from that date until it was seized by the FSLIC in December of 1988), UFG/USAT's directors consisted of three groups with distinct characteristics.

The first group was made up of nine directors who had served on the board of UFG/USAT before the UFG/FAF merger. This group was leaderless and had not developed strong working relationships since the majority of this group had served less than four months prior to date that MAXXAM's CEO, Charles Hurwitz, joined the board in 1983.

The second group, the ten Hurwitz directors, were associates of Hurwitz who could be said to be under the control of MAXXAM and its affiliates. FHLBB rules required that 50% or more the directors be under a corporation or individual's control before that entity could be said to be a control person by this test. Hurwitz avoided establishing this type of conspicuous control of the board, although he succumbed in late 1987 when the exodus from the board overcame planning. The second group's influence increased as it expanded its membership through the addition of corporate officers to the board, and as the first group suffered attrition in late 1985.

This second group, the Hurwitz directors, formed the leadership group within UFG–USAT, controlling UFG's Executive Committee and USAT's investment department from their inception in 1984. In addition to Hurwitz, who served as President and CFO of UFG–USAT in 1985 (i.e., during the period when MAXXAM was amassing its war chest and implementing plans for the Pacific Lumber takeover), this group included George Kozinetsky and Barry Munitz, both of whom also served on MAXXAM, MCO and FDC boards contemporaneously. Munitz chaired UFG–USAT's Executive Committee from its inception until it was disbanded in 1988. This group also included Gerald R. Williams, who was recruited from First City National Bank, a bank in which MAXXAM had invested and with which MAXXAM's predecessor MCO had an oil purchase agreement. Williams served on the UFG–USAT Board from 1984 through January of 1986, and served the board in various capacities at USAT including Executive VP, CEO and President. [q]

The third group, the PennCorp directors, were those associated with PennCorp, which by virtue of owning a substantial portion of preferred stock, placed four directors on the board.

Control of the Executive Committee

In early 1985, UFG–USAT formed an Executive Committee to determine USATs restructuring and investment strategy.

The original members of the executive committee were Hurwitz, Munitz and Williams, along with two representatives of the pre-merger group, C.E. Bentley (UFG/USAT's Chairman of the Board from 1983 until 1985 and President and CEO in 1984) and James R. Whately. Bentley resigned in November of 1985, around the time of MAXXAM's acquisition of Pacific Lumber and when USAT's purchases of Drexel junk bonds were at or near their highest levels. Williams resigned shortly afterward, in January 1986, possibly to prevent a conspicuous imbalance that would have made Hurwitz and MAXXAM's control apparent.

Control of Investment Decisions

Shortly after UFG–USAT formed the Executive Committee to redirect USAT's investment strategy, Ron Heubsch was hired to be the VP of the Investment Department which served the Executive Committee. Heubsch, who had been employed by or associated with Hurwitz since 1969, worked for FDC during the 1984–1985 Pacific Lumber takeover campaign and was reported to have acted as advisor to MAXXAM's investment managers.

As was noted in testimony before the Dingell Committee, Heubsch also conducted arguably coordinated arbitrage operations for MCOH ($35 million) MAXXAM ($70 million) and UFG–USAT ($150–200 million); these arbitrage activities began in 1986 or earlier and continued through 1987 or later. During this period Heubsch also served as Vice President for USAT's investment department.

Under the direction of the Executive Committee and Heubsch, the redirection of USAT's investment strategy was ultimately quite drastic, converting USAT from a traditional savings and loan, with assets consisting primarily of home mortgages, to an investment bank, albeit a highly distorted one, with assets consisting primarily of ultra-high risk corporate securities.

Other Officers and Key Employees

Other key employees of USAT had connections to MAXXAM related companies and to other Hurwitz affiliated entities as well. The First City National Bank's connection to UFG–USAT included the recruitment of other USAT officers such as Michael R. Crow and Bruce F. Williams, who served as Vice President and treasurer, and perhaps James R. Walker, who was recruited from a large Texas bank's holding company and served USAT in marketing and branch administration.

MAXXAM's Acquisition of Pacific Lumber

After MAXXAM sold the Simplicity Pattern operating division, MAXXAM functioned essentially as an investment company; its assets consisted primarily of securities and real estate. Had this situation continued, MAXXAM, as an investment company, would have been subject to stringent reporting requirements. It was, therefore, very much to MAXXAM's advantage to acquire a manufacturing or resource extraction subsidiary. During 1984 Hurwitz began searching for an operating company that MAXXAM could acquire.

According to testimony and documents submitted by Hurwitz in the course of 1988 hearings before Dingell's Oversight and Investigation Subcommittee of the Committee on Energy and Commerce, Bob Quirk of Drexel, Burnham, Lambert, first brought Pacific Lumber to MAXXAM's attention in or around December of 1984. Quirk, at the request of MAXXAM's Robert Rosen, had prepared a list of forest products companies that were attractive as potential acquisition targets. MAXXAM and Drexel recognized hidden values in Pacific Lumber's 190,000 acres of real property in Humboldt County; the value of the redwood forests, which had not been inventoried by timber crews in more than 30 years, was not accurately reflected in the market price of PL stock. Pacific Lumber's selective harvesting practices had left the company with significant reserves of old growth timber, including significant reserves of old-growth redwood, which distinguished it from other timber companies. Once owned by a liquidator, these trees could be turned into cash, providing impressive profits for a new owner, instead of the more modest income stream generated by the old owners' more conservative harvesting strategies.

Clearly, the focus of the takeover was the land and trees, not the other subsidiaries or assets of PL. All of PL's subsidiaries and assets, including offices, ranch lands, the cutting and welding division and the over-funded pension fund, would be sold for or converted to cash shortly after the merger, to pay down the bank loan portion of the $850 million debt resulting from the takeover.

Only a 100% tender offer would preserve the hidden values in PL for the benefit of MAXXAM once the takeover was completed. For MAXXAM's purposes, it was critical that the value of the forest assets not be revealed to the PL shareholders or telegraphed to the market, since, once recognized, those values would belong to whichever stockholders held PL shares at that time.

The importance of MAXXAM's secretly accumulating the stock and capital required to make a credible 100% tender offer in the planned hostile takeover (in other words, to prepare an offer that PL truly could not refuse) is underscored by the lengths to which Hurwitz and MAXXAM went to keep regulatory agencies and the public in the dark about MAXXAM's interest in PL and accumulation of PL stock. MAXXAM began acquiring PL stock in June of 1985, stopping on August 5, 1985 after accumulation just short of the $15,000,000 worth of shares that would have triggered the notice provisions of the Hart, Scott, Rodino Act (HSR) which requires public notification of stock purchases valued at more than that amount.

On the same day, Ezra Levin's law firm of Kramer, Levin, acting on behalf of MAXXAM, contacted the law firm of Morgan, Lewis, Bockius, who represented the brokerage firm of Jefferies & Co., to discuss a put/call arrangement, which Hurwitz testified his lawyers had indicated was permissible under HSR without making the arrangement or any prior purchases public, even given the size of Hurwitz's prior holdings. While Hurwitz denied that MAXXAM and Jefferies entered into any kind of formal put/call agreement, option arrangement or other contract, the Dingell committee hearings reveal that Jefferies began buying PL stock on August 6 continuing to buy until September 27, 1985 when Jefferies sold 500,000 shares to Hurwitz at more than $4/share less than its value at close of market. Arguably this reflects the same pattern of prohibited stock "parking" that led to the subsequent indictment of the Jefferies firm's principal Boyd Jefferies in connection with stock parking for Boesky and others.

MAXXAM's direct stock purchases stopped just short of acquiring a 5% interest in Pacific Lumber. Had MAXXAM acquired a 5% interest or greater, several consequences would have flowed. First of all, securities laws require the filing of a form 13D with the Securities Exchange Commission (SEC) when an individual, corporation or individuals and corporations acting as a group hold stock exceeding 5% of a single corporation's outstanding shares. Second, the Articles of Incorporation of the Pacific Lumber Company had what is known as a "super majority" clause. If a raider acquired 5% or more of PL's share's without permission of the PL board, then the raider would need an 80% approval vote of the stockholders if the raider wanted to force a merger. Otherwise, only a simple majority was needed.

On September 30, 1985, MAXXAM revealed its intention to buy 100% of PL's shares and force a merger. At that time, taking into account the PL stock acquired from Jefferies along with the 2.2% that MAXXAM acquired before August 6, MAXXAM publicly claimed ownership of only 994,900 PL shares or 4.58% of PL's outstanding stock, 90,837 shares short of 5%. On October 2, 1985, MAXXAM filed a 14D–1 with a Tender Offer price of $38.50 and filed a disclosure pursuant to HSR.

On October 22, 1985, MAXXAM received permission of the PL Board to buy more than 5% of PL's stock. At that time, the PL Board believed that MAXXAM then held less than 5% of the timber company's outstanding shares, and required MAXXAM to secure approval of only 50% of the shareholders to effect the sought after merger. However, at the time MAXXAM was authorized to effect the merger on a simply majority, Ivan Boesky owned a major block of PL stock under circumstances that suggest that he was holding that stock for MAXXAM's benefit, once again potentially demonstrating the lengths to which MAXXAM would go to secretly accumulate stock and capital for a Pacific Lumber takeover.

Boesky began buying PL stock on September 27, 1985. At the time of MAXXAM's Oct. 2 tender offer, Ivan Boesky had purchased a total of 143,400 shares of Pacific Lumber. Public documents show that on October 22, 1985, Boesky was the largest holder of PL stock, with over 5%. Next was MAXXAM, with slightly less than 1 million shares and slightly less than 5%. Boesky's purchases of PL stock became widely known. At critical moments, Boesky's purchases on the open market may have made any alternative to MAXXAM seem unrealistic and perhaps even less desirable.

A suit on behalf of PL's pre-merger shareholders (in which a $50,000,000 settlement is pending), alleges that Boesky purchased that stock at Milken's request for the purposes of secretly buttressing MAXXAM's position prior to MAXXAM's making its takeover plan public. These allegations reflect material in the SEC and US indictments of Milken and Drexel (based in considerable part on information given them by Boesky) suggesting that Boesky was used by Milken and Hurwitz to help MAXXAM secretly gather control of a larger percentage of PL stock and to help keep potential "white knights" out of the PL takeover. The government's case against Milken tells us that, at a minimum, Boesky bought PL shares at Milken's request once the takeover was announced, and that when Boesky sold those shares he gave about half of the profits to Drexel.

How did MAXXAM exploit its position as a controlling shareholder in USAT to takeover Pacific Lumber?

While MAXXAM was able to secure some conventional financing for its takeover effort, MAXXAM could not have raised the $900 million necessary for the 100% tender offer without Drexel's help. Conventional bank financing for the amount required was out of the question, since MAXXAM, even when considered together with Hurwitz and his related companies, had only about $100 million in assets. MAXXAM's history as an organization included a number of poor performances which would have prevented its qualifying for any of the traditional methods of raising large amounts of capital, and, under the circumstances, even the loose regulations of the 80's precluded banks from making commercial loans backed by the kind of collateral MAXXAM could muster. More important, MAXXAM was barred from taking money from its captive S&L, United Savings Association of Texas, even though USAT's assets measured at about $5 billion.

This kind of financing was, however, Milken's specialty; Milken had built a large network of S&Ls, insurance companies, pension funds and corporations dependent on capital infusions provided by Drexel issued junk bonds sold through the market hat Milken and Drexel controlled. This "junk bond network" was the source of billions of dollars for Milken and his friends. The network worked both ways, though. To get huge sums of money for takeovers, the raider had to give something back. In MAXXAM's case there was a large pool of capital that MAXXAM controlled but could not tap directly, i.e. the assets of United Savings Association of Texas.

The complaint in FDIC vs Milken alleged: "Between 1985 and 1988 the Milken group raised about $1.5 billion of financing for Hurwitz takeover ventures. In return, Hurwitz caused USAT to purchase huge amounts of Drexel-underwritten junk bonds. . . .

"The Milken Group placed much of the debt Drexel underwrote for USAT with its network. For example, about $272 million face amount of the $615 million of senior subordinate extendible notes (the "zero coupon notes" underwritten by Drexel to finance Hurwitz's takeover of the Pacific Lumber Company ("Pacific Lumber") in 1986 was purchased by First Executive and various of its subsidiaries, Columbia and GNOC Corporation ("GNOC"), a subsidiary of Golden Nugget, Inc. ("Golden Nugget"). Similarly, the Milken Group placed a significant amount of the senior subordinated extendible notes issued in connection with the Pacific Lumber takeover with S&Ls, including AMCOR, a wholly-owned subsidiary of Lincoln Federal Savings & Loan, Hupter Savings Associations and Pima."

"*In exchange for these entities purchase of the Pacific Lumber financing, the Milken Group and Hurwitz arranged for USAT to purchase other Drexel-underwritten junk bonds* (emphasis added)."

While the Rose Foundation can't possibly know what additional evidence the FDIC has assembled concerning the MAXXAM/Drexel *quid pro quo*, the evidence in the public record is sufficient to convince the Foundation of the truth of the allegation. For the period beginning in spring of 1985, when MAXXAM first began amassing the capital for its Pacific Lumber takeover, and continuing until December of 1988 when MAXXAM lost control of USAT, there is a clearly observable correspondence between the size of USAT's purchases of Drexel high-risk securities and the size of bond issues underwritten by Drexel for MAXXAM and related entities, which were then placed with others in the Drexel network. (Please see accompanying chart).

These reciprocal transactions can be summarized as follows:

In May of 1985, Drexel underwrote and placed a $150 million bond issue for MAXXAM, of 1985 Drexel underwrote and placed a $35 million bond issue for MCOH. The funds generated by these bond issues allowed MAXXAM and MCOH to purchase the shares of PL stock that Jefferies had accumulated. Correspondingly, on July 1, 1985, USAT recorded purchases of Drexel issued high risk bonds valued at $280 million.

In November of 1985, Drexel underwrote a $450 million bond offering for MAXXAM the proceeds of which were used to acquire more Pacific Lumber stock to complete the capital build-up necessary for MAXXAM's tender offer. Then, in June of 1986, Drexel floated another $430 million in "Bridge Notes" for MAXXAM, which allowed MAXXAM to replace the earlier $450 million issuance. On July 1 of 1986, USAT recorded purchases of $688 million worth of Drexel junk bonds, representing the peak of USAT's Drexel bond purchases. Also in July, Drexel underwrote a $575 million bond issue for Pacific Lumber, these "Reset Notes" were used to pay off the Bridge Notes; the rest were used for general corporate purposes, which may have included reducing the bank debt incurred in the takeover.

After 1986, USAT's Drexel securities purchase began to taper off, with only about $321 million worth of such purchases recorded in July of 1987. These purchases probably represent USAT's last purchases in connection with the Pacific Lumber deal.

In 1986, junk bonds represented 97.4% of all corporate securities held by USAT. A very high percentage of these were Drexel issues, which had a higher default rate than that of other junk underwriters. USAT's portfolio was described by Louis Ranieri, who took control of the seized S&L in January of 1989, as "80% bologna." Unquestionably, USAT's junk portfolio played a major role in determining the size of the FDIC's $1.3 billion+ financial contribution to the Ranieri group bailout plan for USAT.

Renowned economists George Akerlof and Paul Romer have developed an economic model which demonstrates, in general, the motivation for Milken and Drexel to conspire with someone such as Hurwitz in orchestrating a plan of the type described here. Among other things, Akerlof and Romer demonstrate convincingly that it was possible for Milken and Drexel to use institutions like USAT to ensure full subscription of particularly risky junk bond issues, deferring the ultimate failure of those issues, in order to maintain their short term sales and profits. [George A. Akerlof & Paul M. Romer, *Looting: The Economic Underworld of Bankruptcy For Profit*, NBER Reprint No. 1869 (1998)]. This model provides expert support, as well as an academic economic analysis, of how it was possible for both Drexel and MAXXAM to make a huge amount of money by looting the federal treasury. The model is also interesting because it suggests that Hurwitz may well have planned and expected all along that USG/USAT would fail and the FDIC be forced to foot the bill.

There are a number of additional sources of information concerning the alleged *quid pro quo* and its impact on USAT's financial condition, which, while not part of the public record, are available to the FDIC, and which, to our knowledge, have been ignored up to this time. These include potential testimony by the former chief bank examiner for the State of Texas who supervised the review of USAT's records, as well as testimony and evidence developed in connection with a lawsuit brought by former shareholders of Pacific Lumber arising out of the alleged improprieties in MAXXAM's takeover.

LEGAL ANALYSIS

Questions Presented

1. Whether, under California and Texas law, MAXXAM, INC. ("MAXXAM") and Charles Hurwitz ("Hurwitz") as controlling persons of United Savings Association of Texas ("USAT"), are subject to liability to the FDIC for breach of fiduciary duty, arising out of "junk bond" financing of the acquisition of Pacific Lumber which conferred substantial benefits on MAXXAM and Hurwitz but rendered USAT insolvent, to the detriment of the FDIC.

2. Whether, as a remedy under California and Texas law, the Courts will impress a constructive trust over Pacific Lumber for the benefit of the FDIC.

Conclusions

1. Under both California and Texas law, MAXXAM and Hurwitz, as controlling persons of USAT, had a fiduciary duty to USAT and its depositors MAXXAM and Hurwitz breached their fiduciary duty to USAT and its depositors by engaging in financing transactions for the acquisition of Pacific Lumber which rendered USAT insolvent, but benefited MAXXAM and Hurwitz. MAXXAM and Hurwitz are liable to the FDIC, which stands in the shoes of USAT and its depositors, and was injured by the wrongful conduct of MAXXAM and Hurwitz.

2. The Courts should impress a constructive trust over Pacific Lumber for the benefit of the FDIC, because MAXXAM and Hurwitz acquired Pacific Lumber with funds misappropriated from USAT, and MAXXAM and Hurwitz were unjustly enriched.

Discussion

1. Controlling shareholders have a fiduciary duty to the corporation and its creditors.

A controlling shareholder or group of shareholders, even if they hold no corporate office, and do not sit on the corporation's Board of Directors, have a fiduciary duty to the corporation and its creditors, not to use unfairly their control of the corporation for their personal benefit to the detriment of the corporation and its creditors. The leading case in California on controlling shareholder liability is Cal. 3d 93, 81 Cal.Rptr. 592 (1969). In Ahmanson, the Supreme Court, in an opinion by Chief Justice Traynor, confirmed existing California law imposing a fiduciary duty on majority shareholders. The Court quoted with approval from the earlier Court of Appeals opinion in Remillard Brick Co. v. Remillard-Dondini, 109 Cal.App. 3d 405, 241 P.2d 66 (1952), which in turn quoted from the U.S. Supreme Court opinion in Pepper v. Litton, 308 U.S. 295., 60 S. Ct. 238;

"* * * 'A director is a fiduciary * * * So is a dominant or controlling stockholder or group of stockholders * * * He who is in such a fiduciary position * * * cannot use his power for personal advantage and to the detriment of stockholders and creditors no matter how absolute in terms that power may be and no matter how meticulous he is to satisfy technical requirements * * * Where there is a violation of these principles, equity will undo the wrong * * *' This is the law of California" 1 Cal. 3d at 108, 109, 81 Cal.Rptr. at 599,600.

In Ahmanson, the Defendants controlled 85% of a closely held savings and loan association, of which Plaintiff was minority shareholder. In order to create a public market for their own stock, the Defendants formed a public company, and contributed their controlling interest in the savings and loan to the public company, thereby freezing out the minority. Plaintiff initiated a class action lawsuit, which was dismissed by the Trial Court based on then-existing law which required a derivative action, and prohibited a direct action, whenever a minority shareholder's grievance was common to all minority shareholders. In reversing the Trial Court, the Supreme Court established a new, direct right of action against majority shareholders, and also took the opportunity to address other issues of the case, including liberalizing the class action certification rules, and a full discussion of the fiduciary duties of majority shareholders.

In fact, Ahmanson was so celebrated for establishing direct actions by minority shareholders, along with liberalizing class action rules, that it is a common, but mistaken belief that California affords better rights and remedies to minority shareholders than to creditors. Actually, the fiduciary duty of controlling shareholders to creditors was well established at the time of Ahmanson, and creditors were never hobbled with a need for a derivative action, but had a direct right of action. The language quoted above from the Ahmanson decision, quoting Remillard, quoting Pepper, shows that all three courts specifically contemplated creditors. See also, Commons v. Schine, 35 Cal.App. 3d 141, 110 Cal.Rptr. 606 (1973) discussed below.

The celebrated procedural innovations of Ahmanson mask the fact that the Ahmanson court also expanded the substantive fiduciary obligations of controlling shareholders. Prior law enforced fiduciary obligations vis-a-vis corporate assets and corporate opportunities, but there was laissez faire attitude with respect to a shareholder dealing strictly in his stock. In the case of a sale of controlling interest for a substantial premium above the per-share market value of minority shares, the excess was considered to be payment for control as such, which was deemed to be an asset of the operation rather than the shareholder. Thus, a fiduciary duty existed with respect to such respect to such control premiums. Otherwise, a majority shareholder's dealings with his shares did not entail fiduciary obligations to minority shareholders.

The Ahmanson Defendants did not receive any control premium, and argued that the lack of public market for the minority savings and loan shares was unaffected by Defendants' conduct. The Court held, however, that the majority shareholders have a fiduciary obligation not to benefit themselves unfairly by virtue of their controlling position, and to share those benefits with the corporation, its minority shareholders, and its creditors.

Texas law imposes a virtually identical obligation upon a controlling shareholder a duty to deal fairly with corporation, its other shareholders and its creditors. This duty is broader than the trust fund doctrine. This broad duty results from the controlling shareholder's inside knowledge of the corporation's affairs and the opportunity such a controlling insider has to manipulate the corporation's affairs for his personal advantage. Tigrett v. Pointer, 5 80 S.W. 2d 3 (Tex.Civ.App.—1978. writ ref'd n.r.e.).

Hurwitz and other common members to the MAXXAM and UFG boards stood in an especially demanding position. Transactions between board of directors of corporations having common members will be guarded as jealously by the law as are personal dealings between director and his corporation. In other words, each director and officer of UPG and MAXXAM must put the interests of the corporation whose hat they wore at the time, ahead of the other corporation, to which they also owned a duty of loyalty. Further, the burden of proving the fairness of the transactions is on the interested directors. Where the fairness of such transactions is challenged, the burden is upon those who would maintain them to show their *entire* fairness and where sale is involved, full adequacy of consideration. Crook v. Williams Drug Co., 558 SW 2d 500 (Tex. Civ. App.—1977, writ ref'd n.r.e.). For example, enforcement of contracts between corporations having common membership on their boards of directors is not favored. Reynold-Southwestern Corp. v. Dresser Industries, Inc. 438 SW 2d 135 (Tex. Civ. App.—1969, no writ). [See also Gaither v. Moody, 528 S.W. 2d 875 (Tex. Civ. App. 1975. writ ref'd n.r.e.) holding that at the time of the merger of one corporation with another, a director and major shareholder of a corporation stood in a fiduciary relationship to *both* corporations.] To the extent the common directors and officers had divided loyalties, and failed to disclose material information relating to the purchase of junk securities, such officers and directors violated their duty to the purchasing corporation (UFG/USAT). The fiduciary obligations of the managers, directors and officers of USAT should be viewed as running toward the shareholders of UFT and the depositors. See, In Re Weslec, 434 F. 2d 195 (5th Cir. 1970).

As a controlling shareholder of UFG/USAT, Hurwitz had a duty to deal fairly with UFG/USAT, its depositors and its other shareholders. Hurwitz' failure, or more likely, intentional refusal, to disclose the terms of the agreement with Milken and Drexel violated this duty. It is a classic example of conflict of interest and misuse of inside information: Hurwitz used his insider's knowledge of UFG's affairs to manipulate UFG/USAT into purchasing Drexel junk bonds to the benefit of Hurwitz and MAXXAM.

It is axiomatic that Hurwitz, as an officer, director, and controlling owner owed a typical fiduciary duty to UFG and USAT. Fagan v. La Gloria Oil and Gas Co., 494 S.W.2d 624 (Tex. Civ. App.—1973, no writ); Dowdle v. Tex. Am. Oil Corp., 503 S.W.2d 647 (Tex. Civ. App.—1973, no writ). this duty requires the officer and director to place the interests of the corporation ahead of their own. The power of Hurwitz' office was required to be exercised solely for the benefit of the corporation, i.e. UFG/USAT, *not* MAXXAM, MCO Holdings, or Hurwitz. Canion Texas Cycle Supply, Inc., 537 S.W. 2d 510 (Tex. Civ. App. 1976, no writ). (Directors of corporation owed to it a duty of loyalty and were bound to in any business which might result in personal benefit to a director or officer, or which might result in a benefit to any other corporation (e.g., MAXXAM) in which they had a personal interest the officers and directors must demonstrate the highest good faith). See Reynolds Southwestern Corp., supra.

Texas not only recognizes this fiduciary duty, but charges the insider to make certain that the economic rewards flowing from corporate opportunities inure to *all* owners of the enterprise. That obligation is even stronger in the case of a bank, both because of the fiduciary nature of banking *and* because of the duty to depositors. First Nat. Bank of La Marque v. Smith, 436 F. Supp. 824 (d. Tex. 1977), aff'd in part, vacated in part, 610 F.2d 1258 (5th Cir.). A corporate fiduciary may not derive a personal benefit in dealing with corporation's fund or its property. Texas Soc. v. Fort Bend Chapter, 590 S.W.2d 156 (Tex. Civ. App.—1979, writ ref'd n.r.e.).

But despite his duties to UFG/USAT (which, it appears, he ignored), Hurwitz, acting on behalf of MAXXAM, was able to leverage UFG/USAT assets into financing MAXXAM's takeover of Pacific Lumber by means of an all cash tender offer. Absent Drexel's junk bond financing of the tender offer, MAXXAM did not have the money to make such an offer. Absent Hurwitz' commitment agreement to cause UFG/USAT to purchase billions of dollars of Drexel junk bonds, Drexel would not have financed the tender offer. Absent UFG/USAT's purchase of billions of dollars of Drexel junk bonds, there could not have been a Pacific Lumber tender offer.

Had there been full disclosure of all material facts surrounding Hurwitz's involvement with Milken and Drexel to the disinterested UFG/USAT directors, including disclosure of the agreement to purchase junk securities in exchange for later financing, would UFG/USAT have purchased billions of Drexel junk? It is highly uhlikely that the disinterested directors, cognizant of their own obligations to UFG/USAT, would have approved the transaction under those circumstances.

The purchases of billions of Drexel junk securities had a direct, and dire, impact on the USAT's financial health. While the precise extent of that impact can only be determined by testimony of those who conducted the critical reviews of the saving's and loan's portfolio and records, it is clear from Akerlof & Romer's review of the literature on the failure rates of Drexel securities, that in the absence of those investments the bailout of USAT been substantially smaller, if it were even necessary at all.

Hurwitz and MAXXAM did not make certain the economic rewards (such as they were) resulting from the prohibited transaction with Milken and Drexel flowed to all owners of UFG and its subsidiary, USAT. To the contrary, Hurwitz engineered the transactions to ensure the benefits flowed to MAXXAM, not UFG, USAT and their depositors and shareholders. To the extent that UFG and USAT's depositors and shareholders took the risk of the sub silentio deal with Drexel, those depositors and shareholders should also have received the rewards.

By causing USAT to invest in the poor quality Drexel-underwritten securities, which destroyed USAT and damaged the FDIC to the tune of $1.3 billion, MAXXAM and Hurwitz breached their fiduciary duty to USAT and its depositors.

2. It is immaterial whether the controlling interest is directly owned, or is indirectly held through affiliated persons or entities.

In Commons v. Schine, 35 Cal. App. 3d 141, 110 Cal.Rptr, 606 (1973), the Defendant controlled a corporation, which in turn controlled a second corporation, which in turn was the general partner of a real estate limited partnership. When the limited partnership got into financial difficulty, the Defendant caused it to liquidate substantial assets and to pay in full a debt to Defendant, which rendered the partnership insolvent, unable to pay its other creditors. Plaintiff, the Bankruptcy Trustee acting for the other creditors, brought the action in state court to recover the payment from Defendant on a theory of breach of fiduciary duty. Notwithstanding that the debt was legitimate, that it was due and payable, and that California law expressly authorizes preferential payments (Civil Code §3432), the Court held the Defendant liable for the entire amount of the payment on a theory of unjust enrichment. The Court was not deterred at all by the Defendant's indirect ownership, but grounded its decision on the fact of control. The Court stated:

"One who dominates and controls an insolvent corporation may not . . . use his power to secure for himself an advantage over other creditors of the corporation. [Citing Pepper v. Litton, supra, and other cases.] The corporate controller-dominator is treated in the same manner as director . . . and thus occupies a fiduciary relationship to its creditors. [Citations] As a guilty fiduciary, he is liable in quasi contract to the extent that he has unjustly enriched himself of his breach [citations]." 35 Cal.App. 3d at 144, 110 Cal. Rptr. at 608

The fact of domination and control of USAT by Hurwitz and MAXXAM would appear to be provable, and has been already alleged by the FDIC in action referred to in the statement of facts. The fiduciary duty of Hurwitz and MAXXAM to USAT and its creditors would not be blunted by the indirect nature of their control through affiliates and subsidiaries.

3. Both Texas and California Courts have repeatedly impressed constructive trusts over the ill-gotten assets acquired by a fiduciary in breach of his fiduciary duties.

A typical statment of the rule occurs in Mazzera v. Wolf, 30 Cal. 2d 531, 183 P.2d 649 (1947): "A constructive trust may be imposed when a party acquires properties to which is not justly entitled, by actual fraud, mistake or violation of a fiduciary or confidential relationship."

The Ninth Circuit Court of Appeals has held that the essence of the constructive trust theory is to prevent unjust enrichment and to prevent a person from taking advantage of his own wrongdoing, and that a constructive trust may be imposed in practically any case where there is a wrongful acquisition or detention of property to which another is entitled. United States v. Pegg, 782 F.2d 1498 (1986, 9th Cir).

Imposition of a constructive trust is a typical remedy for breach of fiduciary duty in Texas as well, and has often been applied in the context of breaches of duty by corporate officers and directors. Therefore, assuming, arguendo, that Hurwitz, acting on behalf of MAXXAM, breached both his and MAXXAM's fudiciary duties by self-dealing and failing to disclose all material information to the officers, directors, and shareholders of UFG, a constructive trust can and should be imposed upon their assets concerned, including, but not limited to, the stock of Pacific Lumber.

The equitable remedy of imposition of constructive trust may be awarded for breach of the higher standards of conduct demanded in a fiduciary relationship. Chien v. Chen, 759 S.W.2d 484 (Tex.App.—Austin 1988); Republic of Haiti v. Crown Charters, 667 F.Supp. 839 (imposition of constructive trust is appropriate remedy for breach of fiduciary duty). For example, a constructive trust was imposed on alleged ill gotten profits realized by ERISA fiduciary as a result of fiduciary's alleged breach of duty of loyalty, even though plan participants and beneficiaries had already received actuarily vested plan benefits. Amalgamated Clothing & Textile Workers Union v. Murdock, 861 F.2d 1 Cir. 1988).

A fiduciary is liable to turn over to the principal any money or property received as a result of the breach of his duty of trust. US v. Goodrich, 687 F.Supp. 567 (MD Fla. 1988) affirmed 871 F.2d 1011 (11th Cir.). Constructive trusts are frequently imposed where the breach of fiduciary duty is committed by a corporate fiduciary, such as a director. Bates v. Cekada, 130 FRD 52 (ED Va. 1990). A corporate fiduciary will not be allowed to retain proceeds arising from a violation of his fiduciary duty. Poe v. Hutchins, 737 SW 2d 574 (Tex.App.—Dallas 1967, writ ref'd n.r.e.).

The general rule of corporate opportunity demands that if an officer or director in violation of his duty acquires gain or advantage for himself, interest so acquired is charged with trust for the benefit of the corporation, In Re American Motor Club, 109 BR 595 (Bankruptcy ED NY 1990). The officers of a closely held corporation, to which the corporation systematically diverted its assets without documents of title or other formalities, failed to demonstrate good faith in their dealings with corporation. The result under Tennessee law was to hold any proceeds from sale of transferred assets in constructive trust for corporation and its creditors. In Re B&L Laboratories, 62 BR 494 (Bankruptcy MD Tenn 1986). Delaware law is similar.

If a corporate officer of director violates his duty to the corporation and acquires gain or advantage for himself, the law charges the interest so acquired with a trust of the benefit of the corporation while denying to the betrayer all benefit and profit. Phoenix Airlines Services v. Metro Airlines, 390 SE 2d 919, 194 (Ga.App. 120, rev'd 397 SE2d 699, 260 Ga 384, on remand 403 SE2d 832, 199 Ga.App. 92 (1989).

MAXXAM and Hurwitz diverted USAT's assets into the Milken system, and benefited from their wrongful conduct by obtaining 100% financing for the takeover of Pacific Lumber. MAXXAM and Hurwitz were unjustly enriched by their wrongful conduct. There is substantial authority, in both California and Texas for imposing a constructive trust over Pacific Lumber for the benefit of the FDIC, as successor to USAT.

4. Given the propriety of imposing a constructive trust over Pacific Lumber for the benefit of the FDIC, injunctive relief is appropriate to protect the res during litigation.

When the FDIC succeeds in litigating its claims against MAXXAM and Hurwitz for breach of fiduciary duty, it will acquire, through constructive trust, equitable rights over Pacific Lumber's assets. In addition to recovering millions of dollars worth of properties for the American taxpayers, it will acquire the Headwaters Forest with its very unique environmental values and issues.

As mentioned above, substantial tracts of old growth are being cut down right now. While cutting was halted over the summer, during the nesting season of the endangered marbled murrelet, that nesting season ended September 15 and Pacific Lumber has resumed cutting at a drastic rate. By winter, many very large and very old trees will be gone and a good deal of old growth habitat and/or buffer will be destroyed.

Where, as here, such dire, irreversible environmental consequences are at issue, especially consequences that impact an endangered species, emergency injunctive relief is particularly appropriate.

Generally, under Federal law, as articulated in the 9th Circuit, injunctive relief should be granted if the moving party can meet one of two tests:

First if:

(1) The moving party will suffer irreperable injury if the injunctive relief is not granted;

(2) The moving party will probably prevail on the merits;

(3) In balancing the equitics, the non-moving party will not be harmed more than the moving party is helped by the injunction; and

(4) Granting the injunction is in the public interest.

Landi v. Phelps, 740 F.2d 710, 712 (9th Cir. 1984), citing William Inglis & Sons Baking Co v. ITT Continental Baking Co., 526 F2d 86, 87 (9th Cir. 1975); or, second, by demonstrating: "either a combination of probable success on the merits and the possibility of irreparable injury *or* that serious questions (on the merits) are raised and the balance of hardships tips sharply in his favor;" (emphasis in the original)

The Ninth Circuit has stated that the tests are not separate, but "represent two points on a sliding scale in which the required degree of irreparable harm increases as the probability of success decreases." Oakland Tribune v. Chronic Publishing, 762 F. 2d 1374, 1376 (9th Circ. 1985). Under this formulation, the Supreme Court requires that the public interest be considered where the public may be affected. Weinberger v. Romero-Barcelo, 456 U.S. 305, 312; 102 S. Cit. 1798, 1803 (1982); American Motorcyclist v. Watt, 714 F.2d 962, 967 (9th Cir. 1983).

Environmental impacts, and especially impacts involving an endangered species are considered especially important and carry a presumption of irreparability. Save the Yaak Comm. v. Black, 840 F. 2d. 962, 967 (9th Cir. 1988) (presumption of irreparable harm in environmental action alleging NEPA violation); Sierra Club v. Marsh, 816 F. 2d. 1376, 1382–84 (9th Cir. 1987) (presumption of irreparable harm in endangered species action). Indeed, the weight given environmental consequences is so significant and the public interest in environmental protection so strong that courts have held that plaintiffs need only establish either a "*fair* chance of success on the merits" or "the raising of questions serious enough to require litigation." Marbled Murrelet v. Babbitt, Case No. C 93 1400–FDMS (unpublished decision) (N.D. CA 1994) p. 6–7 (emphasis in the original). (Text of decision follows under separate cover.)

Applying this standard, let us review the facts we have outlined above. Based solely on information in the public record, it is clear that there are questions raised which are serious enough to require litigation. These questions, including the allegation of a prohibited quid pro quo in which Milken and Drexel conspired to exploit the purchasing ability of USAT to prop up Drexel issues, in return for Drexel securing financing for MAXXAM's acquisition of Pacific Lumber, have been raised in FDIC v. Milken, and related issues were raised in both SEC v. Milken and US v. Milken.

While those cases settled before the strength of the evidence supporting these allegations could be evaluated in court, there is sufficient evidence in the public record to demonstrate that the FDIC has, a the very least, a "*fair* chance" of proving that Hurwitz, acting on behalf of MAXXAM, breached that company's fiduciary duties as a controlling shareholder of UFG/USAT, causing MAXXAM to acquire Pacific Lumber as a direct result of those breaches, and that, therefore, imposition of a constructive trust on the proceeds of that transaction is appropriate and that, therefore, ultimately a petition for the disgorgement of Pacific Lumber has, again at the very least a "*fair* chance of success." This evidence includes records of USAT's purchases of Drexel junk bonds equivalent in value to contemporaneous Drexel issues of MAXXAM debt instruments used to finance MAXXAM's Pacific Lumber takeover; it also included Akerlof and Romer's expert analysis of the economic factors that permitted institutions such as USAT to be used (and demonstrate the likelihood that they were used) by Milken to ensure that risky Drexel issues were fully subscribed.

We are also convinced that the FDIC has access to evidence that further documents the alleged breaches of fiduciary duty and their critical role in the PL acquisition, which, when presented to the court will make the probability of the FDIC's ultimate success in this matter even more apparent. Among this evidence is evidence assembled in connection with FDIC v. Milken, SEC v. Milken and US v. Milken. We are also convinced that by exercising its powers of discovery and powers of subpoena, the FDIC can, with diligent effort further develop the evidence required to make success in the matter close to certain.

CONCLUSION

The Rose Foundation believes it has established that a very strong case exists for the claim that the FDIC has equitable rights to the assets of Pacific Lumber. If immediate action is not taken to protect these rights, the taxpayers will lose a potential recovery of some of the 1.3 billion dollar expenditure required to bail out UPG/USAT. Additionally, the FDIC will allow the loss of the last unprotected area of old growth redwood forest in the world, an old growth forest that, as the Rose Foundation has pointed out, is the rightful property of the American people.

The Rose Foundation and its counsel have access only to publicly available information on the conduct of USAT's affairs, and limited resources with which to acquire and analyze that information. As we understand it, the FDIC, on the other hand, has powers of discovery and powers of subpoena, and has access to the resources of one of the nation's largest and best respected law firms, with inhouse multi-state legal research facilities. We are convinced that if we can make a good case for the FDIC's, and the U.S. taxpayers', equitable rights in these extraordinary properties, the FDIC can make an even better case. We are interested in discussing how we can work cooperatively to make sure that the best possible case is made, and made quickly, for recovery of these important assets.

There are, as noted above, a number of sources of information concerning MAXXAM's conduct as a controlling shareholder of UPG/USAT, the alleged MAXXAM/Drexel quid pro quo, and its impact on USAT's financial condition, which we believe are available to the FDIC, which, to our knowledge, have been ignored up to this time. While the statute of limitations had been tolled by agreement in this matter, time still tends to erode evidence. Memories are fading; witnesses may become unavailable; records are being lost. We believe that continued unexplained failure to pursue these potential sources of evidence would indicate a true unwillingness on the part of the FDIC to seriously pursue this matter.

First, if the FDIC is to make a case for any claims arising out of USAT's failure, it seems appropriate to immediately subpoena Mr. Art Leiser, the retired chief banking examiner for the Texas State Banking Commission who reviewed and supervised the review of USAT's records during the period from 1982 to 1988. Mr. Leiser is now more than seventy years old, so time is truly of the essence. It also seems appropriate to subpoena all documents and records controlled by Mr. Leiser or the Texas State Banking Commission records that relate to the conduct of USAT's investments and other business during that time, both so that Mr. Leiser can refresh his recollection and so that Mr. Leiser can testify concerning the significance of those documents and records. Because of confidentiality constraints, Mr. Leiser's testimony requires a letter of authorization from Mr. James Pledger, who is the current Texas Savings and Loan Commissioner. Such a letter would almost certainly be issued upon receipt of a subpoena. It is our understanding that despite repeated encouragement to do so, the FDIC has failed to contact Mr. Leiser.

Second, it would seem that the FDIC should immediately subpoena the deposition transcripts and files of Mr. Bill Bertain, an attorney in Eureka, California, who testified before the Dingell Committee on the Pacific Lumber and who is currently representing a group of former shareholders of Pacific Lumber in their case against MAXXAM arising out of alleged improprieties in the takeover. It is our understanding that the MAXXAM/Drexel quid pro quo became a central issue in that case as the case moved toward the currently pending $50,000,000 settlement. Moreover, it our understanding that although both staff attorneys and outside counsel for the FDIC are aware that there is significant overlap between the issues raised in that case and those presented by the claims arising out of the failure of USAT, the FDIC has not made any attempt to subpoena the deposition transcripts or other potential evidence accumulated in connection with that case.

Third, if the FDIC has not already done so, it would seem that the FDIC should immediately depose Charles Hurwitz, Barry Munitz, George Kozmetsky, Ezra Levin, Ron Heubsch and other key officers, directors and employees of USAT, UTG, MAXXAM, MCOH and Federated Development Company. Among other things, these depositions should be directed toward uncovering strategies employed to obscure MAXXAM and Hurwitz' control of UPG/USAT, and toward developing evidence of the MAXXAM/Drexel quid pro quo.

At the same time that it is pursuing all possible avenues for developing additional evidence, it is vital that the FDIC act as speedily as possible to file an action for breach of fiduciary duty against the MAXXAM corporation, seeking imposition of a constructive trust and disgorgement of Pacific Lumber and moving immediately for interim protection of these extraordinary forest assets, which are in truly imminent danger of irreparable harm as a result of PL's recent, continuing logging onslaught. In this instance, failure to act in a timely fashion could preclude recovery of a national asset of extraordinary and incalculable value.

Record 14

Hopkins & Sutter,
June 29, 1995.

Jeffrey Ross Williams,
Federal Deposit Insurance Corporation, Washington, DC.

Dear Jeff: Enclosed is the May missive from the Rose Foundation and an "Addendum" to the written disclosure statement. In reviewing my *qui tam* materials, I was not sure if you had received this or not. There is not much new here, although the legal argument is somewhat more developed.

Best regards,

F. Thomas Hecht.

Boyd, Huffman, & Williams,
San Francisco, CA, *May 19, 1995.*

Joann Swanson,
Assistant U.S. Attorney, San Francisco, CA.
Stephen J. Segreto,
U.S. Department of Justice, Washington, DC.

Re: United States of America, *ex rel.*, Robert Martel v. Hurwitz, et al. Case No. C95 0322 VRW.

Dear Joann and Stephen, It has been some time since we have discussed this case and I am anxious to hear how the government's investigation of the legal claims is going. As I have told you before, we have a team of lawyers that have been spending considerable time analyzing the potential causes of action and designing a structure for a qui tam false claims case. When I last spoke with Mr. Segreto, he asked what is the false claim that was made. I responded that there were numerous false claims made regarding net worth. The question then becomes, given that false claims were made regarding net worth, did these false claims result in a payment by the government?

In the case of United States v. McNinch, 356 U.S. 595 (1958), a case involving federally guaranteed loans, the Court held that the mere submission of a false application to a credit institution, which in turn procured FHA insurance of the loan, did not constitute a false claim against the government. The Court stated, "the conception of a claim against the government normally connotes a demand for money or for some transfer of property." However, in footnote 6, the Court expressly left open the question whether the result would be different if there were a default on the loan and a demand upon the government as guarantor. The accompanying legal memo discusses the cases subsequent to McNinch where, as in the case at hand, the government did pay out money as a result of the false claims that were made to obtain or maintain government loan guarantees.

The facts of the Hurwitz case are somewhat unique in that there was no direct demand made for payment under the federal loan guarantee program. Rather, the government, upon inspection of USAT, discovered that there was a "hole" in USAT that was a result of the depletion of assets of USAT. Given the size of the hole, the government was left with two choices: one, the government could let USAT go into default and then pay the depositors' claims upon federal guarantees, or two, the government could put money into USAT to fill the hole sufficiently to convince a third party to purchase USAT.

As you know the latter course was taken and the government sold USAT out of receivership to Ranieri. As part of the deal with Ranieri, on or about December 30, 1088, and continuing thereafter, the government paid substantial amounts into USAT. We conclude from the authorities discussed in our legal memo that this pay out, combined with the false statements regarding net worth and the quid pro quo conspiracy, is sufficient to satisfy the claim requirement as described in McNinch, Neifert-White and their progeny. The government should not overlook the use of 31 U.S.C. §3729(3) in this case. There was a conspiracy by Hurwitz and others to make false claims regarding net worth so the government would not catch on while they traded out the assets of the institutions they controlled to one another.

In consideration of the applicable law and the factual circumstances of this case, we hope that upon review of the legal memo the government will be even more inclined to join in this qui tam suit. We look forward to hearing your thoughts on these legal issues.

You will also see enclosed herewith a supplement to the disclosure statement submitted previously. We are providing further details to the original statement with respect to the investigative activities of the relator, in particular his contact to Mr. Art Leiser and the valuable information that Mr. Leiser has. I have spoken with Mr. Leiser and believe that the "107 forms" that he and others in his bank examiners' office required to be prepared by USAT show that numerous written false claims were made by Hurwitz and his representatives with respect to USAT's net worth. In my first conversations with Mr. Leiser, he told me that no government officers from the FDIC or any other governmental organization has spoken with him regarding his knowledge of the false claims made with respect to net worth (even after we had submitted the memo from The Rose Foundation which included information from Mr. Martel regarding Mr. Leiser). Later, and more recently, when I spoke to Mr. Leiser, he said that he had been contacted but that the contact was only cursory and that his deposition has never been taken, nor had he been asked to review important documents that were prepared at his direction regarding the net worth of USAT. Hopefully your office is using its investigatory powers under the qui tam stature to contact Mr. Leiser and memorialize through a deposition or other statement the information that he has to offer. Mr. Leiser is an elderly man and his valuable testimony should be secured.

I look forward to talking with the two of you about the government's ongoing consideration of this qui tam suit. As I have said before, and these memos substantiate, we intend to cooperate fully with the government and hope that you will tell us if there is any way that we may be of further assistance.

Sincerely,

J. KIRK BOYD.

BOYD, HUFFMAN & WILLIAMS,
ATTORNEYS AT LAW

Memorandum

To: Joann Swanson, Stephen Segreto.
From: J. Kirk Boyd.
Date: May 19, 1995.
Re: United States of America, *ex rel.*, Robert Martel v. Charles Hurwitz, et al. U.S. District Court, Northern District of California, Case No. C 95-0322 VRW.

The purpose of this memo is to address the question of what false claims were made by the defendants and whether the false claims made are actionable under the False Claims Act. Based upon the analysis below, false claims were made and the payment of government funds for the bailout of the depleted USAT makes these claims actionable under the False Claims Act.

FACTS

Through MAXXAM Inc., Hurwitz, MAXXAM's controlling shareholder, President, CEO, and Chairman of the Board, was also the controlling shareholder of USAT in the 1980s. MAXXAM was formed from mergers of various Hurwitz-controlled corporations in the early 1980s. As outlined in our complaint, Hurwitz controlled USAT (with the help of Drexel) and his claims to the contrary can be easily disproved.

In December 1984, Drexel Burnham Lambert, Michael Milken's firm, brought Pacific Lumber to Hurwitz's attention as a possible takeover target. Hurwitz decided that he wanted to acquire Pacific Lumber since the value of its redwood forests had not been inventoried in more than thirty years and it was significantly undervalued on the market. However, MAXXAM's assets and borrowing potential alone were not enough for Hurwitz to raise the $900 million necessary for a 100% tender offer. Although MAXXAM's captive Savings & Loan, USAT, had assets worth $5 billion, Hurwitz was barred from taking that money directly. He learned this lesson when he tried to use USAT funds directly to take over Castle & Cook but was enjoined by a court in Hawaii.

To avoid the restrictions on his use of federally insured USAT funds for takeover purposes, Hurwitz joined Milken's "junk bond network" in order to indirectly tap USAT's assets. This network was comprised of S&Ls, insurance companies, pension funds and corporations that were dependent on capital infusions provided by Drexel-issued junk bonds, and was the source of billions of dollars for Milken and his friends. In order to use this source of cash, Hurwitz had to ante-up by buying junk bonds from Drexel. To do this, he used the large pool of capital, the assets of USAT, that he could not directly tap.

In order to keep a stream of money to others members of the conspiracy who, in turn, would cause money to flow to him, Hurwitz caused USAT to engage in numerous dubious practices to boost its short term profits. He caused USAT to stop making residential real estate loans, sold 71% of the branch offices, inflated deposits by purchasing "hot money" deposits (deposits originated by other institutions at unreasonably high interest rates), and sold brokered certificates of deposit at unreasonably high interest rates. In short, Hurwitz stopped operating USAT as a home mortgage lender and began a trade off of its assets for his personal benefit.

With the money that he raised by selling off assets and increasing liabilities from 1985 to 1987, Hurwitz used USAT to purchase over $1.28 billion junk bonds from Drexel. In return, during the same years, Drexel underwrote about $2.2 billion of junk notes, bonds, and debentures to finance corporate acquisitions, such as the takeover of Pacific Lumber, by MAXXAM. The timing of these actions was not a coincidence—they constituted an explicit and illegal deal, a quid pro quo, which had the purpose and effect of transferring USAT's assets to MAXXAM and leaving the FDIC and the U.S. taxpayers holding the empty bag of the looted S&L.

Knowing that USAT was federally insured, and wanting to continue to drain its assets without being put into receivership, Hurwitz misrepresented the net worth of USAT. Furthermore, to hide the effects of these fraudulent investments on USAT, Hurwitz accelerated paper gains and hid losses through unacceptable accounting devices, such as not "marking to market" securities which had lost market value, but instead carrying them to cost. Ultimately, Hurwitz was able to shuffle enough USAT money into his pockets to buy Pacific Lumber.

FALSE CLAIMS ACT

In *United States v. Neifert-White*, 390 U.S. 228 (1967) the Court affirmed the broad Congressional purpose of the Act, holding that the False Claims Act is a far-reaching remedial statute extending to "all fraudulent attempts to cause the government to pay out sums of money." 390 U.S. at 233. In that case, the Supreme Court held that supplying false information in support of a loan application to a federal agency constituted a "claim" within the meaning of the Act. Even though the loan application was not a direct claim for payment of an obligation owed by the government, it nevertheless was "an action which has the effect of inducing the government to part with money." 390 U.S. at 232. In construing the Act, the Court noted "[d]ebates at the time suggest that the Act was intended to reach all types of fraud, without qualification, that might result in financial loss to the Government. . . . the Court has consistently refused to accept a rigid, restrictive reading, even at the time when the statute imposed criminal sanctions as well as civil." *Id.* at 232. Similarly, in this case, Hurwitz's fraud did not consist of a direct claim, but his actions nevertheless "had the effect of inducing the government to part with money."

Moreover, the Supreme Court held in *United State ex rel. Marcus v. Hess*, 317 U.S. 537 (1943), that defendants can cause a false claim for payment to be presented to the government by their conduct. In *Hess*, contractors who, through collusive bidding, obtained contracts with municipalities to work on federal Public Works Administration projects, were held liable under the Act because, though paid directly by the municipalities, the project was funded largely by federal government. The Court held that the provisions of the statute, considered together, indicate a purpose to reach any person who knowingly assisted in causing the government to pay claims which were grounded in fraud, without regard to whether that person had direct contractual relations with the government. 317 U.S. at 544–45. Like the defendants in *Hess*, the taint of Hurwitz's misrepresentation of net worth and illegal quid pro quo scheme entered into every depositor's potential claim which was the cause for payment into USAT by the FDIC.

The Supreme Court reaffirmed the *Hess* interpretation of the Act in *United States v. Bornstein*, 423 U.S. 303 (1976). The Court held that the False Claims Act gives the government a cause of action against a subcontractor who "causes" a prime contractor to submit false claims. The fraud need not have been perpetrated through a direct contract with the government, and the party held liable need not have been the party who submitted the claim to the government.

The theory of liability under the Act in the case at hand is similar to that successfully argued in *United States v. Teeven*, 862 F. Supp. 1200 (D. De. 1992). In *Teeven*, the government brought an action under the False Claims Act against Teeven as Chairman of the Board of the USA Training school. The court agreed with the government's argument that "by virtue of the Act's construction . . ., it is sufficient for liability to attach that Robert L. Teeven knowingly caused to be presented to the Department of Education false and inflated default claims based on a policy of deliberately failing to pay student refunds." 862 F. Supp. at 1221, n.32. Specifically, the government contended that the defendant knew "that if a student defaulted on his loan and had not been paid a refund that was due, the necessary and foreseeable result would be that the outstanding loan balance for the student would be too high and thus the default claim submitted to the Department of Education would be too high." *Id.* In this case, Hurwitz knew that by mistaking USAT's net worth there was a "hole" developing in USAT—a hole that would later have to be filled with taxpayers' money—which it was. He also knew that the junk bonds purchased with USAT funds would be worthless or would stop significantly in value and the *foreseeable result* would be USAT's collapse and the depositors' submission of claims to the FDIC.

The *Teeven* court held that Teeven's alleged knowledge and direction of the refund policy was sufficient to make out a claim under the False Claims Act. In so holding, the court rejected the defendant's argument that even if the failure to pay refunds was found to be attributable to him, as a matter of law, it still would not constitute the knowing submission of a false claim. The court wrote: "Neither the text of the statute nor case law interpreting it, mandate that a Defendant is only liable when he/she has made or caused to be made false statements in connection with a false claim." 862 F.Supp. at 1222.

Indeed, 31 U.S.C. §3729(c) defines a "claim" including any request or demand for money or other things of value, whether or not under contract, so long as any portion of the money or property requested will either be provided or reimbursed by the United States.[3] According to Congress, the Act is meant to reach any fraudulent attempt to cause the government to pay out money, even if the claim is made against a party other than the government, if the payment of the claim would ultimately result in a loss to the United States S.Rep. No. 345, 99th Cong. 2d. Sess. 10 (1986), reprinted in 1986 U.S. CODE CONG. & ADMIN. NEWS 5266, 5275.

The defendants may argue that based upon the holding in *United States* v. *McNinch*, 356 U.S. 595 (1958), there is no false claims because the government never paid on a claim made against the deposit guarantee. Rather, the government infused capital into USAT so that there would be sufficient capital and claims would not be made.

In *United States* v. *NcNinch*, 356 U.S. 595 (1958), a case involving federally guaranteed loans, the Court held that the mere submission of a false application to a credit institution, which in turn procured FHA insurance of the loan, did not constitute a false claim against the government. In that case, the FHA merely agreed to insure a home improvement loan, and it did not actually disburse any funds. The Court stated: "The conception of a claim against the government normally connotes a demand for money or for some transfer of public property." *Id.* at 599. Although the Court held that a lending institution's application for credit insurance under the FHA program was not a "claim," the Court expressly left open the question whether the result would be different if there had been a default on the loan and a demand upon the government as guarantor:

Since there has been no default here, we need express no view as to whether a lending institution's demand for reimbursement on a defaulted loan originally procured by a fraudulent application would be a "claim" covered by the False Claims Act. *Id.* at 599 n.6.

Shortly after the *McNinch* decision, the Court of Appeals for the Third Circuit specifically addressed this question in *United States* v. *Veneziale*, 268 F.2d 504 (3d Cir. 1959), where the government, having guaranteed a loan based on a fraudulent application, was required to pay under its guaranty. The court recognized it was resolving the question left open in *McNinch*.

In the *McNinch* opinion the Supreme Court expressly left open the question whether the additional facts of default on the loan and demand upon the government as guarantor would make a case under the False Claims Act. That question is before us now. *Id.* at 504. The *Veneziale* court held that "the government, having been compelled to pay an innocent third person as a result of a defendant's fraud in inducing the undertaking, is entitled, to assert a claim against the defendant under the False Claims Act." *Id.* at 505. Similarly, this case involves a situation where, based on Hurwitz's false claims regarding net worth which allowed Hurwitz to operate the S&L as a federally insured institution, the government was forced to pay out money to the creditors when the S&L collapsed.

Other circuit courts have agreed that the result of the false claim inquiry is different from *McNinch* when there is a submission of false documents and a need for a the government to pay out as guarantor. For example, *United States* v. *Ekelman & Assocs.*, 532 F.2d 545 (6th Cir. 1976), held that individual defendants were liable for the costs of mortgage defaults after false loan applications were submitted to the government under the VA and FHA loan guarantee and insurance programs. The court reasoned that *McNinch* held that there was no claim because the FHA disbursed no funds. Here, however, the court wrote, "it is sufficient to note that the instant case involves a false statement made with the purpose and effect of inducing the Government immediately to part with money," and that the cause of action arose when the mortgage holder presented a claim to the VA or FHA for payment on the guaranty or insurance.

In *United States* v. *Hibbs*, 568 F.2d 347 (3d Cir. 1977), in holding that a causal connection must be shown between loss and fraudulent conduct, the Third Circuit Court of Appeals cited *McNinch* for proposition that "the making of a false certificate, standing alone, does not entitle the government to the statutory forfeiture. There must have been a payment." *Id.* at 350. In *United States* v. *American Heart Research Found*, 996 F.2d 7 (1st Cir. 1993), in holding that reverse false claims, i.e., when government receives too little money, are "claims" within False Claims Act, the First Circuit Court of Appeals agreed with *Neifert-White*, which distinguished *McNinch* on grounds that it involves no payment of government money. *Id.* at 10 n.3.

Lower courts as well have held McNinch to its particular facts in finding that submission of false applications which ultimately cause the government to pay out funds constitute a. "claim" under the False Claims Act.

Although most of the federally guaranteed loan cases involve two parties, an individual or corporation that submits the false loan application and the bank or credit corporation that approves the loan, *United States ex rel. Lavalley v. First Natl. Bank of Boston*, 1990 U.S. Dist. LEXIS 9913 (D.Mass. 1990), is a case where the bank itself was accused of presenting a false and misleading "material adverse change report" to the FmHA which induced the FmHA to guarantee the loans of a corporation that went bankrupt. The government alleged that the bank failed to apprise the government of its misgivings about the corporation's management and ability to repay the loans, and this fraud was motivated by its special relationship with the construction lender on the project, which it wished to protect from loss on the construction loan. This scenario is similar to the case at hand, where Hurwitz, wishing to protect MAXXAM's takeover projects and knowing that the S&L would most likely collapse, submitted false accounting reports to the government to assure continued federal insurance of the S&L funds.

Attorney-Client Privilege, Attorney Work Product

Addendum to Written Disclosure Statement for the Case of United States of America *ex rel.*, Robert Martel, Plaintiff, v. Charles Hurwitz, Barry Munitz, Maxxam Group, Inc., Federated Development Company, United Financial Group, and Does 1–100, inclusive, Defendants

Provided to the Attorney General of the United States, Department of Justice, Washington, D.C., and the United States Attorney, Northern District of California—May 19, 1995—Read and Approved by Robert Martel

I. BACKGROUND

A. Previous Submission of Disclosure Statement

A qui tam action was filed on January 26, 1995 by the plaintiff-relator Robert Martel on behalf of the United States of America. The compliant was filed under seal in accordance with the procedures for the False Claims Act and a written disclosure statement was submitted at that time. The written disclosure statement included exhibits which provided a detailed explanation of the facts revealing fraudulent activity.

The purpose of this addendum to the written disclosure is to further elaborate upon the history of the realtor and describe how he uncovered false claims by the defendants including their misrepresentations regarding the net worth of United Savings Association of Texas, USAT.

B. Personal History of the Relator

Robert Martel (hereinafter "relator") has worked for many years as an investigative journalist. The relator received his degree from St. Mary's College in mathematics and thereafter did graduate work at the University of Santa Clara. He has also studied stocks and bonds transactions, as well as corporate financing, and has been licensed by the National Association of Securities Dealers.

In 1983 the relator started a newspaper called "The Country Activist." The newspaper reported on community issues in northern California, including issues regarding timber harvesting. As both a founder and writer for this newspaper, the relator did investigative work regarding the Pacific Lumber Company and its land holdings in Humboldt County including ancient old-growth forests. The Country Activist published several articles concerning Pacific Lumber forest issues.

As part of the investigative work of the Country Activist, the relator followed the takeover of Pacific Lumber by Charles Hurwitz and Maxxam, Inc. This investigation included interviews with people affected by takeover as well as the review of documentation concerning Charles Hurwitz and the activities of the Maxxam Corporation including its control of United Financial Group ("UFG"), the holding company for the Texas savings and loan, United Savings & Loan of Texas ("USAT").

In addition to being the founder and a writer for the Country Activist newspaper, the relator was also active in community affairs. The relator, along with others, worked vigorously to place three measures on the ballot for Humboldt County in 1988, including measures that put limitations on off-shore drilling off the California coast. These measures were approved by the voters and became law.

In the following year, the relator and others prepared additional ballot measures, one of which pertained to pollution caused by forestry practices in Humboldt County. The political activism of the relator was opposed by Charles Hurwitz and Pacific Lumber. Deliberate efforts were made by Hurwitz and Pacific Lumber to undermine the relator's political activities including threats to advertisers in the relator's newspaper that they would be boycotted by Pacific Lumber if they continued to purchase advertisements. The relator continued to investigate Hurwitz even when he and his advertisers were subjected to anonymous threatening phone calls for his continuing work on forestry issues.

Faced with personal attacks and an advertising boycott by Pacific Lumber, the relator remained undaunted and continued his investigation of Charles Hurwitz. Part of this investigation included looking into Mr. Hurwitz' control of UFG, the holding company for USAT. It was determined through investigation that Charles Hurwitz had abused his control over an insurance company in New York and was forced to pay fines. The investigation also revealed that

Charles Hurwitz had close ties to Michael Milken and that Michael Milken had been responsible for assisting Charles Hurwitz in his effort to amass capital for the purchase of UFG, the holding company for USAT. Upon a closer look at USAT, it was recognized by the relator that the goal of Charles Hurwitz in purchasing USAT was to use the assets of USAT to attain his goals as a corporate raider. The relator located documents in Hawaii concerning an attempt by Charles Hurwitz to use the USAT funds to take over Castle & Cooke, a publicly traded company with extensive land holdings. The documents reviewed included a court order enjoining Charles Hurwitz from using the USAT funds (which were federally insured) as capital for corporate raiding.

Knowing of Hurwitz' connections to Milken, the relator also investigated Milken's connections to other savings and loans. It was apparent to the relator that Hurwitz, having been thwarted in his effort to use the funds of USAT directly in his corporate takeover aims, may try to circumvent the court's decision by making an arrangement with someone else to, in effect, launder the USAT money. Upon review of documents obtained through his investigation, the relator determined that Hurwitz had caused the USAT savings and loan to purchase large amounts of bonds from Michael Milken and that Michael Milken, in turn, had caused other entities such as Columbia Savings & Loan and the First Executive Life Insurance Company to purchase bonds issued by Hurwitz in his takeover of Pacific Lumber.

During this investigation it also became apparent to the relator that Charles Hurwitz and the other directors of UFG were depleting USAT to send funds to Milken. Milken, in return, caused others to purchase bonds for Hurwitz's corporate raids such as the takeover of Pacific Lumber. It was discovered that one way Hurwitz and the others went about this was through the improper unstreaming of assets as dividends from USAT to UFG. Another method the relator recognized from his experience as a stockbroker was that assets were being improperly drained from USAT through "gains trading." Hurwitz would cause his investor, Ron Huebsch, to purchase corporate securities from Milken and if gains were recognized, then they would be immediately taken, but if the securities' value declined, they would remain on the USAT books at their purchase price. Through this process Hurwitz and the other defendants were able to deplete the assets of USAT while maintaining a facade that they were satisfying their net worth requirement in order to remain a federally insured savings and loan.

Throughout this period of time the relator was preparing materials for a book on the activities of Charles Hurwitz, Michael Milken and others. In furtherance of this endeavor he went to Texas to talk with the chief bank examiner, Art Leiser, the person in a position to review the assets of USAT and analyze whether Hurwitz and other were making misrepresentations to the government about their net worth. In a private meeting with Mr. Leiser, Mr. Leiser informed the relator that yes, Charles Hurwitz and the directors of USAT had misrepresented the net worth of USAT and that they had been dramatically increasing USAT's liabilities at the same time that they were making these misrepresentations. Further, it was discussed how these misrepresentations allowed USAT to remain in business long after it should have, thereby giving Charles Hurwitz and others the opportunity to further deplete the assets of USAT which would ultimately be repayed by United States taxpayers pursuant to Federal Deposit Insurance guarantees.

Specially, Mr. Leiser explained to the relator that there were monthly reports that he had prepared by his examiners concerning USAT and that these monthly reports included rankings of the status of USAT. Several rankings reflected that USAT were indeed in trouble and that it was not meeting its net worth requirements regardless of the representations that were being made by USAT directors such as Barry Munitz.

Furthermore, the relator also met with other journalists in Houston and upon further study of the stock ownership of UFG, the relator further uncovered that Charles Hurwitz was also misrepresenting to the government the amount of control that he had over UFG. Had Hurwitz admitted that he had more than 25% control over UFG, then his responsibility to maintain new worth requirements would have increased. Under no circumstances did Hurwitz want his net worth requirements to go up * * *

RECORD 15

Memorandum

To: Douglas H. Jones, Acting General Counsel

Through: Jack D. Smith, Deputy General Counsel

From: Marilyn E. Anderson, Senior Counsel; Patricia F. Bak. Counsel; Robert J. DeHenzel, Jr., Senior Attorney

Subject: Retention of Outside Counsel, United Savings Association of Texas

Date: February 14, 1994

This memorandum outlines our search for counsel in this matter, narrows the consideration to two firms, Cravath, Swaine & Moore/Duker & Barrett and Hopkins & Sutter, and sets forth some of the considerations we deem relevant to the selection of counsel to assist the Professional Liability Section in handling the United Savings Association of Texas ("USAT") directors' and officers' liability litigation. We understand that it will be attached to the recommendation of the Associate and Assistant General Counsel.

Background

USAT failed on December 30, 1988. The projected loss to the insurance fund is $1.6 billion. The Professional Liability Section, as assisted by outside counsel, has investigated potential claims relating to the failure of the institution and is prepared to request authorization to initiate litigation against a number of former directors and officers of USAT, USAT's holding company, United Financial Group, Inc. ("UFG") and Charles Hurwitz Mr. Hurwitz has a national reputation in corporate acquisitions and takeovers. Others among the proposed defendants also are very prominent.

If approved, suit would be based upon claims of gross negligence, breach of fiduciary duties of loyalty and care and knowing participation in the breach of fiduciary duty. During the period from at least 1984 through 1988, USAT paid imprudent dividends to UFG, allowed UFG to wrongfully retain tax refunds belonging to USAT, make a large imprudent loan to a Hurwitz affiliate, and paid excessive compensation to USAT management who were Hurwitz's friends and associates to MCO Holdings, Inc. ("MCO," later know as Maxxam) and Federated Development Corporation ("FDC"), entities which collectively owned a significant percentage of and exercised even greater control over UFG. While these transactions alone resulted in losses approximating $100 million, to conceal its growing insolvency, USAT also engaged in imprudent gains trading in mortgage-back securities which resulted in additional losses in the hundreds of millions of dollars.

Almost immediately after USAT's failure, UFG approached the FDIC to try and settle the FDIC's claims against it. Since that time, the Professional Liability Section has engaged in on going discusssions with the potential defendants, which discussions have and continue to include the exchange of information bearing on the merits of the FDIC's claims. The investigation has received considerable Congressional and press attention. There is no insurance in this case and any large recovery is dependent on establishing Hurwitz as a de facto director of USAT, establishing liability against one very wealthy outside director and tapping into a potential indemnification by Maxxam of certain USAT directors.

As noted above, the parties are still exchanging and analyzing information related to the merits of the claims. While it is our hope that we might be able to reach a pre-filing settlement and the proposed defendants have raised the possibility of utilizing some form of alternative dispute resolution, the current tolling agreement which expires on May 31, 1994, will not be extended. We have a significant amount of work which remains to be completed prior to the expiration of the tolling agreement which requires the hiring of lead trial counsel now.

Thomas Manick, now a partner with the Miami firm of Adorno & Zeder, has been intimately involved with the investigation of these claims for over 16 months and has a commanding knowledge of virtually every aspect of the case. The case now requires the addition of a sizable, nationally recognized firm with securities expertise which is familiar with FDIC professional liability issues and procedures.

Firms Considered

The litigation, if approved, will likely be filed in the Southern District of Texas. Virtually all of the qualified firms in Texas were conflicted, forcing us to look to firms headquartered in other major metropolitan areas.

We interviewed three firms: Cravath, Swaine & Moore (New York), along with Duker & Barrett (also New York), Reid & Priest (New York and Washington, D.C.), and Hopkins & Sutter (Chicago and Dallas).

Factors which we considered important in selecting outside counsel to serve as lead counsel handling the USAT Litigation are:

- A respected "presence" and proven track record that will carry weight with the proposed defendants and the court,
- Aggressive, clever approach to litigation, with the breadth of resources to handle potentially unique settlement options, perhaps requiring coordination with Congress,
- Familiarity with not only basic legal issues, but exotic securities products and accounting issues/quick study with ability to come up to speed under significant time limitations, including dealing with experts in this highly specialized fielf,
- Local Texas presence; and
- Compliance with Minority/Women Owned Firm Guidelines.

Although we found Reid & Priest to be a highly competent firm, with insightful comments concerning the proposed claims and potential strategies, the firm eliminated itself from consideration based on its stated inability to commit the needed resources to a matter of this magnitude at this time. Our observations of the pros and cons of the remaining firms we interviewed are as follows:

Cravath Swaine & Moore and Duker & Barrett

While we were interested in hiring Cravath Swaine & Moore, and more particularly David Boies of that firm as lead counsel, the proposal made by Mr. Boies and his firm was that we hire both Cravath Swaine & Moore and Duker & Barrett. The Duker & Barrett firm largely consists of former Cravath Swaine & Moore lawyers with whom Mr. Boies has worked while at Cravath and thereafter. Staffing for the case would include David Boies as lead counsel, Bill Duker and Duker & Barrett lawyers and paralegals and lawyers and paralegals from Cravath Swaine & Moore as needed, all for a single fee arrangement.

Pros:

- David Boies, a nationally recognized and highly regarded trial lawyer, who has personally committed to handle all major aspects of the litigation on behalf of the FDIC;
- The firm, based both on Mr. Boies's reputation and the firm's prior participation in the Drexel case on behalf of the FDIC, would likely have an immediate impact on the litigation and perhaps increase the chances of early settlement,
- The firm is widely regarded as aggressive, bright, and creative and has a demonstrated ability to cover all waterfronts in large, highly publicized litigations;
- The firm has broad experience with securities/accounting issues, including having secured highly favorable results on behalf of the FDIC and RTC in the Drexel Litigation;
- The firm has had experience with FDIC issues, procedures and personnel, although not directly with FDIC professional liability staff;
- Mr. Boies knows and has a good relationship with a key player, counsel for Hurwitz, Richard Keeton, for whom he served as successor counsel in the Texaco Litigation; and
- The firm, and Mr. Boies in particular, are familiar withi Mr. Hurwitz and certain of his trading activities through the Drexel Litigation.

Cons:

- Cravath's long-standing and substantial client, Salomon Brothers, although not a target of the FDIC's proposed suit, is at least a witness in such a suit and could be named as a third party by defendants, raising certain potential conflict issues. We are in the process of conducting, but have not yet completed, an evaluation of other potential conflicts as required by the Statement of Policies Concerning Outside Counsel Conflicts of Interest;
- No Texas presence—would have to retain local counsel, probably a Texas MWOLF firm inasmuch as both Cravath, Swaine & Moore and Duker & Barrett lack minority participation from within;
- Certain logistical, management, and coordination issues are raised by the participation of at least three firms, two of which are in New York; and
- The firm's high hourly rates and the previous negative publicity concerning those rates in the Drexel Litigation.

Hopkins & Sutter

Hopkins & Sutter is a large national, Chicago based, firm that has handled vast amounts of FSLIC, and subsequently FDIC and RTC, litigation.

Pros:

- The firm has broad experience with FDIC issues, organization and personnel, particularly with respect to professional liability claims and staff. The firm was outside counsel in the Silverado, FirstSouth, F.A., Gibraltar Savings Association and Texas Bank & Trust Company cases, among others;
- The "core" partners who would staff the case—particularly John Rogers—are sharp and very familiar with the issues. Mr. Rogers, a highly regarded trial lawyer, was actively involved in MBS issues on behalf of the FHLBB during the time frame relevant to USAT's activities, as was Hopkins & Sutter partner Michael Duhl, who has already undertaken an analysis of certain tax issues related to UFG on behalf of TAOSS;
- The firm has a Dallas office, is willing to open a Houston office, and is familiar with local practice;
- Past cases have left the Professional Liability Section with an excellent working relationship with the firm on all levels;
- The firm has offered concessions on billing for travel and expenses and also will entertain and has proposed an alternative fee arrangement;
- The firm would be able to provide minority participation from within, with partners and/or associates with FDIC, although perhaps not professional liability, experience;
- The firm has a proven record handling high profile litigation on behalf of the Corporation and, drawing on its extensive representation of the lumber industry, will be able to cover all aspects of any potentially unique debt for redwoods settlement arrangements;
- Potential conflicts have been reviewed by the Outside Counsel Conflict Committee and resolved in a manner which would not preclude the firm's participation in this case; and
- Firm partners who would serve on the trial team know the players, having previously litigated against counsel for certain of the defendants, John Villa of Williams & Connelly.

Cons:

- The firm would not likely bring an immediate, discernible impact upon entry into the case, inasmuch as it is largely perceived as the "firm of choice" for the FDIC. The firm is now under the FDIC mandated fee cap and projects that it will remain well under the cap in the future;
- Certain firm members' active participation in MSB issues on behalf of the FHLBB provides special expertise in this area, but at the cost that this history might make it difficult for the firm to bring the independent view necessary to make sound litigation risk assessments; and
- The firm does not have a reputation for the boldness of action or creativity which may enhance FDIC's ability to secure an early recovery in this case.

Record 16

7/17/95—*Phone call from——5 p.m.*

Alan McReyolds—202-208-6318, Spec. Asst. to Sec. of Interior—Status of our potential claims—how OTS is organized., etc?

Someone to describe * * * receiving calls our claims and FDIC almost daily from members OTS roles of Congress and private citizens.

his schedule—Nextweek—vacation;—following week—*travel.*

—Would really like to meet this week if at all possible.

—He has not spoken to Jack Smith.

—Would like meeting to take place this week if at all possible because of his vacation and travel schedule.

7/18/95—JOT reaction—1:30 am.

Talk to Jack Smith and Alice Goodman—TUT's reaction—Smith and Goodman should be here with us.

Record 17

Memorandum To: Board of Directors, Federal Deposit Insurance Corporation.

From: Jack D. Smith, Deputy General Counsel.

Stephen N. Graham, Associate Director (Operations).

Date: July 24, 1995.

Subject: Status of PLS Investigation, Institution: United States Association of Texas, Houston #1815.

This memorandum reports on the status of the continuing investigation of the failure of United States Association of Texas ("USAT"), the separate investigation being conducted by the Office of Thrift Supervision ("OTS"), current tolling agreements, settlement negotiations with United Financial Group, Inc., ("UFG") USAT's first tier holding company, and our decision not to recommend an independent cause of action by the FDIC against the former officers and directors of USAT and controlling person Charles Hurwitz.

I. Background

As you know, USAT was placed into receivership on December 30, 1988, with assets of $4.6 billion. The estimated loss to the insurance fund is $1.6 billion. After a preliminary investigation into the massive losses at USAT, the FDIC negotiated tolling agreements with UFG, controlling person Charles Hurwitz and nine other former directors and officers of USAT/UFG that were either senior officers or directors that were perceived as having significant responsibility over the real estate and investment functions at the institution.

In May 1994, after a series of meetings with the potential defendants and the exchange of considerable documents and other information, we presented a draft authority to sue memorandum recommending that we pursue claims against Hurwitz and certain of the former officers and directors for losses in excess of $200 million. The proposed claims involved significant litigation risk, in that the bulk of the loss causing events occurred more than two years prior to the date of receivership, and were therefore subject to dismissal on statute of limitations grounds. In light of the Fifth Circuit's opinion in *Dawson*, a split of authority in the federal trial courts in Texas on the level of culpability required to toll limitations and the Supreme Court's refusal to consider whether a federal rule should be adopted under which negligence by a majority of the directors would toll the statute of limitations, our strategy was to assert that gross negligence was sufficient to the toll the statute of limitations. After briefings with FDIC deputies and further discussion with the potential defendants, we decided to defer formal FDIC approval of our claims and continue the tolling agreements.

At about the same time that we deferred formal approval of the FDIC cause of action, we developed a new strategy for pursuing these claims through administrative enforcement proceedings with the OTS. After several meetings with senior staff of the OTS Office of Enforcement, we entered into a formal agreement with the OTS, who began an independent investigation into the activities of various directors and officers of USAT, Charles Hurwitz, UFG, as well as USAT's second tier holding company, Maxxam, Inc., a publically traded company that is significantly controlled by Hurwitz.

II. Significant Caselaw Developments Have Further Weakened the Viability of an Independent Cause of Action by the FDIC

Although we have continued to investigate and refine our potential claims during the pendency of the OTS investigation, two significant court decisions and the failure of Congress to address the statute of limitations problems has further weakened the FDIC's prospects for successfully litigating our claims in United States District Court for the Southern District of Texas.

In the recent decision of *RTC* v. *Acton*, the Fifth Circuit held that under Texas law, only self-dealing or fraudulent conduct, and not gross negligence, is sufficient to toll the statute of limitations under the doctrine of adverse domination. As a result of this opinion, we can no longer rely on any argument that gross negligence by a majority of the culpable Board is sufficient to toll the statute of limitations. Moreover, there is very little, if any, evidence of fraud or self-dealing that is likely to survive a motion to dismiss on statute of limitations grounds.

Even if we could overcome the statute of limitations problems, a recent decision by the Texas Supreme Court announced a new standard of gross negligence that will be very difficult to meet. In *Transportation Insurance Company v. Moriel*, 1994 WL 246568 (Tex.), the Texas Supreme Court defined gross negligence as constituting two elements: (1) viewed objectively from the standpoint of the actor, the act or omission must involve an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and (2) the actor must have actual, subjective awareness of the risk involved, but nevertheless proceed in conscious indifference to the rights, safety, or welfare of others. This new standard will make it very difficult, if not impossible to prove our claims.

The cumulative effect of these recent adverse decisions is that there is a very high probability that the FDIC's claims will not survive a motion to dismiss either on statute of limitations grounds or the standard of care. Because there is significantly less than a 50 percent chance that we can avoid dismissal, it is our decision not to recommend suit on the FDIC's proposed claims.

III. Debt for Nature Swap

Our decision not to sue Hurwitz and the former directors and officers of USAT is likely to attract media coverage and considerable criticism from environmental groups and Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber has attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging our claims for trees. We recently met with the Department of the Interior, who informed us that they are negotiating with Hurwitz about the possibility of a debt for nature swap and that the Administration is seriously interested in pursuing such a settlement. We plan to pursue these settlement discussions with the OTS in the coming weeks.

IV. Updated Authority to Sue Memorandum

We have attached an updated authority to sue memorandum for your review and consideration. It sets forth the theories and weaknesses of our proposed claims in great detail. It should be considered for Board approval only if the Board decides, as a matter of public policy, that it wants the Texas courts to decide the statute of limitations and standard of care issues rather than FDIC staff. The litigation risks are substantial and the probability of success is very low, but if the Board were to decide that it wants to go forward with the filing of a complaint, we need to be prepared to file the complaint in the Southern District of Texas, *on or before, Wednesday, August 2, 1995.*

We will be available to discuss this matter on very short notice.

RECORD 18

July 20, 1995—Meeting with T. Smith, JOT, M.A. and JW.

Re: McReynolds—Kozmetsky—Hurwitz—***.

Jack—We will not go forward if CTS ***.

If OTS does not file suit, we will have to decide our case on the merits before tolling expires.

Memo for G.C. to Chairman—

Updates statutes of case and recommends that we let Kormetsky out.

If suit against Hurwitz *** sue only him and not others.

Find out if Hurwitz will talk.

Write a memo on case status to GC.

Ten page memo should do it.

Continue telling *** or let them go.

If ordinary case, we do not believe there is a 50% chance we will prevail. Therefore, we cannot recommend a lawsuit.

McReynolds—handle same as the Hill presentation.

RECORD 19

July 21, 1995, 11:00 McReynolds, Department of the Interior.

July 21, 1995.

8K acres; 3800 core Merelot Bird, Fish & Wildlife.

Habitat conservation plan and cutting plan with MAXXAM. Has til 9/15 to tell us about cutting plans.

M called Allen at home last Thursday at 8 p.m.

Wilson Task Force—creative strategy for acquisition of the 3800.

BLM

Gov's Office—California Resources Agency—California Fish and Game—State Park Bird—California Coastal Conservancy. Six individuals serve on task force. American Lands Conservancy—negotiate sometimes for Interior.

Gov. Wilson—Terry Gordon—various acquisition strategies.

California has sections of timber to trade $100 M.

H values 8K at 500 M. Interior wants to deal it down. H really wants $200 M total.

California delegate is really putting the pressure on.

Dallas/Ft. Worth—Base closure—Wednesday 10:30 meeting with OTS.

Memo for Chairman.

Frances 208-4615; Alan McReynolds 202-208-6308.

RECORD 20

RECORD 21

$400,000 expenses on OTS

Have not decided whether to bring case—won't decide for some months.

Alan McReynolds—Admin. wants to do deal

—Gov. Wilson w/DOI had task force of 6 groups. Told to find way to make it happen

—CA will trade $100 million CA timber

—Admin. might ?? mil. base

Had call from atty. appraisal on prop. for $500m. Said they want to make a deal. Don't know how much credence we have from them about a claim. At same time telling them to get rid of claim. He can't cut them down.

If we drop suit, will undercut everything.

RECORD 22

USAT

May recall briefed re OTS—paying some months ago. OTS is making progress, but not ready. Thus, tolling again. OTS staff hopes to have draft notice of charges to Hurwitz, et al, Aug.-Sept. (Apologize for short fuse)—we thought we would be able to put off a final decision until OTS acted. Hurwitz refused to toll.

Normal matter, we would close out under delegated authority w/o bringing it to your—Bd'S—attention.

However, given (a) visibility—tree people, Congress and press; (b) basis is Texas S of L, we thought you—Bd—should be advised of what we intended to do—and why—before it is too late.

OTS is looking at: 1) Bad loans; incl. park 410; 2) MBS—Joe's portfolio.

UMBS

(3) Maxxam capital maintenance agreement

(4) UFG tax claim, etc, agreement in principal to settle subject to B C+ approval. $9.6m.

If FDIC case—(1) Bad loan—Park 410 (4 yrs); (2) MBS—Joe's portfolio (2½ yrs); UMBS (2-4 yrs).

During last two years law has moved against us in Texas.

S of L: Dawson—2 yrs ago—more than ? Acton— this spring—more than ??? ??—Loose on Park 410.—Loose (most or all) on UMBS;—Likely loose Joe's portfolio 70% most, or all, out..

OTS—No apparent S of L issue (except Kozmetski**)

Merits: Joe's portfolio—not unwinding, starting 1/187 is most likely to survive.

(1) Facts—3 mos earlier, S of L 1+yr later, done

(2) Standard of core—gross neg. Texas—punitive damage case—cited in intentional/knowing * * *

Bottom line: likely to lose on S of L let it go or have ct. dismiss it.

Redwood swap—Interior/Calif; Forests—base—FDIC/OTS claim(?)

Continue to fund OTS; We'd also write Congress re what & why rather than awaiting reaction mechanics: Brief Deputies; Board presentation.

RECORD 23

CONTEXT

Sue by *Aug 2*—Kurwitz, the rest rolled tolling following

Hurwitz, insiders have tolled w/OTS

Proposes: if authority "one last chance" for Hurwitz to toll; not sue others

OTS is investigating Draft Notice of charges coming—*staff*

Loans

Joe's Portfolio

UMBS

New worth maintance: [UFG] toll Maxxam

Redwoods—'Headwaters

Press, environmentalists Congress follow Interior trying to find a deal (Legislation to achieve)

Delima (why they get paid the big bucks—take:

Hit for dismissed suit

Hit for walking based on staff analysis of 70% loss if most/all on S & L

Likely cost $4m & $2m.

If out early or S & L *or* able to slow—stay due to OTS, lower. But *no* guarantees.

Very difficult to value: if survives S & L largely in tact

USAT

When last discussed think everyone's hope was OTS *** would avoid the fateful day when our principals had to decide . . . whether to sue on USAT

Hurwitz refusal to toll wrecked that plan.

ATS recommends suit against Hurwitz, some—not all—others tolling with

Also states intention to let go 3 outside directives OTS isn't tolling with

We believe USAT Ds, Os & defacts dir/o Hurwitz were grossly neg in

(1) Lending—Park 410
(2) Joe's Portfolio
(3)UMBS

The problems include:

(A) S of L—Park 410, no reasonable basis under existing law

Joe's . . . when liq—money at UMBS . . . $100m out, $80m to go . . . $50-$60m principal lost

(B) Hurwitz is *defacto* dir

(C) FHLB policies did encourage 'games' w/ futures & options acctg

Looked for other g.f. claim

Recommend Hurwitz—defacto D&D & control person, breached duty of loyalty to USAT in failing to cause UFG, MCO federated to honor capital maintance obligations!

Beats S of L

Tough merits case [$150m]

RECORD 25

PATTON BOGGS, LLP,
Anchorage, AK.

To: Joli Pecht
Company: Maxxam
Fax Number: 713-267-3702
Total Pages Including Cover: 3
From: John C. Martin
Sender's Direct Line: 907-263-6032
Date: August 7, 2000
Client Number: 5921.101

Comments: Joli, I found this memo to the file immediately after our conversation. I thought you might be interested to see the memo. (Note that the automatic date on our system changed the date of the memo from July 14, 1995 to today's date.)

I'll look for more documents as time permits in the next few days.

John

PATTON BOGGS, L.L.P.

Memorandum
TO: File/5921.101.
FROM: John C. Martin.
DATE: July 14, 1995.
SUBJECT: Conversation with Allen McReynolds.

I had a telephone conversation with Allen McReynolds concerning the Department of Interior's approach to the Headwaters Forest property matter. We talked about a number of different aspects of the matter. He indicated that (i) the Department of Interior wants to acquire the property, (ii) he does not believe legislation is necessary, (iii) he and others believe that the transaction should be a cash agreement rather than a land exchange, and (iv) he believes the Governor's office should take the lead in negotiations on the subject. The following summarizes the information and comments he provided.

The Department's Desire to Acquire the Property

McReynolds said several times during the course of the conversation that the Department of Interior wants to see the property acquired. He said that the Secretary is very aware of the fact that this is a very important regional issue. He explained that the Department would like to make this a "bipartisan" effort.

McReynolds' Role

McReynolds said that he will be the "point person" on the project. While he claimed to be new to the problem, he said that he had already visited with the BLM in Washington and California and that he had met with the Governor's office concerning the matter. It was clear that he had read much of the background material on the subject.

McReynolds is in the Secretary's office. He has a good reputation within the Department.

Deference to the Governor's Office

McReynolds said four different times during the conversation that he believes that Governor Wilson's office is properly the lead for negotiations on the matter. He claimed that he does "not want to insult" the Governor. He said that Terri Gordon will be the leader of the negotiations. He is very concerned that meetings held in Washington, without Gordon's attendance or at least her assent, will create problems that will make it difficult to come to an agreement. He said that he did not want to "send a signal" that this matter is "political."

Indeed, he said that the recent meeting among Democratic staffers created potential problems. He was acquired to explain at length the reason for the meeting to Gordon.

The Wednesday Meeting Between Democratic Congressional Staff and McReynolds

McReynolds confirmed that neither the Secretary nor anyone else from Interior, met with members of Congress on Wednesday, July 12th. Instead, the meeting included various staff from a few California members including Brown and Stark. There were no staff members from Boxer or Feinstein's offices.

He said that a letter from the members requesting a meeting prompted the Wednesday meeting. He also said that a comparable request was sent to the Department of Agriculture.

The Department's Negative View of Riggs' Legislation

McReynolds said that BLM dislikes the approach taken in what he described as "Riggs' bill." He muttered words to the effect of, "we should not exchange old growth forest to get old growth forest."

The Department's Desire to Acquire the Property Without Legislation

McReynolds said two different times during the conversation that he does not believe that legislation is necessary to acquire the property. He believes that the Department can acquire the property using its administrative authority. More specifically, he said that he believes that property can be sold to accumulate money that could be used in the acquisition. He recognizes that several pieces of property must be sold to raise enough money to pay for the acquisition. He implied that the Governor's office and the California Democratic delegation favor this approach.

While he did not elaborate, he indicated that he believed that a "three-way deal" is the appropriate approach. He said that Terri Gordon is working with the American Land Conservancy on the subject.

Potential Meeting

McReynolds said that he would be pleased to meet with us along with Terri Gordon. He suggested that, if we are so inclined, we could set a meeting with Gordon either here or in Sacramento. He suggested that we schedule the meeting for some time after he returns from his one-week vacation.

CC: Thomas H. Boggs, Jr.
Donald V. Moorehead
Aubrey A. Rothrock

RECORD 26

OTS/FDK Meeting July 26, 1995 at 10:50 a.m.

J. Smith

Hurwitz won't sign tolling agreement with FDIC. Need to file lawsuit by August 2.

J. Thomas—Chance of success on State limitations is 30% or less.

—Will continue discussions with Helfer.

—Pressure from California congressional delegation to proceed

Dept. of Interior—Alan McReynolds

—Administration interested in resolving case and getting ***.

—Pete Wilson has put together a multi-game fish group

—California would put up $100 million of California timberland

—Hurwitz wants a military base The Dalles and find work—suitable for commercial development

—Hurwitz also wants our claims settled as part of the deal

Two weeks ago—Hurwitz' lawyer called Terri Gordon at home and told him he should not be tuned out by $500 million appraisal.

What is OTS' schedule? How comfortable is OTS with giving info to Interior

R. Stearns

Tolling Agreement extended until December 31, 1995 with 30-day kickout beginning September

***

16 witnesses in June including Hurwitz working on 2d draft of NOC

K. Guido

—MBS Case Summary

—We have done a $$ analysis of what we think we can claim in NOC

B. Rinaldi

—Net Worth Case Summary

Negotiating with UFG regarding settlement of net worth claim

Looking at Maxxam

J. Williams

(1) Need copies of Tranx—copies of diskettes

(2) Send documents' exhibits to J. Williams

—Cover letter to Jeff—sharing and assistance under statutue

Duffy—Where is he?

—Need to get together with Duffy and Hargett

USAT/UFG Value of Claims

Net Worth Maintenance Obligations UFG/MAXXAM & Federated [REDACTED] (¶ 76/73).

Reckless Speculation In Mortgage Backed Securities.

Unsafe and Unsound Loans to Affiliated Parties (including Cost of Funds @ 9%). [REDACTED]

Sub Total Cost of Funds from December 31, 1988 to Present (7½% Cof FDIC).

Total Residual Value of Park 410.

OTS/FDIC Meeting on July 26, 1995

Bryan Veis OTS (Enforcement).
Paul Leiman OTS (Enforcement).

Jeffy Williams FDIC Legal.
Ken Guido OTS (Enforcement).
John V. Thomas FDIC PLS.
Rick Stearns OTS (Enforcement).
Jack Smith FDIC.
Bob Dettenzel FDIC PLS.
Marilyn Anderson FDIC PLS.
Thomas Hecht Hopkins & Sutter.
John Rogers Hopkins & Sutter.
Bruce Rinaldi OTS (Enforcement).

RECORD 27

TRANSCRIPT OF A MEETING OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION HELD IN THE BOARD ROOM, FEDERAL DEPOSIT INSURANCE CORPORATION BUILDING, WASHINGTON, DC (CLOSED TO PUBLIC OBSERVATION—AUGUST 1, 1995; 10:05 A.M.)

At 10:05 a.m. on Tuesday, August 1, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC, to consider certain matters which it voted, pursuant to subsections 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider in a meeting closed to public observation.

Ricki Helfer, Chairman of the Board of Directors; Andrew C. Hove, Jr., Vice Chairman of the Board of Directors; Stephen R. Steinbrink, acting in the place and stead of Eugene A. Ludwig, Director (Comptroller of the Currency); Jonathan L. Fiechter, Director (Acting Director, Office of Thrift Supervision); Leslie A. Woolley, Deputy to the Chairman for Policy; William A. Longbrake, Deputy to the Chairman for Finance and Chief Financial Officer; Roger A. Hood, Deputy to the Vice Chairman; Walter B. Mason, Jr., Deputy to the Director (Office of Thrift Supervision); Stephen L. Ledbetter, Special Assistant to the Deputy to the Chairman and Chief Operating Officer; James D. LaPierre, Special Assistant to the Deputy to the Chairman and Chief Operating Officer; James Phillip Battey, Assistant to the Chairman for Public Affairs; Stanley J. Poling, Assistant to the Deputy to the Chairman for Finance; Diane Page, Assistant to the Deputy to the Director (Comptroller of the Currency); William F. Kroener, III, General Counsel; Paul L. Sachtleben, Director, Division of Compliance and Consumer Affairs; Robert H. Hart-heimer, Director, Division of Resolutions; Steven A. Seelig, Director, Division of Finance; John F. Bovenzi, Director, Division of Depositor and Asset Services; Carmen J. Sullivan, Ombudsman; Jerry L. Langley, Executive Secretary; Alice C. Goodman, Director, Office of Legislative Affairs; James A. Renick, Senior Deputy Inspector General; Jack D. Smith, Deputy General Counsel, Litigation Branch, Legal Division; Eric J. Spitler, Deputy Director, Office of Legislative Affairs; John V. Thomas, Associate General Counsel, Professional Liability Section, Litigation Branch, Legal Division; A. David Meadows, Associate Director, Operations Branch, Division of Supervision; Paul M. Driscoll, Associate Director, Operations and Agreement Management Branch, Division of Resolutions; Stephen N. Graham, Associate Director (Operations), Operations Branch, Division of Depositor and Asset Services; Thomas A. Schulz, Assistant General Counsel, Corporate and Special Litigation Section, Litigation Branch, Legal Division; Henry R.F. Griffin, Assistant General Counsel, Resolutions Section, Supervision and Legislation Branch, Legal Division; Jesse G. Snyder, Assistant Director, Office of Supervision and Applications, Operations Branch, Division of Supervision; Gerald B. Stanton, Assistant Director (Assisted Acquisitions (FRF)), Operations and Agreement Management Branch, Division of Resolutions; M. Lauck Walton, Assistant General Counsel, Professional Liability Section, Litigation Branch, Legal Division; Patti C. Fox, Assistant Executive Secretary; John H. Hatch, Assistant Inspector General, Office of Supervision and Resolutions Division Audits, Office of Inspector General; Susan E. Carroll, Special Assistant to the Director, Division of Supervision; John M. Lane, Manager, Special Situations and Applications Section I, Office of Supervision and Applications, Operations Branch, Division of Supervision; John F. Carter, Manager, Special Situations and Applications Section II, Office of Supervision and Applications, Operations Branch, Division of Supervision; Bobby L. Hughes, Chief, Case Management Section, Office of Assisted Acquisitions (FRF), Operations and Agreement Management Branch, Division of Resolutions; Marilyn E. Anderson, Senior Counsel, Professional Liability Section, Litigation Branch, Legal Division; Thomas L. Holzman, Counsel, Corporate and Special Litigation Section, Litigation Branch, Legal Division; Jeffrey R. Williams, Counsel, Professional Liability Section, Litigation Branch, Legal Division; Richard B. Foley, Senior Attorney, Resolutions Section, Supervision and Legislation Branch, Legal Division; Robert J. DeHenzel, Senior Attorney, Professional Liability Section, Litigation Branch, Legal Division; Jeffrey P. Bloch, Senior Attorney, Resolutions Section, Supervision and Legislation Branch, Legal Division; Wendy B. Kloner, Senior Attorney, Corporate and Special Litigation Section, Litigation Branch, Legal Division; Marilyn R. Kraus, Audit Manager, Assistance Agreement Audit Branch, Office of Inspector General; Lars S. Viitala, Senior Tax Accountant, Tax Unit, Office of Assisted Acquisitions (FRF), Operations and Agreement Management Branch, Division of Resolutions; Garfield Gimber, III, Examination Specialist, Planning and Program Development Section, Operations Branch, Division of Liquidation; Mark C. Randall, Ombudsman, San Francisco Region, Division of Depositor and Asset Services; and Regena S. McMillian, Operations Assistant, Record Services Group, Operations Unit, Operations Assistant, Record Services Group, Operations Unit, Operations Section, Office of the Executive Secretary, were present at the meeting.

Chairman Helfer presided at the meeting; Mr. Langley acted as Secretary of the meeting.

PROCEEDINGS

Chairman Helfer: I'm pleased to call this morning's meeting to order. May I have a Sunshine motion?

Vice chairman Hove: Make a Sunshine motion. [I move that the Board of Directors determine that Corporation business requires its consideration of the matters which are to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of this meeting was practicable; that the public interest does not require consideration of the matters which are to be the subject of this meeting in a meeting open to public observation; and that these matters may be considered in a closed meeting pursuant to subsections 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code.]

Chairman Helfer: And a second.

Director Fiechter: Second.

Chairman Helfer: All in favor?

Vice Chairman Hove: Aye.

Director Fiechter: Aye.

Mr. Steinbrink: Aye.

Chairman Helfer: Redacted by Committee on Resources.

Mr. Walton: Redacted by Committee on Resources.

Chairman Helfer: Redacted by Committee on Resources.

Director Fiechter: Redacted by Committee on Resources.

Vice Chairman Hove: Redacted by Committee on Resources.

Mr. Steinbrink: Redacted by Committee on Resources.

Chairman Helfer: Redacted by Committee on Resources.

Mr. Walton: Redacted by Committee on Resources.

Chairman Helfer: Redacted by Committee on Resources.

Vice Chairman Hove: Redacted by Committee on Resources.

Chairman Helfer: Redacted by Committee on Resources.

Director Fiechter: Redacted by Committee on Resources.

Chairman Helfer: Redacted by Committee on Resources.

Vice Chairman Hove: Redacted by Committee on Resources.

Director Fiechter: Redacted by Committee on Resources.

Mr. Steinbrink: Redacted by Committee on Resources.

Chairman Helfer: Redacted by Committee on Resources.

Mr. Walton: Redacted by Committee on Resources.

Chairman Helfer: The—second memorandum with respect to a professional liability suit involves United Savings Association of Houston, Texas. Mr. Thomas.

Mr. Thomas: I will try to be brief but I won't be able to be quite that brief. With me today are Marilyn Anderson, Senor Counsel in section, and Jeff Williams and Bob DeHenzel, who will be called upon if there are hard questions.

Chairman Helfer: Good, we're glad you have help.

Mr. Thomas: Well, after the first one I'm not sure I'll need any.

Vice Chairman Hove: Don't be so sure of that.

Chairman Helfer: You've got to watch those attorneys, don't you?

Mr. Thomas: The memorandum that we have before us today seeks authority to sue Charles Hurwitz as a *de facto* director and officer of United Savings Association of Texas, or USAT, also as a control person of that entity, and it also seeks authority to sue three insiders of USAT. The claim is based on—the case will be based on three claims, the first—(Redacted by Committee on Resources).

Chairman Helfer: So if suit is not in—if we—if we don't authorize suit today and suit is not brought tomorrow, all these claims are lost.

Mr. Thomas: To the FDIC.

Staff has conducted an extensive investigation. We spoke to them a few days ago. I know they intended to speak to Director Fiechter in the interim. I hope they were able to do that. They are preparing a draft notice of charges, but no decision has been made by the director—at least none had been made as of last week, I assume it's still true—on whether to bring all or any portion of that claim.

The Board must decide today whether to bring this claim. The reason we must decide today is that Charles Hurwitz declined to extend the tolling agreement with us. He extended the tolling agreement with OTS, but he did not extend the tolling agreement with the FDIC. So we must sue tomorrow, if we are to sue unless, if suit is authorized, he agrees to a tolling agreement. What we would propose to do, unless the Board believes we should do otherwise, if suit is authorized, we would call Mr. Hurwitz' counsel and advise that we will sue unless we have a tolling agreement in hand by noon tomorrow. We do not know whether he would sign that agreement or not. And we certainly would not—we would urge the board not to approve this on the assumption that he will sign the tolling agreement, but we think there is a realistic possibility that he may. We would make that recommendation because the statute of limitations problems are serious enough. We'd rather not raise them if we can avoid that without injuring our position.

This is, of course, a very visible matter. It is visible for something having no direct relationship to this case, but having some indirect relationship. Mr. Hurwitz, through Maxxam, purchased Pacific Lumber. Pacific Lumber owns the largest stand of virgin redwoods in private hands in the world, the Headwaters. That has been the subject of considering—considerable environmental interest, including the picketing downstairs of a year or so ago. It has been the subject of Congressional inquiry and press inquiry. So we assume that whatever we do will be visible.

Interior, you should also be aware—aware, the Department of Interior is trying to put together a deal to get the headlines [sic] trade property and perhaps our claim. They had spoken—they spoke to staff a few days ago about that and staff of the FDIC has indicated that we would be interested in working with them to see whether something's possible. We believe legislation would ultimately be required to achieve that. But again, if it's the Board's pleasure, we would at least try to find out what's happening and pursue that matter and make sure that nothing goes on we're not aware of—we're not part of.

This is a difficult case. Redacted by Committee on Resources.

Chairman Helfer: Under adverse domination.

Mr. Thomas: Redacted by Committee on Resources.

Chairman Helfer: Are there questions?

Director Fiechter: One comment. I'm told by our Enforcement staff that they will be making a recommendation to me sometime in mid to late September, but don't have one at present, as to how we might proceed.

Vice Chairman Hove: Because I'm curious to know what happens, if we choose not to pursue this, with the OTS claim and—

Mr. Thomas: It—it would have no direct affect on the OTS claims.

Vice Chairman Hove: Okay.

Mr. Thomas: They have tolling agreements in place with—with all four of these gentlemen and those tolling agreements would not be off—are not affected by—by our action one way or the other.

Chairman Helfer: As I understand it, the other three have agreed to tolling agreements—

Mr. Thomas: Right.

Chairman Helfer:—with the FDIC.

Mr. Thomas: And we wound not sue them tomorrow.

Chairman Helfer: Okay. And that it's—to Hurwitz who has not agreed, although he has agreed to a tolling agreement with the OTS.

Mr. Thomas: That's correct.

Chairman Helfer: And therefore, you've asked the Board to take a look at—at all of the—the body of the case and all of the prospective defendants, but would propose to bring suit only against Hurwitz, if he fails to provide the appropriate tolling agreement by noon tomorrow.

Mr. Thomas: Yep. We're—we're seeking authority on the mort—on both the mortgage-backed securities claims to sue all four people so—Redacted by Committee on Resources.

Chairman Helfer: So if suit is not in—if we—if we don't authorize suit today and suit is not brought tomorrow, all these claims are lost.

Mr. Thomas: To the FDIC.

Chairman Helfer: To the FDIC.

Mr. Thomas: Any recov—

Chairman Helfer: The OTS is separate.

Mr. Thomas: That's right. And any recoveries by OTS would come to the FDIC.

Chairman Helfer: Are the—does the FDIC's authorization to sue enhance the prospect—prospects for a settlement on a variety of issues associated with the case?

Mr. Thomas: It might have some marginal benefit but I don't think it would make a large difference. I think the reality is that FDIC and OTS staff have worked together, expect to continue to work together, and so, I don't think it would have a major impact. It might make some difference, but I think particularly any effort to resolve this with—with—a solution that involves the redwoods would be extremely difficult. The FDIC would have to be involved whether we authorize suit or not. And so you—you're talking about a marginal difference.

Chairman Helfer: On the—the—basically, as I understand the—the Fifth Circuit's judgments about Texas law, they essentially say that the statute of limitations begins running at the point at which the conduct took place; that it's complained about, even though those individuals who were in control of the institution and committed the conduct would not have been likely to sue themselves—

Mr. Thomas: That's correct.

Chairman Helfer: —on behalf of the institution. And that the theory of adverse domination is that, during that period when the individuals in control were unlikely to sue themselves because of their misconduct or their gross-negligence as the case may be, that courts in some jurisdictions have recognized the tolling of the statute of limitations. That is, the tolling of the commencement of the period when the statute of limitations will run, until that point at which the institution's no longer under adverse domination.

Mr. Thomas: Right.

Chairman Helfer: But that Texas law has been interpreted to the contrary.

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: But as to one of the claims, you believe there is a reasonable argument that you can get beyond that issue.

Mr. Thomas: (Redacted by Committee on Resources),

Chairman Helfer: But they have a continuing obligation, however, one could argue, on the part of the bank to reexamine these investments on a regular basis. And that's the theory behind all of our judgments about banks having sufficient controls in place to make a judgment about whether their continuing stewardship of the institution can be justified on safety and soundness grounds.

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: Given the problems with the adverse domination interpretation of the Fifth Circuit, I take it, it would be—it would be advantageous to salvage some aspects of these—these theories if—if that were possible.

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: I'm sorry, what's a Rule 11 motion?

Mr. Thomas: For sanctions for bad faith pleading.

Chairman Helfer: Uh-huh.

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: I see. So you're not recommending bringing that claim.

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: How much had they lost?

Mr. Thomas: I don't know the answer to the question but it was not a disaster. When they put in the additional $80 million, they were not putting money into an entity that was insolvent or close to insolvent. And because—

Chairman Helfer: Is that the standard for gross negligence?

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: Are there any other comments or questions?

Director Steinbrink: I—I had one very general question to get your opinion on. If—if we bring this litigation and—and the courts follow the trend they've been doing and—and slap us, does that in any way impact the OTS's case, in your opinion?

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: But that's simply trying the OTS case ahead of the OTS case.

Vice Chairman Hove: Um-huh.

Mr. Thomas: That's—that's right. And—

Chairman Helfer: That's the issue that would be presented.

Mr. Thomas: That's right. It—it would be very unlikely this case would go to trial on the merits before an OTS matter went forward, assuming it's going to go forward before the tolling agreements at the end—the end of this year.

Vice Chairman Hove: How much do we spend in—in this case before we know about the mortgage-backed security issue, John?

Mr. Thomas: There's good news and there's bad news. If we plead it well and argue it well, we may get to spend a lot. If—if—if it goes out on a—on a early motion, then that would control—it would contain the cost. But we're—we're certainly going to try to plead it to keep it in, if we go forward with this. It would—and, if we succeed, it would come down to a fact question for the jury at trial, as to whether the statute of limitations had run before—

Chair Helfer: That's a fact question—

Mr. Thomas: Well, in—

Chairman Helfer: —not a law question?

Mr. Thomas: —in terms of when the actions took place. If—one of the—if—if we can play it out that far. We're not—you know, I think there's a—

Chairman Helfer: Isn't it much more likely that it would be resolved on a motion to dismiss?

Mr. Thomas: Yeah. Or—or a motion for summary to—

Chairman Helfer: If it were going to be resol—

Mr. Thomas: Yes. Or a motion for summary. Well, either one.

Chairman Helfer: Sorry—or a motion—either one, actually.

Mr. Thomas: Yeah. I think that's the likely—

Director Fiechter: What will the outlay be? I mean, I think you mentioned $6 million to go all the way.

Mr. Thomas: I would assume if it—well, if we keep in the claim for failing to have the other institutions honor their net worth maintenance agreements, presumably the litigation would continue for some time. I imagine we're committed to spending at least half a million dollars and quite possibly most or all of $4 million to get to trial, if we go forward.

Chairman Helfer: On that claim.

Mr. Thomas: On—

Chairman Helfer: The question I think was, what about that claim that's resolved on a motion to dismiss or a summary judgment motion?

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: (Redacted by Committee on Resources).

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: (Redacted by Committee on Resources).

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: (Redacted by Committee on Resources).

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: (Redacted by Committee on Resources).

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: To summarize, you're recognizing—you—you're recommending that the Board authorize the suit. You are indicating that the pleadings would su—would withstand a Rule 11 motion.

Mr. Thomas: They should. I—I don't warrant that they will, but I warrant that they should. The difference is the District Courts in the Fifth Circuit.

Chairman Helfer: (Redacted by Committee on Resources.)

Mr. Thomas: I'm not going to argue that there is a better than 50 percent chance of recovery in this case. But it is—we—we're not talking about a 5 [percent] or 10 percent case. We think the statute of limitations issue is about 70 percent against us on the mortgage-backed securities claims. We think the claims on the merits are roughly 50/50.

Director Fiechter: So what is the math here? We would have spent $4 million to go to trial, $2 million in trial. And they had a—what is the likely probability of the settlement and the chance that we'll collect?

Mr. Thomas: Well, if you want to multiply the math out, and, unlike most of our cases, I think this is one where they are relatively independent variables; most of them, I think, are highly dependent and when you start multiplying them together, you get a silly result. But here, 35 percent would not be an unrealistic expectation in terms of this—a substantial verdict being returned here. And if we get past the summary judgment motions, our estimate is that the case would have between—(redacted by Committee on Resources)—settlement value. But it is extremely difficult to value a case of this size and a case with these risks, because they're unlike a D&O case where you have $10 million in net worth and a claim for $4 million. There is no market. There—there aren't a lot of cases like this. Those are our best guesses. If—if you work through the math, the low end of that would be—(Redacted by Committee on Resources).

Chairman Helfer: Are there any other comments or questions? May I have a motion to accept the staff's recommendation to authorize the institution of a professional liability suit against certain former directors and officers of United Savings Association of Houston, Texas? Anyone want to make the motion?

Director Fiechter: I take it this is up or down if tomorrow—

Chairman Helfer: Yeah. It's up or down.

Director Fiechter: —it runs.

Chairman Helfer: It's up or down. I think you're saying that there is a high probability that, on one of the claims, the claim will not go forward on statute of limitations grounds. There is a lower probability—there is a high probability that the other claim will go forward despite statute of limitations claims. That the chances of recovery on the merits on the first claim are very high. The chances of recovery on the merits on the second claim are a bit lower. The probability of a high recovery, should the case go forward on the merits, is significant, but that has to be offset against the difficulties with respect to one of the claims on statute of limitations grounds. Have I summarized?

Mr. Thomas: It has to be offset against the statute of limitations risk on the better claim, the more conventional claim, and the difficulties in proving the merits of the—(Redacted by Committee on Resources).

Chairman Helfer: All right. Is there a motion to accept—accept the staff's recommendation to proceed with suit in this case?

Mr. Steinbrink: [No.]

Chairman Helfer: No. From you?

Vice Chairman Hove: [No]

Chairman Helfer: No.

Director Fiechter: [No]

Chairman Helfer: No. Can the chair make a motion?

Mr. Langley: Bill says, yes, the chair can make a motion.

Chairman Helfer: Okay. I'm going to make a motion to pursue this suit in this case. Is there a second to the motion?

Mr. Steinbrink: I've never seen this before.

Chairman Helfer: We still can vote on the merits of this, you all. I think we should have a recorded vote. So I ask for a second to my motion so we can have a recorded vote on whether to institute suit.

Vice Chairman Hove: A question; clarification?

Chairman Helfer: Yeah?

Vice Chairman Hove: Can a motion be seconded and then voted against the motion?

Chairman Helfer: Can the person who seconds the motion vote against it?

Mr. Langley: Yes.

Vice Chairman Hove: I will second.

Chairman Helfer: Yes. All right, all in favor of inst—of the staff's recommendation to authorize suit in this case. Please record that the chair votes, yes. All opposed to instituting suit in this case?

Vice Chairman Hove: Aye.

Director Fiechter: Aye.

Mr. Steinbrink: I think that I would defer to the chair in this case and, in the first request, vote with the chair.

Chairman Helfer: Okay. So that would be a two to two vote and I assume that that would not authorize suit in the case. Is that correct?

Mr. Langley: Right. That's correct.

Chairman Helfer: All right.

Director Fiechter: Well, then, we want to revisit it?

Mr. Steinbrink: Talk some more about it.

Director Fiechter: As I un—

Chairman Helfer: Then I think we have to have a motion to reconsider the matter by someone who voted against.

Director Fiechter: I make the motion that we reconsider it.

Chairman Helfer: And a second.

Mr. Steinbrink: I will second.

Director Fiechter: (Unclear).

Chairman Helfer: All right.

Vice Chairman Hove: A first.

Director Fiechter: Can the Board members voting in favor give me a sense of—

Mr. Steinbrink: Well, I mean—

Director Fiechter: —it's the expenditure of—we're assuming—what, John?—several million dollars to figure out how far we go on this?

Mr. Thomas: Let's—let's talk through that a little bit. We've spent $4 million so far on this matter. And part of that—

Chairman Helfer: I'm sorry, how much?

Mr. Thomas: Four million dollars so far on this matter, approximately.

Director Fiechter: I was told by our staff that we're taking advantage of—of your $4 million—

Mr. Thomas: Yes.

Director Fiechter: —of the—there's value—

Mr. Thomas: There are—there are—

Director Fiechter: —from our perspective.

Mr. Thomas: —there are—three different areas of value for the money that's been spent.—(Redacted by Committee on Resources).

A significant amount of money has been spent over the last year, both in trying to make sure we know where we stand and in working with OTS to—instead of making them relearn everything, give them the information we have in a meaningful, useful way; help them work through what they're doing; pay for the consultants they're using. We would expect there to be overlap, if both this claim and the OTS claim go forward, par—in parallel, and that's another question. Both whether we would want that to happen, assuming tha—that Hurwitz says, okay, sue me. And we'd have a question of where the courts would—if we say our—we—we'd like to stay this whole matter until OTS's matter is resolved. Suppose at—at the end of the year OTS brings a claim, assuming that for purposes of talking through what will happen, we might very well say we would rather stay our claim and let OTS resolve this instead of having the same case go on two forums. The court might or might not let us do that. It—we would sort of make that argument and if Hurwitz joined in it, we have a better chance. But there's no guarantee we'd be allowed to do that. If that happened, we would hold our costs down. If they go forward in parallel, there will be some significant overlap between the cost of this litigation and cost which we would otherwise—

Chairman Helfer: But we do not know whether the OTS is going to bring suit.

Mr. Thomas: That's correct.

Chairman Helfer: That's the problem with this analysis.

Mr. Thomas: That's correct.

Chairman Helfer: If we knew—

Mr. Thomas: That's part—

Chairman Helfer: —that, we could take that into account.

Mr. Thomas: Yeah, That's part of why I—I didn't go through this discussion earlier—

Chairman Helfer: Um-huh.

Mr. Thomas: —because it is very problematic. Not very problematic; it's an unknown. If we—(Redacted by Committee on Resources).

Chairman Helfer: I guess I don't understand your analysis. We can dismiss with prejudice. We can seek a dismissal with prejudice of our claims at any point—

Mr. Thomas: That's correct.

Chairman Helfer: —at any point that the OTS decided to proceed—

Mr. Thomas: We could certainly do that.

Chairman Helfer: —if it decided to proceed. And—

Mr. Thomas: Yeah.

Chairman Helfer: And how many courts can say, no, you can't dismiss your claim with prejudice. "With prejudice" meaning that it resolves the matters for all time and we cannot bring the suit again later.

Mr. Thomas: We—we'd have to—to look at whether there's any case law and I suspect the answer is no. We'd have to take a risk, in terms of dismissal with prejudice, whether that would prejudice our rights for restitution. I don't know the answer to that question. I haven't really addressed the question.

Chairman Helfer: The rights for restitution, however, relate to a contractual agreement with the OTS, don't they?

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: There—there is no benefit to proceed with the case either from the court's perspective or from the defendant's perspective, should we seek to dismiss out our claims with prejudice. And—

Mr. Thomas: As long—as long as we're willing to dismiss them with prejudice—

Chairman Helfer: That's point one.

Mr. Thomas: —that's—

Chairman Helfer: Point two, as to the—the—the issue of whether it pre—prejudices our restitution, if we're seeking a dismissal with prejudice because we've become convinced that the statute of limitations problems are overriding and that the claims will be separately pursued and the deposit insurance funds will have the recoveries which they are due on the merits, then I don't understand why that would pre—prejudice the restitution—ability to get restitution as to both claims.

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: It obviously would have been helpful to have worked with the OTS all along so that we weren't presented at the point of the running of the statute—of the tolling of the tolling agreements with this dilemma of not knowing whether the merits of the claims are going to be separately pursued.

Mr. Thomas: It—we've been working actively with them for over a year. We had agreed among ourselves that we would—both FDIC and OTS had agreed we would only extend the tolling agreements with people if they agreed to extend them with both. None of us realized until about 10 days ago, 13 days ago, that there was even an issue as to whether Hurwitz was going to sign a tolling agreement, because they had extended them several times. OTS staff ultimately reached what—the only possible conclusion. They were not prepared to—to make a final recommendation, so they had to accept tolling with Hurwitz and not—even though he wouldn't toll with us. They—you know, anything else would have been self-defeating. That's how we got into this and I can only apologize to the Board for it.

Director Fiechter: So can you help me out? Would our agreeing to sue Hurwitz now—that wouldn't necessarily be "us" the FDIC, hedging our bet in terms of whether or not OTS decides to sue in two months. You're suggesting that it might complicate—

Mr. Thomas: Sue—

Director Fiechter: —the process if we didn't pursue a parallel effort—

Mr. Thomas: Bri—

Director Fiechter: —for the nest couple of years?

Mr. Thomas: Bringing the suits, I don't think, compromises OTS's ability at all. The only question that I—that I see is one the Chairman raised. If we said, all right, OTS has brought a parallel case. It makes sense to us to stop this. The court won't simply stay it. Hurwitz won't agree to a dismissal without prejudice or to a dismissal without prejudice to OTS as an express preservation of our right to—to restitution in the OTS claim. Then we have the—the question, which is unresolved, whether we could simply dismiss the case with prejudice, save the additional costs, and if—if doing that would—would leave some risk of whether we could collect for restitution. And as I say, I don't believe there are any cases that actually address that issue. I—because I know we talked about it from time to time in other contexts and no one, in any—any of the regulators that I'm aware of has ever seen a case—we haven't seen a case that addresses that issue. Arguments can be made on both sides.

Chairman Helfer: Why does the case get presented if the OTS has a recovery? And we have an agreement with the OTS that they will restore—because we're, after all, currently paying the OTS's cost for pursuing the matter and we have an agreement with the OTS that if there's a recovery we—this recovery will go into the bank insurance comp—funds. Whose—whose—whose right is it to complain?

Mr. Thomas: The—the way it would arise is Hurwitz and the other defendants would argue that OTS's claim is for restitution, the restitution flowing back to the FDIC. And if we have dismissed with prejudice, then they would argue that that covered our right to re—recover at any forum. and I would argue the contrary. But I think that it's—it's not something I—that I could give—

Chairman Helfer: But I thought the FDIC—the OTS—

Mr. Thomas: —you a clear opinion on.

Chairman Helfer: —has a separate right to sue—and a separate—separate injuries to seek recovery on.

Mr. Thomas: They—the restitution claims are really a right to recover money for the benefit of the person who's been injured. And that's—that's really the argument. Is it OTS's right to recover the money and then have it go to the right people? Or is it really the victim's rights and OTS is the entrance through—through which collection is—is achieved. And I don't think there's a—there isn't an answer that I'm aware of.

Chairman Helfer: But I thought our argument all along was that the OTS has a separate right. That this isn't a subterfuge to get around the FDIC statute of limitation problems. That is has separate legal rights and separate injuries that it can seek payment for.

Mr. Thomas: They have separate legal rights, but whether it's a separate injury is a real question. But let me—let me frame the question just a little bit differently. Suppose the FDIC settled with Hurwitz, gave him a general release, and then OTS proceeded against Hurwitz on exactly the same claims and got a restitution order. Would he be able to say, I've already settled with the person who's getting this money. I don't have to pay. That's the question. If you give a—because if we dismiss with prejudice, we'd be putting ourselves essentially in that same position.

Chairman Helfer: And—all right, then let me carry the argument further. What if we didn't institute suit in this case? The OTS brings it and then Hurwitz says, this is a—this is a restitution claim for the deposit insurance funds. The institution that is responsible for managing the funds has—has decided not to bring the claim. Therefore, the OTS doesn't have any right to seek restitution for the deposit insurance fund.

Mr. Thomas: We think that's a lose.

Chairman Helfer: Well, I don't—I—I don't quite understand why you're so sure one may be a winner and this one—you're so sure this one is a loser—

Mr. Thomas: Wh—

Chairman Helfer: —in the Fifth Circuit which has—

Mr. Thomas: Wh—

Chairman Helfer: —not been recently very favorable to the FDIC.

Mr. Thomas: What—that I'm sure about—on the question of what happens if we dismiss with prejudice is I don't know an answer and I don't think there is a definitive answer that says we're okay. I—that—I mean, it's not that I'm confident we would lose that argument, it's that—I—I simply need to alert you. I—I think there is an issue there if we dismiss with prejudice. We'd have to figure out whether that would prejudice our claim and—and that's—that would likely to be a risky issue, because it's unsettled.

Chairman Helfer: I—I just don't understand why our failure to pursue this claim doesn't give rise to that argument to stop the OTS from proceeding to a claim that seeks restitution for the deposit insurance fund.

Mr. Thomas: They can certainly make that argument. I—I don't remember any case that's definitely decided that, but I know it's been argued about. But I don't—

Director Fiechter: Isn't there parallel cases, or cases where we would have pursued it for the benefit of you or the RTC?

Mr. Thomas: The—I don't remember any that actually have gotten to a point where the claim had expired and money was transferred, that weren't settled.

Vice Chairman Hove: John, a point of clarification, are—is this suit from deposit insurance funds or is this for the FSLIC resolution fund?

Mr. Thomas: The FSLIC resolution fund.

Vice Chairman Hove: Thank you. I—it did not make a difference—

Chairman Helfer: But it's still the FDIC as manager.

Vice Chairman Hove: It's still the FDIC, I agree, but I think (unclear)—

Chairman Helfer: No, I appreciate the clarification for the record. Yes.

Mr. Thomas: Yes, it—particularly if there was ever an issue, in terms of resolution of—of this as part of the settlement, with the Int—involving Interior and the redwoods, that—it might make a difference in terms of how complicated the legislation had to be to achieve it. Because it—where you—it's an issue of taxpayer money rather than insurance fund money.

Mr. Steinbrink: Can—can I go back and be a little more basic. And—and—and—and correct me if—if I've got in my mind this—this—this wrong. But we've got a group of individuals here who have cost the FDIC $1.6 billion. We've got a court system that has not ruled in our favor, recently, on certain elements of the case. We've spent 4 million bucks and we may spend 10 million bucks, plus another [$]600,000, if you go all the way through this case. And we've got the possibility—there is never a guarantee in this world—of a 50 percent success rate, perhaps lower but 50 percent, for settlement somewhere in the—(Redacted by Committee on Resources).

Mr. Thomas: Well, the [$]7 [million] to [$]14 [million] is simply multiplying the percentage likely—the success, against that range. That's—

Mr. Steinbrink: And we've got a statute of limitations that expires tomorrow and we've got another federal agency whose pursuing the same actions.

Mr. Thomas: They're investigating.

Chairman Helfer: We don't know that yet.

Mr. Steinbrink: Maybe.

Chairman Helfer: They're looking at it.

Mr. Thomas: They're investigating, yes.

Mr. Steinbrink: Now, is there anything in there that's—that's necessarily wrong?

Mr. Thomas: I think you had an extra $600,000 added on, but other—in our—our cost—

Mr. Steinbrink: (Redacted by Committee on Resources).

Mr. Thomas: Yeah. Yeah. But, no—

Director Fiechter: Am I right, John—

Mr. Steinbrink: And—

Director Fiechter: Oh, sorry.

Mr. Steinbrink: And by—if—if we choose to pursue this case, in your opinion we are not going to harm the OTS's case.

Mr. Thomas: I think that's right.

Mr. Steinbrink: And if you—if we choose to—not to, we probably won't harm the OTS's case.

Mr. Thomas: I think that's correct.

Director Fiechter: But that if we do pursue it, you're not certain whether we, the FDIC, can drop out. Should OTS decide to pursue, we have parallel—

Mr. Thomas: We have a—a reasonable prospect to being able, in one way or another, to drop out. In fact, we probably have a good prospect, but we don't have a guarantee that we can do it.

Chairman Helfer: Can you give me an example of a court that has refused to allow a case to be dismissed with prejudice by the party that sought—

Mr. Thomas: No.

Chairman Helfer: —to bring the case?

Mr. Thomas: No. There's not question we could—if—we can get out.

Chairman Helfer: But you're raising the restitution issue.

Mr. Thomas: Right. Right. Yeah, there's no question—

Chairman Helfer: Whether we would want to.

Mr. Thomas: Right.

Chairman Helfer: So then your issue is, would the court stay the proceeding? If this—do you think it is likely Mr. Hurwitz would want to proceed with both sets of litigation simultaneously?

Mr. Thomas: He shouldn't.

Chairman Helfer: If he had a chance to stay one of the proceedings and not spend the money on one of them, do you think he'd likely take that chance?

Mr. Thomas: He shouldn't. Of course, he shouldn't.

Chairman Helfer: He shouldn't what? I'm sorry.

Mr. Thomas: He should not want to proceed in both forums. I mean, it's—it's not economically rational, as I view the world, but then again, the fact that he didn't sign the tolling agreement is not, in my view, economically rational.

Chairman Helfer: No. I think it—given the difficulty the Board is having deciding to bring suit, it was quite economically rational. He's clearly telling the Board to put up or shut up, don't you think?

Mr. Thomas: Oh, yeah. I—I—I have not discus—I never met Mr. Hurwitz, but I think it's pretty clear that he views this as a matter of calling our bluff, when you boil it down.

Director Fiechter: My views on this were, in part, based on the—just the math, the cost of proceeding versus what we might collect. Are you suggesting there's a reasonably good chance that we could agree to sue today but that, should OTS proceed—decide to pursue this in a couple of months, and as I understand it OTS would have a probably stronger case than the FDIC, that the FDIC could then go slow or ask for a dismissal with prejudice and that the FSLIC Resolution Fund would therefore be no worse off than if the FDIC today decided not to sue.

Mr. Thomas: (Redacted by Committee on Resources.)

Chairman Helfer: For a motion to dismiss?

Mr. Thomas: Motion to dismiss and related—particularly if we get into any kind of discovery.

Chairman Helfer: Yes, but a motion to dismiss, I can see the lower end of the range. A summary judgment motion I can see the higher end of the range, or higher probably.

Mr. Thomas: (Redacted by Committee on Resources.)

Mr. Steinbrink: But the one thing that is certain is that we have people who, in our opinion and the historical opinion of the regulatory agencies, have done things that are unsafe and unsound and have performed acts that we don't think are appropriate and they've cost the FDIC $1.6 billion with these acts—

Mr. Thomas: The—the acts of these individuals during the stew—well, this institution had equity capital of some rather modest amount and if you took out the goodwill in 1983 before Hurwitz bought it, it would have been insolvent. Their acts—their—under their control, this institution went from being marginally insolvent to a [$]1.6 billion loss. Yes.

Chairman Helfer: And you believe those acts constitute gross negligence?

Mr. Thomas: Yes.

Chairman Helfer: Without question. I mean, it's the staff's view that the facts support that these acts were grossly negligent.

Mr. Thomas: In terms of the claims we're—we're discussing here, they lost a lot of money for other things. They were the subject—they were the victim of fraud; they were the victim of bad economy; they were a victim of a lot of other things, but the things we propose to sue on we believe are grossly negligent, yes.

Director Fiechter: On my understanding that the—that to the extent we find that the suit today is redundant and that there is a good probability, but you can't guarantee, given the lack of precedent, that the FDIC could avoid expending funds that duplicate what the OTS might choose to do. But you're hedging in that, if the OTS decides not to pursue in two months, we leave open the option of the FDIC proceeding. I'm willing to go with proceeding on—

Chairman Helfer: My—my understanding is that the staff would have no intention to duplicate litigation or litigation costs with the OTS, to the extent the staff can control that—

Mr. Thomas: Certainly, we're—

Chairman Helfer: —possibility—

Mr. Thomas: —trying to avoid it today and we'll continue to try to avoid it.

Chairman Helfer: And the issue there simply is the court's willingness to stay the proceeding.

Director Fiechter: It's—it's your view that you can't come up with a good reason why they wouldn't be willing to stay.

Chairman Helfer: Well—I'm—I—

Director Fiechter: And I just don't know—

Chairman Helfer: —it—it's—

Director Fiechter: —that much about the—

Chairman Helfer: —dangerous—what is the saying, a fool—"A lawyer seeking to be his own counsel has a fool for a client." I recognize that, but I can't help but bring to bear to this matter my own, somewhat limited, experience with litigation and my own reading of more li—more—greater experience at the appellate level in the Fifth Circuit, admittedly with one of the sounder judges of the Circuit, which are not unfortunately ones that we seem to come before. So I have to bring that to bear. Obviously, I don't have the range of experience of Mr. Thomas, so I would have to defer to his advising the Board on legal matters.

Mr. Thomas: Our expectation is that Hurwitz would not want to proceed on two fronts, but there are no guarantees and he is a person who has made it clear that he doesn't always do, in any forum, what other people expect of him. It doesn't make sense to want to spend the money in two places.

Vice Chairman Hove: I guess I—I can appreciate what Steve was pointing out that—that—that there are losses here and—and no question about—some of these people are—are not the kind of people that you'd like to see in the financial services industry and—and that they did some things that weren't appropriate. And I guess we're doing it more on principal—the—the principal of it. But—but the economics of the thing still doesn't make sense. But, in the sense of collegiality, if—if the Chairman is interested in having this go forward, I'm willing to let it go forward.

Chairman Helfer: I believe the court's unwillingness—let me ask one more question, on Texas law. What does Texas law say about adverse domination?

Mr. Thomas: The truth is, the Fifth Circuit wrote on a clean slate, for all practical purposes. There are—the Texas courts' laws—the Texas court cases really don't say much of anything. They simply said, well, this is what we think the Texas courts would do. We asked, in one of our recent cases, to have the Fifth Circuit certify something to the Texas Supreme Court to answer the question. They declined.

Chairman Helfer: That, of course, depends on the panel one gets in the Fifth Circuit. One of the—at least one of the virtues of this case might be to press that issue of how far the adverse domination determination goes and whether one can look to the sta—the continuing conduct after—let me state it differently. If one can look to continuing conduct adverse to the insured institution, even where the act that led to that took place during the period which the court said the statute of limitations would bar, if that would essentially allow the Fifth Circuit to ameliorate wha—what I personally believe to be a gross disservice to insured institutions not to recognize the principal of adverse domina—adverse domination in this context. So—

Mr. Thomas: I couldn't agree more.

Chairman Helfer: Pardon?

Mr. Thomas: I couldn't agree more.

Chairman Helfer: So I have to say that my concern is we have principals that have caused a $1.6 billion loss. We—to the U.S. taxpayer. We have a judgment that, as to the claims that we would bring, these individuals were not simply negligent but grossly negligent as to the insured institution. And we have the prospect of making claims that might lead a different panel of the Fifth Circuit to make a judgment that would ameliorate some of the grosser adverse aspects of the previous Fifth Circuit decisions. I recognize that, of course, a panel could simply follow suit. What prospect—is there a split in the Circuits on this? Is there two Circuits and they've gone essentially the same way?

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: But you're saying there are no Texas Supreme Court decisions on point. So the Fifth Circuit is essentially interpreting state law based on its own judgment about state law.

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: Would there be a prospect that a different panel of the Fifth Circuit might allow certification of the issue?

Mr. Thomas: (Redacted by Committee on Resources).

Chairman Helfer: No, I understand.

Mr. Thomas: —forum either, but it's—

Chairman Helfer: I understand, but that at least—

Mr. Thomas: ——worth a try.

Chairman Helfer: —it sets a clear standard—

Mr. Thomas: That's right.

Chairman Helfer: —of what the state law is—

Mr. Thomas: That's right.

Chairman Helfer: —as opposed to the Fifth Circuit.

Mr. Thomas: And we've had some successes, "we" in the RTC. For example, in Maryland, the District Court certified a matter to the Maryland Supreme Court. Everyone thought that we would lose in Maryland and they came back and said, oh, no adverse domination is the law in Maryland; a very favorable decision. We have so—we have circuits going both ways but they again are basically looking at state law.

Chairman Helfer: Okay. There has been a motion to reconsider the previous vote of the Board with respect to the staff's recommendation to authorize the institution of a PLS suit in the matter of United Savings Association of Houston, Texas. Given that motion, I would now seek a new motion in support of the staff's recommendation.

Director Fiechter: I'll so move.

Chairman Helfer: And a second.

Mr. Steinbrink: I'll second it.

Chairman Helfer: All in favor of the motion?

Vice Chairman Hove: Aye.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC.

CERTIFICATION

I, Leneta G. Gregorie, Counsel and Special Assistant to the Executive Secretary, Office of the Executive Secretary, Federal Deposit Insurance Corporation, do certify that the attached is an excerpt taken from the Transcript of a Board of Directors Meeting held on August 1, 1995 (Closed to Public Observation).

(SEAL)

LENETA G. GREGORIE,
Counsel and Special Assistant, to the Executive Secretary.

RECORD 28

Memorandum To: Alan Whitney, Director, Office of Corporate Communications. Alice Goodman, Director, Office of Legislative Affairs.

From: Jeffrey Ross Williams, Counsel, Professional Liability Section. Robert J. DeHenzel, Jr., Counsel, Professional Liability Section.

Subject: *PLS Lawsuit Filed Today Against Charles Hurwitz.*

As you know, yesterday the FDIC Board of Directors authorized the filing of a PLS suit against Charles E. Hurwitz arising out of the failure of United Savings Association of Texas ("USAT"), Houston, Texas. The FDIC's complaint was filed this afternoon in the United States District Court for the Southern District of Texas in Houston. A copy of the complaint is attached for your reference.

The complaint seeks damages against Hurwitz in excess of $250 million and alleges claims for gross negligence, breach of fiduciary duty and breach of the duty of loyalty arising out of his own conduct and for aiding and abetting the conduct of others who served as officers and directors of USAT. The complaint alleges that Hurwitz dominated and controlled USAT as a controlling shareholder, a *de facto* senior officer and director and controlling person.

Count I of the complaint alleges that Hurwitz breached his fiduciary duty of loyalty to USAT by failing to ensure that USAT's net worth was maintained by its parent company, United Financial Group, Inc. ("UFG") and by its controlling shareholders MCO Holdings, Inc. ("MCO" now known as Maxxam) and Federated Development Corporation ("Federated"). Count II of the complaint alleges that Hurwitz was grossly negligent and breached his duty of loyalty to USAT in failing to act to prevent additional losses from USAT's first mortgage backed securities portfolio. Count III alleges that Hurwitz was grossly negligent and breached his duty of loyalty to USAT in causing USAT to invest substantial amounts of mortgage backed securities in its subsidiary, United MBS, resulting in substantial losses.

As we informed the Board, this action will be highly visible because Hurwitz and USAT have attracted media coverage and comment from environmental groups and members of Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging our D&O claims for the redwood forest. We recently met with representatives of the Department of the Interior ("DOI"), who informed us that they are negotiating with Hurwitz about the possibility of swapping various properties, plus possibly the FDIC/OTS claim, for the redwood forest. They stated that the Administration is seriously interested in pursuing such a settlement. We plan to follow up on these discussions with DOI in the coming weeks. *All of our discussions with DOI are strictly confidential.*

In response to numerous letters from the environmental community and members of Congress about the possibility of the FDIC pursuing a debt for nature swap, we have started that:

"although such a swap almost certainly would raise numerous difficult questions, if Maxxam could be held liable for USAT's losses, and if such a swap became an option, the FDIC would consider it as one alternative and would conscientiously strive to resolve any pertinent issues."

If you are asked specifically about this issue, we believe there is no reason to deviate from this position.

Please do not hesitate to contact Jeffrey Williams, at 736-0648, or Bob DeHenzel, at 736-0685 if you have any questions whatsoever.

RECORD 29

8/15/95—Hurwitz

Alan McReynolds and Larry Millinger—Interior 208-6172

Jeff Webb, Interior, Land acqui

K Zeigler, Fish and Wildlife

OTS—Rick Sterns, Bruce Rinaldi

California Delegation wrote Interior for creative suggestions as to how to acquire the redwoods.

Rick—OTS—can't really discuss their claims—policy to be quiet

Alan—Hurwitz lawyers

Terry Gorton—Rep of Calif

Gov's office—Spec Asst to Sec of Natural Resources.

Strategy—a fund of property owned by state to sell or trade—70 to 100 m. feels deal can be cut $150 to 250 m.

Hurwitz' lawyers said the $500 m appraisal should not be an obstacle for price/deal.

Obstacles to logging:

Presidential ambitions of Wilson—complicates matters for Interior.

Interior doesn't have surplus property to put on table.

16 bases in Calif to be closed could chop off a piece or pieces

H told Terri he would take Grand Prairie Tex Naval Air Station.

Should Interior go visit DOJ and see about acquiring property.

Rick says nothing here will influ OTS decision to bring an action.

Rick—FDIC will prob have to go thru a round of motions.

JDS says we would sit at a global settlement table. Dirs briefed—no objection stated.

Alan—fear of sending wrong messg by pursuing this at all.

RTC has approached Interior.

RECORD 30

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, November 6, 1995.

MEMORANDUM TO: Kathleen McGinty, Chairperson, Council on Environmental Quality, Executive Office of the President.

FROM: Jack D. Smith, Deputy General Counsel, Federal Deposit Insurance Corporation.

SUBJECT: Headwaters Forest/Charles Hurwitz, Debt-for-Nature Transaction.

At a meeting in your office on October 22, 1995, you requested an analysis of certain issues pertaining to the viability of obtaining a transfer of the Headwaters Forest from Pacific Lumber (a corporation controlled by Charles Hurwitz) to the United States.

This memorandum states the issues and summarizes the answers. More detailed responses are attached. These responses were prepared by representatives of the Federal Deposit Insurance Corporation, the Office of Management and Budget, and the Department of the Interior.

Issues and Answers

Issue 1: It is feasible for Hurwitz to transfer the Headwaters Forest to the FDIC in exchange for a settlement of the FDIC's lawsuit and/or other assets?

Answer: Yes. While Hurwitz does not directly own the Headwaters Forest, he controls the boards of directors and the business decisions of the corporate entity that owns the land. Hurwitz is the majority stockholder of Maxxam, Inc. which, through its wholly owned subsidiaries, owns the Headwaters Forest. He is also the Chairman of the Board of Directors, President and Chief

Executive Officer of Maxxam and through these capacities has controlled the business and financial decisions of Maxxam and its subsidiaries. Most important, the FDIC lawsuit against Hurwitz may well ultimately be a liability of Maxxam because Maxxam's bylaws contractually obligate it to indemnify Hurwitz for liability in connection with acts performed while serving in any capacity on a Maxxam subsidiary such as United Savings Association of Texas or its holding companies. Hurwitz, through his control over Maxxam's and its subsidiaries' boards of directors, has previously influenced the transfer of Pacific Lumber's assets to resolve other liabilities, including lawsuits. Finally, the FDIC's Chairman has stated that in the event the Headwaters Forest is offered to the FDIC as part of a settlement of the FDIC's claims against Hurwitz, the FDIC Board of Directors would consider accepting such assets to resolve the claims against Hurwitz.

Issue 2: It is feasible for FDIC to transfer the Headwaters Forest to the Department of the Treasury?

Answer: The FDIC could legally transfer title to the Headwaters Forest out of the FDIC's FSLIC Resolution Fund ("FRF") to Treasury, if the FDIC determined that the state of the FRF at the time of transfer were such that the value of the Headwaters Forest was not better retained in the fund for discharge of FRF liabilities. It is unclear whether the FDIC Board of Directors would be able to make the requisite determination in the near term given uncertainties as to contingent liabilities, although a plausible case might be made in favor of such a determination in light of the present condition of FRF's balance sheet. We note, too, that Treasury would have to be willing to receive the Headwaters Forest (if only as part of an instantaneous transfer on to the Department of the Interior or another federal agency), and an interagency memorandum of understanding would therefore seem desirable in order to flesh out this plan. In the event that the FDIC Board were unwilling in the near term to make the requisite determination for a transfer to Treasury, a feasible alternative might be for the FDIC as manager of the FRF to hold the Headwaters Forest, under an interagency agreement whereby it would be managed by the Department of the Interior, until such time as conditions for a determination for outright transfer to Treasury (and then on to Interior) are satisfied.

Issue 3: What legislative mechanisms exist that may facilitate a transfer of the Headwaters Forest to the U.S. Department of the Interior with minimal financial outlay?

Answer: Three legislative authorizations provide a mechanism for an inter-agency transfer of title to the Headwaters Forest to the Department of the Interior. They are The Transfer of Real Property Act; The Coastal Barriers Improvement Act; and The Base Closure and Realignment Act of 1990. Each Act presents particular legal and political considerations that require special consideration.

Issue 4: What would be the likely budgetary impact from an acquisition or transfer of the Headwaters Forest through the FDIC?

Answer: Any budgetary impact, including "scoring," is dependent on the particular structure of the transaction and whether particular legislation is necessary to facilitate the acquisition or transfer of the Headwaters Forest.

Next Steps

It appears appropriate to arrange a meeting as soon as possible to decide upon what, if any, action is appropriate. Hurwitz has recently signaled—both directly and through his personal and corporate representatives—his desire to discuss the Headwaters Forest with representatives of the Government. For example, in a recent newspaper interview (attached), Hurwitz endorsed the possibility of a transfer of the Headwaters forest in exchange for assets of equivalent economic value. Furthermore, in recent discussions with FDIC after the publication of the interview, Hurwitz's lawyers have indicated their client's interest in discussing a resolution of the Headwaters Forest issue. Similar statements have been made by other Hurwitz representatives to the Department of the Interior.

There appears to be little downside in responding to these overtures at an early date. If everyone else agrees, it would be necessary to decide the following:

1. Which person(s) should be authorized to contact Hurwitz;

2. Through which Hurwitz representative (e.g., Maxxam, Pacific Lumber, Hurwitz's defense lawyers) should such contact be made;

3. The substantive authority of the negotiating person or group for its discussions with Hurwitz; and

4. A mechanism for the negotiating person or group to regularly consult and coordinate its discussions with the respective federal agencies and offices that are involved in this effort:

Please let me know if the FDIC can be of further assistance. My phone number is (202) 898-3706 and William F. Kroener, III, FDIC General Counsel, can be reached at 898-3680.

Attachments.

[From the Press Democrat, Oct. 22, 1995]

PACIFIC LUMBER: 10 YEARS AFTER

(By Mike Geniella)

SCOTIA.—Ten years after pulling off a nearly $1 billion hostile takeover of Pacific Lumber Co., Texas Financier Charles Hurwitz is seething because his most prized asset remains off-limits.

Hurwitz believes a continuing controversy about Headwaters Forest, the largest stand of ancient redwoods left in private hands—worth $600 million today by company estimates—not only hinders business, but denies him and managers of the 127-year-old North Coast timber giant the recognition he feels they deserve.

"We've stuck around for 10 years. We've reinvested $100 million in new facilities, added more *** and expanded our timber base. We rebuilt *** town after an earthquake and fire," said Hurwitz.

"And still we're the bad guys," he said. "My God, the way the critics beat the hell out of this company, you would think we have slaves working there or something," complained Hurwitz.

In a rare interview, Hurwitz told The Press Democrat that Pacific Lumber is willing to have an independent party determine a value for Headwaters if that helps bring an end to the North Coast's most tenacious environmental battle.

Andy McLeod, spokesman for Secretary of Resources Douglas Wheeler, welcomed Hurwitz's offer.

"Without doubt, determining a value for the forest is key to finding solutions to the complexities surrounding Headwaters," he said.

However, McLeod said the state will not negotiate "other than directly with the parties involved."

"Any further discussion on any value for Headwaters will have to be done directly," he said.

Epic court fights, regulatory skirmishing and disputes over its value, have kept company chainsaws from cutting Headwaters' 3,000 acres of towering redwoods, some dating back to the time of Christ.

DIFFERENT APPRAISALS

Pacific Lumber contends Headwaters' fair market value is nearly $600 million, but government appraisals have ranged as low as $400 million. Because of normal regulatory constraints surrounding harvesting of old-growth trees, preservation proponents say Headwaters' true value is much less, perhaps around $200 million.

Whatever value may be set, Hurwitz said he doesn't necessarily expect taxpayers to come up with that kind of cash. He once again said he would favor offsetting some of the cost by swapping the big trees for abandoned U.S. government property.

"You know, if I could get someone who was very serious about resolving this, and who had some authority, to sit down with me, I think we could work out a Headwaters solution in half a day," said Hurwitz.

Hurwitz warned, however, that a deal needs to be struck soon. He said he believes a Republican majority in Congress, and its zeal for private property rights, creates a better political climate for Pacific Lumber's efforts to either be fairly compensated for Headwaters, or be allowed to log the swath of old trees tucked in the coastal ridges east of Fortuna.

"I want to tell you that this is America, and that this land is zoned for timber cutting," said Hurwitz defiantly.

"We are going to move forward. Somebody is going to pay us fair market value, or we're going to cut it. And we're not embarrassed to say that," he said. A federal court recently has put on hold company plans to remove dead or dying trees from Headwaters pending trial of the latest in a series of lawsuits filed by the grass-roots group Environmental Protection Information Center in Garberville.

DEAL OF CENTURY

Departing from his usual stance of no interviews, Hurwitz spoke for nearly an hour by phone from a Puerto Rico resort being developed by his Houston-based Maxxam Inc. The conglomerate also owns Kaiser Aluminum, and substantial real estate holdings nationwide. The conference call interview included Pacific Lumber President John Campbell, who was a P-L executive before the Hurwitz takeover.

Hurwitz talked freely about controversies that erupted after Pacific Lumber's old board of directors capitulated 10 years ago today, and voted to sell the aristocrat of West Coast timber companies to Maxxam. It became the timber deal of the century because Pacific Lumber's under-valued assets were probably worth closer to $2 billion, according to estimates in some shareholder lawsuits filed to the aftermath of the Hurwitz takeover.

At the time of Hurwitz's takeover, Pacific Lumber was touted by the Sierra Club and Save the Redwoods League for its responsible logging practices. Generations of Humboldt County residents have worked for Pacific Lumber and lived in Scotia, the West's last real mill town. Until the takeover, they were comforted by a paternalistic management that gave them a lifestyle once characterized as "Life in the Peace Zone."

Pacific Lumber's buyout by an outsider was a stunning development for hundreds of workers and their families, and a region that depends on the company for its economic well-being. The takeover ignited a decade of environmental activism in the streets and in the courts, and reshaped the face of North Coast politics. Logging controversies have played a role in almost every major election since the takeover.

In the beginning, Hurwitz was largely unknown. At the time, he was a small-time inventor with alleged ties to convicted Wall Street wheeler-dealers Michael Millken and Ivan Boesky, and a failed Texas savings and loan that cost taxpayers $1.6 billion. Today his personal portfolio is worth an estimated $180 million.

After snagging sleepy Pacific Lumber for $800 million during the takeover craze of the 1980s. Hurwitz ordered the cut doubled to meet the company's cash flow needs, and pay up to $90 million a year in interest payments on about $550 million in junk bonds he used to finance the takeover. Hurwitz later was to use early profits from Pacific Lumber's accelerated cut to help fund a takeover of another venerable Northern California industrial giant, Kaiser Aluminum.

As his empire grew, Hurwitz was attacked as a ruthless raider whose targets, including Pacific Lumber, were asset-rich companies. His dealings involving Pacific Lumber came under scrutiny by the Securities and Exchange Commission, the U.S. Labor Department and a congressional oversight committee, none of which took any action. A probe by the Federal Deposit Insurance Corp. into Hurwitz's role in a failed Texas savings and loan resulted in a $250 million claim being filed against him.

ACCUSATIONS NOT TRUE

Hurwitz dismissed his critics.

"Their accusations are just not true, and anybody who will spend the time looking into them will find that out," said Hurwitz.

Soon after the Pacific Lumber takeover Hurwitz ordered the sale of a tool company subsidiary of Pacific Lumber for $300 million. He sold Pacific Lumber's former San Francisco headquarters building for another $30 million, moving all corporate operations to Scotia and fueling speculation he intended to dismantle the timber giant and sell all of its assets. Critics predicted Scotia would be a ghost town within 10 years.

Hurwitz said the years have proven the critics wrong.

"We're still here, and we're still growing," he said.

Hurwitz said his rogue image is a carryover from the 1980s, "When everybody who did takeover was cast in a bad light. But contrary to a lot of those kind of people, we're builders. We're happy with our investments."

Still his reputation persists.

"I warned Hurwitz early on that his takeover of Pacific Lumber would become the absolutely perfect symbol of what everyone doesn't like about American business," recalled former Rep. Doug Bosco, D-Sebastopol. After his defeat to Rep. Frank Riggs, R-Windsor, Bosco for a year was paid $15,000 a month by Hurwitz to try to forge a consensus in Congress, where a bill had been introduced for the public acquisition of Headwaters.

Those efforts failed, and so have a series of others in the state Legislature and at the federal level.

Hurwitz said he's disgusted with the political "circus." He recalled in 1988 when he went to Sacramento with Bosco, who was then still a congressman, to meet with key legislative leaders. They asked Hurwitz to agree to a voluntary logging moratorium on Headwaters, an agreement Pacific Lumber stuck to until this year, when Hurwitz said he'd had enough.

NOTHING HAPPENED

"I was told by these guys that they were going to step in and solve this issue," said Hurwitz. "But they didn't do a damn thing. We sat around for two years twiddling our thumbs waiting for something to happen, and nothing ever did."

Bosco said he no longer has any ties to Hurwitz, or Pacific Lumber. But he said he agrees with Hurwitz that most of the blame for the Headwaters statement is with the political process.

"It should have been resolved in the public arena, but it wasn't," said Bosco.

Hurwitz said the bad rap he and Pacific Lumber receive about wanting to log the last of the ancient redwoods in private ownership is unfair.

"I get all these letters every day from high school and junior high kids saying, 'Please don't cut down the Headwaters,'" said Hurwitz.

"I write them back and give them our version of this thing, and then I tell them they should write their senators, write the Congress, and write the president if they want to save the Headwaters," he said.

Hurwitz rejected environmentalists' clamor for a so-called "debt-for-nature" swap involving a $250 million claim a federal agency has filed against the Houston investor for his alleged role in the collapse of United Savings and Loan Association of Texas.

Hurwitz contended the Federal Deposit Insurance Corporation claims is in the form of a personal lawsuit against him, and cannot be linked to Maxxam or Pacific Lumber operations.

LAND SWAP

The possibility of swapping Headwaters for surplus government property dominated Hurwitz's thoughts during the interview.

Hurwitz cited as an example a closed military base in Texas between Galveston and Houston, where he lives.

"It's 15,000 acres of land, and it's doing nothing but drawing dust and rattlesnakes. Wouldn't it be great if someone like ourselves took it over and built new homes and a shopping center and created new jobs rather than have this land just sit there and do nothing?"

Hurwitz described such a possibility as a "win-win for everyone."

"Everyone thinks we're the stumbling block (to a Headwaters solution), and that's just not the case," said Hurwitz.

Hurwitz insisted the future is bright for Pacific Lumber.

Pacific Lumber, whose annual sales top $20 million, is not for sale despite Wall Street Journal reports earlier this summer to the contrary, said Hurwitz.

Hurwitz said in fact, Pacific Lumber under Campbell's guidance is looking to the North Coast, and around the globe to expand its timber operations.

"We've been to South America, Africa and even Russia," he said.

"We're builders. We don't buy and sell," said Hurwitz about Maxxam's investment strategies.

Hurwitz said he likes the timber business. "Just last week, we had discussions about a potential acquisition within the industry," he said. "We're very much in the growth mode," said Hurwitz.

Hurwitz said he's offended that Pacific Lumber has been cast as an environmentally insensitive company under his stewardship.

"What bothers me more than anything else is that people think we're hurting the environment. It's simply not the case. We've hired the best foresters, the best biologists to chart the company's course into the next century," said Hurwitz.

Hurwitz and Campbell said Pacific Lumber's timberlands, even after a decade of accelerated cutting, still have the most timber volume per acre than anywhere else in California, and perhaps Oregon and Washington. They said the company will be able to sustain current production and job levels indefinitely by acquiring more timberland, and developing new product lines.

"But that isn't what you hear on the streets, or read in the newspapers," said Hurwitz. "I've had people tell me they went to Scotia expecting to see a Palm Springs; no trees and all sand. They were amazed to see forests everywhere they looked."

CHARLES HURWITZ

Age: 65

Born: 1940, Kilgore, Texas

College: University of Oklahoma

Career: Started work as a stockbroker for Bache & Co. in 1952 in New York, later San Antonio.

First deal: At age 27, Hurwitz got investors to put up $54 million to launch the Hedge Fund of America. In 1967, it was the second-largest public offering ever on Wall Street.

The Hurwitz Decade:

May 1982: Hurwitz's MCO Holdings and Federated Development buy Simplicity Pattern Co. for $48 million, and later change name to Maxxam.

October 1985: Pacific Lumber board capitulates, and agrees to sell North Coast timber giant to Hurwitz.

May, 1988: Maxxam acquires Kaiser Tech. corporate parent of Kaiser Aluminum for about $930 million.

December 1988: Another Hurwitz Investment—United Savings Association of Texas—fails, eventually costing taxpayers $1.6 billion.

July 1992: Maxxam bids $350 million for a controlling interest in Continental Airlines, but offer rejected.

ISSUE 1. *IS IT LEGALLY FEASIBLE FOR CHARLES HURWITZ TO ARRANGE THE TRANSFER OF MAXXAM'S ASSETS SUCH AS THE HEADWATERS FOREST TO THE GOVERNMENT IN EXCHANGE FOR A SETTLEMENT OF THE FDIC LAWSUIT AND/OR OTHER ASSETS?*

SHORT ANSWER: YES. BY HIS DOMINANT POSITION AS MAXXAM, INC.'S CHAIRMAN OF THE BOARD, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AND AS ITS MAJORITY (60%) STOCKHOLDER, HURWITZ CONTROLS MAXXAM AND PACIFIC LUMBER (a wholly owned subsidiary of MAXXAM, INC.) AND THE BUSINESS DECISIONS OF THEIR BOARDS OF DIRECTORS. THROUGH HIS POSITIONS, HURWITZ CAN ARRANGE FOR MAXXAM TO EXCHANGE ITS PROPERTY FOR OTHER ASSETS AND/OR THE DISCHARGE OF MAXXAM LIABILITIES. THE FDIC LAWSUIT AGAINST HURWITZ MAY WELL ULTIMATELY BE A LIABILITY OF MAXXAM BECAUSE MAXXAM'S BYLAWS OBLIGATE IT TO INDEMNIFY HURWITZ FOR LIABILITY IN CONNECTION WITH ACTS PERFORMED WHILE SERVING IN ANY CAPACITY ON A MAXXAM SUBSIDIARY SUCH AS UNITED SAVINGS ASSOCIATION OF TEXAS OR ITS HOLDING COMPANIES. MOREOVER, IF THE OTS BRINGS CHARGES AGAINST MAXXAM DIRECTLY THIS WOULD ALSO BECOME A MAXXAM LIABILITY. (Answer prepared by FDIC).

DISCUSSION ANSWER:

I. Hurwitz's Control of Pacific Lumber

Hurwitz controls Pacific Lumber's corporate activities, including a sale or transfer of its assets, through his equity ownership in and domination of the board of directors of Maxxam, Pacific Lumber's parent corporation.

a. *Hurwitz's Control of Maxxam*

1. *Controlling Stockholder:* Hurwitz and various family interests own a controlling block of stock in Maxxam. Hurwitz and his family currently own and control, directly and through wholly owned personal and family investment companies and trusts, approximately 60.4 percent of the voting stock interests of Maxxam. Through this majority stock ownership, Hurwitz controls the election of candidates to Maxxam's board of directors and the financial and business decisions of Maxxam and its numerous wholly owned subsidiaries, including Pacific Lumber.

2. *Controlling Director and Officer:* Hurwitz is Maxxam's Chairman of the Board, President, and Chief Executive Officer, and has held these positions since he acquired Maxxam.

b. *Maxxam's Control of Pacific Lumber.* Maxxam is engaged in forest products operations through its wholly owned subsidiary, Maxxam Group, Inc. ("MGI"), and MGI's wholly owned subsidiary, Pacific Lumber Company, which Hurwitz acquired in a hostile tender offer in October 1985. Pacific Lumber owns, either in its own name or through subsidiaries, approximately 189,000 acres of commercial timberlands in Humboldt County in northern California.

1. 179,000 acres of Pacific Lumber's timberlands, including approximately 6,000 acres of virgin old growth redwood and border areas known as the Headwaters Forest, have been transferred to Scotia Pacific Holding Company, a wholly owned subsidiary of Pacific Lumber.

2. Title in the Headwaters Forest was in turn transferred to Salmon Creek Corporation, a wholly owned subsidiary of Scotia Pacific. Salmon Creek's only asset is the Headwaters Forest; it has been reported that the debt and other liabilities undertaken in connection with Hurwitz's acquisition of Pacific Lumber were maintained with Pacific Lumber and were not transferred to Salmon Creek. Moreover, Hurwitz has deliberately avoided pledging any part of the Headwaters Forest timber as collateral for Pacific Lumber's or its subsidiaries' financing arrangements, thereby making a transfer of title to the Headwaters Forest from Salmon Creek to the U.S. relatively easier.

c. *Hurwitz's Ability to Transfer Pacific Lumber's Assets:* Hurwitz has demonstrated his ability to control the actions of the board of directors of Maxxam, Pacific Lumber, and its subsidiaries in connection with the resolution of claims against the assets of Maxxam, Pacific Lumber, and other subsidiaries. Through his domination of Maxxam's board of directors, Hurwitz has influenced the financial and business decisions of Pacific Lumber and its two subsidiaries, Scotia Pacific and Salmon Creek. After the acquisition of Pacific Lumber, numerous lawsuits were filed against Hurwitz, Pacific Lumber, Maxxam, MGI, and others involving Hurwitz's tender offer and hostile takeover of Pacific Lumber. In November 1994, Hurwitz attended a conference in U.S. District Court, Southern District of New York, where the consolidated cases were pending. As a result of that meeting, Hurwitz, acting on behalf of Pacific Lumber, Maxxam, and other Maxxam subsidiaries, agreed to settle the cases for $52 million, with $14.8 million paid by Pacific Lumber, $33 million paid by insurance carriers of Pacific Lumber, Maxxam and MGI, and the balance from other defendants. *See,* Maxxam, Inc. 10–K, December 31, 1994. Moreover, two weeks ago Hurwitz said he could "work out a Headwaters solution in half a day" if he could get the government to talk to him.

II. Maxxam May Well Ultimately Be Obligated to Indemnify Hurwitz for FDIC Lawsuit

a. Maxxam's indemnification provisions are contained in the amended Bylaws dated August 1, 1988, and provide indemnity to "each person who is or was a director or officer [of Maxxam] . . . at any time on or after August 1, 1988, . . . by reason of the fact that he or she is or was a director, officer, employee or agent . . . or is or was at any time serving at the request of [Maxxam], any other corporation . . . or other enterprise in any capacity, against all expenses, liability and loss . . ." Maxxam refers to these indemnification obligations in connection with a description of the FDIC lawsuit against Hurwitz in its most recent SEC filing, stating that Hurwitz has not yet made a formal claim for indemnification from Maxxam. *See,* Maxxam, Inc. 10–Q, June 30, 1995.

b. Although Hurwitz was not an elected director of United Savings Association of Texas ("USAT"), and Hurwitz—not Maxxam—is a defendant in the FDIC's lawsuit, the suit alleges that Hurwitz was a "de facto" director of the thrift through his assertion of actual control over its operations and decisionmaking, that he was an elected board member of United Financial Group ("UFG") (USAT's first-tier holding company), and was a member of the joint USAT/UFG Strategic Planning Committee.

c. Moreover, the FDIC's suit alleges that Hurwitz breached his fiduciary duty to USAT by placing his and Maxxam's financial interests above the interests of USAT and its depositors by choosing to refuse to cause Maxxam to infuse new capital into USAT, as was required by a capital maintenance agreement with the Federal Home Loan Bank Board, that would have replenished USAT's depleted capital.

d. Maxxam currently possesses sufficient assets to pay a substantial liability, including indemnifying Hurwitz for the amount of a judgment or settlement. Maxxam is a publicly traded company with market capitalization of $233 million and total assets of $3.7 billion. *See,* Maxxam, Inc. 10–Q, June 30, 1995.

III. Related Litigation Which Could be Settled in a Global Settlement With Hurwitz

In addition to the FDIC's lawsuit, there are at least three other lawsuits which have value and could be exchanged in a global settlement involving the Headwaters Forest.

a. In early 1994, Robert Martel, a private citizen, supported and funded by numerous environmental organizations, filed a lawsuit against Hurwitz, Maxxam, and other persons and entities that alleges that Hurwitz illegally used USAT funds for the benefit of himself and Maxxam, and that such transactions diverted money from USAT and resulted in its insolvency. The complaint seeks damages against Hurwitz, Maxxam, and others under the False Claims Act which authorizes a damage award of three times the alleged actual damages of $250 million.

b. The Office of Thrift Supervision, a department of the Treasury, has been investigating the conduct of Hurwitz, other former USAT directors and officers, Maxxam and other USAT holding companies. On November 1, 1995, OTS notified Hurwitz, Maxxam and other potential respondents of its intention to file claims against them in early December 1995. An OTS suit is likely to include a direct claim against Maxxam and may seek monetary damages that exceed $350 million.

c. Pacific Lumber has been unable to reduce the substantial debt Hurwitz burdened it with as a result of his successful takeover effort. The company is in need of cash to service its operations. As harvestable timberland, the virgin old growth redwoods that comprise the Headwaters Forest are among Pacific Lumber's most valuable assets. To date, however, Pacific Lumber has been unable to log these trees, and has suffered financially as a result. In addition to numerous lawsuits filed by various environmental organizations against Pacific Lumber that prevented the logging of the virgin old growth trees over the last few years, a temporary restraining order was recently granted further prohibiting Pacific Lumber from harvesting in the Headwaters Forest. As a result, the cash starved company continues to lose its best source of income.

ISSUE 2: *IS IT FEASIBLE FOR FDIC TO TRANSFER THE HEADWATERS FOREST TO TREASURY?*

SHORT ANSWER: THE FDIC COULD LEGALLY TRANSFER TITLE TO HEADWATERS FOREST FROM THE FSLIC RESOLUTION FUND ("FRF") TO TREASURY IF THE FDIC DETERMINED THAT THE STATE OF THE FRF AT THE TIME OF TRANSFER WERE SUCH THAT THE VALUE OF HEADWATERS FOREST WAS NOT BETTER RETAINED IN THE FRF FOR DISCHARGE OF FRF LIABILITIES. A CASE COULD BE MADE IN FAVOR OF SUCH A DETERMINATION AT PRESENT, ALTHOUGH THE FDIC BOARD OF DIRECTORS MIGHT PREFER TO FOSTER ALL FRF ASSETS IN VIEW OF CONTINGENT LIABILITIES. ABSENT SUCH A DETERMINATION, AN ALTERNATIVE MIGHT BE FOR THE FDIC TO HOLD THE HEADWATERS FOREST FOR THE TIME BEING, UNDER MANAGEMENT BY THE DEPARTMENT OF THE INTERIOR. (Answer prepared by FDIC).

DISCUSSION ANSWER:

Assuming a settlement of professional liability claims in which the Headwaters Forest is transferred from a Hurwitz-related company to the FDIC as manager of the FSLIC Resolution Fund ("FRF"), the question becomes how best to then transfer the redwood forest from the FDIC to another agency with an ultimate view toward dedicating it to wilderness purposes for the benefit of the United States. We believe that the most efficient way of doing this—and perhaps the only way with a clear enough legal framework not requiring new legislation—would be for the FDIC to transfer Headwaters out of the FRF to Treasury, utilizing unique authority existing under the FRF enabling statute, and for Treasury thereafter to transfer the forest to the Department of the Interior or other federal agency pursuant to other, more general statutory authority concerning inter-agency transfers of property.

With regard to transfer out of the FRF, it should be noted that section 11A(f) of the FDI Act, 12 U.S.C. §1821a(f), provides that the FRF "shall be dissolved upon satisfaction of all debts and liabilities and sale of all assets. Upon dissolution any remaining funds shall be paid into the Treasury." Treasury is thus, in effect, the residual beneficiary of the FRF—a fund which is supported by appropriated monies from Treasury (*see* section

11A(c) of the FDI Act, 12 U.S.C. §1821a(c)), and which logically (as well as statutorily) should therefore go back into Treasury. To date approximately $46 billion has been appropriated to support the FRF and it is only equitable that any funds remaining be returned to the Treasury. Furthermore, although section 11A(f) by its terms speaks of FRF funds going to Treasury only upon FRF dissolution, the entire statutory framework of the FRF has previously been interpreted to allow the return of FRF funds to Treasury under appropriate circumstances prior to such dissolution. In particular, as stated in another context:

"It may asserted generally that Congress could not have intended for excess funds to remain indefinitely in the FRF in the event that the FDIC as manager were to determine in later years that the amount of such funds exceeded the FRF's needs estimated as of that time—especially since any liabilities unpaid by the FRF as a result of an early transfer to the Treasury would have to be satisfied by subsequent appropriations for which an authorization of appropriations is provided in §11A(c) of the FDI Act."

FDIC Memorandum, dated October 5, 1995, from Henry R. F. Griffin, Assistant General Counsel, through William F. Kroener, III, General Counsel, to William A. Longbrake, Deputy to the Chairman & Chief Financial Officer.

Thus, if the FDIC as manager of the FRF were to conclude at any time that the amount of assets in the FRF exceeds the FDIC's then estimate of FRF liabilities, the amount of such excess or any portion thereof could be turned over to Treasury prior to dissolution of the FRF. (We stress, however, that any such early transfer out of the FRF would be within the FDIC's sole discretion.) Furthermore, although the statute speaks in terms of FRF *funds* going back to Treasury, and the previous opinion concerned FRF funds, we do not perceive a legal bar to the FDIC's making an early transfer of FRF assets in kind (such as Headwaters, if it were obtained by the FRF in settlement with (Hurwitz), provided the other conditions for an early transfer were satisfied.

This approach would have the decided advantage, from the FDIC's viewpoint, of avoiding the necessity for the FDIC to liquidate the Headwaters Forest at its fair market value. So long as the FDIC had obtained fair value from Hurwitz and related companies in return for settlement of its professional liability lawsuit (*i.e.*, assuming the estimated value of the Headwaters Forest would exceed the FDIC's settlement value of the case), then the FDIC could hand the property over to Treasury without any question as to whether the FDIC had fulfilled its fiduciary duty of maximizing (Headwaters) value to the FRF. Treasury as "residual beneficiary" could itself maximize that value, applying its own policy and other judgments to the matter—presumably by effecting a further transfer to the Department of the Interior or another federal agency for wilderness preservation purposes to the ultimate benefit of the United States.

In short, the FDIC could legally transfer title to the Headwaters Forest out of the FRF to Treasury, if the FDIC determined that the state of the FRF at the time of transfer were such that the value of Headwaters was not better retained in the FRF for discharge of FRF liabilities. We believe that a plausible case for such a determination may be possible at present or in the foreseeable future, given that the FRF currently has assets and appropriated funds in excess of its liabilities. However, there can be no assurance that the FDIC Board of Directors would be willing to make the requisite determination given uncertainties as to contingent liabilities of the FRF. We note, too, that Treasury would have to be willing to receive the Headwaters Forest (if only as part of an instantaneous transfer on to the Department of the Interior or another federal agency), and an inter-agency memorandum of understanding would therefore seem desirable in order to flesh out this plan.

Finally, it is crucial to this approach that Treasury, as residual beneficiary of the FRF and standing in lieu of taxpayers of the United States, will have to make the assessment (in consultation with other appropriate Federal governmental entities) that transferring the Headwaters Forest for the contemplated purposes is, as a policy and legal matter, the right thing to do, all factors considered. This assessment amounts to a judgment call as to the relative value of preserving the Headwaters Forest for wilderness purposes as opposed to settling the claim against Hurwitz for cash in order to reduce the federal deficit to that extent. It is not in any event for the FDIC to make that assessment, although if the assessment is made in favor of Headwaters Forest preservation, the FDIC may assist in its implementation by the means discussed above.

ISSUE 3: *WHAT LEGISLATIVE MECHANISMS EXIST THAT MAY FACILITATE A TRANSFER OF THE HEADWATERS FOREST TO THE U.S. DEPARTMENT OF THE INTERIOR WITH MINIMAL FINANCIAL OUTLAY?*

SHORT ANSWER: THREE LEGISLATIVE AUTHORIZATIONS PROVIDE A MECHANISM FOR AN INTER-AGENCY TRANSFER OF TITLE TO THE HEADWATERS FOREST TO THE DEPARTMENT OF INTERIOR. THEY ARE THE TRANSFER OF REAL PROPERTY ACT; THE COASTAL BARRIERS IMPROVEMENT ACT; AND THE DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990. EACH ACT PRESENTS PARTICULAR LEGAL AND POLITICAL CONSIDERATIONS THAT REQUIRE SPECIAL CONSIDERATION. (Answer prepared by the Department of the Interior).

DISCUSSION ANSWER:

There are three specific legislative authorizations which permit acquisitions of real property through a transfer from Federal Agencies to the U.S. Department of the Interior at no cost, at less than Fair Market Value, or with special considerations. These provisions could possibly assist in the acquisition of Federal properties to support a land exchange with Maxxam Corporation for the Headwaters Forest lands.

The Transfer of Real Property Act (16 U.S.C. §667b)

This statute allows real property, which is no longer required by the agency exercising jurisdiction over the property, to be transferred to state wildlife agencies for wildlife conservation purposes or to the Secretary of the Interior in instances where the property has particular value in carrying out the national migratory bird management program. If the Administrator of General Services determines that such real property is available for conservation purposes then he may, notwithstanding any other provisions of law, transfer said property "without reimbursement or transfer of funds" to a state or the Department of the Interior as appropriate.

The Coastal Barrier Improvement Act (Pub. L. 101-591, §10)

Section 10 of the Coastal Barrier Improvement Act, 12 U.S.C. §1441a-3 et seq., provides that certain "covered" properties held by the Resolution Trust Corporation (RTC) or the Federal Deposit Insurance Corporation (FDIC) cannot be sold or transferred by those agencies until notice of availability is made in the Federal Register, and the opportunity is given for a Federal Agency or "qualified organization," to submit a serious letter of intent to acquire the property for the purpose of preserving it for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes. Covered properties include those which the RTC, FDIC or former Federal Savings and Loan Insurance Corporation (FSLIC) have acquired in their corporate capacity and that is either located within the Coastal Barrier Resources System or is undeveloped, greater than 50 acres in size, and adjacent or contiguous to any lands managed by a governmental agency primarily for the preservation purposes stated above. If a Federal agency or qualified organization submits such a letter of intent, the corporation concerned may not transfer the property to any other party for ninety days, unless the letter of intent is withdrawn.

Defense Base Closure and Realignment Act of 1990 (Pub. L. 101-510, Section XXIX), as amended

The Base Closure Act authorizes the Department of Defense (DOD) to transfer properties to Federal and state agencies through public benefit conveyances, if the property supports a primary mission of the agency. The Department of the Interior is specifically provided opportunities to acquire base closure property at no cost for any one of three purposes: parks and recreation, wildlife conservation, or historic monuments.

Attached are materials relative to these authorities.

Attachment

§667a. Omitted

Historical Note

Codification. Section, Act June 8, 1940, c. 295.§§1 to 4, 54 Stat. 261, authorized compacts or agreements between or among the States bordering on the Atlantic Ocean with respect to fishing in the territorial waters and bays and inlets of the Atlantic Ocean on which such States border.

Act May 4, 1942, c. 283, §§1 to 4, 56 Stat. 267, granted the consent and approval of Congress to an interstate compact relating to the better utilization of the fisheries (marine, shell, and anadromous) of the Atlantic seaboard and creating the Atlantic States Marine Fisheries Commission.

Act Aug. 19, 1950, c. 763, §§1 to 4, 64 Stat. 467, granted the consent and approval of Congress to an amendment to the Atlantic States Marine Fisheries Compact and repealed limitation on the life of such compact.

§667b. Transfer of certain real property for wildlife conservation purposes; reservation of rights

Upon request, real property which is under the jurisdiction or control of a Federal agency and no longer required by such agency, (1) can be utilized for wildlife conservation purposes by the agency of the State exercising administration over the wildlife resources of the State wherein the real property lies or by the Secretary of the Interior; and (2) is valuable for use for any such purpose, and which, in the determination of the Administrator of General Services, is available for such use may, notwithstanding any other provisions of law, be transferred without reimbursement or transfer of funds (with or without improvements as determined by said Administrator) by the Federal agency having jurisdiction or control of the property to (a) such State agency if the management thereof for the conservation of wildlife relates to other than migratory birds, or (b) to the Secretary of the Interior if the real property has particular value in carrying out the national migratory bird management program. Any such transfer to other than the United States shall be subject to the reservation by the United States of all oil, gas, and mineral rights, and to the condition that the property shall continue to be used for wildlife conservation or other of the above-stated purposes and in the event it is no longer used for such purposes or in the event it is needed for national defense purposes title thereto shall revert to the United States.

(May 19, 1948, c. 310, §1, 62 Stat. 240; June 30, 1949, c. 288, Title I, §105, 63 Stat. 381; Sept. 26, 1972, Pub.L. 92-432, 86 Stat. 723.)

Historical Note

1972 Amendment. Cl. (2). Pub.L. 92-432 deleted "chiefly" preceding "valuable for use".

Transfer of Functions. The functions, records, property, etc., of the War Assets Administration were transferred to the General Services Administration, the functions of the War Assets Administrator were transferred to the Administrator of General Services, and the War Assets Administration, and the office of War Assets Administrator were abolished by section 105 of the Act June 30, 1949.

Effective Date of Transfer of Functions. Transfer of functions effective July 1, 1949, see Effective Date note set out under section 471 of Title 40, Public Buildings, Property and Works.

Legislative History. For legislative history and purpose of Act May 19, 1948, see 1948 U.S. Code Cong. Service, p. 1553. See, also, Act June 30, 1949, 1949 U.S. Code Cong. Service, p. 1475; Pub.L. 92-432, 1972 U.S. Code Cong. and Adm.News, p. 3366.

[From the Federal Register, Vol. 59, No. 20G, October 26, 1994]

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 90 and 91

RINs 0790-AF61 and 0790-AF62

Revitalizing Base Closure Communities and Community Assistance

AGENCY: Department of Defense, DoD.

ACTION: Interim final rule: amendments.

SUMMARY: The interim final rule amendment promulgates guidance required by Section 2903 of the National Defense Authorization Act for Fiscal Year 1994. This guidance clarifies the application process and the criteria that will be used to evaluate an application for property under this section.

DATES: This document is effective October 26, 1994. Any pending written request for economic development Economic Adjustment. Consequently, application submitted by entities other than LRAs will not be considered.

When should an application for an Economic Development Conveyance be made?

First, an LRA must be organized and a redevelopment plan created. The Department of Defense's Office of Economic Adjustment can provide guidance and technical and financial support in these efforts. Once a redevelopment plan has been developed and adopted, the LRA can then submit an EDC application to the Military Department responsible for the property. The application should be submitted by the IRA after consultation with the Military Department which shall establish a reasonable time period for submission of the application.

The LRA always has the option of acquiring property under the FPASA and thus it may not be necessary to complete an application for a EDC within the stated timetables. LRSs can discuss the various transfer options with the Military Department.

How much property should be included in an Economic Development Conveyance application?

The EDC should be used by LRAs to obtain large parcels of the base rather then merely individual buildings. The income received from some of the higher value property should be used to offset the maintenance and marketing cost of the less desirable parcels. In order for this conveyance to spur redevelopment, large parcels must be used to provide an income stream to assist the long-term development of the property.

Why is an application necessary?

This Amendment to the interim final rule prescribes that an application be prepared by an LRA as the formal request for property, to better assist the Military Department in considering requests for property under the Economic Development Conveyance (EDC). This information also will provide the basis for the Military Department to respond to its obligation under Title XXIX, taking into account the best community-based information on the proposed conveyance action. A great deal of information necessary for an application is readily available to the LRA through the community planning process and supported through existing DoD technical and financial resources.

Beyond the standard planning information collected to date, LRAs should incorporate a business and development component into their overall base reuse planning process as a basis for receiving and managing the real property. This supplemental effort will assist LRAs in identifying necessary implementation resources and establish a community-based proposal for the Military Department's consideration. The Military Departments and the Office of Economic Adjustment will continue to work closely with the affected LRA to ensure that an adequate planning effort is undertaken.

What must an application contain?

The application should explain why an EDC is necessary for economic redevelopment and job creation. They application should contain the following elements.

1. A copy of the adopted Redevelopment Plan.

2. A project narrative including the following:

—A general description of property requested.

—A description of the intended uses.

—A description of the economic impact of closure on the local communities.

—A description of the financial condition of the community and the prospects for redevelopment of the property.

—A statement of how the EDC is consistent with the overall Redevelopment Plan.

3. A description of how the EDC will contribute to short- and long-term job creation and economic redevelopment of the base and community, including projected number, and type, of new jobs it will assist in creating.

4. A business and development plan for the EDC parcel, including such elements as:

—A development timetable, phasing plan and cash flow analysis.

—A market and financial feasibility analysis describing the economic visibility of the project, including an estimate of net proceeds over a fifteen-year period, the proposed consideration or payment to the Department of Defense, and the estimated fair market value of the property.

—A cost estimate and justification for infrastructure and other investments needed for the development of the EDC parcel.

—Local investment and proposed financing strategies for the development.

5. A statement describing why other authorities—as negotiated sale and public benefit transfer for education, parks, public health, aviation, historic monuments, prisons, and wildlife conservation—cannot be used to accomplish the economic development and job creation goals.

6. If a transfer is requested for less than the estimated fair market value—with or without initial payment at the time of transfer—then a statement should be provided justifying discount. The statement should include the amount and form of the proposed consideration, a payment schedule, the general terms and conditions for the conveyance, and projected date of conveyance.

7. A statement of the LRA's legal authority to acquire and dispose of the property.

Additional information may be requested by the Military Departments to allow for a better evaluation of the application. LRAs are encouraged to use site information available from the Military Departments, including maintenance and caretaking expenses.

What criteria will be used to make a determination on the application?

After receipt of an application for an EDC, the Secretary of the Military Department will determine whether an EDC is appropriate to spur economic development and job creation and examine whether the terms and conditions proposed are fair and reasonable. The Military Department may also consider information independent of the application, such as views of other Federal agencies, appraisals, caretaker costs and other relevant information.

The following criteria and factors will be used, as appropriate, to determine whether a community is eligible for an EDC and to evaluate the proposed terms and conditions of the EDC, including price, time of payment and other relevant methods of compensation to the Federal Government.

Adverse economic impact of closure on the region and potential for economic recovery after an EDC.

Extent of short- and long-term job generation.

Consistency with the overall Redevelopment Plan.

Financial feasibility of the development, including market analysis and the need and extent of proposed infrastructure investment.

Extent of State and local investment and level of risk incurred.

Current local and regional real estate market conditions.

Incorporation of other Federal agency interests and concerns, and applicability of, and conflicts with, other Federal property disposal authorities.

Relationship to the overall Military Department disposal plan for the installation.

Economic benefit to the Federal Government, including protection and maintenance cost savings and anticipated consideration from the transfer.

Compliance with applicable Federal, State, and local laws and regulations.

What are the guidelines for determining the terms and conditions of consideration?

The individual circumstances of each community and each base mean that the amount and type of consideration may vary from base to base. This amendment gives greater discretion and flexibility to the Military Departments to negotiate with the LRA to arrive at an appropriate arrangement. Due to the circumstances of a particular site, the base's value may be high or low, and the range of the estimated present fair market value may be broad or narrow. Where there is value, the Department of Defense has an obligation under Title XXIX of the National Defense Authorization Act for FY 1994 to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized.

Taking into account all information provided in the EDC application and any additional information considered relevant, the Military Department will contract for or prepare an estimate of the fair market value of the property, which may be expressed as a range of values. The Military Department shall consult with the LRA on valuation assumptions, guidelines and on instructions given to the person(s) making the estimation of value.

As stated above, the EDC application must contain a statement that proposes general terms and conditions of the conveyance, as well as the amount and type of the consideration, a payment schedule, and projected date of conveyance. After reviewing the application, the Military Department has the discretion and flexibility to enter into one of two types of agreements:

1. Consideration within the estimated range of present fair market value, as determined by the Secretary of the Military Department. The Military Department can be flexible about the terms and conditions of payment, and can provide financing on the property. The payment can be in cash or inkind, and can be paid at time of transfer or at a time in the future. The Military Departments will have the discretion and flexibility to enter into agreements that specify the form and amount of consideration and ensures that consideration is within the estimated range of fair market value at the time of application. Such methods of payment could include: participation in the gross or net cash flow, deferred payments, mortgages or other financing arrangements.

2. Consideration below the estimated range of fair market value, where proper justification is provided: If a discount is found by the Secretary of the Military Department to be necessary to foster local economic redevelopment and job creation, the amount of consideration can be below the estimated range of fair market value. Again, the terms and conditions of payment will be negotiated between the Military Department and the LRA.

(a). Justification. Proper justification for a discount shall be based upon the findings in the business and development plan contained in the EDC application.

Development economics, including absorption schedules and legitimate infrastructure costs, would provide a basis for such justification. The ability to pay at time of conveyance or to obtain financing would not be a proper justification, since payment terms and conditions can be negotiated.

In negotiating the terms and conditions of consideration with the LRA, the Secretary of the Military Department must determine that a fair and reasonable compensation to the Federal Government will be realized from the EDC. Where property is transferred under an EDC at an amount less than the estimated range of fair market value, the Military Department shall prepare a written explanation of why the consideration was less than the estimated range of present fair market value.

D. Executive Order 12866

It has been determined that these amendments are a significant regulatory action. The amendments to the rule raise novel policy issues arising out of the President's priorities.

E. Regulatory Flexibility Act

This rule amendment is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the amendment will not have a significant economic impact on a substantial number of small entities. The primary effect of this amendment will be to reduce the burden on local communities of the Government's property disposal process at closing military installations and to accelerate the economic recovery of the relatively small number of communities that will be affected by the closure of nearby military installations.

F. Paperwork Reduction Act

The Rule amendment is not subject to the Paperwork Reduction Act because it imposes no obligatory information requirements beyond internal DoD use.

List of Subjects in 32 CFR Parts 90 and 91.

Community development, Government employees, Military personnel, Surplus Government property.

PART 90—REVITALIZING BASE CLOSURE COMMUNITIES

1. The authority citation for 32 CFR part 90 continues to read as following:

Authority: 10 U.S.C. 2687 note.

§ 90.4 [Removed and Reserved]

2. Section 90.4(a)(1)(iii) is removed and reserved.

3. Section 90.4(b) is revised to read as follows:

§ 90.4 Policy.

* * * * *

(b) In implementing Title XXIX of Public Law 103–160, it is DoD policy to convey property to a Local Redevelopment Authority (LRA) to help foster economic development and job creation when other federal property disposal options cannot achieve such objectives. Conveyances to the LRA will be made under terms and conditions designed to facilitate local economic redevelopment and job creation, and may be made at less than fair market value, with proper justification.

* * * * *

PART 91—REVITALIZING BASE CLOSURE COMMUNITIES—BASE CLOSURE COMMUNITY ASSISTANCE

4. The authority citation for part 91 continues to read as follows:

Authority: 10 U.S.C. 2687 note.

4A. Section 91.4 is revised to read as follows:

§ 91.4 Policy.

It is DoD policy to convey property to a Local Redevelopment Authority (LRA) to help foster economic development and job creation when other federal property disposal options cannot achieve such objectives. Conveyances to the LRA will be made under terms and conditions designed to facilitate local economic redevelopment and job creation, and may be made at less than fair market value, with property justification. This regulation does not create any rights and remedies and may not be relied upon by any person, organization, or other entity to allege a denial of any rights or remedies other than those provided by Pub. L. 103–160. Title XXIX.

(x) Compliance with applicable Federal, State, and local laws and regulations.

(l) Consideration.

(1) For conveyances made pursuant to section 91.7(d). Economic Development Conveyances, the Secretary of the Military Department will review the application for an EDC and negotiate the terms and conditions of each transaction with the LRA. The Military Departments will have the discretion and flexibility to enter into agreements that specify the form, amount, and payment schedule. The consideration may be at or below the estimated fair market value, with or without initial payment, in cash or inkind and paid over time. An EDC must be one of the two following types of agreements:

(i) Consideration within the estimated range of present fair market value, as determined by the Secretary of the Military Department. Payments must be made to ensure consideration is within the estimated range of fair market value at the time of application.

(ii) Consideration can be below the estimated range of fair market value, when proper justification is provided. The amount of consideration can be below the estimated range of fair market value, if the Secretary of the Military Department determines that a discount is necessary for economic redevelopment and job creation.

(2) The amount of consideration paid in the future shall equal the present value of the agreed-upon fair market value or discounted fair market value. Additional provisions may be incorporated in the conveyance documents to protect the Department's interest in obtaining the agreed upon consideration. Also, the standard GSA excess profits clause, appropriately tailored to the transaction, will be used in the conveyance documents to the LRA.

(3) In a rural area, as defined by this rule, any EDC approved by the Secretary of the Military Department shall be made without consideration when the base closure will have a substantial adverse impact on the economy of the communities in the vicinity of the installation and on the prospect for their economic recovery. The Secretary of the Military Department concerned will determine if these two conditions are met based on all the information considered in the application for an Economic Development Conveyance. Specific attention will be placed on the business and development plan submitted as part of the EDC application and the criteria listed in section 91.7(e)(8) will be used.

(4) In those instances in which an EDC is made for consideration below the range of the estimated present fair market value of the property—or if the estimated fair market value is expressed as a range of values, below the lowest value in that range—the Military Department shall prepare a written explanation why the estimated fair market value was not obtained. Additionally, the Military Departments must prepare a written statement explaining why other Federal property transfer authorities could not be used to generate economic redevelopment and job creation.

* * * * *

Dated: October 20, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Revision Notes and Legislative Reports

1989 Act. House Report No. 101-54 and House Conference Report No. 101-209, see 1989 U.S. Code Cong. and Adm.News, p. 86.

References in Text

The Housing and Urban Development Act of 1968, as amended, referred to in par. (2), is Pub.L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IX of the Housing and Urban Development Act of 1968, as amended, is classified principally to chapter 49 (§3931 et seq.) of Title 42, The Public Health and Welfare. Title IV of the Housing and Urban Development Act, which was classified to chapter 48 (§8901 et seq.) of Title 42, was repealed, with certain exceptions which were omitted from the Code, by Pub.L. 98-181, Title IV, §474(e), Nov. 30, 1983, 97 Stat. 1239. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of this title and Tables.

Codifications

Section was enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and not as part of the Federal Home Loan Bank Act, which comprises this chapter.

Separability of Provisions

If any provisions of Pub.L. 101-73 or the application thereof to any person or circumstance is held invalid, the remainder of Pub.L. 101-73 and the application of the provision to other persons not similarly situated or to other circumstances not to be affected thereby, see section 1221 of Pub.L. 101-73, set out as a note under section 1811 of this title.

§1441a-2. Authorization for State housing finance agencies and nonprofit entities to purchase mortgage-related assets

(a) Authorization

Notwithstanding any other provision of Federal or State law, a State housing finance authority or nonprofit entity may purchase mortgage-related assets from the Resolution Trust Corporation or from financial institutions with respect to which the Federal Deposit Insurance Corporation is acting as a conservator or receiver (including assets associated with any trust business), and any contract for such purchase shall be effective in accordance with its terms without any further approval, assignment, or consent with respect to that contract.

(b) Investment requirement

Any State housing finance authority or nonprofit entity which purchases mortgage-related assets pursuant to subsection (a) of this section shall invest any net income attributable to the ownership of those assets in financing, refinancing, or rehabilitating low- and moderate-income housing within the jurisdiction of the State housing finance authority or within the geographical area served by the nonprofit entity.

(Pub.L. 101-73, Title XIII, §1302, Aug. 9, 1989, 103 Stat. 548.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1989 Act. House Report No. 101-54 and House Conference Report No. 101-209, see 1989 U.S.Code Cong. and Adm. News, p. 86.

Codifications

Section was enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and not as part of the Federal Home Loan Bank Act, which comprises this chapter.

Definitions

For definitions of terms used in this section see section 1441a-1 of this title.

LIBRARY REFERENCES

American Digest System

Supremacy of federal law as to banking, see States §18.19.

Encyclopedias

Concurrent of conflicting state legislation, see C.J.S. States §24.

WESTLAW ELECTRONIC RESEARCH

States cases: 360k [add key number].

§1441a-3. RTC and FDIC properties

(a) Reports

(1) Submission

The Resolution Trust Corporation and the Federal Deposit Insurance Corporation shall each submit to the Congress for each year a report identifying and describing any property that is covered property of the corporation concerned as of September 30 of such year. The report shall be submitted on or before March 30 of the following year.

(2) Consultation

In preparing the reports required under this subsection, each corporation concerned may consult with the Secretary of the Interior for purposes of identifying the properties described in paragraph (1).

(b) Limitation on Transfer

(1) Notice

The Resolution Trust Corporation and the Federal Deposit Insurance Corporation may not sell or otherwise transfer any covered property unless the corporation concerned causes to be published in the Federal Register a notice of the availability of the property for purchase or other transfer that identifies the property and describes the location, characteristics, and size of the property.

(2) Expression of serious interest

During the 90-day period beginning on the date that notice under paragraph (1) concerning a covered property is first published, any governmental agency or qualified organization may submit to the corporation concerned a written notice of serious interest for the purchase or other transfer of a particular covered property for which notice has been published. The notice of serious interest shall be in such form and include such information as the corporation concerned may prescribe.

(3) Prohibition of transfer

During the period under paragraph (2), a corporation concerned may not sell or otherwise transfer any covered property for which notice has been published under paragraph (1). Upon the expiration of such period, the corporation concerned may sell or otherwise transfer any covered property for which notice under paragraph (1) has been published if a notice of serious interest under paragraph (2) concerning the property has not been timely submitted.

(4) Offers and permitted transfer

If a notice of serious interest in a covered property is timely submitted pursuant to paragraph (2), the corporation concerned may not sell or otherwise transfer such covered property during the 90-day period beginning upon the expiration of the period under paragraph (2) except to a governmental agency or qualified organization for use primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes, unless all notices of serious interest under paragraph (2) have been withdrawn.

(c) Definitions

For purposes of this section:

(1) Corporation concerned

The term "corporation concerned" means—

(A) the Federal Deposit Insurance Corporation, with respect to matters relating to the Federal Deposit Insurance Corporation; and

(B) the Resolution Trust Corporation, with respect to matters relating to the Resolution Trust Corporation.

(2) Covered property

The term "covered property" means any property—

(A) to which—

(i) the Resolution Trust Corporation has acquired title in its corporate or receivership capacity; or

(ii) the Federal Deposit Insurance Corporation has acquired title in its corporate capacity or which use acquired ****

(B) that—

(i) is located within the Coastal Barrier Resources System; or

(ii) is undeveloped, greater than 50 acres in size, and adjacent to or contiguous with any lands managed by a governmental agency primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

(3) Governmental agency

The term "governmental agency" means any agency or entity of the Federal Government or a State or local government.

(4) Undeveloped

The term "undeveloped" means

(A) containing few manmade structures and having geomorphic and ecological processes that are not significantly impeded by any such structures or human activity; and

(B) having natural, cultural, recreational, or scientific value of special significance.

(Pub.L. 101-591, §10, Nov. 16, 1990, 104 Stat. 2939.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1990 Act. House Report No. 101-657(I) and (II), see 1990 U.S.Code Cong. and Adm.News, p. 4190.

Codifications

Section was enacted as part of the Coastal Barrier Improvement Act of 1990 and not as part of the Federal Home Loan Bank Act, which comprises this chapter.

§1441b. Resolution Funding Corporation established

(a) Purpose

The purpose of the Resolution Funding Corporation is to provide funds to the Resolution Trust Corporation to enable the Resolution Trust Corporation to carry out the provisions of this chapter.

(b) Establishment

There is established a corporation to be known as the Resolution Funding Corporation.

(c) Management of Funding Corporation

(1) Directorate

The Funding Corporation shall be under the management of a Directorate composed of 3 members as follows:

(A) The director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor office).

(B) 2 members selected by the Thrift Depositor Protection Oversight Board from among the presidents of the Federal Home Loan Banks.

(2) Terms

Of the 2 members appointed under paragraph (1)(B), 1 shall be appointed for an initial term of 2 years and 1 shall be appointed for an initial term of 3 years. Thereafter, such members shall be appointed for a term of 3 years.

(3) Vacancy

If any member leaves the office in which such member was serving when

* * *

(B) the successor to the office of such member shall serve the remainder of such member's term.

(4) Equal representation of banks

No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms as the president of such bank.

(5) Chairperson

The Thrift Depositor Protection Oversight Board shall select the chairperson of the Directorate from among the 3 members of the Directorate.

(6) Staff

(A) No paid employees

The Funding Corporation shall have no paid employees.

(B) Powers

The Directorate may, with the approval of the Federal Housing Finance Board authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Funding Corporation in such manner as may be necessary to carry out the functions of the Funding Corporation.

(7) Administrative expenses

(A) In general

All administrative expenses of the Funding Corporation, including custodian fees, shall be paid by the Federal Home Loan Banks.

(B) Pro rata distribution

The amount each Federal Home Loan Bank shall pay under subparagraph (A) shall be determined by the Thrift Depositor Protection Oversight Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

(i) the aggregate amount the Thrift Depositor Protection Oversight Board required such bank to invest in the Funding Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (e) of this section (computed without regard to paragraphs (3) or (6) of such subsection); by

(ii) the aggregate amount the Thrift Depositor Protection Oversight Board required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

(8) Regulation by Thrift Depositor Protection Oversight Board

The Directorate of the Funding Corporation shall be subject to such regulations, orders, and directions as the Thrift Depositor Protection Oversight Board may prescribe.

(9) No compensation from Funding Corporation

Members of the Directorate of the Funding Corporation shall receive no pay, allowance, or benefit from the Funding Corporation for serving on the Directorate.

(d) Powers of the Funding Corporation

The Funding Corporation shall have only the powers described in paragraphs (1) through (9), subject to the other provisions of this section and such regulations, orders, ***

ISSUE 4: *WHAT WOULD BE THE POSSIBLE BUDGETARY IMPACT FROM AN ACQUISITION OF THE HEADWATERS FOREST THROUGH THE FDIC?*

SHORT ANSWER: ANY BUDGETARY IMPACT, INCLUDING ISSUES OF "SCORING," IS DEPENDENT ON THE PARTICULAR STRUCTURE OF THE TRANSACTION AND WHETHER SPECIFIC LEGISLATION WAS NECESSARY TO FACILITATE THE ACQUISITION OR TRANSFER OF THE HEADWATERS FOREST.

DISCUSSION ANSWER:

The interagency group has discussed several potential mechanisms for accomplishing the proposed "debt for nature" swap. The following discussion addresses the budgetary impact of several possible ways of acquiring the Headwaters Forest, putting aside the question of whether there is substantive authority for FDIC, Treasury, or Interior/USDA to execute any of these transactions under existing law.

First, we have discussed a possible transaction in which the FSLIC Resolution Fund (FRF) would gain title to the land and transfer it to Treasury, possibly considering the value of the land as an "advance payment" on funds that will eventually be returned to Treasury when the FRF dissolves. Treasury would then transfer/sell the land to the appropriate agency. If it is determined that the authority to execute this transaction exists under current law, then the transaction cannot be "scored" under the Budget Enforcement Act (only legislation may be scored). However, there would be a budget impact. If FRF gained title to the land and did not recover cash for it, FRF would have fewer receipts. In more technical terms, the failure to recover cash for the land would be a foregone receipt to FRF. This foregone receipt increases FRF's outlays, increases total Federal outlays, and increases the deficit. The budget effect is the same regardless of whether the transfer is to Treasury as an intermediary or directly to the Park Service.

Second, there may be a possibility of trading other U.S. government property (such as surplus military property) for the land. This transaction would not necessarily need to involve the FRF, which could receive any settlement of its claims in cash. Again, if no legislation is required, then the transaction cannot be scored under the Budget Enforcement Act. In general, barter transactions are not recorded in the budget. However, if the surplus property that is used in the exchange would have otherwise been sold, the agency which owned the property would be foregoing receipts. These foregone receipts would increase that agency's outlays, increase total Federal outlays, and increase the deficit.

Third, it may be the case that legislation is needed to authorize the transaction or to appropriate funds to complete the debt-for-nature swap. If legislation is needed, then the Congressional Budget Office and OMB would be responsible for estimating the budgetary effect of the transaction. Legislation that increases direct spending (i.e., spending that is not under the control of Congressional appropriators) is scored under the "pay-as-you-go" (PAYGO) rules of the Budget Enforcement Act. An example of direct spending legislation that is relevant to the case at hand would be if the legislation directed FDIC to hand over the property to another Federal agency without reimbursement; this legislation would be considered to be direct spending since it forces the FRF to forgo receipts (and therefore increases FRF's outlays and total Federal outlays). Similarly, legislation that requires the exchange of excess Government property that would otherwise have been sold for the Headwaters Forest would also be scored as foregone receipts under the PAYGO rules.

Legislation that simply authorizes an appropriation for an agency (e.g., the Park Service) to buy the property from the FRF (or, for that mater, from an individual) would not be scored, since no resources would actually become available for the purchase until a separate appropriations law is enacted. If an appropriations act provides funding to an agency to purchase the property, then the budget impact would be scored as discretionary.

RECORD 31

ENVIRONMENTAL PROTECTION INFORMATION CENTER,
Garberville, CA.

3,000 core acres—redwoods.

1,700 acres buffer zone.

Calif is now talking downward $50 to 70 million.

CECELIA LANMAN,
Biodiversity Network Project Director.

NATURAL HERITAGE INSTITUTE,
Washington, DC.

3,000 core acres—redwoods.

1,700 acres buffer zone.

Calif is now talking downward $50 to 70 million.

JULIA A. LEVIN,
Staff Attorney.

On or about 11/30/95.

Jill R * * * refer to J. Williams * * *

On or about 12/7/95.

/12/3:00 closed. Alan McReynolds * * * Jill R * * * Maxxan motion to dismiss—get it from Ct—not from us—H manuf. consp. issues.

On or about 2/13/96.

How FDIC holds properties list of high value prop. in Calif./Texas.

10/19/95.

Gore's Chief of Staff—Ann.

Chairperson CEO, Katie McGinty.

Elizabeth Blaug * * * Red Emerson own, Sierra Lumber—buffer zone, Earth firsters chaining themselves to * * *.

Why was the appraisal done?

How much area did it cover?

When was it done?

Did it include the 1000 acres buffer zone?

Kate Anderton * * * New G.C. Save The Redwoods League, Appraisal Valuation January 1, 1993.

1992 Bush received * * * as an appraisal * * * for headwaters. Interior subcommittee said do appraisal Rep. Stark * * *, California/Pacific Lumber did forest cruise (est. Boardfeet). Neither state nor Pacific Lumber paid—so they don't have appraisal. Basis of cruise challengeable.

(1) Get Forest Service to share cruise and appraisal; (2) independent review by forester credible with both environment and industry. Save the Redwoods League Hammon Jennsen Wallen & Associates out of Oakland—well known to work for Pacific Lumber a lot. Appraisal assumed cutting 96 to 97% of all trees on property. Estimate only 3 to 4% set aside to meet California Regulations. Basis of environmentalists attack in hearings. 4,488 acres for bottom line—headwaters grove.

Old growth grove 3,000. Buffer to W, S, little E 15000 (owned by Pacific Lumber) to N buffer is owned by Sierra Lumber.

Department of Energy—oil leases on public lands or BLM.

Defense Lands—DOD

Make it part of 6 Rivers National Forest managed by Agriculture. Options BLM manage, Fish & Wildlife manage as a refuge.

$499 million appraisal—3000 acres headwaters, 1500 acres buffer * * *

10/11/95.

Continued to talk to environmentalists, surrounding landowners

Katie McGinty head of Council.

V.P. met with environmentalist when he was out there.

10/12—Dave Felt. Monty Tuesday.

10/20/95

May. At OMB re Hurwitz/Redwoods.

Assume it would go to Forest Service—only $30 mil in our land acquisition fund—We have no particular interest—very small area to manage/very remote—would be a management problem.

May make more sense to give it to BLM. Park Service might want it.

How much money from the state—$70 m in timber.

Exchanges—a gigantic exchange of land would alienate citizens of neighboring states.

DOD—forestry says consider military Base.

If there there cash, we have higher priorities.

Minority shareholders—suit against Hurwitz.

Can H settle a suit by trading MAXXAM's assets

-Can FDIC do it, what would Treasury have to do.

Further—states interest—whether there are DOD possibilities.

Don't plan on cutting trees—Forest Service said that's why it may be better to send it to Park Service.

Reconvene in about 2 wks.

Budget scorekeeping problem.

Coastal Barrier Improvement Act.

10/31/95—Alan McReynolds, DOD—Steve—Base Closure Cmtee.

Revenue from closed bank goes into Bank Closure Acct—Revenues fund for other closures and improvements. Revenues fund other closure actions including environmental cleanups. A host of other public interest conveyances prisons, hospitals, FAA airport, etc. 100% *public benefit discount*. Homeless, port conveyance—Charlestown, Fish & Wildlife, BLM—

Dept. of Interior had a notion they could claim land and swap it for protected land. Admin. opposes that kind of deal. Community revitalization—in the past just sold em—didn't get proper value—no zoning, no community support—BRAC (Base Reallign and Closure, acct didn't get much money: Better to work with community now. Community based programs Sept. 28, 95' Base closures approves by Cong. Fitzsimmons—Denver. Hurwitz would be able to work with Redev. Auth.—88, 91, 93, 95 Communities want control of the property. Can't bypass the process of Redev. Auth.

If VP wanted to do it, we could structure a way to make it happen. But DOD would lose receipts. Calif. would have to look at outrage of local community. If we need spec. legis, we'll figure that out. Not aware of any harvestable timber land.

Wanda didn't try to help Alan McReynolds.

Can't trade whole Mendencino forest.

Possible—Naval OC Station 36 acres. Anything less than 300 civilians may not be part of BRAC process—may be easier.

Calif deleg. believes S.F. Bay area Harbor. Rep. Brown, Stark, Feinstein.

GSA controls mainly of Bldgs. Gordon has asked his staff to list possib. in Bay area.

Ellington AFB in Texas not a BRAC prop. Naval Station, Ground Prairie B/W Dallas and Arlington Interior might be part of screening process with GSA.

Economic Development conveyance—DOD gets receipts back over time.

2nd Round postings

USAT—RIO conf on environment included a contel to reduce Greenhs gasses by yr. 2000. Program in Dept of envy to implement. Identify carbon offset projects. Scientific model develop carbon sink capacity—preserve of trees perm. carbon sink—formulas—vehicle for corp—carbon offsets. Political need for U.S. to make progress.

11/28/95—Headwaters mtg. CEQ go GSA route to transfer from Trea to Interior.

"Coastal Barriers Mgt Act"—"12 U.S.C. 1441a-3"—RTC, FDIC property.

KM—extremely accurate reports came back from environmentalists—keep confidentiality.

Physical assets may not "count as money for scoring"

Treasury cannot give FRF credit for the trees.

If policymakers make decision to accept trees—increases Fed. deficit—Insurmountable issue—there is a hole here if you take trees. Interior disagrees w/FDIC analysis of Coastal Barriers—they think it does work.

Eliz—our group will meet again to sift thru remaining questions. No formal contacts until OTS files.

John G.—we are leaning toward FDIC opening discussions.

Lois—scoring problems were the biggest difficulties.

John G.—after admin suit is filed is time for opening any discussions—prior to that we get back to K.M. to see if there's any reason not to go forward with negotiations.

Alan McReynolds

Investment properties

About 2/26/96 RTC prop—in the past Interior had to pay. Has that changed.

$124m—Oak Valley, Beaumont, Calif. 6700 acres of under land in Riverside Cty.; Kock property—La Quinta, Calif—1200 acres near Palm Springs, Wildlife Refuge Rancho San Diego—already

Buckley—failure to advise clients—Ken Walker. Call admin. atty to talk about case.

Nov/Dec 1995

Jeff Wms—11:40, Thur 60648 Nov 14, 11:00 722 Jackson Place CEQ Conf Rm.

Rick Sterns: Re Judge Hughes

Ross Delston: Parker James, Jack Sherkma. * * * Pat Bak, M. Palen, Ann Shopet. Judge Hughes—use of overlapping auth. Hanass, Thur. order. Carolyn talked to Kim Thur.

1/19/96. Told Alan McReynolds that I had talked to Carolyn Buck after lunch on 7/17/96. I asked whether OTS wanted to be involved in discussions led by CEQ to respond to Hurwitz' suggestion about Headwaters. She said curtly, "No." I asked if she had any objection to FDIC participating—she said that was not for her to decide. I concluded from her manner that she did not intend to express an opinion and didn't want to talk about it anymore so we parted without further discussion. I advised Elizabeth Blauger about this yesterday afternoon. I said that if Hurwitz wanted to have global settlements with OTS and FDIC involved he would have to ask for them just as happened with Ey and Deloitte

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Why consider giving these other properties, when there 1.6 B in losses.

To: Jack D. Smith@LEGAL OGC Hdq@Washington
From: Jeffrey Williams@LEGAL PLS2@Washington
Subject: re: Meeting with Gore Today (Revised)
Date: Friday, October 20, 1995 9:27:23 EDT

Per my recent voice mail message to you regarding my conversations with a key staffer in Pelosi's office who worked on the Headwaters forest legislation for five years, I now believe it is incorrect to describe the $499 million as the result of an "appraisal." It was not performed by any independent person and was an estimate based on public information prepared by the Forest Service and asserted by the Director of the Forest Service in testimony before the Subcommittee on National Parks & Public Land. The testimony demonstrated that the value was seriously flawed and that those that were involved in calculating the value never saw the land.

He said no one takes the $499 million seriously anymore, particularly since Hurwitz bought PacLumber for $500 million total that included all the company's assets which included a large downtown San Francisco office building and tens of thousands of acres of other land and buildings.

As the 3500 acres has never been formally appraised, you are correct that the time has come to commission such valuation. PacLumber knows the $499 million is too high, that's why, according to Pelosi's staffer, it is using it too its advantage and not challenging it. True value may be half that according to Pelosi's office.

EXECUTIVE OFFICE OF THE PRESIDENT, COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, DC, October 25, 1995.

To: Dave Sherman, Forest Service; Allen McReynolds, DOI; Larry Mellinger, DOI; Bruce Beard, OMB; Jack Smith, FDIC; David Long, DOJ; John Bowman, Treasury.
From: Elisabeth Blaug, Associate General Counsel.
Subj: Headwaters Forest Meeting October 26.

Most of you attended a meeting this past Friday at CEQ Chair Katie McGinty's office, at which we initiated discussions on a potential debt-for-nature swap. As you will recall, the DIC recently filed a $250 million suit against Charles Hurwitz for his role in the failure of the United Savings Association of Texas (in addition, there is a private False Claims challenge pending). Mr. Hurwitz is a major stock owner in Maxxam, which acquired Pacific Lumber Company, which owns and logs the Headwaters Forest. Because this forest contains approximately 3,000 acres of virgin redwoods, there is great interest to preserve it. Among a number of options to consider for ensuring this happens is a potential debt-for-nature swap, by which FDIC would seek to acquire Headwaters from Mr. Hurwitz in exchange for release of its claims.

At our meeting last Friday, a number of complex legal issues were raised concerning this proposed swap, which relate in some part to your agency. Essentially, we need to examine if and how there might be a chain of ownership from FDIC to Treasury to a land management agency. Hence, there is a follow-up meeting tomorrow (Thursday) at 10:00 a.m. at FDIC, 550 17th Street, room 3036. We will attempt to identify the legal issues that need to be addressed to determine whether a debt-for-nature swap is feasible. I look forward to seeing you or your designate(s) tomorrow. Please contact me at 395–7420 if you have any questions. The FDIC contact is Jack Smith, Deputy General Counsel, at 898–3706.

RECORD 32

Tell Me—about 3/4/96.

RECORD 33

DRAFT

To: William F. Kroener, III, General Counsel
Subj: Meeting with Vice President Gore on Friday, Oct. 20, 1995, at 11:00 a.m.

DISCUSSION POINTS

I. Background

1. United Savings Association of Texas, Houston, Texas, ("USAT") was acquired in 1983 by Charles E. Hurwitz. Hurwitz leveraged the institution through speculative and uncontrolled investment and trading in large mortgage-backed securities portfolios, without reasonable hedges, to $4.6 billion in assets. Investments lost value and USAT was declared insolvent and placed into FSLIC receivership on December 30, 1988. Loss to the FSLIC Resolution Fund is $1.6 billion.

2. While Hurwitz was a controlling shareholder and de facto director of USAT he acquired, through a hostile takeover and with the strategic and financial assistance of Drexel Burnham Lambert, Inc., Pacific Lumber Company, a logging business based in northern California. As a result, Hurwitz came to control the old growth, virgin redwoods that are the principal focus of the Headwaters Forest.

II. FDIC Litigation

1. On August 2, 1995, FDIC as Manager of the FSLIC Resolution Fund filed a lawsuit against Mr. Hurwitz seeking damages in excess of $250 million.

a. Complaint contains three claims:

Count 1 alleges breach of fiduciary duty by Hurwitz as de facto director and controlling shareholder of USAT by failing to comply with a Net Worth Maintenance Agreement to maintain the capital of USAT;

Counts 2 and 3 allege gross negligence and aiding and abetting gross negligence in establishing, controlling and monitoring two large mortgage-backed securities portfolios.

2. FDIC has authorized suit against three other former directors of USAT that we have not yet sued; a tolling agreement with these potential defendants expires on December 31, 1995. The court may order FDIC to decide to add them as defendants prior to that date.

3. Status of FDIC Litigation: Pursuant to the Federal Rules of Civil Procedure, the parties—through counsel—have met and exchanged disclosure statements that list all relevant persons and documents that support our respective positions. Moreover, the parties have agreed to a scheduling order that reflects a quick pre-trial period. All discovery is to be concluded by July 1, 1996. The court has set a scheduling conference to discuss all unresolved scheduling issues for October 24, 1995; and a follow-up conference on November 28, 1995.

III. Settlement Discussions

1. FDIC has had several meetings and discussions with Hurwitz' counsel prior to the filing of the lawsuit. Hurwitz has never, however, indicated *directly* to FDIC a desire a negotiate a settlement of the FDIC's claims.

2. As result of substantial attention to Pacific Lumber's harvesting of the redwoods by the environmental community, media inquiries, Congressional correspondence, and the state of California, Pacific Lumber has issued various press releases stating it would consider various means of preserving the redwoods.

IV. OTS Investigation

1. Since July 1994, the Office of Thrift Supervision has been investigating the failure of USAT for purposes of initiating an administrative enforcement action against Hurwitz, five other former directors and officers, and three Hurwitz-controlled holding companies. The OTS may allege a violation of the Net Worth Maintenance Agreement and unsafe and unsound conduct relating to the two MBS portfolios and USAT's real estate lending practices. If OTS files its administrative lawsuit, if many allege damages that total more that $250 million.

2. OTS has met with Hurwitz' counsel; no interest in settlement has been expressed to OTS.

3. OTS is likely to formally file the charges within 45 days.

4. Appears to FDIC inappropriate to include OTS representatives in the meeting to discuss possible settlement of its claims against Hurwitz since OTS has not yet approved any suit against Hurwitz or his holding companies and OTS' participation at such meeting may be perceived by others as an effort by the Executive Branch to influence OTS's independent evaluation of its investigation.

V. FSLIC Resolution Fund ("FRF" Issues

1. The Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") (enacted Aug. 9, 1989), accord special treatment to certain savings & loan associations that failed prior to its enactment. The FRF obtains its funds from the Treasury and all recoveries from the assets or liabilities of all FRF institutions are required to be conveyed to Treasury upon the conclusion of all FRF activities. The statute does not establish a date for the termination of the FRF. FRF fund always in the red due to huge cost of these thrift failures.

2. To date, FRF owes the Treasury approximately $46 billion.

3. FDIC has decided that if Hurwitz offered the redwoods to settle the FDIC claims, we would be willing to accept that proposal. Because any assets recovered from FRF institutions are required to eventually be turned over to Treasury, the trees (i.e. the land conveyance) could conceivably be transferred to Treasury.

4. May need legislation to assist in transfer of land and other details of such a conveyance. The mechanics of such a transfer is not a focus of FDIC's current efforts which are to persuade Hurwitz of liability and to seriously consider settlement.

VI. Impediments to FDIC Direct Action Against Trees

1. FDIC has no direct claim against Pacific Lumber through which it could successfully obtain or seize the trees or to preserve the Headwaters Forest. Neither Maxxam, Inc. (which owns Pacific Lumber and is controlled by Hurwitz) nor Pacific Lumber are defendants in FDIC's suit. There is no direct relationship between Hurwitz' actions involving the insolvency of USAT and the Headwaters Forest owned by Pacific Lumber. Pacific Lumber was acquired by Maxxam but does not appear to have owned any interest in USAT or United Financial Group, USAT's first-tier holding company. Moreover, neither USAT nor UFG ever owned an interest in Pacific Lumber.

2. FDIC's claims alone are not likely to be sufficient to cause Hurwitz to offer the Headwater Forest, because of their size relative to recent Forest Service appraisal of the value of the Headwaters Forest ($600 million); because of very substantial litigation risks including statute of limitations, Texas negligence—gross negligence business judgment law, and Hurwitz's role as a de factor director; and the indirect connection noted above, including the risk of Hurwitz facing suit from Pacific Lumber securities holders if its assets were disposed of without *Pacific Lumber* being compensated by either outsiders or Hurwitz or entities he controls.

RECORD 34

To: Jack D. Smith@LEGAL OGC Hdq@Washington
From: Jeffrey Williams@LEGAL PLS2@Washington
Subject: Hurwitz
Date: Wednesday, October 25, 1995 11:51:51 EDT
Certify: N

JACK: I've talking with my DOD contacts in the Base Closures Committee, particularly a guy named Joe Sikes. They are interested in talking with us to educate themselves and us (and other appropriate folks/agencies) on the possibilities and difficulties of including a closed military facility in a transaction with Hurwitz.

He is discussing it with his folks and I think they would be an asset to tomorrow's meeting, making the key point even more clear that it will take more than FDIC's claims to get the trees and that FDIC remains an important part of exploring creative solutions to the issue.

Let me know if they should be invited to the meeting.

MOSEL THOMPSON,
Department Assistant Treasury, 632-2032.

RECORD 35

CONFIDENTIAL/PRIVILEGED COMMUNICATION

ISSUES FOR 10/26 MEETING

I. FDIC Transfer of Assets Obtained in Settlement to Treasury

a. FDIC lawsuit against Hurwitz filed on behalf of the FSLIC resolution Fund ("FRF"), which was created by Financial Institution Reform, Recovery and Enforcement Act of 1989 as successor to Federal Savings & Loan Insurance Fund. The FRF is to be managed by the FDIC and separately maintained and not commingled with any other FDIC properties and assets. 12 U.S.C. sec. 1821a(1).

b. Assets and liabilities of the FRF are not the assets and liabilities of the FDIC and are not to be consolidated with the assets and liabilities of the Bank Insurance Fund or the Savings Association Insurance Fund for accounting, reporting or for any other purpose. Id. at 1821a(3).

c. The FRF is to be dissolved upon satisfaction of all debts and liabilities. Upon dissolution, any remaining funds shall be paid to Treasury. Id. at 1821a(f).

d. There are no creditors of United Savings Association of Texas, including uninsured depositors, that have a priority over Treasury in any assets recovered by FRF. Currently, FRF owes Treasury about $46 billion.

e. Coastal Barrier Improvement Act of 1990 (Pub.L. 101-591) imposes certain restrictions and procedures on the FDIC's ownership and ability to transfer property that is within the statute. 12 U.S.C. sec. 1441a-3. May enhance FDIC's ability to transfer to other Federal agency.

1. Unclear whether Headwaters Forest is within the scope of the Act.

2. Moreover, for the Act to apply to FDIC, title to land must be held by FDIC in its corporate capacity. The lawsuit and any potential recovery is in the capacity of FDIC as Manager of the FSLIC Resolution Fund, and not in FDIC's corporate capacity. FDIC must determine whether and, if so, how, FRF can

transfer title of assets to FDIC corporate. If FRF can transfer title to Headwaters Forest to FDIC corporate, and Forest is within scope of the Act, the Act provides mechanism for FDIC to transfer title of assets directly to Interior.

II. Factors that Impede Settlement

a. FDIC has no direct claim against Pacific Lumber through which it could successfully obtain or seize the Headwaters Forest. Neither Maxxam, Inc. nor Pacific Lumber are defendants in FDIC's suit. Neither Pacific Lumber nor Maxxam ever owned any interest in USAT or UFG, its holding company. Hurwitz has not discussed directly with FDIC any settlement of the FDIC's claims; although he has endorsed, through Pacific Lumber's spokesperson and an October 22, 1995, interview published in The Press Democrat of Santa Rosa, California, the concept of a transaction with the Government that would include a land exchange.

b. OTS has been investigating Hurwitz, other former directors of USAT and UFG, Maxxam, and Federated Development Company (a Hurwitz entity that owned part of UFG). We do not know when OTS will commence proceedings against Hurwitz and others.

c. However, FDIC and OTS claims alone are insufficient to exchange with Hurwitz in settlement for the Headwaters Forest.

III. Factors That Could Enhance Likelihood of Settlement

a. New appraisal of Headwaters Forest. Old appraisal may be inadequate in light of recent environmental, economic, and other developments; and Hurwitz suggests need for new appraisal in 10/22/95 interview.

b. Identification of whether and how Treasury can hold and transfer asset to Interior.

c. Identification of other consideration from the Government that may be of interest to Hurwitz.

1. Closed military facility in Texas. Hurwitz already has indicated interest in facility between Houston and Galveston, Texas. FDIC has begun to discuss with Department of Defense Base Closures Committee staff. Interior has apparently identified some possible land.

2. State of California has stated its interest in participating in transaction by providing harvestable timber land valued at between $40-60 million. Need to contact Governor Wilson's office to pursue discussions with us.

3. Evaluation of effect of tax losses to Pacific Lumber and Maxxam for transfer of Headwaters Forest at less than fair market value. Tax losses may be viewed by Hurwitz as advantageous to Pacific Lumber and Maxxam, and may indirectly result in minority shareholders acquiescence to transaction.

4. California congressional delegation has shown significant interest in Headwaters Forest and have been receptive to efforts to conclude a "debt for nature" transaction. Delegation may act as liaison between involved parties and may be interested in proposing any legislation needed to facilitate such transaction.

5. No direct discussions have yet occurred between Hurwitz and any involved agency over the Headwaters Forest transaction. His recent interview suggests his interest in such discussions with such representatives.

RECORD 36

To: Jack D. Smith@LEGAL OGC Hdq@Washington
From: John V. Thomas@LEGAL PLS@Washington
Subject: re:
Date: Friday, January 5, 1996 17:21:07 EST
Certify: N

Top 5 (for the top 10 list as well, I hope).

4. United Savings. OTS has filed their notice of charges. The statute has been allowed to run by us on everyone other than Hurwitz. We have moved to stay our case in Houston, and are awaiting a ruling. Two people, Munitz and Gross (I think), have moved to intervene. And there is the question of whether a broad deal can be made with Pacific Lumber.

RECORD 36A

1/19/96.—Told Alan McReynolds that I had talked to Carolyn Buck after lunch on 7/17/96. I asked whether OTS wanted to be involved in discussions led by CEQ to respond to Hurwitz suggestion about Headwaters. She said curtly, "No". I asked if she had any objection to FDIC participating—she said that was not for her to decide. I concluded from her manner that she did not intend to express an opinion and didn't want to talk about it any more, so we parted without further discussion. I advised Elizabeth Blaug about this yesterday afternoon. I said that if Hurwitz wanted to have global settlements with OTS and FDIC involved he would have to ask for them just as happened with EY and Deloitte.

RECORD 37

NOV/DEC 1995

Jeff Wms.—11:40 Thur 60648

Nov 14 11:00

722 Jackson Place, CEQ Conf Rm.

Rick Sterns: Re Judge Hughes, 906-7966.

Ross Delston: Parker Jane, Jack Shetman, 362-2260.

Pat Bak: 60664.

M. Palen: 60363.

Ann Shopek: 212-973-3215.

Judge Hughes—use of overlapping auth Harness

Thur. order

Carolyn talked to Ken Thur.

RECORD 38

11/28/95—Headwaters mtg CEQ go GSA route to transfer from Tres to Interior

"Cystal Barriers mgt Act"—

"12 U.S.C. 1441a-3"—RTC, FDIC property—

KM—extremely accurate reports came back from environmentalists—keep confidentiality physical assets may not count as money for "scoring."

Treasury cannot give FRF credit for the trees.

If policymakers make decision to accept trees—increases Fed. deficit—

Insurmountable issue—there is a hole here if you take trees.

Interior disagrees with FDIC analysis of Costal Barriers and they think it does work.

Eliz.—our group will meet again to sift thru remaining questions. No formal contacts until OTS files.

John G—we are leaning toward FDIC opening discussions

Lois—scoring problems were the biggest difficulties.

60342 D.G.

John G—after admin suit is filed it is time for opening any discussions—prior to that we get back to K.M. to see if there's any reason not to go forward with negotiations.

RECORD 39

ATTORNEY-CLIENT/WORK PRODUCT
CONFIDENTIAL COMMUNICATION

DRAFT OUTLINE OF HURTWITZ/REDWOODS BRIEFING

I. Introduction

Significant development involving multi-Agency initiative led by Office of the Vice President to obtain title to last privately owned old growth virgin redwoods and place under protection of Department of Interior's National Park Service. FDIC plays prominent role in this Government initiative.

II. Background—United Savings Association of Texas, Houston, TX

a. USAT failure—December 30, 1988—cost to FSLIC $1.6 billion

b. FDIC as Receiver for USAT

1. Investigation.

2. Litigation.

(i) Status of litigation.

c. OTS—separate statutory enforcement authority

1. "Arrangement" with FDIC.

2. Investigation.

3. Administrative enforcement action.

(i) Status of ALJ proceeding.

III. Pacific Lumber Company

a. Maxxam

1. Hurwitz as 60% owner, controlling shareholder of public company.

2. Maxxam's assets (Kaiser Aluminum; Sam Houston Race Track; Real estate subsidiaries; Pacific Lumber).

b. Hurwitz acquisition of Pacific Lumber

1. During Hurwitz's USAT involvement.

2. Relationship with Drexel Burnham Lambert and Michael Milkin.

c. Ownership of Headwaters Forest

1. Northern Spotted Owl and Marbled Murrelet.

c. Hurwitz management and logging policies of Pacific Lumber

IV. Headwaters Forest

a. Description—Northern California, near Eureka; 3,300 acres of Pacific Lumber's 195,000 acres; unlogged, inaccessible, no roads; endangered species; Pacific Lumber's only remaining valuable asset.

b. Previous legislative initiatives—since 1983.

c. Hurwitz's relationship with environmental community—always tense.

1. Numerous picketing; spiking of trees; Earth First! and others.

d. Department of Interior's prior efforts to save Headwaters Forest.

V. FDIC and Headwaters Forest

a. Pacific Lumber not a direct asset of USAT's.

b. Environmental community focused attention of Congress on existence of FDIC's ongoing investigation of USAT's failure.

c. Chairman Helfer indicated in letter to The Rose Foundation that FDIC would consider a proposal that includes the Headwaters Forest in a settlement of claims against Hurwitz if Headwaters asset was offered.

VI. Status of Headwaters Forest Initiative

a. FDIC working with CEQ, Interior, other agencies in exploring viability of "debt for nature" settlement. Dated US Dept. of Agriculture, Forest Service appraisal valued Headwaters Forest at $499 million.

b. FDIC made clear to all involved Government principals that settlement value of FDIC [and OTS] lawsuits insufficient to obtain Headwaters Forest, and US will have to find additional assets to provide Maxxam.

c. Under auspices of CEQ and Interior, numerous meetings with Hurwitz exploring the concept that includes a swap of other government-owned properties held by GAO as excess or surplus land, and approved for sale under authority of Department of Defense Base Realignment and Closure Commission.

1. Interior exploring various transactions that include swaps of Pacific Lumber land with other private land owners; providing Hurwitz with timber rights on other government owned land; State of California to provide funds or timber rights on state-owned land.

d. Hurwitz recently agreed to provide Dept. of Interior with access to conduct new, confidential appraisal of Headwaters Forest.

e. Hurwitz also expressed interest in exploring availability of FDIC properties to "bridge the gap" between value of Headwaters Forest and lawsuits.

1. FSLIC FRF assets—few potentially valuable properties; scraping bottom of barrel since properties from 1989 and earlier failures.

2. RTC FRF assets—more valuable properties in regions Hurwitz/Maxxam currently conduct real estate operations.

(i) Can FDIC swap assets of similar aggregate value between funds to enhance liquidations of assets and likelihood of resolution of receivership claim?

VII. Recent Developments

1. Hurwitz, on behalf of Pacific Lumber and its subsidiaries, filed "takings" cases against the U.S. and State of California alleging that the designation of Headwaters Forest and Owl Creek (both owned by Pacific Lumber) as "critical habitat" for the endangered species Marbled Murrelet prevented Pacific Lumber from logging and resulted in substantial lost revenue. The complaint seeks more than $460 million in losses resulting from prohibition on logging on 50,000 acres of Pacific Lumber land. The case is being handled by the Justice Department. The filing of the lawsuit is viewed by Interior and Justice as an attempt by Hurwitz to nullify the FDIC and OTS lawsuits for purposes of the ongoing discussion.

VIII. CEQ's Projected Time Frame

1. Discussions between Hurwitz and Government ongoing; Hurwitz now making site visits to DOD and GSA properties.

2. Interior's land exchange negotiations proceeding with numerous parties.

3. CEQ negotiators *not* discussing FDIC and OTS lawsuits as part of Headwaters Forest transaction; Hurwitz representatives from Patton Boggs law firm indicated their expectation that "all Government lawsuits" will be resolved as part of transaction.

4. Hurwitz's counsel in FDIC litigation not raise settlement, but have tangibly slowed pace of suit.

5. Interior projects transactions can close in September 1996.

RECORD 40

CEQ

722 Jackson Place, NW, Washington, DC 20503, Phone (202) 395-5750, FAX (202) 456-6546

FAX TRANSMISSION

Date 8/8/96
To: Jack Smith
Phone Number:
FAX Number: 898-7394
Subject of Material: 4 Questions on Headwaters. Thank you so much, this will really help in clearing up major misperceptions! How quickly can you turn this around? (I ask for so little, don't I?) EB
From: Elisabeth Blaug
No. of Pages (including Cover Sheet) 2
736-0577—Bob D. fax
456-0753—Elizabeth B. fax

QUESTIONS

Q1. Why is the Administration willing to swap land with Charles Hurwitz when his very actions in acquiring Pacific Lumber Company led to lawsuits filed against him by the FDIC and Office of Thrift Supervision? Why doesn't the Administration forget the land exchanges and get Hurwitz to settle his debts in exchange for the trees?

A1. would be inappropriate because of independent status of regulators, pending litigation/administrative proceeding. . . .

Q2. In light of question 1, why can't FDIC or OTS bring up a debt-for nature settlement with Charles Hurwitz?

A2. ??

Q3. Charles Hurwitz's purchase of Pacific Lumber led to a $1.6 billion collapse of a Texas Savings & Loan; that amount is likely more than enough to cover the acquisition of *all* the old growth redwoods on Palco property. Why then is the Administration looking for excess property to exchange?

A3. ??

Q4. If the regulations are not actually seeking $1.6 billion, what monetary damages are they seeking against Hurwitz?

A. ??

1. There is no direct relationship between the Headwaters Forest and the actions of Mr. Hurwitz with respect to the insolvency of United Savings Association of Texas ("USAT"). Moreover, Pacific Lumber Company is not a defendant in either lawsuit. Although Pacific Lumber was acquired by Maxxam, it does not appear that Pacific Lumber owned any interest in USAT or United Financial Group, Inc. ("UFG"), USAT's first-tier holding company.

The Administration cannot dictate a debt for nature settlement with Mr. Hurwitz because the FDIC and OTS are independent regulatory agencies with separate and distinct statutory and fiduciary responsibilities. The Administration is prohibited by law from directing the outcome of any action commenced by FDIC or OTS in the performance of either agency's official duties.

2. The statutory framework for action commenced by FDIC and OTS require the agencies to seek recovery for losses incurred to the insurance funds and appropriate civil money penalties. The agencies are chartered to recover money, not to establish national parks. They often initiate settlement discussions to recover money or assets which can be converted to money. For example, the OTS has already settled some issues related to the USAT failure for a $9.4 million payment from USAT. Nevertheless, the FDIC is open to any appropriate settlement of its claims including a debt for nature swap should Mr. Hurwitz make such a proposal.

3. Neither the FDIC or the OTS are suing Mr. Hurwitz for $1.6 billion. Although the agencies believe that Mr. Hurwitz' conduct resulted in significant losses to USAT, both suits seek damages and restitution for mismanagement and gross negligence that are directly attributed to specific acts and transactions within the applicable statute of limitations.

4. The FDIC suit against Mr. Hurwitz seeks damages in excess of $250 million. The OTS administrative enforcement proceeding seeks reimbursement for losses to the insurance funds in an unspecified amount to be proven at trial.

RECORD 41

To: John V. Thomas@LEGAL PLS@Washington, Stephen N. Graham@DAS Ops@Washington, Richard T. Aboussie@LEGAL ASIS@Washington, Henry R.F. Griffin@LEGAL ASIS@Washington, Robert DeHenzel@LEGAL PLS@Washington, Jeffery Williams@LEGAL PLS@Washington
Cc: William F. Kroener III@LEGAL OGC Hdq@Washington, Leslie A. Woolley@Washington, Robert Russell Detail@EO@Washington
Bcc:
From: Jack D. Smith@LEGAL OGC Hdq@Washington
Subject: USAT
Date: Friday, September 6, 1996 9:05:59 EDT
Attach:
Certify: N
Forwarded by:

John Douglas called and we are going to have a settlement meeting Monday or Tuesday with Douglas and OTS. Douglas indicates that he will propose that the FDIC take certain redwood trees which we will exchange for other marketable property from perhaps Interior. FDIC would then be able to sell the property it gets from Interior.

Douglas says there are tight deadlines and he wants to try and wind up the negotiations by Wednesday. The FDIC settlement delegation will be the General Counsel, myself, Steve Graham and Jeff Williams. If a realistic proposal is submitted approvals. Therefore, Jeff is blocking out a settlement authorization memo with the terms to be filled in later.

RECORD 42

To: Henry R.F. Griffin@LEGAL ASIS@Washington, Jeffrey Williams@LEGAL PLS@Washington, Robert DeHenzel@LEGAL PLS@Washington, John V. Thomas@LEGAL PLS@Washington
Cc:
Bcc:
From: Jack D. Smith@LEGAL OGC Hdq@Washington
Subject: Headwaters
Date: Monday, September 16, 1996 18:10:50 EDT
Attach:
Certify: N
Forwarded by:

I am advised that the draft settlement proposal we received from Patton Boggs has been discarded by Interior so we need not review it in detail.

As to the Qui Tam case, my understanding is that it will not be part of this deal, and may proceed even if there is a government settlement. We will continue on our separate settlement track only if OTS is able to reach an understanding with Hurwitz about removal and prohibitions.

APPENDIX 3

DOCUMENT DOI–A

UNITED STATES DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY,
Washington, DC, January 23, 1995.

MEMORANDUM

To: Anne Shields, Chief of Staff
From: Allen McReynolds, Special Assistant to the Secretary
Subject: Update on Headwaters Forest

I am forwarding three (3) pieces of information which will provide an update on the

Maxxam/Pacific Lumber Company—owned Headwaters Forest in northern California.

1. *OTS Filing*. The U.S. Office of Thrift Supervision of the Department of the Treasury filed their lawsuit against United Savings Association of Texas and related Maxxam parties on December 26, 1995. Maxxam's attorneys have requested 60 days in order to respond to the charges; the deadline is February 19. The next step will be for the judge to schedule a hearing to review the charges and responses.

2. *Houston Chronicle Editorial*. Attached is the editorial written by Charles Hurwitz, C.E.O. of Maxxam, which appeared in the Houston Chronicle on January 14. In his editorial, he describes the environmentalists' activities as hostile and inappropriate actions. The Debt-for-Nature swap concept is discussed on page 3.

3. *H.R. 2712—Acquisition of Headwaters Forest*. Congressman Frank Riggs of Eureka introduced a bill on December 5, 1995 for the acquisition of Headwaters Forest through a land exchange and timber exchange on BALM lands in northern California. My contact on the committee tells me that no action has occurred thus far, but that it is likely that this bill will be pushed by Mr. Riggs and his colleagues later this month.

4. *Next Step*. You may recall that the filing by O.T.S. of their suit was the step which would release O.T.S. and F.D.I.C.'s legal staffs to initiate a meeting with Mr. Hurwitz and/or his counsel. I have spoken to O.T.S. attorneys managing this suit, and they continue to insist on an arms-length relationship with any public efforts to acquire Headwaters through a Debt-for-Nature Swap. They are of the opinion that it would disadvantage their chances of a fair and legal proceeding if they were to be engaged in high-level discussions with Administration staff. Thus, that leaves the meeting and any negotiations for an out-of-court agreement to the F.D.I.C. legal team. They called Katie McGinty last week and requested that Interior's attorneys be a part of any meetings and negotiations with Hurwitz/Maxxam arranged to test Maxxam's interest in a global settlement. They argue that F.D.I.C. does not know the asset (Headwaters Forest) or the current efforts by the environmentalists/FWS/State of California to halt timber harvesting on E.S.A. grounds (the marbled murrelet habitat) as well as Interior.

I believe that Katie may contact you about the appropriateness of the Department's involvement to get the meetings off of the ground.

Thank you for your attention to these issues.

Attachments (3).

cc: John Garamendi, George T. Frampton, Jr., Bob Armstrong, Bonnie Cohen, John Leshy, Bob Baum, Jay Ziegler

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DOCUMENT DOI-B

UNITED STATES DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY,

Washington, DC, August 2, 1995.

MEMORANDUM

To: George T. Frampton, Jr., Assistant Secretary, Fish and Wildlife and Parks

From: Allen McReynolds, Special Assistant to the Secretary

Subject: California Headwaters Forest Acquisition

Recently, the Secretary received a letter from the Congressional delegation from northern California requesting assistance in the acquisition of a 44,000 acre parcel of timbered lands owned by Maxxam Corporation of Texas (see attached). You may remember that Hamburg and Boxer attempted to appropriate funds in 1994 (see H.R. 2866 attached). Maxxam, owned by Charles Hurwitz of Houston, conducted a leveraged buyout of Pacific Lumber in the late 1980's to acquire 184,000 acres of timber for $900,000,000. You will recognize that these tracts are a part of the habitat for the marbled murrelet (see attached article).

To repay the bonds secured for the purchase, Mr. Hurwitz has stepped up the cutting schedule worked out with P.L.'s former owners. On September 15, 1995, the moratorium on logging the old-growth portion of Maxxam's un-logged tracts will expire. Thus, the Congressional delegation and the environmental community are inquiring if Interior can devise some creative acquisition strategies. They also wrote to the Forest Service, but the Forest Service had no suggestions on how to acquire the property.

I. Acquisition Strategy

In response to the delegation's request, several staff from Interior began to review the possibilities that exist for acquiring the 40,000 acre tract through creative land exchanges. A summary of these follows:

A. Governor's Headwaters Task Force

Governor Wilson created a Headwaters Task Force several months ago to look at strategies for acquiring these acres. Representing Interior are Ed Hasty, BLM State Director, and Phil Detrick, FWS. The Governor's Office has decided to seek State legislation to trade approximately $70,000,000 in lands owned by The California State Lands Commission for Headwaters tracts. The Governor's Office would like for Interior to put lands up for trade to match their strategy. Terry Gorton, the Governor's negotiator, has met with Hurwitz and thinks the acreage could be had for a sum less than the Forest Service's appraisal of $500,000,000.

B. DOI Acquisition by Land Exchange

The California Desert Protection Act and the Natural Communities Conservation Program (NCCP) have consumed all of BLM's lands which were available for disposal in California. Thus, BLM, nor FWS for that matter, has any trading stock within California which is available for such a transaction.

C. Military Base Closure Land Exchanges

The American Lands Conservancy (ALC), also a member of the Governor's Task Force, has reviewed with the Governor's Office the potential of acquiring small acreages at closing military bases in northern California. Hamilton AirField, located in the Bay Area, recently sold a tract for $10,000,000 to a local developer. The Governor would like to capture these funds and others as bases are sold piecemeal across the area. Because of our unsuccessful efforts at El Toro Marine Corps Air Station, we have made it clear that Interior will not front this concept for consideration. It is anticipated that ALC will provide a report to the delegation regarding the opportunities at Bay Area military base closures.

II. Debt for Nature Swap

The Federal Deposit Insurance Corporation and the Office of Thrift Supervision have claims against Charles Hurwitz and United Savings of Texas which they are preparing to pursue (see attached article). The FDIC claims result from mortgage-backed securities trading. The OTS claims result from networth-maintenance claims. The total of these two claims is in excess of the appraised fair market value of the 40,000 acres of old growth redwood timber that the Department is seeking to protect. Thus, there has been some support for a debt-for-nature swap for FDIC and OTS's claims for the 40,000 acres. FDIC and OTS are amenable to this strategy if the Administration supports it.

Attached is a copy of the Complaint and Jury Demand on behalf of the FDIC. The Board of the FDIC approved this action late yesterday. The OTS is expected to take similar action no later than mid-October.

III. Next Steps

Those of us working on this (Jay Ziegler, Tom Tuckman, Geoff Webb, and me) are seeking guidance from you on how to proceed. The possible next steps are as follows:

Request a group meeting (Interior, FDIC, OTS) with the Department of Justice to learn their view on a Debt-for-Nature Swap concept for FDIC and OTS's claims.

Annoint a DOI Team to represent the Department in the negotiations with Hurwitz (should FDIC and OTS wish to have us at the table).

Determine which Interior agency would be the most appropriate for the long-term ownership and restoration of the acreage. (BLM has suggested that they are in the best position to do so. A similar argument can be made for the Park Service. The Forest Service may have notions that they are most appropriate.) Your recommendation early will reduce conflict about expectations.

Determine what Interior's involvement may mean for the Department from a policy perspective.

Thank you for your attention to this project. It appears to represent an opportunity for the Department to resolve long-standing problems on the Headwaters Forest.

Attachments

—March 24, 1995 Letter to Secretary Babbitt
—Headwaters Forest Act, H.R. 2866
—Briefing Paper on the History of the Act
—FDIC Action
—Wall Street Journal Clipping
—The Oregonian Clipping
—BLM Statement on Old Growth Reserve System

cc: Jay Ziegler, Geoff Webb, Tom Tuckman, Larry Mellinger

Following is a list of individuals with whom I have worked in the recent past on projects for the Secretary's Office who I consider very trustworthy. I cannot say that they have a specific background in base conversion sites, but they are certainly well schooled in commercial real estate development, hotel development, and residential development in California.

Bruce Karatz, President, Chairman & CEO, Kaufman and Broad, 10877 Wilshire Boulevard, 12th Floor, Los Angeles, CA 90024, 310/443-8000, 310/443-8090(fax)

Richard M. Ortwein, President, Koll Real Estate Group, 4343 Von Karman Avenue, Newport Beach, CA 92660, 714/833-3030, ext. 249, 714/474-1084 (fax)

William (Bill) D. Sanders, Chairman, Security Capital Group, Inc., 125 Lincoln Avenue, 3rd Floor, Santa Fe, New Mexico 87501, 505/820-8214

TABLE 27—TIMBER FOREST LAND AND HARVESTED BY STATE—FISCAL YEAR 1996 [1]

State or Commonwealth [2]	Timber sold			Timber harvested	
	Sales	Volume (MBF) [4]	Bid value [3] (Actual dollars)	Volume (MBF) [4]	Receipts (Actual dollars)
Alabama	738	58,25516	5,220,330.40	60.244.36	5,490 493.12
Alaska	73	96,221.17	3,193,047.40	223,085.32	12,720,486.11
Arizona	12,949	52,419.49	2,170,611.75	69,106.74	7,446,270.20
Arkansas	2,660	185,103.51	26,013,244.60	151,300.05	18,005,184.88
California	49,576	379,258.44	38,576,576.44	451,087.80	104,815,692.01
Colorado	12,9918	53,941.20	8,138,155.95	95,977.22	9,423,741.94
Florida	111	49,981.98	4,234,629.90	86,472.94	4,306,776.06
Georgia	711	31,016.23	2,820,821.23	28,347.81	2,664,177.27
Idaho	22,380	222,615.72	41,560,133.94	341,691.81	52,130,728.74
Illinois	102	105.00	1,060.00	2,706.85	50,545.45
Indiana	28	901.11	18,032.23	318.81	10,711.33
Kentucky	627	10,593.61	1055,056.30	12,161.61	950,831.40
Louisiana	545	63,634.92	10,207,970.60	64.283.28	7,495,880.81
Maine	10	1,058,00	36,312.80	1,838.32	119,770.03
Michigan	788	156,494.94	9,926,226.26	209,024.84	8,771,130.09
Minnesota	226	134,345.76	9,002,381.02	158,784.20	5,700,740.60
Mississippi	2,187	210,914.00	29,003,000.99	193,481.18	27,144,509.31
Missouri	1,008	49,428.74	5,276,548.68	55,220.06	4,521,709.80
Montana	13,673	129,802.01	22,743,183.11	165,720.79	34,919,522.78
Nebraska	6	9.00	90.00	9.00	90.000
Nevada	1,976	2,398.45	31,964.90	5,185.33	91,550.48
New Hampshire	167	24,061.86	1,305,896.26	18,074.46	806,351.80
New Mexico	15,325	33,125.53	1,063,826.41	50,450.45	1,212,648.08
New York	2	350.00	37,986.04	130.00	1,212,648.08
North Carolina	2	359.00	37,985.04	130.00	15,951.23
North Dakota	31	44.00	440.00	44.00	440.00
Ohio	81	1,506.59	145,7737.84	749.00	15,270.01
Oklahoma	86	13,123.41	2,061,781.43	17,661.37	2,185,716.19
Oregon	31,667	287,530.27	46,025,886.49	890,346.37	190,049,139.70
Pennsylvania	116	48,266.54	19,267,848.09	53,969.00	19,416,426.38
South Carolina	422	42,326.28	4,494,402.00	40,421.87	4,337,908.67
South Dakota	1,975	80,038.14	20,797,208.22	64,769.22	10,233,556.00
Tennessee	3389	10,708.10	682,872.16	17,646.38	1,104,127.42
Texas	271	71,145.50	14,440,168.25	85,313.13	10,571,472.23
Utah	7,193	35,800.38	3,823,404.79	32,032.53	2,031,590.20
Vermont	100	4,240.23	848,496.94	4,779.77	413,084.25
Virginia	2.849	35,161.57	2,720,811.90	49,923.65	3,125,306.77
Washington	9,541	113,490.23	13,777,6336.51	186,719.57	39,451,797.22
West Virginia	453	25,957.23	6,354,919.12	27,547.01	4,522,428.71
Wisconsin	627	96,12.35	5,570,711.41	129,645.84	4,628,848.22
Wyoming	627	98,121,35	5,570,711.41	129.645.54	4,522,448.71
Total	216.272	2,885,261.53	280,736,06	3,985,912.03	616,117,347.02

[1] Excludes nonconvertible products such as Christmas, trees, cones, burls etc.

[2] States no listed had no timber sold or harvested in fiscal year 1996.

[3] Includes reforestations and stand improvement costs and timber salvage. Does not include value of roads or brush disposal.

[4] MBF = thousand board feet.

UNITED STATES DEPARTMENT OF AGRICULTURE: REPORT OF THE FOREST SERVICE, FISCAL YEAR 1995

Conservation Leader . . . sustained health, diversity, and productivity of all forest lands

DUN & MARTINEK LLP,
ATTORNEYS AT LAW,
Eureka, CA, July 17, 1996.

Hon. J. MICHAEL BROWN,
Judge of the Superior Court, Humboldt County Superior Court, Eureka, CA.

Re: Epic v. California Department of Forestry, Humboldt County Superior Court Case No. 96CR0420

DEAR JUDGE BROWN: We just received a copy of your minute order dated July 15, 1996. We have been advised by the Clerk of the Appellate Court that Petitioners applied for a temporary stay from the Appellate Court and were denied. The Appellate Court, according to the Clerk, has denied any and all injunctive relief on this Plan.

It would therefore seem that there is no need for the Superior Court to issue a temporary stay because there will be no stay forthcoming from the Appellate Court.

Workers have been on site since Monday, July 15, 1996.

Please advise immediately as to whether we must now suspend operations until July 22, 1996.

Very truly yours,

DAVID H. DUN.

DOCUMENT DOI–C

UNITED STATES DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY,
Washington, DC, August 16, 1995.

MEMORANDUM

To: Jay Ziegler, Geoff Webb, Tom Tuckman
From: Allen McReynolds, Special Assistant—Land Exchanges
Subject: Update on California Headwaters Forest Project

A couple of new developments have emerged in the past several days. The following is an update on these issues:

1. Red Emerson Acreage.

I believe that I shared a letter with you that I received on August 4 from EPIC regarding logging in Headwaters Grove. The letter requests assistance in resolving the conflict of the current logging of S.P.I.'s holdings in the grove, which is permissible under Timber Harvest Plan 1-93-096, and preservation of the watershed protection along the Little South Fork of the Elk River. I left for vacation before looking into the issue so I was unprepared with a response when Perry deLuca of Congressman Stark's office called on Monday requesting assistance. He requested that I call Mr. Red Emerson of Sierra Pacific Industries and question him about any possible opportunity to acquire this land.

In brief, Mr. Emerson and his children are the sole owners of Sierra Pacific Industries. S.P.I. owns over 1,200,000 acres of timber lands in California and 10 sawmills ranging from the Tahoe Basin north and west. Currently, S.P.I. is working on three land exchanges with BLM and the Forest Service across northern California to consolidate checkerboard holdings. At Little South Fork (about which EPIC is concerned), there are 9,600 acres under ownership personal of Mr. Emerson, not S.P.I. He has a 56% ownership; his partner has a 44% stake. The acreage is timbered by second and third growth. He would be willing to either sell or exchange the acreage if we wish to do so. However, he did state that, in his opinion, the land has no resource value because it does not contain any old growth attributes.

I shared this information with Mr. deLuca. The Congressman intends to call Mr. Emerson to follow up and explore options. Also, the staff will investigate if Mr. Emerson's holdings were included in Hamburg's Headwaters legislation. I will call Ed Hasty and attempt to learn more about BLM's relationship with Mr. Emerson and whether we have a resource evaluation of these holdings.

2. Telephone Conference Call With OTS and FDIC.

Yesterday afternoon we held a telephone conference call with staff of the Federal Deposit Insurance Corporation and Office of Thrift Supervision to share information. Participating in the call were Richard Sterns and Bruce Renaldi of OTS, Jack Smith of FDIC, Larry Mellinger and me of DOI. Also invited but not joining in were Tom Jensen of CEQ, Jay and Geoff.

The OTS staff were reluctant to share their work on a claim against Hurwitz/Maxxam because of the appearance that Interior might be attempting to influence policy at OTS. We applauded them for that foresight and did not press for information. They did state that OTS has not filed a claim yet; however, if they decide to file, it will be soon. As soon as that decision is made, they offered to notify DOI and FDIC. I requested that they continue to seek information from us should it be useful.

The FDIC reminded all of us that their claim against Maxxam is "owned" by FSLIC's Resolution Account. This account has $48B already on deposit from claims. Therefore, it might be viewed positively by Congress for Treasury to accept redwood forest property in lieu of cash payment and, then, redirect title of the acreage to DOI.

The OTS staff would not comment on such a strategy for their claim against Maxxam.

There was some interest in the notion that the delegation would request acreage at northern California military base closures to offer as land swaps to Hurwitz. No matter how much caution I expressed on this topic, the FDIC and OTS staff encouraged support. I explained that the American Lands Conservancy would probably present a proposal to the delegation soon, but that DOI would not be a party to it.

I shared the conversation that I had recently with Terry Gorton of Governor Wilson's office. FDIC and OTS are wondering why DOI is not being more aggressive with Hurwitz and is permitting Wilson's Task Force to take the lead. Based on this, perhaps we should revisit DOI's position and our participation in the negotiations. Because Patton/Boggs attorneys are reaching out to DOI for a meeting, DOI could meet with them for exploratory purposes.

3. Meeting with Justice.

You will recall that Tom Epstein encouraged DOI staff to meet with Justice officials to insure no potential conflict on DOI's side of this issue. Larry Mellinger visited with Jack Smith at some length about this. He learned that FDIC does not intend for Justice to represent them on this case. Most likely, OTS will also keep their claim internally also. Therefore, Mr. Smith wonders if DOI really needs to be concerned about this. Larry has offered to confer with Bob Baum and John Leshy and relate their sense of whether a meeting or concern is warranted.

Thanks for your attention. Please call me if you want further elaboration on any of these points.

cc: Larry Mellinger, Solicitor's Office

Document DOI-D

United States Department of the
Interior, Office of the Secretary,
Washington, DC, August 23, 1995.

MEMORANDUM

To: George T. Frampton, Jr., Assistant Secretary, Fish and Wildlife and Parks
From: Allen McReynolds, Special Assistant—Land Exchanges
Subject: Headwaters Forest Acquisition

In the past several weeks, the staff at Interior have continued to receive telephone calls from the Northern California delegation encouraging Interior to pursue strategies for acquisition of the old growth acreage owned by Charles Hurwitz and the Maxxam Corporation. Among those considered, the Debt-for-Nature Swap strategy is the concept which their telephone calls focus on most.

Today, Congressman Stark's staff forwarded copies of the letters which they are generating for their colleagues in the Northern California delegation to forward to the F.D.I.C. In addition, the LA Times notified their office today that it will publish an editorial (see attached) on the subject penned by Mr. Stark and Mr. Brown as early as tomorrow or Monday.

While we continue to downplay our role in these efforts with the delegation's staff, they continue to call upon us to play a leadership role. I sense that because Interior might own any land acquired through negotiations, they feel that Interior should be orchestrating the solution. My impression is that there is an expectation by the delegation that Interior is the most appropriate agency to negotiate the Federal Government's case with Maxxam, instead of the F.D.I.C. or O.T.S. or even Justice. In fact, the delegation may soon expect Interior to arrange a meeting with Maxxam—a rather bold move.

I would enjoy an opportunity to visit with you about this issue at your earliest convenience to avoid any confusion about the pressure that we are receiving and can expect to continue to receive.

Thank you for your attention.

Attachments: Update on Project, Analysis of Red Emerson's Property, U.S. Forest Service Report, LA Times Editorial, Delegation Letter to F.D.I.C.

cc: Tom Tuchmann, Jay Ziegler, Geoff Webb

Talking Points of Headwaters Forest

Headwaters Forest is a 3,000 acre stand of old growth redwood forest, near Humboldt, CA. Pacific Lumber Company and its subsidiaries, which is owned by MAXXAM, Inc, owns Headwaters, and the additional 195,000 acres of timberland which surround Headwaters. Headwaters was appraised several years ago at $499 million. Many believe the figure is inflated, due to other circumstances, including injunctions in connection with marbled murrelet habitat, which until recently precluded any logging of Headwaters.

Charles Hurwitz is a major owner in MAXXAM; the FDIC and Office of Thrift Supervision both filed lawsuits (now pending) in the hundreds of millions of dollars against Hurwitz and MAXXAM, alleging, among other things, a connection between the failure of United Savings Association of Texas, a MAXXAM subsidiary, and the purchase of Pacific Lumber.

Headwaters is of great importance to Californians (particularly northern California), including Governor Wilson. Over the last 6–8 months or so, the Democratic congressional delegation (individually and collectively) and environmentalists have called on the Administration to acquire Headwaters.

In February Katie McGinty and John Garamendi met with Hurwitz and his Washington representative, Tommy Boggs. Several ideas for Headwaters acquisitions or conservation were discussed, including a land swap, which could potentially incorporate a "debt-for-nature" piece in which pending litigation against Hurwitz could be settled.

In April a confidentiality agreement was signed between the Department of Justice and Hurwitz's representatives; subsequently representatives from CEQ, FDIC, Departments of Justice and Interior, and White House Counsel have been meeting with Hurwitz and his representatives to identify potential government surplus properties which could be part of the deal. Hurwitz has expressed particular interest in Treasure Island, and several military bases in California and Texas. California tentatively offered to throw into the "pot" the timber rights to LaTour state forest, in the Sierra Range north of Redding.

In recent weeks several key decision have occurred: (1) 9th Circuit ruled timber salvage can now take place on Headwaters; logging can proceed on September 15, the last day of the marbled murrelet mating season; (2) However, the lifting of the Endangered Species Act moratorium means the marbled murrelet will be listed in the next couple weeks. Hurwitz must prepare a timber harvest plan and a Habitat Conservation Plan before logging.

Last week Hurwitz filed a takings claim against the U.S. Fish and Wildlife Service, arguing the ESA is reducing the value of his property. The lawsuit inexplicably values Headwater at only $166 million. An appraisal until now be acquired by Department of Justice, which was previously being initiated by the Bureau of Land Management and California.

Katie McGinty and John Garamendi convened an interagency meeting yesterday to discuss strategies in light of the lawsuit. Discussions between Hurwitz and Administration representatives have ceased pending a hard look at key issues, including a Department of Justice review of the litigation aspects, and a meeting between Hurwitz and Garamendi is scheduled, in order to ascertain Hurwitz's intent.

Document DOI-E

Note to Geoff, Jay, and Tom: I visited briefly with George yesterday as he was running out of town to go on vacation about Headwaters. He said that he had quickly looked over my memo and had a few thoughts about it. First, he was comfortable that we would continue to look for options to purchase the property, including the FDIC and OTS lawsuits. He does not have a problem with us attending meetings to pursue the Debt-for-Nature Swap concept as long as we do not attempt to take the lead on such a proposal. Second, he feels that the Debt-for-Nature Swap has such a low likelihood of success that he would encourage us to not invest a great deal of time on it. Having said that, he hoped that the situation would not have moved much while he was on vacation.

Attached is a copy of the letter that I received from EPI yesterday. I know little about our relationship with Sierra Pacific Industry and its subsidiary Elk River Timber. What suggestions do you all have about our response?

Allen.

Document DOI-F

United States Department of the
Interior, Office of the Secretary,
Washington DC, September 25, 1995

Memorandum For: Katie McGinty, Council on Environmental Quality, T.J. Glauthier, Office of Management and Budget
From: Assistant Secretary for Fish & Wildlife & Parks
Subject: Proposed Meeting.

News media and congressional attention will likely focus on the Headwaters Grove in Northern California this week as Pacific Lumber (Maxxam Corp.) is likely to gain court approval for its a timber salvage operation there. The U.S. Fish and Wildlife Service and State Fish and Game biologists have been working closely with P–L at their request to ensure that this harvest program will not cause the "take" of marbled murrelets which would trigger enforcement under the Endangered Species Act. This particular salvage operation involves only the removal of fallen trees (primarily through helicopter logging) and does not encompass any cutting of standing trees. Nonetheless, we anticipate substantial protests in the forest and the surrounding area. (Approximately 2,000 environmental protesters organized a demonstration outside of a marbled murrelet critical habitat hearing last week in Eureka, CA.)

Since it is very unlikely that there will be "take"—based on the willingness of P–L to work with State and Federal biologists—we are in a position where we need to carefully weigh our options for future actions relating to the Headwaters. The Wilson Administration has maintained a public position that they are very interested in acquiring the Headwaters Forest, but to date have not been able to structure a purchase or land exchange package that attracts much interest from Maxxam. Since two of these suits (FDIC and False Claims challenge) have been publicly filed within the last few weeks, I believe that we have reached a juncture where we need to consider whether it is prudent to utilize this legal leverage in the context of a Headwaters acquisition strategy.

Two recent lawsuits have been filed against Maxxam and Hurwitz arising out of the failure of his United States Association of Texas:—A $250 million claim by the FDIC; and an even larger private lawsuit under the False Claims Act seeking restitution for federal taxpayers in the billions of dollars.

In light of increased calls for a "debt for nature swap in which the federal government would seek to acquire Headwaters in exchange for release of the FDIC claims (see yesterday's San Francisco Chronicle editorial, attached), I think we need to consider whether the Administration can and should take coordinated action to evaluate and possibly consider such an approach.

I propose that one of you convene interested Federal parties including the U.S. Forest Service, FDIC, Office of Thrift Supervision, U.S. Fish and Wildlife Service, CEQ, DOJ and OMB to analyze options that might be available to us. Given the crescendo of public attention that is ahead of us, I suggest we try to do this ASAP albeit consistent with your incredibly busy schedules.

GEORGE T. FRAMPTON, *Jr.*

Attachment.

DOCUMENT DOI–G

UNITED STATES DEPARTMENT OF THE
INTERIOR, OFFICE OF THE SECRETARY,
Washington, DC, September 26, 1995.

MEMORANDUM

To: George T. Frampton, Jr., Assistant Secretary, Fish and Wildlife and Parks
From: Allen McReynolds, Adm, Special Assistant—Land Exchanges
Subject: Update on Headwaters Forest Project

The following is a brief update on the activities of the local environmental groups and Congressional delegation to bring attention to the Headwaters Forest Project.

A. Congressional Delegation

1. *Letter to Panetta.* Five members of the Delegation forwarded a letter (see attached) to Leon Panetta yesterday requesting the Administration's support for a Debt-for-Nature Swap for Pacific Lumber Company's holdings at Headwaters Forest.

2. *Support of Vice President.* Jill Ratner, President of The Rose Foundation of San Francisco, met with the Vice President last week in California to request his support for a Debt-for-Nature Swap.

3. *F.D.I.C. and O.T.S.* As you know, we have engaged in bi-weekly telephone conference calls with staff handling the cases at the F.D.I.C. and the Office of Thrift Supervision. FDIC's case was filed in August; OTS has not specified when they would file their claims.

4. *Policy Support.* The Delegation continues to call me almost every day to inquire what we have done to move this along within the previous 24 hours. They continue to press Interior to take a more proactive approach with the Administration about a policy call of using Headwaters Forest as a negotiable asset for F.D.I.C. claims against Maxxam.

5. *Federal Assets.* We have agreed to review the list of possible Federal assets that can be made available to purchase lands from Pacific Lumber.

B. State Legislature

1. *State Legislation.* The Headwaters Bill sponsored by Scher was killed in the Senate by Governor Wilson's staff last week. The Governor had requested authorization to exchange up to $70M of timber for Pacific Lumber holdings at Headwaters. Because the Bill did not spell out specific sources and authorization amounts, it has been said that the Governor was embarrassed by the legislation, and, therefore, directed that it be killed.

2. *Letter to Pacific Lumber.* As a followup to the Bill's demise, Doug Wheeler wrote a letter to Pacific Lumber's Chairman requesting a meeting to review creative strategies for acquisition between the State and Maxxam/Pacific Lumber. It is our understanding that the State has no assets to make readily available for a proposal such as this. In short, the Governor's staff continue to want to score a victory here but have no specific assets or acquisition strategies.

C. Local Environmental Groups

1. *E.P.I.C. Lawsuit.* The San Francisco Federal District Court lifted the seal on the lawsuit (see attached) initiated by E.P.I.C. against Charles Hurwitz and Maxxam. The suit calls for claims under the False Claims Act and spells out specific wrong doing in structuring the use of United Savings Association of Texas to purchase Pacific Lumber. There are strong references to Ivan Boesky and Michael Milken and insider trading influences.

2. *Demonstrations.* The local environmental groups, including E.P.I.C., and EarthFirst, continue to host weekly demonstrations. They hope that Interior will roll out a specific program soon so that efforts can turn more friendly.

3. *Court Hearing.* This Thursday a court hearing is scheduled to review the merits of the harvest plan submitted by Sierra Pacific Lumber on their acreage adjacent to Pacific Lumber's holdings. The recovery plan calls for aerial reconnaissance (helicopters) and other technologically advanced ways of removing the fallen trees from within the murrelet habitat.

4. *Elk River Timber Company.* The Elk River holdings total 9,600 acres of land adjacent to Pacific Lumber and Sierra Pacific's holdings. The property owners are Red Emmerson and Jim Lehar, two local investors. E.P.I.C. has requested our support to acquire these acres as they are a critical linkage and habitat sources. Mr. Emmerson has expressed interest by telephone to me in conducting a land exchange with Interior/FS, but I need direction to proceed. BLM does not own any land that we want to dispose of in this region of California. Forest Service does have lands which could be appropriate.

Thank you for your attention. I look forward to the opportunity to visit with you about the options which we have been analyzing for interior's role in this project.

cc: Jay Ziegler, Tom Tuchmann, Geoff Webb

DOCUMENT DOI–H

EXECUTIVE OFFICE OF THE
PRESIDENT, COUNCIL ON
ENVIRONMENTAL QUALITY,
Washington, DC, October 25, 1995.

To: Dave Sherman, Forest Service, 205–1604; Allen McReynolds, DOI 208–2681; Larry Mellinger, DOI 208–3877; Bruce Beard, OMB, 395–6899; Jack Smith, FDIC, 898–7394; David Long, DOJ, 514–0280; John Bowman, Treasury, 622–1974
From: Elisabeth Blaug, Associate General Counsel
Subj: Headwaters Forest Meeting October 26

Most of you attended a meeting this past Friday at CEQ Chair Katie McGinty's office, at which we initiated discussions on a potential debt-for-nature swap. As you will recall, the FDIC recently filed a $250 million suit against Charles Hurwitz for his role in the failure of the United Savings Association of Texas (in addition, there is a private False Claims challenge pending). Mr. Hurwitz is a major stock owner in Maxxam, which acquired Pacific Lumber Company, which owns and logs the Headwaters Forest. Because this forest contains approximately 3,000 acres of virgin redwoods, there is great interest to preserve it. Among a number of options to consider for ensuring this happens is a potential debt-for-nature swap, by which FDIC would seek to acquire Headwaters from Mr. Hurwitz in exchange for release of its claims.

At our meeting last Friday, a number of complex legal issues were raised concerning this proposed swap, which relate in some part to your agency. Essentially, we need to examine if and how there might be a chain of ownership from FDIC to Treasury to a land management agency. Hence, there is a follow-up meeting tomorrow (Thursday) at 10:00 a.m. at FDIC, 550 17th Street, room 3036. We will attempt to identify the legal issues that need to be addressed to determine whether a debt-for-nature swap is feasible. I look forward to seeing you or your designate(s) tomorrow. Please contact me at 395–7420 if you have any questions. The FDIC contact is Jack Smith, Deputy General Counsel, at 898–3706.

DOCUMENT DOI–I

UNITED STATES DEPARTMENT OF THE
INTERIOR, OFFICE OF THE SOLICITOR,
Washington, DC, December 1, 1995.

MEMORANDUM

To: Bob Baum
From: Larry Mellinger
Subject: Headwaters—Alternative Methods for DOI Management

In addition to the methods in which the Headwaters Forest could possibly be transferred from the Treasury Department to Interior, which were outlined in the FDIC memorandum to Kathleen McGinty, dated November 6, 1995, there are two other practical statutory means by which Interior could administer the Headwaters forest, should either FDIC or Treasury acquire the property as part of a debt-for-nature transaction.

The Refuge Administration Act

The Refuge Administration Act contemplates the inclusion of areas within the National Wildlife Refuge System which are established pursuant to a cooperative agreement with any state of local government, any Federal Department or agency, or any other governmental entity (16 U.S.C.

§668dd(a)(3)(B)). Further, provisions of this subsection allow the specific terms of such a cooperative agreement to direct the course of any future disposition of the property subject to the agreement, notwithstanding other restrictions governing the transfer of lands within the System.

Presumably such a cooperative agreement for the management of Headwaters could be entered into between DOI and the Treasury Department or FDIC, assuming FDIC at least falls within the definition of a "governmental entity." While management of Headwaters by the FWS, through a cooperative agreement would probably be the most simplified process for attaining DOI management of the area, the FDIC or Treasury would retain underlying jurisdiction over the lands.

The Antiquities Act of 1906

The Antiquities Act of 1906 (16 U.S.C. §431) provides: "The President . . . is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected."

President Jimmy Carter declared two such National Monuments by Presidential Proclamation on December 1, 1978. The Yukon-Charley National Monument encompassed 1,720,000 acres, while the Yukon Flats Monument encompassed 10,600,000 acres. Within such proclamations the President has the discretion to set forth responsibility for management of the National Monument. Thus, presumably, regardless of whether Headwaters was under the jurisdiction of FDIC or the Treasury Department, the President could declare it a National Monument, under the administration of the Secretary of the Interior. Such Presidential proclamations are not subject to the provisions of the Federal Land Policy and Management Act, 43 U.S.C. §1701, nor are they subject to NEPA, since NEPA does not apply to Presidential action.

DOCUMENT DOI-J

UNITED STATES DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY,
Washington, DC, March 26, 1996.

MEMORANDUM

To: John Garamendi, Deputy Secretary
Allen McReynolds, Special Assistant to the Secretary
Subject: Exchange Issues on Headwaters Project

You recently stated that you have reason to believe that Charles Hurwitz and Maxxam Corporation officials will most likely want a global settlement through the negotiation process for Headwaters Forest. By that, you were referring to the inclusion of a settlement for both the FDIC and Office of Thrift Supervision (OTS) lawsuits in the negotiations for the land acquired.

This process raises certain legal and financial questions regarding the ability of the Administration to include settlement of these two lawsuits within the current negotiations. In the past several months, the issues relating to the FDIC lawsuit were analyzed by the headwaters multi-agency working group and a formal response was prepared (see attached). The OTS was not willing to participate in open discussions with the working group so none of the issues regarding the OTS lawsuit are known at this time. Restated briefly, the answers are as follows:

Question 1. Is it feasible for Hurwitz to transfer the Headwaters Forest to the FDIC in exchange for a settlement of the FDIC's lawsuit and/or other assets? Yes. Hurwitz, through his control over Maxxam's and its subsidiaries' boards of directors, has previously influenced the transfer of Pacific Lumber assets to resolve other liabilities. The FDIC's Chairman has stated that in the event the Headwaters Forest is offered to the FDIC as part of a settlement of the FDIC's claims against Hurwitz, the FDIC Board of Directors would consider accepting such assets to resolve the claims against Hurwitz. (Page 3, Issue 1)

Question 2. Can the F.D.I.C. transfer Headwaters Forest to Interior under existing authorities, without legislation? Yes. The F.D.I.C. could legally transfer title to the Headwaters Forest from the FSLIC Resolution Fund (FRF) to Treasury if the F.D.I.C. determined that the state of the FRF at the time of transfer were such that the value of Headwaters was not better retained in the FRF for discharge of FRF liabilities. A case could be made in favor of such a determination at present, although the FDIC Board of Directors might prefer to foster all FRF assets in view of contingent liabilities. Absent such a determination, an alternative might be for the FDIC to hold the Headwaters Forest for the time being, under management by the Department of the Interior. (Page 8, Issue 2)

Question 3. What legislative mechanisms exist that may facilitate a transfer of the Headwaters Forest to the U.S. Department of the Interior with minimal financial outlay? Three (3) legislative authorizations provide a mechanism for an inter-agency transfer of title to the Headwaters Forest to the Department of the Interior. The three original citations have since been analyzed and two different authorities have been found to provide better legal authority. The three authorities now considered appropriate are the Transfer of Real Property Act (16 U.S.C. 667b); Federal Property and Administrative Services Act (40 U.S.C. 484); and the Surplus Property Act of 1944 (50 U.S.C. App. 1622g). (Page 12, Issue 3)

Question 4. Can Interior accept Pacific Lumber assets from Treasury/F.D.I.C. without triggering a "scoring" claim? Any budgetary impact, including "scoring," is dependent on the particular structure of the transaction and whether particular legislation is necessary to facilitate the acquisition or transfer of the Headwaters Forest. (Page 14, Issue 4)

Attached for your consideration is the full response drafted by F.D.I.C. and full citations involved in resolving the legal, legislative, and financial obstacles involved.

Enclosure.

DOCUMENT DOI-K

LAW OFFICES OF THOMAS N. LIPPE,
San Francisco, CA, June 5, 1996.

To: Robert Baum, Department of Interior
Your Fax No: 202-208-3877
From: Thomas N. Lippe

CONFIDENTIALITY NOTE

The documents accompanying this cover sheet contain information from the law offices of Thomas N. Lippe which may be confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient. Be aware that any disclosure, copying, distribution or use of the contents of this faxed information may be prohibited. If you have received this facsimile in error. Please notify us by telephone immediately so we can arrange for the return of the original documents to us.

Other: Fax does not include map; Original with enclosed map to follow in the mail.

Date: June 5, 1996.

Case: HD-ACQ.

LAW OFFICES OF THOMAS N. LIPPE,
San Francisco, CA, June 5, 1996.

By Facsimile and By mail: (202) 208-3877
Robert L. Baum,
Associate Solicitor for Division of Conservation & Wildlife, Solicitor's Office, Department of Interior, Washington, DC.

DEAR BOB: I am writing on behalf of the Headwaters Forest Coordinating Committee to follow up on your meeting with Julia Levin on May 31, 1996. I understand from Julia that you expressed a high degree of disappointment and frustration with your meeting with the HFCC representatives, including myself, in Burlingame on May 15, 1996. We are puzzled by this since your characterization of our discussions at that meeting does not reflect many of the most important elements of our communications. Therefore, in order to avoid any ambiguity or misunderstanding, we are writing now to memoralize the most important elements of what we said at the meeting.

The Headwaters Forest Coordinating Committee (HFCC) is composed of representatives of the following organizations: Bay Area Coalition for Headwaters Forest (BACH), Earth First!, Environmental Protection Information Center (EPIC), Forests Forever, Mendocino Environmental Center (MEC), Rose Foundation for Communications and the Environment, Sierra Club, Trees Foundation.

The HFCC has in turn selected the five individuals you met with (i.e., Cecelia Lanman, Kathy Bailey, Jill Ratner, Doug Thron and myself) to represent the HFCC in discussions with the Administration and in any negotiations with Pacific Lumber Company.

These organizations have been working for many years, through litigation, community education, government and private acquisition, etc., to protect the ecology and biodiversity of the redwood region of California. As a result, the organizations are recognized by the national environmental community as the most knowledgeable about what is required to achieve meaningful protection for this dwindling resource.

All of these organizations and their members very much appreciate the Administration's interest in exploring the possibility of federal acquisition of privately owned redwood forests for conservation purposes. Both you and John Garamendi have, quite understandably, inquired of the HFCC organizations how they would view certain acquisition scenarios. The HFCC's response to this query at our May 15, 1996 meeting, which has apparently caused your current frustration, is as follows:

1. The federal government should explore acquiring the approximately 57,000 acres of private redwood forest land that is roughly equivalent to the area identified in HR 2866 (103rd Congress). This area is composed of: (a) approximately 44,000 acres of land, most of which has been designated as critical habitat for the marbled murrelet by the U.S. Fish & Wildlife Service and which belongs

primarily to Pacific Lumber Company (approximately 33,000 acres) and other companies (approximately 11,000 acres including approximately 6,300 acres of Elk River Timber Company land); and (b) a 13,000 acre area north of the critical habitat area, which is identified in HR 2866 as a Coho Salmon Study Area. The HFCC is mapping the precise boundaries of these areas.

2. Federal acquisition should not be accompanied by any "sufficiency language" relating to any timber owner's compliance with environmental laws or restricting judicial review of logging elsewhere.

3. The federal government should seek interim protection for these areas by (a) informing Elk River Timber Company that it is considering acquiring Elk River's land north of the Headwaters Grove; and (b) insisting that Pacific Lumber Company cease logging in the old growth groves within the Palco owned areas described above.

4. The federal government should contact and share with the HFCC appraisals of the following areas:

(a) The areas described in (a) and (b) of paragraph 1 above,

(b) The 33,000 acre area described in Palco's federal inverse condemnation complaint,

(c) All of the old-growth groves that are depicted on the enclosed map as being within the critical habitat area.

5. Federal land acquisition should be accompanied by forest worker retraining measures.

6. Federal acquisition should not be accomplished by trading other old growth forest lands.

7. The HFCC will assist with identifying surplus federal property that may be suitable for a land swap; but the Department of Interior should share its information on these properties with the HFCC to enable us to assist.

8. The HFCC has established a process to attempt to reach consensus on how to respond to any eventual land acquisition. We believe that it is now premature to attempt to define what is feasible or realistic and that such determinations must depend on the information gained from the appraisals and surplus property surveys described above. In addition, the federal government's reluctance to discuss, either with us or with Maxxam, the possible settlement of the FDIC and OTS lawsuits (the so-called "debt for nature" swap) also makes any meaningful assessment of what is feasible impossible at this time.

We believe that if the federal government pursues acquisition with the intent of maximizing ecological conservation, limited by actual financial and political constraints, and with open communication and sharing of information with the HFCC (within legal constraints), that the end result of this process will be understood and supported by the environmental community in California and nationwide.

Given these considerations, it is unrealistic for the Administration to expect support, now, for a proposal which may fall far short of what could be accomplished after all the facts are in. In addition, the existing murrelet listing and recent designation of murrelet critical habitat, as well as the forthcoming coho listing by your Department highlight the need to take affirmative steps now to protect these species, which HFCC's approach to designed to accomplish.

In conclusion, we hope the Administration will work with us to acquire a significant portion of the old growth redwood ecosystem in California, an accomplishment that would be historic in scope. Toward this end, Julia will contact John Garamendi's office to arrange a meeting with us soon as possible.

Thank you for your careful consideration of this.

Very truly yours,

THOMAS N. LIPPE.

Enclosure.

cc: Cecelia Lanman, Doug Thron, Jill Ratner, Kathy Bailey, Julie Levin

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DOCUMENT DOI–L

UNITED STATES DEPARTMENT OF THE INTERIOR, OFFICE OF THE DEPUTY SECRETARY,
Washington, DC, July 8, 1996.

MEMORANDUM

To: Jim Brookshire, Bob Baum
From: John Garamendi
Subject: Weekend Discussions with Hurwitz and Boggs

Friday night I attended Boggs' barbecue at his home, and talked to him and to Maxxam's Corporation Vice President from Washington. I laid out our four demands. They were not responsive, and it was obvious that they had no instructions to negotiate. From the discussion, it was clear that Charles Hurwitz had two concerns. The first was that we are not serious and that we are just stringing him out. The second is that our appraisal will be so far off the mark that no deal can be made, and that the properties that we are putting forth are not good. These concerns seemed to be the reasons that they did not want to do the four demands.

I finally told them that if they did not believe that we were serious, then Charles Hurwitz should phone me on Saturday. By the time we returned home, Mr. Hurwitz had phoned. We talked later Saturday afternoon. Mr. Hurwitz confirmed my suspicions as related above. He went on and on about the properties not having real value because entitlements were not assured. He dismissed Yerba Buena and Treasure Island as worthless. The same was said about all other properties that he had heard about. He demanded to have the appraisal and the list before deciding what to do about the demands.

I said, "no, we would not negotiate and litigate at the same time." He needed to decide which he would do . . . the four demands would have to be met, I said. I suggested that the following steps occur:

1. Charles Hurwitz meets our demands;

2. On receipt of the confirming letters, we will give him a complete list of properties;

3. We will enter into discussions with him on the value of Headwaters with the goal of agreeing to a value; and,

4. We will then determine how to pay the price with land swaps, etc.

He said he'd get back to us on Monday.

Later Saturday evening he called again and asked to have all of the State of California properties at Lake Tahoe put on the table. I said I'd think about it.

Sunday, Mr. Boggs phoned and asked me to think about the wording of a letter he would send me on Monday. Here it is: they would meet the four demands with modifications. I think the letter will come in like this.

A stay of the takings case until September 15, with extensions if mutually agreeable;

An agreement not to log until "x" date;

Three-party agreement on confidentiality; and,

No double dealing.

You are to review the letter and determine if it meets our minimum requirements. If not, then call Mr. Boggs and suggest improvements. Call me in Alaska to review the letter if it meets minimum requirements.

Do not proceed on showing or discussing any property deals Mr. Hurwitz or his people.

Do order an appraisal of the Emerson property. I want that piece in place as soon as possible.

Good luck to us all.

DOCUMENT DOI–M

QUESTIONS REGARDING HEADWATERS GROVE, JULY 19, 1996

1. Please provide an area map showing the property's location. Describe the Headwaters Grove property and its physical surroundings. What other areas surround it that involve Pacific Lumber?

2. What is the significance of the marbled murrelet and other threatened/endangered species for the property? What ESA or other potential development limitations from Federal or State law affect the Grove and surrounding area? What current limitations affect the property?

3. Explain the takings lawsuit that Maxxam has filed. What are the grounds for the lawsuit? What is the status of the suit? Is the claim credible?

4. Provide a history/chronology of the negotiations to exchange the Grove from Maxxam and its predecessors. When and how did Maxxam become involved? What volume of timber (green or salvage) has been cut from the Grove and surrounding area owned by Pacific Lumber thus far?

5. What are all the elements of the DOI proposed exchange? Does the exchange involve the FDIC? IRS? Forest Service? Other agencies? Are tax incentives or FDIC/OTS claims involved?

6. Have formal appraisals on the property involved in the exchange been done? What is the basis for the Maxxam estimates? DOI's?

7. Does DOI contemplate needing legislation for this deal to occur, or do necessary authorities exist? If so, list these authorities and how they apply.

8. What is the timetable for a transaction? What is the significance of September 15th? What legal options are involved for the Federal Government in terms of protecting the property (specifically with regards to the ESA)? Does Maxxam believe it has leverage in this transaction and if so, what are the circumstances that leads it to believe that?

9. What have been the public positions on a Headwaters exchange by Maxxam; DOI, State of California, and other national and local groups?

10. Have the FDIC/DOJ/IRS been involved in DOI's discussions with Maxxam? Have these agencies been involved in separate discussions with Maxxam?

DOCUMENT DOI–N

SIERRA CLUB CALIFORNIA,
Philo, CA, August 21, 1996.

Re: Headwaters Forest
Assistant Secretary JOHN GARAMENDI,
U.S. Department of the Interior,
Washington, DC

DEAR ASSISTANT SECRETARY GARAMENDI: I am writing you on behalf of the Headwaters Forest Coordinating Committee. We thank you for your willingness to continue the negotiations which will lead to protection for Headwaters Forset. We appreciate that the issue is complex and the potential price tag is large.

To assist you in defining areas which we believe to be priorities for protection, the Headwaters Forest Coordinating Committee met last week. We all agree that acquisition or permanent protection at this time for the following areas would constitute a significant step toward protection for Headwaters

Forest, the sixty thousand acre area which is our primary concern. By listing these priorities we do not intend to imply that these steps would constitute full and complete protection for the Headwaters ecosystem. Rather we are attempting to make suggestions for a feasible starting point. Our priorities for protection are:

All the virgin old-growth groves within the USFWS-designated murrelet critical habitat area and their adjacent residual old-growth groves.

Within the critical habitat area, the residual old-growth groves which are "occupied."

A buffer on the north of the main grove consisting of the 3700 acres designated as murrelet critical habitat within the Elk River Timber property.

A minimum 300 foot buffer around every occupied grove.

Watercourse protection within the 60,000 acre Headwaters Forest and the remainder of the Elk River Timber Company (approximately 5400 acres) similar to the Standards and Guidelines for Management of Habitant for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, published jointly by Interior and other departments in April 1994.

No limitation on the application of the Endangered Species Act or other modification of current law applicable to the Headwaters area.

We are in the process of producing another map which outlines these areas. Until it is complete we hope the following information will be useful.

ACREAGE OF OCCUPIED MURRELET NESTING GROVES

All the virgin old-growth groves within the USFWS-designated murrelet critical habitat area, adjacent residual old-growth groves, and other residual old-growth groves which are "occupied" by marble murrelets:

Although we would like to clearly identify these habitat categories, the acreage figures which Pacific Lumber has provided in its draft murrelet HCP appear to be unrealistically low when compared with the timber type map which it has provided EPIC as part of the exemption litigation. According to the HCP, the company claims:

4768: Virgin occupied nesting within critical habitat area (includes main grove)
1346: Residual occupied nesting within critical habitat area
6114 acres: Total occupied nesting habitat within critical habitat area.

The PL draft HCP also claims that there are 1550 acres of occupied nesting habitat outside the designated critical habitat area.

During discovery associated with EPIC's federal exemption litigation, Pacific Lumber has provided a map which shows timber types and stand densities on its property. This map shows that there are significant areas of residual timber adjacent to the virgin nesting groves. Murrelet surveys in this acreage have not been systematic, although murrelet occupied behavior has been observed in residual stands.

Using PL's timber type map, we estimate that there could be as much as 17,113 acres occupied by murrelets in the 60,000 Headwaters Forest, including the stands where surveys have demonstrated occupancy north of the designated critical habitat area. However, this figure does not include the 1550 acres mentioned above that PL has identified as occupied, which is located south of Headwaters, outside the critical habitat area. Of the 17,113 figure, approximately 14,000 acres fall within the critical habitat boundary. It is crucial to keep in mind that only about 5000 acres of either figure is virgin.

(An additional uncertainty which we are attempting to clarify is whether some of the residual groves identified on the timber type map have already been logged. Although their map is dated March 1996 we believe updating the map may result in modification of the information it portrays.)

TIMBER VOLUME PER ACRE IS HIGHER IN MAIN GROVE THAN IN THE OTHER VIRGIN GROVES

The question of valuation immediately comes to mind. Therefore, we asked Dr. Robert Hrubes, an independent consulting forester, to analyze the Pacific Lumber maps to determine whether there was any quantifiable difference between the timber stand characteristics in the main grove compared to the other virgin groves. He concluded that there was a very significant difference. According to Hrubes, the PL maps indicate that the size of the trees is larger and the density of the canopy is heavier in the main grove than in the other groves, indicating a likely greater timber volume and value. You will receive his report by August 23.

TIMBER VOLUME AND VALUE IN RESIDUAL STANDS IS 10–15% OF VIRGIN GROVES

Pacific Lumber itself has used and published at least two rules of thumb to estimate the relative timber volume of residual stands compared to virgin groves. In its recent suit Pacific Lumber v. United States, on page 16, paragraph 31, line 10–12 the company states: "About 10 acres of residual old growth is required to produce the volume that would be produced from one acre of virgin old growth."

Another estimate of relative value was provided in Timber Harvest Plan 89–793 Hum, the last THP submitted (never approved) which proposed full scale logging within the main grove. This THP proposed logging 77% of the stand volume in 399 acres of the grove to produce 49.5 million feet of logs. In its analysis of alternatives, Robert Stevens, PL's Head Forester at the time, states on page 60: "If TPL Co. is prevented from logging its virgin timber, it will have no choice except to replace this old growth timber volume with trees from previously logged stands. Producing 49.5 million feet of logs would require 2,500 acres or more to be logged." The 399 acres of virgin timber from the main grove proposed for logging by THP 793 is 15% of the 2500 acres minimum which Stevens estimates would provide alternative old growth timber for harvest. Thus the company has provided over a seven year period two similar estimates of relative value: The company believes its residual timber stands contain between 10 and 15% of the volume of a virgin stand.

WATERCOURSE PROTECTION FOR FISH AND WILDLIFE

One of our top priorities is watercourse protection within the 60,000 acre Headwaters Forest and the residual portion of the Elk River Timber Company similar to the Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, published jointly by Interior and other departments in April 1994. When reviewing the Standards and Guidelines it is important to keep in mind that they were designed to provide important habitat for a broad variety of species not limited to fish.

Standards and Guidelines specifies a no cut zone on each side of a fish-bearing (Class I) watercourse measured along the ground (slope distance) equal to two site potential trees or 300 feet, whichever is greater. Without reviewing company information, site potential tree size can only be estimated. I have estimated 250 feet per tree, which would yield 500 feet each side. However it is also difficult to estimate ground-slope distance from a map so I have used the 300 foot standard (total 600 feet on both sides of watercourse) applied to the (horizontal) map distance. Greater precision will obviously be needed before finalizing any agreement.

Measuring by hand the watercourses within the 60,000 acre Headwaters Forest as indicated on U.S.G.S. topographical maps has yielded the estimate that there are 334,950 linear feet of Class I, blue-line watercourses. This is the equivalent of 63.44 miles. I applied the 600 foot standard to this figure, divided by the number of square feet in an acre (43,560), and determined that proposed Class I no-cut watercourse zones would total approximately · 4612 acres: 600′ 334,950′ = 200,970,000 sq.ft/43,560 = 4612 acres.

Although I originally believed that the distance of Class II (presence of water-dependent non-fish life) streams could equal as much as four times the distance of Class I streams (which I reported separately regarding Elk River Timber Company), additional time spent mapping has led me to conclude that twice the distance is a closer estimate, and still likely to be high.

The Standards and Guidelines for Class II is one site-potential tree or 150 feet no cut zone each side of the watercourse. Using the same logic as outlined above, I have used the 50 foot standard. Applying 50% of the Class I zone to twice the distance yields the same number. Therefore I believe protection for Class II streams would likely be no more than an additional 4612 acres.

Without close inspection it is impossible to feel confident about estimating the distance of Class III (ephemeral) streams. However, I still believe that as a working assumption we can guesstimate that there are twice as many Class III (ephemeral) streams as Class II. The Standards and Guidelines for Class III are one site potential tree or 100 foot no-cut zone each side of watercourse. However, we have chosen to depart from the Standards and Guidelines in this instance and simply ask for a 50 foot equipment exclusion zone on each side of all Class IIIs with retention of at least 50% overstory and understory canopy within that zone. Over the estimated 254 miles of Class III, an equipment exclusion zone totaling 3076 acres should be applied.

Class I=4612 ac
Class II=4612 ac
Total=9224 ac no harvest watercourse protection zones
Class III=3076 ac equipment exclusion with 50% canopy retention

PRE-EXISTING WATERCOURSE CONSTRAINTS MUST BE ANALYZED

Existing California Board of Forestry regulations require 50% of the stream canopy to be retained for Class I streams and a Watercourse and Lake Protection Zone (WLPZ) ranging from 75–150 feet depending on sidehill slope. Class II zones are smaller. Equipment exclusion zones for Class III streams with or without canopy standards are often specified in current THPs. Protection measures are likely to increase when coho salmon are listed this year.

THP 96–059 Hum on the neighboring Elk River Timber property included mitigation measures beyond standard rule prescriptions including: retention of approximately 75% of the existing conifer overstory in the Class I WLPZ and a 150 foot WLPZ. The value of purchasing a riparian corridor should take existing regulatory constraints and operational practices into consideration.

Additionally, it will be necessary to conduct an evaluation of the existing harvestable timber volume in the proposed watercourse protection zones. A significant proportion of the proposed no-cut zones will have very little immediately merchantible timber remaining.

CONCLUSION

We continue to believe that protection for the full 60,000 acre Headwaters Forest should be achieved as soon as possible. We hope that our effort to prioritize the need to protect specific habitat features within Headwaters Forest will be helpful in you negotiations with Pacific Lumber Company. We remain willing to provide information to support your efforts.

Sincerely,

KATHY BAILEY,
State Forestry Chair, on behalf of the HFCC.

DOCUMENT DOI–O

FOIA REQUEST

1. GSA July memo to Hurwitz/notebook.
2. Forest Service maps, memo to Dep. Secy.
3. Base Closure.
4. BLM Lands Humboldt, Trinity, Mendocis.
5. GSA printout.
6. Oil & gas.

Look for memos, etc. in file re: surplus property.

APPENDIX 4

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC.

MEMORANDUM AND STAFF REPORT

To: Chairman John Doolittle, Members of the Headwaters Task Force
From: Committee on Resources Staff
Date: January 5, 2000
Re: Documents regarding

Pursuant to the motion of Chairman Doolittle at the December 12, 2000, hearing, the attached documents are included in the record of the hearing. The motion was as follows: "I move that all the documents we utilized in today's hearing be included in the hearing record and that all of the documents produced by the Department of the Interior be included as part of today's hearing record; and I furthermore move that any documents not included in the above categories that are necessary to document a staff report or analysis of the situation be released with such a staff report."

There was no objection to the motion. The attached documents (A–X) and certain DOI labeled and unlabeled documents, along with all documents produced by the Department of the Interior, are therefore part of the official record of the Committee on Resources, Task Force on Headwaters Forest and Related Issues. Committee records are available for public dissemination. Consequently, they, along with the Stenographic Minutes of the hearing (and the official printed transcript when available) were part of the official Task Force hearing record and were publically available at the close of the hearing.

The staff reaches the following conclusions regarding the information gathered by the Task Force:

(1) The record and information produced at the hearing (and the attached documents) support the conclusion that the debt-for-nature agenda was a large, if not integral part of the rationale for proceeding with the FDIC professional liability action against Charles Hurwitz for the USAT failure.

(2) The debt-for-nature agenda was first advanced through the outside counsel of the FDIC (Hopkins & Sutter) which coordinated numerous meetings and other communications for environmental interest groups and foundations about obtaining redwoods owned by one of Charles Hurwitz's companies through "leverage" that would be exercised via a "high profile" lawsuit.

(3) The debt-for-nature agenda to obtain redwoods had nothing to do with legitimate banking rationales for bringing the FDIC legal action regarding USAT.

(4) The FDIC debt-for-nature agenda was advanced by the Office of Thrift Supervision action (filed approximately 4 months after the FDIC action) when the FDIC paid the OTS to pursue its administrative action in a forum more favorable to the banking regulators.

(5) The FDIC and the OTS repeatedly insisted in writing that Charles Hurwitz was the first to raise the issue of a "global settlement" involving debt-for-nature and redwoods with them. This notion is contrary to the bulk of evidence presented at the hearing. The record shows that months prior to Mr. Hurwitz broaching the redwoods as part of a settlement involving the banking claims, the FDIC secretly plotted to ensure that Mr. Hurwitz was baited into "first" raising the issue with the banking regulators.

(6) The records also show a much broader government-wide effort involving the CEQ, the OMB, the DOI, and the banking regulators to create "leverage" through filing banking claims and to use "leverage" of the banking claims to obtain redwoods, precisely as outlined by early 1993 communications from the eco-terrorist group Earth First! and other "environmental" interest groups.

(7) The records show three days prior to the July 27, 1995, ATS memo, the staff would have used "ordinary" procedures to close out the case against Mr. Hurwitz regarding USAT, but pressure from Members of Congress and environmental special interest groups were cause enough to bring the matter of pursuing Mr. Hurwitz for USAT claims before the FDIC board of directors. That memo was finalized in draft, but never signed or sent.

(8) The FDIC board of directors discussed the topic of the redwoods and meetings between FDIC staff and Department of Interior staff about the debt-for-nature scheme at their board meeting when determining whether to bring the action against Mr. Hurwitz. Those subjects were consequently a factor in the board's determination to proceed with the action involving USAT against Mr. Hurwitz.

The staff makes the observation records examined by the task force document the conclusions above. The staff makes the additional observation that more material documenting these conclusions, including the wider government agenda to obtain the redwoods owned by Mr. Hurwitz using banking claims by the FDIC and OTS as leverage, is available in the committee records.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, December 8, 2000.

Mr. William F. Kroener, III
General Counsel, Federal Deposit Insurance Corporation, Washington, DC

DEAR MR. KROENER: Thank you for your December 7, 2002, letter about the December 12, 2000, hearing of the Task Force on the Headwaters Forest and Related Issues. You raise misplaced concerns about the hearing and possible use of records by the Task Force in furtherance of very legitimate oversight activities authorized under the U.S. Constitution and the Rules of the United States House of Representatives.

Please refer to page two of the June 16, 2000, letter from Chairman Young to Chairman Tanoue, which outlines a parameter of the oversight project: the FDIC's "advancement of claims against private parties to ultimately obtain additional parcels of the Headwaters Forest owned by the Pacific Lumber Company." This issue is not at all (or should not be) part of the underlying banking claim of the FDIC (or the OTS). In fact, the issue of redwoods, debt-for-nature, and the Headwaters Forest should have no place in FDIC, or OTS investigations, proceedings, claims, court filings, or even internal communication—yet production of such material from your agency was massive.

The banking laws certainly do not authorize agendas associated with redwoods, debt-for-nature, or expansion of the Headwaters Forest. In fact, other Acts of Congress prohibit any expenditure whatsoever related to acquiring lands or interests in lands from Pacific Lumber's land base to enlarge the Headwaters Forest redwood grove. The letter also explains the authority to conduct this oversight project, and it explains the background of this issue so that it is very clear to everyone. Indeed, it is a duty of Congressional committees to "review and study on a continuing basis the application, administration, and effectiveness of laws * * *" and "any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation.* * *" (House Rule X 2.(b))

This is precisely what the Task Force will do. The June 16, 2000, letter to Chairman Tanoue from Chairman Young makes this clear and cites the applicable provisions of law and rules that define our oversight. Your agency was informed six months ago about the thrust of the oversight project.

Merely because ongoing litigation "relates" to a matter under review by a Task Force is not legal justification that forecloses Congress' ability to determine and test facts by using records in a Congressional review or hearing. It will certainly be no excuse for failing to answer questions at our hearing. Often Congressional Committees hear that notion when records are embarrassing to a Federal agency for one reason or another, rather than when records are subject to a valid claim of privilege in a court.

If litigation or potential litigation were a bar to Congressional oversight, Congress would rarely be able to conduct any oversight. You must also be aware that because records are compelled to be produced to a Committee, means that an otherwise legitimate privilege that shields them from discovery in a court of law is not automatically lost. Your concern, therefore, about possible disclosure of "sensitive" or "confidential" records related to ongoing litigation is overstated, especially in light of the tangential nature of the primary subject of our oversight to the underlying banking claims brought by the FDIC (and OTS). The Constitutionally authorized oversight functions of Congress to collect information for oversight make your concern even less valid.

Furthermore, with respect to the ATS memorandum to which you refer, it has been publically available for months on the Houston Chronicle web site (*http://www.chron.com/*

content/chronicle/special/hurwitzdocs/), so it is a stretch to think that your Chairman would be held in contempt of court for being compelled to discuss the contents of such a document at a Congressional hearing. This is particularly true given the fact that the record was independently subpoenaed and produced to the Committee outside of the court proceedings, and your Chairman is compelled by subpoena to testify at the hearing. While answers to specific questions may prove to be very embarrassing to the FDIC and OTS, Chairman Tanoue will be expected to answer questions concerning that record and other records should such questions be asked.

I hope that this clears up the concerns that you raised. Thank you for your attention to this matter.

Sincerely,

JOHN T. DOOLITTLE.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, December 7, 2000.

HON. JOHN T. DOOLITTLE,
Chairman, Task Force on Headwaters Forest and Related Issues, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to your recent letters and subpoena to Chairman Tanoue for her appearance and testimony before a meeting of the Task Force, previously scheduled for November 13, 2000, which is now scheduled for December 12, 2000. According to your letter of November 8, 2000, the hearing will relate to the FDIC's pending litigation against Charles E. Hurwitz arising out of the 1988 failure of United Savings Association of Texas (USAT).

The FDIC has produced a large number of documents to the House Committee on Resources in response to its previous request and the subpoena duces tecum issued on June 30, 2000. As we previously informed Chairman Young, our prior productions include sensitive, highly confidential material that is covered by attorney client and/or attorney work product privileges in the ongoing litigation against Mr. Hurwitz, including documents that Mr. Hurwitz and his representatives are not entitled to review through the court proceedings. We have identified the documents containing confidential information with a stamp bearing the designation "CONFIDENTIAL."

Among the documents provided to the Committee is the FDIC's Authority To Sue memorandum, which remains under a court seal, pursuant to two orders of the United States Court of Appeals for the Fifth Circuit. Because of these two court orders, the FDIC, as a party to the litigation, could be subject to contempt of court by discussing the specific contents of the authority to sue memo publicly. Therefore, the FDIC will not be able to answer specific questions about the conclusions and recommendations contained in the sealed document itself. However, we believe we can assist the Task Force to fulfill its oversight responsibilities and respond to any questions about the decision to bring the case without referring to the sealed document by discussing the unredacted portions of the Board's deliberations, the underlying facts, the case law and the agency's standards for bringing suit.

Please do not hesitate to contact me if you have any further questions.

Sincerely,

WILLIAM F. KROENER, III,
General Counsel.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, December 7, 2000.

CAROLYN J. BUCK,
Chief Counsel, Office of Thrift Supervision, Department of the Treasury, Washington, DC.

DEAR MS. BUCK: Thank you for your December 6, 2000, letter requesting that you be substituted as a witness for Director Seidman at the hearing regarding debt-for-nature and the Headwaters Forest scheduled for December 12, 2000.

I understand Ms. Seidman's role in the administrative proceeding (*In the Matter of United Savings Association of Texas et al.*, OTS Order No. AP 95-40 (December 26, 1995)). I understand the sensitivity you expressed related to the Director's participation in our hearing; however, Ms. Seidman has other responsibilities as the Director of the OTS. She is responsible for the matters including conduct of employees in the OTS, the office's interface with the FDIC on the Headwaters matter (the FDIC has paid the OTS to pursue the claims), and the general policies concerning pursuance of claims like those against USAT.

Indeed, a primary thrust of the inquiry (which examines debt-for-nature and Headwaters) should have nothing to do with the legitimate pursuit of the administrative proceeding against USAT. Therefore, it is inconceivable that the inquiry could adversely influence "due process and fairness" for the respondent (USAT or any of its prior owners), the concern you expressed.

It was explained by Chairman Young in the letter to the Director initiating the oversight review that Congress acting through the Committee on Resources (and now through a duly authorized Task Force), has the authority to conduct the inquiry. The House Ethics Manual to which you refer acknowledges the plenary authority of Congress and its Committees to conduct this oversight review concerning the Headwaters. The ethics manual states: "No other statute or rule restrains Members of Congress from communicating with agency decision-makers." The ultimate form of communication in a formal sense will be at the hearing that we have scheduled.

Therefore, Director Seidman's attendance is required at the hearing. You and appropriate staff should be available to assist her with answers to Task Force Questions that she may not have the detailed knowledge and background to answer. While the Director may not have been involved with the filing of the OTS charges because she came to the agency subsequently , she still has ultimate responsibility for OTS actions, so I expect your staff to be available to assist here in providing needed information to the Task Force. Thank you.

Sincerely,

JOHN T. DOOLITTLE,
Chairman.

OFFICE OF THRIFT SUPERVISION,
DEPARTMENT OF THE TREASURY,
Washington, DC, December 6, 2000.

Hon. JOHN T. DOOLITTLE,
Chairman, Task Force on Headwaters Forest and Related Issues, Committee on Resources, House of Representatives, Washington, DC.

DEAR CHAIRMAN DOOLITTLE: This responds to your December 5, 2000, letter to Director Ellen Seidman, which references your November 6, 2000, letter and the November 4, 2000, subpoena for her appearance and testimony before a meeting of the Task Force, acting on behalf of the Committee on Resources.

As I stated in my June 23, 2000, and August 24, 2000, letters to Chairman Young of the Committee on Resources (copies enclosed), the Office of Thrift Supervision (OTS) has substantial concerns that the Task Force's inquiry could compromise the pending adjudicatory proceeding brought by the agency, pursuant to 12 U.S.C. §1818, against Mr. Charles Hurwitz and Maxxam Corporation concerning their involvement with the former United Savings Association of Texas (USAT). This proceeding is now in the post-trial stage before an administrative law judge (ALJ), who will submit a recommended decision to Director Seidman. After a further opportunity for the parties to submit briefs, Director Seidman will issue the final decision in the case.

The subpoena to Director Seidman, which calls for her to testify concerning such matters as the reasons why the OTS brought the administrative action, and OTS's objectives in the litigation, has the real potential of interfering with her ability to decide the case on the basis of the record presented at trial to the ALJ. In so doing, the actions of the Committee and the Task Force may be later viewed as having deprived the parties to the administrative proceeding of due process and fairness and could result in the final administrative determination in this proceeding being nullified by a court of law. *See, e.g., Pillsbury Co. v. FTC*, 354 F.2d 952, 963-64 (5th Cir. 1966); *Koniag, Inc. v. Andrus*, 580 F.2d 601, 610 (D.C. Cir.), *cert. denied*, 439 U.S. 1052 (1978); *cf.*, The Ethics Manual of the House of Representatives, pages 244-45.

Apart from legal concerns, we note that Director Seidman was not involved in the agency's filing of the charges in the case (which occurred two years before her appointment). To maintain her impartiality as final decision-maker, she has not been involved in reviewing or presenting the evidence in the case, and has not participated in settlement discussions. Therefore, it would be unlikely that she would have any information relevant to the Task Force's inquiry regarding the debt for nature campaign concerning the Headwaters Forest referred to in your December 5, 2000, letter.

To avoid compromising the Director's role as adjudicator, OTS proposes to substitute my appearance and testimony as the Chief Counsel for the agency. While we continue to believe that the inquiry creates the potential for interfering with the administrative proceeding, and should be postponed until after the Director issues a final decision in the case, the substitution of witnesses will lessen the potential for serious harm.

Sincerely,

CAROLYN J. BUCK,
Chief Counsel.

Enclosures.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, November 8, 2000.

MR. BILL ISAAC,
Sarasota, FL.

DEAR MR. ISAAC: The Committee on Resources, Task Force on Headwaters Forest and Related Issues, will hold an oversight hearing on the subjects listed in my November 6, 2000, letter to you. The time and date of the hearing will be announced later, so your appearance pursuant to the subpoena that was issued for your testimony on Monday, November 13, 2000, will be delayed until the time set for the re-scheduled hearing. So that you may properly prepare for that hearing, I offer you the following information.

This hearing will focus on your agency's role and involvement in the debt for nature campaign concerning the Headwaters Forest. Any comments you might have with respect to this subject would be appreciated, as would your written testimony. It is my understanding that your organization has experience with this subject matter and has information that would be most helpful to the Committee.

Your oral testimony should not exceed five minutes and should summarize your written remarks. You may introduce into the record any other supporting documentation you wish to present in accordance with the attached guidelines. You should bring appropriate staff with knowledge of the subject matter of the hearing who can assist you with answers required by the Task Force. I reserve the right to place any witness under oath. If you are sworn in, you may be accompanied by counsel to advise on the witness' rights under the Fifth Amendment to the Constitution.

The Rules of the Committee on Resources and of the U.S. House of Representatives require that all witnesses appearing before the committee must to the greatest extent practicable include with his or her written testimony a current resume summarizing education, experience and affiliations pertinent to the subject matter of the hearing. In addition, to the extent practicable, each nongovernmental witness must disclose the amount and source of Federal grants or contracts received with the current or prior two fiscal years. If the witness represents an organization, he or she must provide the same information with regard to the organization. The information disclosed must be relevant to the subject matter of the hearing and the witnesses representational capacity at the hearing. Witnesses are not required to disclose federal entitlement payments such as social security, medicare, or other income support payments (such as crop or commodity support payments). In order to assist in meeting the requirement of the rule, we have attached a form which you may complete to aid in complying with this rule. Should you wish to fulfill the disclosure requirement by submitting the information in some other form or format, you may do so.

In order to fully prepare for this hearing, 25 copies of your testimony along with your disclosure should be submitted to Debbie Callis, Deputy Chief Clerk, Committee on Resources, Room 1328 Longworth House Office Building, *no later than 48 hours prior to the date of the scheduled hearing.* In addition, consistent with the Americans with Disabilities Act, if your staff requires any reasonable accommodations for a disability to facilitate your appearance, please contact the Clerk mentioned above. Should you or your staff have any questions or need further information regarding the substance of the hearing, please contact Duane Gibson, General Counsel, Oversight and Investigations on (202) 225-1064.

Sincerely,

JOHN T. DOOLITTLE,
Chairman, Task Force on Headwaters Forest and Related Issues.

Attachments.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, November 8, 2000.

HON. DONNA A. TANOUE,
Chairman, Federal Deposit Insurance Corporation, Washington, DC

DEAR MS. TANOUE: The Committee on Resources, Task Force on Headwaters Forest and Related Issues, will hold an oversight hearing on the subjects listed in my November 6, 2000, letter to you. The time and date of the hearing will be announced later, so your appearance pursuant to the subpoena that was issued for your testimony on Monday, November 13, 2000, will be delayed until the time set for the re-scheduled hearing. So that you properly prepare for that hearing, I offer you the following information.

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Sincerely,

JOHN T. DOOLITTLE,
Chairman, Task Force on Headwaters Forest and Related Issues.

Attachments.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, November 8, 2000.

HON. ELLEN SEIDMAN,
Director, Office of Thrift Supervision, Washington, DC.

DEAR MS. SEIDMAN: The Committee on Resources, Task Force on Headwaters Forest and Related Issues, will hold an oversight hearing on the subjects listed in my November 6, 2000, letter to you. The time and date of the hearing will be announced later, so your appearance pursuant to the subpoena that was issued for your testimony on Monday, November 13, 2000, will be delayed until the time set for the re-scheduled hearing. So that you may properly prepare for that hearing, I offer you the following information.

This hearing will focus on your agency's role and involvement in the debt for nature campaign concerning the Headwaters Forest. Any comments you might have with respect to this subject would be appreciated, as would your written testimony. It is my understanding that your organization has experience with this subject matter and has information that would be most helpful to the Committee.

Your oral testimony should not exceed five minutes and should summarize your written remarks. You may introduce into the record any other supporting documentation you wish to present in accordance with the attached guidelines. You should bring appropriate staff with knowledge of the subject matter of the hearing who can assist you with answers required by the Task Force. I reserve the right to place any witness under oath. If you are sworn in, you may be accompanied by counsel to advise on the witness' rights under the Fifth Amendment to the Constitution.

The Rules of the Committee on Resources and of the U.S. House of Representatives require that all witnesses appearing before the committee must to the greatest extent practicable include with his or her written testimony a current resume summarizing education, experience and affiliations pertinent to the subject matter of the hearing. In addition, to the extent practicable, each nongovernmental witness must disclose the amount and source of Federal grants or contracts received with the current or prior two fiscal years. If the witness represents an organization, he or she must provide the same information with regard to the organization. The information disclosed must be relevant to the subject matter of the hearing and the witnesses representational capacity at the hearing. Witnesses are not required to disclose federal entitlement payments such as social security, medicare, or other income support payments (such as crop or commodity support payments). In order to assists in meeting the requirement of the rule, we have attached a form which you may complete to aid in complying with this rule. Should you wish to fulfill the disclosure requirement by submitting the information in some other form or format, you may do so.

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Sincerely,

JOHN T. DOOLITTLE,
Chairman, Task Force on Headwaters Forest and Related Issues.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, November 6, 2000.

MR. BILL ISAAC,
Sarasota, FL.

DEAR MR. ISAAC: The House Committee on Resources, acting through the Task Force on the Headwaters Forest and Related Issues, is pursuing an inquiry into matters related to the Headwaters Forest (which is managed by the Bureau of Land Management and was purchased pursuant to Title V of P.L. 105-83). Those matters include (1) the Federal Deposit Insurance Corporation's (FDIC) and the Office of Thrift Supervision's (OTS) advancement of claims against private parties to ultimately obtain additional parcels of land near or adjacent to the Headwaters Forest owned by the Pacific Lumber Company; (2) the potential impact of advancement of such claims to expand the Headwaters Forest; and (3) the matters outlined in a June 16, 2000, letter initiating an oversight review concerning the Headwaters Forest. The subject mater of the inquiry falls under the jurisdiction of this Committee pursuant to Articles I and IV of the U.S. Constitution, Rules X and XI of the Rules of the House of Representatives, and Rule 6(a) of the Rules of the Committee on Resources. A copy of the rules is enclosed. Note Rule 4(f) regarding the swearing of witnesses, which is my policy for hearings. Therefore, you may bring a counsel to advise you of any constitutional rights if you desire.

Because of your agency's role in the matter, you may possess information that will be helpful in the deliberations of the Task Force and the Committee. Therefore, you will be receiving a subpoena for your appearance and testimony before a meeting of the Task Force. The subpoena schedules your appearance for November 13, 2000, at 10:00 AM. The nature of this subpoena is continuing, so the date and time may change after final schedules for the post-election session of the House are known. Committee staff will inform you in advance should scheduling changes be necessary.

We very much appreciate your cooperation with this inquiry and the production of records to date. The matters under review are very important, and your assistance may prove to be indispensable. Should you have any questions about your appearance and testimony, please contact Mr. Duane Gibson, General Counsel, Oversight and Investigations, at 202-225-1064.

Sincerely,

JOHN T. DOOLITTLE,
Chairman, Task Force on Headwaters Forest and Related Issues.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, November 6, 2000.

Hon. ELLEN SEIDMAN,
Director, Office of Thrift Supervision, Washington, DC.

DEAR MS. SEIDMAN: The House Committee on Resources, acting through the Task Force on the Headwaters Forest and Related Issues, is pursuing an inquiry into matters related to the Headwaters Forest (which is managed by the Bureau of Land Management and was purchased pursuant to Title V of P.L. 105-83). Those matters include (1) the Federal Deposit Insurance Corporation's (FDIC) and the Office of Thrift Supervision's (OTS) advancement of claims against private parties to ultimately obtain additional parcels of land near or adjacent to the Headwaters Forest owned by the Pacific Lumber Company; (2) the potential impact of advancement of such claims to expand the Headwaters Forest; and (3) the matters outlined in a June 16, 2000, letter initiating an oversight review concerning the Headwaters Forest. The subject matter of the inquiry falls under the jurisdiction of this Committee pursuant to Articles I and IV of the U.S. Constitution, Rules X and XI of the Rules of the House of Representatives, and Rule 6(a) of the Rules of the Committee on Resources. A copy of the rules is enclosed. Note Rule 4(f) regarding the swearing of witnesses, which is my policy for hearings. Therefore, you may bring a counsel to advise you of any constitutional rights if you desire.

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Sincerely,

JOHN T. DOOLITTLE,
Chairman, Task Force on Headwaters Forest and Related Issues.

SUBPOENA DUCES TECUM (HEARING)

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To The Honorable Ellen Seidman, Director, Office of Thrift Supervision

You are hereby commanded to be and appear before the Committee on Resources, Task Force on the Headwaters Forest and Related Issues of the House of Representatives of the United States, of which the Hon. John Doolittle is chairman, in Room 1324 of the Longworth Building, in the city of Washington, on November 13, 2000, at the hour of 10:00 AM, then and there to produce the things identified on the attached schedule and to testify touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee.

To authorized staff of the Committee on Resources or the U.S. Marshals Service to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 4th day of November, 2000.

DON YOUNG, *Chairman.*

Attest: Jeff Trandahl, Clerk.

SCHEDULE OF RECORDS

All records not priorly produced pursuant to the subpoena and Schedule of Records dated 30 June 2000 issued to you by Chairman Don Young.

All records created in response to this subpoena and the subpoena dated 30 June 2000 issued to you by Chairman Don Young.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, November 6, 2000.

Hon. DONNA A. TANOUE,
Chairman, Federal Deposit Insurance Corporation, Washington, DC

DEAR MS. TANOUE: The House Committee on Resources, acting through the Task Force on the Headwaters Forest and Related Issues, is pursuing an inquiry into matters related to the Headwaters Forest (which is managed by the Bureau of Land Management and was purchased pursuant to Title V of P.L. 105-83). Those matters include (1) the Federal Deposit Insurance Corporation's (FDIC) and the Office of Thrift Supervision's (OTS) advancement of claims against private parties to ultimately obtain additional parcels of land near or adjacent to the Headwaters Forest owned by the Pacific Lumber Company; (2) the potential impact of advancement of such claims to expand the Headwaters Forest; and (3) the matters outlined in a June 16, 2000, letter initiating an oversight review concerning the Headwaters Forest. The subject matter of the inquiry falls under the jurisdiction of this Committee pursuant to Articles I and IV of the U.S. Constitution, Rules X and XI of the Rules of the House of Representatives, and Rule 6(a) of the Rules of the Committee on Resources. A copy of the rules is enclosed. Note Rule 4(f) regarding the swearing of witnesses, which is my policy for hearings. Therefore, you may bring a counsel to advise you of any constitutional rights if you desire.

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Sincerely,

JOHN T. DOOLITTLE,
Chairman, Task Force on Headwaters Forest and Related Issues.

SUBPOENA DUCES TECUM (HEARING)

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To the Honorable Donna Tanoue, Chairman, FDIC

You are hereby commanded to be and appear before the Committee on Resources, Task Force on the Headwaters Forest and Related Issues of the House of Representatives of the United States, of which the Hon. John Doolittle is chairman, in Room 1324 of the Longworth Building, in the city of Washington, on November 13, 2000, at the hour of 10:00 AM, then and there to produce the things identified on the attached schedule and to testify touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee.

To authorized staff of the Committee on Resources or the U.S. Marshals Service to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 4th day of November 2000.

DON YOUNG, *Chairman.*

Attest: Jeff Trandahl, *Clerk.*

SCHEDULE OF RECORDS

All records not priorly produced pursuant to the subpoena and Schedule of Records dated 30 June 2000 issued to you by Chairman Don Young.

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, November 6, 2000.

Hon. DONNA A. TANOUE,
Chairman, Federal Deposit Insurance Corporation, Washington, DC.

DEAR MS. TANOUE: The House Committee on Resources, acting through the Task Force on the Headwaters Forest and Related Issues, is pursuing an inquiry into matters related to the Headwaters Forest (which is managed by the Bureau of Land Management and was purchased pursuant to Title V of P.L. 105–83). Those matters include (1) the Federal Deposit Insurance Corporation's (FDIC) and the Office of Thrift Supervision's (OTS) advancement of claims against private parties to ultimately obtain additional parcels of land near or adjacent to the Headwaters Forest owned by the Pacific Lumber Company; (2) the potential impact of advancement of such claims to expand the Headwaters Forest; and (3) the matters outlined in a June 16, 2000, letter initiating an oversight review concerning the Headwaters Forest. The subject matter of the inquiry falls under the jurisdiction of this Committee pursuant to Articles I and IV of the U.S. Constitution, Rules X and XI of the Rules of the House of Representatives, and Rule 6(a) of the Rules of the Committee on Resources. A copy of the rules is enclosed. Note Rule 4(f) regarding the swearing of witnesses, which is my policy for hearings. Therefore, you may bring a counsel to advise you of any constitutional rights if you desire.

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Sincerely,

JOHN T. DOOLITTLE,
Chairman, Task Force on Headwaters Forest and Related Issues.

SUBPOENA DUCES TECUM (HEARING)

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To The Hon Donna Tanoue, Chairman, FDIC

You are hereby commanded to be and appear before the Committee on Resources, Task Force on the Headwaters Forest and Related Issues of the House of Representatives of the United States, of which the Hon. John Doolittle is chairman, in Room 1324 of the Longworth Building, in the city of Washington, on November 13, 2000, at the hour of 10:00 AM, then and there to produce the things identified on the attached schedule and to testify touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee.

To authorized staff of the Committee on Resources or the U.S. Marshals Service to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 4th day of November, 2000.

DON YOUNG, *Chairman.*

Attest: Jeff Trandahl, *Clerk.*

SCHEDULE OF RECORDS

All records not priorly produced pursuant to the subpoena and Schedule of Records dated 30 June 2000 issued to you by Chairman Don Young.

All records created in response to this subpoena and the subpoena dated 30 June 2000 issued to you by Chairman Don Young.

OFFICE OF THRIFT SUPERVISION,
DEPARTMENT OF THE TREASURY,
Washington, DC, October 6, 2000.

DUANE GIBSON,
General Counsel, Oversight and Investigation, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. GIBSON: Set forth below are the OTS's responses to the questions contained in your letter to me dated October 3, 2000.

1. *Question:* "Did Mr. Hurwitz, Maxxam, Pacific Lumber Company or any representative of this individual or these companies ever raise with OTS or any of its representatives the notion of a debt-for-nature swap related to Headwaters?"

OTS Response: Yes.

Question: "On what date did Mr. Hurwitz, Maxxam, Pacific Lumber Company or any representative of this individual or these entities *first* raise the debt-for-nature [swap] related to Headwaters? When was the subject subsequently raised?"

OTS Response: According to our records, the first debt-for-nature proposal made by Mr. Hurwitz's representatives to the OTS was on August 13, 1996. See OTS Doc. 00546 (notes of OTS Deputy Chief Counsel for Enforcement Richard Stearns, dated August 13, 1996, of a telephone conversation with Mr. Tommy Boggs). Our records reflect the subject was subsequently raised by representatives for Mr. Hurwitz and MAXXAM on the following dates:

September 6, 1996, OTS Doc. 00547–49 (letter from Mr. John Douglas, counsel for Mr. Hurwitz, to Richard Stearns and FDIC Deputy General Counsel Jack Smith, dated September 6, 1996).

September 10, 1996, OTS Doc. 00550–51 (meeting notes prepared by Richard Stearns, dated September 10, 1996).

September 24, 1996, OTS 00556–60 (handwritten notes taken by OTS Associate Chief Counsel Bruce Rinaldi of a meeting held on September 24, 1996), and OTS Doc. 00561–63 (typewritten notes of the same meeting prepared by Mr. Rinaldi on the following day).

August 27, 1997, OTS Doc. 00567–68 (typewritten notes prepared by Mr. Rinaldi of telephone conversations with Richard Keeton and J.C. Nickens, attorneys for Mr. Hurwitz and MAXXAM, August 27, 1997).

February 17, 1998, OTS Doc. 00899–904 (Letter from MAXXAM Senior Vice President and Chief Legal Officer Byron L. Wade to FDIC and OTS, dated February 17, 1998, with attached draft Memorandum of Agreement); and

October 27, 1998, OTS Doc. 00906–11 (typewritten notes of settlement discussion between OTS and counsel for Mr. Hurwitz and MAXXAM, prepared by Mr. Rinaldi, October 27, 1998).

Although the first time Mr. Hurwitz's representatives raised a proposed debt-for-nature settlement of the OTS's potential claims with the OTS was in August 1996, see above, the OTS was informed in July 1995 by the FDIC that Mr. Hurwitz, MAXXAM, and Pacific Lumber Company, and the United States Department of the Interior, for the sale of a portion of the Headwaters Forest to the federal government. See OTS Doc. 00929–33 (handwritten notes of a meeting between OTS and FDIC representatives, July 26, 1995).

3. *Question:* "Who *first* raised the subject of [a] a debt-for-nature [swap] related to Headwaters raised?"

OTS Response: The first time a representative of Mr. Hurwitz raised a debt-for-nature swap with OTS was when Mr. Tommy Boggs, a Washington lobbyist and attorney who represented Mr. Hurwitz and MAXXAM, raised a debt-for-nature settlement of OTS's potential claims with Richard Stearns, OTS Deputy Chief Counsel for Enforcement.

4. *Question:* "What was the context in which it was raised? In what medium was it first raised (e.g., in writing, by phone, in person)?"

OTS Response: The context in which Mr. Boggs raised a debt-for-nature swap on August 13, 1996, was his proposal to include a settlement of OTS's potential claims as part of the negotiations then underway between Mr. Hurwitz, MAXXAM, and Pacific Lumber Company, and the United States Department of the Interior, for the sale of a portion of the Headwaters Forest to the federal government. Mr. Boggs raised this matter in a telephone call to Richard Stearns.

I hope this fully responds to the questions contained in your letter.

Sincerely yours,

CAROLYN J. BUCK,
Chief Counsel.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, October 6, 2000.

DUANE GIBSON,
General Counsel, Oversight and Investigations, House of Representatives, Committee on Resources, Washington, DC.

DEAR MR. GIBSON: This letter responds to your letter of October 3, 2000, requesting the Federal Deposit Insurance Corporation to respond to specific questions and provide supporting documentation regarding the "debt-for-nature" discussions between the FDIC and Charles Hurwitz.

1. *Question:* Is the quote of Mr. Kroener citéd in the August 17, 2000 American Banker accurate?

FDIC Response: A story in the August 17, 2000 American Banker included a quotation from me that stated, "The so-called debt-for-nature swap was first offered by Mr. Hurwitz's counsel, not the FDIC. While the FDIC has said it remained open to any appropriate settlement, including a debt-for-nature swap, it has also told Mr. Hurwitz's lawyers that the FDIC's preference is for a cash payment." This quotation is an accurate statement.

2. *Question:* On what date did Mr. Hurwitz, Maxxam, Pacific Lumber Company or any Representatives of this individual or these entities *first* raise the debt-for-nature related to Headwaters? When was the subject subsequently raised?

FDIC Response: Although the debt-for-nature swap concept had been the subject of press stories and letters to the FDIC by members of the public and Congress for some time, there had been no discussion of this issue between FDIC and Mr. Hurwitz or his representatives. In fact, the FDIC was pursuing a substantial all-cash settlement which it proposed to Mr. Hurwitz's attorney in a letter dated July 16, 1993.

On or about July 13, 1995, John Martin of the law firm Patton Boggs, on behalf of Mr. Hurwitz and Maxxam, called Allen McReynolds, Special Assistant to the Secretary of Interior, at his home at 8 p.m., urging him to contact the FDIC to begin a dialogue to resolve the FDIC's claims as part of a larger land transaction involving the Headwaters Forest that was being considered by Mr. Hurwitz and the Department of Interior. Mr. McReynolds followed up this request by calling the FDIC and met with staff of the FDIC Legal Division on July 21, 1995. It was during this meeting that the FDIC first learned of Mr. Hurwitz's interest in including FDIC claims as part of the larger Headwaters negotiations. After the FDIC suit was filed in August 1995, the feasibility of Mr. Hurwitz's proposal was discussed in several meetings between the FDIC, the Council on Environmental Quality, the Department of Interior and others.

In addition, after the filing of the FDIC's lawsuit on August 2, 1995, Mr. Byron Wade, then General Counsel of Maxxam, made a number of calls over several months to FDIC Counsel Jeffrey Williams attempting to persuade the FDIC to include settlement of its claims as part of the larger government negotiations regarding the Headwaters Forest. On August 12, 1996, Mr. Thomas Boggs of the law Patton Boggs, representing Mr. Hurwitz, met with me and Deputy General Counsel Jack Smith and proposed to settle the FDIC and the Office of Thrift Supervision claims as part of an agreement to trade the Headwaters Forest for other government property, contingent on favorable tax rulings from the Internal Revenue Service. At that meeting, Mr. Boggs indicated that Mr. Hurwitz expected to minimize the financial impact of a settlement on Maxxam by obtaining favorable tax advantage. I advised Mr. Boggs that his proposal was unacceptable because it did not provide sufficient value to the FDIC.

On September 6, 1996, the FDIC received a letter from Mr. John Douglas of the law firm of Alson & Bird, also representing Mr. Hurwitz, requesting a settlement meeting with the FDIC and OTS to discuss a proposal that certain timber acreage by contributed to the FDIC and OTS to settle our pending claims as part of a larger Headwaters deal. At the meeting on September 11, 1996, Mr. Douglas proposed giving the FDIC and OTS land in settlement of pending claims. On this and several other occasions representatives of Mr. Hurwitz indicated that they could offer more value of the FDIC in trees than cash. Also on September 11th, the FDIC received a "Draft of Proposed Headwaters Forest Exchange Agreement" from Patton Boggs that proposed settlement of all FDIC claims as part of the larger government Headwaters exchange agreement. On September 12, 1996, the FDIC received a letter from Mr. Douglas specifically authorizing the FDIC to discuss this proposal with other agencies, including "representatives of the White House, the Department of the Treasury, the Department of Interior, the Department of Agriculture and the Justice Department [who] may all be involved in such discussions."

All proposals that linked the FDIC and OTS cases with separate negotiations Mr. Hurwitz was having with the federal government over the Headwaters Forest were rejected by the FDIC and OTS, despite Mr. Hurwitz's insistence that the FDIC/OTS claims be resolved as part of the overall agreement. The FDIC declined to participate in the negotiations regarding the Headwaters Agreement and its implementing legislation to transfer the Headwaters Forest to the U.S. government. Mr. Hurwitz eventually dropped his demand that the Headwaters Agreement contain a resolution of the FDIC and OTS claims. The acquisition of much of the Headwaters Forest was authorized by Congress in November 1997.

On February 17, 1998, Byron Wade on behalf of Maxxam, sent a letter to the FDIC proposing a settlement of all OTS and FDIC claims by transferring old growth redwoods to the FDIC. On February 19, 1998, the FDIC responded by restating its longstanding position that FDIC's preference was to receive a cash payment. In March 1998, the FDIC informed Mr. Hurwitz's attorneys that the FDIC could not accept old growth redwoods to resolve the FDIC claims without additional legislation. His attorneys proposed ideas to solve the problem, but eventually that effort dissolved.

In summary, the possibility of a debt-for-nature swap involving the FDIC was initiated and pursued by representatives of Mr. Hurwitz beginning with an indirect contact in July 1995 and continuing into 1998. The effort dissolved in 1998 and since then there has been no further discussion of the debt-for-nature option between the parties.

3. *Question:* Who *first* raised the subject of debt-for-nature related to Headwaters on behalf of Mr. Hurwitz? To whom was the subject of debt-for-nature related to Headwaters raised?

FDIC Response: As stated in our response to Question 2, John Martin with the law firm of Patton Boggs first raised the subject of a debt-for-nature settlement on behalf of Mr. Hurwitz and Maxxam indirectly with the FDIC in a telephone call to Allen McReynolds, on or about July 13, 1995. Mr. McReynolds subsequently raised the subject with the FDIC during a meeting on July 21, 1995. This is confirmed by the depositions under oath of Mr. McReynolds and Mr. Robert DeHenzel, an attorney for the FDIC.

4. *Question:* What was the context in which it was raised? In what medium was it first raised (e.g. in writing, by phone, in person)?

FDIC Response: As stated in our response to Questions 2 and 3, the subject of a debt-for-nature settlement of FDIC's claims was initially raised in an after hours telephone call to the home of Mr. McReynolds by John Martin of the law firm of Patton Boggs, on behalf of Mr. Hurwitz and Maxxam. The context of this and following communications was an effort by representatives of Mr. Hurwitz to include settlement of the FDIC's claims as part of a negotiated transfer by Mr. Hurwitz and Maxxam to the U.S. Government.

I have enclosed copies of relevant documents already produced to the Committee in response to your subpoena that support this response. Please do not hesitate to contact me if you have any further questions.

Sincerely,

WILLIAM F. KROENER, III
General Counsel.

Enclosures.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, October 3, 2000.

WILLIAM F. KROENER III,
General Counsel, Federal Deposit Insurance Corporation, Washington, DC.

CAROLYN J. BUCK,
Chief Counsel, Office of Thrift Supervision, Washington, DC.

DEAR MR. KROENER AND MS. BUCK: On June 16, 2000, Chairman Young opened the oversight review described in a letter to Ms. Tanoue, and Ms. Seidman, and assigned me as the lead staff investigator for the project. On behalf of Chairman Young and Task Force Chairman Doolitte, thank you for providing the records that you have sent to date. I want to update you on the status of the oversight project. We are now reviewing the material that you provided, and will have follow-up questions for certain individuals soon. The Task Force for this oversight project has expanded. Enclosed you will find a letter that added Representative George Radanovich as a member. I thought you would like to have a copy.

In commenting about the "debt-for-nature" as it relates to Headwaters and the FDIC and OTS matters, Mr. Kroener was quoted in the August 17, 2000, American Banker as follows: "The so-called debt-for-nature swap was first offered by Mr. Hurwitz's counsel, not the FDIC." In discussions with OTS, I was told the same thing attributed to Mr. Kroener in American Banker. This information and verification of it is important to the oversight review, so the Chairman requests prompt answers (*by Friday October 6, 2000*) to the questions contained in this letter, *along with all supporting documentation that verifies the answer from the perspective of the FDIC and the OTS.*

1) (FDIC only) Is the quote of Mr. Kroener cited above accurate? If not, what did Mr. Kroener say in his comments to the American Banker?

2) (OTS only) Did Mr. Hurwitz, Maxxam, Pacific Lumber Company or any representatives of this individual or these companies ever raise with OTS or any of its representatives the notion of a debt-for-nature swap related to Headwaters?

3) On what date did Mr. Hurwitz, Maxxam, Pacific Lumber Company or any representatives of this individual or these entities *first* raise the debt-for-nature related to Headwaters? When was the subject subsequently raised?

4) Who *first* raised the subject of debt-for-nature related to Headwaters on behalf of Mr. Hurwitz? To whom was the subject of debt-for-nature related to Headwaters raised?

5) What was the context in which it was raised? In what medium was it first raised (e.g. in writing, by phone, in person)?

Please provide all documentation supporting answers to these questions (for example, copies of meeting notes or an affidavit verifying the answers).

If you have any questions, please contact me at 225-1064. Thank you.

Sincerely,

DUANE GIBSON,
General Counsel, Oversight and Investigations.

cc: The Honorable John Doolittle.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, September 20, 2000.

Hon. GEORGE RADANOVICH,
House of Representatives, Washington, DC.

DEAR GEORGE: On August 15, 2000, the Task Force on Headwaters Forest and Related Issued of the Committee on Resources was established. At that time, I appointed Representatives Doolittle, Pombo, and Brady to serve on the Task Force, along with yet to be designated minority members.

I know that you have been to the Headwaters Forest and are interested serving on the Task Force as well. I expect that the bulk of review being undertaken by the Task Force to be accomplished during the last three months of this year, and it is likely to include at least one hearing at some juncture. Because of your interest in this subject, your experience concerning the Headwaters, your desire to serve on this special panel, and your willingness to participate in studying this matter at a future hearing, I hereby appoint you to be a Member of the Task Force.

Sincerely,

DON YOUNG,
Chairman.

cc. The Honorable George Miller.
The Honorable John Doolittle.

FEDERAL DEPOSIT INSURANCE
CORPORATION,
Washington, DC, September 11, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The letter is in further response to the subpoena duces tecum received by the Federal Deposit Insurance Corporation on July 6, 2000 seeking production of copies of documents regarding the Headwaters Forest, a possible "debt for nature swap" and pending litigation regarding the FDIC and Mr. Charles E. Hurwitz arising out of the failure of United Savings Association of Texas (USAT).

The enclosed documents were identified pursuant to the subpoena issued by the Committee. Although these documents were identified and copied in response to the subpoena, we believe that they were inadvertently omitted from the several boxes of documents produced by the FDIC on July 7, 2000. We regret the mistake that delayed the production of these documents to the Committee.

This document production should satisfy our obligations under the subpoena. As with our prior document productions to the Committee, the enclosed documents include sensitive, highly confidential material that is covered by attorney client and/or attorney work product privileges in the ongoing litigation against Mr. Hurwitz, including documents that Mr. Hurwitz and his representatives are not entitled to review through the court proceedings. The FDIC does not waive any privileges belonging to the FDIC or any other agency as a result of providing these documents to the Committee pursuant to the subpoena.

In addition, we are producing documents under the subpoena that are especially sensitive. These documents state the FDIC's internal valuation of the case for settlement purposes. Because disclosure of this information would be extremely harmful to the FDIC's litigation and settlement position, we are providing the full document for the Committee's review, but have redacted the actual valuation. This will allow the Committee to review any material in the document regarding the stated subjects of the investigation while ensuring against an inadvertent release of this highly sensitive information. If the Committee has any concerns about the redactions, we will permit the Committee staff to inspect the unredacted versions in our offices.

As we stated in our prior correspondence, the FDIC would strongly object to the dissemination of privileged and confidential documents to parties other than Committee Members and staff. We have identified the documents containing confidential information with a stamp bearing the designation "CONFIDENTIAL." The failure of USAT cost the American taxpayer approximately $1.6 billion and the inappropriate release of these documents could significantly harm the FDIC's ability to litigate this matter and redue damages otherwise recoverable to reimburse taxpayers for the losses arising out of this failure.

If you have any questions regarding this production of documents, please do not hesitate to contact Eric Spitler of the FDIC's Office of Legislative Affairs at (202) 898-3837.

Sincerely,

WILLIAM F. KROENER, III,
General Counsel.

Enclosures
cc: Honorable George Miller.

Attachments Omitted and Included in an Appendix Where Necessary

OFFICE OF THRIFT SUPERVISION,
DEPARTMENT OF THE TREASURY,
Washington, DC, August 24, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

Hon. GEORGE MILLER,
Ranking Minority Member, Committee on Resources, House of Representatives, Washington, DC.

Re: U.S. House of Representatives, Committee on Resources Task Force on the Headwaters Forest and Related Issues of the Committee on Resources

DEAR CHAIRMAN YOUNG AND CONGRESSMAN MILLER: The Office of Thrift Supervision ("OTS") recently received a copy of the above-referenced task force charter that authorizes an investigation into the alleged "Office of Thrift Supervisions's (OTS) advancement of claims against private parties to ultimately obtain additional parcels of land near or adjacent to the Headwaters Forest owned by the Pacific Lumber Company." The claims referred to involve a pending administrative proceeding initiated in 1995 by the OTS, *In the Matter of United Savings Association of Texas et al.*, OTS Order No. AP 95-40 (December 26, 1995), against Charles E. Hurwitz and others in connection with the 1988 failure of United Savings Association of Texas (USAT).

According to Chairman Young's memorandum, dated August 15, 2000, that accompanied the task force charter, several members of the Resources committee requested that the Committee conduct oversight "on attempts to break the Headwaters Forest agreement by adding more acreage to the forest through a debt for nature swap." As detailed in the documentation provided by OTS pursuant to the Committee's June 30, 2000, subpoena, the OTS matter is an administrative proceeding brought by a federal banking regulatory agency to address violations of the banking laws. The proceeding was initiated nearly two years *prior* to the passage of the Public Law 106-180 (the "Headwaters Forest Legislation") and, thus, its initiation could not "run contrary to the Headwaters acquisition statute." In addition, the pending OTS administrative proceeding was known to Charles Hurwitz (a respondent in the proceeding), and to the Pacific Lumber Company, at the time the Headwaters Forest agreement was approved by Congress. The legislation does not mention the OTS proceeding nor purport to resolve the OTS's claims against Mr. Hurwitz. This contrasts to the legislation's express reference to at least two then pending legal actions in the United States Court of Federal Claims and the California Superior Court.

Additionally, the documentation that the OTS has already turned over to the Committee in response to its June 30, 2000, subpoena shows that the OTS case was brought to address violations of banking laws. The subject of a debt for nature swap was first injected into this matter when counsel for Charles Hurwitz proposed transferring timberland to the OTS as a means of settling the claims for restitution asserted by this agency. OTS has consistently responded to these proposals by stating that it prefers that any settlement include cash payments by respondents.

In my letter to the Resource Committee dated June 23, 2000, responding to the Committee's request for documents, OTS advised the Committee of our concern that the release of confidential information regarding the OTS administrative proceeding "might compromise our pending adjudicatory process." The Committee's chartering of a task force to investigate the OTS proceeding has heightened that concern. There is the potential that the actions by the Committee may be later viewed as having deprived the parties to the administrative proceeding of due process and fairness and could result in the final administrative determination in this proceeding being nullified by a court of law. *See, e.g., Pillsbury Co.* v. *FTC.*, 354 F.2d 952, 963 (5th Cir. 1966); *Koniag Inc.* v. *Andrus*, 580 F2d 601, 610 (D.C. Cir.) *cert. denied*, 439 U.S. 1052 (1978).

As I explained in my June 23, 2000, letter, the OTS enforcement action against Charles E. Hurwitz is still pending before this agency. At the present time, all evidence has been presented to the trier of fact and the matter is under advisement before an Administrative Law Judge ("ALJ"). Once the ALJ renders his recommended decision, the matter will go before the Director of the OTS for further briefing by the parties and a final agency determination. To avoid any claims of unfairness or denial of due process, we urge the Committee to forbear from carrying out its proposed investigation at least until the Director has issued a final agency decision in this matter. This would allow the Committee a full opportunity to investigate, without risking an unintended interference with the ongoing OTS administrative proceeding.

Thank you for your consideration of this request.

Sincerely,

CAROLYN J. BUCK,
Chief Counsel.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, August 16, 2000.

Hon. BRUCE BABBITT,
Secretary, Department of the Interior, Washington, DC.

DEAR MR. SECRETARY: The legislative, oversight, and investigative responsibilities under Rule X and Rule XI of the Rules of the United States House of Representatives, Rule 6(b) of the Rules for the Committee on Resources (the Committee), 106th Congress, and Article I and Article IV of the United States Constitution, require that the Committee on Resources oversee and review the laws, policies, and practices, and operation of the Department of the Interior (the Department), the public domain lands and resources managed by the Department, and any other entity that relates to or takes action to influence departments or matters and laws within the Committee's jurisdiction under rule X(*l*).

This jurisdiction extends to Title V of P.L. 105–83 concerning the legislation that authorized the acquisition of the Headwaters Forest (land that is now managed by the Bureau of Land Management) from Pacific Lumber Company. We cooperatively worked on this legislation and agreed on the terms of Title V, which embodied the agreement to acquire Headwaters. The law extends to any future additions of related parcels of the Headwaters Forest from Pacific Lumber Company, including additions through "debt for nature." Members of this Committee, including me, approved of the inclusion of this legislative language in the Department of Interior and Related Agencies Appropriations Act, 1998.

The oversight outlined in this letter is being conducted through the Task Force on the Headwaters Forest and Related Issues, which commences today, under the authority of Rule 7 of the Rules for the Committee on Resources.

Oversight Matters Under Review. We have initiated and now expanded an oversight review of the Department of the Interior's involvement in the Federal Deposit Insurance Corporation's (FDIC) and the Office of Thrift Supervision's (OTS) advancement of claims against private parties to ultimately obtain additional parcels of the Headwaters Forest owned by the Pacific Lumber Company. This advancement runs contrary to the Headwaters acquisition statute referenced above. The advancement may be at the behest of militant elements of the extreme environmental community. The advancement is being undertaken via a 1995 civil suit (and any subsequent OTS administrative action) filed by the FDIC in the United States District Court for the Southern District of Texas against Mr. Charles E. Hurwitz in connection with the 1988 failure of the United Savings Association of Texas (USAT). The oversight review includes these subjects.

We have several Department records in our possession that relate to the matters under review, and we are alarmed about the apparent deep involvement between members of your staff and the banking regulators in pursuing and continuing to pursue the above-referenced actions to leverage yet more Headwaters "nature" for a questionable and uncertain "debt."

We find disturbing that the Department of the Interior documents that are now available in the press clearly state that there is "support for a debt-for-nature swap for the FDIC and OTS claims . . ." and we are alarmed with what your Special Assistant, Mr. Allen McReynolds reports about the interaction between the Department and the banking regulators. He unequivocally stated that, "FDIC and OTS are amendable to this strategy [the debt for nature acquisition strategy] if the Administration supports it." The admission of coordination with banking regulators and backdoor lobbying may be common practice for your department. However, your department, and perhaps others, appears to have influenced the judgement of banking regulators, who were "amenable" to creating a debt that could be swapped for nature.

Request for Records. As this oversight inquiry has evolved, the need for departmental records related to the subject of the oversight review has become increasingly apparent. The Committee and the Task Force require the prompt production of all departmental records by the FDIC and OTS that relate to the matter under review as outlined above. In addition, the attached Schedule of Records specifies certain records or categories of records that are also requested and must be produced pursuant to the authority and under deadlines in this letter. The schedule also contains the definition that applies to the term "records."

Interviews. In addition to the information listed above, this inquiry may include a request to interview you and those in the employ of the Department who have knowledge of the matters under review.

Deadline. We request that you strictly comply with the deadlines for production which are as follows: response to this letter by August 22, 2000, and delivery of the records 4:00 p.m., Friday, August 25, 2000, to the attention of Mr. Duane Gibson, 1324 Longworth House Office Building. We also request that you provide *two* sets of all records requested.

Lead Investigator. This review will be led at the staff level by Mr. Duane Gibson, the Committee's General Counsel for Oversight and investigations. We request that your staff contact him (202-225-1064) after your receipt and review of this letter. Mr. Gibson can assist with any questions. Thank you for your cooperation with this review of matters under the jurisdiction of this Committee. Please be aware that the Committee has the authority to compel production of the records that are requested should they not be produced by the deadline listed above. We hope that we will not need to employ this authority. We anticipate your cooperation, just as we cooperated to write the statute and appropriated the funds to purchase the Headwaters Forest.

Sincerely,

DON YOUNG,
Chairman, Committee on Resources.
JOHN T. DOOLITTLE,
Chairman, Task Force on the Headwaters Forest And Related Issues.

cc: Members, Committee on Resources

SCHEDULE OF RECORDS

HEADWATERS FOREST ADDITIONS AND DEBT FOR NATURE

1. All records related to or referring to any contact between any employee of the Department of the Interior (including the Office of the Secretary and the Bureau of Land Management) and the FDIC or OTS (or any employee of the OTS or FDIC) that relates to or mentions the Headwaters Forest or "debt for nature."

2. All records that relate in any way to the FDIC or OTS advancement of claims against Mr. Charles Hurwitz and/or MAXXAM *that also* in any way mention "debt for nature," the Headwaters Forest, or the Pacific Lumber Company, including but not limited to any records relate to obtaining additional parcels of land referred to as of the Headwaters Forest, which were or are owned by the Pacific Lumber Company.

3. All records that relate in any way to the FDIC or OTS advancement of claims against Mr. Charles Hurwitz and/or MAXXAM *that also* in any way mention (or are to or from) the Rose Foundation, the Turner Foundation or any other grant-making organization *and* that in any way relate to strategies or legal theories for acquisitions or potential acquisitions of the Headwaters Forest or the concept of "debt for nature".

4. All records that relate in any way to the FDIC or OTS advancement of claims against Mr. Charles Hurwitz and/or MAXXAM *that also* in any way mention (or are to or from) Earth First! North Coast Earth First!, Bay Area Coalition on Headwaters, Circle of Life Foundation, The Trees Foundation, The Humboldt Watershed Council, The National Audubon Society, and/or the Sierra Club.

5. All records to, from, or referring to Mr. Allen McReynolds that also relate to or refer to the Headwaters Forest, the FDIC or the OTS, or debt for nature.

6. All records to, from, or referring to Ms. Kathleen (Katie) McGinty that also relate to or refer to the Headwaters Forest, the FDIC or the OTS, or debt for nature.

7. All records referring or related to a meeting that occurred on October 22, 1995, in which the Council on Environmental Quality Chairperson attended and that also relate to or refer to the Headwaters Forest, the FDIC or the OTS, or debt for nature.

8. All records to or from anyone in the Office of the Secretary that also relate to or refer to the Headwaters Forest and the FDIC or the OTS.

9. All records that relate to or refer to any contact or communication between any employee of the Department of the Interior and Mr. Bruce Rinaldi, Mr. Ken Guido, Mr. Robert DeHenzel, or Mr. Jeff Williams.

10. All records showing or related to any contact or communication between anyone employed by, assigned to, or associated with the Department of the Interior and anyone employed by, assigned to, or associated with the White House (including the Council on Environmental Quality), The Office of the Vice President that relate in any way to the FDIC or OTS claims against Mr. Charles Hurwitz and/or MAXXAM *that also* in any way mention, refer to, or relate to "debt for

nature," the Headwaters Forest, or the Pacific Lumber Company.

Definitions

For purposes of this inquiry, the term "record" or "records" includes, but is not limited to, copies of any item written, typed, printed, recorded, transcribed, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all computer entries, accounting materials, memoranda, minutes, diaries, telephone logs, telephone message slips, electronic messages (e-mails), tapes, notes, talking points, letters, journal entries, reports, studies, drawings, calendars, manuals, press releases, opinions, documents, analyses, messages, summaries, bulletins, disks, briefing materials and notes, cover sheets or routing cover sheets or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation and shall also include redacted and unredacted versions of the same record. The term includes records that are in the physical possession of the Department of the Interior and records that were formerly in the physical possession of the Department, as well as records that are in storage.

Furthermore, with respect to this request, the terms "refer", "relate", and "concerning", means anything that constitutes, contains, embodies, identifies, mentions, deals with, in any manner that matter under review.

"FDIC" means Federal Deposit Insurance Corporation.

"OTS" means Office of Thrift Supervision.

"Department" means Department of the Interior.

MAXXAM means MAXXAM Inc., Pacific Lumber Company, and United Savings Association of Texas.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, August 15, 2000.

Task Force on the Headwaters Forest and Related Issues of the Committee on Resources

Authority

Pursuant to Rule 7 of the Committee on Resources (Committee), the Chairman of the Committee is authorized, after consultation with the Ranking Minority Member, to appoint task forces to carry out certain duties and functions of the Committee. The Chairman hereby appoints the Members listed below to the Task Force on the Headwaters Forest and Related Issues to carry out the oversight and investigative duties and functions of the Committee regarding the oversight review specified in the June 16, 2000, letter (attached hereto), subject to the terms and conditions listed below.

Members

Republicans—Doolittle (Chairman), Pombo, Thornberry, Brady, and Young (ex officio).

Democrats—Three Members of the Committee recommended by the Ranking Minority Member and Miller (ex officio).

Duration

The Task Force will commence on August 16, 2000, and will terminate on December 31, 2000, or on an earlier date that the Chairman of the Committee may designate. With a duration of less than six months, the task force will not count against the subcommittee limit under Rule X, clause 5(b)(2) of the Rules of the House of Representatives.

Jurisdiction

The Task Force shall review and study the following matters related to the Headwaters Forest (which is managed by the Bureau of Land Management and was purchased pursuant to Title V of P.L. 105-83): (1) the Federal Deposit Insurance Corporation's (FDIC) and the Office of Thrift Supervision's (OTS) advancement of claims against private parties to ultimately obtain additional parcels of land near or adjacent to the Headwaters Forest owned by the Pacific Lumber Company; (2) the potential impact of advancement of such claims to expand the Headwaters Forest; and (3) the matters outlined in the attached June 16, 2000, letter initiating an oversight review concerning the Headwaters Forest.

Hearings

Subject to the Rules of the House of Representative and the Rules of the Committee on Resources, the Task Force may hold hearings on matters within its jurisdiction. The Chairman of the Committee shall approve all hearings prior to their announcement.

Staff

The Chairman of the Committee shall designate professional and support staff to assist the Task Force in carrying out its duties and functions. Consistent with the Rules of the House of Representatives, persons employed by personal offices of Members may not serve as staff to the Committee and its subdivisions. The Ranking Minority Member may also designate staff to assist the Task Force.

Travel

All travel by Members and staff of the Task Force shall be authorized pursuant to Rule 12 of the Committee and other applicable rules and guidelines and shall be limited to funds allocated by the Chairman of the full Committee for that purpose. Committee funds may not be used to pay for travel by persons not employed by the Committee and all travel shall conform with applicable rules of the House of Representatives and the Committee.

Rules

A task force is a subdivision of the Committee and shall comply with all applicable rules and guidelines of the House of Representatives, the Committee on Resources, and the Committee on House Oversight. The activities of the Task Force are subject to addional directon and supervision as the Chairman of the Committee may from time to time impose.

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, August 15, 2000.

To: Members, Committee on Resources
From: Don Young, Chairman
Re: Task Force

Several Members have requested that the Committee conduct oversight on attempts to break the Headwaters Forest agreement by adding more acreage to the forest through a debt for nature swap. I initiated an oversight review of this matter in June, and today I created a task force to further study the issues outlined in the oversight review. A copy of the task force charter is attached. The task force will be chaired by John Doolittle. Republican Members of the task force are listed in the charter, and I have reserved three slots for Democrat Members to be named by Mr. Miller. The task force will operate much like a subcommittee and may hold hearings as needed to examine the issues for the oversight review.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, August 14, 2000.

Hon. GEORGE MILLER,
Committee on Resources, Longworth HOB, Washington, DC.

DEAR GEORGE: On July 26, 2000, your staff was notified that I was considering establishing a task force to examine the issues and subjects raised in the June 18, 2000, letter that launched an oversight review about matters related to the Headwaters Forest. Our staffs discussed the task force and oversight project prior to the August recess, and my staff requested that you name three Members to the Task Force. To date I have not received your selection of minority members. I intend to proceed with this task force, and will leave three positions open for Members that you select. Should you have any questions, recommendations, or names of Members who wish to serve on the task force, please ask that your staff direct them to me through Mr. Duane Gibson (5-1064). Thank you.

Sincerely,

DON YOUNG,
Chairman.

OFFICE OF THRIFT SUPERVISION,
DEPARTMENT OF THE TREASURY,
Washington, DC, August 1, 2000.

DUANE GIBSON, Esq.,
General Counsel, Oversight and Investigations, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. GIBSON: Set forth below are OTS's responses to your questions, which were e-mailed to Kevin Petrasic on July 21, 2000.

1. "What is the total budget of OTS for the past five years?"

Year	*Budget*
1999	$154,313,750
1998	147,253,450
1997	144,948,050
1996	148,758,100
1995	170,300,500

2. "What is the OTS authorizing statute? Please send a copy."

12 USC 1462a, 1464. A copy is attached.

3. "How many cases are being pursued by the OTS for the FDIC in each of the last five years?"

The OTS does not pursue cases for the FDIC. By way of background, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Pub. L. 101-73 (August 9, 1989), created the OTS as the primary federal regulator of savings associations and authorized the OTS to pursue administrative enforcement actions against individuals and entities to safeguard the thrift industry, its depositors and the federal deposit insurance funds. 12 U.S.C. 1464 and 1818. One of the remedies available to the OTS and other banking regulators in these administrative enforcement proceedings is to obtain restitution for losses suffered by an insured depository institution. 12 U.S.C. 1818(b)(6). If the OTS succeeds in recovering restitution, it is returned to the institution.

When a savings association fails, the OTS must appoint the FDIC as receiver for the institution. 12 U.S.C. 1464(d)(2). As the appointed receiver, the FDIC "steps into the shoes" of the failed institutions to manage its assets. 12 U.S.C. 1821. The OTS would then pay any restitution recovered in its administrative enforcement action to the FDIC as receiver.

Whether an institution is open or being run by FDIC as receiver, those running the institution may advise OTS of possible violations of law that may warrant action by OTS. As part of its investigation, OTS will obtain information from the institution and then make an independent determination under OTS's statutory authority whether to bring any enforcement action.

As receiver, FDIC has separate legal authority to pursue private legal actions for recovery of damages on behalf of the institution, its creditors and shareholders. The OTS's statutory authority to pursue enforcement actions is separate from the FDIC's authority as receiver. The federal courts have consistently recognized this distinction between OTS's administrative enforcement authority and the FDIC's authority as receiver to bring suit in federal court. *See, e.g., Simpson v. OTS*, 29 F.3d 1418, 1423 (9th Cir. 1994), *cert. denied*, 513 U.S. 1148 (1995); *Akin v. OTS*, 950 F.2d 1180, 1185 (5th Cir. 1992). As in the *USAT* matter, the courts have held that the two agencies may pursue separate, but concurrent, legal proceedings in furtherance of their separate legal responsibilities. *See Resolution Trust Corp. v. Ryan*, 801 F.Supp. 1545 (S.D.Miss. 1992).

With this as background, the OTS has issued fifteen orders in enforcement proceedings in the last five years (plus the first half of this year) that resulted in restitution obtained and paid to the FDIC as receiver, as follows:

Year	Institution	Amount
2000 (to date)	One order	$3,169,115
1999	Three orders	1,197,000
1998	Three orders	1,319,000
1997	No orders.	
1996	Four orders	29,050,000
1995	Four orders	3,600,000

4. "How many independent of the FDIC are being pursued?"

As explained above, all OTS enforcement actions are independent of the half of this year) by the OTS, either through administrative proceedings or consent settlements, are:

Year	Number of Enforcement Orders
2000 (to date)	37
1999	42
1998	44
1997	80
1996	92
1995	132

5. "How many lawyers and non-lawyers are working on the OTS/FDIC case against USAT?"

There are not OTS lawyers or non-lawyers working on the FDIC USAT case. It is an entirely separate case pending in federal court in Houston, TX, in which the OTS is not a party. Maxxam Corporation filed a motion to add OTS as an involuntarily plaintiff in that action, but Maxxam's motion was denied by the federal court in 1997.

During the trial of the OTS's USAT administrative case, OTS had five lawyers assigned full-time to the case. They were assisted by between two and six paralegals at different times. The respondents were represented by more than 20 attorneys who appeared in the case of their behalf. These attorneys were assisted by attorneys, paralegals and support staff from the four major law firms representing respondents.

6. "How much has the FDIC reimbursed the OTS for that work broken down by year?"

FDIC has reimbursed the OTS for legal fees and out-of-pocket expenses in the USAT administrative action as follows:

Year	Amount
1995	$529,452
1996	455,895
1997	435,867
1998	663,403
1999	857,182
2000	61,026
Total	3,002,825

To date, the OTS has recovered $10,876,426.98 in restitution in the USAT administrative action, which has been paid to the FDIC, through settlements with United Financial Group, Inc., the holding company for USAT, and with five individual former officers and directors of USAT.

7. "How has the FDIC been involved with the OTS on the USAT case?"

The FDIC is not a party in the USAT administrative action brought by OTS. The FDIC has shared information and documents that the OTS has requested to prepare its case, and the two agencies have consulted on legal theories and other matters.

The respondents in the case have executed a joint defense agreement pursuant to which they shared information with each other, coordinated discovery and motions, presented joint briefs and memoranda of law and shared counsel. In addition, Maxxam Corporation has agreed to pay legal expenses on behalf of several of the respondents.

8. "Where in terms of dollar amount does the USAT case fall compared to other cases?"

OTS seeks $821,319,405 in restitution in the case, which is the largest dollar amount sought by OTS in a litigated case. The next largest case involved Lincoln Savings and Loan Association, Irvine, CA case, where the OTS obtained $600 million, through orders and settlements against several respondents, to be paid to the FDIC as receiver for the failed institution. In numerous other cases, including San Jacinto Savings, Bellaire, TX, Columbia Savings, Beverly Hills, CA, and General Bank, Miami, FL, OTS has obtained more than $500 million through orders and settlements to be paid to the FDIC.

9. "How is the $1.6 billion figure derived for the USAT case?"

This is not the amount sought by OTS in the case. The $1.6 billion figure is the cost to the federal deposit insurance fund from paying of depositors due to the collapse of USAT.

Sincerely yours,

CAROLYN J. BUCK,
Chief Counsel.

Attachment.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, July 7, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

DEAR CHAIRMAN YOUNG: As requested in your June 20, 2000 letter as the Chairman of the House Committee on Resources, and the June 20, 2000 subpoena by the Committee on Resources, we are providing the Committee with the enclosed material. It is my understanding that pursuant to conversations between Committee staff and staff of the Federal Deposit Insurance Corporation, the Committee has requested that two copies of the documents be produced to the majority, and one to the minority. We are enclosing two copies of responsive documents with this letter, and will provide an additional copy directly to Ranking Minority Member George Miller.

An index to the documents and privilege log is also enclosed. We are not withholding any responsive document, regardless of whether it is privileged. Where privileged documents are provided, they are so identified and marked, and the applicable privileges are identified in the accompanying index and log.

In delivering these records, it is our intention to preserve any and all privileges or exemptions from disclosure under the Freedom of Information Act or other laws, rules and regulations for those documents marked as privileged should they be requested by any person other than the Congress of the United States acting in its official capacity. We appreciate the efforts of the Committee and its staff to maintain the strict confidentiality of these documents.

Sincerely yours,

PATRICIA M. BLACK,
Counsel to the Inspector General.

LOG OF PRIVILEGED DOCUMENTS PRODUCTION TO THE COMMITTEE ON RESOURCES, U.S. HOUSE OF REPRESENTATIVES, JULY 7, 2000

Bates numbered pages	Date of documents	Description of documents	Privilege
000000–000018	October 13, 1998	Hurwitz Motion to Remove Confidentiality Designation of FDIC Board Meeting Materials (Under Seal)	Deliberative Process.
000019–000034		Federal Deposit Insurance Corporation's Opposition to Hurwitz's Motion to Remove Confidentiality Designation	
000035–000053	May 11, 1998	Hurwitz's Request for Disposition of Motions Affecting Disclosure of the ATS Memo	
000054–000070	May 8, 1998	Hopkins & Sutter Letter Re: FDIC V. Hurwitz	
000071–000074	November 15, 1995	Clements, O'Neill, Peirce, & Nickens Letter Re: Federal Deposit Insurance Corporation, as manager of FSLIC Resolution v. Charles E. Hurwitz, Civil Action No. H-95–3956, United States District Court for the Southern District of Texas, Houston Divison	
000075–000097	November 16, 1995	FDIC as a manager of the FSLIC Resolution Fund v. Charles E. Hurwitz—Hearing Transcript	
000098–000104	October 10, 1997	FDIC v. Charles E. Hurwitz—Order to Produce	
000105–000152	September 30, 1997	Hurwitz's Memorandum in Support of His Motions For Sanctions and Dismissal	
000153–000185	October 19, 1997	FDIC's Memorandum in Response to Hurwitz's Motion for Sanctions and Dismissal	
000186–000189	Cross-Walk of Issues Raised By Congressman DeLay Regarding USAT Litigation To Objectives Outlined in OCRE's Evaluation Proposal	Attorney Work Product Deliberative Process.	

LOG OF PRIVILEGED DOCUMENTS PRODUCTION TO THE COMMITTEE ON RESOURCES, U.S. HOUSE OF REPRESENTATIVES, JULY 7, 2000—Continued

Bates numbered pages	Date of documents	Description of documents	Privilege
000190–000196	April 19, 1999	Memo from Schulz to Kroener, Subject: OIG Investigation of the Hurwitz Case	Attorney Client Privilege Attorney Work Product Deliberative Process
000197–000200	February 3, 1999	Letter to Tanoue and Gianni re: Hurwitz from Congressman DeLay	
000201–000215	March 10, 1999	Executive Summary—Authorization of Expenditures	Attorney Client Privilege Attorney Work Product Deliberative Process.
000216–000219	March 2, 1999	Letter from Chairman Tanoue and Response to an Inquiry from the Honorable Tom DeLay	
000220–000222	April 8, 1999	Draft Letter to Congressman DeLay from Gianni re: Hurwitz	Deliberative Process.
000223–000258		DeLay Allegation Spreadsheet (with notations)	Attorney Client Privilege Attorney Work Product Deliberative Process.
000259–000268	May 5, 1999	Memorandum—Motions in the Hurwitz litigation raising issues that the Office of Inspector General proposes to investigate (Under Seal).	Attorney Client Privilege Attorney Work Product Deliberative Process.
000269–000271		Hurwitz Case Summary	Attorney Client Privilege Attorney Work Product.
000272–000276		Preliminary Comparison of Key Provisions in FDIC/PLS Guidelines With the July 27, 1995 Authority to Institute PLS Memo Prepared for the USAT Litigation.	Attorney Client Privilege Attorney Work Product Deliberative Process.
000277–000284		Evaluation Action Plan	Attorney Client Privilege Attorney Work Product Deliberative Process.
000285–000286	February 23, 1999	FY2000 FDIC Inspector General VA–HUD Appropriations Subcommittee The Honorable Tom DeLay Questions for The Record	
000287–000291	March 25–26, 1999	Record of March 25, 1999 Meeting with OIG Counsel Regarding Modified Approach to United Savings Association of Texas (USAT) Evaluation.	Attorney Client Privilege Attorney Work Product Deliberative Process.
000292–000295		Summary of Review of Issues Raised by Congressman DeLay	Attorney Client Privilege Attorney Work Product Deliberative Process.
000296–000299		Inventory of Legal Documents Received 2/24/99 from Bob Dehenzel	Attorney Work Product Deliberative Process.
000300–000309	May 5, 1999	Memorandum to File from Dehenzel re: Motions in the Hurwitz litigation raising issues that the Office of Inspector General proposes to investigate.	Attorney Work Product.
000310–000317	Undated Draft	Action Plan	Deliberative Process.
000318–000329		Congressman DeLay Allegation Spreadsheet (without notations)	
000330–000333		Evaluation Proposal I	Attorney Client Privilege Attorney Work Product Deliberative Process.
000334–000341		Evaluation Proposal II	Attorney Client Privilege Attorney Work Product Deliberative Process.
000342–000345	February 3, 1999	Letter to Tanoue and Gianni re: Hurwitz from Congressman DeLay	
000346–000347	September 30, 1998	Letter to Congressman Bentsen from Tanoue	
000348–000349	October 18, 1996	Letter to Congressman Gonzalez from Tanoue	
000350–000351		Auditor's Plan	Deliberative Process.
000352–000365	Various	News Articles	
000366–000384	August 1, 1995	Minutes of the Board of Directors	Attorney Client Privilege Attorney Work Product Deliberative Process.
000385–000389	June 1998	Case Review Summary	Attorney Client Privilege Attorney Work Product.
000390–000391		4th Quarter 98 Top Ten	Attorney Client Privilege Attorney Work Product.
000392–000394	June 17, 1997	Memorandum to David Einstein from Jeffrey Williams re: United Savings Association of Texas, FDIC v. Hurwitz and Related Matters.	Attorney Work Product.
000395–000400		FDIC Briefing Outline	Attorney Client Privilege Attorney Work Product.
000401–000411	February 4, 1994	Letter to Carolyn Lieberman from Jack Smith	Attorney Work Product Deliberative Process.
000412–000425	March 10, 1999	Executive Summary—Authorization of Expenditures United Savings Association of Texas Houston, Texas, FIN#1815	Attorney Client Privilege Attorney Work Product Deliberative Process.
000426–000433	September 12, 1995	Letter to Chairman Helfer from Kroener	Attorney Client Privilege Attorney Work Product Deliberative Process.
000434–000437	October 20, 1995	Gore Meeting Draft Discussion Points	Attorney Work Product.
000438	October 20, 1995	Headwater Meeting Attendees	
000439	October 25, 1995	Headwaters Forest Meeting October 26	Deliberative Process.
000440–000444	October 25, 1995	Headwaters Forest Meeting October 26	Deliberative Process.
000445–000446	October 26, 1995	USAT Meeting Attendee List	
000447–000474	November 7, 1995	Memorandum from Jeffrey Williams, Subject: USAT/Charles Hurwitz	Deliberative Process.
000475	November 28, 1995	Attendee List	
000476		Attendee List	
000477	February 9, 1998	Memorandum to Jeff Williams from John Garamendi Subject: Headwaters	
000478–000481	October 9, 1998	PLS Top 10 Report	Attorney Work Product.
000482–000483	January 19, 1999	PLS Top Ten	Attorney Work Product.
000484–000486		Discussion Points Concerning the Qui Tam Action	Attorney Work Product Deliberative Process.
000487		Essential Points	Attorney Work Product.
000488–000489	June 28, 2000	Assignment Status Report	Privacy Act Material.
000490–000491	June 21, 2000	E-mail re: Congressional Document Request	
000492–000493	June 17, 1999	Record of Meeting with Congressman DeLay on FDIC's Litigation Against Charles Hurwitz	
000494–000495	May 4, 1999	E-mail from Pat Black/Steve Beard re: Evaluation 99–003E	Attorney Client Privilege.
00496	March 31, 1999	E-mail from Beard re: Additional Documents from Legal	
000497		Draft Inventory of other USAT documentation not received on 2/24/99, 3/4/99 and 3/23/99 from the FDIC Legal Division as of 3/24/99	
000498–000505		Draft Inventory of Documentation Received 2/24/99, 3/4/99, and 3/23/99 from FDIC Legal Division: 3 Accordion Files. As of 3/24/99.	Attorney Client Privilege Attorney Work Product Deliberative Process.
000506–000513		Evaluation Action Plan	Attorney Work Product Deliberative Process.
000514–000518	March 29, 1999	Draft USAT/Hurwitz Timeline	
000519–000523	March 25–26, 1999	Record of Meeting with OIG Counsel Regarding Modified Approach to USAT Evaluation	Attorney Client Privilege Attorney Work Product Deliberative Process.
000524–000530		Evaluation Action Plan	Deliberative Process.
000531–000538		Draft Inventory of Documentation Received 2/24/99, 3/4/99, and 3/23/99 from Bob DeHenzel, Counsel, Legal Division: 3 Accordion Files. As of 3/24/99.	Attorney Client Privilege Attorney Work Product Deliberative Process.
000539–000542		Evaluation Proposal	Deliberative Process.
000543–000544	March 24, 1999	Draft letter to Congressman Delay from Gianni (unsigned)	Deliberative Process
000545	March 23, 1999	E-mail Additional documents from Legal	
000546–000547		Letters to the Editors the Washington Post	
000548–000551		Evaluation Proposal	Deliberative Process.
000552–000553		E-mail from Tom Ritz—USAT Documents	Deliberative Process.
000554–000559		Draft Inventory of Documentation Received 2/24/99 and 3/4/99 form Bob DeHenzel, Counsel, Legal Division: 2 Accordion Files. As of 3/18/99.	Deliberative Process.
000560–000562	March 17, 1999	Draft USAT/Hurwitz Timeline	
000563–000566		Evaluation Proposal	Deliberative Process.
000567–000569	March 16, 1999	E-mail from Beard—Subject: My comments on the proposal	Deliberative Process.
000570–000572		USAT 99–003 Evaluation Plan	Deliberative Process.
000573–000588	Various	Various E-mails	Deliberative Process.
000589–000592		Evaluation Proposal	Deliberative Process.
000593–000606	Various	Various E-mails	

FEDERAL DEPOSIT
INSURANCE CORPORATION, .
Washington, DC, July 7, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to the subpoena duces tecum received by the Federal Deposit Insurance Corporation on July 6, 2000 seeking production of copies of documents regarding the Headwaters Forest, a possible "debt for nature swap" and pending litigation regarding the FDIC and Mr. Charles E. Hurwitz arising out of the failure of United Savings Association of Texas (USAT).

This document production should satisfy our obligations under the subpoena. The enclosed documents include sensitive, highly confidential material that is covered by attorney client and/or attorney work product privileges in the ongoing litigation against Mr. Hurwitz. In many cases, the production includes documents that Mr. Hurwitz and his representatives are not entitled to review through the court proceedings. The FDIC does not waive any privileges belonging to the FDIC or any other agency as a result of providing these documents to the Committee pursuant to the subpoena.

As we stated in our prior correspondence, the FDIC would strongly object to the dissemination of privileged and confidential documents to parties other than Committee Members and staff. We have identified the documents containing confidential information with a stamp bearing the designation "CONFIDENTIAL." The failure of USAT cost the American taxpayer approximately $1.6 billion and the inappropriate release of these documents could significantly harm the FDIC's ability to litigate this matter and reduce damages otherwise recoverable to reimburse taxpayers for the losses arising out of this failure.

We are producing two sets of documents to the Committee under the subpoena that are especially sensitive. These materials are segregated from the rest of the production. The first set includes documents that state the FDIC's internal valuation of the case for settlement purposes. Because disclosure of this information would be extremely harmful to the FDIC's litigation and settlement position, we are providing the full document for the Committee's review, but have redacted the actual valuation. This will allow the Committee to review any material in the document regarding the stated subjects of the investigation while ensuring against an inadvertent release of this highly sensitive information. If the Committee has any concerns about the redactions, we will permit the Committee staff to inspect the unredacted versions in our offices.

The second set of documents includes materials that have been placed under court seal in the litigation, or are naturally implicated by the Court's order. These documents are placed in a separately marked box.

Finally, there are some oversized maps, an audio tape of music from an environmental group and two tapes of two voice mail messages left by Mr. Hurwitz's counsel that we have been unable to duplicate within the timeframe of the subpoena because of their unique nature. These materials are available to the Committee for Inspection at our offices or we can make arrangements to have them copied if that is the Committee's preference.

If you have any questions regarding this production of documents, please do not hesitate to contact Eric Spitler of the FDIC's Office of Legislative Affairs.

Sincerely,

WILLIAM F. KROENER, III,
General Counsel.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, June 29, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in further response to your June 16, 2000 request for copies of documents regarding the Headwaters Forest, a possible "debt for nature swap" and pending litigation between the Federal Deposit Insurance Corporation and Mr. Charles E. Hurwitz arising out of the failure of United Savings Association of Texas (USAT).

Your staff has requested that we detail our efforts to identify responsive documents. Upon receipt of the Committee's request, the Senior Deputy General Counsel sent a copy of the request by e-mail to all current employees who have participated in the litigation and might have responsive documents. Copies of the Committee's requests also were provided to the FDIC's Executive Offices and to Division and Office Directors who were asked to forward the e-mail to any employees they believed might have responsive documents in their possession. Employees were asked to respond to the e-mail within 24 hours and to provide copies of any responsive documents to the Legal Division within 48 hours. Any employees who did not respond to the initial e-mail were contacted directly and directed to provide documents. The Legal Division has been reviewing the documents for responsiveness and identifying any issues regarding attorney-client and attorney work product that might have an impact on the FDIC's ongoing litigation.

On Friday, June 23, 2000, the FDIC made an initial production of responsive non-privileged documents to the Committee. The FDIC is continuing to search for material responsive to the Committee's request and is today making a second production of responsive non-privileged documents. As Chairman Tanoue stated in her June 23 letter to the Committee, the FDIC's search has identified documents that are covered by attorney-client and/or attorney work product privileges in the current ongoing litigation with Mr. Hurwitz. Following our expression of concern that voluntarily responding to the Committee's request for privileged documents could significantly harm our legal position in the ongoing litigation, Mr. Duane Gibson of your staff indicated that the Committee will provide a subpoena for these documents.

The FDIC is deeply concerned that the dissemination of privileged, confidential and sensitive material to parties outside of the Corporation could significantly injure our ability to litigate this matter and reduce damages otherwise recoverable to reimburse taxpayers for losses arising out of the failure of United Savings Association of Texas. It is our understanding that the documents requested by the Committee are for the official business of the Committee, but that there is no formal protocol that governs the dissemination of requested material. The FDIC would strongly object to the dissemination of privileged and confidential documents to parties other than Committee Members and staff.

Finally, the enclosed material includes documents regarding settlement discussions in the ongoing litigation. Although this material is considered sensitive and confidential, counsel for Mr. Hurwitz and Maxxam were contacted and did not object to the release of this material in response to the Committee's request. In addition, pursuant to instructions from Mr. Gibson, the enclosed production includes a representative sample of the postcards, petitions and letters received by the FDIC regarding this matter. The FDIC generally did not respond to these types of communications. Responses, if any, to correspondence from outside parties regarding this litigation, including responses to Members of Congress, are being provided in these voluntary productions. In addition, with regard to responsive documents that may be in the possession of the FDIC Office of Inspector General (OIG), we have shared the Committee's request with the OIG and it is our understanding that the OIG will communicate with your staff directly regarding any responsive OIG documents in their possession.

If you have any questions regarding this production of documents, please do not hesitate to contact Eric Spitler of the FDIC's Office of Legislative Affairs.

Sincerely,

WILLIAM F. KROENER, III,
General Counsel.

OFFICE OF THRIFT SUPERVISION,
DEPARTMENT OF THE TREASURY,
Washington, DC, June 23, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

Dear CHAIRMAN YOUNG: This is in response to your June 16, 2000 information request concerning allegations of a "debt for nature" swap involving the Headwaters Forest. We are engaged in a search for the documents requested and with this letter are delivering copies of a portion of the responsive documents to your office. Pursuant to agreement with Mr. Duane Gibson of your staff, we are providing a sample of the postcards and letters from the public; the full complement is available for your review, if you desire.

As we have explained to Mr. Gibson, the Office of Thrift Supervision (OTS) is in the midst of a formal adjudicatory enforcement proceeding pursuant to 12 U.S.C. 1818 against Mr. Charles Hurwitz and Maxxam Corporation concerning their involvement with United Savings Association of Texas (USAT). A lengthy administrative trial was held before an administrative law judge (ALJ). The ALJ is now reviewing the evidence presented and post-trial briefs to prepare a recommended decision for the Director of OTS. After the ALJ submits his recommended decision to the Director, the parties will have the opportunity to file briefs with the Director concerning her final decision in the matter. If the Director decides to order an enforcement action against Mr. Hurwitz or Maxxam, they have the right to file an appeal with the U.S. Court of Appeals.

Because an enforcement proceeding is still pending before the agency, we have significant concerns about protecting the confidentiality of certain documents which are responsive to your request. These documents fall into two categories: 1) material relating to settlement discussions between Mr. Hurwitz and Maxxam, and 2) internal OTS memoranda about OTS' claims in this proceeding. As to the first category, counsel for Mr. Hurwitz and Maxxam and OTS signed a confidentiality agreement concerning settlement discussions. We have requested of their counsel, and have received, a non-objection to releasing documents about those discussions to the Committee.

Because we expressed reservations about our ability to protect the privileged nature of these documents by voluntarily responding to the Committee's request for documents, Mr. Gibson indicated that we can expect to receive a subpoena.

We are concerned that dissemination of confidential and sensitive documents outside the agency might compromise our pending adjudicatory process. For that reason we asked that a document handling protocol be in place to maintain their confidentiality by limiting access to Members of Congress and their staff. Mr. Gibson advised us that the Committee does not have a general document protocol but that all record requests from the Committee are for the official business of the Committee. For the record, we note our objection to any publication or release of these documents beyond Members of the Committee and the staff.

The second category of documents involves confidential internal OTS memoranda concerning the bases for its investigation and claims that resulted in the adjudicatory proceeding. As we explained to Mr. Gibson, these are extremely sensitive internal communications and, for the time being, we are near agreement on another means of conveying any possibly relevant information that may be in those documents.

You had indicated in your letter that the Committee might wish to interview OTS employees. If that is necessary, we ask that you contact our Office of Congressional Affairs to arrange the interviews. If you have any questions, please contact Kevin Petrasic, Director of Congressional Affairs at (202) 906-6452.

Sincerely,

CAROLYN J. BUCK.

cc: Rep. George Miller

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, June 23, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in further response to your June 16, 2000, request for copies of documents regarding the Headwaters Forest, a possible "debt for nature swap," and pending litigation between the Federal Deposit Insurance Corporation and Mr. Charles E. Hurwitz arising out of the failure of United Savings Association of Texas.

Since receiving the Committee's request for documents, the FDIC has initiated an aggressive search for responsive documents. With this letter, I am transmitting the FDIC's first submission of documents responsive to the Committee's June 16, 2000, request. As we stated in our letter of June 20, we anticipate that additional documents will be identified during the week of June 26 when we have the opportunity to review the files of key individuals involved with this matter who have been on leave since receipt of the Committee's request, including the General Counsel. We will promptly copy and transmit to the Committee responsive documents that are identified in this continuing search. In addition, we have identified documents that are covered by attorney-client and/or attorney work product privileges. Therefore, the FDIC respectfully requests a subpoena from the Committee for the production of these documents in order to protect our privileges in the current litigation.

In addition to the documents included in this production, the FDIC has in its possession several boxes of postcards, letters, and petitions from sources outside the FDIC regarding subjects identified in the Committee's request. While the FDIC did not respond to these incoming documents and they do not contain any FDIC analysis or input, we believe that they are covered by the Committee's request. Because copying these voluminous documents will involve considerable time and expense, we would propose to make them available immediately to the Committee for inspection at our offices.

If you have any question regarding this production of documents, please do not hesitate to contact Eric Spitler or our Office of Legislative Affairs at (202) 898-3837.

Sincerely,

DONNA TANOUE,
Chairman.

Enclosures.

cc: Honorable George Miller.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, June 20, 2000.

HON. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter requesting certain documents regarding the Federal Deposit Insurance Corporation's pending litigation against Mr. Charles E. Hurwitz. As you know, the FDIC's suit against Mr. Hurwitz arises out of the 1988 failure of United Savings Association of Texas (USAT), a savings and loan failure that cost the American taxpayer more than $1.6 billion.

Although the FDIC rejects the Committee's allegations that the basis for the suit against Mr. Hurwitz is an attempt to obtain additional parcels of the Headwaters Forest, the FDIC intends to cooperate with the Committee's investigation. The Committee has made a broad request for documents related to this matter and asked that they be produced by Friday, June 23, 2000. The FDIC is dedicating significant resources to the Committee's request and we expect to be able to produce the bulk of the documents on that date. However, it is anticipated that some documents will not be identified by the deadline. For example, a few key staff involved with this matter have been on leave since the request was received and a search of their files cannot be completed until they return the week of June 26. With regard to any documents that are not produced by June 23, 2000, the FDIC will provide documents to the Committee as quickly as they can be identified and copied.

With regard to prospective interviews of FDIC employees, we request that such interviews be arranged through the FDIC's Office of Legislative Affairs. If you or your staff have any questions regarding this matter, please contact Eric Spitler of the FDIC's Office of Legislative Affairs (202) 898-3837.

Sincerely,

DONNA TANOUE,
Chairman.

To: Carolyn Buck

This may help you, Carolyn. Call if you have any questions. Duane.

We are concerned that dissemination of certain sensitive documents outside the agency might compromise our pending adjudicatory process. For that reason we ask that you maintain the confidentiality of sensitive documents we identify by limiting access to Members of the Committee and their staff. Mr. Gibson has advised us that the Committee does not have a general document protocol, but that all record requests from the Committee are for the official business of the Committee. The information in documents is generally used for informing members of the Committee. The persons with general access to the sensitive documents are staff working on the Committee oversight project and Members of Committee. Mr. Gibson also said that at some point the documents may become public if used, for example, in a memorandum to the Chairman or in hearings. Mr. Gibson also indicated that if the Chairman receives any prior notification of why an agency views a document as sensitive, that the Chairman gives it substantial weight and factors it into decision-making on release or excerpted release of the sensitive document.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, June 16, 2000.

Hon. DONNA A. TANOUE,
Chairman, Federal Deposit Insurance Corporation, Washington, DC.

Hon. ELLEN SEIDMAN,
Director, Office of Thrift Supervision, Washington, DC.

VIA FAX FOR PERSONAL ATTENTION OF ADDRESSEES

DEAR CHAIRMAN TANOUE and DIRECTOR SEIDMAN: The legislative, oversight, and investigative responsibilities under Rule X and Rule XI of the Rules of the United States House of Representatives, Rule 6(b) of the Rules for the Committee on Resources (the Committee), 106th Congress, and Article I and Article IV of the United States Constitution, require that the Committee on Resources oversee and review the laws, policies, practices, and operation of the Department of the Interior (the Department), the public domain lands and resources managed by the Department, and any other entity that relates to or takes action to influence departments or matters and laws within the Committee's jurisdiction under Rule X(*l*). This jurisdiction extends to Title V of P.L. 105-83 concerning the legislation that authorized the acquisition of the Headwaters Forest (land that is now managed by the Bureau of Land Management) from Pacific Lumber Company. It extends to any future additions of related parcels of the Headwaters Forest from Pacific Lumber Company, including additions through "debt for nature." Members of this Committee, including me, drafted and negotiated this law and approved of its inclusion in the Department of Interior and Related Agencies Appropriations Act, 1998.

Oversight Matters Under Review. I have initiated an oversight review of the Federal Deposit Insurance Corporation's (FDIC) and the Office of Thrift Supervision's (OTS) advancement of claims against private parties to ultimately obtain additional parcels of the Headwaters Forest owned by the Pacific Lumber Company. This advancement runs contrary to the Headwaters acquisition statute referenced above, contrary to FDIC's mission to oversee the nation's financial system, contrary to the interests of the federal department under the jurisdiction of my committee that would manage such additional Headwaters holdings. The advancement may be in coordination with militant elements of the extreme environmental community. The advancement is being undertaken via a 1995 civil suit (and any subsequent OTS administrative action) filed by the FDIC in the United States District Court for the Southern District of Texas against Mr. Charles E. Hurwitz in connection with the 1988 failure of the United Savings Association of Texas (USAT). The oversight review includes these subjects.

I am aware that the FDIC conducted a seven-year investigation of USAT's failure prior to the filing of the suit. I review the FDIC's conclusion that claims against Mr. Hurwitz were unwarranted and understand that it issued a report finding "* * * no direct evidence of insider trading, stock manipulation or theft of corporate opportunity by the officers and directors of USAT." The report also said that: "* * * the directors and senior management found themselves trying to keep the institution afloat and play an entirely new ball game at the same time. While the profit taking strategy is established, the directors' motivation was maintenance of the institution in compliance with the capitalization requirements and not self gain or violation of their duty of loyalty * * * The preliminary conclusion from the initial investigation as to officer's, director's and other professionals' liability was that there did not appear to be any intentional fraud, gross negligence, or patterns of self-dealing."

The Federal District Court Judge in the FDIC v. Hurwitz case required the FDIC to produce its authority to sue ("ATS") memorandum. In analyzing the probability of success, the ATS memorandum concluded that the suit against Mr. Hurwitz was unlikely to survive summary judgment and, even if it did, would have only a "marginal-at-best" chance of succeeding on its merits. As noted above, the FDIC's outside counsel agreed with this analysis and its conclusions. Nevertheless, in violation of the FDIC's own internal policy guidelines governing the initiation of litigation, the FDIC ultimately decided to file suit.

I find particularly disturbing the fact that the ATS memorandum specifically references what appears to be the only possible motive behind the FDIC's decision to bring this suit. The ATS memorandum acknowledges that Mr. Hurwitz is the Chairman, Chief Executive Officer, and indirectly the largest stockholder of MAXXAM Inc., a publicly held company, which owns The Pacific Lumber Company ("Pacific Lumber"). Pacific Lumber owned, among other things, an approximately 5,000 acre tract of old growth redwood forest in northern California commonly referred to as the "Headwaters Forest." Beginning in 1994, private sector environmental activists began to lobby the Congress and the Administration furiously to ensure that as much of the Headwaters Forest as possible, if not all of it, remain unharvested by the company.

Environmental activists—predominantly Earth First!—also began an extensive campaign to use the FDIC and the Office of Thrift Supervision (OTS) and to employ their litigation powers to create a threat of liability that would force MAXXAM to surrender its ownership of the Headwaters Forest in exchange for dismissal of the USAT claims. Such a swap would apparently, in the eyes of environmental advocates and their supporters, enable public acquisition of the Headwaters Forest and other surrounding lands without having to buy them for market value from Pacific Lumber or MAXXAM. This concept came to be known as a "debt-for-nature" swap (even though the alleged "debt" was merely the threat of what the FDIC's ATS memo concluded was a marginal-at-best lawsuit.)

I understand that in a lobbying campaign, hundreds of letters were sent directly to the highest levels of the FDIC and OTS encouraging the agencies to file suit against MAXXAM to "create" a debt that could be "swapped" for the Headwaters Forest. In fact, the ATS memorandum advised FDIC senior management that the Clinton Administration was "seriously interested" in pursuing a "debt-for-nature" swap and warned that the agency would come under severe criticism from the environmental community if it did not proceed against Mr. Charles Hurwitz and MAXXAM.

I have very serious concerns over the notion that the FDIC somehow has the authority, let alone "the power and duty to protect forest assets * * * and endangered and threatened species" as the extremist activists told your office. I am not aware of FDIC or OTS authority or jurisdiction in these areas. However, the Committee on Resources does have the constitutional and jurisdictional authority under the Rules of the House of Representatives involving the Headwaters Forest, management of the Headwaters Forest, federal additions to the Headwaters Forest, and threatened and endangered species.

In addition, as is evidenced in the following excerpt from a letter from an Earth First! activist to the Federal District Court Judge overseeing the FDIC's case against MAXXAM, the environmental community publicly claimed credit for manipulating the FDIC and OTS into pursuing the "debt-for-nature" course related to Headwaters: "As the initiator of the so-called 'Debt-for-nature' campaign, I have decided to write you prior to your making your final ruling around this case. *The campaign to encourage the FDIC to sue Charles Hurwitz and the MAXXAM Corporation was and is designed to stand up on its own, regardless of whether a debt for nature swap ensues* . . . I have heard it argued that the FDIC only filed this suit to cave into pressure from citizens. Well may I ask, de facto, what is wrong with pressure from citizens? (emphasis added) This is a strikingly candid admission and certainly supports the conclusion that the pressure exerted was successful in prompting the FDIC to file a suit that its internal policies would otherwise not have authorized.

Since the initiation of the litigation by the FDIC and the OTS, the Federal and State of California governments have purchased the Headwaters Forest. With the federal acquisition, the issue was laid to rest. The purchase was accomplished through legislation authored by Members of the Committee on Resources, and is a subject within the jurisdiction of the Committee. The management of the Headwaters Forest is also within the jurisdiction of the Committee. The legislation and agreement reached when Congress adopted Title V of P.L. 105-83 contemplated no additions to the Headwaters Forest over five acres. However, the extreme elements within the environmental movement, the FDIC, and the OTS continue to pursue what appears to be an orchestrated agenda and cases against MAXXAM and Mr. Charles Hurwitz to apparently create a "debt" to be "swapped" for additions to the Headwaters Forest owned by Pacific Lumber. This idea is contrary to the agreement reached by Congress and the Administration, contrary to the law, and contrary to the mission of the FDIC.

As a result, I have initiated this oversight review and make the following request for records in furtherance of the review.

Request for Records. The review requires the prompt production of all records by the FDIC and OTS that relate to the matter under review as outlined above. In addition, the attached Schedule of Records specifies certain records or categories of records that are also requested and must be produced pursuant to the authority and under deadlines in this letter. The schedule also contains the definition that applies to the term "records."

Interviews. In addition to the information listed above, this inquiry may include a request to interview you and those in the employ of the FDIC and OTS who have knowledge of the matters under review. In addition, should the need for hearings arise, you and staff at the FDIC and OTS may be asked to testify before the Committee.

Deadline. I request that you strictly comply with the deadlines for production which are as follows: response to this letter by June 20, 2000, and delivery of the records 4:00 p.m., Friday, June 23, 2000, to the attention of Mr. Duane Gibson, 1324 Longworth House Office Building. I also request that you provide two sets of all records requested.

Lead Investigator. This review will be led at the staff level Mr. Duane Gibson, the Committee's General Counsel for Oversight and Investigations. I request that your staff contact him (202-225-1064) after your receipt and review of this letter. Mr. Gibson can assist with any questions. Thank you for your cooperation with this review of matters under the jurisdiction of this Committee. Please be aware that the Committee has the authority to compel production of the records that are requested should they not be produced by the deadline listed above. I anticipate your cooperation so that I will not need to employ this authority.

Sincerely,

DON YOUNG,
Chairman.

SCHEDULE OF RECORDS—HEADWATERS FOREST ADDITIONS AND DEBT FOR NATURE

1. All records that relate in any way to the FDIC or OTS advancement of claims against Mr. Charles Hurwitz and/or MAXXAM *that also* in any way mention "debt for nature," the Headwaters Forest, or the Pacific Lumber Company, including but not limited to any records relate to obtaining additional parcels of land referred to as of the Headwaters Forest, which were or are owned by the Pacific Lumber Company.

2. All records that relate in any way to the FDIC or OTS advancement of claims against Mr. Charles Hurwitz and/or MAXXAM *that also* in any way mention (or are to or from) the Rose Foundation (including Ms. Jill Rattner), the Turner Foundation or any other grant-making organization *and* that in any way relate to strategies or legal theories for acquisitions or potential acquisitions of the Headwaters Forest or the concept of "debt for nature."

3. All records that relate in any way to the FDIC or OTS advancement of claims against Mr. Charles Hurwitz and/or MAXXAM *that also* in any way mention (or are to or from) Earth First!, North Coast Earth First!, Bay Area Coalition on Headwaters, Circle of Life Foundation, The Trees Foundation, The Humboldt Watershed Council, The National Audubon Society, and/or the Sierra Club.

4. All records of any FDIC Board deliberations, and any OTS deliberations, in which the decision to proceed with litigation against or claims against Mr. Charles Hurwitz and/or MAXXAM was considered or discussed.

5. All records related to any contact between the FDIC or OTS (or any employee of the OTS or FDIC) and any group or individual or group that relates to or mentions the Headwaters Forest.

6. All records that relate in any way to the Federal Deposit Insurance Corporation's (FDIC) Office of Thrift Supervision's (OTS) advancement of claims against Mr. Charles Hurwitz and/or MAXXAM *that also* in any way mention "debt for nature" or the Headwaters Forest *and are* to, from, or involve Mr. Bruce Rinaldi, Mr. Ken Guido, Mr. Robert DeHenzel, or Mr. Jeff Williams.

7. All records showing or related to any contact or communication between anyone employed by, assigned to, or associated with the FDIC or the OTS and anyone employed by, assigned to, or associated with the White House (including the Council on Environmental Quality), The Office of the Vice President, The Department of the Interior, the Forest Service, or the Bureau of Land Management that relate in any way to the FDIC or OTS claims against Mr. Charles Hurwitz and/or MAXXAM *that also* in any way mention, refer to, or relate to "debt for

nature," the Headwaters Forest, or the Pacific Lumber Company.

DEFINITIONS

For the purposes of this inquiry, the term "record" or "records" includes, but is not limited to, copies of any item written, typed, printed, recorded, transcribed, filmed, graphically portrayed, video or audio taped, however produced, and includes, but is not limited to any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all computer entries, accounting materials, memoranda, minutes, diaries, telephone logs, telephone message slips, electronic messages (e-mails), tapes, notes, talking points, letters, journal entries, reports, studies, drawings, calendars, manuals, press releases, opinions, documents, analyses, messages, summaries, bulletins, disks, briefing materials and notes, cover sheets or routing cover sheets or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation and shall also include redacted and unredacted versions of the same record. The term includes records that are in the physical possession of the FDIC or the OTS (as the case may be) and records that were formally in the physical possession of the FDIC or the OTS (as the case may be), as well as records that are in storage. Furthermore, with respect to this request, the terms "refer", "relate", and "concerning", means anything that constitutes, contains embodies, identifies, mentions, deals with, in any manner the matter under review.

"FDIC" means Federal Deposit Insurance Corporation.

"OTS" means Office of Thrift Supervision.

MAXXAM means MAXXAM Inc., Pacific Lumber Company, and United Savings Association of Texas.

HOUSE OF REPRESENTATIVES—*Thursday, January 3, 2002*

SENATE ENROLLED BILLS SIGNED

The SPEAKER pro tempore (Mr. TOM DAVIS of Virginia) announced his signature to enrolled bills of the Senate of the following titles:

S. 1202. An act to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2006.

S. 1714. An act to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building.

S. 1741. An act to amend title XIX of the Social Security Act to clarify that Indian women with breast or cervical cancer who are eligible for health services provided under a medical care program of the Indian Health Service or of a tribal organization are included in the optional medicaid eligibility category of breast or cervical cancer patients added by the Breast and Cervical Cancer Prevention and Treatment Act of 2000.

S. 1789. An act to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

S. 1793. An act to provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President on September 14, 2001.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

EXTENSIONS OF REMARKS

TRIBUTE TO DR. MILDRED M. ALLEN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2002

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Dr. Mildred M. Allen, a leading advocate in the mental health field, who has dedicated the past 17 years to making the Fordham-Tremont Community Mental Health Center a viable and effective mental health facility that performs at a superior level.

Dr. Allen was born in Guayanilla, Puerto Rico, where she lived until graduation from the University of Puerto Rico. Here, she earned a Bachelor of Arts Degree and went on to obtain a Masters of Social Work, a Masters in Public Administration, and a Doctorate in Art and Science from New York University. Armed with this extensive education and training, Dr. Allen went on to play a pivotal role in New York's mental health arena.

Mr. Speaker, Dr. Allen has been a key participant in numerous state, national, and global conferences on mental health. In 1985 and 1987, she was a panelist at the World Congresses in Mental Health held in England and Egypt, respectively. Dr. Allen's contributions to mental health public administration include the first city-wide conference on Domestic Violence which she organized in 1985. In 1986, Governor Cuomo appointed her to the Manhattan Children's Psychiatric Center Board of Visitors. She continues to be an active member, and often officer, of many key boards that focus on various aspects of mental health. Dr. Allen's concern for the Puerto Rican community, particularly its youth, led her to create the Hispanic Advocacy and Resource Center, Inc. in order to facilitate the adoption of Puerto Rican children and provide support to families. She also went on to co-found the Puerto Rican Empowerment Partnership Corp., a non-profit organization focused on improving the mental and social welfare of Puerto Ricans living in New York State.

Clearly, Dr. Allen will leave an undeniable mark on the world of mental health and has directly impacted the lives of an untold number of people. She is described as a truly kind and dynamic woman whose unyielding spirit inspires those around her. She has spent most of the last two decades in my district, sharing her gift and leading the Fordham-Tremont Community Mental Health Center to even greater success, with the support of an outstanding staff.

I ask my colleagues to join me in honoring Dr. Mildred Allen for her illustrious and distinguished career and in thanking her for her unceasing passion.

H.R. 3343

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2002

Mr. STRICKLAND. Mr. Speaker, I have spoken on the floor on many occasions about the damage brought to our nation's energy security as a result of the privatization of the United States Enrichment Corporation in July of 1998. Through the thorium cleanup legislation before us today, I am pleased Congress will take out an insurance policy to ensure that we have the capacity to produce the nuclear fuel needed to supply our nation's nuclear power reactors in the event of supply interruptions. That insurance policy authorizes the Secretary of Energy to carry out necessary activities at the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio to maintain our country's uranium enrichment capability. Such activities include placing 3 million Separative Work Units (SWU) of capacity on cold standby at the Piketon, Ohio facility.

I am pleased that the Speaker of the House, the Under Secretary of Energy Bob Card, and the Energy and Commerce Committee were able to work together to craft this legislation. I note that legislation to authorize Cold Standby at the Portsmouth plant was included as an amendment to the "Energy Advancement and Conservation Act of 2001" (H.R. 2587) during mark up in the Energy and Commerce Committee, but it was stripped in the Rules Committee and was not ruled in order as part of the package of amendments considered on the floor during debate on H.R. 4. I am pleased that there is bipartisan agreement on authorizing Cold Standby.

Today, over 20 percent of our nation's electricity supply comes from nuclear power. While there is general agreement that we should not be dependent on foreign supplies for our energy requirements, our country's nuclear fuel imports have increased dramatically in a few short years. Out nation now depends on imports for approximately. 77 percent of the nuclear fuel that powers our nation's nuclear powered electricity plants. U.S. utilities require 11.0 million SWU of enrichment services each year; approximately 8.5 million SWU is imported and the remainder is produced at the Paducah, Kentucky plant operated by USEC. Approximately 5.5 million SWU comes from Russia as part of the US-Russian Highly Enriched Uranium (HEU) Agreement, and 3.0 million SWU are imported from European producers.

The Portsmouth uranium enrichment plant was shuttered by USEC, Inc. in June 2001, three years ahead of the earliest closure date agreed to in the "Treasury Agreement." The Treasury Agreement was intended to assure post-privatization compliance by USEC with the statutory requirements contained in the USEC Privatization Act of 1996, including the obligations to maintain a reliable and economic source of domestic uranium enrichment services. The Treasury Agreement also was intended to see that operation of the Department of Energy's two uranium enrichment plants continued until December 31, 2004 or until new, more efficient laser based technology is deployed.

USEC terminated its laser-based technology development less than a year after privatization, and today it has no credible prospects for deploying new technology for the foreseeable future.

Indeed, NRC and industry reports reveal that USEC's finances are precarious at best. The USEC operated Gaseous Diffusion Plant in Paducah, Kentucky presently operates at a deficit, and there is widespread concern that USEC management will close this plant, leaving the U.S. completely dependent on foreign sources of fuel. I urge the Administration to prevent our nation from losing its entire enrichment industry and to take the steps needed to promote the deployment of competitive centrifuge technology at both Portsmouth and Paducah. It is ironic that 3 years ago the U.S. was in a position to be fully self-reliant for its own nuclear fuel supply and today we are on the verge of losing that capability.

A single, uneconomic enrichment plant and no foreseeable prospects for new enrichment technology is not what Congress intended when it authorized privatization of USEC. I note that the Energy Department has sent the Energy and Commerce Committee draft language providing the Secretary with the authority to operate the gaseous diffusion plants and to sell low enriched uranium in order to meet domestic requirements. I believe that once the Energy and Commerce Committee has had the chance to evaluate the proposed framework for assuring domestic enrichment supply, there will be support to take the additional steps to begin to repair the damage caused the USEC Privatization.

There are a number of significant policy concerns associated with USEC's premature closing of the Portsmouth enrichment plant and the absence of replacement technology coming on-stream in the interim. Specifically, these challenges are:

(1) Loss of approximately one-half of the U.S. capability to produce enriched uranium;

(2) Increased dependence on the Russian HEU Agreement such that a disruption could result in USEC's inability to meet its obligations. This raises both energy security concerns at home and national security concerns abroad with respect to enrichment and plutonium recycling (for example, the U.S. committed to supply Japan, South Korea and Tai-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

wan with enriched uranium as an incentive to avoid use of plutonium based fuels for electricity generation);

(3) The U.S. government has liabilities and obligations under Sections 3108 and 3109 of the USEC Privatization Act to honor all sales contracts entered into by USEC prior to the date of privatization in the event USEC fails to fulfill its obligations;

(4) Today's trend toward just-in-time fuel procurement further increases vulnerability to supply disruption; and

(5) Next generation Pebble Bed Modular Reactors being developed by the utility industry require fuel enriched to 8 percent U 235, and the Portsmouth plant is the only facility in the U.S. that is licensed and capable of enriching uranium to that level. This will put the nation in the position of having to rely on imports for the next generation of nuclear reactors.

The September 18, 2000 DOE report entitled "Options for Government Response to Energy Security Challenges Facing the Nuclear Fuel Cycle" outlines a variety of scenarios where USEC would not be able to assure a reliable supply of uranium fuel.

Today's legislation authorizing DOE to maintain the Portsmouth enrichment plant on Cold Standby serves as an insurance policy for the nation's electricity supply against supply disruptions.

What exactly is entailed in Cold Standby?

Cold Standby involves placing those portions of the uranium enrichment plant needed for 3 million SWU/year production capability in a shut-down non-operational condition and performing surveillance and maintenance activities necessary to retain the ability to resume production after a set of restart activities are conducted. This involves treating the cells to remove uranium deposits, buffering the process cells with dry air to prevent wet air inleakage (which would destroy the barrier equipment), installation of buffer cell alarms to insure that proper integrity is maintained, and establishing procedures to keep equipment in a safe condition capable of being restarted. Today this takes place under the oversight of a Nuclear Regulatory Commission certificate.

I am pleased that the Secretary of Energy was able to reprogram funding in April 2001 in order to place Portsmouth on Cold Standby when the plant closed in June of 2001 and to secure the funds needed to winterize these process buildings.

Long term, I believe the best way to fund Cold Standby is to use a portion of the $1.2 billion in funds contained in the USEC Fund that are not already reserved under P.L. 105–204 for conversion of depleted uranium hexafluoride (DUF6). These funds are held in the Treasury and, during the previous administration, these funds were determined by the General Counsel of the Office of Management and Budget to be available for meeting the expenses of privatization. I urge the OMB to reexamine this as a source of funding for Cold Standby and to work with Congress to make these funds available.

Alternatively, the cost of Cold Standby can be met through the use of appropriated funds, as was accomplished in the FY 02 Energy and Water Development Appropriations Act. Either way, the nation will be purchasing insurance against the type of energy supply disruptions that could be worse than the problems witnessed in California earlier this year.

As we discussed in the Energy and Commerce Committee, this authority to fund "cold standby" is not intended to compete for funds from the Energy Department's environmental clean-up fund known as the Uranium Enrichment Decontamination & Decommissioning (UED&D) Fund.

While we are increasing the amount of funding from the UED&D Fund, it is important to me and my friends from Kentucky and Tennessee that the reimbursement for clean up at the thorium site does not shift funds from clean up activities at the three uranium enrichment sites. It is also important that the burden for cleaning up the thorium site does not fall on nuclear power ratepayers. I know the intent of this substitute is to address both of those issues by holding harmless the uranium enrichment sites' cleanup schedule and protecting our nuclear ratepayers from shouldering the additional cost of cleaning up the site in West Chicago, Illinois.

I support this bill.

H.R. 3166—INFRASTRUCTURE INVESTMENT IS THE BEST ECONOMIC STIMULUS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2002

Mr. OBERSTAR. Mr. Speaker, the so-called economic stimulus legislation presented to the House is like that old story of throwing an eight-foot rope to a person who's drowning ten feet from shore: it just doesn't get there; there isn't enough rope.

Well, there isn't enough help in this initiative the Majority has set before the House and the nation. Extension of unemployment compensation is important, but 13 weeks isn't enough. Offering the unemployed an individual tax credit to buy health insurance on the open market isn't enough: average monthly premiums for COBRA range from $220 for an individual to $580 for a family; the standard unemployment benefits don't even begin to provide workers with the financial assistance they need to carry on their existing health insurance or buy new coverage in the private health insurance marketplace. The rope is just too short.

The people in my district who are out of work—and I don't think they are much different from people elsewhere in America—would far rather be paid for working at a useful job than being paid for not working. What they want most is a full time job paying a living wage with decent benefits, such as health insurance, and others that are provided in most collective bargaining agreements in the work place. We ought to be considering legislation that will invest in the nation's infrastructure and create those living wage, productive jobs instead of this mirage of a stimulus bill.

At the depths of the Great Depression, President Franklin Delano Roosevelt established the Works Progress Administration, the Civil Conservation Corps and the National Youth Administration which together created jobs for over six million Americans, giving people real hope, lifting the nation out of depression and putting in place permanent improvements that elevated the quality of life throughout America.

In 1962, President John F. Kennedy signed into law the Accelerated Public Works Act, which invested over $1 billion in community facilities, putting over 900,000 previously unemployed persons back to work by building water and sewer lines and sewage treatment plants, municipal buildings, fire halls, police stations, street lighting systems, sidewalks, streets, roads and bridges throughout the country.

In 1976, President Ford signed the Local Public Works Act and President Carter signed LPW 2, which invested a cumulative $2 billion in similar works throughout the country, creating jobs for over 1.5 million unemployed workers.

Today, we should do no less. The Democrats on the Transportation and Infrastructure Committee have developed and introduced a bill to authorize $50 billion for infrastructure investments to enhance the security of the nation's rail, environmental, highway, transit, aviation, maritime, water resources, and public buildings infrastructure. With leveraging features included in this legislation, the ten-year cost to the U.S. treasury would be less than $32 billion.

The $50 billion of investment initiated by our proposal would create more than 1.5 million jobs and generate $90 billion of total economic activity.

Under the Democratic measure, H.R. 3166, preference would be given to infrastructure investments that provide enhanced security for the nation's transportation and environmental systems. Our bill specifically requires that the states, cities, transit authorities, airport authorities, etc., who would receive these funds, commit their investment to meeting security needs of their infrastructure systems and that the funds will be invested in ready-to-go projects to which those funds can be obligated within two years.

These investments create the private-sector jobs that build America, that provide the decent wages to buy homes, big-ticket household appliance, automobiles, and the other consumer goods that are the engines of growth for our economy, and which create permanent improvement for our cities and towns, for urban and rural America and improve the quality of life for all of our fellow citizens.

Yes, we ought to provide an extension of unemployment compensation and interim health insurance coverage for the nation's unemployed until they can get back to work; but we must create those jobs through enactment of the Rebuild America First Act to finance infrastructure renewal and security for the nation's transportation systems.

IN SUPPORT OF H.R. 3178, THE DEVELOPMENT OF ANTI—TERRORISM TOOLS FOR WATER INFRASTRUCTURE

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2002

Mr. SMITH of Michigan. Mr. Speaker, I rise in strong support of the bill H.R. 3178, which I am proud to co-sponsor. This important legislation will address research gaps and support the development of new and improved technologies and practices that will improve the security of our water infrastructure.

As we respond to the horrific attacks of September 11 militarily and diplomatically, we must be able to assess and reduce our vulnerabilities at home to make our nation more secure.

The safety and availability of our water supply is something that we tend to take for granted. Across the U.S., over 27 billion gallons of water are pumped each day. Some of our water infrastructure is extremely old and is subject to natural threats, accidents, and terrorists.

A major contamination of public water, either accidentally or deliberately, could cause widespread panic, disrupt the economy and lead to a loss of public confidence in water supply systems throughout the country. In 1996, the President's Commission on Critical Infrastructure Protection probed the security of the nation's critical infrastructures and determined that our water systems are highly vulnerable. In 1998, the President designated water systems as a critical infrastructure and assigned primary responsibility for this critical infrastructure.

H.R. 3178 authorizes $12 million for each of fiscal years 2002 through 2006 for the EPA to provide grants and other assistance for research, development, and demonstration of innovations to strengthen the security of water infrastructure systems. This includes processes and procedures that can be used to protect water systems and technologies for early warning systems, real-time monitoring sensors, water and wastewater treatment technologies, backup systems, and improved computer controls. Cyber security also is addressed.

It is important that we not advertise our vulnerabilities and our response to them. I am pleased, therefore, that this legislation restricts access to the information developed under this program to those who need to know.

Mr. Speaker, the critical importance of water to our nation would make H.R. 3178 necessary even without the current war on terrorism. In the wake of September 11, this legislation takes on renewed urgency, and I want to thank the Gentleman from New York and Chairman of the Science Committee, Mr. BOEHLERT, for his work in bringing this bill to the floor.

I urge my colleagues to support this important bill.

LEGISLATIVE HISTORY AND INTENT CONCERNING H.R. 3323, THE ADMINISTRATIVE SIMPLIFICATION COMPLIANCE ACT

HON. WILLIAM M. THOMAS

OF CALIFORNIA

HON. CHARLES B. RANGEL

OF NEW YORK

HON. NANCY L. JOHNSON

OF CONNECTICUT

HON. FORTNEY PETE STARK

OF CALIFORNIA

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2002

BACKGROUND AND NEED FOR LEGISLATION

Mr. THOMAS. Mr. Speaker, the administrative simplification provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 will improve administrative efficiencies in the health care market by facilitating electronic transactions between covered entities—health plans, clearing houses and health care providers. Indeed, the Department of Health and Human Services estimated that administrative simplification will save $29.9 billion over 10 years as a result of increased efficiencies.

Many covered entities believed coming into compliance with the October 16, 2002 deadline set by the regulations implementing the transactions and code set standards required by HIPAA was an insurmountable hurdle. As such, they argued that a one-year delay in implementing the standards was necessary.

The Committee was concerned, however, that a one-year delay in the implementation of these standards had the potential to result in an indefinite delay, as advocates for the status quo would present more excuses next year in asking for an additional extension, which could lead to indefinite extensions. The Committee also believes entities should undertake actions to prepare to come into compliance.

However, a number of covered entities presented legitimate reasons why they could not come into compliance by the October 2002 deadline, and the Committee determined legislative action was necessary.

H.R. 3323

The House and Senate passed legislation, H.R. 3323, the Administrative Simplification Compliance Act, to address this issue and to provide a glide path for covered entities to come into compliance.

Specifically, the legislation requires that any entity that has not come into compliance by the October 2002 deadline may receive a year extension if they submit a compliance plan with the Secretary demonstrating how they will come into compliance within the next year. The compliance plan forces entities to think deliberatively through what it will take to come into compliance and to go on record with the Secretary that they intend to come into compliance. The bill also requires the Department of Health and Human Services to issue model compliance plans, which include critical benchmarks such as establishing a compliance budget, a work plan and an implementation strategy for coming into compliance. The Secretary is not required to approve the compliance plans (as this would compel a review and decision on millions of applications), yet is required to widely disseminate reports containing effective solutions to compliance problems identified in the compliance plans.

Finally, to provide a disincentive to going back to paper claims, the bill requires covered entities to submit electronic Medicare claims to the Centers of Medicare and Medicaid Services (CMS) as a condition of payment. The Committee does not foresee this requirement as being problematic in any way since 98 percent of Part A providers and 85 percent of part B providers already submit claims electronically. In addition, the legislation has exceptions from the electronic submission requirement for cases in which no method is available for the submission of claims other than in written form and for small providers (defined as having fewer than 25 full time equivalent employees for facilities or 10 for physician practices).

In submitting the Committee's legislative intent, the authors make the following specific observations.

ADDITIONAL TIME

The Committee encourages those entities that can reasonably become compliant with the original October 16, 2002 deadline for electronic transactions and code sets to continue their efforts. It is the clear intent of the Committee that the additional twelve-month extension not delay compliance efforts already underway.

The Committee also encourages the Department to not penalize a compliant entity that must send non-compliant transactions because their trading partners have filed for the extension. This should be considered "good cause" for non-compliance pursuant to Sec. 1176(3) of the HIPAA law.

SUMMARY COMPLIANCE PLANS

The Committee intends that the plan submitted to the Secretary under Section 2(a)(2) of the bill will be a minimal reporting requirement. The plan will provide summary information regarding the work to be completed for the covered entity to be compliant with the transactions and code set standards by October 2003. The Committee intends that submission of a compliance plan will force covered entities to analyze and consider the exact steps needed to ensure compliance with the regulation by the compliance date, and to achieve those steps.

In preparing the plan, it is important for the covered entity to generally indicate that it has or will begin, accomplish, or is working towards completing, a particular task, in addition to the summary information relating to the task itself.

MODEL FORM AND TIMING OF SUBMISSION

If a covered entity so chooses, it may use the model form promulgated by the Department of Health and Human Services (HHS), or it may provide the information in an alternative format at any time prior to October 16, 2002. Entities do not need to wait until HHS promulgates a model form in order to file a compliance plan. The model form promulgated by HHS should be concise, and the Committee encourages the Department to immediately post the mailing and electronic submission address for extension filings on their website.

The Committee recognizes that compliance with respect to long-term care insurers and providers has been delayed by the absence of standard code sets for long-term care services. The Committee also recognizes that long-term care covered entities have been working diligently with the Secretary to correct this problem. The Committee encourages the Secretary, when issuing the model form, to provide guidance regarding the form's submission that addresses the unique situation facing long-term care insurers and providers.

REPORT AND ANALYSIS

It is the Committee's intent in enacting this legislation that the National Committee on Vital and Health Statistics (NCVHS) will perform analysis of compliance extension plans, conduct hearings, and disseminate reports to HIPAA covered entities.

The Committee realizes that clearinghouses, the vendors of software programs and computer services, and the vendors of remediation services will play a role in helping providers and plans come into compliance with the transactions and code set standards as well as the other administrative simplification standards. The Committee expects the Secretary and the NCVHS to consult with all entities listed in the statute and the vendor community or their representatives directly.

The Committee intends that information provided in compliance plans will be redacted when provided to NCVHS so as to prevent the disclosure of trade secrets, commercial or financial information that is privileged or confidential. The Committee, however, believes that a covered entity that has submitted a compliance plan should inform as many of its trading partners as possible of the anticipated timelines for its compliance activities, including its schedule for beginning testing, in order to avoid confusion.

SCOPE AND APPLICATION OF CONFIDENTIALITY RULE

In this legislation, the Committee has sought to ensure that entities become compliant with the April 14, 2003 HIPAA confidentiality requirements despite the fact that the final transaction standards will not be effective until six months later. With regard to clearinghouses, the Committee appreciates that there are healthcare information technology vendors, such as applications service providers (ASPs) that create, adjudicate and process claims in other ways than converting data into standard transactions formats other than HIPAA standardized formats. The Committee does not intend to create any new covered entities under any of the HIPAA rules during this time.

The Committee does not intend to modify the April 14, 2003 effective date of the confidentiality regulation in this legislation.

FILING OF PAPER CLAIMS

This legislation requires the electronic filing of claims with Medicare, with exceptions. It is not the intent of the Committee to preclude a Medicare beneficiary from submitting a paper claim for covered services. Although virtually all Medicare claims are filed on behalf of a beneficiary by the provider rendering services, there are situations where a beneficiary receives a covered service by a non-Medicare enrolled provider and would, therefore, be eligible for reimbursement. Such claims are likely to be filed on paper, and nothing in this legislation should be construed as preventing the filing of a paper claim Medicare claim directly by a beneficiary.

COMPLETION OF ADDITIONAL RULES

The Committee strongly encourages the Department of Health of Human Services to complete, in final form, the outstanding rules provided for in the original statute, namely the provider identifier, plan identifier, and employer identifier. Congress also strongly encourages the Department to issue the final security and electronic signatures regulation.

USE OF AUTHORIZATION

The Committee intends the authorization of funds included in Section 5 would be used to speed the issuance and final promulgation of all HIPAA administrative simplification rules. In addition, the authorization is not intended to be used for direct individual compliance activities of covered entities, but to broadly provide technical and educational assistance. Because the Committee expects timely compliance by the private sector with these standards, the Committee wants the Secretary to issue the model form in a timely manner. Failure to meet the deadline outlined in the legislation jeopardizes authorized funds.

TRIBUTE TO MR. LOUIS BALLOFF

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2002

Mr. DUNCAN. Mr. Speaker, since September 11th there have been many acts of kindness that have gone a long way to bridge the gaps between all faiths, not just here in the United States, but around the world.

Many of these acts are done one at a time, noticed by few, but each having a significant impact on many individuals and communities.

Mr. Louis Balloff, immigrating to this country from the Ukraine during the late 1800s, was one who touched many lives. He came to this country with nothing, fleeing religious persecution, seeking a new start to a better life and participating in the American dream.

He eventually settled in LaFollette, Tennessee, and became a successful merchant. This community was good to him and he always felt a need to give back many of his financial successes to this town in rural Appalachia.

The following article is a typical way in which Louis felt obligated to help less fortunate members of his community, not knowing the impact it would have on so many others.

I have included an article from the Knoxville News Sentinel, which highlights one such act, that I would like to call to the attention of my fellow Members and other readers of the RECORD.

[From the Knoxville News-Sentinel]

MERCHANT GIVES LOVE

BOY TOOK GIANT STRIDES IN GIFT OF SHOES

(By Jacquelyn B. Dean)

A single act of kindness can sometimes have a tremendous impact on a person's life, with repercussions felt halfway around the world.

Such was the case of Louis Balloff and Roy Asbury of Campbell County.

"They were good friends," said Asbury's son, Campbell County Circuit Judge Lee Asbury, "but it was a strange partnership. Mr. Balloff was an older, real conservative merchant, and dad was a country lawyer and rabblerouser who dabbled in politics. They were not alike, but they were still close friends."

Both men are deceased.

Balloff, a Russian Jewish immigrant who moved from New York City to Campbell County and began his retail business as a peddler selling goods in the mining camps, died of a heart attack in 1964.

Roy Asbury was a well-known Campbell County lawyer who served one term as a state representative (in the 85th General Assembly in the mid-1960s). He died of a heart attack in 1970.

The story of their friendship, and how it began, is told over and over again by members of their families.

Asbury was a poor, teenaged boy who walked barefoot from Caryville to Jacksboro High School one September day in 1922.

Balloff was a merchant who called him into his store that "cold, frosty morning and encased his feet in a good pair of shoes with socks."

Their families later became friends, but at that time Asbury was so resentful and prejudiced against Jews that he left the store without saying thank you.

Forty years later, in a letter dated April 28, 1962, Asbury finally told Balloff "thank you" and recounted how that single incident caused him to reconsider and shed his prejudiced attitudes "against all 'furringers,' and especially Jews."

Asbury wrote:

"The years began to slip by, you and that boy was always and at all times friendly, but the shoes were never mentioned.

"The boy learned as he grew older to love and respect the Jews, and he developed a strong feeling of sympathy for all minority groups, oppressed groups, or individuals, and he never forgot that pair of shoes being put on his cold feet, by a Jew, and continually promised himself that one day, he would do something for a Jew to repay for the shoes, and most of all for forever erasing from his mind prejudice against a race or member of a race by prejudgment without due examination."

Asbury found his opportunity in Paris in 1944, when he served in the U.S. Army during World War II.

He wrote that in September 1944 he found an orphanage housing about 300 children, mostly girls and virtually all of them Jewish. Their parents and relatives "had been taken to Germany and killed by that despot, Hitler."

Asbury wrote that the children were in the care of an old Catholic priest and four nuns, but they were suffering from extreme malnutrition. "The old priest could not speak much English, but he convinced that boy (Asbury) they needed sugar and sugar products."

That night, he couldn't sleep. He woke a fellow soldier who spoke French, and together they obtained a truck, went to a U.S. Army supply depot, and "appropriated 1,500 pounds of sugar and 500 pounds of candy bars, and drove to the orphanage, arriving just before daylight."

They unloaded the truck, awakened the priest and felt they could foresee better days for all the children, he wrote.

Before long, "the U.S. Army personnel was furnishing food, clothing, and medical supplies in abundance, and by the next spring, the children looked almost normal," Asbury wrote.

He said the old priest and nuns followed the truck and tearfully tried to thank them.

"The boy heard their expressions of thanks." Asbury wrote of his experience, "but he knew they were not talking to him but to a man who, on a cold frosty morning, put a pair of shoes on the cold feet of a boy who was barefoot; and that boy knew he was trying to do something for the Jewish race to repay him for that pair of shoes, worn out more than 20 years before."

Asbury concluded the letter by saying, "Lou, I don't know how to say it, but for erasing from my mind and heart all prejudice for any race, member of a race, or an individual because of his race, creed or color, MANY, MANY, MANY THANKS." He signed it, "Yours truly, Roy Asbury."

Judge Lee Asbury said, "I've heard dad tell that story as long as I can remember. It's part of the *family lore*."

He said he's also known about the letter a long time, and has a copy of it in his files. "Dad was inspired at least in part by Mr. Balloff's helping him out," he said.

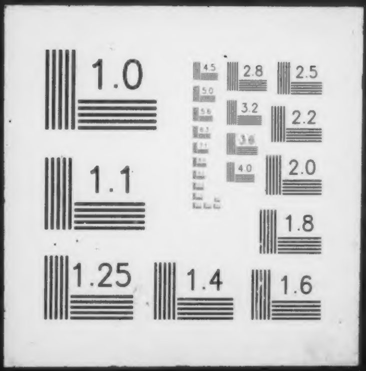
Says Lee Asbury of the Balloffs, "I can't ever remember not having a deep affection for the whole family."

Ed Balloff, who, with his brother, Sam Balloff of Knoxville, operated a chain of Balloffs stores in LaFollette, Oak Ridge and Knoxville, said, "The letter meant a great deal to me, and I've kept it in my files."

When Ed Balloff sought Lee Asbury's advice about what to do following his retirement from the retail business, the judge suggested he volunteer with the public defender's office in Campbell County. He did.

A mutual friend, Jim Agee, a distant cousin to famed writer James Agee, suggested the letter might be especially significant in this 50th anniversary year of D-Day.

Asbury said there is a greater significance: "People are not any different. We all have the same desires. The quicker everybody comes to that conclusion, the better off we will all be."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